

Digital Rights in Sierra Leone

Freedom of Expression and Opinion
Freedom of Information
Right to Equal Access and Opportunity
Right to Privacy

Submission to the 38th session of the Universal Periodic Review, Sierra Leone.

SUBMITTING ORGANISATIONS



CIPESA
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CIPESA was established in 2004 under the Catalysing Access to Information and Communications Technology in Africa (CATIA) initiative, which was mainly funded by the UK's Department for International Development (DfID). CIPESA works to enable policy makers in the region to understand ICT policy issues, and for various stakeholders to use ICT to improve governance and livelihoods.



Small Media
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Established in 2011, Small Media is a London-based organisation that works to support freedom of expression and access to information globally. Small Media works with their global partners to develop strategies and tools that can support human rights defenders, activists and journalists to work safely and effectively in the digital age. They support their network of partners to develop data-driven advocacy strategies that bring about meaningful change.



Campaign for Human Rights and Development International
[Website](#)
[Address](#)

Rights based social-policy advocacy Organisation. CHRDI is in Special Consultative Status to the United Nations Economic and Social Council and accredited to many UN Agencies.



Sierra Leone Reporters Union
[Website](#)
[Address](#)

The Sierra Leone Reporters Union is the umbrella body for reporters in Sierra Leone.



Citizens Advocacy Network
[Website](#)
[Address](#)

Citizens Advocacy Network (CAN) is a non-governmental organisation that deals with issues of human rights, rule of law and democratic good governance in Sierra Leone.



The Institute for Governance Reform
[Website](#)
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The Institute for Governance Reform (IGR) is a policy think-tank that is working to bridge the gap between knowledge and policy in Sierra Leone.

Introduction

1. Human rights online, especially the right to privacy, freedom of expression, opinion and the right to access information, are important issues in Sierra Leone and must be reflected in the recommendations made during the third cycle of the UPR in April-May 2021.
2. In the second cycle of the UPR, Sierra Leone received 213 recommendations from 77 countries, with seven referencing freedom of expression and the press. None of them, however, referred to online rights.
3. The latest data from the International Telecommunications Union (ITU) indicates that as of June 2018, the percentage of individuals using the internet in Sierra Leone is 13.2%,¹ in comparison to 11.8% in 2016.² With growing digitisation, it's even more important for UPR recommendations to explicitly reflect the need for fundamental freedoms to be protected online as well as offline, in line with Sierra Leone's obligations under Articles 17 and 19 of the International Covenant on Civil and Political Rights (ICCPR), Article 9 of the African Charter and Section 25 of the Constitution.

Updates since the previous review

4. According to ITU data, in 2016, 23.4 in every 100 inhabitants had a mobile broadband subscription³. By 2018 (the most recent year ITU data is available for) the figure had risen to 25.6 in every 100⁴.
5. As part of efforts to promote freedom of expression and the press, in September 2019, cabinet approved the repeal of Part V of the Public Order Act, which criminalised defamation and libel.⁵ This repeal was formally approved by Parliament in July 2020.⁶
6. In March 2018, the government of Sierra Leone instituted an internet shutdown on the day of elections. [The election monitoring group](#), *Sierra Leone Decides*, reported that Internet Service

¹ ITU, 'Measuring the Information Society Report 2018', <https://www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2018/MISR-2018-Vol-2-E.pdf>, Last Accessed 14 October 2020

² "Measuring the Information Society Report 2017 – Volume 2", International Telecommunications Union. https://www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2017/MISR2017_Volume2.pdf, Last Accessed 14 October 2020

³ "Measuring the Information Society Report 2017 – Volume 2", International Telecommunications Union. https://www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2017/MISR2017_Volume2.pdf

⁴ ITU, 'Measuring the Information Society Report 2018', <https://www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2018/MISR-2018-Vol-2-E.pdf>

⁵ Reports Without Borders, <https://rsf.org/en/sierra-leone>, Last Accessed 14 October 2020

⁶ SNRADIO, 'Sierra Leone Repeals Part 5 Of The Public Order Act Of 1965', <https://snradio.net/sierra-leone-repeals-part-5-of-the-public-order-act-of-1965/>, Last Accessed 14 October 2020

Providers (ISPs) said the measure was aimed at stopping the National Electoral Commission and other bodies from sharing results on the elections with party affiliates.⁷

7. On August 4, 2020, Members of Parliament and other stakeholders made contributions to the proposed Cyber Security Bill during deliberations at the Pre-Legislative stage. The Bill aims to address emerging cyber security challenges and establish a National Cyber Incident Response Team (NCIRT) to monitor incidents.⁸

Freedom of Expression and Opinion

8. Section 25 of the Sierra Leone Constitution Act No. 6 of 1991 guarantees the protection of freedom of expression and the press, providing for the right to hold opinions, receive and impart ideas and information without interference, and the freedom to own, establish and operate any medium for the dissemination of information, ideas and opinions, and academic freedom in institutions of learning. However, in contrast, section 32 of the **Sierra Leone Public Order Act** of 1965 (POA)⁹, disallows the publication of false statements, rumours or reports which are “likely to cause fear or alarm, to the public or to disturb the public peace”, “calculated to bring into disrepute any person who holds an office under the Constitution, in the discharge of his duties”, and “likely to injure the credit or reputation of Sierra Leone or the Government”. This provision falls under Part V of POA, which has often been used to harass journalists and government critics. Following a presidential promise, in September 2019, cabinet approved the repeal of Part V of the Public Order Act, which criminalised defamation and libel.¹⁰ The repeal was finalised by Parliament in July 2020.
9. On May 1, 2020, law enforcement authorities raided the home of Dr. Sylvia Blyden, an opposition politician and journalist and arrested her on allegations of incitement and subversion. She was taken into custody at the Criminal Investigation Department (CID), detained for over three weeks, and later charged with violating sections 27, 32, and 33 of Sierra Leone’s Public Order Act. The Commonwealth Press Union (CPU) Media Trust reported that the charges against Blyden were based on her posts on Facebook and Twitter criticising the leadership of President Julious Maada Bio, and alleging that former defense minister Alfred Palo Conteh had been mistreated in detention. Police officers also reportedly seized three phones and three computers from Blyden’s home during her arrest.¹¹

⁷ Africa Fex, ‘Sierra Leone Joins Global Trend: Shuts Down Internet and Mobile Services During Elections’, https://www.africafex.org/digital-rights/sierra-leone-joins-global-trend-shuts-down-internet-and-mobile-services-during-elections_trashed, Last Accessed 14 October 2020

⁸ The Sierra Leone Telegraph, ‘Proposed Cyber Security Bill goes through pre-legislative stage in parliament’, <https://www.thesierraleonetelegraph.com/proposed-cyber-security-bill-goes-through-pre-legislative-stage-in-parliament/>, Last Accessed 14 October 2020

⁹ Public Order Act of 196, https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=28567&p_country=SLE&p_count=166, Last Accessed 14 October 2020

¹⁰ Reports Without Borders, <https://rsf.org/en/sierra-leone>, Last Accessed 14 October 2020

¹¹ CPU, ‘Sierra Leone journalist Sylvia Olayinka Blyden detained, charged over social media posts’, <http://cpu.org.uk/intimidation-harassment/sierra-leone-journalist-sylvia-olayinka-blyden-detained-charged-over-social-media-posts/>, Last Accessed 14 October 2020

10. In November 2016, 23 year-old student Theresa Mbomaya was arrested and detained at the maximum security prison in Freetown, for forwarding a WhatsApp message about a planned anti-government protest. Mbomaya was charged on the basis of “incitement contrary to law and publishing false information contrary to the Public Order Act of 1965”.¹² Mbomaya was detained for five days and later tried before court.¹³ In January 2017, Mbomaya was acquitted of all charges against her.¹⁴
11. In September 2019, activist and freelance journalist Mahmud Tim Kargbo¹⁵ was arrested and detained on two occasions over posts on Whatsapp and Facebook criticising a judge's decision to grant bail to several local politicians. On the first arrest, Kargo issued a written apology to the judge and was released without charge after two days detention. On the second arrest, Kargbo was detained for three days and charged with 44 counts of criminal defamation and libel under Sierra Leone’s 1965 Public Order Act.¹⁶ Since being granted bail, the case remains pending.

Freedom of information and censorship of content

12. Sierra Leone’s Access to Information law aims to uphold the public’s ‘right to know’ within the context of press freedom and to protect the right to access information by everyone. Passed in 2013, it provides for the disclosure of information held by a public authority, or persons providing services for them.¹⁷
13. However, exemptions under Part II of the law related to unspecified national security and defense, international relations, investigations and law enforcement defeat the purpose of access to information in public interest and open justice.
14. Whereas the repeal of libel and defamation provisions of the Public Order Act are a positive step towards advancing freedom of expression, the passing of the Independent Media Commission (IMC) Act 2020, raised new concerns around censorship. The new law empowers the Independent Media Commission to shut down media houses on ambiguous grounds of “public interest”.¹⁸ The

¹²The Sierra Leone Telegraph, ‘Female student in Sierra Leone arrested and detained for sharing WhatsApp message’, <https://www.thesierraleonetelegraph.com/female-student-in-sierra-leone-arrested-and-detained-for-sharing-watsapp-message/>, Last Accessed 14 October 2020

¹³The Guardian, ‘Free Speech Becomes a Talking Point in Sierra Leone as Whatsapp Storm Rages’, <https://www.theguardian.com/global-development/2016/nov/24/free-speech-talking-point-sierra-leone-whatsapp-storm-rages>, Last Accessed 14 October 2020

¹⁴<https://www.amnesty.org/en/latest/news/2018/01/sierra-leone-avoid-use-of-excessive-force-in-the-leadup-to-elections-and-protect-civic-space/> Last Accessed 14 October 2020

¹⁵<https://cpj.org/2019/10/sierra-leone-journalist-mahmud-tim-kargbo-charged/>

¹⁶CPJ, ‘Sierra Leone journalist Mahmud Tim Kargbo charged with criminal defamation’, <https://cpj.org/2019/10/sierra-leone-journalist-mahmud-tim-kargbo-charged/>, Last Accessed 14 October 2020

¹⁷The Right To Access Information Act, 2013, <http://www.sierra-leone.org/Laws/2013-02.pdf>, Last Accessed 14 October 2020

¹⁸The Sierra Leone Telegraph, ‘New Independent Media Commission laws undermine media pluralism and fair competition’, <https://www.thesierraleonetelegraph.com/new-independent-media-commission-laws-undermine-media-pluralism-and-fair-competition/>, Last Accessed 14 October 2020

IMC has in the past been heavy-handed in its role, once issuing an ultimatum in July 2019 to suspend 12 media houses for non-payment of fines.¹⁹

15. Sallieu Tejan Jalloh, the editor of *The Times* newspaper was detained in November 2019 for sending a text message to Sierra Leone's Chief Minister, Prof. David Francis seeking clarification on an alleged corruption matter involving the Office of the Chief Minister.²⁰

Right to Equal Access and Opportunity

16. There are four leading telecommunications service providers in Sierra Leone - Orange, Africell, Qcell and Sierratel - with Africell having the lion's share of the market. Internet penetration remains low - 25% as at January 2020²¹. The country is ranked 57 out of 61 countries in [internet affordability](#).
17. In addition to affordability challenges, poor quality of service persists. In 2018, the Native Consortium & Research Center filed a lawsuit against three telecommunications companies and the national telecommunications regulator for breach of contract and breach of statutory legislation respectively. This was after the mobile network operators (MNOs) increased their tariffs without a corresponding improvement in service, as promised. This matter awaits a summary judgement at the High Court.²²
18. There is also an ongoing litigation against MNOs and the regulator - National Telecommunications Commission (NATCOM), again led by the Native Consortium and Research, seeking to reverse implementation of floor pricing for voice calls.²³
19. Sierra Leone has a Universal Access Development Fund, aimed at promoting access in underserved areas. The Fund has rolled out various access projects including roll out of community access centres, ICT accessibility for persons with disabilities, internet connectivity for schools and tertiary institutions and promotion of local content, among others. Towards increased connectivity, the Fund is spearheading the roll out of the National Transmission Backbone Infrastructure.²⁴ However, there have been reports of misappropriation of universal access funds - with a 2019 audit revealing that funds earmarked for infrastructure were instead used to cover NATCOM salaries and

¹⁹ <https://thecalabashnewspaper.com/sierra-leone-imc-to-suspend-newspapers-radio-station/>

²⁰ SNRADIO, 'Sierra Leone Police Released On Bail Journalist Sallieu Tejan-Jalloh', <https://snradio.net/sierra-leone-police-released-on-bail-journalist-sallieu-tejan-jalloh/>, Last Accessed 14 October 2020

²¹ 'Digital 2020: Sierra Leone', <https://datareportal.com/reports/digital-2020-sierra-leone>, Last Accessed 14 October 2020

²² The World News, '300 litigants sue mobile phone companies', <https://theworldnews.net/sl-news/300-litigants-sue-mobile-phone-companies>, Last Accessed 14 October 2020

²³ News Watch, 'Native Consortium takes NATCOM to Court on Floor Price Protest', <https://newswatchnewspapersl.com/2020/04/14/native-consortium-takes-natcom-to-court-on-floor-price-protest/>, Last Accessed 14 October 2020

²⁴ Universal Access Development Fund, <https://uadf.gov.sl>, Last Accessed 14 October 2020

administrative expenses.²⁵

Right to data protection and privacy on the internet

20. Although Sierra Leone lacks comprehensive legislation upholding citizens' right to privacy, section 22 of the Constitution guarantees the right to privacy. The absence of a law that specifically addresses data privacy has left a regulatory gap which undermines consumer protection and potentially opens the door to data exploitation by private entities and government agencies alike.
21. Whereas the progress of the Cybersecurity Bill through the pre-legislative stage is a welcome development in efforts to promote consumer protection, data privacy and combating cybercrime, the passing of a data protection law would further strengthen these efforts. Indeed, the Directorate of Science and Technology has encouraged the Ministry of ICT to “work on the Data Protection Bill as well, so that it can sit alongside the Cyber Security Bill, maintaining that both Bills should go together.”²⁶
22. Sierra Leone is one of many countries in Africa to mandate compulsory SIM card registration.²⁷ However, SIM card related fraud has been widely reported, causing huge losses to government and mobile companies.²⁸

Proposed Recommendations

23. In light of Sierra Leone's existing record on freedom of opinion and expression, freedom of the press, and the right to privacy online, the submitting organisations call on states to offer the following recommendations to Sierra Leone:
 - a. The government must exercise its authority in ensuring that all its organs and entities comply with rights and obligations under the Access to Information Law including proactive disclosure by duty bearers and responsiveness to citizens information requests
 - b. Government should expedite enacting of the Data Protection and Cyber-Security legislation through participatory and consultative processes.

²⁵ ITWeb, ‘Sierra Leone's telco regulator under fire for alleged mismanagement’, <https://itweb.africa/content/raYAYModQrwqJ38N>, Last Accessed 14 October 2020

²⁶ The Sierra Leone Telegraph, ‘Proposed Cybersecurity Bill goes through pre-legislative stage in parliament’, <https://www.thesierraleonetelegraph.com/proposed-cyber-security-bill-goes-through-pre-legislative-stage-in-parliament/>, Last Accessed 14 October 2020

²⁷ Night Watch, ‘Ahead Of Natcom's Sim Registration Deadline... Orange Sl Ceo Spurs Staff To Target And Register More Subscribers’, <http://www.nightwatchsl.com/ahead-of-natcoms-sim-registration-deadline-orange-sl-ceo-spurs-staff-to-target-and-register-more-subscribers/>, Last Accessed 14 October 2020

²⁸ Standard Times Press, ‘SIM Box Fraud: Govt. Loses \$150million Yearly’, <https://standardtimespress.org/?p=579>, Last Accessed 14 October 2020



SMALL MEDIA 



CIPESA and Small Media UPR Submission, Session 38

- c. Abstain from arbitrary arrests and detention of journalists, media workers and critics simply for exercising their right to freedom of expression online or offline.
- d. Amend the Independent Media Commission (IMC) Act 2020 to provide for oversight and redress mechanics for the decisions of the Commission
- e. Continue efforts to promote access and inclusion under the universal service fund while ensuring transparency and accountability of the fund's resources

