

# LEGISLATING RESTRICTIONS

How African Governments Use Repressive Laws



DIGITAL RIGHTS IN  
**AFRICA**  
2018 REPORT



# TABLE OF CONTENTS

Introduction .....	2
Clampdown Trends .....	4
Internet Shutdowns: Africa is Reaching a Tipping Point.....	6
What Civil Society Must Do .....	7
Country Profiles .....	10
Uganda .....	10
Tanzania.....	13
Egypt.....	16
Morocco .....	20
Cameroon.....	23
Democratic Republic of Congo .....	27
Benin.....	30
Nigeria.....	34
Conclusion.....	38
Acknowledgements.....	39



# 1.

## INTRODUCTION

We are living in a rapidly changing world, and the digital rights landscape is not immune to that. There are many manifestations of this, but perhaps none is as evident as the rising tide of nations claiming national sovereignty over the internet. Perhaps taking a cue from the massive Chinese internet firewall, many countries around the world have begun to push for more control of the internet within their borders. Apart from risking and jeopardizing the inherent international, cross-border and open nature of the internet, many of these developments come as part of a strategy to threaten digital rights in these nations.

The surprise withdrawal of the United States from the United Nations Human Rights Council is another stark symptom of the strange times we are in. The United States' withdrawal has left a vacuum in this all-important United Nations organ which strives for human rights worldwide. Beyond the United Nations Human Rights Council, the United States has lost some of its moral authority as an arbiter and defender of global human rights as a result of happenings within its own borders. These developments have emboldened hitherto repressive, but hesitant, state actors into acts that brazenly attempt to restrict human rights online and offline.

In Africa, we are concerned that Egypt, a leading repressive state on the continent, was a leading proponent of new changes<sup>1</sup> to the United Nations Human Rights Council's "Internet Resolution" which

affirmed that the same rights that people enjoyed offline should also be protected online.<sup>2</sup> The key paragraph reflecting Egypt's influence reads:

"Expressing concern at the increasing use, in a globalized society, by terrorists and their supporters, of information and communications technologies, and noting in this regard that the prevention and suppression of terrorism is a public interest of great importance, while reaffirming that States must ensure that any measures taken to combat terrorism are in compliance with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law..."

Although the statement seems couched to protect national security, the reality is that in States such as Egypt, the definition of who a terrorist is quite hazy and could easily include critics of government. This has indeed been the reality in Egypt which has clamped down hard on

<sup>1</sup> Peter Micek, "Saving the U.N. 'Internet Resolution' from sharks circling in Geneva", AccessNow, July 10 2018. <https://bit.ly/2uzb0Q4>

<sup>2</sup> The United Nations Human Rights Council (UNHCR) Resolution". A/HRC/32/L.20, June 27, 2017. [https://www.article19.org/data/files/Internet\\_Statement\\_Adopted.pdf](https://www.article19.org/data/files/Internet_Statement_Adopted.pdf)



opposition and civil society groups<sup>3</sup> using legislation and policies crafted specifically for that purpose.

The increasing influence of China and Russia in global affairs is definitely changing perceptions about the thresholds of what is acceptable or not in human rights standards. Even more so, it would seem many African countries have begun to borrow a leaf from repressive foreign governments' playbooks for violating digital rights. The past two years have revealed a growing sophistication among repressive governments in Africa to not just use typical State-sponsored violence to beat citizens into submission. African governments have also now begun using "Rule of Law" tactics - drafting and passing legislation and policies which can be used to stifle freedom of expression, privacy and other digital rights.

That is the thrust of this report. Our 1st and 2nd editions of the Digital Rights in Africa Report cast a spotlight on Internet Shutdowns and Citizens fightback against digital rights abuses respectively. Our 3rd (2018) edition however focuses on how governments across Africa have transitioned from solely brutal tactics of arrests, Internet and social media app disruptions, and imprisonment to more refined, subtle and apparently "legal" approaches - or those that supposedly respect the "rule of law" - in stifling digital rights in Africa.

In the Democratic Republic of Congo, Egypt, Morocco, Tanzania and beyond, African governments have begun to roll out legislation and policies which enforce privacy violations, infringements to freedom of expression, access restrictions and hurt other digital rights. Our 2018 Digital Rights in Africa Report takes a look at this trend across Africa and discusses the way forward for civil society as we continue in the fight for digital rights and freedoms on the continent. This report highlights 8 countries across North, East, West and Central Africa where critical developments in the legal or policy space have conspired to hurt digital rights. These countries are:

**North Africa:**

Egypt  
Morocco

**West Africa:**

Nigeria  
Benin

**East Africa:**

Uganda  
Tanzania

**Central Africa:**

Cameroon  
Democratic Republic of Congo

<sup>3</sup> Rhys Dubin, "Egypt Cracks Down, Again", Foreign Policy, September 28 2017. <https://bit.ly/2LzE8Iz>

## 2. CLAMPDOWN TRENDS

### 2.1

#### Rapid Development of Legislation and Policies Violating Digital Rights

In Africa, digital rights repression and violations across the continent have assumed a new, legal and sophisticated dimension. Across the continent, a trend has emerged where dictators and repressive regimes are now quick to adopt so-called "rule of law" tactics in silencing dissent and citizen mobilization and civil discourse online. "Rule of law" tactics employ the cynical use of legislation and policies to give legitimacy to actions which constrict the space for freedom of expression, privacy, freedom of assembly and association and other digital rights online. From Tanzania, Uganda, Zambia in East and Southern Africa; to Egypt and Morocco in North Africa; to Benin and Togo in West Africa; and elsewhere, regimes have taken a dangerous cue from the playbook of dictators in a move which threatens the future of democratic, open and inclusive societies across the continent.

### 2.2

#### Slow Progress of Legislation and Policies that Protects Digital Rights

Interestingly, as states across the continent rush towards the passage of legislation which violate digital rights, simultaneously, they have either refused to implement calls for the enactment of legislation which protect digital rights, or have introduced delays in the passage of such laws and policies. For instance there are only 23 countries with data protection legislation installed on the continent (with a further 15 with draft legislation), whereas data protection has become a crucial foundation for life in our digital age and the successful working of the digital economy. Feedback from human rights activists on the continent suggests that several important legislation needed for the protection of digital rights either do not exist or are in draft form with progress to becoming full-fledged legislation.

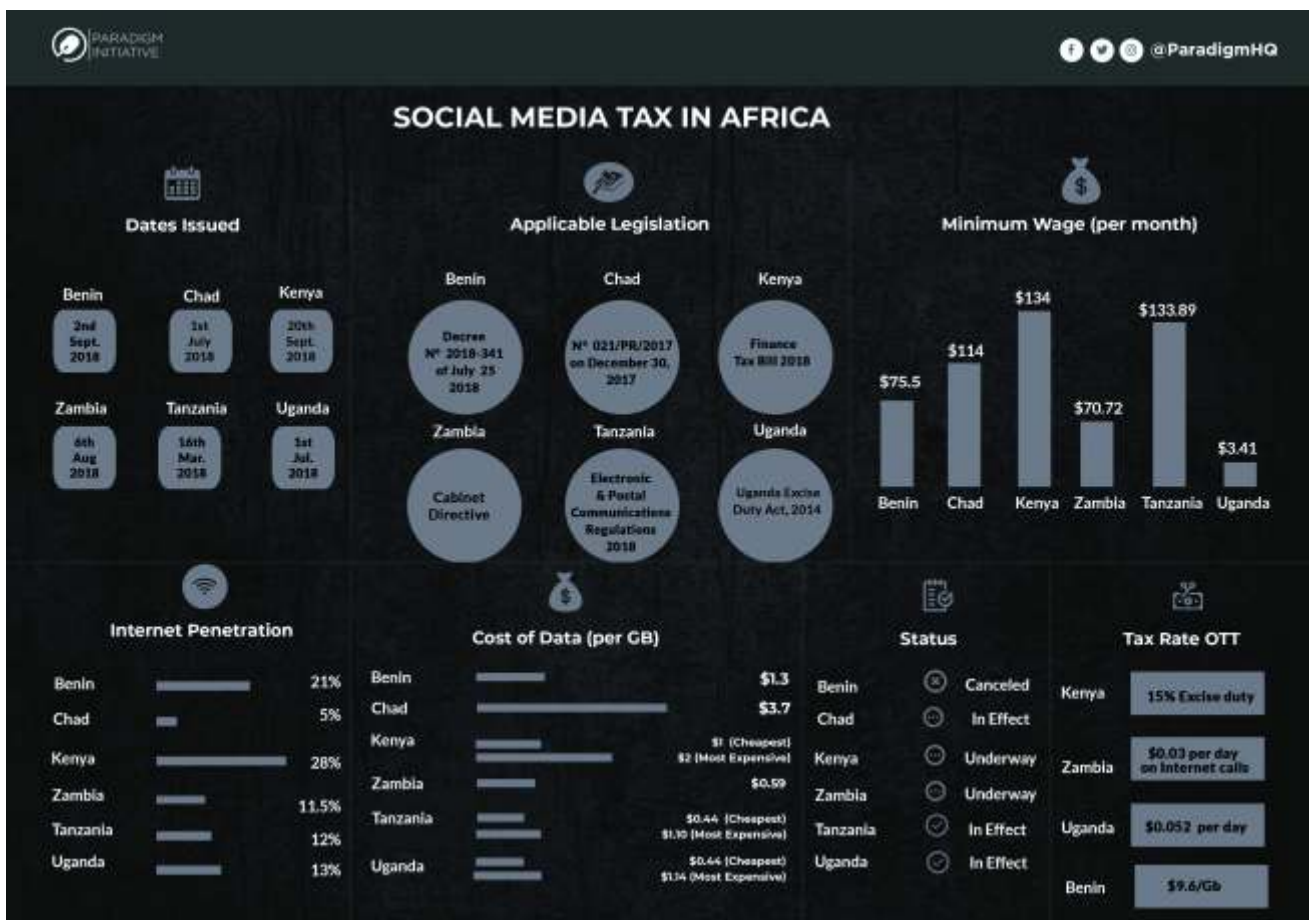


### 2.3

## Disregard of Already Existing Legislation Protecting Digital Rights

Another trend to be noted is the penchant by autocratic regimes to disregard existing frameworks protecting digital rights. In Africa, arrests of citizens for harmless comments made online, illegal surveillance of citizens and even Internet shutdowns are conducted in contexts where national constitutions and legislation declare such acts illegal. In such scenarios, it has often become the practice for state actors to literally dredge up sections from already existing legislation and use them as legal justification for illegal acts.

FIGURE 1: A SNAPSHOT OF LEGISLATION-BACKED RESTRICTIONS ON SOCIAL MEDIA USE IN AFRICA



### 3.

## INTERNET SHUTDOWNS: AFRICA IS REACHING A TIPPING POINT

In the past 3 years, Internet shutdowns have occurred with an outstanding regularity in Africa, typically around citizens' protests and other political events. Our Digital Rights in Africa Report 2016 reported at 11 incidents<sup>4</sup> of Internet shutdowns on the continent, while our 2017 Report discussed 8 incidents.<sup>5</sup> In 2018, there were Internet shutdowns or disruptions in Ethiopia, Mali, Democratic Republic of Congo, Sierra Leone, Cameroon and Chad. Many people around the world will remember the 93 day Internet shutdown in Cameroon in 2017.<sup>6</sup> The longest Internet shutdown in the history of the continent showed the desperate low digital rights in Africa had descended. In addition to the severe human suffering<sup>7</sup> Internet shutdowns occasioned by Internet shutdowns, Internet shutdowns also cause economic losses<sup>8</sup> as some studies have shown.

In light of the developmental deficits shutdowns spawn, perhaps the time has come for urgent steps to stem the rising tide of this trend on the continent. There are already encouraging signs of the topic being addressed at key international forums. However, more needs to be done in the context of the African Union to arrest the situation around Internet shutdowns in Africa.



<sup>4</sup> Okunoye B, Sesan G, Ajayi S and Ilori T (2016). Choking the Pipe: How Governments Hurt Internet Freedom on a Continent that needs more Access. Digital Rights in Africa Report 2016. <https://bit.ly/2y2fcnf>

<sup>5</sup> Okunoye B, Sesan G, Kalua I and Kenmogne R (2017). Good for Business: Why Private Sector Must Work with Citizens, Civil Society for Digital Rights: Digital Rights in Africa Report 2017. <https://bit.ly/2DJROB8>

<sup>6</sup> Yomi Kazeem, The internet shutdown in English-speaking parts of Cameroon is finally over. Quartz Africa, April 20 2017. <https://bit.ly/2NW2pxF>

<sup>7</sup> Abdi Latif Dahir, This documentary tells the story of Africa's longest internet shutdown. Quartz Africa, August 6 2018. <https://bit.ly/2y5lth8>

<sup>8</sup> Ibid

<sup>9</sup> "United Nations event to explore ways to stop internet shutdowns". AccessNow, June 8 2018. <https://bit.ly/2lxmnsj>



## 4. WHAT CIVIL SOCIETY MUST DO

The new tactics being adopted by governments across the continent require new responses and approaches by civil society. In light of state actors' use of legal instruments to legitimize digital rights violations across Africa, steps civil society can take to respond to this new threat include:

### 4.1 Strategic Litigation

Many in Africa have lost faith in the courts as true arbiters of justice. In many African contexts where autocratic regimes hold sway or democracy is weak, the judiciary are really an appendage of the executive branch of government, thus rendering the chance of obtaining rulings which challenge government positions slim. This is important because African governments are perhaps the chief violators of digital rights on the continent. Nevertheless, some civil society groups in Africa have boldly ignored this situation and approached local courts to obtain favourable rulings which reversed government mandated legal violations to digital rights violations in Kenya<sup>10</sup> amongst others. On a continent where state actors are now awake to legal routes to stifling digital rights, the courts perhaps represent the most obvious routes to challenge their repressive tendencies.



<sup>10</sup> Maureen Kakah, "High Court suspends portions of cybercrime law", The Nation, May 29 2018. <https://bit.ly/2xWiRnF>



## 4.2 Actively Seeking Partners within Legislative Houses

Houses of Parliament across Africa have become vehicles for the passing of laws which infringe on digital rights. In 2018 for instance as the report below documents, working closely with the Executive, legislators in countries such as Tanzania and Uganda have drafted laws which have constricted the space for freedom of expression, assembly and privacy online. Despite playing this role however, Houses of Parliament are also potentially spaces where partnerships can be forged between civil society groups working on digital rights and legislators who are supportive of human rights ideals. It is important for civil society in Africa to work towards building bridges of understanding between them and legislators towards improving the legal framework around digital rights in Africa. This approach proved viable in Nigeria, where civil society partnerships with legislature resulted in the passage of the Digital Rights and Freedom Bill into law. The Digital Rights and Freedom Bill provides comprehensive protection for the digital rights of Nigerians.

## 4.3 Using the Agencies of Regional Courts and African Courts

As noted in the aforementioned, although local courts can become bastions of support for digital rights litigation across Africa, another strategy for litigation which has proved potent in recent years is strategic<sup>11</sup> litigation for digital rights through African regional courts such as African Court on Human and Peoples' Rights, East African Court of Justice and Ecowas Court of Justice. This approach is important in African contexts because the effect of regional cooperation and peer-pressure on individual member states of African regions. This avenue for litigation presents itself as another route through which civil society can expand their advocacy.



<sup>11</sup> "UPDATE: ECOWAS Court delivers landmark decision in one of our strategic cases challenging the laws used to silence and intimidate journalists in the Gambia", Media Legal Defence Initiative, March 23 2018. <https://bit.ly/ZzHdHwQ>

#### 4.4 Africa-Wide Coalition Building for Shared Experiences

The increasingly sophisticated avenues of attacks on digital rights on the continent, which now includes the use of legal instruments, requires that digital rights activists pool and share knowledge and experiences, particularly in the aid of partner activist organizations with deficits in the knowledge and experience required to confront this new legal challenges to digital rights. The incidents of the year 2018 suggest that African governments are now learning from each other in the implementation of legal mechanisms which violate digital rights. It wouldn't therefore be a disservice if digital rights activists in Africa also work together across regions to combat government overreach and violations of digital rights on the continent.



## 5. COUNTRY PROFILES

### 5.1 Uganda

Uganda, famously known as the 'Pearl of Africa' is a landlocked country in the East African region, bordering Kenya to the east, South Sudan to the north, Democratic Republic of Congo to the west, Rwanda to the south-west, and Tanzania to the south. The country has a population of 42,862,958 and a Gross Domestic Product GDP of 25.891 million<sup>12</sup>. Uganda has attracted international attention due to its strict legal and social position against the LGBTQI community.

The economy of Uganda has been growing at a pace of 4.5% for the past couple of years. However the economy has grown at a faster rate due to the increase in growth of agriculture and Information and Communications Technology (ICT)<sup>13</sup>. Its revenue fiscal policy is propelled by expenditure. Uganda's public expenditure increased from 15% of GDP to more than 20%.



<sup>12</sup> World Bank, "National Accounts Data, and OECD National Accounts data files", May 2017 <https://bit.ly/2C3Mfee>

<sup>13</sup> World Bank Group, Uganda Economic Update, 11th Edition, "Financing Growth and Development - Options for Raising More Domestic Revenues" May 1 2018. <https://bit.ly/2yoNOA9>

Uganda has an Internet penetration of 23.7%. The policy maker in the Internet arena in the country is the Ministry of ICT.<sup>14</sup> There are several telecom companies in the country that provide voice and data services. They include Airtel, Vodacom, MTN (Mobile Telephone Network) and Africell, Smart, Smile, K2 and Uganda Telecom (UTL). Due to the increased use and demand for the Internet there are those whose chief focal point is the Internet. They include Talk Telecom Solutions Limited, Roke telecom, Infocom, iwayAfrica, Datanet and NITA-U (Uganda Communications Commission; who are the licensed service providers in Uganda).<sup>15</sup>

Several structural and investments reforms were put in place in Uganda following its 1986 armed conflict. There has been a great improvement in Uganda's formal governance system and has helped improve public sector management and institutional quality. Yoweri Museveni and his major political party National Resistance Movement have ruled Uganda without interruption since taking a hold of power in 1986.

Uganda has, in the past, been marred with digital rights abuses such as two internet shutdowns where social media sites and mobile money services were completely shutdown. Several newspapers, TV and radio stations have also been shut down over the years depending on the nature of their content is perceived by Museveni's strict authoritarian regime.

On 1st July 2018, the government of Uganda passed a controversial law that now imposes tax on social media use in the country. This law, known as the Excise Duty Amendment Act 2018<sup>16</sup>, was passed soon after its neighbour Tanzania has implemented its Electronic and Postal Communications (Online Content) Regulations 2018.<sup>17</sup>

This social media tax is geared towards all people in the country regardless of economic status. Ugandans will have to pay 200 Ugandan shillings (0.05USD)<sup>18</sup> a day to use popular platforms like Twitter, Facebook and WhatsApp. Mobile prepaid data in Uganda for 1 gigabyte already costs more than 15% of the average Uganda citizen's income, which is much higher than the internationally recommended standards<sup>19</sup> to ensure reasonably priced Internet access.

The government claimed that this social media tax was implemented to raise revenue. Challengers have, however, contended that the tax was instituted in a bid to stifle the freedom



<sup>14</sup> International Telecommunications Union, "ICT EYE Key Data & Statistics" 2017.

<sup>15</sup> The Collaboration on International ICT Policy for East and Southern Africa, "National Information Technology Survey" March 2018.

<sup>16</sup> Excise Duty Amendment Act July 1 2018

<sup>17</sup> Electronic and Postal Communications (Online Content) Regulations April 2018.

<sup>18</sup> The Collaboration on International ICT Policy, "New Social Media Tax will push Basic Connectivity out of reach of millions" April 2018

<sup>19</sup> Gross National Income (GNI) per capita data is from the World Bank, "Price of Broadband Data (1GB mobile prepaid) as % of GNI per capita" 2017

---

of speech due to the growing criticism of the President Yoweri Museveni who has been in power for a little over 3 decades now. President Yoweri Museveni requested this new law in a letter stating that the government needed resources “to cope with the consequences of social media users, opinions, prejudices and insults”. In effect this was a request for a law to curtail the freedom of expression on the Internet.

One in nine internet users in Uganda is on a social media networking platform, with the most popular being Facebook and WhatsApp. Civil society organizations in Uganda have termed this move by the government an attempt to further limit the freedom of expression in the country. The newly installed Internet tax will widen the already huge digital divide in the region by limiting Internet Access especially to the poor citizens of Uganda who cannot afford to pay the tax.

Many Ugandans took to social media and street protests to oppose the social media tax. A prominent Ugandan politician, Kyadondo East Member of Parliament Robert Kyagulanyi, popularly known as 'Bobi Wine' was arrested in July 2018 among other activists as they joined protests against the social media tax. People from Kenya, Uganda's neighbour to the east, and others across the globe joined in on the massive social media campaign and stood in solidarity with Ugandans who were calling for Bobi Wine's release and a cessation of the social media tax. The power of social media shone in its full glory when his release was granted in August. This was however short-lived as he was once again arrested.

There have been many cases of arbitrary arrests in Uganda in a bid to control information in Uganda. Many have fled the country for fear of persecution. During the Bobi Wine saga following the social media tax protest two journalists, Herbert Zziwa and Ronald Muwanga from NTV were arrested and charged alongside Bobo Wine and other politicians. Several civilians were injured and one shot dead by the police during these protests in Kampala.<sup>20</sup>

Uganda has evidently taken its digital rights abuses a tad far than its neighbours. It is however comforting to see Ugandans coming together so vigilantly to fight for their digital rights and freedoms.



---

<sup>20</sup> "Vicious crackdown on protests, journalism and opposition around by-election", Article 19, August 24 2018

## 5.2 Tanzania

Tanzania is a regional power in East Africa with an estimated population of 54,199,163 and a Gross Domestic Product (GDP) of over \$52 billion. Agriculture is the mainstay of the Tanzanian economy, contributing over 30 percent of GDP and employing 67 percent of the labour force, with women contributing more than 70 percent of the labour force.<sup>21</sup>

Tanzania has an Internet penetration of 13%, below the African average of 19.9%. Active mobile broadband subscription is 9.2% and fixed mobile broadband subscription of 3.4%.

Internet Service Providers (ISPs) in Tanzania include Vodacom, Tigo, Airtel, Zantel and Smart. The telecommunications Regulator is the The Tanzania Communications Regulatory Authority (TCRA).

Though it has had multiparty elections since 1994, Tanzania has been run exclusively by Chama Cha Mapinduzi (CCM), the “party of the revolution”, since its formation in 1977.<sup>22</sup> Under the CCM, Tanzania's politics showed signs of opening up and becoming more inclusive. In 2015, however, Mr. John Magufuli became President of the country, and less than a year after coming to power under the banner of the party, he had banned all political rallies. Several newspapers have been closed by the government, several opposition leaders have being attacked, including minority groups and pregnant teenagers.<sup>23</sup>



<sup>21</sup> "Tanzania: Economic Growth and Trade, USAID, <https://bit.ly/2NZBQXk>

<sup>22</sup> "Democracy under assault: Tanzania's Rogue President". The Economist, May 15 2018 <https://econ.st/2MMMEU3>

<sup>23</sup> "Tanzania: Political climate worsens amid crackdown on opposition". DW, <https://bit.ly/2p1jkXl>



The declining human rights situation in Tanzania is also reflected in Internet freedom and digital rights. Although as reported earlier, numerous media houses have been closed down in Tanzania, 2018 has seen a renewed crackdown on freedom of expression online in Tanzania. Ordinary citizens too have been affected, as demonstrated by the examples below.

In April, two musicians in Tanzania were arrested for posting videos on social media platforms. Award-winning 28-year old singer Nassib Abdul, also known as Diamond Platnumz, was detained on April 16 after sharing a video clip with his 4.5 million followers on Instagram showing him kissing a girl.<sup>24</sup> Also, 26-year old Faustina Charles, popularly known as Nandy, was also detained the same day for posting a video clip of herself and another musician via WhatsApp. The Tanzanian authorities considered the video "indecent".

Moreover, Tanzania made global headlines when authorities passed the Electronic and Postal Communications (Online Content) Regulations 2018. In line with the theme for this year's report, this law is a signature legislation which typifies our perception that governments across Africa are now increasingly codifying violations to digital rights and Internet freedom through the passing of legal instruments.

The Electronic and Postal Communications (Online Content) Regulations 2018, which came into force in April 2018, introduced a range of sweeping restrictions to freedom of expression through demanding, amongst others:

- (i) Mandatory registration and licensing of bloggers or any other member of the general public engaged in journalistic activities.<sup>25</sup>
- (ii) A licensing and registration fee to be paid annually to The Tanzania Communications Regulatory Authority (TCRA).
- (iii) Unfettered power to the TCRA to order the removal of 'prohibited content' online without any oversight from an independent and impartial judicial body
- (iv) Cyber cafes must install surveillance cameras, and all owners of electronic mobile devices, including phones, have to protect them with a password<sup>26</sup>



<sup>24</sup> Fumbuka Ng'wanakilala, "Popular Tanzanian singer arrested in latest internet crackdown", Reuters, April 17 2018. <https://reut.rs/2xlEvkP>

<sup>25</sup> "Tanzania: Restrictive regulations on online content signed into law". Article 19, April 23 2018. <https://bit.ly/2OGAcqQ>

<sup>26</sup> Shayera Dark, "Strict new internet laws in Tanzania are driving bloggers and content creators offline", July 6 2018. <https://bit.ly/2Nd298K>

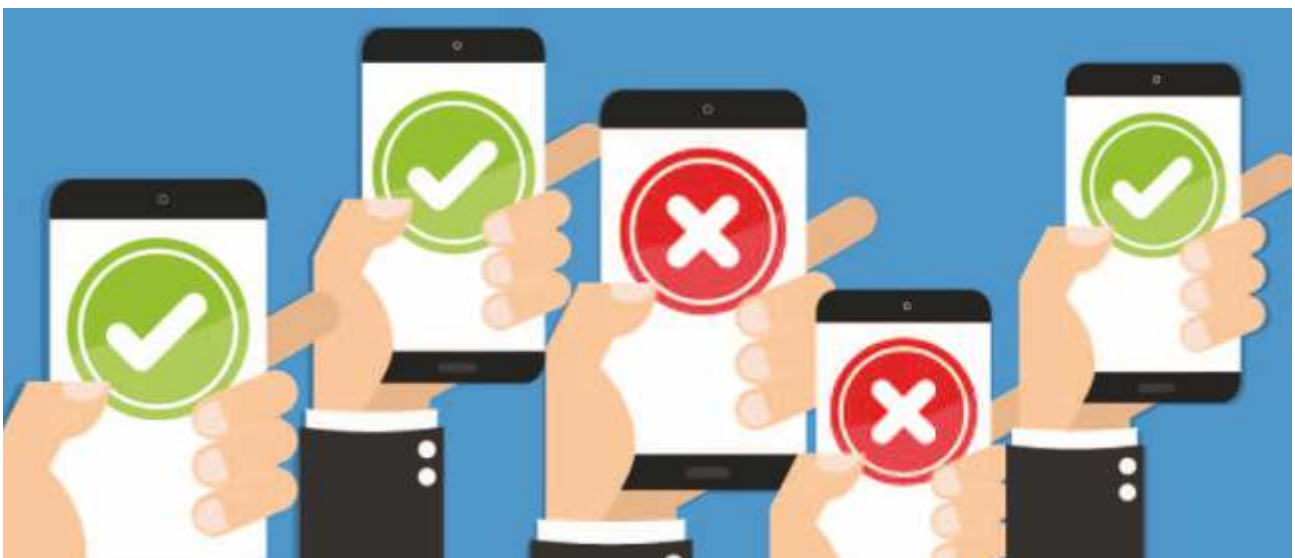


The regulations, which also cover traditional media's online platforms, social media and owners of internet cafés, require providers to pay 1.1m Tanzanian shillings (\$480) for a three-year licence, plus an annual fee of \$440.<sup>27</sup> Registration requirements include full personal and tax details of the applicant plus any shareholders and the likely nature of future content, requirements which clearly erode independence and privacy. Moreover, most bloggers in Tanzania are individuals,<sup>28</sup> making compliance with this law very difficult.

Prohibited content under this regulation includes any material that “causes annoyance” and “uses bad language”, language so broad it could easily include criticism of government or public officials within the already tense environment towards opposition groups in Tanzania. The maximum penalty for violating the rules is a fine of \$2,200 and 12 months' in jail.

Under the strain of this law, many blogs and websites have already been shut down by their owners:<sup>29</sup> Among these is JamiiForums, which is one of Tanzania's and East Africa's most popular blogs. Before this final outcome however, Tanzanians fought back, with a coalition of bloggers and civil society challenging the law in court, resulting in a court order<sup>30</sup> temporarily stopping implementation of the law.

The incidents in Tanzania in 2018 perhaps unlike no other location in East Africa typifies the growing use of “rule of law” tactics to stifle digital rights and Internet freedom in Africa. Civil society must rise to this challenge posed by the increasingly sophisticated tactics used by those who seek to impose repression and totalitarianism across the continent.



<sup>27</sup> John Aglionby and David Pilling, "Tanzania's bloggers face hefty fees for right to post online", Financial Times, April 22 2018, <https://on.ft.com/2polyaE>

<sup>28</sup> Fumbuka Ng'wanakilala, "Tanzania bloggers win temporary court order against state crackdown", Reuters, May 4 2018, <https://reut.rs/2rp2tZk>

<sup>29</sup> Fumbuka Ng'wanakilala, "Tanzania orders all unregistered bloggers to take down their sites", Reuters, June 11 2018, <https://reut.rs/2MOixis>

<sup>30</sup> Fumbuka Ng'wanakilala, "Tanzania bloggers win temporary court order against state crackdown", Reuters, May 4 2018, <https://reut.rs/2rp2tZk>

## 5.3 Egypt

With a population of over 90 million people, Egypt is Africa's third most populous countries, only behind Nigeria and Ethiopia in its huge population strength. Also, with a GDP of over \$235 billion, Egypt is an economic powerhouse in Africa, with an emerging economy with impact across two regions - Africa and the Middle East.

Egypt has an Internet penetration of 39.2%, active mobile broadband subscription of 52.6% and fixed broadband subscription of 5.2%. Internet Service Providers (ISPs) in Egypt include Orange, Vodafone Egypt, Etisalat Misr and Telecom Egypt. The Egyptian telecommunications Regulator is the National Telecom Regulatory Authority (NTRA).

Politically, Egypt has been under a dictatorship since the overthrow of President Mohammed Morsi in 2013 by the military. Since 2013, Egypt has been under the de facto leadership of the head of the military, General Abdel Fattah El-Sisi. In 2014, General Sisi became Egypt's 6th President after democratic elections which was characterized by the low voter turnout. Only 46% of the electorate participated in the elections, with Islamist and some secular groups boycotting the polls.<sup>31</sup> If the emergence of General Sisi heralded the possibility of an open and inclusive society in Egypt, the Egyptian government's record of brutal crackdown on dissent and opposition groups has erased any hope of such a possibility. Egypt has implemented a system of intense crackdown on activists, bloggers and journalists under the guise of fighting terrorism.<sup>32</sup>

This context of brutal crackdown on dissenting voices in Egypt has dominated Internet freedom and digital rights in Egypt, including in 2018. For instance Egypt has one of the most extensive surveillance networks targeted at opposition groups, activists, human rights organizations, bloggers and journalists. Particularly on social media and other communications platforms, this reality has installed a climate of fear on Egypt's activist community.<sup>33</sup>



<sup>31</sup> "Egypt Elections: Sisi secures landslide win". BBC news, May 29 2014. <https://bbc.in/2PjWi2u>

<sup>32</sup> "Egypt: Intensifying crackdown under Counterterrorism guise". Human Rights Watch, June 15 2018. <https://bit.ly/2OUdPPm>

<sup>33</sup> Marwa Morgan, "How Surveillance, trolls and fear of arrest affect Egypt's Journalists". Committee to Protect Journalists, June 12 2017 <https://bit.ly/2rpiFqI>



In this regard there have been a number of arrests and detentions of dissenting voices on digital platforms in Egypt. On May 23 2018, prominent Egyptian blogger and journalist Wael Abbas, who is one of the Arab's world most popular bloggers, was arrested by police.<sup>34</sup> The outspoken critic of police brutality was blindfolded and taken away by Egyptian police, but not before posting "I am being arrested" on his Facebook page. Wael Abbas has been a pioneer and influential blogger in Egypt, noted for his criticism of the corruption, police brutality and the use of torture in Egypt.

On May 11 2018, Amy Fathy and Mohamed Lotfy her husband were arrested for her posting a Facebook video where she spoke of sexual harassment in Egypt and the government's lack of protection for women.<sup>35</sup> Police raided her Cairo home and brought them to the police station, with their 3-year old child. Her 12 minute video also touched on the worsening human rights and socio-economic situation in Egypt.

In another incident which demonstrates the repressive climate in the country, a Lebanese tourist, Mona El-Mazbouh, was sentenced by a Cairo court on July 7 to eight years imprisonment.<sup>36</sup> Her sentence was in relation to a 10 minute video she posted on Facebook complaining about sexual harassment and living conditions in Egypt.

Also in Egypt, since August 14 2018, Egyptian authorities have ordered the detention of four journalists as part of a case where several journalists, activists and academics were charged with being members of a banned group and for spreading false news.<sup>37</sup> Amongst them are Islam el-Refai, also known as Khorm, a satirical blogger who also ran a satirical Twitter account with 75,000 followers.

<sup>34</sup> "I'm being arrested, blogger posts as Egypt repression intensifies". France24 News, May 24 2018. <https://bit.ly/2wwhyiX>

<sup>35</sup> "Egypt: Activist arrested for Facebook video on sexual harassment". Amnesty International, May 11 2018. <https://bit.ly/2NAFYi6>

<sup>36</sup> "Lebanese woman sentenced to eight years for insulting Egypt". AlJazeera, July 8 2018. <https://bit.ly/2PRX4Vw>

<sup>37</sup> "Egypt extends detention period for four journalists held as part of mass trial". Committee to Protect Journalists, August 21 2018. <https://bit.ly/2w3bcmv>

On the dawn of May 6 2018, security agents in plain clothes arrested the popular video blogger Shadi Abu Zaid at his home and detained him at the State Security Prosecutor's office in the Tagamou' al-Khamis neighborhood.<sup>38</sup> Shadi Abu Zaid has been a noted critic of the government, using video blogging as a means to make commentary on politics and social issues. He was charged with spreading false news and joining a banned organization.

Egypt also has a history of Internet network disruptions. From May 2017, the Egyptian government have authorized the blocking of at least 496 websites of news outlets, blogs, human rights organizations, and circumvention tools used to bypass the blocks.<sup>39</sup> On February 9 2018, the Egyptian military announced an operation to flush out "terrorists and criminal elements and organizations" in north and central Sinai Peninsula, west Nile Valley and the Nile delta; a move which accompanied the total disruption of telecommunications services in the peninsula.<sup>40</sup>

In 2018, Egyptian authorities have passed legislation which threaten digital rights of Egyptians. One is the Cybercrime Law, submitted by the government and approved by the Egyptian parliament on June 5 2018. Boasting a total of 45 articles, this new law grants Egyptian authorities legal backing for online surveillance, blocking of websites, monitoring of Internet users and use of communications services in Egypt.<sup>41</sup>

Article 7 of the Cybercrime law gives legal backing to a practice the Egyptian government have already begun in earnest since May 2017 - the blocking of websites. Article 7 grants an investigative authority the powers to block websites subject to the approval of a competent court. Article 7 also gives intelligence or security agencies powers to order the telecommunications authority to block a website, without needing the approval of a court. The security agencies ordering a block only need to inform relevant investigative authorities of their action after the act, although the investigative authorities have the power to reverse the block.

Article 2 of the Cybercrime Law also authorizes data retention and surveillance of communications, without the necessary judicial oversight. For example Article 2 stipulates that telecommunications companies comply with requests for data solely at the discretion of the NTRA, the Egyptian regulator, outside the boundaries already permitted by law. Article 2 also grants unfettered access by security agencies to citizens' data, without restrictions or standards.

Article 4 of the Cybercrime Law supports access to citizens' data by foreign governments, through agreements brokered by the Ministry of Foreign Affairs and International Cooperation. What's troubling about this provision is the approval of international data transfers without any requirements that the recipient countries have data protection laws in place to protect citizens' data.

---

<sup>38</sup> "CPJ alarmed by Egypt's detention of video blogger Shadi Abu Zaid". Committee to Protect Journalists, May 8 2018. <https://bit.ly/2opvUZy>

<sup>39</sup> "Egyptian Public must be able to access all news sites". Committee to Protect Journalists, February 6 2018. <https://bit.ly/2wqLisY>

<sup>40</sup> "Out of Coverage Area: Sinai Peninsula Residents Unreachable". SMEX, February 10 2018. <https://bit.ly/2onLDrR>

Wafa Ben-Hassine,

<sup>41</sup> "Egyptian Parliament approves Cybercrime Law legalizing blocking of websites and full of surveillance of Egyptians". AccessNow, June 20 2018. <https://bit.ly/2MUlWuh>

In addition to the Cybercrime Law, on June 10 2018, the Egyptian parliament approved a Media and Publications law. Article 19 of this law authorizes the Supreme Council for Media Regulation to impose sanctions on owners of personal websites, blog or online account with more than 5000 followers for the publication or dissemination of false news, incitement to violence or hatred, discrimination against citizens, racism, intolerance or defamation of individuals, or insult to divine religions or religious beliefs.<sup>42</sup> In other words, websites, blogs or social media accounts with more than 5000 followers will be treated as media outlets which makes them subject to prosecution for publishing false news or incitement to break the law.<sup>43</sup> With a provision similar to what obtains in Tanzania, the Media and Publications law prohibits the setting up of websites without first obtaining a license from the Supreme Council for Media Regulation, allows the Council to suspend or block websites, and fine editors.

Egypt has emerged as one of the most repressive environments for digital rights in Africa, where journalists, bloggers, and social commentary on digital platforms is punished and the activist community under intense strain.



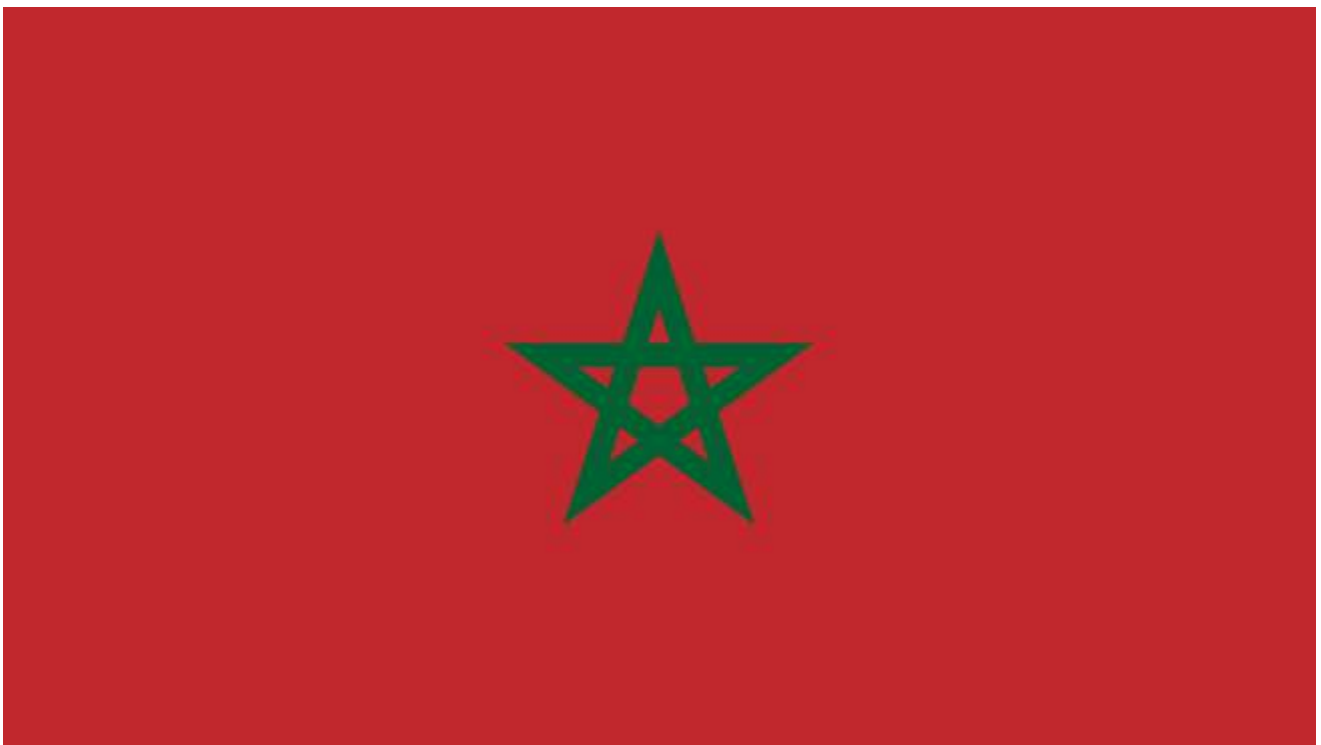
<sup>42</sup> Ibid

<sup>43</sup> "Egypt targets social media with new law". Reuters, July 17 2018. <https://reut.rs/2uvPxCE>

## 5.4 Morocco

With a population of 37.5 Million people<sup>44</sup> and a GDP of \$110.2 billion<sup>45</sup>, the Kingdom of Morocco is an Arabic self-governing territory of the Western Sahara. The Kingdom operates a version of monarchy<sup>46</sup> tagged as a 'parliamentary constitutional monarchy which includes a bicameral legislature, a constitution and provision for a non-partisan and independent judiciary.

It should however be noted that the King of Morocco is the top authority. He is in charge of appointing the Prime Minister after parliamentary elections by Moroccans. The King, though in charge of appointing the Prime Minister, is obliged to choose from the party which wins the most seats.



<sup>44</sup> "World Population Dashboard - Morocco" UNPF <https://www.unfpa.org/data/world-population/MA>

<sup>45</sup> "Morocco" Country Report, World Bank <https://goo.gl/2qZY7E>

<sup>46</sup> [https://en.wikipedia.org/wiki/Politics\\_of\\_Morocco](https://en.wikipedia.org/wiki/Politics_of_Morocco)



Morocco is generally known to have a mixture of attitudes towards human rights. In September this year, the parliament by criminalizing violence against women and sexual harassment, domestic abuse and rape made a move which has generally been referred to as long-awaited. The law passed imposes stricter penalties on perpetrators of said violations committed both in the private and public spheres.<sup>47</sup> The country is however also notorious for its rampant disregard for human rights; offline and online.

Article 25 of The Morocco Constitution 2011 guarantees the freedoms of thought, of opinion and of expression in all their forms. It also guarantees the freedoms of creation, of publication and of presentation [exposition] in literary and artistic matters and of scientific and technical research.

In reality however, as is the case in many African countries in which Freedom of the press and expression are guaranteed in theory, there are overt suggestions that this right is not entirely granted.

In June 2018, the Casablanca Court of Appeals sentenced Mohamed al-Asrihi to 5 years in prison and a fine of 2,000 Moroccan dirhams (approx. \$210). Al-Asrihi who is a Moroccan internet reporter, video journalist and publisher whose work covers corruption, human rights and politics was arrested by the Moroccan Security forces on the 6th of June 2017 for reporting protests organized by the Popular Movement<sup>48</sup> in the northern Moroccan city of Al-Hoceima. His charges included practicing journalism without official accreditation and receiving foreign funding from "separatists". It also included "disseminating" false news. In more details, the Committee to Protect Journalists reports<sup>49</sup> that the verdict made by court includes "undermining Morocco's internal security by receiving donations and funds for activities and propaganda undermining the Kingdom of Morocco's unity and sovereignty, and the loyalty of its citizens," as well as "participating in unauthorized demonstrations," "inciting against the unity of the kingdom," "insulting government officials," and "claiming to be a journalist without having acquired the necessary accreditation."



<sup>47</sup> "Morocco criminalises violence against women and sexual harassment" Aljazeera and News Agencies 12 Sept 2018 <https://goo.gl/1eFUSL>

<sup>48</sup> The Popular Movement is a royalist and traditionalist rural-focused political party in Morocco

<sup>49</sup> "Morocco Court Sentences two Journalists to Several Years in Prison" CPJ <https://cpj.org/x/734c>



A similar story applies to internet reporter and editor, Hamid al-Mahdaoui who covers corruption, politics and human rights. He was arrested on the 20th of July 2017 by the Moroccan Police, on his way to the Rif area of Northern Morocco to cover protests organized by the Popular Movement. In the same month, he was sentenced by the Criminal Court to three months imprisonment and a fine of 20,000 (\$2,200) Moroccan Dirhams for “committing misdemeanors through speeches and shouting in public places”. He however appealed the verdict and the Appeal court further extended his sentence from three months to one year. In June 2018, however, yet another verdict for a separate charge was given to him; and he is now to spend three years in prison and to pay a fine 3,000 Moroccan Dirhams (approx. US \$315) for “failure to report a crime threatening national security”<sup>50</sup>

In another case, a protester, El Mortada Lamrachen, was arrested at his house on June 10 2017 following his use of his Facebook page to call for peaceful protests during the unrest in Morocco's Hoceima region between October 2016 and July 2017. He is still being held in custody pending an appeal May 2 2018.<sup>51</sup> The case was however postponed after the appeal.<sup>52</sup>

In Morocco, the new press code imposes tough entry levels for independent internet journalists, in move to curb criticism,<sup>53</sup> dissent and opposing views in the country. The new law requires online news sites to show proof that the chief editor holds a press card or the website will be closed down.

In order to obtain a press card,<sup>54</sup> journalists must have acquired a degree in a journalism-related field, have three years of experience, and prove that they work for a "legitimate news outlet". Online websites are not considered legitimate news outlets however, unless the director holds a press card. This requirement, similar to Egypt's press law, will undoubtedly chill freedom of expression in a country where major online media say they already practice self-censorship.<sup>55</sup>

src: pixabay.com



<sup>50</sup> "Moroccan Court Sentences Two Journalists to Several Years in Prison". Committee to Protect Journalists, September 30, 2018. <https://bit.ly/2vysacm>

<sup>51</sup> "Morocco: Quash conviction of El Mortada lamrachen", Amnesty International, April 30 2018. <https://bit.ly/2AjKcSi>

<sup>52</sup> "El Mortada lamrachen: what the justice decided", Le Site Info, September 19 2019. <https://bit.ly/2PEVU8U>

<sup>53</sup> Lara Korte, "Morocco's go-it-alone news outlets feel government squeeze", January 22 2018. <https://bit.ly/2vRc4Lm>

<sup>54</sup> Ibid

<sup>55</sup> Jackie Spinner, "How Morocco has weakened its press, pushing readers to social media for news", January 2 2018, <https://bit.ly/2IGMent>

## 5.5 Cameroon

The population of Cameroon is 23,439,190 inhabitants<sup>56</sup> with a Gross Domestic Product (GDP) estimated at 32.2 billion dollars.<sup>57</sup> The GDP growth rate reached 3.7% in 2017. The same year, Cameroon ranked 97th in the world in the size of its GDP.<sup>58</sup>

The Internet penetration rate has reached 27% in 2018 against 21% in 2016.<sup>59</sup> Cameroon has five mobile operators namely Camtel, MTN, Orange, Nexttel and Yoomee. Cameroon Telecommunication (Camtel) is the public operator and the main provider for non-mobile telephony services. MTN and Orange are the market leaders in terms of mobile subscribers. Vodafone, originally an internet service provider, became Yoomee in 2017 and is gradually establishing itself as the latest telecom operator in the country. Cameroon had about 19 million phone subscribers in 2018<sup>60</sup>, a penetration rate of 72%. Besides the operators, there are about 50 Internet Services Providers in the country, with the main ones being also the largest mobile operators. Households with Internet access increased to 10.5%, with 25%<sup>61</sup> of individuals using the Internet in 2016.



<sup>56</sup> World Bank, 2016.

<sup>57</sup> Projected economic growth, Energie Media, February 2018. <https://bit.ly/2PgAoeh>

<sup>58</sup> "Economy in Cameroon", Wikipedia. <https://bit.ly/2OgsEPn>

<sup>59</sup> "Internet penetration rate", Quotidien Mutations, May 2017. <https://bit.ly/2PnXwdg>

<sup>60</sup> "Cameroon records 19 million mobile subscribers", CIO-MAG, April 2018. <https://bit.ly/2NziaVW>

<sup>61</sup> Press release, ITU, July 2018. <https://bit.ly/2Oouxz>

Cameroon<sup>62</sup> is a state in the process of democratization which is sometimes confused with a dictatorship, having known only two presidents of the Republic since 1960, namely Ahmadou Ahidjo and Paul Biya. President Paul Biya has been in power since 1982; he is 85 years old and has totaled 36 years as the head of the State. He was a candidate for his own succession against eight opposition candidates in the presidential election of October 7, 2018. The political environment of the country is poorly structured with opposition divided into a landscape of more than 300 political parties therefore 98% are inactive on the ground even during an election period. Cameroon passed the law on terrorism in 2014 to tackle the menace of Boko Haram, the terrorist organization operating in its borders with Nigeria. This law negatively influenced public freedoms in the country. In 2016, a political crisis was triggered following the corporatist claims of lawyers and teachers in the North West and South West regions in Cameroon, resulting in several hundred civilian and military casualties.

Cameroon does not yet have a specific law on social media and the Internet. Law No. 2010/012 of 21 December 2010 on Cybersecurity and Cybercrime is used where necessary and "governs the security framework of electronic communication networks and information systems, defines and sanctions offenses related to the use of Information and Communication Technologies in Cameroon". This law, although applied as a measure to contain the growing threat of cybercrime, fake news and hate speech remains criticized for its lack of specificity on digital rights and its heavy sanctions, especially against freedom of expression. The Ministry of Posts and Telecommunications coordinates all activities in the sector and is the main government institution responsible for ICTs in the country. The Telecommunications Regulatory Agency (ART) is the regulator of the mobile telephony and Internet connection sector. The main sectoral legislation is described in the Electronic Communications Act 2010 and supported by the 2015 legislation. The National Agency for Information and Communication Technologies (ANTIC) is also responsible for the promotion of ICT, management of domain names (.cm) and Cybersecurity in the national territory.



<sup>62</sup> Constitutionally, Cameroon is presidentialist regime

src: pixabay.com



Cameroon recorded a 93-day Internet shutdown in 2017 in the North West and South West, two regions in conflict since 2016. The country has experienced large multi-million-dollar financial losses related to the Internet shutdown. In the pre-election periods in Cameroon in 2018, intentions to control and monitor the Internet were observed before being denied by the government. All these show that despite the work of digital rights NGOs, the problem of digital rights violations remains a concern.

On December 6, 2017, the Cameroonian writer Patrice Nganang was arrested in the Littoral region of Cameroon, before his travel to Zimbabwe. The arrest came after several posts on his Facebook account criticizing President Paul Biya and his government.<sup>63</sup>

On 20 January 2018, a circular letter from the Minister of Justice instructed magistrates to "commit themselves, after precise identification by the security services, to judicial proceedings against any person residing in Cameroon using social networks to spread false news."<sup>64</sup> This circular is considered by activists as a pretext to track them on the Internet.

On February 2, 2018, the Internet network served by MTN<sup>65</sup> was seriously disrupted throughout the country. Subscribers received messages indicating an incident on the fiber optic. This explanation did not convince the large number of Internet users in Cameroon who had suspicions of government involvement in the disruption. In the same period, the "Netizen report" indicated the rising cost and serious economic consequences of Cameroon's disruptions and shutdowns.<sup>66</sup>

On March 9, 2018, AccessNow and a group of global digital rights advocates reacted with a complaint to ask Cameroonian leaders to permanently stop the option of Internet shutdowns as part of the #KeepItOn<sup>67</sup> campaign. Despite the efforts of digital rights advocates, and the government's announcement of the stability of the Internet, some online media sites have been inaccessible or extremely slow to open for several months. The Virtual Private Network (VPN) has been very regularly used as an alternative.

<sup>63</sup> Cameroon - arrest of Patrice Nganang, Camer.be, December 2017, <https://bit.ly/2pMiveN>

<sup>64</sup> Social Network Monitoring in Cameroon, Opinionactu.com, december 2017, <https://bit.ly/2Eog2kX>

<sup>65</sup> <https://bit.ly/2vd7GHb>

<sup>66</sup> Netizen Report: The Rising Cost of Cameroon's Internet Shutdowns, advox, February 2018, <https://bit.ly/2Nztlf>

<sup>67</sup> What is an internet shutdown, AccessNow, December 2017, <https://bit.ly/2ONmPps>

<sup>68</sup> The internet, slow and sketchy, is back in Cameroon's Anglophone regions—for now, Quartz Africa, March 2018, <https://bit.ly/2OkAkjN>

On March 29, 2018, Minister of Posts and Telecommunications Minette Libom Li Likeng presented to the government the guidelines of the national strategy to fight crime and cybercrime<sup>69</sup> and prevent confidential documents from being spread on the Internet. After interpretation by the actors, these strategies could have a long-term impact on digital rights.

In June 2018, mobile operators, including Orange, announced an increase in communication rates with an impact on the cost of internet services.<sup>70</sup> ICT users have found this action irresponsible with a direct impact on the price and quality of Internet services.

Internet freedom in Cameroon is decidedly not free, therefore civil society and all other actors must continue in their work of ensuring the Internet in Cameroon is free, open and sustains innovation and creation.

src: pixabay.com



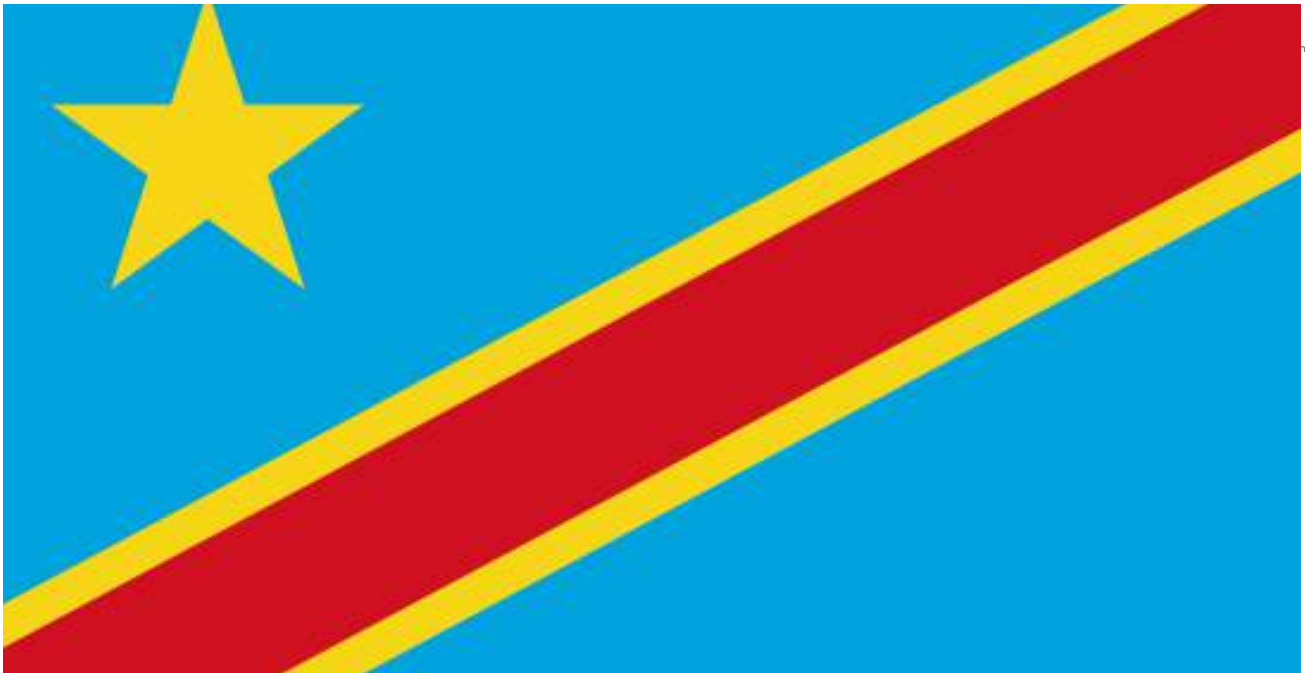
<sup>69</sup> "Minpostel's strategies", <https://bit.ly/2OMx8wN>

<sup>70</sup> "Increase of the price of the service Internet", <-<https://bit.ly/2NyQrov>

## 5.6 Democratic Republic of Congo

The Democratic Republic of Congo (DRC) has 83 million inhabitants, the fourth most populous country in Africa. Its Gross Domestic Product (GDP) reached 42.42 billion dollars in 2017 against 36 in 2016. The growth rate increased by 4.3% in 2018.<sup>71</sup>

The Internet penetration rate is 6.2%<sup>72</sup> with 5 million subscribers in 2018. Internet access in households only reaches 2.8%. Congo DRC has 40.3 million phone subscribers, a penetration rate of 38.6% (2015), for four operators, Vodacom, Airtel, Orange (including Tigo) and Africell. All operators have launched 3G services and are waiting for the sale of LTE licenses. The Ministry of Posts, Telecommunications and Information is responsible for the sector under the 2002 Telecommunications Act. It is accompanied by the Congolese Regulatory Authority of Posts and Telecommunications which is the regulatory body and the Congolese National Company of Posts and Telecommunications (SCPT), as a result of the reform of the Congolese Office of Posts and Telecommunications in a company by Law No 08/007 of 8 July 2008.<sup>73</sup>



<sup>71</sup> The World Bank in the DRC, WB, 2018, [https://bit.ly/2jv2kx\\_](https://bit.ly/2jv2kx_)

<sup>72</sup> State of Internet in 2017, WeAreSocial, 2018, <<https://bit.ly/2Ea05lj>>

<sup>73</sup> ITU telecom world 2018, ITU, 2018, <https://bit.ly/2vAu3Dn>



The Democratic Republic of Congo has been headed by Joseph Kabila<sup>74</sup> since 2001. The country has 599 political parties and 77 political groups in 2018. Three polls are in sight in December 2018: presidential (21 candidates) legislative (15,355 candidates) and provincial (19,640 candidates)<sup>75</sup>. The presidential election will be held after being postponed twice due to political tensions in the country. Twenty-one candidates<sup>76</sup> were validated by the electoral council without historical opponents like Moïse Katumbi and Jean Pierre Bemba. Joseph Kabila is not a candidate in respect of the constitution.

In 2018, DR Congo recorded several disruptions and Internet shutdowns. Access to media and social networks like WhatsApp, Facebook, YouTube and Skype have been cut several times to hinder communication between opposition protesters in several parts of the country. In 2017, the collaboration on international ICT policy in Eastern and Southern Africa (CIPESA) estimated that the Democratic Republic of Congo was losing \$ 2 million a day because of these disruptions.

In December 30, 2017, the Minister of Posts, Telecommunications and Information asked the Director General of Africell Congo by an official letter, to effect a total suspension of Internet and SMS supplies in the country.<sup>77</sup> This three-day judgment occurred after the start of opposition demonstrations.



<sup>74</sup> Wikipedia, <https://bit.ly/1U2Wnmq>

<sup>75</sup> The list of 599 parties and 77 political groups publish in the official journal, AfricaNews, May 2018, <https://bit.ly/2FevMGW>

<sup>76</sup> DRC-Presidential: CENI has unveiled the order numbers of the candidates, Desk Eco.com, September 2018, <https://bit.ly/2Nv9yLf>

<sup>77</sup> Vox Africa, <https://bit.ly/2OMFnsj>





On January 21, 2018, as leaders of Catholic churches called for peaceful protests against President Joseph Kabila's 17-year reign, access to the Internet was cut off. This cut lasted about 48 hours while a deadly violence shook the country.

The government has found a justification by referring to Law No. 013/2002 of 2002 which governs the telecommunications sector and confers on the government the power to take over the means of communication in the interests of national security or defense in DR Congo.<sup>78</sup>

On 23 February 2018, several civil society organizations and NGOs launched<sup>79</sup> a series of complaints-related actions, on behalf of victims whose rights to access the Internet were abused by Vodacom, Orange, Airtel and Africell, four telecommunications operators operating in the DRC.

On Sunday, February 25, 2018, access to the Internet and SMS was blocked.<sup>80</sup> This was the day of the march planned by the Lay Coordinating Committee in the DRC. On June 14, 2018, the Minister of Communication and Media signed a decree accentuating the control and censorship of online media.<sup>81</sup> Online journalists' organizations have expressed dissatisfaction with this decision, which they expect to be annulled.

The DRC has repeatedly violated user rights in 2018. It has emerged this year as the most repressive state of digital rights in 2018.

<sup>78</sup> RFI, <https://bit.ly/2RlfRmK>.

<sup>79</sup> There's a decades-old law threatening digital freedom in DR Congo, Quartz Africa, January 2018, <https://bit.ly/2Rlgb4W>.

<sup>80</sup> DRC activists take on Vodafon others over Internet shutdowns, R2K, February 2018, <http://www.R2K.org.za/2018/02/20/DRC-Activists-Take-on-Vodacom-others-over-Internet-Shutdowns/>.

<sup>81</sup> DRC: Internet access and SMS blocked again, Radiokapi.net, February 2018,

## 5.7 Benin Republic

Benin Republic is a Francophone West African country. It is bordered by Nigeria to the east, Togo to the west, Burkina Faso and the Niger Republic to the north. It has a coast with the Bight of Benin. According to the World Bank, Benin has a population of 10.68 million in 2016<sup>82</sup> and has recorded consistent population growth since 1960 when it had just 3 million people. While its capital is Porto Novo, its major city, in terms of population and commerce, is Cotonou which borders and massively trades with Nigeria, Africa's biggest market.

Economically, the country has a Gross Domestic Product (GDP) of \$ 27.29 Billion, and a GDP per capita of \$2,200<sup>83</sup>, one of the lowest in the world. A whopping 36% of the population is below poverty line.<sup>84</sup> The poor economic state of the country is reflected in its internet penetration rate which dawdles at 12%.<sup>85</sup> More than 90% of internet connections are mobile connections. The providers of mobile internet services include MTN Benin, Moov, Bell Benin, and Libercom. The telecommunications regulator in the country is Autorite De Regulation Des Communications Électroniques Et De La Poste (ARCEP).

After decades of military dictatorship and coups, Benin returned to multiparty democracy in 1991. Former dictator Mathieu Kerekou served two terms as president in the new democratic dispensation, finally leaving office in 2006. He was succeeded by Thomas Yayi who served two terms before handing over to the incumbent, President Patrice Talon. Both Yayi and Talon were elected to the presidency as independents, a remarkable achievement on a continent well known for entrenched political parties.

Benin Republic has maintained a decent record in human rights in the last decade.<sup>86</sup> Unfortunately, this record was blighted by the decision of the government to impose a tax on over-the-top services in the country. The government through Decree 218-341 of July 25, 2018



<sup>82</sup> <https://www.radiokapi.net/2018/02/25/actualite/en-bref/RDC-laces-Internet-et-aux-SMS-de-nouveau-bloque?>

<sup>83</sup> World Bank Population Data, 2017 <http://bit.ly/2OSjasi>

<sup>84</sup> Benin Economy Profile, 2018, IndexMundi. <http://bit.ly/2OWsvaf>

<sup>85</sup> Ibid

<sup>86</sup> Benin Internet Usage, 2018, IWS. <http://bit.ly/2S9qXIC>

"Freedom of the Press", 2017 Freedom House. <http://bit.ly/2ITjPVN>

imposed a tax on the use of social media.<sup>87</sup> The decree provides for the payment of a fee of 5 FCFA per megabyte used by the user of *Over The Top (OTT)* services such as Facebook, WhatsApp, Twitter, Viber, Telegram. This meant an increase of up to 400% in the price of a megabyte in the country.

According to Romuald Wadagani, Benin's Minister of Economy and Finance, "The tax is charging for fun uses of social networks. You can make WhatsApp image transfers that criticize the government, you are free to do it! But you pay the price!" Even though the minister reportedly claimed to have been joking, one cannot discountenance the sentiment inherent in the statement. Not only was the government attempting to increase the cost of internet service, but its motivation was to curtail free speech that has been enabled by the internet. In addition, if the minister's sentiment that social media is mostly used for entertainment is widespread in government, might this imply the government would not take the internet seriously and seek to improve service and access?

Jerry Sinclair, the founder of Waka Waka Media, disagreed with the minister. In an interview with TVMonde5, he said, "Contrary to what the government thinks, social networks is not for entertainment. We are building our business on social networks, here we are shaking a whole system, and there is a break in the chain." This sentiment is shared by Ulrich Sossou, the co-founder of the Benin-based TEKXL incubator, who said, "It's a big blow to the people and the potential of those going into the digital economy".<sup>88</sup>

The response of the people of Benin Republic to the tax introduction was swift. The hashtag #Taxepasmesmo which called on the government to withdraw the social media tax was used as a rallying call. Within a week of the news breaking, the people were already mobilizing on social media against the tax. A petition on Change.org attracted 14,000 supporters within few weeks.<sup>89</sup> The protest against the tax spilled onto the streets when citizens planned a protest which was eventually blocked by the government which denied a permit for the protest.<sup>90</sup> A leader of the planned protest Hugues Sossoukpe said, "The government of Benin has just suppressed communication, a fundamental right that can't be compromised. This tax strangles democracy and freedom of expression, epitomized by the fiery debates on social networks."<sup>91</sup> The opposition party, Party for the Liberation of the People added its voice to the campaign, castigating "the imposition of these taxes"

It is worthy of note that during this public opposition to the tax, the telecommunication companies operating in the country were mute, refusing to comment on a development



<sup>87</sup> "#Taxepasmesmo: A Campaign To Cancel The "Facebook Tax" In Benin", 2018, Internet Sans Frontieres. <http://bit.ly/2pNID9Y>

<sup>88</sup> "Bénin: levée de boucliers contre une nouvelle taxe sur les réseaux sociaux", September 13, 2018, TV5Monde. <http://bit.ly/2yvgvqi>

<sup>89</sup> "Annulation des nouvelles taxes des services GSM au Bénin", August 2018, Change.org. <http://bit.ly/2NAnF77>

<sup>90</sup> Anger mounts in Benin as new data tax drives up internet costs, September 21, 2018, Yahoo. <https://yhoo.it/2yftPVo>

<sup>91</sup> Supra Note 89

that could have meant a reduced customer base for them. The question has to be asked: Do the telecommunication companies see over-the-top services as a threat to their business model enough for them to be in support of a measure that would make the use of OTT more expensive? Ulrich Sossou answered yes to this question when he expressed the sentiment that the tax measure was only helpful to the telecommunications companies who were “already integrated into this economy.”<sup>92</sup>

Opposition against the tax received international support, as many digital rights groups across the continent railed against the tax. Global organizations including Internet Sans Frontiere (ISF), Paradigm Initiative and Access Now, were prominent voices against the tax. ISF denounced the tax imposition as a decision that “contradicts the Benin government's ambition to make the digital economy a strategic sector for economic recovery, and increases the cost of Internet access, already very high in this country.”<sup>93</sup>

The protest worked and the government on September 22, through the Presidency's twitter handle announced, “Following the meeting between the #prbenin #PatriceTalon, some Ministers, and GSM operators this Saturday, September 22, 2018, the tax on social media packages and on the internet will be cancelled.”<sup>94</sup> Undoubtedly this was a victory for the people who refused to accept a cynical move by their government to tax their usage of a crucial service.

While the social media tax was the most visible digital rights violation in Benin, it was not the only violation in the year. In July, news broke that the police authority had arrested some Nigerian students for allegedly engaging in cybercrimes. While Nigerian officials said only 12 students<sup>95</sup> were arrested, parents' representatives claimed up to 50 students<sup>96</sup> were arrested, tried and jailed without their parents' knowledge. What is more worrying is the claim of the parents on the deployment of the law which they denounced as indiscriminate. They said, “the Béninoise police had been picking up any Nigerian student with a white person's picture, a Google code, or any internet-related item on his phone.” If this claim is true, it would be a gross abuse of the cybercrime law and a potential breach of privacy. Equally worrying is the absence of transparency in the process as it took the public outcry by the parents to get the word out. The intervention of the Nigerian government got seven of the arrested students released without being charged to court, which again calls to question the validity of the allegation of cybercrime the police slammed on the students. This brings to fore the issue of African countries which enact cybercrime laws without providing the police requisite equipment and expertise to guide enforcement, a situation that breeds serious abuse.



<sup>92</sup> Supra Note 87

<sup>93</sup> “Bénin: Taxer Les Réseaux Sociaux Entrave La Liberté D'expression Et L'économie Numérique” August 28, 2018, Internet Sans Frontières. <http://bit.ly/2OOC9EB>

<sup>94</sup> Présidence du Bénin, September 22, 2018, Twitter. <http://bit.ly/2RFVGVG>

<sup>95</sup> “Benin Republic Police release 7 out 12 detained Nigerian students” July 15, 2018, Vanguard. <http://bit.ly/2CEg1HR>

<sup>96</sup> “Béninoise police accused of illegally detaining 50 Nigerian students” July 2018, Naij.com, <http://bit.ly/2QNRmDC>



Another major issue is the compulsory registration of online publications. According to the Committee to Protect Journalists (CPJ), the High Authority for Broadcasting and Communication (HAAC), on December 21, 2017, threatened to shut down online publications that did not have authorization to distribute content. The basis for the threat is the Article 252 of Benin's Information and Communication Code, a regulation passed in 2015. This threat was carried into the New Year as media houses and rights groups criticized the move. It is instructive to note that HAAC did not provide information on the procedure for registration. As Ulvaeus Balogoun, the general secretary of Benin online publishers' network, said, the threat seems aimed at silencing online media outlets by essentially outlawing their existence.

Benin already has a less-than-stellar record on press freedom and is currently ranked 84th out of 180 countries in a ranking by Reporters Without Borders.<sup>97</sup> The threat to shut down unregistered online publications in a country without a known procedure for such registration should be considered in the larger context of a country that has shown a propensity for shutting down media houses at will. It should be recalled that the HAAC had shut down four media outlets in 2016, and another one in 2018. In May 2018, the HAAC shut down the La Nouvelle Tribune, relying on article 55 of the 1992 law establishing the HAAC.<sup>98</sup> HAAC justified the shutdown with a claim that the newspaper was "conducting during recent months an insulting and offensive campaign violating the Head of State's privacy and using a degrading vocabulary."<sup>99</sup> A regulatory body that could shut down a traditional media house over such flimsy and vague excuse is capable of shutting down online publications.

In conclusion, while the Benin Republic has a decent human rights record, its actions in recent times, especially with the social media tax, clumsy implementation of the cybercrime law, and the attack on press freedom, do not reflect that of a rights-respecting nation. It is crucial for the government to do better in ensuring absolute respect for digital rights in the country. In a country with a poor internet penetration rate, the government should be working on improving access rather than discouraging it.

<sup>97</sup> 2018 World Press Freedom Index, 2018, Reporters Without Borders <https://rsf.org/en/ranking>  
<sup>98</sup> <http://autrefraternite.com/2010/09/26/republique-du-benin-loi-organique-n%C2%B0-92-021-du-21-aout-1992-relative-a-la-haute-autorite-de-l'audiovisuel-et-de-la-communication-h-a-a-c/>

<sup>99</sup> Broadcasting Authority shuts down Benin's most important newspaper, May 30 2018. <https://www.ifex.org/benin/2018/05/30/broadcasting-authority/>

## 5.8 Nigeria

With a population of 198 million, Nigeria is Africa's most populated country, with over 250 ethnic groups and cultures. With a GDP of \$375 billion, Nigeria also has Africa's largest economy, with oil and gas, telecommunications, industry and entertainment pivotal sectors driving growth and productivity. Nigeria's economy however masks deep, entrenched poverty and underdevelopment, due to inequality and systemic corruption in the public sector. Poverty rate is 62.6%<sup>100</sup> and recently Nigeria was announced as haven overtaken India as the country with the largest number of people (87 million) living in extreme poverty (less than \$1.90 a day)<sup>101</sup>.

Nigeria has had a stable democracy since the transfer of political power from the military to civilians in 1999. With 68 political parties, democracy was strengthened in Nigeria with the first civilian to civilian transfer of power in the history of the country in 2015, when the opposition party the All Progressives Congress (APC) defeated the incumbent Peoples' Democratic Party (PDP) in presidential elections. Nigeria faces crucial presidential elections in February 2019, an election which will be well watched by local, regional and international observers.

Since the settling in of the new government in Nigeria in 2015, there is a sense that the situation of human rights in Nigeria has worsened. Freedom of expression, association and dissenting voices have come under extreme strain, a situation which has caused disillusionment for millions of Nigerians who had hoped for a better life. The actions, policies and pronouncements of the Federal government and some state governments have hurt human rights, including digital rights.

The most obvious manifestation of the worsening human rights situation in Nigeria can be discerned in the numerous arrests of citizens, bloggers and journalists since the political transition in May 2015. Tracking by Paradigm Initiative has revealed a spike in arrests of dissenting and critical voices in Nigeria, with a peak observed in 2017.



<sup>100</sup> UNDP Nigeria, <http://www.ng.undp.org/content/nigeria/en/home/countryinfo/>

<sup>101</sup> Bukola Adebayo, "Nigeria overtakes India in extreme poverty ranking", CNN, June 26 2018. <https://cnn.it/2Nk2yuv>



On January 1, Daniel Elombah, the publisher of elombah.com was arrested together with his brother Timothy in his residence in Anambra state of Nigeria at dawn by security operatives,<sup>102</sup> over an article he had written which was deemed offensive to Nigeria's Inspector General of Police, published on the private website Opinion Nigeria.<sup>103</sup> The pair were arraigned before an Abuja High Court on March 1 2018, and pleaded "not-guilty" to ten counts of defamation charges.

Bolouere Opukiri, a staff of the Presidential amnesty office was relieved of her job for criticizing the Vice-President and the first lady on Twitter.<sup>104</sup> In response to complaints from supporters of the President with presence online, her superiors at work set in motion an investigation which ended in her dismissal.

Anti-corruption activist and National Convener of the Citizens Action to Tack Nigeria (CATBAN), Ibrahim Garba Wala, commonly known as IG Wala, was arrested<sup>105</sup> by security operatives for sharing details of corruption allegations chairman the head of the Nigerian Hajj Commission on Facebook. Mr Wala was arraigned Wednesday before an Abuja High Court sitting in Jabi on a 3-count charge<sup>106</sup> of criminal defamation of character, public incitement and operating illegal organization (CATBAN).

On April 30, the Abuja bureau chief of The Independent newspaper responded to the invitation of the State Security Service over a controversial story he published concern government payments to the Boko Haram terrorist group in exchange for the release of some of the abducted Chibok girls in Nigeria.<sup>107</sup> In response, he was remanded in custody without charge and the condition of his release was that he revealed the source of his information.

On August 14 2018, Samuel Ogundipe, a journalist with the online newspaper Premium Times was arrested by Nigeria's Special Anti-Robbery Squad (SARS), a unit of the Nigerian Police, for a story linking the Police with the botched invasion of Nigeria's National Assembly (the upper legislative house).<sup>108</sup> After his arrest, he was threatened to divulge the source of his information, which he refused. Samuel Ogundipe was arraigned in secret without the knowledge of his lawyers at a Magistrate court in Abuja, Nigeria under charges which include the stealing secret documents.<sup>109</sup>

<sup>102</sup> "Two Nigerian journalists charged with cybercrime", Committee to Protect Journalists, February 27 2018. <https://bit.ly/2NOeDY1> <sup>103</sup> <https://bit.ly/2NOeDY1> <sup>104</sup> Samuel Ogundipe, "Nigerian woman loses job after criticising Vice President Osinbajo online", Premium Times, June 2 2018. <https://bit.ly/2LRrDsc>

<sup>105</sup> "Unlawful Detention Of Anti-Corruption Activist, IG Wala", Sahara Reporters, <https://bit.ly/2Qzf7zY>

<sup>106</sup> Segun Adeyemi, "Activist IG Wala remanded in Suleja prison", Daily Nigerian, January 24 2018. <https://bit.ly/2NIBhYs>

<sup>107</sup> Dapo Akinrefon and Bartholomew Maduke, "DETENTION: You can't force Ezimakor to disclose source of information, Falana tells DSS", Vanguard, March 7 2018. <https://bit.ly/2pft89C>

<sup>108</sup> "Police Detain Premium Times Reporter, Freeze His Bank Account 2018.", Media Rights Agenda, August 16 2018. <https://bit.ly/2MH0dCY>

<sup>109</sup> "Nigerian police secretly arraign detained Premium Times journalist", August 16 2018. <https://bit.ly/2peqPng>

Digital rights in Nigeria is under threat by a number of legislation and policies which have been in development in the past few years. Our 2017 report documented the progress of the Terrorism Amendment Act (the amendment to Terrorism Prevention Act of 2011) which scaled second reading in November 2016, but has been stalled in its progress. Drafted in response to the growing threat of terrorism within the country, this Act nevertheless has been faulted by civil society for having clauses which could be interpreted to penalize freedom of expression and dissent. Also, the draft Executive Hate Speech Bill which was submitted to the Ministry of Justice<sup>110</sup> in 2017 has so far not been read in either of Nigeria's legislative houses. Like the Terrorism Amendment Act, the progress of the Hate Speech bill is being monitored by civil society because of its potential to be used in targeting dissent and government critics.

On February 28 2018, the Nigeria Senate read for the first time, the Independent National Commission for Hate Speeches (Establishment, etc) Bill, 2018 (SB. 631) by Senator Abdullahi Sabi. Although this bill represents another effort to curb the rising menace of hate speech in the country, as with the Executive Hate Speech Bill, there are concerns the bill could be used to reign in freedom of expression and digital rights in general.



<sup>110</sup> Wale Akinola, "Hate speech will soon become criminal offence in Nigeria". Naij.com, <http://bit.ly/2jZdNua>

In June 2018, Abdulfatai Buhari, chairman Senate Committee on ICT and Cybercrime informed the audience at the 2018 Cybersecurity Conference in Abuja Nigeria of a new bill being advanced at the Senate to regulate social media.<sup>111</sup> Senator Buhari mentioned that the bill had already passed first reading and only now awaiting second reading. This development is disturbing, not only because the proposed bill is being passed in relative secrecy, but also because of the Senate's recent history of attempts to regulate social media using the Frivolous Petitions bill.<sup>112</sup>

On a positive note though, on March 13 2018, in a culmination of more than 5 years of advocacy work, the Digital Rights and Freedom bill (HB 490) which was drafted to protect the rights of Nigerians online, was passed by in concurrence by the Nigerian Senate. The drawback though is that the bill has not been transmitted to the President, without whose assent it cannot become law.

Furthermore, in 2018, there was a continuation of the policies and actions of government which were adversarial to digital rights, as observed in 2017. The 2018 Federal Government Budget<sup>113</sup> contained allocations for surveillance equipment including an IMSI catcher and a Social media mining suite, over whose use there is no clear judicial oversight. The increased surveillance powers of the Federal government is perhaps reflected in news reports mandating security agencies to monitor the online activity of Nigerians.<sup>114</sup>

In a sure sign though that the digital rights community in Nigeria is fighting back, a coalition of civil society organizations in Nigeria including Paradigm Initiative, Media Rights Agenda and Enough is Enough Nigeria, advanced their challenge of the constitutionality of sections 24 and 38 of Nigeria's Cybercrime law to Nigeria's Supreme Court, after unfavourable rulings at the Federal High Court and The Court of Appeal.<sup>115</sup> Section 24 of the Cybercrime Act in particular speaks to "cyberstalking", and has been interpreted and used as the prime instrument of arrest and harassment of active citizens, bloggers and journalists, for expressing dissent or criticism of the rich and powerful in Nigeria.

Civil society and Nigerians in general have borne the brunt of several attempts at stifling their rights and freedom in the digital age, but have always pushed back at the forces of repression. This gives hope that the Internet in Nigeria will remain a free and open space, where civil discourse and innovation can thrive.



<sup>111</sup> Fabian Tarpael, "Nigeria mulls law to regulate social media", The Guardian, June 29 2018. <https://bit.ly/2xm8xVH>

<sup>112</sup> "Nigeria withdraws controversial social media bill in victory for free expression", AccessNow, May 17 2018. <https://bit.ly/22fkN1o>

<sup>113</sup> "2018 Budget - Budget Office of the Federation", <https://bit.ly/2l18gik>

<sup>114</sup> "FG orders security agencies to monitor social media posts of 'prominent Nigerians'", The Cable, January 25 2018. <https://bit.ly/2FfMFMU>

<sup>115</sup> "Legal Battle Over CyberCrimes Act Moves to the Supreme Court", CS Newspaper, August 2 2018. <https://bit.ly/2xfULUr>

## 6. CONCLUSION

In the past three years, the digital rights space has evolved quite rapidly in Africa. However, one thing has emerged very clearly: the battle for control of the Internet has only become more intense, and State actors across the continent have evolved new ways to stifle digital rights. Although Internet shutdowns, arrests of citizens and bloggers/journalists, illegal surveillance, the deployment of sophisticated malware and spyware have remained instruments of assault against digital rights, State actors across the continent are now increasingly adopting legal routes to enact laws which infringe on privacy, freedom of expression, freedom of association and other digital rights. Hitherto brash and high-handed repressive State actors have become awake to legal mechanisms, seemingly to give legitimacy to human rights violations.

The stakes have never been higher in Africa. The battle for Internet Freedom, and digital rights in general, is intertwined with the battle for healthy democracies, open and inclusive societies on the continent. The digital rights community can take solace in the fact that despite the tactics being deployed by repressive State actors and colluding private sector interests, our community has pushed back and ensured that in some countries on the continent, the Internet has remained an open and healthy space, where human rights are respected.

However, respect for Digital Rights is not yet the lived reality of arguably the majority of citizens across the continent. This signals that there is still much work to be done to ensure that in all African countries, digital rights are really upheld as fundamental human rights.



## ACKNOWLEDGEMENTS

Paradigm Initiative Digital Rights in Africa Report team:

Adeboro Odunlami	Program Assistant, Digital Rights (Anglophone West Africa)
Babatunde Okunoye	Research Officer
'Gbenga Sesan	Executive Director
Mary Afiari	Communications Assistant
Rigobert Kenmogne	Google Policy Fellow (Francophone Africa)
Sodiq Alabi	Communications Officer
Tope Ogundipe	Director of Programs
Wathagi Ndungu	Google Policy Fellow (Eastern and Southern Africa)



Paradigm Initiative is a social enterprise that builds an ICT-enabled support system and advocates digital rights in order to improve livelihoods for under-served youth. Across our offices in Nigeria (Aba, Abuja, Ajegunle, Kano, Yaba), Cameroon (Yaoundé), Kenya (Nairobi), and beyond, we work to deepen digital rights and inclusion in Africa.

<https://ParadigmHQ.org>

