MEDIA FOUNDATION FOR WEST AFRICA

The West Africa
Internet Rights Monitor

MONITORING REPORT FOR APRIL - JUNE 2017

Content

Executive Summary ■

Internet accessibility has generally improved across the West Africa region as a result of improved infrastructural development and increased accessibility to mobile broadband and smartphones. This development is greatly expanding spaces for expression, access to information and the demand for accountability. In spite of this progressive development, some measures put in place by some governments in the region, as well as activities by some non-state actors, have the potential to curtail internet freedom.

To help track, highlight and report on prevailing and emerging internet freedom challenges and developments in the region, the Media Foundation for West Africa (MFWA), through its project, *Enhancing Freedom of Expression Rights Online in West Africa through Policy Advocacy and Campaigns*, is monitoring and reporting on the internet freedom situation in eight target countries - Benin, Côte d'Ivoire, Ghana, Mali, Niger, Nigeria, Togo and The Gambia. The monitoring is done using a basic internet rights monitoring tool to gather on-the-ground internet-related information by MFWA's national partner organisations and monitors. This report is the result of a collation of the monitoring reports submitted by the partner organisations and monitors from April to June 2017. The report highlights internet freedom challenges and developments in the target countries, and make recommendations for improving the internet freedom landscape in the target countries and West Africa as whole.

Findings from the monitoring show that the internet freedom environment is generally unrestrictive with minimal internet-specific laws regulating or repressing online expression. Inadequate infrastructure, high cost of data and poor service quality were also found to be challenges in the landscape. The monitoring also recorded six online expression violations and four other incidents relating to redress, regulation and Facebook blackout.

The report ends with recommendations for improving the internet freedom situation in the target countries, and West Africa by extension, through rights-respecting regulation and policies, and sensitisation for the protection and respect of internet freedom by both state and non-state actors.

Introduction ▪

nternet access is gradually, but steadily, increasing across Africa, and the West African sub-region is no exception. Through increased private sector investments, availability of submarine fibre optic cables, and internet-enabled handsets, millions of people in the region are getting connected to the internet. This improved and increasing access is opening up opportunities for innovation, economic empowerment, personal development and political participation. It is facilitating the exercise of rights and freedoms for expression, assembly, access to information and demand for accountability. The internet is, therefore, contributing positively to the social, economic and political development of the region.

However, some African governments see the enabling power of the internet for expression and its implication for transparency and accountability in governance as a threat, and are, therefore, deploying and exploring measures to curtail freedoms online. Specifically, such governments are resorting to surveillance, harassments and introduction of restrictive and application of existing repressive laws to muzzle online expression and other activities. Some governments are also resorting to full and/or partial network shutdowns particularly during public unrest and general elections to limit information flow. These interventions often result in the violation of "human rights norms and principles without adequate safeguards."

Some of the measures being deployed by some governments in the region pose threats to online users and thus, force some individuals to sometimes resort to self-censorship for their own safety. There is, therefore, an urgent need to ensure a rights-respecting internet environment to safeguard internet users in the region. In response to this need, the Media Foundation for West Africa (MFWA), with support from Access Now, is undertaking a project that is aimed at contributing significantly to shaping policy, legislative and operating environment that supports and promotes people's online expression. The project, *Enhancing Freedom of Expression Rights Online in West Africa through Policy Advocacy and Campaigns,* seeks, among other activities, to monitor and report on online violations in West Africa; advocate against online repression; and encourage governments to adopt and implement appropriate internet policies that respect and advance the exercise of people's rights online.

The monitoring of online violations under the project covers eight target countries – Benin, Côte d'Ivoire, Ghana, Mali, Niger, Nigeria, Togo and The Gambia. The 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 will serve as a reference material for internet/online rights advocates and local, regional and international rights organisations to inspire evidence-based advocacy and policy dialogues with policy makers and implementers. Below is the first quarterly report on the eight countries covered under the project.

Methodology ■

To help ensure efficient monitoring of digital rights developments within the region, a basic internet freedom monitoring tool was developed and shared with national partners and MFWA's online rights monitors. Also, a manual that provides tutorials on the monitoring tool was reviewed and updated for the project. Each of the eight monitors was provided with both the monitoring tool and the manual to guide them on the issues to look out for in the monitoring.

Monitoring reports were submitted to the MFWA from each of the monitors. The reports were collated and analysed into the quarterly report below. The report presents country-by-country situational analyses in the context of internet freedom, highlighting general developments (positive and negative) and specific freedom of expression incidents online from April to June 2017.

General Findings ■

The monitoring and reporting of the internet freedom situation in the eight target countries showed that generally, penetration rates are increasing with the help of mobile broadband and access to internet-enabled handsets. None of the countries monitored had specific laws regulating or repressing online expressions and activities except Nigeria which has a cybercrime law that seeks to respond to cyber-security-related activities online. Unavailability of adequate infrastructure for internet access across the countries, cost of data and quality of service were some of the pertinent issues reported from all the countries.

Even though the monitoring period witnessed the *WannaCry* Ransomware which affected many notable organisations globally, none of the target countries monitored experienced the WannaCry Ransomware cyber-attack. Also, with the exception of Mali, none of the other countries reported any known mass surveillance, filtering, blocking or shutdown of internet resources or social media in the period under review. In terms of online violations, only two of the countries, Mali and Nigeria, recorded incidents of violations.

A few of the countries witnessed some positive developments though. In some of the countries, processes have been initiated to influence rights-based policies, capacity building workshops and other internet-related engagements with policy makers aimed at improving the internet environment have taken place.

Country- Specific Findings

The FOE situation in each of the eight target countries as captured over the three-month monitoring period is highlighted below on country-by-country bases. Findings on all the eight countries, including those that did not record any online violations, have been presented below.

Côte d'Ivoire ■

The internet environment in Côte d'Ivoire is relatively free. Major online-related challenges include internet access, low connectivity and high data costs. At the time of compiling this report, there was generally no specific law regulating internet access and use in the country except Act 2013-451 of June 19, 2013 on cybercrime. Apart from the cybercrime law, there are other legal provisions sections of which are, to some extent, applicable online in the areas of privacy, false information, and online promotion of terrorism.

The country has three telecom operators, but internet access is still low, and mainly available in large urban cities. Internet connectivity (especially 3G and 4G) does not cover the whole of Abidjan, the capital. Data cost is also expensive – 1GB of data is about CFAF5000 (USD10).

During the reporting period, there was no direct repression of expression by government or state officials. Instead, internet users close to political parties and/or public officials were the main culprits in intimidating and threatening internet users who criticised their political parties or leaders online.

Specifically, a political journalist and blogger was threatened for writing a blog in which he criticised the Ivorian Speaker of Parliament, Soro Guillaume. In another incident, a Former Minister of the government of Ouattara, and MP close to the current Speaker of Parliament, Alain Lobognon, was threatened and the police went to his house to intimidate him following his tweets which criticised the government and the ruling political party. In the

third incident, an Ivorian singer, Josey, was abused, especially on Facebook, as a result of an affair and a pregnancy with an Ivorian footballer. In the fourth incident cited in the country, one Nancy Ndri, a young leader who calls herself *Celibbattante* (single but able woman) received lots of abused and harassment from some internet users.

In addition to the above-mentioned incidents, there were allegations that government agencies such as the police service were monitoring online communications, especially Facebook contents. The said monitoring was alleged to be used to identify those who were abusing public officials, especially the President and some members of his government. The allegations were, however, not confirmed at the time of finalising this report.
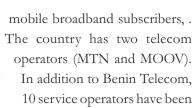
The country also witnessed the introduction of a new press Bill that sought to criminalise speech offenses made through the press or other means of publication such as the internet. The Bill, therefore, posed a threat to online expression. Fortunately, through public condemnation by the national journalists union, online activists and calls from regional organisations such as the MFWA, the Bill was withdrawn from Parliament for reconsideration. In another development, the Ivorian police service unit in charge of fighting cybercrime arrested several people in connection with hacking and pirating Facebook profiles for ransoms.

Benin ■

In the case of Benin, no online violation was recorded. It is, however, believed that violations such as hacking of websites and emails happen, but are not reported. There is also the perception that people from Benin's neighbouring countries come in and out of the country to carry out fraudulent activities online. There is, however, no official report to that effect.

According to the sector regulator, Autorite de Regulation des Communications Electroniques et de la Poste (ARCEP), Benin's internet penetration rate, as at June 2017, was 36.97 percent, with 29,160 fixed broadand subscribers and 4,144,231 mobile broadband subscribers, . The country has two telecom operators (MTN and MOOV). In addition to Benin Telecom, 10 service operators have been licensed to operate in the country. The internet environment in the country is generally free with no known restrictions. There is no internet-specific regulation in the country. However, in June 2017, the National Assembly passed law 2017-20 (code du numérique) which seeks to regulate the digital environment in the country. The law will come into force once approved by the courts.

Ghana ■

Ghana was one of the first countries in Africa to connect to the Internet and has developed one of the region's most competitive telecommunications markets. The country has six telecom operators and about 52 ISPs. Internet is accessible in all the 10 regions of the country though accessibility remains a challenge in many remote areas. Ghana's Internet environment is generally free with no known restrictions. Even though there are no specific laws on digital rights and freedoms, there exist laws and regulations, sections of which define issues of access, use, rights and freedoms of online users.

Fortunately, the country did not witness any violation against online speech or activity over the April-to-June 2017 period. Instead, the country hosted some very impactful internet-related events some of which touched directly on online users rights. In April 2017, the Ghana Data Protection Commission organised a Data Protection Conference to highlight the Data Protection Act and encourage its compliance to safeguard human rights. The Media Foundation for West Africa (MFWA) also organised two significant events on Women's Rights Online and Ghana's Cyber Security Policy and Strategy which were both advocating for a free, open and secure online environment for the benefit of all, including women.

Mali ■

The internet environment in Mali is generally unrestricted. There are no specific laws regulating people's online activities or expressions. The country has two telecom operators – Malitel and Orange – that provide both voice and data services. The country can also boast of six internet service operators (ISPs). However, internet access remains a challenge for many. While Internet access in the capital is generally good, access to the internet outside the capital is rather difficult. Data cost is also high (about US$13 for 1G) and this denies a number of Malians access to the internet.

There were two significant developments in Mali during the reporting period. In June 2017, Facebook was blocked for approximately three days thereby denying the public access to the social media platform in the country. The Facebook blockage happened three days ahead of an opposition demonstration against proposed constitutional reforms in the country. Not surprisingly, neither the government nor the two telecom operators in the country owned up for the blockage. Some few Malians were, however, able to circumvent the blockage using VPN. The Facebook blockage sparked off rumours that the government was monitoring and filtering people's online content and communications in general. This, however, remains a rumour, as there hasn't been any proof yet.

The Malian government planned for a Referendum on some proposed Constitutional Amendments in July 2017. A Malian Rapper, popularly called Master Soumy, who reportedly started a campaign dubbed "Don't Touch My Constitution," to oppose the move, had his social media communications interfered with by anonymous people.

Niger ■

The Republic of Niger, named after the famous river Niger, has seen considerable improvements in its media and freedom of expression environment. The online media, has also seen an impressive growth giving a boost to access to information and freedom of expression in general. Law N°2010-035 of June 4 2010, which decriminalised press offenses, has helped in expanding the frontiers of expression offline and online. Niger has 439,164 Internet users on March, 2017, 2.0% of the population, 280,000 Facebook users on June/2016, 1.3% penetration rate. Niger has four mobile networks- Airtel, Orange SahelCom and Moov. The country recorded no incident of violation during the three-month (April–June) monitoring.

Nigeria ■

Like many West African countries, Nigeria has witnessed a steady increase in internet access. The country has the highest population of internet users in West Africa. One of the factors driving internet access is in the country is the increasing availability and use of mobile broadband. The country's online space, especially social media platforms are very active and engaging with a number of social media influencers who drive various issues and agenda. Even though the country has a cybercrime law which was passed in May 2015 to deal with cyber security issues, general online expression is respected with no specific laws on online expression. However, to proactively ensure that there are safeguards for online expression and other activities, a Digital Rights and Freedom Bill is being championed by Paradigm Initiative Nigeria to ensure that the rights of online users are protected. Although the Bill has passed second reading at the Nigerian House of Representatives, it is yet to be passed.

The country reported two online-related issues. A Nigerian journalist, Midat Joseph, who is the Kaduna State correspondent of Leadership Newspapers and Chairman of the Correspondents Chapel of the Nigerian Union of Journalists (NUJ), Kaduna Council, and another person, one Eusebius Yayock, were arrested in April 2017 for comments they shared on a WhatsApp group chat which were said to be criminal conspiracy, inciting disturbance and injurious falsehood. The case was eventually struck out due to lack of diligence prosecution.

In a separate incident, Audu Maikori, a social activist filed for a suit worth 10billion Naira (about US$32,392,900) against the Kaduna State Government for violation of his right. In the early part of this year, Maikori posted some content online. He later realised the information was false and took the post down and apologised for it accordingly. He was, however, later harassed and arrested for that content he had taken down and apologised for. The case is still pending, but an interim order has been given to restrain the Governor of Kaduna State and any other authority from arresting or detaining Maikori pending hearing and determination of the suit.

Nigeria hosted one of the region's most significant internet freedom events in the quarter under review. In April 2017, Paradigm Initiative hosted its 5th edition of the Internet Freedom Forum in Africa with over 35 countries attending. The programme was also attended by the Vice Chairman of the Nigeria Federal House of Representative's Committee on Telecommunications (Hon Chukwuemeka Ujam). The country also witnessed a two-day advocacy workshop for civil society organisations on the Digital Rights and freedom Bill. The event, which was organised by Media Rights Agenda, was attended by the special assistant to the President on digital right and new media who delivered the Keynote Address.

Togo ■

The Internet landscape in Togo is also improving gradually. The country has two mobile operators (state-owned TogoCel and privately owned MOOV) and two ISPs (Togo Telecom and Café Informatique). In addition, an IXP has been launched, two new ISPs have been accredited to operate, and a government decree has sanctioned a merger between TogoCel, the mobile operator, and its parent company Togo Telecom. The decree has also sanctioned the creation of three other companies, named TOGOCOM, to support electronic communications in the country. The TOGOCOM Group, which will be state-owned, will include Togo Telecom, TogoCel and the 3 companies to be created. The work of the TOGOCOM Group will be complementary to each other and not competitive.

The three companies that are yet to be formed are tentatively named Togo InfraCom, Togo ServiceCom and Togo InstalCom. InfraCom will deal with long-term investment, build-out and operation of fixed and mobile infrastructures. ServiceCom will deal with service offers including voice, internet, fixed and mobile to corporate as well as individual/family customers. InstalCom will be in charge of installing and maintaining equipment.

Access (including affordable access and availability of network) remains the key issue in everything internet-related. The access situation is perceived to be more of a technical problem than as a rights issue. While there is some level of activism around human rights issues in general, it rarely intersect with internet freedom issues.

There was no reported case of any form of online expression violation neither was anyone harassed for online activities during the reporting period. The major development the country recorded was a Cabinet decree in May 2017 that spelt out the terms of application of the law on freedom of access to information and public records. The law was passed by the Legislature on March 10, 2016 and enacted on March 30, 2016, but the terms of application were determined in May 2017. This expands the freedoms of Togolese in accessing public information (offline and online).

The Gambia ■

The Gambia's internet environment, until the early part of this year, was one of the most repressive in the region. However, following the 2016 general elections that saw the exit of the repressive Yahya Jameh regime and the entry of President Adama Barrow and his administration, the situation has, and continues to improve. About six months into the new administration, there have not been reported cases of abuses for online expression or activity. Unfortunately, however, there are still inimical laws in the statute books of The Gambia that threaten online expression and nurture an atmosphere of self-censorship.

Cost remains one of the primary hindrances to internet access in The Gambia. The introduction of 3G wireless internet connections via mobile devices has improved internet accessibility, even though only a small subset of the population can afford the data packages. Many Gambians access the internet through mobile devices.

Conclusion and Recommendations ■

Internet access is improving across the West Africa region as a result of infrastructure development in the telecommunications sector by both government and private investors, mobile broadband and increased accessibility to internet-enabled-handheld devices. The sector is, however, not regulated in almost all the target countries under the project. This makes it possible for abuses to go on unnoticed and/or unpunished, even though that is not the prevailing situation as shown in in the findings from the monitoring in the quarter under review.

From April to June 2017, 10 internet-related incidents were recorded from four of the eight target countries. In six of the incidents, individuals who had expressed themselves through social media platforms were abused and harassed by both state and non-state actors. Four of such incidents occurred in Cote d'Ivoire, two in Nigeria and one in Mali. There was an incident of Facebook blackout in Mali; an introduction of a press Bill with possible ramifications for online expression in Côte d'Ivoire; and an introduction of a digital code in Benin to regulate internet-related issues. In Nigeria, an individual sued the Kaduna State Government for violation of his right after he was harassed and arrested for an online content he posted, took down and apologised for.

Although these incidents are relatively few for eight countries over a three-month period, they suggest three possibilities: the possibility of being attacked for online expression, introduction of legislative instruments to regulate or control online activities and exercising the right to seek redress for rights violations. In view of the findings and their possible implications, it is recommended that

- There should be more sensitisation for both state and non-state actors 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.

- 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.

i. African Declaration on Internet Rights and Freedoms
ii. http://www.internetworldstats.com/africa.htm#ng
iii. http://www.internetworldstats.com/stats1.htm
iv. http://www.thepremiernews.com/2017/07/31/el-rufai-loses-court-strikes-suit-leadership-bureau-chief-midat-joseph

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