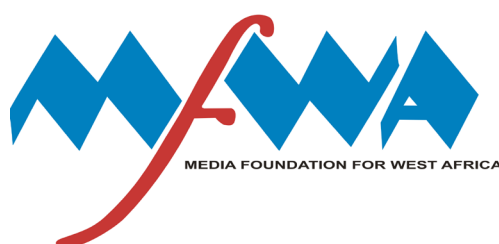


DON'T HIT THE SWITCH: MAKING THE CASE AGAINST NETWORK DISRUPTIONS IN AFRICA

WRITTEN BY:
MEDIA RIGHTS AGENDA
MEDIA FOUNDATION FOR WEST AFRICA
KENYA ICT ACTION NETWORK (KICTANet)



*Media
Rights
Agenda*



ACKNOWLEDGMENTS

The authors wish to thank Sheetal Kumar and Richard Wingfield at Global Partners Digital for writing the introduction to the brief, and Arsène Tungali and Ashnah Kalemera for their helpful comments and feedback on its initial draft.

MAY 2017

CONTENTS

| | |
|--|----|
| INTRODUCTION | 04 |
| THE HUMAN RIGHTS ARGUMENTS | 07 |
| THE POLITICAL ARGUMENTS | 12 |
| THE ECONOMIC ARGUMENTS | 15 |
| CONCLUSION AND RECOMMENDATIONS | 17 |
| ENDNOTES | 18 |
| ANNEX: RECORDED NETWORK DISRUPTIONS IN AFRICA SINCE 2011 | 20 |

INTRODUCTION

AIM OF THIS POLICY BRIEF

The aim of this policy brief is to support informed advocacy by civil society organisations against network disruptions in Africa. Specifically, the brief aims to support informed advocacy by (a) increasing subject-matter knowledge on network disruptions and their implications for human rights and other policy and economic issues, and (b) providing arguments for use in advocating to policy- and decision-makers, as well as other relevant actors such as private sector organisations.

SUMMARY

Network disruptions constitute serious violations of a range of universal human rights, including the rights to freedom of opinion, expression and access to information; and freedom of assembly and association. They also have a serious impact upon other rights such as freedom to participate in the government of one's country and the rights to work and to education. These rights are not only protected by international human rights law, but by African human rights instruments such as the African Charter on Human and Peoples' Rights.

Network disruptions also have impacts beyond just people's human rights, causing harm in a range of policy fields including security, education and health. Studies have shown that despite network disruptions often being 'justified' by governments on grounds of national security, such disruptions make people feel less safe and secure by making it difficult to access information and communicate with loved ones or emergency services. Disruptions can even aggravate political and social tensions and increase public unrest.

Finally, the role that the Internet plays in economic development is well recognised by the African Union and African governments through various regional and national strategies and infrastructural developments across the continent. Not only do network disruptions hamper this economic development, but they reduce countries' GDP and deter potential investors. Together, these impacts can cause significant economic harm to a country.

THE CONTEXT

Since 2011, network disruptions have taken place in a number of countries across the world, including in no fewer than 18 states in Africa, fully one third of the continent's 54 states.¹ The motivations behind these disruptions have varied: some have taken place ahead of elections or presidential inaugurations to silence opposition political parties and their supporters, others at times of protest (or potential protest) to silence those who wish to demonstrate and air their views,

WHAT IS A “NETWORK DISRUPTION”?

Although many different terms are used to cover the phenomenon (such as “Internet shutdown”), in this policy brief, we use the term “network disruption”. By “network disruption”, we refer to any intentional state or state-sanctioned shutdown, disruption or other limitation of the Internet, social media or other form of electronic communication.

(1) Intentional: The disruption must be intentional, rather than unintentional, accidental or as the result of forces or events outside of the control of the state.

(2) State or state-sanctioned: The disruption must be caused as a result of actions taken either by the state or by a non-state actor where such actions were mandated, authorised or sanctioned. “State” encompasses all state actors, including, but not limited to, government departments and agencies, law enforcement and security agencies and other public bodies such as regulators.

(3) Shutdown, disruption or other limitation: The effect of the actions taken must be to prevent, limit or restrict the ability of communities to communicate or access or disseminate information through the Internet or other electronic communications network. This includes, but is not limited to:

- Shutdowns (rendering inaccessible the Internet or another electronic communications network)
- Restrictions (rendering inaccessible part of the Internet or another communications network or one or more forms of electronic communication)
- Throttling (the intentional slowing of Internet services such that they become unusable or effectively unusable)

It does not matter whether the actions are taken at the physical layer, the connectivity and code layer or the applications layer. The definition does not, however, include actions taken at the content layer (such as censorship of certain websites).

(4) Internet, social media or other form of electronic communications: The disruption must be to the Internet or another form of electronic communication and thus (i) the access to or dissemination of information, or (ii) communication through electronic means. This includes, but is not limited to:

- The Internet
- Social media, such as Facebook and Twitter
- Instant messaging, such as WhatsApp and Telegram
- Mobile services, whether international and domestic
- Short Message Services
- Voice over Internet Protocol services, such as Skype and Viber
- Mobile money

1

THE HUMAN RIGHTS ARGUMENTS

HUMAN RIGHTS

The adoption of the Universal Declaration on Human Rights (UDHR) was a landmark achievement in defining what fundamental human rights are and setting “a common standard of achievements for all peoples and all nations”.¹⁰ The UDHR comprises 30 Articles that set out the fundamental human rights that are to be protected universally and enjoyed by all human beings. Among these are the rights to freedom of opinion, expression and access to information; freedom of assembly and association; freedom to participate in the government of one’s country; and the rights to work and to education. Specifically:

- **Article 19:** “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”
- **Article 20:** “(1) Everyone has the right to freedom of peaceful assembly and association.”
- **Article 21:** “(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country.”
- **Article 23:** “(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.”
- **Article 26:** “(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.”¹¹

Even though the UDHR is not a legally binding document, it has inspired a number of international, regional and national legal frameworks. Two such legally binding instruments are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Articles 19(1) and (2), 21, 22 and 25 of the ICCPR reiterate the provisions made under Articles 19, 20 and 21 of the UDHR. Similarly, Articles 6(1) and 13(1) of the ICESCR recapitulate the provisions in Articles 23(1) and 26(1) of the UDHR. Thus, both the ICCPR and ICESCR make the rights to freedom of expression, access to information, peaceful assembly and association, the rights to participate in government, to work and to education legally binding. Incidentally, almost all African countries have either signed or ratified these internationally binding instruments.

In line with the international provisions in the UDHR, the ICCPR and the ICESCR, the Declaration of Principles on Freedom of Expression in Africa (DPFEA)

and the African Charter on Human and Peoples' Rights (African Charter) also make provisions that guarantee the rights and freedoms of the people in Africa. Articles I and IV of the DPFEA guarantee freedom of expression using any form of communication and access to information respectively. Article XIII(1) calls for review of all criminal restrictions on content and (2) states that "Freedom of expression should not be restricted on public order or national security grounds unless there is a real risk of harm to a legitimate interest and there is a close causal link between the risk of harm and the expression."

The African Charter also makes provision for the right to freedom of expression and access to information, freedom of association and assembly, the right to participate freely in the government of one's country, and the right to education under Articles 9, 10(1), 11, 13(1) and 17(1) respectively. The Charter also provides for collective (people's) rights such as equality of all peoples (Art.19), self-determination (Art.20), collective property (Art. 221), sovereignty (Art.23) and the environment (Art. 24).

Human rights are exercised and enjoyed by people in different ways and forms, including through various media. One medium that has been recognised as an enabler of human rights, particularly freedom of expression and access to information, is the Internet, along with other telecommunications services. In line with this recognition, United Nations Human Rights Council Resolution A/HRC/RES/32/13, affirms that "the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice, in accordance with Article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights."¹² The Resolution, thus, seeks to create an enabling environment that facilitates the exercise and enjoyment of fundamental human rights on the Internet.

Also, "[r]ecognizing the importance of the Internet in advancing human and peoples' rights in Africa, particularly the right to freedom of information and expression"¹³ the African Commission on Humans and Peoples' Rights at its 59th Ordinary Session adopted a resolution on the Right to Freedom of Information and Expression on the Internet in Africa.¹⁴ This Resolution re-emphasises the important role the Internet plays in the exercise of the fundamental human rights to freedom of information and expression as enshrined in Article 9 of the African Charter and in other international human rights instruments as detailed above.

The African Declaration on Internet Rights and Freedoms, a Pan-African initiative that promotes human rights standards and principles of openness in Internet policy formulation and implementation, acknowledging the critical role the Internet plays as an enabler of human rights, elaborates principles that are necessary to uphold human and peoples' rights on the Internet.¹⁵ The Declaration corroborates provisions in the African Charter, the DPFEA, the ICCPR and the UDHR concerning the exercise of freedom of expression, assembly and association, access to information; and, in addition, the rights to development and access to knowledge. These provisions make free and open access to the Internet an imperative, and thus, any form of network disruption, constitutes an affront to the exercise of these rights.

In addition to these international and regional provisions, most African countries have national constitutions that guarantee the protection and respect of these rights, which ordinarily should also make it possible for the rights to be enjoyed online. It is, therefore, unfortunate that despite the legal obligations to protect and respect the rights in the 18 countries cited in the Annex, network disruptions still occur.

THE ROLE OF THE INTERNET AS AN ENABLER OF HUMAN RIGHTS

Together, the various international declarations, covenants, treaties and resolutions set out above highlight the important fact that the Internet is indispensable in the exercise and enjoyment of human rights. Therefore, any form of network disruption hinders the full realisation of human rights online.

Freedom of expression is a vital prerequisite for demanding and maintaining an open society that ensures that people are informed and enlightened and are able to express their opinions and participate in public life. Freedom of expression and access to information also enable people to participate in governance processes in their respective countries and hold public officers to account. Through the Internet, people are able to exercise these rights to make political demands, hold the government accountable for its actions, join and form groups and associations, and mobilise people for action irrespective of demography or geo-location, as was witnessed, for example, during the uprising across the Arab region. Most significantly, the Internet provides an alternative avenue of expression for marginalised voices thereby empowering them to contribute to national debates and participate in public life.

The Internet also enables the realisation of social, cultural, political and economic development for individuals, governments, businesses, the academic community, and other groups and institutions. Through the Internet and other telecommunications networks, people are able to assert their right to education (formal and informal) using online educational facilities and services and general information online. Several people have also been able to turn their political fortunes around using social networking applications. Former United States President, Barack Obama, demonstrated this in his 2008 campaign.¹⁶ The 2015 presidential elections in Nigeria is another example of how the Internet and other ICTs can be deployed in political life. For example, candidate Buhari used social media to rebrand himself and biometric technology facilitated the voting process which was largely adjudged free and fair.¹⁷

The Internet and network applications have also been a major source of employment. They have broadened the frontiers of creativity and innovation and empowered many, especially the youth, to develop applications to respond to the needs and challenges of several spheres of life.

Under the pretext of national security, stability and peace, governments across the globe adopt network disruptions as mechanisms to curtail free speech and voices of dissent and exert some control over the flow of information particularly during important national events such as elections or protests. Such governments, however, lose sight of the fact that they have a duty and responsibility not only to ensure the security and stability of their states, but also to ensure that the rights and freedoms of their citizens, as guaranteed in national constitutions and regional and international treaties and covenants, are protected and respected. This is a clear indication that governments and other authorities, including intermediaries, cannot and should not at any point seek to justify network disruptions under the pretext of national security when governments also have an obligation to protect the rights of their citizens. Frank La Rue, the former UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, has said, for example, that cutting people off from the Internet, “regardless of the justification provided” will be a disproportionate restriction on the right to freedom of expression.¹⁸

IMPLICATIONS OF NETWORK DISRUPTIONS ON HUMAN RIGHTS

Network disruptions stifle sustainable growth and hamper inclusiveness of, particularly, marginalised groups in information sharing and in the decision-making processes.

As an enabler of the exercise and enjoyment of human rights, any form of Internet or network shutdown, disruption or limitation has far-reaching ramifications. In a statement delivered at the 53rd Ordinary Session of the African Commission on Human and Peoples' Rights in Banjul, The Gambia, the Arid Lands Institute noted, "[w]hat distinguishes humans from animals is not [only] the capacity to think but the capacity of humans to express what they think in speech and writing. If that capability is deprived, humans are reduced to the level of animals."¹⁹ This statement, to a large extent encapsulates the harms of denying people the right to express themselves, be it offline or online.

Network disruptions deny people the right to freely express themselves, participate in public life and in the government of their own country as provided for under the international human rights instruments and the African Charter. During The Gambia's 2016 election, for instance, the Internet and international telephony services were shut down. With the exception of the few who were able to use alternative tools and platforms, many Gambians were denied access to information, the freedom to express themselves and report on happenings around the elections and even unrelated subjects.

Network disruptions also deny access to information. Internet availability and accessibility enables people to get information on several subjects depending on their needs and interests. Disruption in network services at any point in time, be it political electioneering or any other period, therefore, denies people the opportunity to access information for their enlightenment, education, health, political participation, demand for transparency and accountability in governance and information to take safety precautions in precarious situations.

CASE STUDY OF NJI COLLINS GBAH FROM CAMEROON²²

In two years, through the power of the Internet and other sources, 17-year old Nji was able to acquire knowledge on how to code which enabled him to contest in Google's annual coding competition in 2016. However, just a day after the deadline for submission, Internet connectivity in his hometown, Bamenda (370 km) from Yaoundé, Cameroonian capital), was cut off by the government forcing Nji to move to the capital in order to stay connected and stay on top of his game.

"I wanted to get a connection so I could continue studying and keep in touch with Google", Nji told the BBC.

Nji is determined to work hard and build knowledge on artificial intelligence, neural networks and deep learning so he can "develop [his] own model for data compression, using deep learning and machine learning", he says. However, with Internet connectivity disrupted in his hometown, how does Nji make his dream of working at the Silicon Valley headquarters one day become a reality when he returns to Bamenda?

Nji's story typifies the day-to-day experience and impact of the disruptive nature of network disruptions in the lives of affected individuals and how such acts impact fundamental rights to access information, education, and personal and economic development. If the network shutdown in Bamenda had occurred earlier, Nji would not have been able to have access to information to educate himself and build his knowledge on how to code. He would not have been able to participate in the Google challenge and the hopes and personal ambitions of this determined young African would have been dashed.

Another worrying impact of network disruptions is their effect of limiting participation and inclusiveness at individual and collective level. In the absence of connectivity, state authorities are more easily able to take arbitrary decisions, manoeuvre and push their agenda with little or no involvement and/or resistance from the public. This excludes many from decision-making and governance processes. It also disempowers people in mobilising online to push a cause that governments consider unfavourable. In the Democratic Republic of Congo, for instance, the government shut down the Internet and SMS services to prevent protesters from using those services to mobilise and plan for protests against

certain issues.²⁰ The network disruption in some parts of Cameroon in the first quarter of 2017 is another example of how governments use network disruptions to disempower voices of dissent. The Cameroonian government decided to impose the use of French language in schools and courts in the North-west and South-west regions of Cameroon. This resulted in mass protests from these Anglophone regions. In response, the government shut down the Internet to demobilise and silence the protestors.²¹ Disrupting the Internet in specific regions raises concern about the collective rights of people in those regions.

Today, through the Internet and associated technologies, many people who would otherwise not have formal education are able to enrol in online educational programmes from basic level to doctoral level in subjects ranging from archaeology to zoology. When the Internet is disrupted at any point in time, the educational aspirations of such people and many more are disrupted temporarily or jeopardised permanently. They also interfere with telemedicine or e-health services which deny individuals and healthcare providers access to experts in the delivery of health services which is critical to the many developing countries in Africa where experts in specialised health cases are very few or non-existent. And with cloud computing and the increasing storage of patient's data online, interruption in network services, whether full or partial, has dire consequences on healthcare delivery.

2

THE POLITICAL ARGUMENTS

Although national security is the most frequently invoked justification by governments around the world for network disruptions, the matter remains extremely problematic even under those circumstances. Whether done as a response to a genuine national security situation or simply as an excuse to suppress dissent or repress other rights, as is frequently the case, network disruptions have been proven as more likely to cause greater harm than good for the security of any nation and its people.

For instance, in 2013, the Nigerian military shut down mobile telephone services in three states in the north-east of the country, namely Adamawa, Borno and Yobe States, as part of its counter-terrorism operations against the Islamic militant and insurgent group, known as Boko Haram. The stated rationale for this was to disrupt Boko Haram's communication capacity, particularly its ability to use mobile telephony to plan, coordinate and launch terrorist attacks.

However, because most Nigerians access the Internet and Internet services through their mobile phones and through telecommunication companies, the measure also cut off Internet access for most Nigerians in the north-east region.

The Nigerian military claimed that its objectives in cutting off telecommunication services in the north east were realised. But it is difficult to understand how this can be true. The reality was that not only did terrorist attacks by Boro Haram insurgents continue throughout the period when telecommunication services were cut off, in many instances such attacks intensified.

A study entitled "Silencing Boko Haram: Mobile Phone Blackout and Counterinsurgency in Nigeria's Northeast region"²³ indicated the disruption of telecommunication services impacted people on different levels.

According to the report, although the disruption did not affect social relationships, as individuals evolved coping and circumventing strategies, it nevertheless impacted the patterns in which the relationships were expressed and also caused frustration. It added that a general theme that emerged from its focused group discussions was that the disruption occasioned a feeling of insecurity.

This finding is consistent with the outcome of other research which established that disruptions imposed in the name of national security have the opposite effect on the people who are cut off from communications platforms and online resources. Studies show that when people are cut off from communication platforms, they do not feel secure or safe as they are unable to determine what is going on, they cannot access important news and information, they cannot reach emergency services and they cannot check in on their loved ones.²⁴

Indeed, it is quite easy for disruptions imposed in the name of national security to have a counterproductive effect. For instance, in the “Silencing Boko Haram” study in north eastern Nigeria, a focus group participant expressed the view that she felt that the region was no longer part of Nigeria: “We were cut off from life and from everyone and everything else in Nigeria.”²⁵

Such sentiments have been known to drive ordinary citizens to become terrorist sympathisers and the propaganda of militant and insurgents begin to resonate with them in the face of such realities.

According to the DW Akademie, “There is no evidence that shutting down the internet helps prevent terrorist attacks, or stops them while they’re occurring. The more likely effect is that they prevent police officers and emergency responders from doing their jobs exactly at the moment they’re most needed. And it can cause psychological harm, as people can’t find out if their loved ones are safe. Governments need to share more about why they order shutdowns, to let the public make an informed choice about the issue.”²⁶

A common trend on the African continent is the shutting down of Internet services during elections. Yet, this is a threat to the democratic process and has the capacity to undermine the legitimacy of any government that emerges from such a process where network disruptions have been used as a means to control information during elections.

For democracy to be meaningful, citizens must be able to make informed choices during elections. To do this, citizens must have access to accurate, up-to-date and full information about the programmes and policies of all political parties, about the candidates in an election, about the issues being canvassed and the arrangements for the elections. They should also be able to analyse, criticise and contribute to the discourse on the economic and social programmes being canvassed in an electioneering campaign. Given the centrality of the Internet to all media of communications in the digital age, any shutdown or disruption of the Internet, Internet services or telecommunication services during elections undermines this fundamental aspect of the electoral process.

It is also fairly well-established that network disruptions as a means of maintaining or restoring public order aggravates tensions rather than restores order.

A major example of this is Egypt’s experience in 2011, when the government-induced Internet blackout drove more people into the streets. Internet access was cut off as protests against the regime of Hosni Mubarrak rose in parts of the country. This cut Egypt off from the rest of the world while there was also a blackout between Egyptian opposition figures and the public as well as among members of the public. There was a widespread belief that that shutdown was an outright political effort to reduce or suppress the pressure from the opposition.

As a result of the complete shutdown of the Internet and the attendant lack of information, many Egyptians went out into the streets to find out what was happening²⁷ with the result that the shutdown became counterproductive for government which had intended to blackout information about the protests but unwittingly made people leave their homes, initially to find information about the protests, but subsequently joined in.

Despite claims by governments that network disruptions during protests and demonstrations are motivated by the need to ensure people’s safety, it is clear that imposing Internet blackouts during protests do not ensure the safety of citizens. On the contrary, such blackouts make it harder for people to get information which would ordinarily ensure their safety.

It is critically important during periods of conflict, including violent protests, that people have access to accurate and reliable information about the conflict so that they can make informed assessments about their safety, including knowing when to leave the area, knowing areas that are safe and how to get there, how to contact emergency services, etc.

The continued resort to shutting or disrupting the Internet stunts the growth and development of African countries as governments and citizens are denied access to social and other benefits that are available online.

In addition, the practice does not support a positive image of leadership on the African continent and globally. It also reduces the likelihood of bridging the digital divide as disruptions to Internet access undermine public confidence in the network and discourages the investments required to improve Internet access for citizens across the continent.

Network disruptions disrupt and frustrate the open and modernised e-governance systems being set up by governments in Africa to enable the freeflow of information, citizen engagement and interaction with the governments and government representatives and agents as well as to enable the delivery of public services which are increasingly moving online.

The power of the Internet and social media make these valuable tools which can be used to gain some democratic advantage and particularly reinforce democratic processes, driving efficiency, fostering innovation, empowering public sector workers, ensuring transparency and accountability, and exposing corruption.

With African leaders continually disrupting Internet access for their citizens, they are less likely to gain the respect of their counterparts in other parts of the world who would continue to view them as tyrants and despots violating the rights of their citizens.

3

THE ECONOMIC ARGUMENTS

The economic arguments against network disruptions can be summarised as follows:

- a. Africa aspires to leverage on ICTs for economic development
- b. There have been massive investments in ICT infrastructure in the continent
- c. Network disruptions therefore cause economic losses
- d. Who pays for the losses?

A) AFRICA ASPIRES TO LEVERAGE ON ICTS FOR ECONOMIC DEVELOPMENT

Africans recognise the role played by the Internet in economic development. This is evident from the goals set out in policies in individual states as well as in regional documents. The African Union (AU), for example, is currently implementing Agenda 2063, a structure for the socio-economic transformation of the continent over the next 50 years. Agenda 2063 is founded upon several aspirations. Aspiration 6 is on people-centred and inclusive development while Aspiration 7 is for Africa to be a strong, united and influential global player and partner.²⁸ Both of these goals are at risk when a significant number of people are cut off communication due to network disruptions.

The AU has acknowledged the role played by ICTs in economic development. It has established the Committee on Communication and Information Technologies (STC-CICT) which is one of 14 Specialised Technical Committees that are under the Executive Council of the Union.²⁹ The mandate of the STC-CICT is to increase access to technology in Africa and promote more use of ICTs in Africa to reduce the digital divide and improve the quality of life for Africans. The Committee aims to “oversee the promotion, coordination and the strengthening of CIT programmes for the accelerated economic growth of Africa; develop mechanisms through which CIT contributes to the establishment of the African information Society; promote public investments on CIT infrastructure services and applications; and develop frameworks for the harmonization policies and regulations in the continent.”

B) THERE HAVE BEEN MASSIVE INVESTMENTS IN ICT INFRASTRUCTURE IN THE CONTINENT

Two important STC-CICT reports that have been adopted in form of Ministerial Declarations are the Abuja³⁰ and Oliver Tambo³¹ Declarations. Both Declarations aspire to increase the uptake of ICTs in Africa to spur economic development and are the basis on which Africa has been pursuing an .africa gTLD. The .africa domain is expected to attract international trademarks to the African Internet space and drive more international traffic to the continent. These are goals that will be difficult to achieve when there is no predictability of Internet access particularly during times of political tension, such as in the run-up to and during elections.

African regional economic communities³² all have policies for the harmonisation of Information and Communication Technology. The South African Development Community (SADC), for instance, has the Protocol on Transport, Communication and Meteorology³³ which was most recently updated in 2012. The East African Community (EAC) has a Regional Framework for Harmonisation of National ICT Policies as well as a Study on Harmonisation of EAC Communications Regime. It is under these frameworks that the East African Legislative Assembly passed the East African Electronic Transactions Bill in 2014 to pave way for a harmonised e-commerce market in the region. The COMESA adopted an ICT Policy in 2003 while the ECCAS has the 2009 Regional ICT Development Policy. The CEMAC on the other hand developed a Regional Harmonisation Policy for Regulation of Electronic Communications.

Under these economic visions, there has been development of ICT infrastructure all over the continent. For instance, Africa boasts seven submarine cables on the east coast and nine on the west coast. These have been key to lowering the cost of Internet and increasing the quality of service delivery in sectors such as banking, farming, education, entertainment and e-government. The availability of good bandwidth has boosted the Internet economy and, with current growth rates, it is estimated that by 2020, sub-Saharan Africa will have close to half of the world's smartphone connections.³⁴ Africa has also been a global leader in innovations such as mobile money. The leading mobile money platform MPesa for instance has over 22 million subscribers in Kenya and transacts over 15 billion Kenyan shillings daily.³⁵

C) NETWORK DISRUPTIONS THEREFORE CAUSE ECONOMIC LOSS

Network disruptions are therefore not congruent with the economic aspirations and investments in the continent. Studies show that disruptions cost the global economy about 2.4 billion US dollars in 2016.³⁶

Connected to the economic effects are indirect consequences such as reduced productivity by those whose jobs rely on the Internet. Disruptions also decrease investor confidence and these effects are felt even where there were partial disruptions.³⁷ Where a full disruption takes place, the losses are even more severe, as was the case, for example, during the disruption in Anglophone Cameroon. In these cases, small and medium enterprises are completely shut down due to lack of network connectivity, such enterprises depending on services such as the Internet and mobile money for provision and exchange of goods and services.

D) WHO PAYS FOR THE LOSSES?

While the economic impact of disruptions is clear, there is no clarity on who pays for the losses incurred as a result of them. Like many other expenses in a market economy, it is likely that these costs are passed on to the consumer. In a continent that is comprised of developing and least developed countries, the focus should be on lowering the cost of access to the Internet so as bring more people to the Internet. Network disruptions do the opposite.

CONCLUSION AND RECOMMENDATIONS

The digital age has revolutionised almost all aspects of human existence and this includes how and where human rights are exercised. It is evident that the Internet is a powerful enabler for the realisation of human rights across the globe. It is a means by which citizens stay informed, access information, express themselves, seek personal and economic development and participate in their own governance. And these are fundamental rights guaranteed by international, regional and national frameworks. Any form of disruption of the Internet or other networks therefore restricts spaces for the exercise and enjoyment of human rights.

As with many other technological advancements, the Internet has its own challenges, but the benefits and potential it offers far outweigh the challenges. It is therefore instructive to seek progressive and rights-respecting avenues for addressing challenges associated with the use of the Internet rather than arbitrarily shutting down the Internet and other telecommunications networks, which curtails people's rights. In consideration of the above, the following recommendations are made:

- Governments have an obligation to protect the rights of their citizenry offline and online. This obligation should not be sacrificed at any point in the name of national security, stability and/or peace as clearly spelt out in Article XIII(2) of the Declaration of Principles on Freedom of Expression in Africa. Both are responsibilities of governments and should both be considered as such so that decisions on both areas complement each other rather than override each other.
- Stricter mechanisms and sanctions at the international and intergovernmental levels should be put in place to deter governments from network disruptions.
- Open, secure and free access and use of the Internet should be recognised as a right.
- Rights-based multi-stakeholder approaches should be adopted in Internet policy formulation to ensure that Internet policies are human rights respecting.
- More awareness and sensitisation are necessary to correct misconceptions and re-orient governments and other stakeholders on why the Internet should remain open at all times.
- The Internet is increasingly interconnected with many functions of life in Africa. Advocacy against disruptions should therefore be undertaken not only by civil society organisations but also investors, businesses and the public at large.

ENDNOTES

1. See the Annex to this brief for a full breakdown of all recorded network disruptions in Africa since 2011.
2. Human Rights Council, Resolution 32/13, The promotion, protection and enjoyment of human rights on the Internet, UN Doc. A/HRC/RES/32/13, 18 July 2016.
3. UN General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, UN Doc. A/71/373, 6 September 2016, Para 21; UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, UN Doc. A/HRC/17/27, 16 May 2011, Paras 30-31 and 78-79.
4. African Commission on Human and Peoples' Rights, Resolution on the Right to Freedom of Information and Expression on the Internet in Africa, ACHPR/Res. 362(LIX) 2016.
5. African Commission on Human and Peoples' Rights, Inter-Session Activity Report of Advocate Pansy Tlakula, Chairperson and Special Rapporteur on Freedom of Expression and Access to Information (May to October 2016).
6. Freedom Online Coalition, Statement on restrictions on access to social media, August 2014.
7. Global Network Initiative and Telecommunications Industry Dialogue Joint Statement on Network and Service Shutdowns, 12 July 2016.
8. Deloitte, "The economic impact of disruptions to Internet connectivity: A report for Facebook", October 2016.
9. Center for Technology Innovation at the Brookings Institution, "Internet shutdowns cost countries \$2.4 billion last year", October 2016.
10. Universal Declaration of Human Rights
11. *Ibid.*
12. Human Rights Council, Resolution 32/13, The promotion, protection and enjoyment of human rights on the Internet, UN Doc. A/HRC/RES/32/13, 18 July 2016.
13. African Commission on Human and Peoples' Rights, Resolution on the Right to Freedom of Information and Expression on the Internet in Africa, ACHPR/Res. 362(LIX) 2016.
14. *Ibid.*
15. African Declaration on Internet Rights and Freedoms, available at: www.africaninternetrights.org.
16. Carr, D., "How Obama Tapped Into Social Networks' Power", *The New York Times*, 9 November 2008, available at: www.nytimes.com/2008/11/10/business/media/10carr.html.
17. Akwagyiram, "How Technology Eased Buhari's Path To Power In Nigeria", *Reuters*, 2 April 2015, available at: www.reuters.com/article/nigeria-election-technology-idUSL6N0WZ2JF20150402.
18. UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, UN Doc. A/HRC/17/27, 16 May 2011, Para 78.
19. Arid Lands Institute, "Violation of Freedom of Expression in Ethiopia: Statement delivered at the 53rd ordinary session of the African Commission on Human and Peoples Rights in Banjul, Gambia", *Pambazuka News*, 9 May 2013, available at: <https://www.pambazuka.org/activism/violation-freedom-expression-ethiopia>.
20. Tungali, A., "The Evolution of Internet Shutdowns in DR Congo," 31 March 2017, *cipesa.org*, 31 March 2017, available at: www.cipesa.org/2017/03/the-evolution-of-internet-shutdowns-in-dr-congo/.
21. African Freedom of Expression Exchange, "Internet Blackout Rages on in North-west and South-west Cameroon", 24 February 2017, available at: www.africafex.org/access-to-information/internet-blackout-rages-on-in-north-west-and-south-west-cameroon.

-
22. BBC News, "Google coding champion whose Cameroon hometown is cut off from the internet", *bbc.co.uk*, 10 February 2017, available at: www.bbc.co.uk/news/world-africa-38922819.
 23. Jacob, J. U. and Akpan, I., "Silencing Boko Haram: Mobile Phone Blackout and Counterinsurgency in Nigeria's Northeast region", *Stability: International Journal of Security & Development*, Volume 4(1): 8, pp. 1-7.
 24. Aydin, D. D., "Five excuses governments (ab)use to justify internet shutdowns", *Access Now*, 6 October 2016, available at: www.accessnow.org/five-excuses-governments-abuse-justify-internet-shutdowns/.
 25. See above, note 23
 26. Olukotun, D. B., "Internet shutdowns – an explainer", *DW Akademie*, 12 December 2016, available at: www.dw.com/en/internet-shutdowns-an-explainer/a-36731481.
 27. Howard, P., Agarwal, S. and Hussain, M., "When Do States Disconnect Their Digital Networks? Regime Responses to the Political Uses of Social Media", *SSRN*, 9 August 2011, available at: www.papers.ssrn.com/sol3/papers.cfm?abstract_id=1907191.
 28. African Union, Agenda 2063, available at: www.au.int/en2/agenda2063.
 29. The Executive Council coordinates and takes decisions on policies in areas of common interest to Member States, considers issues referred to it and monitors the implementation of policies of the Assembly of Heads of State.
 30. 2010 Abuja Declaration on the Third Conference of African Ministers in Charge of Communications and Information technologies, available at: www.au.int/web/sites/default/files/newsevents/workingdocuments/27218-wd-2010_abuja_declaration_final_verision_eng_0.pdf.
 31. 2010 Oliver Tambo Declaration by African Union Ministers in charge of Communication and Information Technologies available at: www.researchictafrica.net/multistake//African_Union_2009_-_Oliver_Tambo_Declaration.pdf.
 32. These are the East African Community (EAC), the Southern African Development Community (SADC), the Economic and Monetary Community of Central Africa (CEMAC) and the Economic Community of Western African States (ECOWAS).
 33. Southern African Development Community, Protocol on Transport, Communication and Meteorology, available at: www.issafrica.s3.amazonaws.com/site/uploads/TRANSPCOMM.PDF.
 34. GSMA, "The Mobile Economy 2014", 2015, available at: www.gsmaintelligence.com/research/?file=bb688b369d64cfd5b4e05a1ccfcbcb48&download.
 35. Ondieki, E., "M-Pesa transactions rise to SH15bn daily after systems upgrade", *Daily Nation*, 8 May 2016, available at: www.nation.co.ke/news/MPesa-transactions-rise-to-Sh15bn-after-systems-upgrade/1056-3194774-llu8ygz/index.html.
 36. See above, note 9. In the study, the author measured the percentage of country's GDP that is derived from the Internet to measure the impact of shutdowns.
 37. See above, note 8. The study estimated that in a country with medium connectivity like Kenya, the economic impact would be about 1% of GDP.

Annex

RECORDED NETWORK DISRUPTIONS IN AFRICA SINCE 2011

| Country | Date | Full / Partial Disruption | Length | Reason |
|----------------------------------|----------------|---|------------|-----------------------------|
| Algeria | June 2015 | Full | 12 hours | Infrastructure upgrades |
| Algeria | June 2016 | Partial (Social Media) | 5 days | Exams (to prevent cheating) |
| Burundi | April 2015 | Partial (Social Media) | 2 days | Election (Presidential) |
| Cameroon | January 2017 | Full (but only in certain English-speaking regions) | 3 months | Protests |
| Chad | February 2016 | Full | Unclear | Protests |
| Chad | April 2016 | Full | 2 days | Election (Presidential) |
| Democratic Republic of the Congo | December 2011 | Partial | 25 days | Election (Presidential) |
| Democratic Republic of the Congo | January 2015 | Full | 1 month | Protests |
| Democratic Republic of the Congo | December 2016 | Partial (Social Media) | Unknown | Protests |
| Egypt | January 2011 | Full | 5 days | Protests (Arab Spring) |
| Egypt | December 2015 | Partial (Program) | Permanent | Unknown |
| Ethiopia | March 2016 | Partial (Social Media) | 1 month | Protests |
| Ethiopia | October 2016 | Full and Partial | 3 days + | Protests |
| Gabon | September 2016 | Full | 4 days + | Protests |
| Gambia | April 2015 | Full | 1 week | Infrastructure upgrades |
| Gambia | December 2016 | Full | 3 days | Election (Presidential) |
| Libya | February 2011 | Full | Unclear | Protests (Arab Spring) |
| Mali | August 2016 | Partial (Social Media) | 1 day + | Protests |
| Morocco | January 2016 | Partial (VOIP calls) | 2 months + | |
| Niger | January 2015 | Partial (Social Media and SMS) | 1 day | Protests |
| Republic of the Congo | October 2015 | Full | 12 days | Protests |
| Republic of the Congo | March 2016 | Full | 2 days | Election (Presidential) |
| Sudan | September 2014 | Full | Unclear | Protests |
| Uganda | February 2016 | Partial (Social Media and Mobile Money) | 4 days | Election (Presidential) |
| Uganda | May 2016 | Partial (Social Media) | 1 day + | Presidential Inauguration |
| Zambia | August 2016 | Full | 2 days + | Election |
| Zimbabwe | July 2016 | Partial (WhatsApp) | Unclear | Protests |

