Nigeria

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* 0=most free, 100=least free

Key Developments: June 2015 – May 2016

- The Frivolous Petitions Prohibition Bill 2015 threatened to restrict social media, but it was withdrawn in May 2016 following significant digital activism (see Digital Activism).
- The Digital Rights and Freedom Bill 2016, drafted by civil society organizations to codify internet freedom protections, passed its second reading in the House of Representatives (see Legal Environment).
- Numerous bloggers and online journalists were arrested for their online activities, many under the May 2015 cybercrime law (see Prosecutions and Detentions for Online Activities).
Introduction

Internet freedom in Nigeria declined due to an unprecedented pattern of arrests and prosecutions against bloggers that followed the passage of the Cybercrime Act in 2015.

Nigeria has a vibrant, savvy, and growing internet user population, enabled by a strong and innovative technology sector. Compared to the environment for traditional news media in Nigeria, online media is relatively free from restrictions, with no blocking or filtering of online content reported during the coverage period.

A robust civil society has helped protect and enhance internet freedom for Nigerians, as demonstrated by the successful social media movement against the Frivolous Petitions Prohibition Bill 2015. Activists called it the “Social Media Bill” because it threatened to constrain critical expression on social networks. The bill was withdrawn on May 17, 2016, following statements by senators that reflected civil society’s concerns. To codify protections for Nigeria’s internet freedom, civil society groups drafted the Digital Rights and Freedom Bill 2016, which underwent parliamentary review in 2016.

Despite the progress observed, a cybercrime law passed at the end of former President Goodluck Jonathan’s tenure in May 2015 led to the arrest of several bloggers and online journalists on charges of “cyberstalking” for online writings that criticized government officials and powerful bankers. Four prosecutions were documented during this report’s coverage period, and arrests continued to be reported in late 2016, marking a significant jump over the number of incidents reported in previous years. Intimidation and harassment for online expression also became more common, and self-censorship noticeably increased.

Obstacles to Access

Access to information and communications technologies (ICTs) continued to grow, despite high costs and frequent power cuts that disrupt network services. The Communication Service Tax Bill 2015, introduced in March 2016, threatens to jeopardize the affordability of internet access by imposing a 9 percent tax on communications services.

Availability and Ease of Access

With over 86 million users, Nigeria has one of the largest internet user populations in sub-Saharan Africa. The internet penetration rate was 47 percent in 2015, up from 43 percent in 2013 according to the International Telecommunications Union (ITU).\(^1\) Rapid growth in internet use can largely be attributed to the proliferation of mobile phone and Fixed Wireless Access (FWA) services.\(^2\) According to the Nigerian Communications Commission (NCC), the sector regulator, mobile phone teledensity in Nigeria stood at 108 percent, while there were almost 96 million active mobile internet subscriptions on GSM and CDMA networks as of January 2016.\(^3\) The ITU documented a lower mobile phone penetration rate of 82 percent in 2015, up from 78 percent in 2014.\(^4\)

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2 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.
Increasing access to the internet is driven by affordable data services for mobile subscribers. The Alliance for an Affordable Internet ranked Nigeria the 12th most affordable internet environment among 51 developing and emerging countries assessed in its 2015 Affordability Drivers Index. As of March 2016, BlackBerry service packages cost as low as US$7.50 a month, an option that attracts many young Nigerians. Android data services have also become popular, with 1 gigabyte of data available for US$5. As technologies improve, prices have continued to decrease; in 2016, for example, the average cost of a GSM plan was US$0.05 per megabyte of data, compared to US$0.26 per megabyte in 2015 and US$1 per megabyte in 2011.

Nevertheless, costs are still a major impediment to internet access for many Nigerians, particularly those in rural areas, and speeds are still slow, averaging 3.3 Mbps (compared to a global average of 6.3 Mbps), according to Akamai’s “State of the Internet” report. Nigeria’s internet user landscape is also characterized by a significant digital gender divide: October 2015 research by the Web Foundation found that poor women in Nigeria’s largest city, Lagos, were 50 percent less likely to have access to the internet than men of the same age, education, and income level.

In March 2016, the government introduced the Communication Service Tax Bill 2015 which, if passed, threatens to jeopardize the affordability of internet access by imposing a 9 percent tax for communications services, such as SMS, data, and voice services, payable by consumers.

Power cuts frequently disrupt service and access, despite Nigeria’s status as an oil-rich country. Nigerian households reportedly received an average of less than six hours cumulative power supply per day in August 2015, and over 77 percent of Nigerians rely on alternative electricity sources. Those who can turn to private generators and standby battery-powered inverter systems to stay online during outages. In a March 2016 apology, the government said “sabotage, gas shortage and vandalism of power infrastructure” were responsible for the power supply problems.

Shortfalls in power supply undermine the quality of internet service offered by providers. Telecommunications base stations in Nigeria are typically powered by diesel generators, which reportedly account for 80 percent of their operating expenses. Separately, the need to pay for expensive backup power generators has accelerated the closure of cybercafés that were already struggling with competition against the growing popularity of internet access on mobile devices.

Another major obstacle to internet access in Nigeria is language literacy. Home to over 500 local languages, most internet content is in English, and local language content is vastly underrepresented. For example, the Wikipedia pages in the three major Nigerian languages of Yoruba, Hausa and Igbo are sparsely developed, and in many instances, Wikipedia entries on Nigerian topics are edited by

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6 Akamai, “Average Connection Speed,” map visualization, The State of the Internet, Q1 2016, accessed August 1, 2016, [http://akamai.me/1LIS6KD](http://akamai.me/1LIS6KD)
11 Compared to a mere 5% in Malawi where power from the grid is stable. See, Association of Telecommunication Companies of Nigeria, [http://bit.ly/1UcS8Pb](http://bit.ly/1UcS8Pb)
12 Nigerian languages, [http://www.onlinenigeria.com/languages/languages.asp](http://www.onlinenigeria.com/languages/languages.asp)
Editors not residing in Africa. Local language resources, such as audio and video health and educational material, come with higher data requirements, potentially limiting access for users who can afford less data yet who stand to benefit the most from educational materials online.

### Spotlight on Marginalized Communities

*Freedom on the Net 2016* asked researchers from India, Indonesia, Kenya, Kyrgyzstan, Jordan, Mexico, Nigeria, and Tunisia to examine threats marginalized groups face online in their countries. Based on their expertise, each researcher highlighted one community suffering discrimination, whether as a result of their religion, gender, sexuality, or disability, that prevents them using the internet freely.

In Nigeria, Olutosin Adebowale, conducted a survey of 25 women and 25 girls in rural areas across Nigeria’s six geopolitical zones, who described the challenges they face accessing the internet in interviews conducted by research assistants in person or by telephone. The study found:

- The lack of internet facilities in rural communities in Nigeria is depriving women and girls of education and employment opportunities. Ninety-eight percent of survey respondents said there was no public internet access where they live; thirty-four percent said the nearest internet access point was over 40 km from home.

- The high cost of home internet service keeps women offline, even if they own a computer and a modem. Yet the Communication Service Tax bill introduced in May 2016 would raise costs further, adding a nine percent tax on electronic communication services payable by the end user.

- Cybercafés are dominated by men and subject to raids by police targeting pornography and scams, making them ill-suited to advance the needs of women and girls. Yet mobile internet service is too slow to find information or complete forms. Sixty-seven percent of women and forty-eight percent of girls reported missing out on economic and professional opportunities because they lack quality internet service.


### Restrictions on Connectivity

There were no restrictions on connectivity to the internet or mobile networks during the coverage period.

The backbone connection to the international internet is decentralized, resulting in a climate of healthy competition with little government interference. The backbone infrastructure has improved significantly over the last decade, with multiple players, including Phase 3, Glo 1, Suburban Telecom, Multilink and MTN, building fiber networks that crisscross the country. There are three active Internet Exchange Points (IXPs), although only 37 ISPs, academic institutions, and telecommunications companies are connected to them, due to poor quality of service.

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ICT Market

The ICT market in Nigeria has expanded considerably over the past decade, with the number of licensed internet service providers (ISPs) rising from 18 in 2000 to 92 as of March 2016, though the growth of ISPs and FWA providers has slowed in recent years with the rise in mobile access.\(^\text{15}\) Five privately owned GSM mobile phone operators also provide internet access: MTN, Globacom, Airtel, Etisalat, and NTEL, which began operations in February 2016 after acquiring the license of the defunct First National Operator, NITEL.\(^\text{16}\) In January, MTN acquired Visafone, securing access to its 800MHz spectrum as a possible precursor to the launch of 4G LTE service.\(^\text{17}\)

Cybercafés (or telecentres) are required to obtain licenses, but the large number of unlicensed cybercafes in operation suggest that the regulator has not enforced the requirement.\(^\text{18}\)

Regulatory Bodies

The 2003 Nigerian Telecommunications Act vests regulatory responsibilities over the ICT sector in the Nigerian Communications Commission (NCC). Although the government nominates the NCC’s nine-member board of commissioners, the regulator’s decisions have been viewed as relatively independent. On August 4, 2015, Professor Umar Garba Danbatta was appointed as the regulator’s new CEO and Executive Vice Chairman through a process that was viewed as fair, particularly considering his role as a leading academic and industry expert.\(^\text{19}\)

During the coverage period, the NCC produced a report investigating the regulatory implications of the fledgling “over-the-top” service sector, as it has been perceived as a threat to mainstream telecommunications services.\(^\text{20}\)

Limits on Content

No blocking or filtering of online content was reported during the coverage period, though self-censorship has increased following an unprecedented spate of blogger arrests in the past year. In May 2016, digital activists successfully lobbied for the withdrawal of the Frivolous Petitions Prohibition Bill 2015, which threatened to penalize critical speech disseminated on social media.

Blocking and Filtering

Online media is generally free from restrictions in Nigeria, and to date, the authorities have not carried out any blocking or filtering of content. YouTube, Facebook, Twitter, WhatsApp, and other communications platforms are freely available and among the most popular websites in the coun-

\(^\text{15}\) 92 licenses were listed as valid while 113 ISPs were listed in lighter font, with license in need of renewal. See: Nigerian Communications Commission, “Internet Services,” accessed March 21, 2016, [http://bit.ly/1UOkhi4](http://bit.ly/1UOkhi4)


The complex nature of Nigeria's internet infrastructure makes it difficult to carry out systematic filtering or censorship.

In the past few years, however, a few high-level government officials have called for a clampdown on social media in response to the growing influence of critical commentary on the internet, sparking fears of impending online censorship. Legislative developments in 2015 added weight to those fears. The Frivolous Petitions Prohibition Bill sought to penalize social media speech, though it was withdrawn in May 2016 (see Digital Activism). The Cybercrime Act, which was signed into law in May 2015, has been used to arrest bloggers for critical content in the past year (see Legal Environment and Prosecutions and Detentions for Online Content).

Content Removal

The government did not issue any takedown requests, or force legitimate content to be removed from the internet during the coverage period.

Media, Diversity, and Content Manipulation

Nigeria is home to a diverse blogosphere, which has become a source of reliable news for many users, and provides space for lengthy debate on a broad array of political and social issues. Popular blogging platforms include Blogger and WordPress. Diverse political viewpoints are represented on Nigerian websites and blogs. Some independent online media outlets faced a backlash under previous governments but have since begun to thrive economically.

Instead, observers have noted an increase in government efforts to dominate the online news landscape and potentially manipulate online content. A growing number of Twitter accounts of unknown provenance actively attack critical voices, which some fear may be government sponsored trolls.

The unprecedented number of bloggers and ordinary citizens arrested under the new Cybercrime Law has resulted in a palpable sense of increasing self-censorship, particularly among professional journalists who also publish content online (see Prosecutions and Detentions for Online Activities). Nigeria’s LGBTI (lesbian, gay, bisexual, transgender, and intersex) community is marginalized, and many LGBTI individuals report feeling unsafe using their real names online, preferring to engage anonymously.

Digital Activism

As active social media users, Nigerians have become prolific digital campaigners, innovatively using social media and communications apps to call for social or political change. The savviness of Nige-
Nigeria’s digital activists led to a significant internet freedom success story in the past year, namely, the defeat of the Frivolous Petitions Prohibition Bill 2015. Among its goals, the bill sought to constrain critical expression on social media.

The Nigerian online community mobilized to defeat the bill using the hashtag #NoToSocialMediaBill. Significant digital activism inspired offline conversations, rallies, and petitions, while a consortium of civil society organizations made up of Enough is Enough (EiE) Nigeria, Media Rights Agenda (MRA), and Paradigm Initiative Nigeria (PIN) filed a lawsuit to stop the bill at a Federal High Court in Lagos on March 21, 2016. In what was seen as a major victory for freedom of speech, the bill was withdrawn on May 17, 2016. In their deliberations, senators reflected comments made by citizens and advocacy organizations on social media, demonstrating the direct influence of digital activism.

**Violations of User Rights**

Numerous bloggers, online journalists, and ordinary internet users were arrested for their online activities, an unprecedented jump over numbers documented in previous years. Many were prosecuted based on the cybercrime law passed in May 2015. Civil society groups challenged the constitutionality of several of the law’s provisions in May 2016. Intimidation and reprisals for online expression became more common.

**Legal Environment**

Nigeria’s 1999 constitution guarantees freedom of expression and the press. The implementation of Sharia (or Islamic) law in 12 northern states has not affected internet freedom in those regions to date. Nonetheless, libel is a criminal offense in Nigeria, including online, with the burden of proof resting on the defendant. Print media journalists covering sensitive issues such as official corruption and communal violence are regularly subject to criminal prosecution.

In May 2015, outgoing President Jonathan signed the Cybercrime (Prohibition, Prevention, etc.) Act 2015 into law, providing a long-awaited framework to combat the country’s notorious cybercrime epidemic. The law, however, includes provisions that violate citizens’ rights to privacy (Section 26, see Surveillance, Privacy, and Anonymity) and freedom of expression. Duplicating existing libel laws, Section 24 of the law penalizes “cyberstalking” or messages that are “false, for the purpose of causing annoyance, inconvenience danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another” with up to three years in prison, a fine, or both. Section 26 penalizes distribution of “racist or xenophobic material to the public through a computer system or network” with up to five years in prison, a fine of up to NGN 10 million (US$50,000), or both. A coalition of civil society organizations led by the digital rights organization, Paradigm Initiative Nigeria (PIN), filed a suit to challenge the constitutionality of Sections 24 and 36 of the cybercrime law in May 2016.

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PIN has also led efforts to codify protections for internet freedom through the introduction of the draft Digital Rights and Freedom Bill in April 2015, which has made considerable headway since. Sponsored by lawmaker Chukwuemeka Ujam, the bill had passed a second reading at the House of Representatives, and been referred to the Committees on Telecommunications and Human Rights for further deliberation as of mid-2016. If the bill reaches a third reading, it will be considered fully passed by the House, then require concurrence by the Senate and the President’s assent before becoming law.

Prosecutions and Detentions for Online Activities

The number of bloggers, online journalists, and ordinary users arrested for their online activities increased dramatically in the past year, many under Section 24 of the cybercrime law. Four prosecutions were documented between June 2015 and May 2016, while several other arrests were reported in late 2016, after the coverage period of this report.

In August 2015, Seun Oloketuyi, a blogger for the news website Naija Hottest Gist, was charged under the Cybercrime Act for publishing a story about an alleged extramarital affair between the managing director of Fidelity Bank and an employee. Oloketuyi was remanded in prison and granted bail of NGN 3 million (US$15,000 in 2015). Another popular blogger, Chris Kehinde Nwandu, was also arraigned for sharing the story on Facebook. Held for 21 days before being granted bail, he was charged with cyberstalking and being an accomplice to defamation. Nwandu’s case was dropped in June 2016.

In September 2015, blogger Emmanuel Ojo was arrested for a Facebook post that accused the wife of the Ogun state governor of laundering money. He was granted bail after three days. Ojo later sued the police and chief security officer to the governor demanding N130 million (US$ 530,000) in damages. However, in a move that surprised observers, the blogger withdrew his suit after three weeks and sent the governor a written apology. He later fled Nigeria reporting threats from “powerful people” in relation to the incident (see Intimidation and Violence).

Blogger Desmond Ike Chima was arrested in October 2015 for publishing a story about an alleged affair between the managing director of the United Bank for Africa and a female actor, in a case similar to Seun Oloketuyi’s. He was charged with cyberstalking under Section 24 of the Cybercrime Act.

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33 Nwandu later told the audience at a Stakeholders’ Roundtable on the Digital Rights and Freedom Bill, hosted by Paradigm Initiative Nigeria, that he was actually held for 21 days, and not 13 days as widely reported. “BREAKING: Popular blogger Chris Kehinde Nwandu (CKN) granted bail,” News Express, September 15, 2015, http://bit.ly/2ekKRoF
and spent six months in prison because he was unable to meet bail. After civil society groups petitioned on his behalf, the charge was dropped and he was released in April 2016.

Several other bloggers and online journalists have been arrested since the end of this report’s coverage period. Abubakar Usman was arrested and held for two days in August 2016 for a report accusing the Economic and Financial Crimes Commission of corruption. Musa Azare was also arrested by police in August after he allegedly criticized the Bauchi state governor on social media, though the governor himself demanded Azare’s release, citing his support for freedom of expression. In September 2016, blogger Jamil Mabai was arrested for criticizing the state governor’s rationale for purchasing coffins on Twitter.

**Surveillance, Privacy, and Anonymity**

Thus far, there has been no evidence that the Nigerian authorities proactively monitor internet and mobile phone communications, but many online journalists have long suspected that they are being monitored by the state. Several legal provisions may allow the government to conduct surveillance without respect for the Necessary and Proportionate Principles, international guidelines that apply human rights law to monitoring technologies.

The cybercrime law enacted in May 2015 requires service providers to retain user data and intercept electronic communications. Under Section 38 of the law, providers are required to “keep all traffic data and subscriber information...for a period of two years” and comply with requests from law enforcement agencies to access this data. The law implies a degree of judicial oversight over these requests, but the procedure involved is unclear.

Guidelines for the Provision of Internet Service published by the regulator in 2013 also require ISPs 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. The guidelines do not include oversight of that cooperation, introducing scope for abuse. The guidelines also stipulate that ISPs must retain user data and “the content of user messages or routing data” for at least 12 months.

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44 Necessary and Proportionate principles: [https://necessaryandproportionate.org/about](https://necessaryandproportionate.org/about)
46 Cybercrimes (Prohibition, Prevention, ETC) Act, 2015, Section 38.
47 According to Section 38(4): “Any data retained, processed or retrieved by the service provider at the request of any law enforcement agency under this Act shall not be utilized except for legitimate purposes as may be provided for under this Act, any other legislation, regulation or by an order of a court of competent jurisdiction” (emphasis added). Cybercrimes (Prohibition, Prevention, ETC) Act, 2015, [http://bit.ly/1LdHhTH](http://bit.ly/1LdHhTH)
49 “Guidelines for the Provision of Internet Service Published by the Nigerian Communications Commission,” 3.
Data localization is mandated under the Guidelines for Nigerian Content Development in Information and Communications Technology, issued by the Nigerian National Information Technology Development Agency (NITDA) in 2013. The guidelines require ICT companies to “[h]ost all subscriber and consumer data locally within the country.”50 The stated aim was to boost local content and ICT development, but the requirement risks compromising user privacy and security, given the absence of adequate data protection laws.51 The extent to which the guidelines have been enforced remained unclear as of 2016, as there have been no reports that international ICT companies have been compelled to comply.

A draft Lawful Interception of Communications Regulation introduced by the communications regulator in February 2013 is still under discussion.52 If implemented, the regulation would enable interception both with and without a warrant under different circumstances, and require mobile phone companies to store voice and data communications for three years. It also directs telecommunications licensees to “provide the National Security Adviser and the State Security Service with the key, code, or access to...Protected or Encrypted Communication” on demand.53 Critics said it bypassed the legislative process and threatens to citizens’ privacy rights, since it lacks judicial safeguards against abuse or opportunities for redress.54

News of the government’s acquisition of mass surveillance equipment over the past few years has deepened suspicions of surveillance. In July 2015, leaked emails from the Italian surveillance firm Hacking Team revealed that the company had a contract with the Bayelsa state government that expired in November 2013.55 The active period of the contract from 2012 to 2013 coincides with the state governor’s crackdown on so-called “rumormongering” online.56 Citizen Lab research from 2014 also found a FinFisher “Command and Control” server located on a private ISP in Nigeria.57 As of October 2016, the extent to which that surveillance system is operational is not known.58

The government’s intent to enhance its surveillance capabilities is indicated by the federal government’s draft budget summary, which allocated NGN 15.4 billion (US $54.6 million) for internet and mobile surveillance in 2016, more than in previous years.59 The 2016 budget for the National Security Adviser and allied agencies made provisions for the purchase of technologies including “Project

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54 Nigeria Communications Commission, “Draft Lawful Interception of Communication Regulations.”
58 When the author of this report asked for the state of the surveillance system during the Internet Freedom Forum 2016, the representative of the National Security Adviser said he was not aware of any such project.
All Eye, Surveillance Equipment, IMSI catcher, Intel Profiling, Enhanced Field Communication Systems, Open Source Internet Monitoring System and Rapid Intervention Vehicles,” among others.\(^{60}\) In mid-2016, it was not clear if those purchases had taken place, or for what purpose. Government officials frequently assert the need for technologies to fight the Boko Haram terrorist group.

SIM card registration requirements instituted in June 2009 threaten users’ rights to anonymous communication and privacy,\(^{61}\) particularly in the absence of a data protection law.\(^{62}\) User registration is also required in cybercafes. An October 2013 directive from the regulator requires cybercafés to “maintain an up-to-date database of subscribers and users, including their full names, physical addresses, passport photos, and telephone numbers.”\(^{63}\) Under Section 7 of the cybercrime law, cybercafés must make their registers “available to law enforcement personnel whenever needed,” with no clear requirement for judicial oversight.\(^{64}\)

### Intimidation and Violence

Unlike print and broadcast journalists, online journalists and internet users have not been subject to significant extralegal harassment, violence, or threats for their activities, though intimidation and reprisals for online expression have become more common.

Following his arrest for “cyberstalking” and subsequent release in September 2015 (see Prosecutions and Detentions for Online Activities), blogger Emmanuel Ojo fled Nigeria, reportedly due to threats he received in connection with the charge against him.\(^{65}\) In January 2016, Kaduna State University suspended lecturer John Danfulani after he criticized the Nigerian ruling party and its leaders on Facebook.\(^{66}\) In a separate incident, Ruqaiyyat Tijjani Usman, a staff member of the Nasarawa State Ministry of Justice, was dismissed in February 2016 for posting critical comments of the government’s handling of a labor dispute on Facebook.\(^{67}\)

### Technical Attacks

Cyberattacks have become less common in Nigeria in the past year, although the website of an online news platform, Naij.com, was subject to cyberattacks in July 2015. The source of the attacks remains unknown.\(^{68}\)