



INTERNET RIGHTS MONITOR



July-September 2018

Table of Content

Executive Summary.....2

Introduction.....3

Methodology.....3

General Findings.....4

Country-Specific Findings.....5

Conclusion and Recommendations.....9

Executive Summary

ICTs have been universally acknowledged as enablers of socio-economic development and innovations. The Internet in particular has revolutionised the way people interact with each other. It has reduced barriers to communication and enhanced information dissemination, civic participation and demand for accountability from governments.

The Internet and digital communications have proven effective and powerful tools in informing and mobilising public opinion in support of, or in opposition to, one cause or the other. Words, voices and images can be disseminated nationwide or across the globe with one click with instant feedback. This galvanising power of digital communication has attracted suspicion and, sometimes, downright hostility from certain intolerant governments and individuals. Some criminals also lurk in the digital space to defame, harass or defraud other users, thus providing a welcome pretext to governments to restrict freedoms online in the name of cyber security.

Consequently, many countries are adopting a range of legal measures to control online activities. Sanctions including arrest, detention and imprisonment have been prescribed for certain cyber infractions. Sometimes too, the law is overstretched to target outspoken civil society activists and critics of the ruling class.

To help highlight and report on these threats to digital freedom and other related developments in West Africa, the Media Foundation for West Africa, with funding support from Access Now, is implementing a project that monitors and tracks Internet related developments in the sub-region.

The July – September edition of this Internet Report which discusses the challenges confronting Internet access and use in the region, covers eight countries – Benin, Burkina Faso, Ghana, Mali, Nigeria, Niger, Senegal and The Gambia.

Four out of the eight countries being reported on recorded incidents of digital right violations. In all, a total of four incidents were recorded during the quarter. These incidents were mainly arrest and detentions and partial shutdown. Also, two laws were passed in Niger during the period under review- law N°2018-45 which seeks to regulate Electronic Communications and law N°2018-47 which seeks to manage the operations of the Regulatory Authority for Electronic Communications and Post (l'Agence de Régulation de la Communication Electronique et de la Poste (ARCEP). Findings from the monitoring also show that some governments in West Africa are in the process of proposing and formulating policies to govern the Internet.

The report concludes with some recommendations for enhancing Internet access and use in the region through the adoption of a multi-stakeholder approach towards Internet governance.

Introduction

The exponential growth of the internet and other Information Communication Technologies (ICTs) has transformed how people communicate, connect, share, learn, access information and express opinions across West Africa as in other parts of the world. Fortunately, internet access and use is increasing rapidly across the region and, thus, offering limitless opportunities to all, both young and old. The rise in internet penetration rates in West Africa, thanks to increased accessibility to smartphones and other internet-enabled devices, is contributing to consolidating the nascent democracies in the region as it has expanded the frontiers of expression, access to information and participation in governance processes.

Unfortunately, online expression and access to information is increasingly being threatened by some governments through rampant internet shutdowns and/or disruptions, arbitrary shutdown of news websites, arrests and detentions, introduction of repressive laws and application of existing inimical statutes. Regrettably, there is inadequate credible data readily available about such on-the-ground practices and other developments to inform advocacy and policy interventions. To contribute to filling this gap the Media Foundation for West Africa (MFWA), with funding support from Access Now, is undertaking the project, *Enhancing Freedom of Expression Online in West Africa through Policy Advocacy and Campaigns Against Online Rights Violations*.

As part of the project, the MFWA, in collaboration with its national partner organisations and internet right monitors, monitor and report threats and violations to online expression and other internet-related developments in West Africa. The reports from the monitoring are published periodically as **The West Africa Internet Rights Monitor** (*The Internet Rights Monitor*). The *Internet Rights Monitor* publications are aimed at providing credible reference materials for internet freedom advocacy and policy dialogues at the national, regional and international levels.

This edition of *The Internet Rights Monitor* covers eight countries – Benin, Burkina Faso, Ghana, Mali, Nigeria, Niger, Senegal and The Gambia. The methodology, findings and recommendations from the three-month (July-September 2018) monitoring are presented below.

Methodology

This report highlights internet-related developments, especially online expression abuses, recorded in eight West African countries from July to September 2018. The monitoring is undertaken by MFWA's trained internet right monitors and national partner organisations based in eight countries: Benin, Burkina Faso, Ghana, Mali, Nigeria, Niger, Senegal and The Gambia. Periodically, the MFWA also undertakes general monitoring of all the countries online to complement what the

Internet Rights Monitor July-Sept 2018

monitors do on the ground. In presenting the results of the monitoring, however, the report focuses on countries in which abuses and other developments are recorded.

The monitoring and reporting of internet-related developments in West Africa are guided by an internet rights monitoring tool which was developed by the MFWA and shared with its national partner organisations and internet rights monitors. In addition, a user manual that provides tutorials on the monitoring tool has also been shared with the monitors.

On a monthly basis, monitoring reports are sent to the MFWA. The individual country reports are then synthesised and analysed into quarterly reports which are published as **The West Africa Internet Rights Monitor** (also referred to as *The Internet Rights Monitor*). The *Internet Rights Monitor* is aimed at building a strong and reliable database on access and internet freedom issues to shape policy interventions.

General Findings

Across West Africa, internet penetration rates continue to rise as a result of increasing investments in the sector by both government and telecommunication service providers coupled with the rapid growth in the use of smartphones and other internet-enabled devices. This development has, however, not addressed internet accessibility challenges in practically all the countries. Even in countries with high internet penetration rates such as Nigeria, there are persistent disparities in internet access and use between urban and rural dwellers.

High cost of data and poor service delivery are among the major challenges faced by internet users in the West Africa region. Unfortunately, despite the high data costs, the government of Benin attempted reviewing telecom taxes upwards by imposing social media taxes. Internet regulation is also picking up in the region.

Although online speech violations are relatively few in the region, they still happen. During the quarter under review (July to September 2018) for instance, incidents of arrests and detentions occurred in Burkina Faso and Senegal while Mali witnessed partial social media disruption.

Country-specific Findings

The monitoring of online expression abuses and other internet-related developments in West Africa over the three-month period came up with three sets of results. In half of the countries in the region, not much happened on the internet landscape. In four of the countries, a number of internet-related convenings happened. In the remaining four countries, repressive incidents were

Internet Rights Monitor July-Sept 2018

recorded. Below, details of the abuses cited in the four countries are presented on a country-by-country basis. This is followed by highlights of the internet-related conferences and meetings that occurred in the period under review, also on country-by-country basis.



The digital space in Benin is largely regulated by the Code Numerique which was passed in April 2018. High cost of data and poor service delivery are some of the major challenges confronting the country. Despite the high data costs, the government of Benin, in July 2018, adopted Decree No. 2018-341 of July 25, 2018 to introduce a tax on electronic communications in the country. The electronic communications tax required service providers to pay five percent (5%) on the cost (excluding tax) of communications (voice, SMS, Internet) and a charge of 5 FCFA per megabyte when using platforms such as Facebook, WhatsApp, Twitter, Viber and Telegram etc.

The electronic communications tax led to an increase in the cost of telecommunication services. Before the tax, one gigabyte of data was costing CFA Francs 500 (USD 0.881 USD) for 48 hours for all internet services. With the introduction of the tax, 500 MB of data without access to social networks and downloads costs 500 FCFA (USD0.881) for 24hours while 50 MB of Internet package with access to social networks and downloads costs 500 FCFA (USD 0.881) for 24h. This increase in data costs led to a series of demonstrations and the use of the hashtag “TaxePaMesMo” (don’t tax my Mega Octets) by bloggers and Internet users to call on the government to repeal the new regulation. The social media tax was repealed on September 22, 2018, an important precedent for digital rights and freedoms in West Africa.

In another development, Benin’s media and communications regulator, Haute Autorité de l’Audiovisuel et la Communication (HAAC), on August 2, 2018, ordered the indefinite suspension of *La Nouvelle Tribune*. According to the HAAC, the paper violated Benin’s code of information and ethics. The privately-owned print and online newspaper was initially suspended on February 8, 2018 after it published an article titled “Talon Sucks Beninois to the Marrow.” The said article was deemed to be offensive by the HAAC. *La Nouvelle Tribune* has since been awaiting the final decision of the regulatory body after its suspension. Although the newspaper has stopped printing, its website remains accessible.



The online environment in Burkina Faso is generally free with no internet-specific laws. Many Burkinabes are offline. According to the World Bank¹, only about 10 percent of the country's population is online. Service delivery is generally poor. Occasionally, the few internet users are abused for their online expression. Two of such incidents happened during the quarter under review.

On July 3, 2018, Naïm Touré, an activist, was sentenced to two months imprisonment by a high court in Ouagadougou for criticising the Burkina Faso Military on Facebook. Arrested and detained on June 14, 2018, Toure was sent to the House of Arrest and Correction of Ouagadougou (la Maison d'Arrêt et de Correction de Ouagadougou - MACO) on June 19, 2018. Touré was convicted for broadcasting content disturbing public order, 'participating in and demoralising the Defense and Security Forces (DSF)' and 'inciting the DSF to conspire against state security.' He was released on August 19, 2018.

On September 18, 2018, Issaka Lingani, the head of former weekly newspaper *L'Opinion*, was summoned for questioning by the police in relation to an alleged claim of terrorists' attacks in the Eastern part of the country. In a Facebook post on September 16, 2018, an account attributed to Lingani claimed the terrorist group al-Qaeda posted a message where they declared responsibility for recent attacks in the eastern part of the country. Issaka Lingani is said to have been released after questioning by the police.

The monitoring also captured an incident where two individuals were sentenced for defaming one Jean Marc Bonato on Facebook. A court of justice (Tribunal de Grande Instance (TGI)) of Ouagadougou, on August 2, 2018, sentenced Safiatou Lopez Zongo and Hervé Ouattara for defaming Jean Marc Bonato on Facebook. It was alleged that the two individuals accused Jean Marc Bonato, a printer, of assaulting homosexuals on Facebook. Zongo and Ouattara were asked to pay fines of 150,000FCFA (USD262.44) and 500,000 FCFA (USD874.80) each for damages. As part of the court's ruling, they were ordered to remove the alleged defamatory post from their Facebook account and publish the verdict of the court.

On August 7, 2018, the Consumer League of Burkina Faso, Kadiogo section (LCB) which is an association of telecommunication services subscribers organized a press conference where they condemned the poor quality of Internet services in the country.

¹ <http://www.worldbank.org/en/news/feature/2016/04/05/moving-vital-information-online-in-burkina-faso>



Similar to other countries in the region, Ghana's telecommunications sector continues to grow with increased investments from both government and the private sector. In the quarter under review for instance, a rural telephony project was inaugurated in Abenaso in the Eastern Region of Ghana on August 3, 2018. The project seeks to connect the Abenaso town and surrounding communities with ICT facilities and telecommunication services. The project is also expected to provide data and voice connectivity to unserved communities across the country.

Despite the investments, the sector is faced with challenges such as high data cost; unreliable connections and general poor service delivery; and cybercrimes. Cyber attacks are quite pervasive and a major concern to many stakeholders in the ecosystem. The Ministry of Communications has set up a national cyber security center to deal with cyber security issues. The government is also engaging global stakeholders to tackle the cybercrime challenge. For example, in August, senior representatives from the United States and Ghana participated in a US-Ghana Cyber Study as part of a Security Governance Initiative which is a partnership between the United States and Ghana.

During the monitoring period, a major cyber fraud was halted by the Financial Forensics Unit (FFU) of the Criminal Investigations Department (CID) of the Ghana Police Services – on July 30, 2018. The suspects who are believed to be part of a wider cybercrime syndicate, attempted transferring a sum of GH¢326 million (USD65,659,627.47) from the treasury of Universal Merchant Bank (UMB) electronically. When the bank suspected that its information technology security infrastructure had been compromised, the Financial Forensics Unit of the CID was alerted. Subsequently, 12 suspects were arrested out of which eleven were remanded by a circuit court.

Workshops and conference held in Ghana during the three-month reporting period included the International Telecommunication Union (ITU) African Regional Development Forum which highlighted the need for African countries to build digital economies and enhance regional integration (July 18 - 20, 2018); and the fifth edition of the Forum on Internet Freedom in Africa (FIFAfrica) which was organised by the Collaboration on International ICT Policy for East and Southern Africa (CIPESA) in partnership with Media Foundation for West Africa on September 27 and 28, 2018.

On September 27, 2018, the Minister for Communications, Ursula Owusu-Ekuful, indicated that the government of Ghana was committed to extending internet connectivity to every part of the country by 2020. She made this known when a twelve-member delegation made up of government officials from the Cabinet Office of Zambia called on her to know more about how Ghana was implementing policies in the communications and technology space and to exchange ideas.



Mali's internet landscape is challenged by high cost of data (one of the highest in the region) and poor service delivery. The quarter under review did not see much improvement in these areas, rather, social media platforms such as Twitter and WhatsApp were blocked on Orange Mali network, the main network operator in the country. The partial shutdown of social media platforms occurred during the 2018 presidential election which was held on July 29, 2018. A number of websites were also blocked.



During the monitoring period, a number of internet-related activities took place in Nigeria. Google launched a public Wi-Fi service in Nigeria. The public Wi-Fi service initiative is expected to contribute to addressing issues of affordability, access to data, as well as broadband penetration in Nigeria. The Wi-fi service, can be accessed in some locations and is expected to be expanded to other locations in the country.

Some of the other major events that took place in the country included the 2018 edition of the Nigeria Internet Governance Forum which was held under the theme, "Internet: An Enabler for good Governance;" a conference on curbing fake news ahead of the country's 2019 general elections under the theme, "Democracy and Disinformation: How Fake News Threatens our Freedom and Democracy in Nigeria;" and an annual regional capacity building workshop by the International Telecommunication Union (ITU).



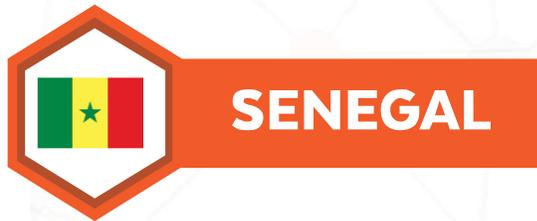
The monitoring of the internet landscape in Niger from July to September 2018 cited two significant developments – the passage of two laws to regulate the online space in the country. Law N°2018-47 of 12 July 2018 seeks to create and manage the operations of the Regulatory Authority for Electronic Communications and Post (l'Agence de Régulation de la Communication Electronique et

Internet Rights Monitor July-Sept 2018

de la Poste (ARCEP) while Law N°2018-45 of 13 July 2018 seeks to regulate Electronic Communications.

The monitoring also captured a number of activities undertaken by government and civil society organisations to promote internet freedom in the country. The National Agency for the Information Society (l'Agence Nationale pour la Société de l'Information (ANSI), on 28 July 2018, organised an open day which among other things, discussed interventions that could contribute to safer electronic transactions and how to expand internet access to people in rural communities. On August 7-9, 2018, ANSI again organised a three-day workshop to examine how digital technologies could be used to improve and develop governance, agriculture, health, education, security and finance.

On September 17-18, 2018, another workshop was organised. The two-day workshop discussed digital rights and internet freedoms; and a draft law on Electronic Communication. The workshop was organised by the Millennium Challenge Account Support Unit (MCA) in collaboration with the Ministry of Telecommunications and Digital Economy (Ministère des télécommunications et de l'Economie numérique), the Superior Council of Communication (Conseil Supérieur de la Communication (CSC), the Regulation of the Electronic Communication and the Post Office (l'Agence de Régulation de la Communication Electronique et de la Poste ARCEP) and the country's press union (Maison de la Presse) organised a workshop.



The internet landscape in Senegal is generally not restrictive. However, existing legal frameworks especially pertaining to public order are used to repress online expression issues. The country is considering an Electronic Communications regulation.

A draft Electronic Communications Bill aimed at regulating electronic communications was adopted by the Senegalese council of ministers on June 6, 2018. During the period under review, civil society and other activists raised a number of issues about certain provisions in the Bill. For instance, on August 31, 2018, digital rights and internet freedom organisations held a press conference to express concerns about the draft Bill. Following the issues raised, the Bill was withdrawn for reconsideration.

During the quarter under review (July-September 2018), two people were charged and put into detention for their online post. On July 9, 2018, Moustapha Diakhaté and his alleged accomplice, Bassirou Fall, were arrested by the Criminal Investigation Division of the police for defaming public officials through their online content. The two, after being interrogated at the headquarters of the Judicial Police, were charged with disturbance of public order, insults through a computer system and defamation. The two have since been in detention.



As in many West African countries, cost; availability of requisite infrastructure; and rural-urban digital divide are some of the major challenges confronting the internet landscape in The Gambia. Despite these challenges, internet access and use is growing sturdily in the country.

For the period under review, The Gambia held its first Internet Governance Forum (IGF) after a six-year break. Due to the restrictive nature of the former regime, the IGF was halted after its 3rd edition. The Ministry of Information Communication and Infrastructure (MOICI), in collaboration with Internet Governance Forum, The Gambia Chapter, organised the 4th IGF on July 4-5, 2018. The theme for the IGF was, 'Internet Governance in The New Gambia.' The permanent secretary of MOICI, Awa Njie, who was at the event, expressed the government's commitment to building a digital economy.

Conclusion and Recommendations

Access to, and use of the internet is largely unrestricted in the West Africa region. Only few countries, such as Benin and now Niger, have specific laws that regulate internet and electronic communications. Practically all the countries have challenges with high data costs, poor service delivery, infrastructure deficits and wide urban-rural digital divide. Occasionally, internet users are attacked, arbitrarily arrested and detained, and sentenced for their expressions online. Sometimes too, there are internet shutdowns and social media disruptions in some of the countries.

From July to September 2018, the MFWA, its national partner organisations, and internet-rights monitors tracked and documented four violations against online expression in the region. The violations were recorded in Burkina Faso, Mali and Senegal, and they were in the form of arrest and detention and partial shutdown. The monitoring and tracking also cited the passage of two laws in Niger - law N°2018-45 which seeks to regulate Electronic Communications and law N°2018-47 which seeks to manage the operations of the Regulatory Authority for Electronic Communications and Post (l'Agence de Régulation de la Communication Electronique et de la Poste (ARCEP).

In a very progressive development and a significant precedent for digital rights and freedoms in West Africa, the government of Benin repealed a social media tax (Decree No. 2018-341 of July 25, 2018) it had adopted. This brought relief to the internet users in the country who had demonstrated against the tax which was going to make the the already high data costs even more expensive.

The MFWA commends the Beninois government and call on governments in the region to emulate the Benin example by listening to, and acting positively on the concerns of its citizenry. The organisation also makes the following recommendations to contribute to improving the internet freedom environment in the region.

- Governments should adopt multistakholder approaches in the design, development and implementation of internet-related regulations and policies. This will ensure stakeholder participation in the process, joint ownership and implementation of policies, and rights-based internet frameworks.
- Governments should work with industry players and other investors to reduce infrastructure challenges so the internet could be more accessible throughout their respective countries and thus, address the urban-rural digital gap. Such collaborations should also be forged to bring down data costs and improve service delivery.
- Governments should repeal and amend repressive laws that curtail expression offline and online expression.
- Governments should ensure that violations against online expression are thoroughly investigated and perpetrators duly punished.
- Civil society organisations should proactively engage governments and other stakeholders to ensure that interventions by stakeholders in the ecosystem are rights-respecting.
- 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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