



NIGERIA

	2012	2013
INTERNET FREEDOM STATUS	PARTLY FREE	PARTLY FREE
Obstacles to Access (0-25)	12	10
Limits on Content (0-35)	9	8
Violations of User Rights (0-40)	12	13
Total (0-100)	33	31

POPULATION: 170 million
INTERNET PENETRATION 2012: 33 percent
SOCIAL MEDIA/ICT APPS BLOCKED: No
POLITICAL/SOCIAL CONTENT BLOCKED: No
BLOGGERS/ICT USERS ARRESTED: No
PRESS FREEDOM 2013 STATUS: Partly Free

* 0=most free, 100=least free

KEY DEVELOPMENTS: MAY 2012 – APRIL 2013

- Access to ICTs improved notably thanks to increasing investments in ICT infrastructure and growing competition between telecom service providers (see **OBSTACLES TO ACCESS**).
- Stakeholders regarded recent GSM license auctions as fair, transparent, and uninfluenced by political interference (see **OBSTACLES TO ACCESS**).
- Online self-censorship declined markedly after January 2012 Occupy Nigeria protests, and criticism of the government on social media increased (see **LIMITS ON CONTENT**).
- A draft Lawful Interception of Communications Regulation, introduced in February 2013, was criticized for potentially infringing on citizens’ constitutional right to privacy and lacking safeguards or redress in case of abuse (see **VIOLATIONS OF USER RIGHTS**).
- An early 2013 news report said the federal government had contracted an Israeli company to help monitor internet communications; the 2013 budget also contained provisions to purchase monitoring and surveillance systems (see **VIOLATIONS OF USER RIGHTS**).

INTRODUCTION

Access to the internet and other digital technologies is still limited for many Nigerians, though information communication technologies (ICTs) and internet penetration have continued to spread across the country due to the growth of mobile phone usage and data services over the past few years. Greater private sector and government investments in ICT infrastructure and increased competition between service providers have also played a key role, while stakeholders regarded recent GSM license auctions as fair, transparent, and uninfluenced by political cronyism. In 2012, the Ministry of Communication Technology set up a presidential committee tasked with the development of a National Broadband Plan that seeks to increase Nigeria's broadband penetration five-fold by 2018.¹

Compared to the traditional media sphere in Nigeria, online media is relatively free from restrictions, and there were no known incidents of government filtering or interference with online content in the past year. Self-censorship has notably reduced since the January 2012 Occupy Nigeria protests, and people now freely discuss issues that were previously unpopular or taboo, such as gay rights. However, in January 2013, the Blue Coat PacketShaper appliance—a device that can help control undesirable traffic—was discovered on several private ISP's in Nigeria, though the details of why the technology is being deployed and by whom are unknown.

Nigerian users became increasingly suspicious of online censorship and surveillance during the coverage period, even as the government continued its push to make ICT tools more available to citizens. Suspicions of government intentions to monitor ICTs were confirmed in April 2013 when the online newspaper, *Premium Times*, published a news report revealing that the federal government had awarded a secret contract to Israel-based Elbit Systems to help monitor internet communications in Nigeria.² Citizen Lab research also found a FinFisher command and server, which communicates with malware that can be used for surveillance, located on a private ISP in April 2013.

During the coverage period, the government increased its criticism of published materials online and social media discourse through dedicated staff monitors and commentators. Legislative discussions on cybercrime also expanded in 2012 to reflect the country's heightened security threats, and a draft law now focuses on cyber security. Proposed legislation with possible clauses that may affect internet freedom in Nigeria—such as the draft 2011 Cybersecurity Bill and a new Draft Lawful Interception of Communications Regulation introduced in February 2013—were still under discussion at the National Assembly as of mid-2013.

¹ "Nigeria's National Broadband Plan 2013 – 2018," accessed June 15, 2013, <http://bit.ly/18DUPsQ>.

² Ogala Emmanuel, "EXCLUSIVE: Jonathan Awards \$40 Million Contract to Israeli Company to Monitor Computer, Internet Communication by Nigerians," *Premium Times*, April 25, 2013, <http://bit.ly/12K1rUR>.

OBSTACLES TO ACCESS

Internet access in Nigeria has grown exponentially in recent years, particularly after the introduction of mobile phone data and Fixed Wireless Access (FWA) services in July 2007.³ In 2012, internet penetration stood at 33 percent, up from 28 percent in 2011, according to the International Telecommunications Union (ITU).⁴ The number of active mobile phone subscribers also increased from almost zero in 2000 to over 117 million subscribers or 84 percent penetration in March 2013, as reported by the Nigerian Communications Commission (NCC).⁵ The latest ITU data notes nearly 113 million mobile phone subscriptions and a mobile phone penetration rate of 68 percent in 2012, up from 57 percent in 2011.⁶

Mobile internet subscriptions have also steadily increased in the past few years, reaching a penetration rate of 26 percent in 2012, according to an October 2012 report published by iHub Research.⁷ This growth has been enabled by specific handsets such as Nokia's range of smartphones and BlackBerry devices that provide bundled data services to mobile subscribers. The number of BlackBerry users appears to be growing, particularly among young Nigerians, as service prices have dropped to about US\$17 a month as of January 2013. Competition, helped by the Mobile Number Portability initiative launched in April 2013, has forced service providers to offer cheaper plans based on time (daily, weekly, or monthly) or use (social media-focused or messaging). Nevertheless, the quality of service remains poor, with users frequently complaining about their inability to enjoy data services.

Although many providers use the word "broadband" in their promotional materials, in practice there is limited broadband service available in Nigeria. The latest statistics reported by the Ministry of Communication Technology cite a broadband penetration rate of 6 percent as of December 2012,⁸ with average broadband download speeds of 2.26 Mbps and upload speeds of 1.57 Mbps.⁹ Recognizing the importance of ICTs for economic development, the communication ministry set up a presidential committee in September 2012 tasked with the creation of a national ICT policy and broadband plan that aims to increase Nigeria's broadband penetration five-fold by 2018.¹⁰

³ Fixed Wire Access (FWA) is a type of high-speed internet access that uses radio signals as a connection to service providers instead of cables, enabling areas that lack fiber optic cables or DSL to access broadband internet.

⁴ International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2012," <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

⁵ "Subscriber Data – Monthly Subscriber Data," Nigerian Communications Commission, accessed June 13, 2013, http://www.ncc.gov.ng/index.php?option=com_content&view=article&id=125&Itemid=73.

⁶ International Telecommunication Union, "Mobile-cellular Telephone Subscriptions, 2000-2012."

⁷ "An Analysis Mobile Technology in West Africa: The Case of Nigeria, Ghana and Cote D'Ivoire," iHub Research, October 2012, http://www.research.ihub.co.ke/uploads/2012/october/1351001605_819_249.pdf.

⁸ Emma Okonji, "Nigeria Targets 20% Broadband Penetration in 2013," *This Day Live*, December 17, 2012, <http://www.thisdaylive.com/articles/nigeria-targets-20-broadband-penetration-in-2013/133769/>.

⁹ "Nigeria," Net Index, accessed February 16, 2013, <http://www.netindex.com/download/2,59/Nigeria>.

¹⁰ Olubunmi Adeniyi, "Nigeria to Yield Dividends of Broadband 'Within Shortest Possible Time,' Co-Chair of Presidential Broadband Team Assures," *Technology Times*, December 18, 2012, <http://bit.ly/18GnjI4>.

Nevertheless, access to ICTs is characterized by a large urban-rural divide. According to a Gallup poll published in August 2012, 39 percent of urban Nigerians said they had used the internet in the last week, compared to 16 percent of those living in rural areas.¹¹ Low literacy rates are also an obstacle to access, with 28 percent of the population illiterate in English, the main language used by Nigerian online news outlets and blogs.¹²

High costs are another major impediment to internet access. While increased competition among service providers has made the cost of access more affordable for many Nigerians, the country's average minimum wage still stands at about US\$115 per month.¹³ FWA services cost an average of \$65 per month (a decrease from \$80 in 2010), and only about 9 percent of the Nigerian population reported having a computer in the household.¹⁴ As of January 2013, the price for internet use in a cybercafé cost about \$0.64 per hour, down from \$1 in 2011, though cybercafes have seen a sharp decline in patronage in recent years due to expanding mobile internet usage enabled by the decreasing cost of data plans on GSM network. In 2012, the average cost of a GSM plan dropped from \$1 per megabyte of data in 2011 to \$0.30, and 26 percent of individuals surveyed in a 2012 Gallup poll who had used a mobile phone in the week prior had used it to access the internet.¹⁵

In addition to cost, power cuts continue to disrupt service and access, with many users reporting the need to use private generators to stay online during outages. While the country's electricity supply improved notably in 2012, it saw a huge decline in 2013 and Nigeria is still reportedly the largest importer of private power generators in Africa, despite the country's status as an oil-rich country.¹⁶ Telecommunication companies also depend on diesel-powered generators to maintain consistent service amid sporadic power cuts, spending an estimated NGN 177 billion (\$1.14 billion) annually on fuel for the generators needed to provide back-up power for the country's 22,000 base stations.¹⁷ Moreover, the need to pay for expensive backup power generators has accelerated the closure of cybercafes that were already struggling with competition against the growing popularity of internet access via mobile devices.

In March 2007, the government established the Nigerian Internet Exchange Point as a means of connecting internet service providers (ISPs) to one another; it had 38 members as of December 2012.¹⁸ Several telecommunications companies have also migrated to private fiber-optic cable projects, such as Glo-1 and MainOne, the latter of which provides connectivity for 21 ISPs,

¹¹ Broadcasting Board of Governors, "New BBG Gallup Data Shows Dramatic Rise In Mobile Use In Nigeria," video, August 20, 2012, <http://www.bbg.gov/press-release/new-bbg-gallup-data-shows-dramatic-rise-in-mobile-use-in-nigeria/>.

¹² "At a Glance: Nigeria—Statistics," United Nations Children's Fund (UNICEF), last modified March 2, 2010, accessed June 29, 2012, http://www.unicef.org/infobycountry/nigeria_statistics.html.

¹³ Minimum Wage, "Nigeria Minimum Wage, Labor Law, and Employment Data Sheet," International Minimum Wage Rates 2013, accessed January 31, 2013, <http://www.minimum-wage.org/international/en/Nigeria>.

¹⁴ Broadcasting Board of Governors, "New BBG Gallup Data Shows Dramatic Rise In Mobile Use In Nigeria."

¹⁵ Broadcasting Board of Governors, "New BBG Gallup Data Shows Dramatic Rise In Mobile Use In Nigeria."

¹⁶ Clara Nwachukwu, "Nigeria Maintains Lead in Generator Imports in Africa...," *Vanguard*, January 10, 2011, <http://www.vanguardngr.com/2011/01/nigeria-maintains-lead-in-generator-imports-in-africa-%E2%80%A6/>.

¹⁷ Amaka Eze, "Base Stations Gulp N178bn Worth of Diesel Annually," *This Day Live*, August 27, 2012, <http://www.thisdaylive.com/articles/base-stations-gulp-n178bn-worth-of-diesel-annually/123273/>.

¹⁸ Internet Exchange Point of Nigeria, "Our Members," accessed December 13, 2012, http://www.nixp.net/index.php?option=com_content&view=article&id=13&Itemid=13.

telecommunication companies, banks and other corporate entities in Nigeria and Ghana.¹⁹ However, the reduced cost of a cable connection over satellite has yet to be passed on to consumers.

The ICT market in Nigeria has expanded considerably over the past decade, with the number of licensed ISPs rising from 18 in 2000 to 139 (28 of which have licenses in need of renewal²⁰) by the end of 2012. There are also 11 FWA providers,²¹ and four GSM mobile phone operators that provide internet access to their subscribers.²² Nevertheless, the growth of ISPs and FWA providers has slowed in recent years with the rise in mobile access. As of March 2013, the four privately-owned GSM companies had a total of 114 million subscribers between them, MTN with 51 million, compared to Globacom's 24 million, Airtel's 24 million, and Etisalat's 15 million.²³ Furthermore, the process of issuing GSM licenses has been very transparent. Unlike similar auctions that have been subject to political interference, most stakeholders regarded the first and subsequent GSM license auctions as fair, and friends of prominent politicians, who are usually recipients of such licenses, lost out in the process.

The only government-owned firm in the market, NITEL, is now inactive, with 58,750 landlines and 258,520 mobile lines. It has remained on the government's privatization list for several years following multiple attempts to sell it. In February 2009, Transcorp, a local conglomerate with strong ties to the government, relinquished the 51 percent stake that it had acquired in 2006,²⁴ and in February 2010, New Generation Telecoms, a consortium that includes China Unicom, won a controversial bid to purchase the company.²⁵ The president initiated an investigation in response to allegations of corruption surrounding the purchase, but the findings have not yet been published.²⁶ As of 2013, NITEL remained on the government's list of to-be-sold companies.

Internet services are governed by the Nigerian Telecommunications Act, which vests regulatory responsibilities in the NCC. All ISPs must obtain a license from the NCC to operate, and there have been no reports of any ISP being denied a license or registration renewal. However, new ISPs

¹⁹ "Our Clients," Main One Cable Company, accessed December 23, 2012, <http://www.mainonecable.com/our-clients>.

²⁰ All 11 FWA providers have expired licenses according to the NCC website, which could mean that renewed license details have yet to be uploaded to the website, or that the regulator is in the process of renewing licenses. See: Nigerian Communications Commission, "Internet Services," accessed December 31, 2012,

http://www.ncc.gov.ng/index.php?option=com_docman&task=doc_download&gid=326&Itemid=

²¹ Nigerian Communications Commission, "Fixed Wireless Access," accessed December 31, 2012, http://www.ncc.gov.ng/index.php?option=com_docman&task=doc_download&gid=4&Itemid=53.

²² Nigerian Communications Commission, "Digital Mobile License," accessed December 31, 2012, http://www.ncc.gov.ng/index.php?option=com_docman&task=doc_download&gid=2&Itemid=53.

²³ Nigerian Communications Commission, "Operator Data," accessed December 31, 2012, http://www.ncc.gov.ng/index.php?option=com_content&view=article&id=70&Itemid=76.

²⁴ "NITEL Board Ratifies Appointment of Chairman: About NITEL," Transcorp, September 24, 2008, <http://www.transcorpigeria.com/corporatecom/archives.php?page=fullstory&nid=60>; Bertrand Nwankwo and Juliet Alohon, "Nigeria: Transcorp Relinquishes 51 Percent Equity Share in Nitel/Mtel," *Leadership via All Africa*, February 26, 2009, <http://allafrica.com/stories/200902260498.html>.

²⁵ Camillus Eboh, "New Generation Telecoms Acquires NITEL," Reuters, February 16, 2010, http://234next.com/csp/cms/sites/Next/Home/5527697-146/new_generation_telecoms_acquires_nitel.csp.

²⁶ Camillus Eboh, "Nigeria Cabinet Sacking Delays Nitel sale," Reuters, March 19, 2010, <http://www.reuters.com/article/idUSLDE6210WS20100319>.

seeking to enter the market have faced challenges in their operations due to competition from larger ISPs and investor focus on the mobile sector.

Although the government nominates the NCC's nine-member board of commissioners, the regulator's decisions have been viewed as relatively independent. Nevertheless, in November 2012, the NCC executive commissioner Dr. Bashir Gwandu was removed from the board under controversial circumstances after he revealed the details of an alleged frequency racketeering scheme that involved the sale of a frequency slot belonging to the Nigeria Police to a private firm. The federal government commissioned a joint NCC board and Ministry of Communication Technology investigation, which declared Gwandu's claims as unfounded.²⁷ According to the government, the executive commissioner was removed from his post for "insubordination to the current leadership of the nation's telecoms regulatory agency."²⁸

LIMITS ON CONTENT

No blocking or filtering of online content was reported during the coverage period, though evidence surfaced in the government's proposed 2013 budget indicated its potential desire to manipulate the online communications landscape. Calls to clampdown on the use of social media made by government officials in mid-2012 also increased fears of impending internet censorship.

Online media has been relatively free from restrictions in Nigeria, and to date, the authorities have not carried out any blocking or filtering of content, mainly due to the complex nature of Nigeria's internet framework, which makes it difficult to carry out systematic filtering or censorship.²⁹ Nevertheless, in January 2013, the Citizen Lab internet research group discovered evidence of the Blue Coat PacketShaper appliance—a device that can help control undesirable traffic sent via online applications by filtering according to content category—in Nigeria alongside 18 other countries around the world, including China, Bahrain, and Russia. While the device was traced to a private suburban network,³⁰ its discovery in Nigeria is disconcerting given recent revelations of the government's intent to install a monitoring and surveillance system (see "Violations of User Rights").

Otherwise, the last report of ICT disruption occurred on May 29, 2011, when residents of the capital city, Abuja, reported that telecommunication services were inaccessible in certain areas.³¹

²⁷ "Interview: I Blew Whistle on Frequency Racketeering in NCC, Gwandu Says," *Technology Times*, October 14, 2012, <http://www.technologytimesng.com/news/2012/10/6951/>.

²⁸ "Federal Government fires Gwandu from NCC," *Technology Times*, November 28, 2012, <http://www.technologytimesng.com/news/2012/11/federal-government-fires-gwandu-from-ncc/>.

²⁹ According to the last study by the OpenNet Initiative (ONI) conducted in 2007, several websites were inaccessible surrounding the 2007 presidential elections due to technical problems, not government intervention. OpenNet Initiative, "Internet Filtering in Nigeria," October 1, 2009, <http://opennet.net/research/profiles/nigeria>; OpenNet Initiative, "Internet Watch Report: The 2007 Presidential Elections in Nigeria," November 2007, <http://opennet.net/research/bulletins/014>.

³⁰ Discussion between a Freedom House consultant and Citizen Lab.

³¹ While the incident was not confirmed or reported by the mainstream media, various blogs covered the story, with a blog post by *IT News Africa* reporting quotes from NCC representatives and the Visaphone service provider that cited security reasons behind the isolated telecom shutdown. The reported shutdown coincided with the inauguration of the president, and there

Some ISPs have been known to block access when users infringe on laws by downloading copyrighted content, but this has often been done to manage network traffic rather than to protect intellectual property.

The video-sharing website YouTube, social-networking site Facebook, microblogging application Twitter, and various international blog-hosting services are freely available and among the most popular websites in the country. According to the website rating company Alexa, the ten most popular websites in Nigeria in 2012 were Facebook,³² Google Nigeria, Google, Yahoo, YouTube, Twitter, Blogspot, Twitter, Nairaland, an online discussion forum, the 302 Found web search service, and the *Vanguard*.³³ Three other Nigerian websites were cited in the top 20—*Punch* newspaper at number 13, GTBank at number 15, and *LindaIkeji*, (a gossip news site) at number 20.

Government manipulation of online content has not been a huge issue in Nigeria, though in June 2009, reports emerged that the Nigerian government planned to invest in sponsoring pro-government websites and blogs.³⁴ In practice, it has been difficult to confirm whether the plan has been implemented; however, a sharp increase in the volume of government responses to citizen comments, participation in debates, and opinion pieces on government positions through online media was observed in 2012. In addition, the government seems intent on creating its own social media tools, as indicated by Nigeria's 2013 budget proposal,³⁵ in which the information ministry had made provisions to spend 100 million naira (\$623,000) for “developing social media platforms and networking with other platforms.”³⁶

Meanwhile, websites, blogs, and commentators are generally divided among those with antigovernment, progovernment, and neutral leanings. Web commentary appeared to tilt against the government in January 2012 during the Occupy Nigeria demonstrations, but there has been a more balanced set of discussions since then, with many online commentators moving the conversation towards socioeconomic issues in place of polarized debates. Furthermore, online self-censorship has reduced notably since the January 2012 protests, and people now freely discuss issues that were previously unpopular or taboo, such as gay rights. Criticism of the government on social media has also increased, as have responses from government representatives.

Nevertheless, there is some indication that the government is beginning to feel threatened by critical online commentary. On July 26, 2012, the President of the Senate of the Federal Republic

were claims of a possible bomb explosion following a similar event during the country's independence anniversary celebration in October 2010. See, Charlie Fripp, “Nigerians Angry Over Abuja Telecom Shutdown,” *IT News Africa*, May 31, 2011, <http://www.itnewsafrika.com/2011/05/nigeria-angry-over-abuja-mobile-shutdown>.

³² As of December 2012, there were over six million Facebook users. “Nigeria Facebook Statistics,” Socialbakers, accessed December 29, 2012, <http://www.socialbakers.com/facebook-statistics/nigeria>.

³³ “Top Sites in Nigeria,” Alexa, accessed January 4, 2013, <http://www.alexa.com/topsites/countries/NG>.

³⁴ Sokari Ekine, “Nigeria Government Launches Attack Against Bloggers,” *Global Voices*, June 25, 2009, <http://advocacy.globalvoicesonline.org/2009/06/25/nigeria-government-launches-attack-against-bloggers/>; “Umaru Yar’adua Regime Launches \$5 Million Online War,” *Sahara Reporters*, June 16, 2009, <http://www.saharareporters.com/news-page/umaru-yar%E2%80%99adua-regime-launches-5-million-online-war>.

³⁵ “New Projects,” in Ministry of Information 2013 Budget (Appropriation), Federal Republic of Nigeria, accessed June 29, 2013: 10, <http://www.budgetoffice.gov.ng/2013%20appropriation/Copy%20of%2018.%20Summary%20Information.pdf>.

³⁶ Tolu Ogunlesi, “Social Media Lessons for Govts and Businesses,” *Punch*, February 12, 2013, <http://www.punchng.com/opinion/social-media-lessons-for-govts-and-businesses/>.

of Nigeria, third in command after the president and vice president, called for a clampdown on the use of social media in Nigeria while speaking at a media retreat.³⁷ Government representatives from the Oyo State House of Assembly made similar declarations in 2012. These statements drew reactions from citizens who viewed these statements as signs of impending online censorship,³⁸ leading the director general of Nigeria's National Orientation Agency to publicly announce in January 2013 that the government would not restrict social media.³⁹

There has also been some government interference in the economic aspects of online news publishing. For example, in 2011, the leading critical online newspaper, *234Next*, folded in part due to a refusal to provide advertising by government or progovernment businesses. In 2013, government patronage is still evident and is reputed to be the largest source of business contracts that companies depend on for financial sustainability.

Nigeria is home to a diverse blogosphere, with entertainment blogs drawing the most readers and a growing number of Nigerians blogging about their personal lives or social issues. Blogs have gradually emerged as an important platform for discussion and a source of reliable news for many users, providing a space for lengthy debate among online commentators. Readers often leave comments on popular news-oriented blogs to express frustration with societal issues. The Nigerian blogosphere includes both expatriates and locally-based writers, and the popular platforms on which Nigerian bloggers interact and learn from one another include *Global Voices*, Blogger, Afrigator, and WordPress. The president's Facebook page has also become a major avenue through which citizens comment on public issues, and Twitter plays a prominent role in debates around events as they happen, with government ministers often hosting Twitter chats with the public.⁴⁰

In addition, ICTs are playing an increasingly important role in mobilizing people for real life protests and providing updates on unfolding events. Online citizen activism in Nigeria was particularly evident in December 2012 when the Nigerian Youth Climate Action Network and Human Rights Watch released a joint statement announcing that the "Nigerian government's failure to produce promised funding to address the worst lead poisoning outbreak in modern history is leaving thousands of children to die or face lifelong disability."⁴¹ The statement was intended to hold the government accountable to its May 2012 pledge of \$4 million to clean up locations in Zamfara state that had been contaminated with lead during gold mining operations. The groups initiated a social media campaign, asking Nigerians to sign a petition and leave comments on the president's Facebook page,⁴² while also using Twitter to demand that the government release the

³⁷ Leke Baiyewu, "Social Media Users Carpet Mark on Call for Censorship," *Punch*, July 29, 2012, www.punchng.com/news/social-media-users-carpet-mark-on-call-for-censorship/.

³⁸ Akinwale Aboluwade, "Assembly Seeks Law Against Abuse of Social Media," November 2, 2012, *Punch*, <http://www.punchng.com/news/assembly-seeks-law-against-abuse-of-social-media/>.

³⁹ Paul Adepoju, "Government Will Not Restrict Social Media in Nigeria – National Orientation Agency," *Humanipo*, January 11, 2013, <http://bit.ly/11m3uz0>.

⁴⁰ "[Town Hall Chat] Nigerian Youth Minister On Twitter @ 3-5pm Today," *Tekedia*, September 8, 2011, <http://tekedia.com/21375/town-hall-chat-nigerian-youth-minister-twitter-35pm-today/>.

⁴¹ Human Rights Watch, "Nigeria: Death Stalking Lead-Poisoned Children," news release, December 6, 2013, <http://www.hrw.org/news/2012/12/06/nigeria-death-stalking-lead-poisoned-children>.

⁴² Human Rights Watch, "Ask Nigeria's President What Happened to \$4 Million," December 6, 2012, <http://www.hrw.org/news/2012/12/06/ask-nigeria-s-president-what-happened-4-million>.

promised funds.⁴³ These campaigns caught the attention of the Senate Committee Chair on Ecology and Environment who visited the contaminated community himself and used his Twitter platform to add further pressure on the government to take action. The government released the funds two days after the campaign was launched, demonstrating the potential power of social media in Nigeria.

VIOLATIONS OF USER RIGHTS

Legislative discussions on cybercrime were expanded in 2012 to reflect the country's heightened security threats, and proposals were drafted to deal with cybersecurity and lawful interception. Still under discussion as of mid-2013, the draft laws have elicited concerns over how they may limit internet freedom in Nigeria. The most concerning development in the past year involved revelations in April 2013 that the government had invested in monitoring and surveillance technology and the discovery of a FinFisher command server located on a private ISP.

Nigeria's 1999 constitution guarantees freedom of expression and of the press, and the lack of internet-specific legislation has generally fostered an open environment for online activities. Nonetheless, the country's legal framework was revised in 2011 to reflect the use of new media technologies through Section 84(1) of the 2011 Evidence Act, which provides for the admission of statements in documents produced by computers and electronic signatures as evidence in court.⁴⁴ Libel also remains a criminal offense in Nigeria, with the burden of proof resting on the defendant. Journalists covering sensitive issues such as official corruption, the president's health, and communal violence are regularly subjected to criminal prosecution, though such cases have yet to arise for online expression. Furthermore, the implementation of Sharia or Islamic law in 12 northern states has not affected internet freedom to date.

In November 2011, the office of the National Security Advisor and the Attorney General drafted the Cybersecurity Bill, revising the earlier Cyber Security and Information Protection Agency Bill, which had provisions that could restrict users' rights to free expression and privacy by allowing security officials to apprehend and prosecute users based on suspicion and without a court order. Taking into account feedback from citizens and stakeholders in the Nigerian ICT sector, the revised bill reduced the powers granted to security officers by requiring a court order for the seizure of any equipment and for arrests based on suspicion. The draft bill passed a second reading in the House of Representatives in November 2012.⁴⁵

⁴³ Japheth Omojuwa, "#SaveBagega: President Jonathan has Moved, Time for Dr. Okonjo-Iweala to Shake Things," *YNaija*, January 30, 2013, <http://www.ynaija.com/japheth-omojuwa-jonathan-has-moved-time-for-okonjo-iweala-to-shake-things-savebagega-y-frontpage/>.

⁴⁴ Evidence Act, 2011, National Assembly, Federal Republic of Nigeria, accessed January 14, 2013, <http://www.scribd.com/doc/86359478/Evidence-Act-2011>

⁴⁵ Paul Adepoju, "Nigerian Cybercrime Bill Passed for Second Reading," *Humanipo*, November 29, 2012, <http://www.humanipo.com/news/2618/Nigerian-cybercrime-bill-passed-for-second-reading>.

Meanwhile, many fear that the draft 2010 Lawful Interception of Information Bill,⁴⁶ which was still being deliberated in the National Assembly as of May 2013, may include provisions that will allow voice and data monitoring. In February 2013, the NCC introduced a new draft Lawful Interception of Communications Regulation,⁴⁷ which seeks to accomplish through secondary legislation what the 2010 bill has been slow to achieve. Still under discussion in May 2013, the regulation was criticized for potentially infringing on the constitutional right to privacy, in addition to a lack of safeguards against abuse or opportunities for redress, and unclear supervisory and reporting provisions.⁴⁸

There are no restrictions on anonymous communication online in Nigeria, though SIM card registration with service providers has been required since June 2009.⁴⁹ The process of registering existing SIM cards extended through mid-2012, after which point service providers were required to cut off unregistered users. Cybercafes, on the other hand, do not require customers to register or present any form of identification to go online, and monitoring software installed on their computers is used only for billing purposes.

Thus far, the Nigerian security services have not appeared to proactively monitor internet and mobile phone communications, but many online journalists have long suspected that they are being monitored by the state. Suspicions of government intentions to monitor ICT communications were confirmed in April 2013 when the online newspaper, *Premium Times*, published a news report revealing that the federal government had awarded a secret contract to Israel-based Elbit Systems to help monitor internet communications in Nigeria.⁵⁰ This finding was further corroborated by publicly available details of Nigeria's 2013 budget, in which the Office of the National Security Adviser requested \$61 million for a "wise intelligence network harvest analyzer system, open source internet monitoring system, personal internet surveillance system" and "encrypted communication equipment."⁵¹ Citizen Lab research also found a FinFisher "Command and Control" server, which communicates with malware that can be used for surveillance, located on a private ISP in April 2013.⁵² Nevertheless, the extent to which such surveillance systems have been implemented have yet to be established in May 2013.

⁴⁶ International Law Office, "Intercepting Private Communications," March 7, 2012,

<http://www.internationallawoffice.com/newsletters/detail.aspx?g=b24e48af-d424-4bd4-b526-52278a2e6d34#proposed>.

⁴⁷ Nigeria Communications Commission, "Draft Lawful Interception of Communication Regulations," accessed February 10, 2013, http://www.ncc.gov.ng/index.php?option=com_docman&task=doc_download&gid=328&Itemid; Ojo Madueke,

"Revealed: SSS, Police Have Powers to Tap Phone Lines," *This Day Live*, January 30, 2013,

<http://www.thisdaylive.com/articles/revealed-sss-police-have-powers-to-tap-phone-lines/137851/>; "Mind That Conversation: Security Operatives To Tap Phones, Track E-mail," *Naij*, February 5, 2013, <http://m.naij.com/news/22640.html>; Ken Nwogbo,

"SSS, Police Get Powers to Tap Phones," *Nigeria Communications Week*, January 29, 2013,

<http://www.nigeriacommunicationsweek.com.ng/telecom/sss-police-get-powers-to-tap-phones>.

⁴⁸ Kunle Azeez, "Concerns Over Proposed Lawful Interception Law," *National Mirror Online*, May 23, 2013,

<http://nationalmirroronline.net/new/concerns-over-proposed-lawful-interception-law/>.

⁴⁹ Nigerian Communications Commission and National Identity Management Commission, "Design, Development and Delivery of SIM Card Registration Solution," June 15, 2009, http://www.ncc.gov.ng/Archive/Headlines/SIM_Registration_RFP.pdf.

⁵⁰ Ogala Emmanuel, "EXCLUSIVE: Jonathan awards \$40 Million Contract."

⁵¹ "Research and Development/Ongoing Projects," in Office of the National Security Adviser 2013 Budget (Appropriation), Federal Republic of Nigeria, accessed June 29, 2013: 10,

http://www.budgetoffice.gov.ng/2013%20appropriation/37.%20Summary_ONSA.pdf.

⁵² Morgan Marquis-Boire et al., "For Their Eyes Only: The Commercialization of Digital Spying," Citizen Lab, May 1, 2013,

<https://citizenlab.org/2013/04/for-their-eyes-only-2/>.

Meanwhile, according to the “Guidelines for the Provision of Internet Service” published by the NCC, ISPs are required to cooperate with law enforcement and regulatory agencies in providing “any service related information... including information regarding particular users and the content of their communications” during investigations of cybercrime or other illegal activity.⁵³ No details are provided in the guidelines regarding the oversight mechanisms required to prevent government authorities from acquiring free access to user information. The guidelines also stipulate that ISPs must retain user data and “the content of user messages or routing data” for at least 12 months.⁵⁴ There are no clear provisions on what the NCC expects of mobile phone companies.

While the constitution protects freedom of expression and of the press, the state often uses arbitrary and extralegal measures to suppress political criticism in the traditional media. The Nigerian authorities have a history of arresting and intimidating traditional media workers, and at least ten journalists have been killed in connection with their work since 1998.⁵⁵ In addition, there is a culture of impunity for crimes against media workers, though there have been no reports of individuals being sentenced to prison or physically attacked for their online activities.

Cyberattacks have increased in Nigeria, though most of the attacks have been against government websites and carried out by the Naija Cyber Hacktivists,⁵⁶ a group that has claimed responsibility for almost all cyberattacks to date. In 2012, cyberattacks against government websites reportedly increased by 60 percent, up from 10 percent in 2010,⁵⁷ with a total of 38 websites defaced by hackers.⁵⁸ Private sector websites such as those of an airline, a sugar processing company, and the Labour Union were also hacked in 2012,⁵⁹ with most of the messages left on the defaced websites aligning with citizen protests.

In response to growing instances of cybercrime in Nigeria, the government has increased its measures to crackdown against criminal activity online. A 2011 Ernst & Young report found that the country’s unchecked cybercrime imposes costs on the Nigerian economy to the tune of \$200 million per year from cyberattacks alone.⁶⁰ In February 2013, the Nigerian House of Representatives put forth a proposal to amend the 2004 criminal and penal codes to place strict penalties on cybercrime, prescribing fines ranging from 5 to 25 million naira for offenders and jail

⁵³ “Guidelines for the Provision of Internet Service Published by the Nigerian Communications Commission,” accessed June 27, 2013; 2 http://www.ncc.gov.ng/index.php?option=com_docman&task=doc_download&gid=62&Itemid=53.

⁵⁴ “Guidelines for the Provision of Internet Service Published by the Nigerian Communications Commission,” 3.

⁵⁵ Committee to Project Journalists, “10 Journalists Killed in Nigeria since 1992/Motive Confirmed,” accessed January 30, 2013, <https://www.cpj.org/africa/nigeria/>.

⁵⁶ Richard Essien, “EFCC & NCC Websites Hacked,” *Daily Times*, October 29, 2011, <http://dailytimes.com.ng/article/efcc-ncc-websites-hacked>.

⁵⁷ “Cyber Attacks At Nigerian Government Websites Increased By 60% In 2012,” *TechLoy*, January 17, 2013, <http://techloy.com/2013/01/17/nigerian-government-websites-cyber-attack-report>.

⁵⁸ The hacked websites included those of Ministry of Transport, National Agency for Food and Drug Administration and Control, Economic and Financial Crimes Commission, Nigerian Army Education Corp, Central Bank of Nigeria, Nigeria Police, Ministry of Science & Technology, Navy, Defense Headquarters, State Security Service, News Agency of Nigeria and National Examinations Council.

⁵⁹ “NLC Website Hacked over Botched Occupy Nigeria Protest,” *Ogala*, January 27, 2012, <http://ogala.wordpress.com/2012/01/27/nlc-website-hacked-over/>.

⁶⁰ Ben Uzor Jr, “Nigeria Now Attractive to Cyber Criminals – Ernst & Young,” *Business Day*, September 27, 2011, <http://bit.ly/nPlzg7>.

terms between 2 and 15 years.⁶¹ The Ministry of Justice resisted the proposed amendments, advising that a “comprehensive executive bill on cybercrimes” would be a better approach than amending the criminal and penal codes.⁶² Meanwhile, broader conversations on issues of cybersecurity have also focused on how to protect internet freedom.

Nevertheless, at the ITU’s World Conference on International Communications in Dubai in December 2012, Nigeria joined countries such as Russia, China, and the United Arab Emirates in signing a proposal that sought to extend the International Telecommunication Regulations to give national governments regulatory jurisdiction over the internet.⁶³ The proposal was not adopted due to opposition from countries such as the United States, United Kingdom, Egypt, and Kenya out of concern that that the regulations would threaten internet freedom.⁶⁴

⁶¹ “Reps Propose N25 Million Fine And 15-Year Jail Term For Yahoo Boys,” *Naij*, February 9, 2013, http://www.talkofnaija.com/news/132343_reps-propose-n25-million-fine-and-15-year-jail-term-for-yahoo-yahoo-boys

⁶² John Ameh, “Reps Block Bid to Stop Criminal Code Hearing,” *Punch*, February 12, 2013, <http://www.punchng.com/news/reps-block-bid-to-stop-criminal-code-hearing/>.

⁶³ “Who Signed The ITU WCIT Treaty... And Who Didn't,” *TechDirt*, December 14, 2012, <https://www.techdirt.com/articles/20121214/14133321389/who-signed-itu-wcit-treaty-who-didnt.shtml>.

⁶⁴ Charles Arthur, “Internet Remains Unregulated After UN Treaty Blocked,” *Guardian*, December 14, 2012, <http://www.guardian.co.uk/technology/2012/dec/14/telecoms-treaty-internet-unregulated>.