

State of Internet Freedom **in Chad 2019**

Mapping Trends in Government Internet Controls, 1999-2019

January 2020



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Credits

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This research documents the trends in government internet controls, 1999-2019 in Chad, tracking key trends in recent years, analysing the key risk factors, and mapping notable developments on data protection and privacy legislation and violations, and users' understanding of protecting their privacy online. Other country reports for Botswana, Burundi, Cameroon, the DRC, Ethiopia, Kenya, Malawi, Nigeria, Rwanda, Senegal, Tanzania, Uganda, and Zimbabwe. The research was conducted as part of CIPESA's OpenNet Africa initiative (www.opennetafrica.org), which monitors and promotes internet freedom in Africa.

CIPESA recognises Simone Toussi as the main content contributor to this report.

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1

Introduction

1.1 Introduction

Since 2000, Chad has undertaken measures to not only control and regulate the Information and Communication Technologies (ICT) sector but also to leverage its potential for socio-economic and political development. These measures included the establishment of a legislative framework for ICT as well as the sector's institutional organisation and infrastructure. However, despite the improvements that ICT reforms have brought on various levels, legislative and institutional frameworks have been designed with several provisions which constitute bottlenecks for the healthy development of ICT to beneficial all, and which so far justify the government's persistent curtailment of digital rights. As a result, the country has experienced internet and social media disruptions since 2014, coupled with several surveillance and monitoring mechanisms that undermine digital and human rights.

On the regulatory level, although Chad does not have an ICT development strategy, the Telecommunications Act of 1998¹ restructured the sector, notably by liberalising the ICT market and licencing new, private-owned operators. Several ICT-related laws were adopted especially between 2014 and 2015.² These include the eCommunications Act (2014), the Personal Data Protection Act (2015), the eTransactions Act (2015), and the Cybersecurity and Fight against Cybercrime Act (2015). In November 2018, parliament passed a law that recognises the online press.³

Institutionally, several entities were created by law between 2014 and 2015. These include the Regulatory Authority for Electronic Communications and Posts (ARCEP),⁴ which is responsible for regulating the sector. The ARCEP replaced the Chadian Telecommunications Regulatory Office (OTRT) which had been created in 1998 as the industry regulator.⁵ Chad also set up the National Agency for Computer Security and eCertification (ANSICE)⁶ and the ICT Development Agency (ADETIC)⁷ to develop and monitor the implementation of the national ICT development strategy.

¹ Chad; Telecommunications Act N°009/PR/98 of August 1998; accessed December 28, 2019: <https://bit.ly/2OkIH5>

² ARCEP Chad; Laws; accessed December 28, 2019: <https://arcep.td/lois>

³ Chad; Order No.025/PR/208 of June 29, 2018 on the Regime for the written press and electronic media in Chad.

⁴ Chad; Decree No.1606 On the organization and functioning of ARCEP; accessed December 28, 2019: <https://bit.ly/38P4m4K>

⁵ The OTRT was created by Article 57 of the Telecommunications Act of 1998; Op. cit.

⁶ ARCEP; Law No. 006/PR/2015 establishing the National Agency for Computer Security and eCertification; December 28, 2019: <https://bit.ly/2U5F6TI>

⁷ ARCEP; Law No. 012/PR/2014 establishing the Information and Communication Technology Development

In terms of infrastructure, international optic fibre first reached Chad in 2012. In July 2019, the country launched a 1,200 km optic fibre network linking the capital N'Djamena to the city of Adré along the border with Sudan.

In parallel with these regulatory reforms and infrastructure improvements came increased supply and demand for ICT services. From one state operator in 1999 (Sotel-Tchad),⁸ Chad has four major operators in 2019, and several Internet Service Providers (ISPs). The overall mobile penetration rate increased from 20% in 2009 to 50% in 2018, and the internet penetration increased from 1.5% to 11.4%.⁹ Chad also introduced biometric registration systems, first to manage the influx of refugees crisis from Sudan, the Central African Republic and Nigeria in 2015, then for registration on the electoral roll in 2016, and finally for national identification with the national identity card and passports in 2020.

This study presents the trends observed in ICT governance in Chad and how they have influenced the overall internet freedom in the country over time, particularly the digital rights of citizens during the last two decades (1999 to 2019).

1.2 Aim and scope of the study

This study aimed to show how the control measures implemented by the Chadian government have progressively undermined digital rights, despite the efforts made to promote ICT development and accessibility in the country. It covers the period from 1999 to 2019. Research and analysis are focussed on a set of observed events, strategies or programs adopted by the government that affected internet freedoms. The study also explores the various response mechanisms undertaken by some stakeholders, mainly non-state actors, to counter the government's repressive actions. Further, it gives an overview of the current ICT status as well as the political and economic contexts. The results are meant to inform various parties about the potential ways to establish and safeguard an open, free and safe internet in Chad.

⁸ Sotel-Tchad was created by Article 47 of the Telecommunications Act of 1998; *Op. cit.*

⁹ ARCEP; Annual report 2018; May 2019; accessed January 6, 2020: <https://bit.ly/36Ex9ro>

2

Methodology

This study adopted a range of qualitative data collection approaches that aimed to collect diverse and accurate information on the legal and policy environment and how it affects the reality of digital rights in Chad. Using literature review, the study establishes the historic base of ICT governance and use in the country, and the socio-political context of the country. This is supplemented by an analysis of the ICT policy and the legal framework in Chad since 1999. This covered regional, international law and policy documents, as well as Chadian laws and policies that have a bearing on Chad's ICT governance and on digital rights.

Furthermore, this study conducted interviews with several stakeholders, including representatives of institutions dedicated to the development and governance of ICT in Chad. The key informants included researchers, civil society, activists, the Ministry in charge of ICT, the regulatory agency ARCEP, some telecommunications companies, and journalists.

3

Country Context

This section gives an overview of Chad's ICT sector, then it briefly describes the political and economic environment in the country, insofar as it affects the development and governance of ICT.

3.1 ICT Status

The ICT infrastructure in Chad has recently been boosted by the inauguration, in July 2019, of a 1,200 km fibre optic network linking the capital N'Djamena to Adré, the city at the border with Sudan,¹⁰ a big step in broadband coverage extension since international fibre reached the country in 2012. Chad is also a stakeholder in the World Bank-supported Central African Backbone (CAB),¹¹ which will support the large-scale extension of its telecommunications infrastructure.

Chad does not have an ICT development strategy, despite the provisions of the law N° 012/PR/ 2014 establishing the ICT Development Agency (ADETIC) that is in charge of developing and implementing the national ICT strategy. Nevertheless, in addition to the ADETIC, several statutory institutions deal with ICT-related issues. The Regulatory Authority for eCommunications and Posts (ARCEP) is an independent administrative authority that works to implement the eCommunications law,¹² under the supervision of the Ministry of Post and ICT. The National Agency for Computer Security and eCertification, under the tutelage of the Presidency of the Republic of Chad,¹³ ensures the design and implementation of policies to combat cybercrime, to regulate and control national information systems security, as well as eCommunication networks. It coordinates national cyber security actions to ensure the security of government's systems and critical state infrastructure.

The institutional reforms undertaken between 2014 and 2015 came in parallel with a set of laws regulating the ICT sector. These include the law N° 014/PR/2014 on eCommunications, the law N° 009/PR/2015 on Cybersecurity and the fight against Cybercrime, the law N° 007/PR/2015 on Personal Data Protection, and the law N° 008/PR/2015 on eTransactions.

¹⁰ ARCEP; Chad / Sudan optic fiber network officially inaugurated (French); July 2019; accessed January 6, 2020: <https://bit.ly/3aTCZso>

¹¹ The World Bank; Central African Backbone - APL1A: <https://bit.ly/2RErYUf>

¹² ARCEP; Decree No.1606 on the organization and functioning of ARCEP: <https://bit.ly/38P4m4K>

¹³ ARCEP; Law No. 006/PR/2015 establishing the National Agency for Computer Security and eCertification: <https://bit.ly/2U5F6TI>

Reflecting the dismal growth of the ICT sector in the country, Chad is currently ranked 174th out of 176 countries worldwide and 36th out of 38 countries in Africa by ICT Development Index (IDI).¹⁴ As of 2000, the telecom sector was monopolised by Sotel-Tchad, the national telecommunications company established by the Telecommunications Act of 1998. As of 2000, Chad had a 0.7% mobile phone penetration rate, which was one of the lowest telephone densities in the world.¹⁵ Nevertheless, from 2005, the country has had multiple mobile and internet services providers, who currently include Sotel, Airtel, Tigo, Salam and nearly a dozen ISP. Moreover, from 2009 to-date, Chad's mobile telephone penetration rate increased from 20.4% to 45.9% while the internet penetration rose from 1.5% to 11.4%.¹⁷

3.2 Political Environment

The Republic of Chad is a landlocked country in central Africa, bordered by Libya to the north, Sudan to the east, the Central African Republic to the south, Cameroon and Nigeria to the southwest, and Niger to the west. Having been granted independence from France on August 11, 1960, Chad has since 1990 been led by Idriss Déby Itno under a shaky multiparty system. The president is directly elected by popular vote for a five-year term, without a constitutional term limit since 2005.

Chad's legislation is made by the National Assembly, which consists of 155 members elected for four-year terms, and the legal system is based on French civil law and Chadian customary law. Despite the constitution's guarantee of judicial independence, the president names most key judicial officials, such as the chief of justice. Chad's constitution underwent a revision in 2005, then in 2013, and most recently in May 2018. The latest amendment allows Déby to potentially rule until 2033, and subjects the Prime Minister's position to the discretionary power of the Head of State.¹⁸ However, in 2018, civil society, the opposition and religious leaders strongly protested against the adoption of the new constitution, noting that any amendments to the supreme laws should not have been done by parliament but through a national referendum.¹⁹

From the past decade to-date, Chad is considered an authoritarian regime by the Economist Intelligence Unit's Democracy Index.²⁰ Postponed several times, parliamentary and municipal elections are now scheduled for the first quarter of 2020. The last two decades have been marked by internal and border conflicts, the most recent being the fight against the terrorist group Boko Haram.²¹ Due to the socio-political instability it has experienced, Chad is considered a "fragile state".²²

¹⁴ ITU; ICT Development Index 2017; <https://bit.ly/2tSLom3>

¹⁵ ITU; Mobile cellular subscriptions – 2000-Dec 2019; accessed January 6, 2020: <https://bit.ly/2tTDty2>

¹⁶ ARCEP; Annual report 2018; Op. cit.

¹⁷ Ibid.

¹⁸ Chad on the road to the IVth Republic; accessed January 6, 2020: <https://bit.ly/2U7EmO1>

¹⁹ The Constitution of The Republic Of Chad promulgated on May 04, 2018: <https://bit.ly/2U7fR3I>

²⁰ The Economist Intelligence Unit's Democracy Index; accessed January 6, 2020: <https://bit.ly/36HFzhA>

²¹ United Nations. Economic Commission for Africa; Conflicts, insecurity and their impact on development in Chad; accessed January 6, 2020: <https://bit.ly/2OcXSov>

²² Fund For Peace; Fragile States Index Annual Report, 2019: <https://bit.ly/318vyZW>

3.3. Economic Status

With a population of 15.48 million,²³ Chad experiences humanitarian crises from neighbouring countries and hosts refugees from Sudan, the Central African Republic and Nigeria, who represent almost 4% of its total population. It is three-quarters a rural country with 80% of the population living below the poverty line, relying on subsistence farming and livestock raising.²⁴ Ranked as third from bottom in the world on the United Nations Development Programme's (UNDP) Human Development Index (HDI), it is 187th just before Sudan and Niger.

Chad's currency is the CFA franc. Its economy is mainly based on oil exports, with the agricultural sector also being key.

²³ The World Bank; Chad Overview; accessed December 28, 2019: <https://bit.ly/2vAazDu>

²⁴ HDI, Chad; accessed December 28, 2019: <https://bit.ly/2uJwmrR>

4

Results

This section traces the history, evolution, shifts and milestones of internet control measures in Chad since 1999. It also presents the efforts made by various stakeholders to denounce government abuses against internet freedom and to encourage progressive reforms aimed at ensuring lasting digital rights in the country.

4.1 Key Trends of the Internet Control Over the Last Two Decades

The period from 1999 to 2019 in Chad was marked by uninterrupted rule by Idriss Deby Itno who, upon coming to power in 1990, promised to categorically break from the horrors of the previous eight years and, in particular, the thousands of killings perpetrated under the regime of the former president, Hissène Habré. In his inauguration speech, Deby raised hopes that human rights would be respected in the new era, promising to work for a “real, pluralist democracy, guaranteeing all individual and collective freedoms.”²⁵

Following a referendum in March 1996, a new constitution was promulgated, which guarantees the right to freedom of expression in its article 27. The press law also confers on all citizens the freedom to express one's ideas and opinions by any means of communication.²⁶ Chad has also ratified the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR), both of which contain significant protections on freedom of opinion, freedom of expression, and the right of access to information.

However, over the last two decades, laws enacted, surveillance methods adopted, network limitations, invasions of the right to privacy, all go against these fundamental principles guaranteeing human rights.

²⁵ BUIJTENHUIJS Robert, « Introduction. Le Tchad à deux vitesses » ; *L'énigme Déby, La conférence nationale souveraine du Tchad : Un essai d'histoire immédiate*, Karthala, 1993, p. 16.

²⁶ Chad; Law No. 10-017 2010-08-31 PR on the press regime in Chad, Article 2: <https://bit.ly/2uRWi4Q>

4.1.1 Weaponising the Law to Legitimise Arbitrary State Actions

The national security discourse against freedom of expression

Despite all the constitutional provisions on freedom of expression, laws and regulations on contempt and defamation have been used over the last two decades to suppress free expression and critics of the Chadian government online and offline. In 2010, the law on the press regime in Chad included criminal penalties for defamation and upon conviction, the journalist is liable to fines ranging from 10,000 CFA francs (16.8 USD) to 500,000 CFA francs (840.6 USD), as well as a suspension for up to three months.²⁷ It defines defamation as “any imputation of a specific fact which is likely to affect the honour or consideration of a person or a corporate body”. This provision has served to limit criticism of government and public officials, despite removal from the press regime law of prison terms for defamation.

Enacted in 2015, the law on the Suppression of Terrorist Acts directly infringes on freedom of expression. In article 32, it punishes “by imprisonment of 8 to 10 years and a fine of 25 million to 50 million FCFA (or one of these two penalties), anyone who publicly praises acts of terrorism or directly provokes terrorist acts.” These penalties are doubled when the crime in question has been committed through “an online public communication service or through the written or audio-visual press”. This second paragraph of the article is more geared towards the press and users of social networks, which represents a great threat to freedom of expression and freedom of the press. As noted by Béral Mbaïkoubou, a member of the Chadian opposition, “this law is a springboard to undermine the freedom of expression, freedom of the press, freedom of association, etc., which are the pillars of democracy.”²⁸

Article 142 of the 2017 Chadian Penal Code (as amended) punishes “outrages against constituted bodies”, namely members of the government, the National Assembly and the judiciary, “by words, writing or drawings, by gestures or by the sending of any objects” with up to three years’ imprisonment and fines of up to 250,000 CFA francs (USD 420.3).²⁹ However, the law does not precisely define what constitutes “outrages”.

These regressive provisions in Chad’s laws have been used against web journalists and bloggers. In September 2016, journalist and blogger Tadjadine Mahamat Babouri (also known as Mahadine) was arrested by agents of the National Security Agency (ANS) for posting videos on Facebook that criticised the management of public funds and the economic crisis the country was experiencing. After being tortured and isolated from his family and lawyer, he was indicted for “undermining constitutional order, territorial integrity and national security... with an insurrectional movement.”³⁰

²⁷ Law on the press regime in Chad, *Op. cit.*; Articles 46, 51 and 52.

²⁸ Chad: anti-terrorism bill ; accessed December 28, 2019: <https://bbc.in/2SOkWvk>

²⁹ Articles 142, 143, 144 of Law No. 001/PR/2017 of the Chadian Criminal Code (Updated), Book II, Title II, Chapter III, Section I - Contempt of constituted bodies.

³⁰ CHAD. Journalist and blogger Mahadine in an alarming state of health (French); accessed January 10, 2020: <https://bit.ly/2uXwT9C>

Violations of internet freedom and online privacy

Since 2014, Chadian law criminalises the use of circumvention systems (such as Virtual Private Network - VPN - which can be used to circumvent communication blockages in the event of a network shutdown. The eCommunications Act, in its article 114, punishes with imprisonment of one to five years, a fine of 10 million to 200 million CFA (USD 16,811 to 336,196), or both penalties, “anyone who fraudulently uses an eCommunications network opened to the public for personal purposes, or connects fraudulently, by any means, on a private line.”³¹

In 2015, the Cybercrime Act came with provisions that can be used to crack down on free expression online and undermine the right to privacy. For example, article 105 potentially criminalises whistleblowing by condemning the dissemination of “information, objects, documents, digital data or computer files that must be kept secret in the interests of national defence.” This is punished by imprisonment of five to 10 years. Article 106 legitimises online censorship and promotes self-censorship. It condemns “public insult” and “defamation” by means of a public electronic communication, attracting the same penalties as press offenses committed by other means. The same is true for Articles 87 and 88 that condemn “threat” and “insult through a computer system” without clear definitions of these terms. In addition, Article 57 obliges operators of electronic communications services to “keep connection and traffic data for a period of 10 years” and “to install data traffic surveillance mechanisms in their networks”.

4.1.2 Surveillance galore: The Build-Up of the State’s Capacity

In addition to repressive legislation, the Chadian government has adopted surveillance measures against journalists, human rights defenders and citizens. Surveillance is used to monitor the activities of human rights defenders without providing the guarantees required by regional and international human rights commitments, such as ensuring the existence of robust judicial control or the possibility of genuinely challenging the legality of such measures in court.

According to a report issued by Amnesty International in 2017, some human rights defenders and journalists reported that their cell phones had been tapped - after their arrest, a report containing all their telephone conversations and their SMS messages was presented to them. In the same report, private telecommunication companies in Chad confirmed wiretapping and call monitoring practices, stating that the authorities justify it for national security reasons.³² The Chad’s Minister of Public Security and Immigration is quoted to have stated that: “You can be listened to and spied on, that’s the job of the security services.”³³ The same report reveals that following Boko Haram attacks in N’Djamena in June and July 2015, telephone surveillance equipment was replaced but is not limited to terrorism suspects, but applies also to other groups, including civil society organisations.³⁴

Faced with these surveillance techniques, human rights defenders increasingly relied on social media platforms such as Facebook, WhatsApp and Viber³⁵ as well as the use of VPN. However, the Chadian authorities deployed simultaneous methods to also maintain control over the internet and social media, notably network disruptions.

³¹ Chad; Law N° 014/PR/2014 on eCommunications; March 21, 2014; Article 114.

³² Amnesty International; Chad: Between Recession and Repression: The Rising Cost of Dissent in Chad; September 2017, p. 36.

³³ Ibid.

³⁴ Ibid.

³⁵ Chad: “For activists, the Internet has become the only area of freedom” (French translated), said Abdelkerim Yacoub Koundougoumi; accessed January 10, 2020: <https://bit.ly/2RHhoeZ>

4.1.3 Disrupting Networks – From SMS Censorship to Social Media Blockage to Internet Throttling

The first disruption to digital communication services in Chad coincided with the year the country enacted important ICT legislation. Since then, network disruptions have been systematically applied, mostly during public protests and around election times.

In November 2014, the government limited SMS, internet and money transfer services following street demonstrations by students and teachers denouncing the high cost of living, fuel shortages and falling wages. Some of the communications disruptions were applied to specific civil society and leaders of democratic opposition parties, which technically revealed targeted filtering, combined with real-time surveillance of their communications.³⁶ Some opposition members publicly denounced the attacks on their email accounts, Facebook accounts and telephone communications.³⁷ These network limitations, which lasted a little over a week, have not been publicly justified by the government or confirmed by the telecommunications service operators.

In March 2015, the government briefly suspended SMS services for 24 hours, during protests by some groups against the order for motorcyclists to wear helmets.³⁸ Asked about the reasons for the suspension, Bernard Padaré, spokesperson for the MPS - the party of President Deby - said, "It is to prevent attacks by onlookers on [protesting] students. When there are people who can harm public safety, the government can take such measures. It is a measure of public safety."³⁹

From April 10, 2016 (the day of the presidential election) to December 2, 2016, internet, social media platforms and messaging applications were disrupted in Chad following protests linked to the disputed victory of Idriss Deby for a fifth term. The government did not acknowledge ordering the disruption nor did telecom operators announce that they had blocked services. However, after the election the government spokesperson affirmed to the international press that regulatory authorities "have fully played their role," that connections are now re-established, except for the SMS shutdown "for security reasons." Moreover, it was reported that following president Déby's re-election, more than 10 websites were blocked during the same period when there was a social media blackout.⁴⁰ The affected websites were mainly for publishers that were very critical of Deby's regime, and they included tchadonline.com, magazine-charilogone.over-blog.com, tchadhanana.info, makaila.fr, east-side.chad.over-blog.com/tag/tchadenligne,, alwihdainfo.com, nouvelessor.over-blog.com, juliette.abandokwe.over-blog.com, zoomtchad.com, and tchadoscopie.over-blog.com.⁴¹

³⁶ Chad: widespread repression against demonstrators and international communications outages; accessed January 10, 2020: <https://bit.ly/3aXFJVA>

³⁷ His blocked email accounts: SOS of deputy Ngarléjy Yorongar (French); accessed February 10, 2020: <https://bit.ly/2OJcPPx>

³⁸ Clashes between students and police in Chad (French); accessed January 10, 2020: <https://bit.ly/2RGRVCu>

³⁹ Said in an interview Bernard Padaré, spokesperson for the MPS, party of President Déby; accessed January 10, 2020: <https://bit.ly/2RGRVCu>

⁴⁰ Chad Lifted the 16-Months Social Media Shutdown But Concerns Remain; accessed January 10, 2020: <https://bit.ly/2uSwO7q>

⁴¹ Chad: Between Recession and Repression: The Rising Cost of Dissent in Chad; Op. cit., p. 37.

In 2018, another internet disruption occurred for 24 hours on January 25, ordered by the government to prohibit an anti-austerity protest.⁴² Several civil society organisations and unions had called for a "peaceful march" on January 25 in major cities across the country to protest against "bad governance, injustices and anti-social measures taken by the government". Although the government had prohibited this march by sending SMS to the public via mobile operators, the internet outage was not publicly acknowledged or justified.

Then, from March 28, 2018 to July 13, 2019, following protests against changes to the constitution, the Chadian government blocked access to social media networks including Facebook, Twitter, WhatsApp, Instagram and YouTube, with the blockage lasting 16 months. Chad's president acknowledged the social media shutdown saying, "For several months, security imperatives had led the government to tighten access conditions and control measures for electronic communications."⁴³ In justifying the shutdown, president Deby is quoted to have stated that; "For a country like Chad that has gone through dark times, it is not permissible for the internet to be hijacked for malicious purposes by certain individuals with evil intentions for peace and national unity."⁴⁴

Over the past five years, Chad has experienced, systematic network interruptions whenever there have been public protests against the government. In these five years, people living in Chad would spend a cumulative period of up to 706 days without access to social media networks, several months without access to the internet, and sometimes without the possibility to send SMS or make phone calls. The internet is seen as state property over which the government exercises unfailing authority at the expense of citizens' digital rights.

4.1.4 The Push Towards Determining Identity Amidst Poor Oversight

Personal data registration systems have greatly favoured the government's surveillance mechanism over electronic communications. Seeming to ignore the right to anonymity, the eCommunications Act obliged mobile operators to identify their customers, under penalty of sanctions. This led to SIM cards registration and biometric data registration under several pretexts.

Biometric Data Registration

The President of the Republic of Chad created, by Order n° 001/PR/ 2016 of January 4, 2016, the National Agency for Secure Documents (ANATS), a statutory body under the supervision of the Minister in charge of Security. The mission of ANATS is to collect the biometric and biographical data necessary for the identification of people as well as the production of secure titles/ documents.

⁴² Chad: N'Djamena checked by the police, internet cut off; accessed January 10, 2020: <https://bit.ly/2GHcs3y>

⁴³ Idriss Deby Itno (French translated); accessed January 10, 2020: <https://bit.ly/3b08TDB>

⁴⁴ Id.: <https://bit.ly/2uLc7tT>

However, biometrics data collection was first introduced to Chad in 2015 by the Government and the United Nations High Commissioner for Refugees (UNHCR) for humanitarian reasons: identify and ensure better monitoring, as well as management of refugees and asylum seekers on Chadian territory, mainly from Sudan and the Central African Republic. The UNHCR Representative in N'Djamena, José A. Canhandula, explained at the official launch of the operation: "It is a long and far-reaching process that must be carried out methodically and rigorously through several phases, the final step of which will be documentation. For us, documentation is the concrete expression of the right to protection, the beginning of all rights, the 'rights upfront' in practice". Other reasons were given by Victorien Ndakass, Public Information Officer of UNHCR Chad, as follows: "The biometric verification and registration exercise allows us to have a better management of the mapping of the places where refugees live, and a centralised statistical database at country level as well as at global level."⁴⁵ Biometric registration therefore allowed a better census and made it possible to obtain the official figure of 380,000 refugees as of April 30, 2016, compared to around 420,000 who were claiming refugee rights before the biometric data collection.⁴⁶

In 2016, the biometric system was extended to citizens of voting age in the 2016 presidential elections. This was considered a means of obtaining a more reliable electoral list: with a biometric voter card, each voter could be registered only once and this made it possible to avoid the voters' roll inflation experienced in previous elections.⁴⁷ The biometric data collection process consists of digitisation of the documentary evidence of the personal identity, entry of the data necessary for identification on the computer system, taking a photo via webcam connected to the computer system, and taking fingerprints.

It was not until January 2020 that biometrics data collection spread to the rest of the Chadian population, foreigners living in Chad, and the Chadian diaspora.⁴⁸ It was done by the inauguration of the Integrated Population Management and Secure Documents System (SIGPTS) that aims to guarantee the reliability, integrity, security and protection of individuals' personal data, allowing better modernisation of the civil status system in Chad. It assigns each citizen a unique National Identification Number (NNI). With this, all Chadian identity documents (Passport, National Identity Card, Voter Card and Refugee Card - for those who need it) are henceforth biometric.

The mandatory SIM Card Identification

The Chadian government launched the mobile telephone subscribers' registration process in 2010.⁴⁹ At the time, there were 2.87 million telephone subscriptions in a country of 11.4 million people.⁵⁰ In 2014, a new impetus was given to the SIM card registration, with Law 014/PR/2014, Order No.040/MPTIC/10 relating to identification of subscribers to telecommunications networks, which made SIM card registration using identity documents compulsory.⁵¹ With this new impetus, the operators announced that registration of all existing subscribers would end in 2015. Since then, all new subscribers are registered.

⁴⁵ Chad: Verification and Biometrics - For more efficient management of refugee databases (French): accessed January 10, 2020: <https://bit.ly/2RKxlkM>

⁴⁶ Joint UNHCR / WFP assessment mission on the situation of Central African and Sudanese refugees in Chad; accessed February 10, 2020 : <https://bit.ly/38BVwb4>

⁴⁷ Biometrics in Chad: new technologies and old electoral recipes: <https://bit.ly/2uaGMkr>

⁴⁸ Chad: ANATS launches the Integrated Population and Secure Securities Management System (French): accessed January 10, 2020: <https://bit.ly/38TdnKe>

⁴⁹ Chad: OTRT Extends Subscriber Identification; <https://bit.ly/2RJgVc6>

⁵⁰ ARCEP, 2018 Report, Op. cit.: <https://bit.ly/31mWVQ5>

⁵¹ Law regulating e-communications and postal activities; <https://bit.ly/319Iajp>

In order to ensure that all new subscribers obey the identification rule, the government imposed a fine of 2,500 FCFA (USD 4.5) per month for every non-identified mobile phone subscriber.⁵² This measure appears in Law No. 043/PR/2019 of December 31, 2019 on the General State Budget for 2020. Article 56 stipulates, "From January 1, 2020, mobile operators are required to identify all their subscribers under penalty of a fine of 2,500 FCFA per month, per unidentified subscriber. A period of six months is granted to mobile operators to comply. Notably, it is the operator who is supposed to pay the fine, not the unregistered subscriber.

Started in 2010 and intensified since 2014 (beginning of the legal reform of the ICT), this SIM cards identification would be closely linked to the surveillance mechanisms put on the telephone communications of journalists, representatives of civil society and the opposition. Some reports of targeted surveillance on electronic communications⁵³ or targeted listening to mobile phone communications⁵⁴ may show that the phone lines of the affected targets were obtained from the SIM card's identification files of mobile operators.

4.2 Key Positive Developments

While the Chadian government suppressed the use of ICT, most notably in the last decade, non-state actors did not remain inactive. This section describes the advocacy and push-back by non-state actors, as well as some progressive measures registered in the country.

4.2.1 Robust Advocacy and Push-back by Non-State Actors

Chadian civil society has been very active on the country's political landscape⁵⁵ and its efforts notably led to a referendum for the adoption of the previous constitution. Over the past years, civil society has used various advocacy strategies to put pressure on the government regarding the multiple digital rights violations, mainly network disruptions, ICT surveillance mechanisms and muzzling of voices.

About 20 organisations around the world co-signed a press release to alert the international community about the SMS disruption in 2014.⁵⁶ When the government started to tighten the grip on digital rights and besides the ICT legislation, the Law on the Suppression of Terrorists Acts was adopted in 2015 with more restrictions on individual freedoms online, civil society protested. A collective of three civil society organisations - the Chadian League for Human Rights (LTDH), the Association of Chadian Trade Unions, and the Chadian Teachers' Union - protested the promulgation of this law, publishing a press release that detailed its multiple provisions deemed dangerous and liberticidal.⁵⁷

⁵² Chad; Law No. 043 / PR / 2019 of December 31, 2019 on the General State Budget for 2020, <https://bit.ly/31dvnfM>

⁵³ His blocked email accounts: SOS of deputy Ngarléjy Yorongar; Op. cit. : <https://bit.ly/2OJcPPx>

⁵⁴ Amnesty International; September 2017, p. 36, Op. cit..

⁵⁵ Pierre Collet; The challenges of civil society in Chad, August 4, 2016.

⁵⁶ Press release of the Collective of Solidarity with the Social and Political Struggles in Africa; November 17, 2014: <https://bit.ly/2UerdTy>

⁵⁷ Analysis of the anti-terrorism bill in Chad; accessed January 6, 2020: <https://bit.ly/320o8Z4>

Similarly, national and international media civil society and activists expressed great indignation when the Chadian government disrupted access to the internet and social media platforms from 2016 to 2019.⁵⁸ Activists who could use VPN or gain internet access from over the Cameroonian border were able to provide updates to international civil society. International media houses proceeded the same way with their correspondents in the country, to keep the international community informed of the persistence of the disruptions.

Protest campaigns were launched online and offline by digital rights defenders and civil society, which international media houses then covered. Internet Without Borders led the international campaign “Maala Gatetou” (*Why did you cut my Internet?*)⁵⁹ on the internet and social networks, supported by several other digital rights defenders.

Open letters were sent to the highest authorities in the Chadian government. This was the case for the one co-signed by over 20 organisations,⁶⁰ which was addressed to Chad Prime Minister Albert Pahimi Padacke, copied to Minister of Post and ICT, Mahamat Louani Gaodi, recalling the history of network disruptions in Chad, the provisions of the UN’s Human Rights Council resolution condemning internet shutdowns,⁶¹ and urging the government to immediately lift the internet blockage.

A joint submission was made to the United Nations Human Rights Council (UNHRC) Universal Periodic Review (UPR) in its 2018 Cycle on Chad’s continuous network disruptions and overall digital rights violations.⁶² The three submitting organisations (Internet Sans Frontières, Access Now, and Utopie Nord-Sud) addressed the violations of freedom of expression and access to information, and the right to privacy, and recommended that Chad improves its human rights record and respect for digital rights in several areas.

4.2.2 Adoption of Progressive Measures

In 2015, the government enacted the Data Protection Law, Law No. 007 / PR / 2015 of 10 February 2015, to regulate the collection, processing, transmission, storage and use of personal data. Article 1 of the law establishes the principle that the ICT can infringe freedoms and privacy. The article states that the law “ensures that ICT do not infringe on individual or public freedoms, including privacy.”⁶³ The law also criminalised data falsification in an information system as well as the use of falsified data. Conviction attracts a prison sentence of one to 10 years, and/or a fine of one million to 10 million (Articles 70-75). The law also outlaws spamming, punishing anyone who uses a protected computer system to relay or retransmit multiple emails with the intention of deceiving or misleading, or who “materially falsifies the information in the headers of multiple emails and intentionally triggers the transmission of said messages”. Sentences range from one to five years imprisonment and / or a fine of one million to 10 million (Article 99).

⁵⁸ Chad - where social media has been cut for a year; accessed January 6, 2020: <https://bbc.in/38XrtKF>

⁵⁹ International campaign to bring back internet in chad - Internet Sans Frontières; accessed January 6, 2020: <https://bit.ly/2U6S8Ao>

⁶⁰ Internet Sans Frontières et al.; #KEEPITON: Open Letter To The Chadian Government On Blocked Social Media; July 2, 2016; accessed January 6, 2020: <https://bit.ly/37Do9nw>

⁶¹ Access Now; U.N. passes landmark resolution condemning internet shutdowns; accessed January 6, 2020: <https://bit.ly/31jcN5V>

⁶² Internet Sans Frontières, Access Now and Utopie Nord-Sud; Joint submission to the United Nations Human Rights Council Universal Periodic Review 2018 Cycle – Chad : <https://bit.ly/2RMV4AJ>

⁶³ Chad; Law N° 007/PR/2015 on the Protection of Personal Data; February 10, 2015; Chapter I: Object and scope; Article 1.

Chad has also recently made positive moves in the area of taxation. Since 2014, the Chad government has applied excise duty on mobile operators through the Finance Act. It went from 4% in 2014 to 7% in 2016, 18% in 2017, 9% in 2018 and 2019. This excise tax doubled again from 2019 to 2020, now going to 18%. However, article 28 of the 2020 Finance Act states that "The rate of excise duty on declared monthly turnover by mobile phone companies is 18%. Fixed, wired and internet communications are excluded from the taxable base." Although maintaining the excise duty on other mobile telephone services, the article abolishes the excise duty on the internet, leading to a potential drop in internet prices. Following this, the Director General of ARCEP instructed operators to urgently apply new internet rates in accordance with the law.⁶⁴

⁶⁴ Letter from the Director General of ARCEP to the Director General of Airtel Tchad, December 31, 2019; accessed January 10, 2020: <https://bit.ly/39GtBqn>

5

Conclusion and Recommendations

5.1 Conclusions

The Telecommunications Act of 1998 marked a take-off with the ICT sector's liberalisation and the creation of the first institution in charge of control and regulation. However, the decisive sector's restructuring occurred in the past decade, 2009–2019, with many legal, institutional and infrastructural reforms. The same period also marked the event of severe repression orchestrated by the government.

The study has demonstrated how Chadian laws on ICT such as the eCommunications Act, the Cybercrime and Cybersecurity Act, the Personal Data Protection Act, contain provisions which undermine digital rights. The same is true for some provisions of the Penal Code and the Law on the Press, which use “defamation”, “insult” as an excuse to stifle free expression. The study also detailed how the excuse of “national security” has gradually become a malicious slogan not only to muzzle critical voices, but also to implement everlasting internet, SMS and social media disruptions, to collect citizens' private data, and to implement surveillance mechanisms, against the provisions of international conventions on human rights.

The study documented and analysed how the period from 2014 to 2019 can be considered as a dark period in the history of digital rights in Chad, with multiple internet, social network and SMS disruptions. The last five years have been particularly worrying, as Chad experienced systematic network interruptions whenever there were public protests against the government. If the events that caused various network disruptions were different, the reason given by the government to justify them has usually been the same: national security. Considering the extreme recurrence of these network shutdowns, if pressure is not applied on the Chadian government to protect internet freedom, the disruptions are likely to recur.

The study also presented how the Chadian state has gradually introduced personal data registration mechanisms and undermined the right to anonymity online, to the point where it has now become mandatory for all Chadian citizens to be listed with complete identity and biometric data. This widely facilitates the surveillance of people targeted by the government, such as activists, journalists, human rights defenders, and the political opposition.

The study showed the role played by non-state actors, who deployed various advocacy strategies, with their national and international campaigns since 2014 bringing to the attention of Chadian citizens and the international community the digital rights abuses perpetuated by Chad's government. However, their actions were not enough to push the government to revise its repressive laws and adopt more favourable provisions. Instead, Chad has become increasingly despotic and stands out as one of the worst internet freedom predators in Africa.

5.2 Recommendations

Government

- Collaborate with other stakeholders to make more informed decisions on policy, legislation and development of the ICT sector while respecting human rights.
- Repeal the provisions that undermine digital rights in laws on eCommunications, Personal Data Protection, Cybersecurity and Cybercrime.
- Specify the status of online journalists in the law relating to the Press Regime with regard to the principles of internet openness.
- Amend the ICT-related provisions in the Penal Code according to the specificities of online expression.
- Revise the ICT-related provisions in the law on the Suppression of Terrorist Acts which directly or indirectly affect internet users.
- Ensure the availability and affordability of ICT services through laws and policies, infrastructure development and control of companies' activities.
- Ensure that the institutions in charge of different aspects of ICT (ARCEP, ADETIC, ANATS) fully play their roles in respecting human rights.
- Ensure the development of a national ICT strategy that prioritises programs to improve access, security, privacy.

Telecommunications companies

- Ensure the availability and quality of services to subscribers in accordance with regulatory obligations and subscription contracts.
- Respect the privacy rights of customers in accordance with international best practice and the relevant national laws, except for provisions that require amendment.

Civil society

- Identify key issues for internet freedom in Chad and conduct continuous advocacy until they are sustainably resolved.
- Raise awareness on digital rights, how to identify violations and the different ways to report them.
- Monitor and report in real time all trends that may directly or indirectly affect digital rights/ internet freedom.
- Advocate for the adoption of more progressive laws by proposing to the government the appropriate amendments to laws that are detrimental to digital rights.

Media

- Equip themselves with accurate knowledge on media issues related to ICT such as disinformation, hate speech, and cyberattacks to avoid being prosecuted or becoming victims.
- Acquire the appropriate skills for online information dissemination and fact-checking.
- Educate themselves on the principles and different aspects related to digital rights, to exercise their rights online in accordance with the duties relating thereto.
- Acquire knowledge on digital rights for better coverage and reporting of possible violations.

Academia

- Establish research units on ICT with a focus on digital rights.
- Conduct comparative research with other countries to inform on best practices.
- Share research outcomes with the government, stimulate discussions to facilitate understanding and encourage the adoption of best practices.

Users

- Acquire knowledge on digital rights and ensure the security of the hardware, software or applications they use.
- Report possible violations of their rights by third parties to the appropriate authorities.



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