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EMPOWERING ONLINE VOICES:

A CYRILLA POLICY BRIEF ON
FREEDOM OF EXPRESSION
IN SUB-SAHARAN AFRICA



Strathmore University

Centre for Intellectual Property and
Information Technology Law

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Abstract

This policy brief evaluates the current state of freedom of expression in Sub-Saharan Africa, highlighting the delicate balance between this right and regulatory measures addressing online challenges.

It analyses legal frameworks in various countries, noting significant government control, surveillance, and censorship, such as Ethiopia's stringent laws and technological surveillance and internet shutdowns in Togo and Malawi.

The policy brief also addresses emerging issues like technology-facilitated gender-based violence and disinformation and calls for comprehensive legislation to combat cyberbullying and harassment while protecting freedoms.

It discusses the impact of social media, which can both aid activism and spread misinformation, citing cases from Nigeria and Uganda. The policy brief advocates for proactive measures, emphasising transparency, accountability, and collaboration to ensure digital freedom and universal internet access, promoting a more equitable and democratic society.

Keywords: Freedom of expression, Online speech regulation, Technology-facilitated gender-based violence, Sub-Saharan Africa, CYRILLA Collaborative.

1

Introduction

Freedom of expression is a fundamental human right recognised globally and enshrined in Article 19 of the Universal Declaration of Human Rights.¹ This right is multifaceted in nature as it looks into the delicate balancing act between the extent of this freedom and how it impacts other human rights. With the advent of the internet, this right has expanded its domain, enabling individuals to express themselves more freely and access information from diverse sources.

There is also a concern about whether the existing laws recognise freedom of expression online.² When these expressions cause injury to another person, then technology-facilitated gender-based violence (TFGBV) occurs. TFGBV is an emerging form of human rights abuse that stems from the exercise of freedom of expression in online platforms through the spread of hate speech and other forms of abuse and directly affects the safety and well-being of the communities.³ It is often referred to as cyber violence, and this is further discussed in this policy brief's succeeding parts. Importantly, concerns have arisen in recent years regarding the regulation of online speech and access to the internet, including issues like TFGBV, content regulation and censorship,

internet shutdowns in the wake of election seasons, surveillance misinformation, and disinformation. To point out its prevalence in the Sub-Saharan African context, a research study noted that 28% of women interviewed from 5 countries i.e. Ethiopia, Kenya, Senegal, South Africa and Uganda, had experienced some form of online abuse, with 36% of those instances being unwelcome sexual advances.⁴

Several initiatives, such as enacting and implementing cybercrime regulation laws in Sub-Saharan Africa, have led to the adoption of statutes centred around providing a safe online space for users across 17 jurisdictions in Africa.⁵ Flowing from this, the Cyberrights Research Initiative and Localised Legal Almanac (CYRILLA) Collaborative is a global initiative established in 2019 that maps and analyses the evolution and impacts of legal frameworks in digital environments by aggregating, organising, and visualising distributed legal data through open research methodologies, data models, taxonomies (classifications), and databases thus enabling various stakeholders to evaluate legal trends and their implications in digitally connected spaces.⁶ The Collaborative is composed of five organisations: the Centre for Intellectual Property and Information Technology Law (CIPIT), Social Media Exchange (SMEX), Association for Progressive Communications (APC), Derechos

¹Universal Declaration on Human Rights (adopted 10 December 1948) 217 A(III) (UNGA), art 19. United Nations, 'Universal Declaration of Human Rights', <https://www.un.org/en/about-us/universal-declaration-of-human-rights#:~:text=Article%2019,media%20and%20regardless%20of%20frontiers>. Accessed 12 April 2024.

²Ugandan Constitutional Court's decision in Unwanted Witness (U) Ltd v Attorney General and 4 Others (Miscellaneous Cause 50 of 2021) [2022] UGHCCD 228 (decided 27 April 2021)

³International Center for Research on Women (ICRW), 'Technology-facilitated Gender-Based Violence' ICRW, May 2019 page 23 <<https://www.icrw.org/wp-content/uploads/2019/05/TFGBV-Collateral.pdf>> accessed 11 June 2024.

⁴Iyer N, Nyamwire B and Nabulega S, 'Alternate Realities, Alternate internets: African Feminist Research for a Feminist Internet' August 2020 <https://www.apc.org/sites/default/files/Report_FINAL.pdf> accessed on 11 June 2024.

⁵Achieng G, 'A Ten-Point Strategy Towards Ending Technology-Facilitated Gender-Based Violence in Africa' Tony Blair Institute, 7 March 2022.

⁶ICT Policy Africa, <https://ictpolicyafrica.org/en/page/tt599ms931e> Accessed 12 April 2024.



Digitales (DD), and Columbia Global Freedom of Expression (CGFoE).⁷

The CYRILLA Collaborative's repository is an open database entailing different legal instruments, including treaties, statutes and case laws that advance digital rights. As of June 2024, the database contained 80 laws, 150 case laws and 47 analyses on freedom of expression⁸ from an array of countries in Sub-Saharan Africa, Europe, the Americas, Australia, the Middle East and North Africa and Asia, reflecting a comprehensive scope of global involvement in addressing legal aspects of freedom of expression.⁹ From this statistic, the

⁷CYRILLA, 'About CYRILLA,' <https://cyrilla.org/en/page/jy0cpvu41mxk-lyye34joiggb9/about-cyrilla> Accessed 19 April 2024.

⁸CYRILLA, 'Library,' <https://cyrilla.org/en/library/?q=> Accessed 12 April 2024.

⁹The specific countries include: Angola, Brunei, Bulgaria, Cambodia, Cuba, Egypt, Fiji, Hong Kong, India, Indonesia, Iraq, Kazakhstan, Kenya, Lao People's Democratic Republic, Malaysia, Morocco, Mozambique, Myanmar, Nigeria, Pakistan, Philippines, Singapore, South Africa, Thailand, Timor-Leste, Uganda, and Vietnam. Furthermore, the database includes analyses on freedom of expression from various organisations such as Amnesty International, Reporters Without Borders, Global Network Initiative, News 24, Association for Progressive Communications (APC), and Human Rights Watch, providing multifaceted insights into this fundamental right.

CYRILLA database has 8 laws, 9 case laws and 1 analysis across 9 countries in Sub-Saharan Africa.¹⁰ This database thus provides insights into the legislative and judicial approaches to freedom of expression and serves as a useful tool for informing future conversations in Africa.

Against this background, this policy brief (herein referred to as 'the brief') aims to address TFGBV, disinformation, and misinformation in relation to legal instruments on the freedom of expression, propose policy recommendations to safeguard it and ensure universal access to the internet. This preliminary chapter serves as the brief's introduction, while chapter two addresses lessons from select African perspectives on the freedom of expression online. Chapter 3 reconciles this freedom against two emerging issues 1.) TFGBV and 2.) Social media and content regulation. Chapter 4 advances the brief's recommendations, and the paper concludes in Chapter 5 with a summary of the analysis conducted in the entirety of the brief.

¹⁰These countries are Angola, Cabo Verde, Kenya, Mozambique, Nigeria, South Africa, Togo, Uganda and Zimbabwe.



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2

An Assessment of Selected African Perspectives on the Freedom of Expression Online

In examining the legal frameworks concerning freedom of expression in digital spaces across Africa, it is evident that different nations have implemented laws that impact the democratic process and human rights. Some laws advance and/or promote the enjoyment of freedom of expression, while others are restrictive. One notable example is Ethiopia, where provisions such as Article 25 of the Mass Media and Access to Information Proclamation No. 590/2008¹¹ and Article 14 of the Anti-Terrorism Proclamation No.652/2009¹² have enabled strict control over the internet.¹³ These legal provisions empower authorities in Ethiopia to engage in internet filtering, content blocking, and surveillance, leading to the prosecution of bloggers and journalists for their online writings.¹⁴ Ethiopia's control over the internet is seen in the reported use of deep packet inspection (DPI) by Ethio Telecom, the only telecommunications provider in the country at the time, to block access to services like The Onion Router (TOR) Network, an open-source

internet anonymizer.¹⁵ This technological measure, combined with legal provisions that mandate internet cafe owners to report anti-government content, underscores the government's comprehensive approach to monitoring and controlling online activities.

Additionally, Ethiopia's introduction of the Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020 in 2020¹⁶, which imposes fines and jail terms for spreading hate speech online, further demonstrates the government's efforts to regulate online discourse and limit freedom of expression online.¹⁷ The legal framework in Ethiopia, coupled with technological surveillance measures, has had a chilling effect on online freedom of expression and access to information.¹⁸

In Malawi, the Communications Regulatory Authority (MACRA) has wielded its regulatory powers to ban

¹¹Mass Media and Access to Information Proclamation No. 590/2008, Ethiopia.

¹²Anti-Terrorism Proclamation No.652/2009, Ethiopia.

¹³Temelso Gashaw Getahun. 'Countering online hate speech through legislative measures: The Ethiopian approach from a comparative perspective.' *The Communication Review*, 26 (2023): 253 - 276. <https://doi.org/10.1080/10714421.2023.2177487> Accessed 23 April 2024.

¹⁴Human Rights Watch, 'Ethiopia: Free Zone 9 Bloggers, Journalists' Human Rights Watch, 23 April 2015 <https://www.hrw.org/news/2015/04/23/ethiopia-free-zone-9-bloggers-journalists> Accessed on 12 June 2024.

¹⁵Electoral Institute For Sustainable Democracy in Africa, 'Digital Censorship and Africa's Democratic Future,' <https://www.eisa.org/wp-content/uploads/2023/05/policy-brief-2022-gipps-digital-censorship-african-democratic-future-eisa.pdf> Accessed 26 April 2024. See Also Runa, 'Ethiopia Introduces Deep Packet Inspection' Tor Blog 31 May 2012 <<https://blog.torproject.org/ethiopia-introduces-deep-packet-inspection/>> Accessed on 12 June 2024.

¹⁶Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020 in 2020

¹⁷A. Degol and Bebizuh Mulugeta. 'Freedom of Expression and Hate Speech in Ethiopia: Observations (Amharic).' *Mizan Law Review* (2021). <https://doi.org/10.4314/mlr.v15i1.7> Accessed 30 April 2024.

¹⁸Steven Feldstein. "Transformation and Setbacks in Ethiopia." (2021): 177-211. <https://doi.org/10.1093/OSO/9780190057497.003.0006> Accessed 30 April 2024.



radio phone-in programs and restrict television and radio networks, particularly during periods of political tension such as the country's elections in 2019.¹⁹ These actions indicate a level of government interference in the media landscape, impacting the free flow of information and public discourse. Additionally, Malawi has faced instances of internet shutdowns in the lead-up to elections, further underscoring the government's use of regulatory measures to control digital spaces and limit freedom of expression online.²⁰ Such restrictions can hinder the ability of citizens to access information, engage in public debate, and exercise their right to free expression in the digital realm.

CYRILLA's Comparative Assessment of Jurisprudence on Internet Shutdowns featured the legal hurdles in Togo with a special focus on the case of Amnesty International Togo & Ors versus The Togolese Republic (Amnesty International Togo case).²¹ The Economic Community of West African States (ECOWAS) Community Court of Justice (CCJ) in Abuja recognised the applicants' standing to challenge the shutdown based on

freedom of expression violations.²² The case concerned the internet shutdown imposed by the Togolese Government following protests against the extension of the presidential term limits. The CCJ held that the punitive action curtailed the Applicant's right to receive information as provided for in Article 9 of the African Charter on Human and People's Rights.²³ Importantly, the CCJ directed the Togolese Government to enact laws to meet its obligations concerning the freedom of expression.²⁴ Summatively, this jurisprudence highlights the importance of safeguarding digital rights as a medium of realising the right to receive information in the digital age. Likewise, the judgement equally calls upon states to legislate on the instances where this right can rightly be curtailed, especially in the interests of, inter alia, national security.²⁵

By implementing laws that regulate the digital space in arguably restrictive ways, these countries raise concerns about the impact of legal frameworks on freedom of expression and access to information in the digital age.

¹⁹Lameck Masina. 2019. 'Malawi Broadcasters, Media Freedom Group Criticize Call-In Shows Suspension'. VOA. <https://www.voanews.com/a/press-freedom-malawi-broadcasters-media-freedom-group-criticize-call-shows-suspension/6169769.html> Accessed 17 April 2024.

²⁰ibid

²¹CYRILLA, 'Dialling in the Law: A Comparative Assessment of Jurisprudence on Internet Shutdowns,' <https://cyrilla.org/en/entity/suwvb32mtl> Accessed 17 April 2024.

²²Amnesty International Togo & Ors v The Togolese Republic (Amnesty International Togo case), page 8-11 [link](#)

²³Article 9, African Charter on Human and People's Rights.

²⁴(n 22), Page 14 judgement

²⁵(n 22), Page 13 judgement



CYRILLA's Comparative Assessment of Jurisprudence on Internet Shutdowns featured the legal hurdles in Togo with a special focus on the case of Amnesty International Togo & Ors versus The Togolese Republic (Amnesty International Togo case).

3

Emerging issues regarding the freedom of expression

The evolution of technology and the internet presents new challenges for legal frameworks governing freedom of expression. Issues such as online hate speech, technology-facilitated gender-based violence and disinformation have raised questions about the boundaries of free speech in digital spaces. Policymakers and legal experts must navigate these complexities to develop regulations that address harmful online content while upholding the principles of free expression.

3.1 Technology-Facilitated Gender-Based Violence (TFGBV)

A comprehensive analysis of online violence against women and girls in the Commonwealth Africa Region reveals a multifaceted challenge intertwined with fundamental rights such as freedom of expression and online speech.²⁶ This study highlights the prevalence of cyberbullying, harassment, and online hate speech targeting women and girls across various African countries, including those in Sub-Saharan Africa.²⁷ While legislative efforts exist, gaps remain in defining perpetrators as either primary or secondary in nature and effectively addressing online violence.²⁸ Moreover, the study emphasises

the interconnected nature of online and offline violence against women and girls, stressing the continuum of harm facilitated by information and communication technology.²⁹

In the Colombian case of Dávila versus National Electoral Council³⁰, the Constitutional Court recognised systemic online violence against women journalists and ordered measures to combat it despite partially rejecting a petition for not notifying authorities.³¹ This landmark judgement mandates ethical guidelines for political parties, protective procedures, and legislation to address sexist digital violence with regards to approaching the freedom of expression.³²

Constitutional safeguards and ongoing efforts to develop cybersecurity legislation to mitigate against TFGBV in certain African countries, such as Nigeria, Zimbabwe and Tanzania, highlight the multi-faceted approach required to address

²⁶Commonwealth Secretariat, 'Addressing Online Violence Against Women and Girls in the Commonwealth Africa Region: The Role of Bystanders' (2023). <https://doi.org/10.14217/comsec.1099> Accessed 10 April 2024.

²⁷Uganda, Tanzania, Kenya, Nigeria, Rwanda, Ghana, Zambia, Sierra Leone, Mauritius, Malawi, Cameroon, Seychelles, South Africa, Botswana, Eswatini, Lesotho, Namibia, Mozambique, and The Gambia.

²⁸Commonwealth Secretariat, 'Addressing Online Violence Against Women and Girls in the Commonwealth Africa Region: The Role of Bystanders' page 3, (2023). <https://doi.org/10.14217/comsec.1099> Accessed 9 April 2024.

²⁹Bridget A. Harris and L. Vitis. 'Digital intrusions: technology, spatiality and violence against women,' 4 (2020): 325-341. <https://doi.org/10.1332/239868020x15986402363663> Accessed 9 April 2024.

³⁰Dávila v National Electoral Council, Constitutional Court of the Republic of Columbia, 2023 <<https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2023/12/T-087-23-PDF.pdf> > accessed on 12 June 2024.

³¹CYRILLA, 'Dávila v National Electoral Council,' <https://cyrilla.org/en/entity/37iqnftuwqj> Accessed 11 April 2024.

³²Dávila v National Electoral Council, Constitutional Court of the Republic of Columbia, 28 March 2023 <<https://globalfreedomofexpression.columbia.edu/cases/victoria-eugenia-davila-and-others-vs-the-national-electoral-council/>> Accessed on 12 June 2012.



the issue comprehensively.³³ Closely related to this policy brief's scope, there have been notable legislative efforts in Sub-Saharan Africa across 17 jurisdictions in Africa.³⁴ By addressing legislative gaps, enhancing capacity-building initiatives, and fostering collaboration among stakeholders, countries such as Kenya, South Africa and Nigeria have created and can create an even safer and more inclusive online environment that upholds both freedom of expression and the rights of women and girls to live free from violence and discrimination.³⁵

3.2 Social media and content regulation

Social media has revolutionised activism by enabling global mobilisation and awareness on issues like human rights and climate change. Nonetheless, it also harbours negative consequences, such as the spread of misinformation and fostering environments conducive to violence and harassment. It also perpetuates echo chambers and amplifies harmful content, contributing to societal polarisation.³⁶ Examining the dynamics of freedom of expression, it is prudent to canvass the influences of misinformation, disinformation and malinformation. The Canadian Centre for Cyber Security defines misinformation as forms of information that aims to harm another person while disinformation as the spread of information that not only harms but also manipulates an information recipient.³⁷ On the other hand, malinformation refers to the willful extrapolation of an initially true account to the extent that it harms or deceives the

information recipient.³⁸

Concerning the institutional responses during the COVID-19 pandemic, there was a broader erosion of civil and political rights, characterised by a shift towards prioritising security over freedom.³⁹ Misinformation, disinformation and malinformation are intricately linked to freedom of expression and are exacerbated by digital platforms, notably social media, and their deception is weaponised by actors across ideological spectrums.⁴⁰ Strategies to combat disinformation include online fact-checking agencies, yet their efficacy and independence raise concerns about their impact on freedom of expression.⁴¹

A few selected cases highlight the interpretation of online freedom of expression in Sub-Saharan Africa. In the Nigerian case of Diana Ele Uloko versus Inspector General of Police,⁴² the applicant's phone was destroyed by a police officer on October 11, 2020, while she recorded and posted about her sister's arrest during a protest, claiming a violation of her freedom of expression.⁴³ The case was dismissed for want of sufficient evidence. In doing so, the Court held that the Applicant had failed to adduce abundant and credible evidence.⁴⁴ This judgement overlooked the critical role of mobile phones and social media in exercising the fundamental right to freedom of expression.

The ECOWAS Court of Justice in The Registered

³³See also Zenda C, 'Hope for African women as more governments make laws to fight cyberbullying' FairPlanet, 16 November 2019 <<https://www.fairplanet.org/story/hope-for-african-women-as-more-governments-make-laws-to-fight-cyber-bullying/>> Accessed on 12 June 2024.

³⁴Achieng G, 'A Ten-Point Strategy Towards Ending Technology-Facilitated Gender-Based Violence in Africa' Tony Blair Institute, 7 March 2022.

³⁵Arojoye P, 'Why Africa must address cyberbullying' November 2022 <<https://www.ghanaweb.com/GhanaHomePage/features/Why-Africa-must-address-cyberbullying-1671560>> Accessed on 12 June 2024.

³⁶Siagian, R., Siahaan, L., & Hamzah, M. (2023). Human Rights in The Digital Era: Online Privacy, Freedom Of Speech, and Personal Data Protection. *Journal of Digital Learning and Distance Education*. <https://doi.org/10.56778/jdlde.v2i4.149> Accessed 17 April 2024.

³⁷Canadian Centre for Cyber Security (2024). How to identify misinformation, disinformation, and malinformation (ITSAP.00.300) <<https://www.cyber.gc.ca/en/guidance/how-identify-misinformation-disinformation-and-malinformation-itsap0030>> Accessed 30 July 2024.

³⁸Canadian Centre for Cyber Security (2024). How to identify misinformation, disinformation, and malinformation (ITSAP.00.300) <<https://www.cyber.gc.ca/en/guidance/how-identify-misinformation-disinformation-and-malinformation-itsap0030>> Accessed 30 July 2024.

³⁹Ruiz, L. (2023). Disinformation, Misinformation and Limits on Freedom of Expression During the Covid-19 Pandemic: A Critical Inquiry. *The Age of Human Rights Journal*. <https://doi.org/10.17561/tahrj.v21.8149> Accessed 17 April 2024.

⁴⁰ibid

⁴¹Otávio Vinhas and M. Bastos. 'Fact-Checking Misinformation: Eight Notes on Consensus Reality'. *Journalism Studies*, 23 (2022): 448 - 468. <https://doi.org/10.1080/1461670X.2022.2031259>. Accessed 23 May 2024.

⁴²Diana Ele Uloko v Inspector General of Police, page 10, The Federal High Court at Abuja (Nigeria).

⁴³CYRILLA, 'Diana Ele Uloko v Inspector General of Police,' <https://cyrilla.org/en/entity/46i4bgz61y> Accessed 25 April 2024.

⁴⁴n 40

Trustees Of The Socio–Economic Rights And Accountability Project (SERAP) versus Federal Republic of Nigeria⁴⁵ found the Nigerian government violated freedom of expression by suspending Twitter on June 4, 2021, claiming it was necessary for sovereignty protection, while the Applicants argued it was retaliation for a flagged tweet by the President. The Court ordered Nigeria to lift the suspension, deeming access to Twitter a derivative right complementary to freedom of expression and a violation of the African Charter on People and Human Rights⁴⁶ and the International Covenant on Civil and Political Rights (ICCPR).⁴⁷

The Constitutional Court of Uganda in Kampala, in the case of Unwanted Witness-Uganda & Tumuhimbise Norman versus Attorney General⁴⁸, unanimously dismissed a petition by NGO Unwanted Witness-Uganda and Journalist Tumuhimbise Norman challenging government shutdowns of social media and mobile financial services during elections, citing a lack of constitutional interpretation.⁴⁹ The Petitioners argued that this violated their rights to freedom of speech and expression as provided for in Article 29 of the Constitution of Uganda.⁵⁰ The court's findings were purely based on the fact that the petition did not invite the bench to assess or determine whether a statute contravenes any article of the constitution and that they did not mention the words of the allegedly contravened provision.

⁴⁵CYRILLA, 'The Registered Trustees of the Socio-Economic Rights and Accountability Project (SERAP) & 3 Ors v. Federal Republic of Nigeria,' <https://cyrilla.org/en/entity/vhrh1wig5> Accessed 21 May 2024.

⁴⁶African Charter on Human and People's Rights.

⁴⁷The International Covenant on Civil and Political Rights (ICCPR)

⁴⁸Unwanted Witness-Uganda & Tumuhimbise Norman v. Attorney General, Constitutional Court of Uganda (2021)

⁴⁹CYRILLA, 'Unwanted Witness-Uganda & Tumuhimbise Norman v. Attorney General,' <https://cyrilla.org/en/entity/ncqcxn3btwh> Accessed 24 May 2024

⁵⁰Article 29, Constitution of Uganda (1995)

Moreover, Justice Catherine Bamugemereire held that the Ugandan Constitution does not recognise the right to internet access and social media.⁵¹ This points out the evident lack of government will to advance reforms towards the freedom of expression. This is evidenced by arbitrary internet shutdowns and deficient judicial activism.

Overcoming these challenges necessitates enhancing digital literacy, promoting algorithm transparency and judicial activism, and strengthening fact-checking mechanisms while implementing smart regulations to balance freedom of speech while mitigating harmful practices. Collaboration among governments at all branches and levels, social media companies, civil society, and individuals is crucial to establish consistent frameworks, foster ethical behaviour online, and leverage technology for positive societal impacts, ultimately preserving fundamental rights and promoting inclusivity and safety in the digital age.⁵² To realise this, governments in Sub-Saharan African countries should adopt a proactive approach in legislation to delineate the exercise of this freedom clearly and an equally activist judicial philosophy to create jurisprudence in areas where the present legislation falls short, as canvassed earlier above in the Amnesty International Togo case.⁵³

⁵¹CYRILLA, 'Unwanted Witness-Uganda & Tumuhimbise Norman v. Attorney General,' <https://cyrilla.org/en/entity/ncqcxn3btwh> Accessed 24 May 2024

⁵²Krishnan R, Vel R and Zala P, 'Promoting Online Safety: The Government's Role in Combating Cyber Harassment and Cybercrime Through Social Media Platforms' Research Gate, 184, June 2023 <https://www.researchgate.net/publication/373504452_Promoting_Online_Safety_The_Government's_Role_in_Combating_Cyber_Harassment_and_Cybercrime_Through_Social_Media_Platforms> Accessed on 13 June 2024.

⁵³CYRILLA, 'Dialling in the Law: A Comparative Assessment of Jurisprudence on Internet Shutdowns,' <https://cyrilla.org/en/entity/suwvb32mtl> Accessed 17 April 2024.



4

Recommendations

To safeguard freedom of expression in Sub-Saharan Africa while addressing challenges like technology-facilitated gender-based violence and disinformation, the following actions ought to be taken to remedy the different challenges identified above:-

4.1 Mitigating Technology-Facilitated Gender-Based Violence

Policymakers should implement comprehensive legislation targeting digital harassment, ensuring clear accountability and robust legal definitions. Such regulation should accommodate the nature of online abuse in various forms, starting from the conventional defamatory realm of tortious liability. Strengthening law enforcement and judicial capacity to handle digital violence, alongside international collaboration and civil society support, can create a safer online environment. Legal frameworks should align with international human rights standards, and monitoring mechanisms for reporting abuses must be enhanced to protect vulnerable populations and

uphold free expression.

4.2 Enhancing Social Media Usage and Content Regulation

The laws governing social media and internet access ought to employ a balanced approach to maintaining free speech while mitigating harmful impacts. Governments should promote digital literacy to help citizens recognize misinformation, and social media companies must implement transparent algorithms and robust fact-checking systems. Content regulation policies should be transparent and involve multi-stakeholder consultations to avoid arbitrary censorship. International cooperation and adherence to regional standards, such as those by the African Commission on Human and Peoples' Rights, will harmonise efforts and enhance digital rights protection across the continent. These strategies, coupled with judicial oversight to prevent unwarranted internet shutdowns, will bolster democratic processes and safeguard freedom of expression in the digital age.

5

Conclusion

This policy brief highlights the intricate balance between free speech and its impact on other human rights, emphasising the expanded domain of expression through the internet. However, it also raises concerns about regulations that potentially restrict online speech, particularly in the context of technology-facilitated gender-based violence, disinformation, and misinformation in digital platforms. Countries like Ethiopia, Togo and Malawi demonstrate varying degrees of control over digital spaces, often leading to significant implications for democratic processes and human rights.

Efforts to address these issues include legal advocacy, court decisions, and the development of comprehensive policies. This policy brief underscores the need for a multifaceted approach involving enhanced digital literacy, collaboration among stakeholders, and robust legal frameworks to ensure that freedom of expression is upheld while mitigating harmful online practices. This holistic strategy is essential for fostering a safer, more inclusive digital environment that respects fundamental rights and promotes democratic engagement.



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