

STATE OF THE NATION

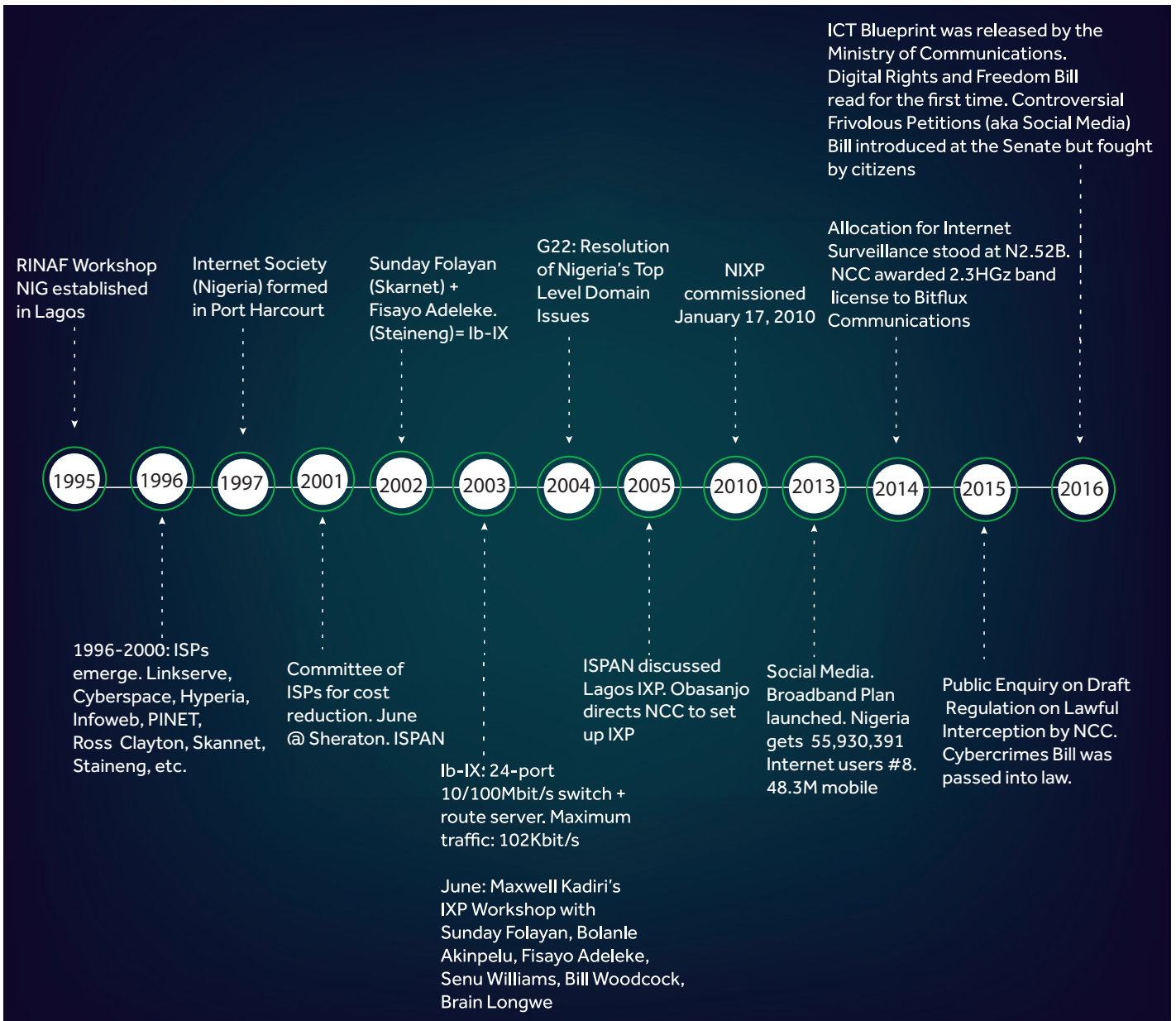


Status of Internet Freedom in Nigeria

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State of the nation: Status of Internet Freedom in Nigeria

1.0 Introduction



Pictorial representation of Internet development timeline for Nigeria

Internet access in Nigeria has grown exponentially in recent years. In 2015, Internet penetration stood at 45.1%, up from 38% in 2013, according to data from the International Telecommunications Union (ITU), World Bank and United Nations Population Division. The number of active mobile phone subscribers also increased from almost zero in 2000 to over 148 million subscribers with 106% teledensity in March 2016, as reported by the Nigerian Communications Commission (NCC). The latest ITU data notes over 138 million mobile phone subscriptions and a mobile phone penetration rate of 77.8% in 2014, up from 73% in 2013. Mobile Internet subscriptions have also steadily increased in the past few years, with the Nigerian Communications Commission reporting 95,940,792 mobile Internet subscriptions in January 2016, representing a mobile internet penetration rate of 51%.

The past year witnessed the best proof of what is possible with vigorous and unfettered citizen participation online – where intense social media advocacy contributed to an unprecedented political change in the Nigerian presidential elections. It also witnessed perhaps the greatest threat so far to Internet freedoms in Nigeria, the proposed “Frivolous Petitions Bill 2015”, which sought to constrain freedom of expression on the Internet.

Internet Freedom is also under threat globally, as exemplified by the stand-off between the US Gov-

ernment and Apple Inc., and the contentious Investigatory Powers Bill in the United Kingdom. According to Rule 41 of the Federal Rule on Criminal Procedure of the United States, a Magistrate Judge can issue warrants authorising government-sanctioned hacking anywhere in the country. Also, in the United States, Microsoft has challenged government on “secrecy” orders by the State to request access to user eMails. The Malaysian government recently asked bloggers to register their blogs before publishing any political commentary.

In Nigeria, the provisions of Sections 24 and 38 of the Cybercrimes Act pose a huge threat on Internet freedom in Nigeria as they open windows of infringements on right to privacy even though a lazy recourse was made to the constitutional provision that protects the right to privacy. These threats have arisen principally as fallout of the tension between privacy and security in the wake of the terrorist attacks in Paris, France; Brussels, Belgium; and San Bernardino, United States – and most likely, the paranoia associated with States’ might on the true freedom of their citizens.

2.0 The State of Access

Internet access in Nigeria has increased markedly over time, resulting in Nigeria having the largest population of Internet users in Africa.

Broadband penetration in Nigeria in 2015 is put at 10%, up from 6% in 2013¹. Nevertheless, Nigeria’s broadband penetration is driven by mobile broadband, with the percentage of fixed broadband negligible, at 0.01 %². Internet speeds are slow, averaging 2.8 Mbps (compared to a global average of 4.5 Mbps), according to May 2015 data from Akamai’s “State of the Internet” report³. Recognizing the importance of ICTs for economic development, the Communication Technology Ministry set up a Presidential Committee in August 2012, tasked with the creation of a National Broadband Plan that aims to increase Nigeria’s broadband penetration seven-fold by 2018. Yet, despite the initial promise of this ambitious plan, Nigeria is not on track to meet the goals outlined in the plan.

Some progress has been seen in enhancing greater access to the Internet in Nigeria. Alliance for Affordable Internet’s (A4AI) Affordability Report ranked Nigeria as third among developing nations having affordable access to the Internet. The ranking however masks the impact of several barriers to access including device and data costs, gender inequality which makes women and girls 40% less likely to access the Internet, low levels of literacy, lack of local content and acute power shortages.

According to the World Bank, almost half of Nigeria’s of 177.5 million people live below the poverty line, where access to the basic necessities of life such as food, water and education are still a challenge. Sadly, to tens of millions of Nigeria, the Internet is still perceived as a luxury. The effect of this state of poverty is felt more keenly by women and the girl child.

3.0 Internet Freedom Regulation: Policies and Laws

Series of events in recent years have forcefully brought global public consciousness to the situation around Internet Freedom. The Edward Snowden leaks which revealed the extent of the U.S. Government surveil-

¹Daily Trust December 18, 2015, “Setting Nigeria’s Broadband Agenda” <http://bit.ly/1ov2XIT>

²The World Bank (2015). Fixed Broadband Subscriptions. <http://data.worldbank.org/indicator/IT.NET.BBND.P2>

³Akamai, “Average Connection Speed: Nigeria,” map visualization, The State of the Internet Report Q4 2014, <http://akamai.me/1OqvpoS>.

lance through the Prism programme was a turning point in rousing public sentiment around the world against the unbounded power of government to intrude into citizens' digital freedoms. In recent years though, the global terrorism threat has emboldened governments to enact laws, which constrain Internet freedoms in the guise of fighting terrorism. The horrific Paris, Brussels and San Bernadino attacks are cases in point and each event triggered government response which encroached on Internet Freedom. The threat of the growing terrorism threat in Europe for instance inspired the UK Parliament's Investigatory Powers Bill, which has been criticised by digital freedom advocates as constraining internet freedom. In the United States, the San Bernardino, California, attacks brought the U.S. Government, through the FBI, in direct clash with Apple Inc., as the Federal Law enforcement agency sought back-door access to the encrypted phone of the San Bernardino terrorist. U.S. lawmakers are in the process of drafting an anti-encryption law to restrict encryption in devices – a direct attack on privacy.

Policies and laws affecting Internet Freedoms in the United States and other countries once held up as standards for Internet Freedom have influenced the stance of national governments in Africa. Whereas the examples from such countries hitherto served as a check on African governments, the present-day encroaching of internet rights under the guise of fighting terrorism in such countries have left many in Africa devoid of worthy governmental examples. The fight for Internet freedoms in Nigeria for instance has to a large extent been left to civil society organizations.

Nigerian lawmakers and regulatory bodies are drafting new legislations, to come to terms with the new reality of the Internet and its many provisions. While previously enacted legal frameworks can be easily applied in an online context, others require substantial adaptation. It is thus critically important to ensure that any legislation, which impacts on freedom of expression, is consistent with recognised international human rights standards. This is particularly important since a significant part of the Internet's value, as a medium of expression, is its open and borderless nature. This value can only be preserved through a regulatory framework that balances issues of security or protection with those of privacy and rights. In order to fully harness the empowerment benefits of the Internet, people must be allowed to communicate freely online.

We looked at various documents at different stages of the legislative process in the course of preparing this report – Bills, Acts and amendments. Our focus was on policy documents, administrative regulations, National Assembly bills and laws that contain provisions with potentially far reaching implications for Internet Freedom in Nigeria. Non-legislative threats to Internet Freedom were also considered – that is, parameters independent of the Legislative process, which have great bearing on the state of Internet Freedom in Nigeria.

Any conversation about Internet freedom in Nigeria must start first of all with the Nigeria's grundnorm, the core from which all laws derive their legality, the 1999 Constitution of the Federal Republic of Nigeria (as amended), that embodies the inalienable rights of its citizens and is the wellspring from which all other legislation derive their authority. Chapter 4 of the Constitution of The Federal Republic of Nigeria, 1999 (as amended) contains the fundamental rights of Nigerians.

The specific provisions relevant to Internet freedom are Sections 37 and 39, which grant rights privacy and freedom of expression, respectively. As the Internet is first and foremost a means of communication between systems through a network, it is at its core a medium of expression thus the privacy of this medium of communication must be protected and valued.

Before the advent of the Internet, when letters were more commonly used as a means of communication, the value of privacy was put above all else as exemplified by Section 18(2) and 29 of the Nigerian Postal Service Act (Decree) 1992 which made it a felony offence to open a letter posted in Nigeria except with the authority of the Postmaster and that law is still applicable in today Nigeria. If this law is applicable to physical mail in Nigeria, why should electronic communication be refused the same level of protection and more?

However, in addition to the Nigerian Constitution, it is important to situate the fight for Internet Freedoms

in Nigeria within the broad principles of International Human Rights Law, in particular the International Covenant on Civil and Political Rights (ICCPR) because of its broad applicability, legitimacy and the range of human rights it protects: most obviously privacy and freedom of expression; but also freedom of association and assembly, and of thought, conscience and religion. It is important to note that the fight for Internet Freedoms in Nigeria is also being fought on the world stage, with Nigerian digital rights activists bringing a petition against the proposed "F frivolous Petitions Bill" before the UN Special Rapporteur on the Promotion and Protection of the right to Freedom of Opinion and Expression⁴.

3.1 Policies of the Nigerian Government and its Agencies

The current Nigerian National ICT Policy (approved in principle) supports the creation of better cybersecurity legislation for Nigeria but neglects to state the importance of civil liberties. The absence of the balance of civil liberties with cyber-security in most of the bills, that touch on the Internet and any form of regulation, has resulted in many calls for a thorough review. Another essential policy for Internet freedom is the broadband policy, which aims to prepare the ground for better access to the Internet in Nigeria. The policy focuses on access but access without freedom is incomplete.

The Draft Lawful Interception of Communications Regulation by the National Communication Commission (NCC), which seeks to provide legal framework for the lawful interception of communications in Nigeria, is also central to the discussion on Internet freedom in Nigeria. The proposed regulations in Part I & II of the Regulations have in a general sense been seen more as a control contrivance by government authorities. It does not allow reports of interception to be available to the public and it uses fluid languages that can be interpreted arbitrarily. In a country where political power is subject to abuse in an atmosphere of impunity, this is dangerous.

The proposed Regulations give a lot of unsupervised powers to the Nigerian Communications Commission as "empowered" by Sections 146 & 147 of the Nigerian Communications Act of 2003, including the manner in which communication is to be intercepted, the forceful storage of all data by telecommunication companies and many more. It also, in its application, affects the local encryption industry. The draft regulation in itself is odd as it is secondary legislation (from an agency of government) seeking to upturn rights guaranteed by the Nigerian Constitution. Unfortunately, this is not the only effort the Nigerian Communications Commission (NCC) is making towards interception as there is another sponsored Bill seeking to amend the Telecommunications Act to give NCC similar powers.

In 2016, the NCC also published the policy document "An Overview of Provision of Over-the-Top (OTT) Services", thereby soliciting responses from stakeholders in the telecommunications and general ICT sector. All over the world, Over-the-top (OTT) services have been perceived as disruptors of the telecommunications industry, with some governments around the world coming up with regulations specific to the disruption. Important to the OTT services debate is the principle of Net Neutrality, which surmises that Internet traffic through a network should be devoid of any discrimination as a result of the type of data or content. This principle has been challenged by traditional Telecommunications companies who argue that they have no incentive to upgrade their equipment and networks if they stand nothing to gain from the traffic of OTT providers over their networks. The narrow 3-2 ruling of the Federal Communications Commission (FCC) of the United States added to the debate over OTT services worldwide with several governments around the world taking similar policy routes. It is important that whatever way policy on OTT services is eventually decided in the United States, the NCC policy on OTT services must not negate the principle of Net Neutrality – which fosters innovation and protects the consumer.

⁴SERAP drags Senate to UN over social media bill (December 3, 2015). <http://thenewsnigeria.com.ng/2015/12/serap-drags-senate-to-un-over-social-media-bill/>

The National Information Technology Development Agency (NITDA), an agency of the Federal Ministry of Communications, also published a policy document on Open Data, "Draft Guidelines for Open Data in Nigeria", seeking responses from stakeholders to fashion out a policy direction on the management of Open Data in Nigeria. An otherwise tenable policy framework, such as NITDA's, is however in danger of being made ineffective by the weak legal frameworks mandating its implementation. Open Data initiatives around the world are really freedom of information initiatives carried to a logical conclusion. The precursor to the Open Data Policy, Nigeria's Freedom of Information Act 2013 has seen challenges in its implementation, with the public only having access to government information in some instances only after prolonged litigation⁵.

3.2 Acts, Laws and Decrees as Passed by the National Assembly or Equivalent

There are laws in Nigeria that partly protect the freedom of Internet users through the recognition of certain civil liberties. The provisions in the Section 84 of the Evidence Act of 2011 are also significant not only because they provide for the admissibility of electronic evidence but because their existence now allows the law to address a whole new vista of human and digital communications. It breaks down the barriers between the physical and the electronic, merging both online and offline realities and reinforcing the fact that offline and online rights have equal standing in law.

4.0 Legislative Threats to Internet Freedom

Looking at the bills currently in the National Assembly, which touch on the use of ICTs, the following are common threats identified in many of the provisions in these legislative documents.

4.1 Unauthorised Access and Usage

While the aim of many of the provisions in these bills is presumably to combat online crimes, their wording criminalises enormous amounts of innocuous behaviour. Nearly every information system, including many websites, contains a terms of use agreement dictating the precise way in which the product or service is authorised to be used. These documents frequently contain binding conditions. For example, the website of a popular hotel chain contains an agreement which states that users must be at least eighteen years of age. However, by making it a criminal offence in the Bills to use an information system or access data without authorisation, or in excess of the authorisation received, users who wish to stay on the right side of the law would have to slog through pages of terms and conditions for every website they visit and any device or programme they use to ensure that they are not using the service beyond the dictates of its creator. Such principles in various bills should be more specific.

4.2 Privacy Breach through Mass Surveillance

Respect for privacy is key to preserving freedom of expression on the Internet. It is broadly recognised that privacy and the ability to communicate free from surveillance are necessary to democratic discourse. As the United Nations Special Rapporteur on Freedom of Opinion and Expression noted, "States cannot ensure that individuals are able to freely seek and receive information or express themselves without respecting, protecting and promoting their right to privacy... without adequate legislation and legal standards to ensure the privacy, security and anonymity of communications, journalists, human rights, defenders and whistle-blowers, for example, cannot be assured that their communication will not be subject to States' scrutiny".

4.3 Poorly Drafted Laws

With most of the Bills that have either positive or negative effects on Internet freedom, the draft quality is where the huge problem lies. From our review, most of the bills suggest that the intention of the lawmakers includes the provision of laws that also protect the Nigerian citizens but they do not bother with the interpretation of the clauses, thus while the law appears harmless, it can lead – through interpretation – to

⁵Implementing Nigeria's freedom of Information Act 2011- The Journey So Far via <http://r2knigeria.org/index.php/publications/foi-assessments-reports?download=82:implementing-nigeria-s-foi-act-2011-the-journey-so-far>

a rightful act becoming illegal. An example of poor drafting is the Section 24 of the Cybercrime Act of 2015. In its effort to curb hate crimes based on race, ethnicity, etc, the bill uses the word 'insult' which could apply to so many circumstances, leaving an open-ended inference on what a person might say or do that can lead to a jail term. These errors, or deliberate attempts at hurting Internet Freedom, are numerous and more importantly, they spread across too many bills.

4.4 Replication of Bills

Many of the Bills carry the same themes and this is due to the efforts to adapt old Bills to the current climate without editing or amending them, and probably the desire to score political points without any thorough consultation by some lawmakers. The lack of consolidation of the bills has led to the lack of attention being given to the sector and may lead to continued lack of balance in regulations being considered for the purpose of "national security".

5.0 Non-Legislative Threats to Internet Freedom

5.1 The 'Inactive' Nigerian Citizen

On the 18th of June, 2014, Max Schrems, an Austrian Citizen, through advocacy and litigation, successfully challenged the legitimacy of the 'safe harbour' agreement between the EU and US technology companies like Facebook and Google which facilitated the warehousing of EU citizens data in the United States. His lone action effected a fundamental shift in the data privacy debate across the world. A silent threat to Internet Freedom in Nigeria is the indifference observed in the responses of a large segment of society when digital rights are discussed. Examples from the across the world have demonstrated that active citizens are a major component of the campaign for digital rights and freedoms – a campaign that is left entirely in the hands of not-for-profit organizations in Nigeria.

For example, on the 21st of March, 2016, Paradigm Initiative Nigeria, Enough is Enough Nigeria and Media Rights Agenda filed a suit in a Lagos Federal High Court against the Nigerian National Assembly to stop all legislative actions on the "Fivolous Petitions Bill" due to its adverse implications on Freedom of Press and Expression. While numerous citizens and organisations also took action, it was surprising to see a poorly attended public hearing and general apathy towards a voice vote system set up by Enough is Enough Nigeria. In a country with millions of citizens, there is no reason why there should not have been multiple lawsuits and hundreds of thousands of voice votes against the frivolous Bill.

The general indifference or apathy seen in the response of Nigerians to Digital Rights and Freedoms might be a cultural thing – it sometimes takes a lot to shock and rouse Nigerians to action. On the other hand, it might be a reflection of the dire economic hardship, which is a daily reality in a country where almost half of its citizens live below the poverty line. Perhaps, to the desperately poor – which describes tens of millions of Nigerians –, any discussion of Digital Rights and Freedoms are really inconsequential relative to the desperate life and death struggle for the daily necessities of life the majority of Nigerians confront daily. Digital rights and freedoms are perceived as elitist, which is a misguided view, for issues surrounding Internet Freedoms touch all citizens.

5.2 The Laid-Back Role of Internet Businesses

Socially responsible businesses are a vital component of the advocacy for Digital Freedoms. Although businesses, especially Big Business, are often seen as the obstacles in the pursuit of data privacy and broader Internet freedoms, that is not often the whole story. The growth and development of the Internet to the tremendously useful tool it has become today was fuelled by the vigorous activity of private enterprise in the development of Internet technology and infrastructure. However, when businesses take a back seat in the campaign for Internet Freedoms, they fail to realize that there are costs to businesses when there are

restrictions to Internet Freedoms.

For instance, revenue that could have accrued to Internet companies is lost during Internet blackouts as demonstrated in the Internet shut down during the Ugandan elections of February 2016. And although Internet activists take much of the credit, the narrow 3-2 ruling of the United States Federal Communications Commission in favour of Net Neutrality, which influenced policy globally, had the major input of Internet businesses – Internet Content Providers whose businesses depend on Net Neutrality joined forces to negate the influence of the big telecommunications providers who rallied against Net Neutrality.

5.3 Increase in Government Allocation for Surveillance Equipment

In Nigeria, there has been a trend of increasing budgetary allocation for surveillance equipment, including Internet communications monitoring. This should be a cause for concern because those seeking more control of the Internet generally deserve less trust⁶. The sharp increase in budgetary allocation is demonstrated by the disparity in the allocations for surveillance in 2014 (NGN1.3 billion) and 2016 (NGN2.54 billion). Additional cryptic items in the 2016 budgetary allocation for surveillance totalled NGN17.7 billion. Technical systems, including those used for Internet surveillance, often have high fixed costs but low marginal costs – leading to “function creep”, where the use of technical measures to prevent significant harm⁷ enables much easier and cheaper use of the same measures to address less significant harms. This functional creep towards unacceptable levels of surveillance is only checked through legislative oversight of the secret security services – which sadly in Nigeria is weak or non-existent.

5.4 Policymakers’ Ignorance of Internet Technology

In many parts of the world, the Internet is a highly misunderstood technology. The wrongly held assumptions and perceptions held of the Internet, including being a medium for youth corruption and foreign propaganda spreading, are damaging, especially when held by leaders responsible for drafting legislation and crafting internet policy. As evidenced by the quality of legislation covering the ICT sector in Nigeria, legislators in the relevant committees and policymakers will benefit from a more comprehensive knowledge about how the Internet works, through refresher courses and seminars.

It could be a dangerous situation if the activities of millions of active Nigerian Internet users – who are usually subject-savvy and young – are regulated by legislators who are hardly online and know little about Internet technology. The outcome will be laws out of touch with reality and which are increasingly heavy handed towards freedom of expression. Also, there is a huge concern on the literacy level of Judges on burning legal principles that guide Internet freedom globally. There is need for retraining of judicial personnel to accommodate the modern-day realities of adjudicating on novel legal issues like Digital Rights and Freedom in Nigeria.

6.0 National Assembly Bills and Internet Freedom

In this section, we provide a list of National Assembly bills that could hurt Internet freedom, those that touch on the subject but have no restrictions and those that have outright negative clauses on Internet Freedom.

6.1 Bills/Acts That Could Hurt Internet Freedom Through Interpretation

1. Cybersecurity Bill 2011
2. Electronic Transaction Bill 2011 (HB 03)
3. Electronic transfer of funds Crime Bill 2011 (SB 35)

⁶ Berghel Hal (2016). Net Neutrality vs. Net Neutering. IEEE Computer, March 2016, 73-77.

⁷ Brown I and Cows J (2016). Check the Web: assessing the ethics and politics of policing the Internet for extremist material. Report arising from the VOX-Pol Workshop Brussels, January 19-20, 2015.

4. Telecommunications Investigation Bill
5. Cybercrime Act 2015
6. A Bill For An Act To Amend The Copyright Act For The Purposes Of Making Provisions For The Technological Measure Of Protecting For Technological Matters On Protecting Counterfeit And For Other Related Matters
7. Advance Fee Fraud And Other Fraud Related Offences (Amendment) Act 2006
8. A Bill To Provide For The Interception And Monitoring Of Certain Communication; To Provide For The Interception Of Postal Articles And For The Monitoring Of Communication In The Case A Of A Serious Offense Or If The Security Offense Or Other Compelling National Interests Is Threatened; To Prohibit The Provisions Of Certain In Telecommunication Services Which Do Not Have The Capacity To Be Monitored; To Regulate Authorised Telecommunication Monitoring And For Other Matters Connected Therewith
9. A Bill For An Act To Amend The National Communications Commission Act 2003 To Empower The Police And Security Agencies To Track, Intercept And Monitor Conversations And Text Messages Involving Suspected Terrorist And Other Matters (HB 13.02.470)
10. Terrorist Prevention (Amendment) Act 2013
11. Amendment Of Cap P3 Penal Code Of The Laws Of Federation Of Nigeria To Insert New Chapter Computer Misuse And Cybercrime Offences
12. A Bill For An Act To Facilitate The Use Of Information In Electronic Form For Conducting Transactions In Nigeria And For Connected Purposes (SB 248)
13. Amendment Of Criminal Code Of The Laws Of Federation Of Nigeria To Insert New Chapter Computer Misuse And Cybercrime Offences
14. A Bill For An Act To Provide For The Promotion Of Internet Safety In Nigeria And Other Related Matters (HB 673)
15. Telecommunications Facilities (lawful interception of information) Bill 2015 (HB. 15.07.35)
16. Computer Security and Protection Bill, 2009 (SB 336)
17. Global System of Mobile Telecommunications users registration (special provisions, etc.) bill, 2008 (SB 227)
18. A Bill for an Act to Prohibit Frivolous Petitions; and other matters connected therewith, 2015. (SB 143)

6.2 Bills/Acts That Touch on Internet Freedom But Have No Restrictions

1. Electronic Transaction (Establishment) Bill 2013
2. National Identity Management Commission Act 2007
3. Data Protection Bill 2010 (HB 45)

4. Advance Fee Fraud And Other Related Fraud Offences
5. Electronic Transfer Of Funds Crime Bill 2011 (SB 35)
6. Nigeria Communication Commission Act 2003
7. Mobile Number Portability Regulation 2013
8. National Information Technology Development Act 2007
9. A Bill For An Act To Amend The Copyright Act For The Purposes Of Making Provisions For The Technological Measure Of Protecting For Technological Matters On Protecting Counterfeit And For Other Related Matters
10. A Bill For An Act To Protect Telephone Consumers From The Activities Of Telemarketers And To Provide For Adequate Sanctions Against The Business Of Telemarketing In Nigeria And Other Purpose Forthwith (HB 13.01.427)
11. Electronic Commerce (Provision of Legal Recognition) Bill 2011 (SB 09)

6.3 Bills That Have Negative Clauses On Internet Freedom

1. A Bill For An Act To Provide For The Prohibition Of And Punishment For Electronic Transaction Fraud And Crime In All Electronic Transaction In Nigeria And For Other Related Matters (SB 69)
2. A Bill For An Act To Authorize Law Enforcement Agencies To Receive Oral And Written In Form Of Short Messaging Service (SMS) Communication Made By An Individual Using Telecommunication And Internet In Order To Enhance Criminal Investigations In Nigeria For Related Matters (HB 13.03.485)
3. Electronic Transfer of Funds Crime Bill 2011 (SB 35)
4. Cybersecurity Bill 2011
5. A Bill For An Act To Amend The Copyright Act For The Purposes Of Making Provisions For The Technological Measure Of Protecting For Technological Matters On Protecting Counterfeit And For Other Related Matters
6. Advance Fee Fraud And Other Fraud Related Offences (Amendment) Act 2006
7. A Bill To Provide For The Interception And Monitoring Of Certain Communication; To Provide For The Interception Of Postal Articles And For The Monitoring Of Communication In The Case A Of A Serious
8. Offense Or If The Security Offense Or Other Compelling National Interests Is Threatened; To Prohibit The Provisions Of Certain In Telecommunication Services Which Do Not Have The Capacity To Be Monitored; To Regulate Authorised Telecommunication Monitoring And For Other Matters Connected Therewith
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14. Global System of Mobile Telecommunications users registration (special provisions, etc.) bill, 2008 (SB 227)
15. A Bill for an Act to Prohibit Frivolous Petitions; and other matters connected therewith, 2015. (SB 143)
16. The Cybercrimes Act of 2015

6.4 A Glimpse of the Future: The “Anti-Social media Bill” Resistance and Digital Rights and Freedom Bill

Despite the legislative and non-legislative threats to Internet Freedom in Nigeria, going by events in recent months, the future of Internet Freedom in Nigeria affords us great hope. In November 2015, a Senator of the Federal Republic of Nigeria proposed before the Senate a bill titled, “Frivolous Petitions (Prohibition) Bill, 2015” which passed through the first and second readings in its bid to become law. Contained in the Bill were sections that sought to constrain freedom of expression on the Internet, particularly in the use of messaging apps such as Whatsapp. The reaction to the Bill from the Nigerian public was such that showed a new face of the active Nigerian citizen working in concert with organisations in the forefront of digital rights activism. Nigerians mobilized against the bill online and in marches on the National Assembly complex. The public reaction to the bill was clearly a surprise to Nigerian legislators. A public hearing was held, and today, the digital rights community is cautiously near-confident that the Bill is dead. However, what is worrisome is the seeming public support of the Bill by the Nigerian Judiciary.

At about the same time, in a sign that the tide is turning in the campaign for Digital Rights in Nigeria, a ground-breaking Digital Rights and Freedom Bill drafted by the NetRights coalition led by Paradigm Initiative Nigeria, and sponsored by Hon. Chukwuemeka Ujam, passed through its first reading in the Nigerian House of Representatives on the 20th of April, 2016, with gazetted number HB.490. It is instructive that in the same legislative period that saw the advent of the “Anti-Social Media Bill” within the same hallowed walls of the Nigerian National Assembly, the Digital Rights and Freedoms bill scaled through first reading in a sure sign that at last the work of the digital rights community in Nigeria is making an impact.

7.0 Conclusion

The Nigerian government must understand the legal and socio-economic implications of the various threats to Internet Freedom and seek to, while combating security threats, find the right balance between privacy of its citizens and security of the nation. Citizen and Internet business participation is needed to create a safe and free Internet, and government should not seek to intimidate individuals and organisations that bring these rights violations to the attention of all stakeholders. There is evidence within Africa⁸ and elsewhere⁹ that the effect of increasing government monitoring of Internet communications is the stifling and silencing of freedom of expression, which creates a numb and inert civil society incapable of any engagement with government. This society cannot be safe for anyone, including present-day political authorities, who will at some point become ordinary citizens again.

⁸BBC News (18 October 2015). Letter from Africa: Tanzania’s Cybercrime Law.

⁹Stoycheff E (2016). Under Surveillance: Examining Facebook’s Spiral of Silence Effects in the face of NSA Monitoring. Journalism and Mass Communication Quarterlyly 1-16



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