

State of Internet Freedom in Rwanda 2019

Mapping Trends in Government Internet Controls, 1999-2019

January 2020



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Credits

This research was carried out by the Collaboration on International ICT Policy for East and Southern Africa (CIPESA) with support of various partners.

This research documents the trends in government internet controls, 1999-2019 in Rwanda 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, Chad, the DRC, Ethiopia, Kenya, Malawi, Nigeria, 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.

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1

Introduction

1.1 Introduction

Internet freedom in Rwanda has been on the decline over the past several years as the government has continued to adopt aggressive and sophisticated measures that curtail internet freedoms. This is despite the growth in internet penetration that has been experienced over that period, from less than 1%¹ in 2000 to 52 %² by the end of 2018.

The curtailment and regression have been primarily characterised by the proliferation of retrogressive and repressive policies and laws that criminalise online communication and dissent, such as the ICT law,³ and the 2008 Interception of Communication law (amended in 2013),⁴ that allow national security services to apply for interception warrants to monitor citizens' voice and data communications on the grounds of national security.

Digitisation programmes that require the collection of massive biometric data have been introduced and they include the National ID project, the recently launched East African e-passport⁵ and the proposed DNA data bank. The implementation of these key programmes raised concerns over the protection of data privacy in the past two decades.

In the past 20 years, the Rwandan government has also used evidence in court cases of some opposition politicians and critics, which had been obtained in a controversial manner where privacy rights may have been violated through communications interception. However, in 2018, government prosecution lost a landmark case where mobile communications-based evidence was used to prosecute suspects.⁶

While the country has ambitions of becoming an ICT hub in the region and has adopted various technologies in government services that boost digital governance and promote investment in the sector to enhance service delivery,⁷ there have been practices that have raised concerns over rights to privacy,⁸ and many gaps have been identified in ICT legislation, policies and other programmes that appear to be well-intentioned.

¹ Rwanda Internet Users <https://www.internetlivestats.com/internet-users/rwanda/>

² Rwanda's Internet penetration rate reaches 52.1% in 2018 http://www.xinhuanet.com/english/2019-04/16/c_137979616.htm

³ Law Governing ICT in Rwanda, available at https://minict.gov.rw/fileadmin/Documents/Mitec2018/Policies_Publication/ICT_Laws/ICT_LAW-2-222__1_.pdf

⁴ http://www.vertic.org/media/National%20Legislation/Rwanda/RW_Law_48_2008_Interception_Communications.pdf retrieved on 13/10/2019

⁵ Rwanda begins issuing East African E-Passport <https://www.newtimes.co.rw/news/rwanda-begins-issuing-east-african-e-passport> retrieved on 27/8/2019

⁶ Rwanda mulling more restrictions <https://www.theeastafrican.co.ke/news/ea/Now-Rwanda-mulling-more--restrictions/4552908-5120920-1an5laz/index.html> retrieved 27/8/2019

⁷ Investment opportunities <https://rdb.rw/investment-opportunities/ict/> Retrieved on 27/08/ 2019

⁸ Rwanda sparks human rights concerns in proposing world's first nationwide DNA database <https://www.independent.co.uk/news/world/africa/rwanda-dna-database-human-rights-privacy-a8832051.html>

Last Retrieved

It is therefore important to situate the on-going discussions around internet rights by providing an in-depth analysis of the trends of how these government policies and practices have shaped and restricted digital rights in Rwanda over the last 20 years.

The study therefore seeks to inform all stakeholders on the best practices to promote online freedom and digital safety as well national security. This is important since it will assess the government's efforts to protect national security in a justified manner without denying citizens' rights to online freedom of expression.

1.1 Aim of the study

This research sought to document the extent to which government controls of the digital space have affected or limited internet freedom in Rwanda since the year 1999. Specifically, the study traced the trends and developments in the digital space in the period between 1999 and 2019. The study focused on the proliferation of retrogressive or repressive policies and laws; surveillance and surveillance capacity of governments; digitisation programmes; censorship; and demands on private sector actors.

The study also sought to identify measures that can secure internet freedom in Rwanda and inform policy makers, media outlets, academia, technologists, civil society and other researchers on the policy, legal, institutional and practical landscape to identify opportunities for improvement of the digital space.

2

Methodology

The study employed qualitative methods including literature review, legal analysis and key informant interviews to gather detailed explanations on the state of internet freedom in the last two decades. The context of key drivers of events that affected internet freedom in Rwanda in the last 20 years was also analysed. This provided an understanding of factors that influenced online freedom of expression negatively or positively.

Reports of previous studies on Internet freedom were reviewed. The news analysis consisted of articles published by local, regional, and international news outlets plus academic work. Websites of key relevant government institutions, including the Rwanda Utility Regulatory Authority (RURA) - the ICT and telecom regulator) - were reviewed to collect data and analyse the policies.

Reports from The New Times and The East African, two news outlets that have extensively reported ICT-related news and court cases in Rwanda, were extensively used for reviews and analysis. Other news outlets that covered ICT and other news related to internet freedom and digital rights were also examined.

The Ministry of ICT and Innovation website was used to collect key information on ICT laws and orders affecting Internet freedom and ICT in general. The website of the National Identity Agency (NIDA), and Irembo, the online platform used for government services applications, were analysed too so as to appreciate the mass data collection programmes and privacy protection efforts, including on the legal environment of data privacy and protection.

Key Informant Interviews were conducted with purposely selected respondents, among whom were victims of internet freedom violations, media experts, human rights defenders, and a lawyer specialising in digital rights, freedom of expression, and media freedom.

3

Country Context

3.1 ICT Status

The ICT sector has played a key role in Rwanda's economy and it is a priority sector as the country desires to become an ICT hub to build a knowledge-based economy. In the past 20 years, the sector has grown significantly, led by telecommunication services, technology innovations and e-government services.⁹ Official data shows that as of 2000, only 40,000 people used mobile phones, representing 0.49% of the country's population of eight million people.¹⁰ As of 2019, 77% of the total population (12 million) had mobile phones. Internet penetration was 0.5% in 2000, translating into 5,000 users, while in 2019 the internet penetration rate stood at 44%, meaning 5.6 million Rwandans use the Internet.¹¹

The Rwandan telecommunications market is now composed of two telecom operators (MTN Rwanda Ltd and Airtel-Tigo Rwanda Ltd), five internet service providers (ISPs), one wholesale network service provider (KT Rwanda Ltd), two network facility providers and 26 retailer internet service providers as of March 2019. The competition that followed the entry of Rwandatel in 2006 and subsequent entry of Tigo Rwanda boosted the consumption of mobile phone services and subscription growth.¹² In 2017, Airtel Rwanda acquired Tigo Rwanda, a deal that was approved by the regulator in January 2018.¹³

According to RURA, with two major operators in the mobile telephone sector – MTN Rwanda and Airtel-Tigo Rwanda – the internet penetration rate has continued to grow, while the growth of fixed telephony – provided by Rwandatel – remained almost stagnant. As of March 2019, MTN Rwanda was the leading telecom operator with 4,814,522 active subscribers and 52% of the market share, while Airtel-Tigo Rwanda had 4,511,745 active subscribers or 48% of the market share.¹⁴

⁹ <https://indiancolumnist.com/2019/08/28/rwanda-telecoms-mobile-and-broadband-market-professional-survey-with-industry-key-players-rwandatel-terracom-lapgreen-mtn-rwanda-liquid-telecom-tigo-rwanda-2019-2023/> retrieved on 31/8/2019

¹⁰ Number of mobile cellular subscriptions per 100 inhabitants in Rwanda from 2000 to 2018 <https://www.statista.com/statistics/510562/mobile-cellular-subscriptions-per-100-inhabitants-in-rwanda/> retrieved on 31/08/2019

¹¹ Rwanda <https://www.internetworldstats.com/af/rw.htm> retrieved on 31/8/2019
<https://indiancolumnist.com/2019/08/28/rwanda-telecoms-mobile-and-broadband-market-professional-survey-with-industry-key-players-rwandatel-terracom-lapgreen-mtn-rwanda-liquid-telecom-tigo-rwanda-2019-2023/> retrieved on 31/8/2019

¹³ RURA Approves Tigo Rwanda Acquisition By Airtel <https://ktpress.rw/2018/01/rura-approves-tigo-rwanda-acquisition-by-airtel/> retrieved on 31/8/2019

¹⁴ Quarterly Statistics report https://rura.rw/fileadmin/Documents/ICT/statistics/Quarterly_Telecom_Statistics_report_as_of_March_2019_.pdf retrieved on 31/8/2019

In June 2013, the Government of Rwanda and Korea Telecom (KT) entered into a Public-Private Partnership (PPP) to install a wide-ranging high-speed broadband network and expand the nation's online services capacity.¹⁵ Currently 97% of Rwanda is geographically covered by 4G LTE. In 2016, Rwanda was cited by the GSMA as one of the African countries where high taxation on telecom services hinder the growth of the mobile phone sector. By 2016, the consumption tax on telecommunication services had risen from 8% percent to 10% percent of service revenues in previous years.¹⁶ The levies that have undermined access to mobile services includes levies imposed on mobile consumers and operators, corporation taxes, turnover taxes and revenue taxes, along with the one-off license fee, the one-off spectrum fee, universal service obligation, the variable license fee and the variable spectrum fee.

3.3 Political Environment

Gender equity is one of the pillars of the country's governance and Rwanda has been recognised as having a parliament with the highest percentage of women in the world.¹⁷ Moreover, the country has been relatively politically stable and maintained continuous economic growth since the 1994 genocide, when the current ruling party, the Rwanda Patriotic Front (RPF), it took over power after ousting the forces responsible for the genocide.

During the period under review, the country held two referendums, one to adopt a new constitution in 2003¹⁸ and another to amend the constitution in 2015.¹⁹ The 2015 amendments allowed president Paul Kagame to vie for re-election in 2017 for a seven-year term, to be followed by two possible five-year terms, Kagame has won all three presidential elections held since 2000. However, the government has been criticised for its poor human rights record, notably, the silencing of critics and the media and limiting freedom of expression. The 2018 European Union report on the country's human rights and democracy raised concern over the serious violations of civil and political rights despite progress on economic and social rights.²⁰

¹⁵ About <https://www.ktrn.rw/about> retrieved on 1/9/2019

¹⁶ Taxes hindering growth of mobile services in Africa, new report says <https://www.theeastafrican.co.ke/business/Taxes-hindering-growth-of-mobile-services-in-Africa/2560-3334678-dlw0vt/index.html> retrieved on 19/10/2019

¹⁷ Revisiting Rwanda five years after record-breaking parliamentary elections, <https://www.unwomen.org/en/news/stories/2018/8/feature-rwanda-women-in-parliament>

¹⁸ EU election observation mission to Rwanda in 2003 https://eeas.europa.eu/headquarters/headquarters-homepage/26331/eu-election-observation-mission-rwanda-2003_mn

¹⁹ Rwanda: Referendum Approves Extended Presidential Terms <https://www.loc.gov/law/foreign-news/article/rwanda-referendum-approves-extended-presidential-terms/>

²⁰ EU Annual Report on Human Rights and Democracy in the World 2018 - Rwanda https://eeas.europa.eu/delegations/rwanda/62839/eu-annual-report-human-rights-and-democracy-world-2018-rwanda_en

3.3 Economic Status

In the last two decades, the country's economy has grown steadily, as reflected in the country's GDP per capita (PPP) rising from USD 207 in 2000 to USD 826 in 2019.²¹ According to 2018 statistics from the Ministry of Economic Planning and Finance, imports of goods contracted by 5.6% in 2017 whereas exports of goods expanded by 44.5%. This means that the balance of trade has improved between 2016 and 2017. Going forward, the government will maintain focus on expanding the export base and continue initiatives like Made in Rwanda to boost consumption of locally made products. Tourism receipts have experienced strong growth in recent years, rising by 38.7% annually on average from 2000 to 2017. The telecom sector revenues contribute 2.8% to the GDP, while ICT contributes 3%.²²

A continued focus on MICE (Meetings, Incentives, Conferences and Events) is expected to boost tourism receipts, aided by the ongoing construction of a new international airport. Remittances recorded a 24.1% increase between 2016 and 2017.²³ The 2017 growth performance was 6.1%, driven by the services sector and agricultural sector which grew by 7%, much higher than its five-year average. The agriculture sector is expected to register a good performance in food and crops exports due to continuing investments to improve seeds and extend small-scale irrigation; industry is expected to grow at 8.3% in 2018 and 13.1% in 2019, boosted by mining and construction resulting from the ongoing improvement in international mineral prices and the construction of a new airport and private sector projects.

²¹ Rwanda GDP per capita PPP <https://tradingeconomics.com/rwanda/gdp-per-capita-ppp> retrieved on 2019

²² Infrastructure & ICT <http://www.gov.rw/about-the-government/infrastructure-ict/> retrieved on 18/9/2019

²³ Key Statistics on Rwanda http://www.minecofin.gov.rw/fileadmin/user_upload/Key_statistics_on_Rwanda_Feb_25.pdf retrieved on 18/9/2019

4

Results

4.1 Key Trends of Internet Controls Over the Last Two Decades

This section traces the history, evolution, shifts and milestones of internet control measures in Rwanda since 1999. The reason is to provide a deeper appreciation of intervening political and socio-economic considerations behind the different control measures introduced and applied by the Rwandan government.

4.1.1 Weaponising the Law to Legitimise Actions

Since 2008, Rwanda has adopted legislation with provisions that could be used to curtail digital rights and online freedom of expression. Some have provisions that allow the interception of private communications and online censorship and they mostly use national security as a justification. By the end of 2018, Rwanda had enacted laws related to cybercrime and computer misuse and online content regulation.

Legalizing Surveillance and Interception of Communications

In 2008, Rwanda adopted the Interception of Communications law (amended in 2013) that allows national security services to apply for the issuance of interception warrants to monitor citizens' voice and data communications on grounds of national security.²⁴ Warrants are issued by the national prosecutor who is appointed by the justice minister. In urgent security matters, a warrant may be issued verbally, "but the written request shall be completed in a period not exceeding twenty-four hours." A warrant is valid for three months. Additionally, Article 8 of the interception of communications law as amended in 2013 requires service providers to ensure that their systems "are technically capable of supporting interceptions at all times."²⁵

The law does not provide any significant limitations to the authorities' capacity to intercept communications: there is no requirement to justify the interference with someone's privacy as necessary and proportionate to a legitimate aim.

²⁴ Article 3 of the Law on Interception of Communication http://www.vertic.org/media/National%20Legislation/Rwanda/RW_Law_48_2008_Interception_Communications.pdf

²⁵ The Right to Privacy in Rwanda https://privacyinternational.org/sites/default/files/2017-12/Rwanda%20UPR_PI_submission.pdf

Rise of National Security and Terrorism as a Justification for Repressive Laws

The protection of national security, fight against terrorism, and the preservation of public order have been used to enact repressive laws. For example, Article 52(1) of the Law No. 44/2001 of 30/11/2001 Governing Telecommunications empowers the minister in charge of telecommunications policy and law, to “interrupt or cause to be interrupted, any private communication which appears dangerous to the national integrity, contrary to law, public order or public morals.”²⁶

Additionally, section 55 of the Law 44/2001 governing telecommunication also provides exceptions to the prohibition of interception of communications under section 54. In particular, a court may authorize the interception upon request from relevant authorities (ministry of justice, the ministry of defence, the ministry of commerce or the regulatory board) if it deems it necessary on grounds of national security; public security; or for the prevention, investigation, detection and prosecution of criminal offences.²⁷

In addition, Article 41 of law 60/2018 of 22/8/2018 on Prevention and Punishment of Cybercrimes²⁸ targets those who create and publish sites for “terrorist” groups. It provides that “any person who establishes, publishes, or uses a site of a terrorist group using the internet, a computer or computer system in order to facilitate communication by its leadership or its members, raise its funds, or disseminate[s] its ideas or knowledge of how it operates, commits an offense.”

Silencing Dissent and Criticism through Criminalization of Free Speech

Criminal law has been used to prosecute and punish online critics. Army officers, opposition politicians and activists have been prosecuted since 2000. There have been plans to regulate and control social media. In May 2019, the minister of ICT and Innovation stated in parliament that they wanted to tackle fake news and misinformation online.²⁹ However, journalists, bloggers and other internet users have been arrested and interrogated over their activities online.³⁰

In June 2011, Jean Bosco Gasasira, the exiled editor of Umuvugizi newspaper, was sentenced to two and a half years in jail for civil disobedience and insulting president Kagame on the online version of his newspaper.³¹ In April 2010, the print publication of the same newspaper was suspended for six months for allegedly inciting violence and criticising the head of state. The Media High Council ordered that the website be blocked, arguing that the ban on the newspaper had to apply online as well. Umuvugizi was unblocked after the six-month suspension period had expired, though it reportedly experienced periodic filtering throughout 2011. The site is still not accessible, and the URL has different content.³²

In March 2016,³³ the Military Court in Rwanda sentenced Colonel Tom Byabagamba to 21 years in jail and Brigadier General (rtd) Frank Rusagara to 20 years in jail after they were both found guilty of tarnishing the image of the country. For Rusagara,

²⁶ Law No. 44/2001 of 30/11/2001 Governing Telecommunications <http://www.rura.rw/fileadmin/laws/TelecomLaw.pdf>

²⁷ The Right to Privacy in Rwanda https://privacyinternational.org/sites/default/files/2017-12/Rwanda%20UPR_PI_submission.pdf

²⁸ Law on Prevention and Punishment of Cybercrimes https://minict.gov.rw/fileadmin/Documents/Mitec2018/Policies_Publication/ICT_Laws/Law_on_prevention_and_punishment_of_cyber_crimes.pdf retrieved on 16/10/2019

²⁹ <https://www.theeastafrican.co.ke/news/ea/Now-Rwanda-mulling-more-restrictions/4552908-5120920-1an5laz/index.html>

³⁰ Watch What You Post On Social Media Or The Government Is Coming For You: Here are 10 Victims

<https://www.chronicles.rw/2019/09/19/watch-what-you-post-on-social-media-or-the-government-is-coming-for-you-here-are-10-victims/> retrieved on 16/10/2019

³¹ Rwanda: Exiled editor sentenced for ‘insulting’ president <https://cpj.org/2011/06/rwanda-exiled-editor-sentenced-for-insulting-presi.php> retrieved on 16/10/2019

³² <http://www.umuvugizi.com/>

³³ State of Internet Freedom in Africa 2016 https://cipesa.org/?wpfb_dl=225 retrieved on 16/10/2019

it was stated that on several occasions he circulated, mainly through his email, propaganda based on mere rumours with an aim of tarnishing the image of the state. During the hearings, the military prosecution displayed messages that the former general shared using the email.

On September 17, 2019, an appeals court in Kigali ruled against the bail application of three young Youtubers who had been in custody since late 2018. Jean Damascène Mutuyimana, Jean Baptiste Nshimiyimana and Schadrack Niyonsenga were accused of using IWACU TV YouTube channel to spread rumours that could undermine state security.³⁴ The channel is alleged to have posted various videos, including one where they reported that the government was panicking due to the Rwanda National Congress, a group of dissidents in exile headed by exiled former army chief General Kayumba Nyamwasa. The trio denied the charges, instead telling the court that they only aimed to use their YouTube channel to make money by writing enticing headlines to attract people, not to fight the government. The appeals court ruled that they remain in custody until the start of their case on October 5, 2019.

In May 2019, the Ministry of ICT announced in parliament plans to regulate social media, saying it was meant to stop misinformation and defamation online before it “gets out of hand.”³⁵ According to Minister of ICT and Innovation Paula Ingabire, the planned regulation aimed at protecting citizens and government, creating a safe online space. Additionally, articles 60 and 206 of Law N°24/2016 of 18/06/2016 Governing Information and Communication Technologies prohibits the dissemination of “grossly offensive” or “indecent” messages as well as the use of ICTs to cause “annoyance, inconvenience, or needless anxiety.”³⁶ Dozens of social media users have been arrested for the content deemed “rumours”, “divisions”, “obscene” among others. Some were released without prosecutions.³⁷ While issues such as fake news are a global challenge, these restrictions could be used to control social media conversation in the country and contravene existing constitutional guarantees of citizens’ freedom of expression.

Criminal Defamation

Criminal defamation provisions in laws have been used to charge media professionals and other critics. John Kalisa, a citizen journalist for the entertainment website Kigalihits, was arrested at the end of 2012 on allegations of defamation after he posted on his Facebook page a photo of a young girl on a drinking spree. Kalisa had previously been arrested and warned on similar offences.³⁸

Articles 233 and 236 of the new revised Penal Code³⁹ published in the Official Gazette in 2018,⁴⁰ which prohibited the cartooning of politicians or public officials and defamation against the President of the Republic, respectively, could hinder press freedom and freedom of expression. The media community was worried that these articles could be used to silence the press. Such clauses have been in place for the past 30 years and the Rwanda Journalists Association sought legal interpretations on how the two articles could affect press freedom. The provisions were later repealed.

³⁴ Watch What You Post On Social Media Or The Government Is Coming For You: Here are 10 Victims

<https://www.chronicles.rw/2019/09/19/watch-what-you-post-on-social-media-or-the-government-is-coming-for-you-here-are-10-victims/> retrieved on 16/10/2019

³⁵ Now Rwanda mulling more restrictions <https://www.theeastafrican.co.ke/news/ea/Now-Rwanda-mulling-more-restrictions/4552908-5120920-1an5laz/index.html> retrieved on 16/10/2019

³⁶ https://minict.gov.rw/fileadmin/Documents/Mitec2018/Policies_Publication/ICT_Laws/ICT_LAW-2-222__1_.pdf

³⁷ <https://www.chronicles.rw/2019/09/19/watch-what-you-post-on-social-media-or-the-government-is-coming-for-you-here-are-10-victims/>

³⁸ State of Internet Freedoms in Rwanda

2014 https://cipesa.org/?wpfb_dl=179 last retrieved on 16/10/2019

³⁹ What is prominent in the new penal code? <https://www.newtimes.co.rw/news/what-prominent-new-penal-code> last retrieved on 17/10

⁴⁰ Official Gazette no. Special of 27/09/2018 <https://rwandalii.africanlii.org/sites/default/files/gazette/OG%2Bno%2BSpecial%2Bof%2B27-09-2018.pdf> last retrieved on 17/10/2019

4.1.2 Website Blockages and Censorship

In past decades, the form of network disruption that was used to control digital rights and deny citizens access to information is mostly website blockage. While there were no reported cases of internet shutdowns in Rwanda, there have been several cases of restriction of access to websites, both local and international, through blocking and banning. The motivation for website blockage appears to be censorship but authorities claim that websites, online platforms, and blogs that have been blocked were spreading rumours and genocide ideologies, and inciting division.

Under the media law and laws on promoting genocide ideology, several websites, mostly critical online newspapers, and websites of opposition groups, have been blocked in Rwanda. In 2010, the government banned the newspapers Umuseso and Umuvugizi, citing “violation of the media law and inciting public disorder.” Online news site Umusingi was blocked in 2011. Likewise, the online news site Inyereri was reported to have been blocked over several years.⁴¹

In 2014, the Kinyarwanda service of BBC Great Lakes was banned indefinitely following a controversial documentary aired by the BBC programme called Panorama Service.⁴² The documentary titled: ‘Rwanda: the untold story’ challenged the official narrative of the 1994 genocide, implicating some army officers and stating that the number of Tutsis killed during the genocide could be smaller than previously reported. The Rwandan government and some scholars said the documentary amounted to denial of genocide but the BBC rejected those accusations, stating it met its editorial standards. According to the Committee to Protect Journalists (CPJ), the suspension of BBC Great Lakes was illegal and illogical.⁴³ The BBC website was also blocked as a crackdown on those broadcasting the controversial documentary ensued.

The website was later unblocked. The BBC GreatLakes Radio services was banned indefinitely following a documentary titled: Rwanda, the “Untold story” that challenged the official narrative of the 1994 Genocide against Tutsis. There was no announcement on its unblocking website. It is now available, but BBC’s Kinyarwanda and Kirundi services have been suspended on FM.

In May 2015, various independent news outlets and opposition blogs were reported to have been blocked for some time, including Veritas Info, The Rwandan, and Le Prophete. The editors of some of these outlets were also charged in court over publishing material considered defamatory, endangering national security or amounting to genocide denial.⁴⁴ Many were convicted, while some fled into exile.⁴⁵ In the cases which have been adjudicated publicly, the blockage of the websites was ordered by the Court of the Press Ombudsman. However, not all blockages or other attacks on critical websites have been issued through transparent, legal, or known processes.⁴⁶ For example, John Williams Ntwali, the owner of www.ireme.net and www.ireme.org, one of the independent and critical websites whose publisher is still living in Rwanda, has had his websites maliciously taken down, possibly by state agents. As of August 2016, the local language website of the news media outlet Great Lakes Voice was blocked by authorities, according to the State of Internet Freedom in Africa 2016 report.

⁴¹ Safeguarding Civil Society // East Africa <https://smallmedia.org.uk/work/safeguarding-civil-society-east-africa> retrieved on 17/10/2019

⁴² Safeguarding Civil Society // East Africa <https://smallmedia.org.uk/work/safeguarding-civil-society-east-africa> retrieved on 17/10/2019

⁴³ BBC's Rwanda documentary leads to illogical, illegal suspension <https://cpj.org/blog/2014/10/bbc-rwandan-documentary-leads-to-illogical-illegal.php> last retrieved on 17/10/2019

⁴⁴ <https://www.hrw.org/news/2017/03/08/rwandan-blogger-stand-trial-genocide-ideology>

⁴⁵ https://smallmedia.org.uk/media/projects/files/SCSEastAfrica_2017_pywMkUK.pdf

⁴⁶ Safeguarding Civil Society // East Africa <https://smallmedia.org.uk/work/safeguarding-civil-society-east-africa> last retrieved on 17/10/2019

In August 2019, Ugandan news websites were blocked in Rwanda in what appears to be a retaliation measure following the blockage of two pro-Rwanda government news websites by Ugandan authorities.⁴⁷ Rwandan websites blocked in August were, www.thenewtimes.co.rw, www.igihe.com, VirungaPost.com, Rushyasha.net, <https://thegreatlakeseye.com/>⁴⁸ Some of the Ugandan websites blocked included www.monitor.co.ug, www.newvision.co.ug, and www.softpwer.com. Uganda's communications regulator said it blocked the Rwandan sites because they were conducting online propaganda and online "hate campaigns" targeting Uganda's president, as well as top security officials and intelligence agencies. The website blockages followed a steady deterioration in the two countries diplomatic relations, with Rwanda's RURA stating that it blocked the Ugandan sites in retaliation for actions by its Ugandan counterpart. In August 2019, the telecom and media regulator said the two countries agreed to unblock each other's websites.⁴⁹ However, all the sites remain blocked to-date.

In Rwanda, several independent online news outlets and critical blogs, local and international, were unavailable between 2014 and 2015. Three BBC websites were blocked in October 2014 as part of the government's response to the television broadcast of the documentary, "Rwanda, The Untold Story."⁵⁰ Most websites are still blocked with all the BBC websites now accessible.

⁴⁷ Uganda blocks online access to Rwandan newspaper, casting shadow over pact to end tensions

<https://www.theeastafrikan.co.ke/news/ea/Uganda-blocks-online-access-to-Rwandan-newspaper/4552908-5246556-vu6cej/index.html> last retrieved on 17/10/2019

⁴⁸ UCC blocks access to Rwanda websites over 'hate campaign', <https://www.vanguardnews.ug/ucc-blocks-access-to-rwanda-websites-over-hate-campaign/>

⁴⁹ Rwanda says Uganda agrees to unblock news sites <https://www.theeastafrikan.co.ke/news/ea/Rwanda-says-uganda-agrees-to-unblock-news-sites/4552908-5246754-37v5diz/index.html>

⁵⁰ Freedom House (2015) Freedom of the Net 2015/Rwanda <https://freedomhouse.org/report/freedom-net/2015/rwanda>

4.1.3 Surveillance Galore: The Build-Up of the State's Capacity

In past decades, surveillance and communication interception were reported and legalised under various laws. The government is reported to have built its surveillance capacity through various practices such as the acquisition of surveillance software. Freedom House reported Rwanda that in 2015 the country attempted to purchase surveillance equipment.⁵¹ Further, evidence gathered through communication surveillance has been used in various court cases. The country also according to media reports used Israel surveillance software to spy on dissidents via whatsapp.⁵²

Going High-Tech to Implement Surveillance

In April 2014, Rwanda's surveillance activity on the communications on perceived dissidents was revealed in the trial against popular singer Kizito Mihigo. Private WhatsApp and Skype messages the singer purportedly exchanged with alleged opposition critics in exile were used against him as evidence to convict him of conspiracy to overthrow the government. He was sentenced in February 2015 to 10 years in prison.⁵³

Similarly, communication interception was conducted to gather evidence during the trial of Diane Rwigara, an opposition politician who attempted to challenge Kagame in the 2007 presidential election.⁵⁴ WhatsApp messages were provided by the prosecutors as evidence in the case against the government critic who was accused of inciting the public against the government. However, the prosecution lost the case over insufficient evidence.

In March 2016, the Military Court in Rwanda sentenced two soldiers, Colonel Tom Byabagamba and Brigadier General (rtd) Frank Rusagara to 21 years and 20 years in jail respectively, after they were found guilty of tarnishing the image of the country, among other offences. For Rusagara, it was stated that on several occasions he circulated, mainly through his email, propaganda based on rumours with an aim of tarnishing the image of the state. During the hearings, the military prosecution displayed messages that the former general purportedly shared by email.⁵⁵

In 2018, there were media reports⁵⁶ that the country was planning to purchase surveillance camera systems in the 2018/2019 financial year to be installed in different public places in Kigali, with a focus on areas where many people meet. According to the reports, Rwf 5 billion (About USD 5,300,000) would be spent on procuring cameras and related equipment needed to install them, such as optic fibre and poles. Each site was to be outfitted with 3-4 cameras, making a total of 349 cameras throughout the city. The CCTV plan was proposed by the Rwanda Information Society to "beef up" security.⁵⁷ There have been concerns over citizens' privacy and possible misuse of data collected through CCTV cameras in public places. However, the police maintain the technology system is used for security and the data are well protected.⁵⁸

⁵¹ <https://www.refworld.org/docid/5be16afd116.html>

⁵² <https://www.ft.com/content/d9127eae-f99d-11e9-98fd-4d6c20050229>

⁵³ State of Internet Freedoms in Rwanda 2014 https://cipesa.org/?wpfb_dl=179 retrieved on 18/10/2019

⁵⁴ Now Rwanda mulling more restrictions <https://www.theeastafrican.co.ke/news/ea/Now-Rwanda-mulling-more--restrictions/4552908-5120920-1an5laz/index.html> retrieved on 18/10/2019

⁵⁵ State of Internet Freedom in Africa 2016 https://cipesa.org/?wpfb_dl=225 retrieved on 18/10/2019

⁵⁶ Rwf5bn earmarked for CCTV surveillance system in Kigali <https://www.newtimes.co.rw/news/rwf5bn-earmarked-cctv-surveillance-system-kigali>

⁵⁷ Ibid

⁵⁸ <http://rwandatoday.africa/news/Should-public-worry-about-privacy-of-data-/4383214-5410794-12woyi5/index.html>

4.1.4 The Push Towards Determining Identity Amidst Poor Oversight

Like many other African countries, Rwanda has introduced measures to identify telecommunication services users that accompany digital identities programs, including SIM card registration, biometric data collection for national identity cards and passports. It is not clear how private data is managed, raising concerns over potential abuse in a country that lacks a comprehensive data protection law.⁵⁹

Mandatory SIM Card Registration

SIM card registration was introduced in 2013, giving the regulator, RURA, and other authorised persons or institutions open access to the SIM card databases of service providers. The telecom regulator gave subscribers six months to register their phone, warning them that unregistered SIM cards would be deactivated.⁶⁰ Registration requires a National Identity Card that contains names ID number and the place where the document was issued. In 2018, RURA announced new regulations to limit an individual's SIM cards ownership to a maximum of three per network, saying the move was aimed at curbing fraud. RURA had set January 31, 2019 as the deadline to comply with new regulations.⁶¹

Rapid Adoption of Biometric Data Collection

In 2008, Rwanda officially launched the issuance of National IDs⁶² after the passage of the law relating to Rwandan Nationality.⁶³ However, since 2007, the National Identification Agency (NIDA) has been issuing biometric IDs to more than 80% of the adult population to be used as proof of identity to access various services ranging from banking to social security. The NIDA was established by Law No 43/2011 of 31st October 2011 as an independent government agency with a clear mission and functions.⁶⁴ Before then, NIDA was a project approved by a cabinet meeting held on August 13, 2006. For implementation of the project, a technical committee was set up by the cabinet on August 8, 2007.

In 2016, the government announced the introduction of a new electronic ID for both online and offline identification, with printed identification information on the surface such as personal details and a photograph, as well as an embedded microchip.⁶⁵

In March 2019, the government announced plans to establish a deoxyribonucleic acid (DNA) and biometric database for all citizens. Officials stated that the project was meant to curb crime, especially defilement, rape, and murder cases. According to the Rwanda Investigation Bureau (RIB), criminal investigation was sometimes delayed by testing the DNA of several suspects before identifying the culprit. The Rwandan attorney general said they would examine global best practice on the issue and propose an appropriate law before implementing the DNA database.⁶⁶ The planned DNA database prompted concerns from human rights campaigners who believe the database could be misused by the government and that it would violate international human rights laws.⁶⁷

⁵⁹ Safeguarding Civil Society // East Africa <https://smallmedia.org.uk/work/safeguarding-civil-society-east-africa> retrieved on 18/10/2019

⁶⁰ SIM card registration Compulsory – RURA <https://www.newtimes.co.rw/section/read/61093> retrieved on 10/18/2019

⁶¹ RURA clarifies new simcard regulations <https://www.newtimes.co.rw/news/rura-clarifies-new-simcard-regulations> retrieved on 18/10/2019

⁶² National ID launch today <https://www.newtimes.co.rw/section/read/4519>

⁶³ ORGANIC LAW N° 30/2008 OF 25/07/2008 Relating to Rwandan Nationality http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Rwanda/rwanda_nationality_2008_en.pdf

⁶⁴ Statement about NIDA <https://www.nida.gov.rw/index.php?id=5> retrieved on 19/10/2019

⁶⁵ Rwanda to introduce new eID cards <https://www.biometricupdate.com/201605/rwanda-to-introduce-new-eid-card>

⁶⁶ Rwanda proposes DNA database for all citizens <https://www.newtimes.co.rw/news/rwanda-proposes-dna-database-all-citizens> retrieved on 19/10/2019

⁶⁷ Rwanda sparks human rights concerns in proposing world's first nationwide DNA database <https://www.independent.co.uk/news/world/africa/rwanda-dna-database-human-rights-privacy-a8832051.html> retrieved on 19/10/2019

In June 2019, Rwanda started issuing electronic passports, following other East African Community member states like Kenya, Uganda, and Tanzania. According to media reports, the new passport is meant to boost faster border clearance and regional integration. Immigration officials said the e-passport is more secure, as it features a microchip, making it tamper-proof.⁶⁸ Like other digital identity projects, it is not clear how private data is managed in the absence of a standalone data protection law.

In July 2015, the Irembo platform was launched.⁶⁹ It is a one-stop portal for e-Government services. It provides government services online with ease and convenience. Almost every government service is applied through the online platform, whereby users provide their personal data. The platform has a data-related privacy policy that is published online. According to the policy, personal data is collected voluntarily.⁷⁰ It further states that “It is not intended that the E-Government Services Online Portal can be used anonymously. But no personal information shall be collected from you unless you provide it voluntarily. You will know if the Government Online Portal is collecting personal information from you because you will be requested to provide it.”

However, the platform shares data collected with other government agencies in the performance of “their duties”. According to the platform’s policy, personal data is collected to provide services requested, including services from third party providers. Irembo may share the information with government institutions, ministries, and agencies in the performance of their official duties and when providing the services that users request for. It is worth noting that the service is provided by RwandaOnline Platform Ltd (ROPL), a private company, through a 25 years public-private partnership with the government of Rwanda.⁷¹

⁶⁸ Rwanda launches EAC e-passport <https://www.theeastafrican.co.ke/news/ea/Rwanda-launches-eac-epassport/4552908-5175624-1e3gdz/index.html> retrieved on 19/10/2019

⁶⁹ About Us <https://irembo.gov.rw/rolportal/en/aboutus> retrieved on 19/10/2018

⁷⁰ Privacy Statement <https://irembo.gov.rw/rolportal/en/privacystatement> retrieved on 19/10/2019

⁷¹ Irembo <https://www.linkedin.com/company/irembo.gov>

4.1.5 Deploying Bots, Cyber-attacks, and Disinformation

In the past, Rwanda has tried to control internet conversation, claiming to fight misinformation, disinformation, hate speech, or fake news. The government has reportedly used pseudonymous accounts on Twitter and other social media platforms to intimidate journalists, commentators and rights activists and spread propaganda. In March 2014, one such Twitter account, which had taunted journalists over their coverage alleging government's complicity in the murder of an opposition leader, was found to belong to a staff member of the office of the president.⁷² Once foreign journalists pointed out that the person running the disinformation account @RichardGoldston also had access to president Kagame's Twitter account, Kagame's office tweeted: "@RichardGoldston was an unauthorized account run by an employee in the Presidency. It has been deleted and the staff member reprimanded."⁷³ The individual, whom the president's office told the BBC was a "junior employee", had regularly trolled government critics, the United Nations, African Union and the Tanzanian government which at the time was viewed as unfriendly to the regime in Kigali. In 2018 as the country geared for parliamentary elections the government trolls manipulation of online content, harassment and attacks against online journalists and human rights defenders continued.⁷⁴

In 2018 the former Secretary General of La Francophonie, Canadian Michaelle Jean was trolled on Twitter after commenting on the trial of Diane Rwigara.⁷⁵ Online trolling and attacks on perceived enemies of the Rwandan government appears to be a trend until now. In March 2019 Ms Winnie Byanyima, the then head of OXFAM, current director of UNAIDS was also attacked on social media after commenting on tense Rwanda-Uganda relations. Ms Byanyima called on the two countries' leaders to resolve the crisis or "ship out and let others restore peaceful relations".⁷⁶

During the October 2017 presidential elections, the National Electoral Commission (NEC) announced measures to regulate social media content for presidential candidates. The NEC said it would approve candidate's messages before they were posted online to avoid "poisoning the minds" of Rwandans. The measure was criticised in the country among social media users and other human rights organisations, and later was shelved. Some observers stated that it would amount to censorship and could have hindered democratic elections and favoured the ruling party by silencing critics.⁷⁷

Messages that were to be scrutinised under the rules included photographs and videos on Facebook, Twitter, YouTube, WhatsApp, and Instagram. The NEC had said that candidates' websites and social media accounts could be blocked if they failed to abide by its decisions.

⁷² Twitter war shines light on how Rwanda intimidates press <https://cpj.org/blog/2014/03/twitter-war-shines-light-on-how-rwanda-intimidates.php> retrieved on 19/10/2019

⁷³ #BBCTrending: The troll in the president's office, <https://www.bbc.com/news/blogs-trending-26536732>

⁷⁴ <https://www.refworld.org/docid/5be16afd116.html>

⁷⁵ <https://www.theeastafrican.co.ke/news/ea/Rwandans-troll-outgoing-Francophonie-boss-over-Rwigara-case/4552908-4844674-53luju/index.html>

⁷⁶ <https://www.chronicles.rw/2019/03/04/oxfam-director-byanyima-under-fire-over-her-uganda-rwanda-comments/>

⁷⁷ Rwanda: National Election Commission to censor candidates' online campaign messages

<https://www.article19.org/resources/rwanda-national-election-commission-to-censor-candidates-online-campaign-messages/> retrieved on 19/10/2019

4.2 Key Positive Developments

Despite negative trends that hindered internet freedom and digital rights in past decades, there have been some positive developments to advance freedom of expression online in Rwanda. They include progressive legislation and the repeal of repressive legislation.

4.2.1 Adoption of Progressive Legislation

In February 2013, the government passed several progressive laws that provided for the rights of access to information and media, including online rights. The Access to Information Law⁷⁸ enables the public and journalists to access information held by public organs and some private bodies. The law established modalities and procedures to promote the publication and dissemination of information.

Law No 2 of 2013 on Regulating Media (Media Law) provides some safeguards for freedom of the press but contains a lot of provisions which pose a threat to journalists and independent media including online media.⁷⁹ Article 19 of the law provides that every person has the right to receive, disseminate, and send information over the internet as well as the right to create a website through which they may disseminate information without needing to be a professional journalist. The 2013 media law was welcomed as a positive reform of the regressive 2009 law for its recognition of self-regulation, the legal rights for journalists and not requiring journalists to possess academic qualifications.⁸⁰

In June 2017, the country's ICT and Telecom regulator, RURA dismissed the electoral body's directive on moderating online content during campaigns for elections. The initiative was seen by many as suppressing free speech online. The Rwanda National Election Commission (NEC) had planned to vet candidate's posts on social media. According to the controversial directive, texts, photographs were to be approved by a team of analysts before posting on social media.⁸¹

⁷⁸ Law N° 04/2013 Of 08/02/2013 Relating To Access To Information https://ombudsman.gov.rw/en/IMG/pdf/acces_to_information_law.pdf retrieved on 20/10/2019

⁷⁹ Law N° 02/2013 Of 08/02/2013 Regulating Media https://minict.gov.rw/fileadmin/Documents/Mitec2018/Policies___Publication/ICT_Laws/Media_law__page_280-28-49.pdf retrieved on 20/10/2019

⁸⁰ State of Internet Freedoms in Rwanda 2014 https://cipesa.org/?wpfb_dl=179 retrieved on 20/10/2019

⁸¹ <https://cipesa.org/2017/06/rwandas-communications-regulator-dismisses-electoral-commissions-directives-on-suppressing-free-speech-online/>

4.2.2 Repeal of Repressive Legislation

Decriminalisation of defamation

In the gazetted Penal Code Law No. 68/2018 of 30/08/2018, the Government of Rwanda officially decriminalised general defamation and press offences.⁸² The move was meant to respond to journalists and media freedom watchdogs outcry against a lack of respect for press freedom and freedom of expression. The Rwanda Journalists Association (ARJ) wrote in a press statement that it recognised “this very important step by the government of Rwanda as it is another major reform towards expanding freedom of the press freedom and freedom of expression in general.”

However, in the revised Penal Code,⁸³ there were other provisions limiting press freedom and freedom of expression offline and online. For instance, any writings or cartoons that “humiliate” lawmakers, cabinet members, or security officers are an offence and could attract two years in prison or a fine of up to one million Rwandan francs (USD1,152). Any person who defames the president could also be jailed between five and seven years and fined seven million francs.

Some of these provisions were repealed in 2019 following a petition filed by local lawyer Richard Mugisha, who argued that the new penal code was unconstitutional and contravened international charters that protect freedom of expression.⁸⁴ In April 2019, the Supreme Court repealed provisions that banned cartoons and other writing that “humiliates” public officials but upheld another that punished insulting and defaming the president. However, this provision was also subsequently scrapped following president Kagame’s comments that he could be criticised or insulted like any other public official.⁸⁵ Chief justice Sam Rugege had ruled that article 233, which banned the humiliation of national authorities and persons in charge of public service, ran counter to freedom of expression as embedded in the constitution.

⁸² What is prominent in the new penal code? <https://www.newtimes.co.rw/news/what-prominent-new-penal-code> retrieved on 20/10/2019

⁸³ Law determining offences and penalties in general <https://rwandalii.africanlii.org/sites/default/files/gazette/OG%2Bno%2BSpecial%2Bof%2B27-09-2018.pdf> retrieved on 20/10/2019

⁸⁴ Rwanda court repeals law banning satirical cartoons <https://www.reuters.com/article/us-rwanda-politics-cartoons/rwanda-court-repeals-law-banning-satirical-cartoons-idUSKCN1S02B0> retrieved on 20/10/2019

⁸⁵ Kagame wants no special legal protection from defamation <https://www.newtimes.co.rw/news/kagame-wants-no-special-legal-protection-defamation> retrieved on 20/10/2019

5

Conclusion and Recommendations

5.1 Conclusion

The study has found that while the number of internet users has increased dramatically over the past two decades, freedom online has been on the decline as the government has adopted several aggressive and sophisticated measures to curtail internet freedoms. The curtailment and regression has been primarily characterised by the proliferation of retrogressive and repressive policies and laws that criminalise online communication and expression. Laws such as those that govern ICT, Cybercrime and the Interception of Communication have provisions that violate online freedoms, including the rights to privacy and others that are against international freedom of expression standards.

One of the major positive developments was decriminalisation of defamation in the Penal Code. The provision affected press freedom online and offline. Additionally, RURA's historic decision to dismiss the directive to vet candidates' posts during the election campaign was very crucial in promoting freedom of expression online. The fact that Rwanda has not ordered any shutdowns is commendable.

On negative development is website blockages still continues as many critical websites have remained blocked for a decade and even as late as last year the government ordered the blockage of websites. This perpetrates self-censorship by media and social media users.

The study also shows that the government has embarked on several personal data collection programs, such as SIM card registration and biometric IDs, without enabling laws that would protect peoples' right to privacy and data protection.

5.2 Recommendations

Government

- Internet freedom promotion will play a crucial role in building the country's democracy. Government authorities should ensure that all provisions in ICT-related laws that limit internet freedom are repealed.
- Digitalisation that involves massive data collection should respect data privacy, be transparent and citizens should be informed of how their data will be used.
- The plans to regulate social media threaten to limit freedom of expression, which is guaranteed by the 2003 constitution. The plans should be halted; instead, focus should be on improving digital literacy that will incorporate social media skills and information verification in new media to fight fake news and child abuse online.
- Respect human rights and freedoms online and offline as enshrined in the Rwanda Constitution and in international instruments that Rwanda has ratified.
- Adopt and promote the multi-stakeholder approach to internet governance to ensure transparent, inclusive, and open stakeholder engagement in the development of internet related policies and legislation.
- Define clearly in policies and laws the acceptable measures, terms, and circumstances in which internet controls may be applied, in line with constitutional and international human rights standards, and ensure there is transparency, accountability and judicial oversight.

Media

- The media should be more vocal to protect and advocate for internet freedom. The online space and new digital media are opportunities for the press to flourish and the fourth estate should scrutinise state and non-state actors who seek to restrict access and usage of cyberspace.
- Self-censorship hinders press freedom. Therefore, all media watch organisations and self-regulation bodies should look out for laws that hinder press freedom in the country and advocate for their amendment to promote freedoms that are guaranteed by the country's constitution.
- Continuous learning of online media trends such as fake news detection and misinformation will be crucial, as they are being used to silence media around the world and to spread propaganda.
- Media should adopt digital security programmes for journalists' safety, as online media risks are on the rise and require constant learning to tackle them.

Academia

- Internet freedom is a relatively new field. Local academia such as law and computer science faculties should conduct more research on it. The few studies available have mostly been conducted by foreign universities and international research organisations.

Civil Society

- Civil society should use internet freedom as a basis for their advocacy and include digital rights in their programmes since digital rights are human rights.
- Create awareness, build capacity and sensitise the public and key stakeholders through innovative initiatives to create greater understanding of internet freedom issues.

Technical Community

- Telecom companies should play a key role in data protection by engaging policymakers and regulators on some laws that could be abused to violate rights to privacy.
- Operators should respect users' rights to privacy and the law. There are provisions in ICT law that protect the consumers, but telecoms companies often ignore them. Provisions include sending unwanted marketing communications without prior agreement.
- Despite wide network coverage in the country, internet usage is still relatively low. Telecom companies should work with other ICT stakeholders to make the internet more affordable.



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