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DIGITAL RIGHTS AND INCLUSION IN AFRICA REPORT



BENIN

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Benin

EXECUTIVE SUMMARY

A decade ago, Benin identified digitalisation as an important lever for accelerating economic growth. With this aim in mind, the government of Benin emphasised promoting the digital transformation of the West African nation. In this report, we recognise the efforts made by the government. Following a qualitative analysis, this report reveals numerous encouraging experiences involving public authorities and civil society. Besides the effort to bridge the digital divide and build the digital economy, the report points out some challenges the country faces. Among those is the existence of repressive laws that negatively impact freedom of expression. This report also reveals that there has been little communication about how the Universal Service Fund is managed.

Introduction

For Benin authorities, digital technologies are a major tool for economic, political and social transformation. To achieve its ambition, the country has developed an explicitly pro-digital policy. Last January, the country adopted a national strategy to make digital technology a lever for economic and social growth. This aimed at establishing an ecosystem and a digital culture that fosters innovation over time. For example, since 2020, Benin has proceeded with the digitalisation of administrative procedures, resulting in the setting up of a national portal that gives citizens access to more than 250 online services.⁴⁸ Benin is also promoting digital technology through education and digital content development. To this end, the country has created the Agency for the Development of Sèmè City⁴⁹. This agency has been designed to stimulate and strengthen Benin's innovation and business competitiveness in international markets.

Benin has gradually positioned itself among the sub-regional and regional leaders in digital development. With a score of 0.34 in 2022, the analysis of the e-participation index of Benin reveals that the country ranks in third place in West Africa, behind Côte d'Ivoire (0.37) and Togo (0.39), and 13th on the continent, the leader being Rwanda with a score of 0.64⁵⁰. Over the next few years, Benin will certainly continue to benefit from the efforts made so far. However, the authorities have to work more to improve their current achievement to make the digital ecosystem more inclusive. The government of Benin has made significant efforts to keep telecommunication retail prices low. The telecommunications regulator imposes price controls that prevent companies from overcharging customers. Based on an analysis of service production costs on the operators' networks and an allowable profit margin to guarantee firms remain profitable, ARCEP has established a framework for voice, SMS and data service tariffs. This reform benefits users as it sets price thresholds that prevent operators from overcharging consumers. Despite all these efforts, internet e-participation could be more inclusive if the Internet was more affordable. Affordable internet is when 1 GB of mobile broadband data is priced at 2% or less of average monthly income⁵¹

Regarding the Benin digital economy agenda, one flagship project has been designed to strengthen the digital sector. To tackle the issue unequivocally, the Beninois Government decided to team up with Canal + to launch a new digital TV channel⁵². This project is currently being deployed through the Digital TV transition⁵³. However, in today's digital media era, an important amount of data is collected of people's browsing history and preferences. This data is utilised for targeted advertising and even influencing political opinions. Moreover, data aggregation and correlation can create comprehensive content infringing on personal autonomy and enabling discriminatory practices. In such a context, one of the major preoccupations Benin leaders should contend with is to enhance data protection. Authorities should also facilitate the creation of an animation industry that is innovative, flexible, creative, and idea-driven. Also, Benin authorities should develop TV policies which are focused on the restoration of national cultures which are still patterned on the western model.

48 See Les e-services populaires <https://service-public.bj/> (accessed on 11 December 2023).

49 See Sèmè City: Benin's Innovation and knowledge city <https://semecity.bj/en/> (accessed on 01 December 2023).

50 See Un E -government knowledgebase

<https://publicadministration.un.org/egovkb/en-us/Data-Center> (accessed on 12 December 2023).

51 See The world's slowest internet is the least affordable <https://internethealthreport.org/2019/the-worlds-slowest-internet-is-the-least-affordable/> (accessed on 14 December 14 2023).

52 See Lancement d'A+ Bénin, la nouvelle chaîne béninoise du Groupe CANAL+

<https://www.agencecofin.com/audiovisuel/1907-110451-lancement-da-benin-la-nouvelle-chaine-beninoise-du-groupe-canal/> (accessed on 03 December 2023).

53 See Benin finally switches from analogue to digital terrestrial

<https://www.afro-impact.com/en/benin-finally-switches-from-analogue-to-digital-terrestrial/> (accessed on 02 December 2023).

► Country Analysis

Online Freedom of Expression

Despite the general openness of the media system and its growing plurality, free and bold development of media and journalism in Benin is still hampered by various threats. In Freedom House's 2023 study on civil liberties, Benin is rated partly free⁵⁴. It reflects situations where journalists continue to be arrested. The ability of the media to cover current news and politics has been curtailed by the passing of media laws that criminalise the criticism of government officials. For instance, the Digital Code contains certain repressive provisions that can be used to silence critics. This is the case of Article 550, which unduly restricts the right to freedom of expression, notably by removing prison sentences for the offence of false information. This strategy, which consists of strengthening speech-related crimes, protects those in power from criticism.

On August 8, 2023, the High Authority for Audiovisual and Communication (HAAC), which regulates the country's communication sector, indefinitely suspended operations of the privately owned press group La Gazette du Golfe, including its TV, radio, print, and online outlets. Before the suspension of La Gazette du Golfe, the HAAC had released a press statement dated August 3, 2023, in which it invited media professionals to demonstrate greater professionalism and respect for constitutional and legal provisions in processing information relating to coups d'état in Africa and the sub-region.

According to the High Authority for Audiovisual and Communication, La Gazette du Golfe's coverage of the situation in Niger amounted to condoning the July 26, 2023 coup d'état in that country, and a violation of its own (HAAC), the Code of Information and Communication as well as the Code of Ethics of journalism. Among other threats to freedom of expression that have proliferated in Benin is the mounting number of legal attacks on journalists. Occasionally, security forces do not shy away from directly attacking journalists. Sometimes, these threats are used to silence public interest reporting but the intended goal is also to exert control of the audiences served by the media.

On January 13th 2023, journalist Maxime Lissanon was arrested after publishing a Facebook post related to the legislative elections of January 8th 2023⁵⁵. Because of this publication, he was subsequently charged with inciting rebellion. Later in June, the journalist Virgile Ahouansè was given a suspended sentence of 12 months of imprisonment and a fine of 200,000 CFA francs⁵⁶. In Ahouansè's case, the judges have based their decision on Article 550 of the Digital Code, which pertains to "harassment through electronic communications" and provides for up to two years in prison and/or fines of up to 10 million West African francs (16500 USD) for various crimes. Anyone who, for example, "initiates an electronic communication that coerces, intimidates, harasses or causes distress" or "initiates or relays false information against a person through social networks" may be charged. Benin had been among the most stable democracies in sub-Saharan Africa, but this status has been in a sharp decline for a couple of years. Since journalism is increasingly moving online, the threat from laws like Benin's Digital Code is expected to loom even larger.

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54 See <https://freedomhouse.org/country/benin/freedom-world/2023> (accessed on 03 December 2023).

55 See *liberté de presse au Bénin les démocrates condamne l'arrestation du journaliste maxime lissanon* <https://matinlibre.com/2023/02/21/liberte-de-presse-au-benin-les-democrates-condamne-larrestation-du-journaliste-maxime-lissanon/> (accessed on 09 December 2023).

56 See *Bénin: la Criet condamne le journaliste Virgile Ahouansè* <https://beninwebtv.com/benin-la-criet-condamne-le-journaliste-virgile-ahouanse/> (accessed on 11 December 2023).

Data Protection and Cyber Security

When it comes to data protection, Benin has been one of Africa's front-runners in this field. The data protection regime in Benin is governed by two pieces of legislation namely the Law No. 2017-20 of April 20, 2018 of the Digital Code and the Law No. 2009-09 of May 22, 2009 dealing with the Protection of Personally Identifiable Information. Each year on 28 January, Benin celebrates the Data Protection day⁵⁷. On the 18th edition of the event this year, the Data Protection Authority invited internet users to reflect on their relationship with technology and to apply good practices to protect their personal data⁵⁸.



Figure 1: Travelling exhibition organised by the Benin Data Protection Authority to raise awareness on Data Protection Day.

57 See

journee mondiale de la protection des donnees personnelles 2022 l'agence de protection des données personnelles du bénin lance la célébration a parakou <https://www.kingonews.com/journee-mondiale-de-la-protection-des-donnees-personnelles-2022-lagence-de-protection-des-donnees-personnelles-du-benin-lance-la-celebration-a-parakou/> (accessed on 29 November 2023).

58 See Le Bénin célèbre la journée mondiale de protection des données personnelles

<https://cio-mag.com/le-benin-celebre-la-journee-mondiale-de-protection-des-donnees-personnelles/> (accessed on 28 November 2023).

If this can be seen as a well-intentioned initiative, concerns have also been raised regarding how Benin governments abuse surveillance powers to spy into the private affairs of their opponents to gather information, which is then used to suppress and stifle legitimate, democratic political activity. In fact, despite these substantial efforts to protect human rights, Benin's government has been accused of using the software Pegasus⁵⁹. To date, there is no evidence that these practices have stopped. This can be explained based on a grey zone between the state's duty to respect the right to privacy on the one hand and the obligation to protect national security on the other hand.

It is important to stress that governments using such spyware on individuals violate their rights to privacy and freedom of expression and association. The Constitution of Benin contains several provisions promoting freedom of expression and information. Article 8 stipulates that the State must ensure that citizens have equal access to information. Article 23 states that everyone has the right to freedom of expression and opinion while respecting public order as stipulated in laws and regulations.

Finally, Article 24 specifically recognises and protects freedom of the press and gives responsibility to the Higher Authority for Audio-Visual Media and Communication.

Benin is making strides towards becoming a key player in West Africa's digital revolution. For instance, the development and implementation of digital strategies has led the government to establish a number of institutions, such as Agence des Services et Systèmes d'Information (ASSI). This agency is responsible for the operational implementation of programmes and projects within the framework of strategies for the development of secure digital information systems in Benin. In this capacity, ASSI is responsible for providing strategic, methodological and operational assistance to all government structures and operators of vital importance. In addition, ASSI ensures the execution of projects relating to smart government, e-commerce and dematerialisation. Apart from ASSI, the Government has set up l'Agence Nationale de Sécurité des Systèmes d'Information (ANSSI). Among other things, this Agency is responsible for drafting legal and regulatory texts relating to the security of information systems and networks and the application of agreements, treaties and conventions relating to the fight against cybercrime and cybersecurity ratified by the Republic of Benin. Despite the presence of these institutions, several recent hacking incidents show that Benin needs to develop real digital sovereignty⁶⁰.

While the law provides a number of necessary legal safeguards to protect individuals, Benin is listed for the moment as having approved a law for the ratification of the Malabo Convention⁶¹. If this can be considered as a good sign, priority should be given to the ratification itself since a number of further steps need to be taken before the Convention enters into force. Once they have done so, Benin authorities should carefully implement the Convention's Framework with legislation that respects human rights at the national level.

Most notably, Law No. 2017-20 of April 20, 2018, of the Digital Code and Law No. 2009-09 of May 22, 2009, dealing with the Protection of Personally Identifiable Information, applies to any person or entity in the country that deals with personal data. Furthermore, it is important to emphasise that the mandate of the Data Protection Authority prescribed in the law is to regulate data protection, enforce compliance with the law, create further regulations for implementation and to receive and investigate complaints. It is, therefore, imperative that these laws put the privacy of users at the center so that Benin's citizens can control what personal data they share and with whom. Above all, one warning is the obligation of the State to ensure the privacy rights of Beninese citizens,

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59 See Bénin : les services de renseignement israéliens au service de Patrice Talon ? <https://lejournaldefafricain.com/benin-les-renseignement-israeliens-au-service-de-patrice-talon/> (accessed on 11 December 2023).

60 See Disinformation as a tool of regime survival in Tunisia <https://arabcenterdc.org/resource/disinformation-as-a-tool-of-regime-survival-in-tunisia/> (accessed on 29 November 2023)

61 See Benin ratifies Malabo Convention on Cybersecurity <https://www.wearotech.africa/en/fils-uk/news/public-management/benin-ratifies-malabo-convention-on-cybersecurity>

especially because a Tunisian company was given a contract to install a data centre in Benin⁶².

This risk is illustrated by recent scandals involving the manipulation of social networks in different parts of Africa. What is particularly alarming about this situation is that a Tunisian firm called UReputation is conducting sophisticated disinformation campaigns. Based on several developments, UReputation has been particularly active on social media platforms designed to influence presidential elections⁶³.

Universal Service Fund

Since its establishment in 2011, the Universal Service Fund (USF) has played a vital role in delivering advanced telecommunications services in Benin. The USF is placed under the authority of the Beninese Agency of the Universal Service of Electronic Communications and Post. This agency is in charge of ensuring the implementation of the funds in underserved communities. The types of projects the USF supports in Benin can be grouped into two categories: infrastructure and non-infrastructure. Information about the exact amount in the Fund is not accessible. In Benin, USF is collected through mandatory contributions by mobile network operators, but the exact amount of their contributions over time is unknown.

Thanks to the availability of this Fund, the Benin Government plans to connect the municipalities to the government's digital network. So far, the government of Benin has installed several dozens of community digital points throughout the country. These actions are being implemented to reach broad digital usage among the population. To achieve results, Benin authorities have implemented a comprehensive digital policy⁶⁴. This policy focuses on the Internet network rehabilitation and a 2,000 km extension of the high-speed internet network with fiber optic backbone which runs from the north to south of Benin; development of a metropolitan network around Ouidah-Calavi-Godomey and Cotonou-PortoNovo of 250 km; construction of a 960 km fiber optic backbone security loop; the extension of the 4G/LTE networks with new Radio sites; and the creation of points of presence in Karimama, Péréré, Avrankou, Toffo, Zè, So-Ava, Ganvié and the Aguégues; securing the existing network between Kandi and Malanville⁶⁵.

Furthermore, the government aims to build more community digital points throughout the country. The community digital points are built in the style of a cyber-café equipped with 10 computers and dedicated to all possible digital use. In Benin, the community digital points also serve as free public wifi access points. They are set up in collaboration with the town halls, often in the youth centres of the concerned municipalities. Despite this encouraging record, the authorities are aware of some inequalities regarding mobile telecommunications usage.

The broadband mobile internet base (3G/4G) represented 39% of the mobile internet base

62 See L'entreprise tunisienne TMI installe le datacenter national du Bénin https://africanmanager.com/en/dossiers.php?n=15081&art=Benin/Smart_Government:_issues_and_challenges_for_a_more_inclusive_digital (accessed on 18 December 2023)

63 See Disinformation as a tool of regime survival in Tunisia <https://arabcenterdc.org/resource/disinformation-as-a-tool-of-regime-survival-in-tunisia/> (accessed on 06 December 2023)

64 See Benin/Smart Government: issues and challenges for a more inclusive digital https://jumelages-partenariats.com/en/dossiers.php?n=15081&art=Benin/Smart_Government:_issues_and_challenges_for_a_more_inclusive_digital (accessed on 02 December 2023)

65 See Programme d'Action du Gouvernement https://revealingbenin.com/wp-content/uploads/2021/03/5-ETAT-DE-MISE-EN-CEUVRE_Cadre-de-vie-Infrastructure-et-TransportNumerique-Décentralisation.pdf (accessed on 07 December 2023)

in 2023⁶⁶. According to the agency regulating telecommunications and postal services in Benin, this rate increased significantly in 2021 and rose to 51%⁶⁷. Since 2018, more than 43 out of 77 localities in the country have been equipped with digital community points. Building on this success, the authorities would like to set up more community digital points in some eligible municipalities that do not yet have them.

In Benin, mobile operators are being solicited to enhance the outreach of this initiative. Their efforts are part of the Universal Service Fund, used to progress network deployment in disadvantaged areas. This is one of the reasons mobile operators increased their infrastructure investments by 1.9% between 2018 and 2020 to meet their quality of service and network coverage obligations in Benin⁶⁸. However, Benin is among the many countries that have published only a few details on their Universal Service and Access Funds activities. If some efforts are made so far, these efforts do not include complete financial specifications. Another observation is that available information to the public does not always include all the financial details of the Universal Service Fund in Benin. Thus, it is hard to have a complete image of how the Fund is spent, on which projects and through which time frame.

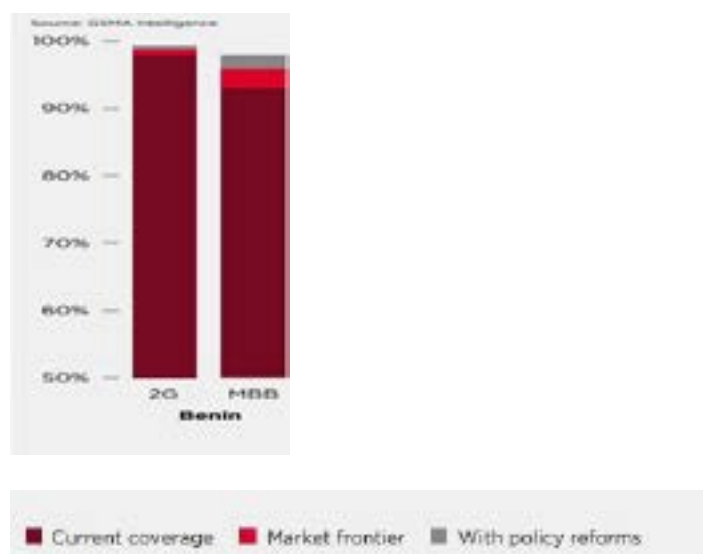


Figure 3: 2G and mobile broadband coverage in Benin (GSMA 2023)⁶⁹

According to the Telecommunication Infrastructure Index, mobile phone and internet penetration rates per 100 inhabitants were estimated at 101.71% and 5.3% in 2016 and 82.38% and 20% in 2020⁷⁰. For its part, the Regulatory Authority for Telecommunications and Postal Services of Benin stated that the penetration rate of mobile telephony was estimated at 80.14% in 2016 and 91.17%

66 See data report digital 2023 benin <https://datareportal.com/reports/digital-2023-benin/> (accessed on 19 November 2023).

67 See Rapport Annuel d'activités l'ARCEP-BENIN <https://arcep.bj/wp-content/uploads/2021/06/Rapport-Annuel-dactivit%C3%A9s-2020-de-lARCEP-BENIN.pdf> (accessed on 15 November 2023).

68 See rapport annuel d'activités l'ARCEP-BENIN <https://arcep.bj/wp-content/uploads/2021/06/Rapport-Annuel-dactivit%C3%A9s-2020-de-lARCEP-BENIN.pdf> (accessed on 13 November 2023).

69 See The role USF can play in effort to close the connectivity gap in Benin <https://www.gsma.com/subsaharanafrica/wp-content/uploads/2023/10/USF-Africa.pdf> (accessed on 07 November 2023).

70 See <https://publicadministration.un.org/egovkb/en-us/Reports/UN-E-Government-Survey-2020> (accessed on 10 November 2023).

in 2020⁷¹. Nevertheless, the rates calculated by ARCEP are theoretical penetration rates as they do not account for subscribers who own SIM cards that they might not use.

To get data on mobile coverage in Benin, GSMA has leveraged the model developed in a study by the World Bank and GSMA⁷². Thanks to this methodology, they could perform a hyper-granular supply and demand analysis based on geospatial techniques⁷³. While the above data shows significant progress, the table below highlights the necessity to boost investments in network infrastructure, to achieve better mobile broadband coverage.

Amount of investment needed to provide near-universal mobile broadband coverage

Source: GSMA Intelligence

	Expected mobile broadband coverage without additional investment by 2030*	Expected coverage with additional investment	Investment gap (no policy reform), \$ million	Investment gap (with policy reform), \$ million	Coverage with 40% mobile broadband adoption
Benin	98%	99.5%	30	26	99%

Figure 5 : Amount of investment needed to provide near- universal mobile broadband coverage in Benin (GSMA 2023)⁷⁴

Considering the role that the Universal Service Fund can play in achieving the goals mentioned above, its operability is criticised in Benin. Among the improvement points is the general lack of public disclosure and financial probity. These critiques were made especially regarding how the money is collected and disbursed. The inconsistency and lack of reporting on Universal Service Fund fees makes quantifying the amount collected over time hard. In addition, the Universal Service Fund is also severely judged for its lack of transparency and clarity on how funds are allocated. The credibility and effectiveness of Universal Service Fund policies and its ability to incentivise mobile network operators to deploy networks in rural areas are linked to Benin’s commitment to transparency.

71 See UN E-Government Knowledgebase <https://arcep.bj/wp-content/uploads/2022/03/Tableau-de-bord-Mobile-au-31-Decembre-2021.pdf> (accessed on 03 November 2023).
72 See mobile coverage maps <https://www.mobilecoveragemaps.com/> (accessed on 06 November 2023).
73 See Using Geospatial Connectivity Policies <https://data.gsmainelligence.com/api-web/v2/research-file-download?id=69042425&file=230322-Using-Geospatial-Connectivity-Policies.pdf> (accessed on 07 November 2023).
74 See The role USF can play in effort to close the connectivity gap in Benin <https://www.gsma.com/subsaharanafrica/wp-content/uploads/2023/10/USF-Africa.pdf> (accessed on 07 November 2023).

▶ Conclusion & Recommendations

Conclusion

In Benin, the ongoing revolution in information technology has resulted in innovations that are having increasingly visible effects on the lives of the average citizen. While mobile internet connectivity has improved over the past few years, this report found that the gaps are still wide, and the country should continue to step up efforts to tackle the barriers to mobile internet adoption and use for greater digital inclusion. The report also found that governments leverage automated systems to strengthen information controls. While these innovations can revolutionise information and entertainment delivery, some of the implications of these social changes could be harmful or even socially and politically explosive.

Recommendations

Government

- » Improve accountability and transparency on the Universal Service Funds by sharing information in an accessible manner
- » Examine new potential funding mechanisms of the Universal Service Funds that could bridge any remaining deployment gaps
- » Hold regular meetings and public consultations with all internet and human rights stakeholders on the deployment of policies and public solutions
- » Provide all the necessary information for individuals to understand when and how technologies are used, particularly in the context of public services
- » Refrain from punishing criticism of the state authorities online

Civil Society

- » -Maintain dialogue with the government by developing contacts which ensure that citizen-oriented logic is maintained during the elaboration and deployment of policies or public solutions
- » Call on governments to ensure the digital inclusion of all and check that the impacts of ongoing digital transformation are positive in the longer term.
- » -Evaluate existing data protection laws to determine whether they sufficiently protect the right to privacy and the right to data protection
- » -Push for legislative frameworks which ensure respect for human rights



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