

West Africa Internet Monitor

January-March 2018



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Executive Summary

The Internet since its introduction is playing an important role in the world. . As a result of investments in communications infrastructure and tools by governments and private investors, the sub-region has not been left out of the digital world. An increasing number of people are using the Internet for various purposes including research, business, communication and participation in public discourse. The Internet also plays a pivotal role in enhancing the right to free expression.

Additionally, the Internet has empowered citizens and given them a platform to engage in civic discourse and demand accountability from leaders. Some autocratic regimes are, however, not happy about the digital empowerment of their citizens and are, therefore, deploying various mechanisms to stifle online rights and freedoms. Some of the mechanisms being used to control and repress online activities of Internet users include surveillance and monitoring, filtering, shutdowns and the introduction and use of repressive laws to control online activities of Internet users in their country.

As part of efforts to record, track, highlight and advocate on current and emerging issues in the digital space, the Media Foundation for West Africa (MFWA) with funding support from Access Now is monitoring and reporting on Internet related developments in West Africa.

This first quarter report presents findings on the Internet freedom situation in eight countries – Benin, Burkina Faso, Cote d'Ivoire, Ghana, Mali, Nigeria, Senegal and The Gambia.

The quarterly reports are produced through the collation and analysis of monthly reports submitted by the MFWA's Internet rights monitors and national partner organisations. The national partner organisations track Internet freedom developments in their countries using a basic Internet rights monitoring tool and a manual developed by the MFWA.

During the monitoring period, four out of the eight countries being reported on recorded digital rights violations. Findings from the monitoring also show that governments are increasingly formulating laws that seek to repress freedom of expression online.

High cost of data, poor quality of services, rural-urban digital divide and lack of infrastructure were found to be some factors affecting Internet access and usage.

To help improve the digital environment in West Africa, it is recommended that governments adopt regulations that protect and enhance human rights online, reduce data cost and improve infrastructure.

Introduction

The Internet and ICTs are gradually becoming part of the major drivers of socio-economic development. Since its emergence, the Internet has continued to play a critical role in facilitating development and unlocking new possibilities. It has enhanced education services, health care delivery, civic engagement and serves as a medium for access and dissemination of information across borders.

West Africa has not been an exception to the Internet boom despite the number of challenges confronting its digital environment. The region has seen increased Internet access and penetration rates. This is as a result of the emergence of mobile phones and other Internet-enabled devices. Also, through various efforts by governments and other stakeholders, there has been an improvement in communications infrastructure. These developments over the years are increasingly bridging the digital gap between the connected and the unconnected in the region.

The Internet has also created more opportunities for the enhancement of the right to free expression and right to privacy. However, there is little doubt that there are also Internet-related challenges and threats to freedom of expression and privacy. With the upsurge in technology, Governments, Internet Service Providers (ISPs) and individuals now have sophisticated means of curtailing freedom of expression online. State and non-state actors are using surveillance, censorship, interception, filtering, content blocking and the passage of new repressive laws or application of existing ones as a tool to repress freedom of expression online and restrict online privacy.

In an effort to track, document and advocate on issues related to Internet freedom and to shape Internet-related policies and frameworks, the Media Foundation for West Africa (MFWA), with funding support from Access Now, is undertaking a monitoring and reporting exercise on developments in online spaces in West Africa.

Findings of the monitoring are shared with the public and are expected to serve as a reference and advocacy material for local and international organisations working on digital rights and freedoms issues.

Methodology

The monitoring and reporting of developments around digital rights in West Africa is done by MFWA's trained Internet rights monitors and national partner organisations. The tracking and reporting of Internet-related developments in the countries is done using a monitoring instrument, the Internet Rights Monitoring Tool, (IRMT), which was developed by the MFWA and shared with its national partner organisations Internet rights monitors who have been trained on how monitor and report. Also, a manual that provides tutorials on the monitoring tool was shared with the monitors and partners to serve as a guide on the issues to look out for during the monitoring.

Using the manual and the monitoring tools, the monitors and partners put together and submit monthly monitoring reports from their respective countries. The information gathered from the monitoring are then collated and analysed by the MFWA into quarterly reports titled **The West Africa Internet Rights Monitor**.

This report presents findings from the first quarter of 2018. The report presents an analysis of the Internet rights and freedom situation in eight countries– Benin, Burkina Faso, Cote d'Ivoire, Ghana, Mali, Nigeria, Senegal and The Gambia– that recorded some developments and concludes with some recommendations for improving the digital environment in West Africa.

General Findings

The Internet continues to provide a platform for communication and civic engagement for people who may ordinarily have been removed from such engagements. The result of the monitoring shows an improvement in the digital landscape of the most of the countries in West Africa in terms of the number of people connected to the Internet. This can be attributed to efforts by governments and service providers to improve infrastructure and enhance connectivity.

Despite the improvements in Internet access and use, a significant segment of the population is still not connected. High cost of data, poor Internet connectivity, lack of accessibility and inadequate infrastructure were found to be the major challenges affecting Internet access and use in the sub region. Aside of these challenges, Internet users who openly expressed their views on critical issues and/or powerful individuals such as state officials are subjected to abuse by both state and non-state actors both offline and online.

The importance of having a human rights based Internet-specific regulation is key to promoting freedom of expression online and ensuring a safe digital environment for Internet users. However, Internet-specific regulations are almost non-existent in almost all the countries monitored. In some of the countries, some small portions of existing legislations cover some facet of Internet usage. In other countries, the laws are not rights-respecting.

None of the countries being monitored experienced an Internet or network shutdown. There were, however, reports of surveillance in Nigeria.

During the period, Benin, Mali, Nigeria and Senegal recorded some incidents of digital rights violations.

A number of positive developments were also recorded during the quarter in some of the countries.

At the global level, a major development in the digital environment was the announcement by Twitter on February 21, 2018 that it is setting stricter boundaries on programmes that generate automated posts from multiple accounts (bots). As a result of this, sending retweets, likes, or follows from multiple accounts simultaneously was going be forbidden and users will no longer be able to disseminate content from a number of accounts with a single click. To a large extent, this tackles an aspect of online violations as free expression abusers usually use bots to amplify their (mis)information and harass other users.

Country Specific Findings

The first quarter of the year 2018, recorded some remarkable incidents in some of the countries in West Africa. Below are the country specific developments recorded during the monitoring period.

Benin

The Internet environment in Benin is free, with no known restrictions. Internet access and use in the country is however confronted by some challenges such as high cost of data, and poor quality of services. The country is also faced with the issue of cybercrime.

During the period under review, an Internet-specific law came into effect in Benin. The law, Law 2017-20 (also known as Code Numérique) which was passed by the National Assembly (Parliament) in June 2017, came into force on March 20, 2018. The law has some problematic clauses that impose restrictions on online freedom of expression. It also provides for certain strong sanctions for offenses.

During the quarter also, the state's media and communications regulator, Haute Autorité de l'audiovisuel et la Communication (HAAC), suspended indefinitely a privately-owned daily. L'Audace Info was suspended on February 8, 2018 after the newspaper published an article titled "Talon Sucks Beninois to the Marrow." The article, which compared and highlighted disparities in wages of civil servants and those of high-level public officials, was judged by the HAAC to be insulting of Benin's president, Patrice Talon.

Burkina Faso

Burkina Faso's online space is largely unregulated and citizens continue to express themselves freely online without any restrictions. High cost of data, poor Internet services and poor infrastructure are among the major challenges affecting Internet access in the country. Also, internet connectivity remains only for people in the urban areas or cities.

The authorities in Burkina Faso in March 2018 commenced the process of drafting a law to tackle the issue of cybercrime in the country. According to the authorities, this has become necessary as there is the need to formulate policies that address the needs of Internet users in the online space and also tackle cybercrime.

During the quarter, there were rumours that the state intelligence agencies were seeking the support of some Internet Service Providers (ISPs) in the country to enable them monitor the activities of some individuals suspected to be involved in acts of terrorism.

Also, some individuals had their E-mail and Facebook accounts hacked. However, this activity was not attributed to state or government officials but activities of individuals engaged in cybercrime.

A positive development recorded during the period was a commitment by the Minister of Digital Economy and Posts, Fatimata Ouattara who affirmed government's commitment to improve connectivity in the country. She indicated the commitment at a conference organised by the Association of Bloggers of Burkina (ABB). The meeting brought together various stakeholders and journalists.

Cote D'Ivoire

Just like Burkina Faso, Cote D'Ivoire also has Internet accessibility and connectivity concentrated in the urban areas. Other challenges include high cost of data, poor Internet connectivity and lack of infrastructure.

During the quarter under review, a meeting was convened by the Head of Public Prosecutors for a number of public online forum moderators. Among the issues discussed at the meeting were awareness on the management of security informatics, reading of applicable laws and collaboration for a secure and peaceful Internet (online space). Some individuals however suspect it was an attempt to suppress freedom of expression online in the country.

Ghana

Ghana's cyber space has over the years been a vibrant one. Governments in collaboration with industry players and stakeholders have over the years put in efforts to improve Internet access in the country.

Despite these attempts at improving the digital space, the country also faces similar challenges as other countries. These are high cost of data, poor connectivity and inadequate infrastructure. There remain many rural areas which do not have Internet connectivity.

Ghana did not record any incident of violation during the quarter. There were rather some significant developments aimed at enhancing accessibility of the Internet.

On February 12, 2018, the National Communications Authority (NCA) and Mobile Network Operators held a meeting to discuss and implement measures to address consumer concerns relating to tariff and billing as well as quality of service. Among the specific consumer concerns discussed were automatic migration to pay-as-you-go when bundle is exhausted without notification, automatic renewal of One-Time Bundles, deceptive advertising of promotions, lack of proof of consent and retention of customer information and quality of service (Call Drops, Congestion etc.) by end of February, 2018.

Also, the National Communications Authority (NCA) addressed a number of issues including Digital Migration, Unsolicited Electronic Communications (UEC) and the Authority's Consumer Complaint Processes as part of this year's event to mark International World Consumer Rights Day (WCRD). The event which was held on March 15, 2018 under a local theme, 'Empowering Consumers to make Informed Decisions', was aimed at educating and informing traders and commuters of their rights and responsibilities as consumers of telecommunication services.

The Ministry of Communications, on February 16, 2018, inaugurated an ultra-modern Enhanced Community Information Center (eCIC) at Abakrampa, Abura-Asebu-Kwamankese District in the Central Region as part of its efforts to expand infrastructure for efficient and effective communication nationwide and promote the use of Information and Communications Technology (ICT) in the area while bridging the rural-urban gap in ICT usage.

The Ghana Investment Fund for Electronic Communications (GIFEC) also commissioned its D4I project which is a Smart Communities Project aimed at positioning Ghana as an IT-driven country. The project which is being piloted in four communities Asumura, Berekum and Goaso in the Brong Ahafo as well as Asankragua in the Western Region, seeks to provide Wi-Fi in public establishments such as schools, hospitals, banks, police stations and market places among others.

There were also a number of awareness creation and capacity building sessions by civil society organisations to empower stakeholders with knowledge on internet-related issues. The Media Foundation for West Africa (MFWA) on January 31, 2018, organised a training workshop for journalists and women's rights organisations on women's rights online issues in Ghana. Among the issues discussed at the workshop were effective ways of promoting women's rights online in Ghana and stakeholder collaboration and advocacy to help ensure an enabling Internet environment for women.

Also, the MFWA in collaboration with the Ministry of Communications, organised a meeting on March 16, 2018 to discuss the implementation of the country's National Cyber Security Policy. The event brought together stakeholders government, security agencies, ISPs, civil society, academia media etc from various sectors.

Mali

Mali's Internet environment is free and unrestricted. Internet accessibility remains a challenge as connectivity is mostly in the urban areas. Mali recorded one online violation during the period under review.

On February 22, 2018, three journalists from privately owned *MaliActu* news website were arrested by the Malian police who also seized equipment from the news website's office in the capital, Bamako. According to reports, the Officers did not have a warrant. The three journalists - Salif Diarra, Aliou Hasseye, and Issa Coulibaly - were held by the Police in Bamako following a complaint of alleged blackmail lodged by Amadou Kallossi, the mayor of the town of Koumaniana. According to the mayor received several messages from the news website's phone number, threatening to publish a compromising video about him. The journalists and the management of maliactu.net however insisted the phone line was hacked. Hasseye and Coulibaly were released two days after their arrest by the police without charge, Salif Diarra was however released on February 26, 2018 on condition that he reports to the prosecutor's office every Friday pending the conclusion of the investigation.

Nigeria

One of the countries in West Africa with the highest number of Internet users, Nigeria has always had a vibrant digital environment.

The country does not have an Internet-specific law except the Cybercrime Act of 2015. During the quarter under review, Nigeria recorded a significant policy development. The Digital Rights and Freedom Bill which was approved by the house of representatives on December 19, 2017, got the approval of the Upper Chamber of the National Assembly. The Bill, which is expected to protect netizens in Nigeria, will now be presented to President Muhammadu Buhari for presidential assent to become law, making it Nigeria's first law on human rights online.

Despite the remarkable developments in the Internet landscape in Nigeria, online rights continue to be violated by both state and non-state actors. On January 25, 2018 the Minister of Defence, Mansur Dan-Ali at a meeting of the National Security Council presided over by President Muhammadu Buhari in Abuja, gave a directive to the nation's security agencies to monitor social media communications of notable Nigerians, to monitor hate speech.

According to sources, the security agencies have since began monitoring the social media. This action being taken by the security agencies contravenes Section 39(1) of the 1999 Constitution of Nigeria which states that "every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference." Such monitoring infringes on the right to free expression and privacy communications online.

While this has been heavily criticised by civil society and the populace, the government is yet to rescind its decision to halt the monitoring of social media sites in the names of fighting hate speech.

The government has in fact gone another step by starting the processes to pass a legislation on it, as a new bill on hate speech has been laid before the Nigerian Senate. The Hate Speech Bill according to its sponsor, Senator Aliyu Sabi Abdullahi seeks to "eliminate" hate speech and discourage harassment on the grounds of ethnicity, religion or race among others. The Bill also seeks to establish an 'Independent National Commission for Hate Speeches', which shall enforce hate speech laws across the country, ensure the elimination of the menace and advise the Federal Government.

The Bill if passed into law will repress freedom of expression online for many Nigerians especially journalists and bloggers. The Bill for instance proposes a death sentence for any person found guilty of any form of hate speech that results in the death of another person.

The introduction of the Hate Speech Bill was not the only negative development recorded during the period. The Special Anti-Robbery Squad (SARS) operatives on January 1, 2018 arrested and detained Daniel Elombah, chief executive of an online newspaper *Elombah.com* and his brother Timothy Elombah who is the the editor-in-chief. . The brothers were accused of publishing a defamatory article on their website. The article, titled, "IGP Ibrahim Idris's Unending Baggage of Controversies" was originally authored by one Ebiowei Dickson and published on *opinionnigeria.com*. Following wide condemnations and social media campaigns for their release, Daniel was released same day, while Timothy spent 25 days in detention. The two were charged

with cybercrime on March 1, 2018. This was despite the Vice- President Yemi Osibanjo, querying the Inspector-General of Police (IG), Ibrahim Idris, over their arrest and detention.

In March 2017, Kemi Olunloyo, a blogger was arrested and charged with cybercrime at a High Court in Rivers State. Her arrest followed a letter she republished on her blog about an alleged misconduct of one Pastor David Ibiyeomie. The letter, which was written by a member of the pastor's church, was deemed defamatory. The court however dropped the charges against Kemi Olunloyo and discharged her on January 9th, 2018.

In addition to the above, some unknown gunmen abducted Mr. Ngozi Blessed Onwukwe a blogger and publisher of *AbaCityblog.com*. The blogger was abducted by a gang of four men in a Toyota Sienna car on Ikot Ekpene road, Umuahia while he was on his way to cover an event. It is not clear if his abduction in connection with his work or whether it is a kidnapping for ransom. At the time of finalising this report, no news has been heard from him and his abductors had not yet contacted his family or his colleagues.

The management of state-owned Nigerian Television Authority (NTA), sent an internal circular to its staff on January 15, 2018, restraining them from commenting on online publications on "sensitive and topical national issues." According to the circular which came from the Office of the Executive Director (Administration & Training) the act is "embarrassing, reckless and unethical" and any staff found to be commenting on such issues would be punished.

This circular by the NTA contravenes Section 39 of the 1999 Constitution of the Federal Republic of Nigeria, which states that 'Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference' and Article 19 of the International Convention on Civil and Political Rights which Nigeria has ratified. The circular is, therefore, inconsistent with these legal safeguards and repressive of freedom of expression and online rights of it staff.

There was also a call on President Muhammadu Buhari by Media Rights Agenda (MRA) which is a nongovernmental organisation, to speedily sign into law, the Digital Rights and Freedom bill. The group argued that the bill, if passed, would protect the digital rights of Nigerians.

Despite the abuse of online rights and freedoms of individuals by state and non-state actors, there were some positive developments as government took some steps to enhance the Internet freedom environment in the country.

The Nigerian Communications Commissions (NCC), in an effort to ensure a multi-stakeholder model of engagements in the formulation of internet-related developments, sought inputs from stakeholders in the development of a code of practice in support of net neutrality and open internet. The proposed Code of Practice among other things seeks to protect the rights of internet service providers and consumers, ensure adequate safeguards are put in place by service providers against abuses and establish best practices for Internet governance in Nigeria in line with emerging issues and global trends. The Code is expected to go through various stages before adoption.

Some workshops and conferences were also held to discuss Internet right issues in the country during the quarter. On January 5, 2018, the Nigeria Internet Group (NIG) held their colloquium and Annual General Meeting. The event which was held under the theme *‘The Nigerian Internet Today: Issues and the Way Forward’* brought together key stakeholders in the ICT’s sector. The Minister of Communications, Honourable Barrister Adebayo Shittu, who was a special guest at the event, said the government is going to invest in telecommunications infrastructure.

Paradigm Initiative and Presidency Office of Digital Engagement (PODE) organised a stakeholder roundtable on digital rights and digital engagement on February 22, 2018 in Lagos. The event served as a platform for discussing issues affecting Internet freedom and digital engagement in the country. Representatives from government agencies, the private sector and civil society organisations participated in the meeting. Among the issues discussed were data privacy and protection, law enforcement, libel, fake news and digital engagement by the government. Speaking at the event, the Head, Presidency Office of Digital Engagement (PODE), organised a stakeholder roundtable on digital rights and digital engagement on February 22, 2018 in Lagos. The event served as a platform for discussing issues affecting Internet freedom and digital engagement in the country. Representatives from government agencies, the private sector and civil society organisations participated in the meeting. Among the issues discussed were data privacy and protection, law enforcement, libel, fake news and digital engagement by the government. Speaking at the event, the Head, Presidency Office of Digital Engagement (PODE).

Senegal

The online environment in Senegal is free and less regulated. The number of Internet users in the country is increasing and this can be attributed to investments in communications infrastructure

by government and industry players. Like the other countries, cost of data and poor quality of Internet services continue to affect Internet usage.

One incident of online violation was recorded. In the incident, Assane Diouf, a Senegalese was arrested upon his arrival from the United States of America. Diouf was accused of using social media to defame and insult state officials and other prominent individuals in Senegal, including President Macky Sall. Diouf is set to be judged on charges of defamation.

During the quarter, three new Internet Service Providers (ISPs) were launched on March 27, 2018. The three new ISPs are Arc Informatique, Waw Sas and Africa Access. It is expected that their coming into operation will enhance Internet access and use in the country.

The Gambia

Cost of data and disparity in Internet access are among the major factors hindering Internet usage in The Gambia. The country's online space is becoming freer and citizens are increasingly expressing themselves online since the new government came into office.

During the quarter, the on-going criminal trial involving 12 soldiers of the Gambia Armed Forces who were on a WhatsApp group that engaged in an alleged mutinous act was adjourned to April 30, 2018. The 12 soldiers are charged with 9 counts including committing a civil offence punishable under section 83 of the Gambia Armed Forces Act (GAF Act) or 'Treason Contrary to Section 35 (1) (d), incitement to mutiny contrary to section 47 (a) of the GAF Act, among other offenses.

A major development in the digital landscape in The Gambia was the ruling by the ECOWAS Court of Justice on February 14, 2018, on the legality of the laws of sedition, criminal defamation, false publication on the Internet and false publication and broadcasting. In 2015, the Federation of African Journalists (FAJ) along with four Gambian exiled journalists, namely Fatou Camara, Lamin Fatty, Alagie Jobe and Fatou Jaw Manneh, filed a suit against the Gambian government at the sub-regional court where they argued that their right to freedom of expression, had been violated by the state through the enforcement of laws criminalising libel, sedition and false news in the country. Their suit therefore sought an order from the court to declare as unconstitutional the repressive provisions of the Gambia's laws on sedition, false news and defamation. .

After three years of deliberations, the ECOWAS Court of Justice, in its ruling, ordered the Gambian government to repeal or amend the said laws. The court held that the enforcement of these anti-free speech laws is a violation of the right to freedom of expression and press freedom

in The Gambia and are not in line with regional and international standards of freedom of expression. The ruling will set an important precedent as many countries within West Africa continue to use similar repressive laws to silence freedom of expression, and hinder the vital work of journalists, in violation of international and regional human rights law.

Conclusion and Recommendations

Findings from the monitoring established that governments are adopting various mechanisms to curtail freedom of expression online. Key among the mechanisms being used is monitoring or surveillance and the introduction of new repressive laws or the use of existing ones.

The findings also show that violations are increasingly being perpetuated against individuals who exercise their freedom of expression online. These violations are perpetrated by both state and non-state actors.. Most of these violations recorded in the quarters are yet to be addressed.

High cost of data, inadequate infrastructure and poor quality of services continue to be the major challenges hindering Internet access and use in West Africa. Also, there continues to exist an Internet gap between peri-urban and urban areas in terms of access and use.

Further, almost all the eight countries featured in the report do not have Internet-specific laws guiding the access and use of the Internet. The absence of these laws make the digital environment open to threats and occasional violations of digital rights and freedoms by both state and non-state actors.

There is therefore the need for rights respecting regulatory frameworks to ensure Internet users are protected online and their rights not violated when they exercise these rights. The MFWA therefore calls on governments and sector regulators in the West Africa to:

- Formulate and implement rights-respecting policies and regulations that govern access and use of the Internet in their respective countries.
- Respect and protect the freedom of expression rights that people have online.
- Ensure online violations are addressed and perpetrators brought to book.
- Ensure the Internet and other technologies are used to enhance the enjoyment of the human rights enshrined in international legal frameworks.
- Collaboration between governments and Internet service providers to enhance infrastructure, improve quality of service and reduce data prices.



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