

Document #2039098

Freedom House

Freedom on the Net 2020 - Kenya

PARTLY FREE

67

/ 100

A [Obstacles to Access](#) 17 / 25B [Limits on Content](#) 28 / 35C [Violations of User Rights](#) 22 / 40

LAST YEAR'S SCORE & STATUS

68 / 100 Partly Free

Scores are based on a scale of 0 (least free) to 100 (most free)

Overview

Internet freedom declined in Kenya during the coverage period, with courts upholding a law that restricts online speech amid persistent arrests for online activity. Data privacy remains a concern for Kenyans, as a new data protection law contains broad exemptions that authorize government access. False information about the COVID-19 pandemic spread on social media, though manipulation of the online information environment was less prevalent than in previous years. Cost is still a barrier to internet access despite expanding coverage in rural areas.

Kenya holds regular multiparty elections, but political rights and civil liberties are seriously undermined by pervasive corruption and brutality by security forces.

Key Developments, June 1, 2019 – May 31, 2020

- The mobile service providers Safaricom and Airtel suffered multiple outages during the coverage period, interrupting customers' access to services including data, voice, and text (see A1).
- The Kenyan Film Classification Board (KFCB) complained to Google about two music videos that it deemed immoral; both were reportedly removed from YouTube in Kenya (see B2).
- In February 2020, a High Court judge ruled that the Computer Misuse and Cybercrimes Act, 2018, which penalizes the publication of false information with up to 10 years in prison, does not violate free expression (see C1 and C2).
- Numerous bloggers and social media users were arrested for allegedly spreading false information online, including misinformation about the COVID-19 pandemic (see C3).
- In April 2020, the Court of Appeal permitted the government to implement the Device Management System, a mechanism intended to identify counterfeit and illegal phones that gives the Communications Authority access to mobile subscriber data, including call records (see C4).
- The Data Protection Act, passed in November 2019, establishes some protections for personal data but provides problematically broad exemptions for national security and public interest, leaving Kenyans' privacy at risk (see C6).

A Obstacles to Access

Access to the internet continued to improve, particularly on mobile devices, and service availability increased in rural areas. Cost remains a concern, and inadequate infrastructure has limited the speed and quality of connections. Numerous Safaricom and Airtel outages occurred during the coverage period, interrupting users' access to services including data, voice, and text.

A1 0-6 pts

Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections?

6

Internet access is somewhat limited by poor infrastructure, but penetration rates and connection speeds continue to improve.

According to data published by the Communications Authority (CA), the broadband penetration rate increased to 48.5 percent in September 2019, compared with 44.9 percent a year earlier.¹ The regulator also reported 53.2 million mobile phone subscriptions, representing a mobile (SIM) penetration rate of 112 percent as of September 2019, up from 100.1 percent the previous year.² A penetration rate above 100 percent indicates that some users have more than one mobile subscription. The CA reports that second- and third-generation (2G and 3G) mobile networks cover 96 percent and 93 percent of the population, respectively.³

Average connection speeds seem to have declined, to 7.62 Mbps in 2018-19 from 10.11 Mbps in 2017-18, according to Cable, a telecommunications company based in the United Kingdom. Kenya now ranks third in Africa, after Madagascar and South Africa.⁴

Safaricom, Kenya’s leading telecommunications company, said in February 2020 that it would launch Kenya’s first fifth-generation (5G) mobile services in major urban centers later in the year, using technology from the Chinese firm Huawei. The new infrastructure may have a delayed impact, as many users will need to purchase new devices that are compatible with 5G.⁵

The National Optic Fibre Backbone Infrastructure (NOFBI) project aims to increase internet connectivity across the country and improve the delivery of e-government services.⁶ The Kenya Vision 2030 development plan, currently in its third phase (2018–22), considers information and communication technologies (ICTs) to be a key element of national transformation.⁷ Focusing on devolution (decentralization) and building equity across the country, the government has prioritized the expansion of ICT capacity, with internet connectivity as a central pillar.⁸

Safaricom experienced interruptions to data and voice services in August 2019,⁹ and to data services in November 2019.¹⁰ In April 2020, Safaricom suffered a network outage that affected its home fiber service, for which it later compensated customers.¹¹ In October 2019, Airtel Kenya experienced network outages affecting voice, text, and data services.¹²

Outages on Safaricom networks affected M-Pesa (a mobile money service) and internet connectivity with some regularity during the previous coverage period. Reported outages occurred in December,¹³ November,¹⁴ and July 2018.¹⁵ The July incident, which lasted several hours and affected voice and data service, was caused by a damaged fiber link.¹⁶ These outages affected more than 31 million subscribers who rely on Safaricom’s voice, text, data, web-hosting, and mobile money services.

Since the outbreak of COVID-19, which has led many businesses and education institutions to move their operations online, internet service providers (ISPs) have taken steps to improve bandwidth and meet increased demand.¹⁷

A2 0-3 pts

Is access to the internet prohibitively expensive or beyond the reach of certain segments of the 1 / population for geographical, social, or other reasons? **3**

Internet access is still prohibitively expensive for much of the population, despite significant investments meant to make connections more accessible in rural areas. In the Alliance for Affordable Internet’s 2019 Affordability Drivers Index, Kenya ranks 15th out of the 29 African countries surveyed, a drop of six spots from the 2018 index,¹⁸ with marginal improvements in access and infrastructure.¹⁹

As a result of the COVID-19 pandemic, Kenyans rely even more on the internet for work and learning. However, survey results indicate that just 22 percent of children can access digital learning, and public schools are often unable to support such services. The survey found poverty to be the main barrier inhibiting access.²⁰

Following a lawsuit against Safaricom, Airtel, and Telkom for their data expiration practices,²¹ Safaricom rolled out nonexpiry data bundles in October 2019, and Airtel rolled out its own in December.²² However, in the instance of Safaricom, nonexpiry data plans cost the same as expiring data packages but with half as much data. Crucially, this applies to the cheaper bundles and not the more expensive ones, affecting subscribers with less disposable income for data.²³

The Finance Act, which was signed by President Uhuru Kenyatta in September 2018, increased the tax on telephone and internet data from 10 percent to 15 percent.²⁴ In response to the tax, ISPs raised prices for both mobile data bundles and fixed-line home internet connections,²⁵ making internet access unaffordable for many poorer Kenyans.

The affordability and availability of the internet varies between urban and rural areas. A gender-based digital divide also persists, with more men than women using mobile and internet services.²⁶ Many rural areas have not benefited from Kenya’s high-capacity bandwidth, in part due to market disparities and weaknesses in last-mile connectivity, which is expensive and requires basic infrastructure such as electricity and roads that are often poorly developed. The Universal Service Fund (USF), which was established in 2013, aims to expand mobile and internet service in a bid to close the digital divide.²⁷

The Voice Infrastructure Project, a USF initiative administered by the CA, had connected 68 rural sublocations to basic mobile telephony as of November 2019, affecting 290,000 Kenyans who were previously not able to make and receive calls.²⁸ The Education Broadband Connectivity Project, another USF initiative, provided 887 secondary schools with internet connections at a speed of 5 Mbps as of October 2019.²⁹

A3 0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of 6 / restricting connectivity?

6

There were no reports of the government using control over internet infrastructure to limit connectivity during the coverage period. Kenya’s decentralized internet infrastructure and nongovernmental control of the Kenya Internet Exchange Point (KIXP) make it unlikely that the government could exercise technical control over the internet.

In July 2019, the ICT Authority introduced a regulation that requires all owners of fiber-optic infrastructure to register existing networks and seek approval for any new fiber installations.³⁰ The ICT Authority is likely to treat the registration process for existing networks as a de facto approval process that could prove cumbersome, rather than a straightforward registration mechanism, though it is unclear whether the regulation will involve the imposition of fees.³¹

Kenya connects to the international internet via four main undersea cables—SEACOM, the East Africa Marine System (TEAMS), the Eastern Africa Submarine Cable System (EASSY), and the Lower Indian Ocean Network (LION2); three others—Africa1, Djibouti Africa Regional Express (DARE), and Liquid Sea—land in Mombasa.³² The provision of licenses for access to the international gateway was liberalized in 2004.³³

The KIXP is operated by the Telecommunication Service Providers Association of Kenya (TESPOK), a nonprofit organization representing the interests of ISPs. The KIXP keeps domestic Kenyan internet traffic within the country, lowering the cost of connectivity. A second IXP was established in Mombasa, but its failure to attract enough users led to its closure in 2015.³⁴ With support from the African Union, a backup IXP was established in 2016 to further lower the costs of connectivity for ISPs.³⁵

A4 0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers? 4 / 6

A number of economic obstacles restrict the diversity of service providers. There are five mobile service providers: Safaricom, Airtel, Telkom, Mobile Pay Limited, and Equitel.³⁶ In December 2019, the CA approved the merger of Airtel and Telkom.³⁷ Based on industry statistics from September 2019, the merger would result in 64.9 percent and 31.3 percent mobile-subscription market shares for Safaricom and Airtel-Telkom, respectively.³⁸

The government owns 35 percent of Safaricom,³⁹ as well as 40 percent of Telkom.⁴⁰ Because Safaricom holds a majority of the market, there have been calls to declare it a dominant player, which could force the company to spin off its mobile money service in an effort to foster greater competition.⁴¹ However, amid fierce resistance from Safaricom and other powerful business interests, in January 2018 the regulator dropped plans to split the company.⁴² In July 2018, the Parliamentary Committee on Communication, Information, and Innovation opened an investigation into the mobile sector to identify legislative and regulatory gaps that may lead to anticompetitive behavior or restrict growth.⁴³

The CA is the regulatory body that licenses all communications systems.⁴⁴ As of April 2018, it listed three providers with submarine cable landing rights and 57 network facility providers (three of which are national providers, while the remainder are regional).⁴⁵ These licensees provide, among other things, facilities for internet, voice, and mobile virtual operations. Cybercafés are licensed as business units by local governments, and there are no special regulatory or economic obstacles to their establishment.

A5 0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a 2 / free, fair, and independent manner?

4

The regulatory bodies that oversee service providers generally operate in a fair manner, but there have been some encroachments on regulators’ independence in the past. The CA was roiled by leadership struggles during the coverage period.

The CA’s management is vested in a board of directors that consists of a chairperson appointed by the president, three principal secretaries hired by the Public Service Commission, and seven persons appointed by the cabinet secretary of the ICT Ministry.⁴⁶ The day-to-day operations of the regulator are managed by a director general who is appointed by the board to a four-year term, renewable only once.⁴⁷ The director general is an ex officio member of the board without any voting rights.

While the authority’s independence is provided for under Section 5 of the Kenya Information and Communications Act (KICA), tensions between the ICT Ministry and the board of directors on one side, and the director general of the CA on the other, have flared up in recent years.

In July 2019, ICT Cabinet Secretary Joe Mucheru announced four new board members for the CA.⁴⁸ In November, a court found the appointments unconstitutional and contrary to the Public Service Commission Act, 2017, which requires advertisement for positions and competitive recruitment procedures. The ruling produced some confusion

regarding the appointment of a successor for outgoing director general Francis Wangusi, as it cast doubt on whether the board tasked with making the new appointment was properly constituted. The CA closed the application process for the position in June 2020,^{[49](#)} with Mercy Wanjau serving temporarily as acting director general.^{[50](#)}

In January 2018, the CA board had given Wangusi, whose term was set to expire in August 2019, a three-month compulsory leave of absence, ostensibly to allow for an independent audit of the regulator’s hiring process. A labor court subsequently lifted the suspension, pending a full hearing on a case filed by the director general, who claimed he was being punished for resisting interference by the ICT Ministry.^{[51](#)} The dispute was settled in September 2018,^{[52](#)} when the CA signed an agreement pledging that it would not interfere with Wangusi’s contract.

Wangusi had clashed with the board and the ICT Ministry on a variety of topics. The two sides disagreed about how to implement a report on Safaricom’s market dominance. The director general also objected to what he considered improper requests for funds from the CA, such as the permanent secretary’s demand that CA resources be used for a presidential swearing-in ceremony. In April 2018, the president ordered the transfer of 1 billion Kenyan shillings (\$9.6 million) from the CA-managed USF to the Directorate of Criminal Investigation (DCI) to fight cybercrime.^{[53](#)}

B Limits on Content

Content is periodically restricted for violating social mores, though censorship is not systematic. The reliance of media outlets, including those that publish online, on government advertisements for revenue contributes to self-censorship, as do arrests of online journalists for reporting on the COVID-19 pandemic. The government’s failure to pay fees for advertisements in some cases has threatened outlets’ ability to operate online. Digital activism remained vibrant during the coverage period.

B1 0-6 pts

Does the state block or filter, or compel service providers to block or filter, internet content? 6 / 6

Political and social content is generally not subject to blocking in Kenya. Testing by the Open Observatory of Network Interference (OONI) conducted in May 2020 revealed no signs of website blocking or censorship.^{[54](#)} Social media platforms and communication applications such as Facebook, Twitter, YouTube, and LinkedIn were also fully accessible.^{[55](#)} Nonetheless, the government periodically polices the internet for content that is perceived to be morally objectionable (see B2).

The internet remained unrestricted during the tense period following the contested 2017 presidential election, including when the government jammed the broadcast signals of three leading television stations that were planning to air opposition leader Raila Odinga’s unofficial inauguration in January 2018.^{[56](#)} The networks’ websites were not blocked, enabling them to stream the event online.^{[57](#)}

B2 0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force publishers, content hosts, or digital platforms to delete content? 2 / 4

Although censorship is not systematic, the state has increasingly sought to remove online content that it deems immoral or defamatory.

In May 2020, Kenyan Film Classification Board (KFCB) chairman Ezekiel Mutua condemned the song “Soko” by the Gengetone group Ethic, stating that it promoted rape, prostitution, and sexual abuse of children.^{[58](#)} Following a KFCB complaint to Google, the “Soko” music video was removed from YouTube.^{[59](#)} In November 2019, the KFCB requested that Google remove the music video for “Tarimbo,” another Epic song, from YouTube for “advocating for violence against women.”^{[60](#)} The video was removed shortly afterward.^{[61](#)}

In April 2018, the KFCB had prohibited the distribution, exhibition, or broadcast of the film *Rafiki*, including online, on the grounds that it promoted homosexuality.^{[62](#)} The penal code criminalizes same-sex sexual activity, and the KFCB routinely censors LGBT+ content.^{[63](#)} The ban on *Rafiki* was lifted by the High Court in September 2018 so that the film could be considered for an Academy Award in the United States.^{[64](#)} Also that month, however, the KFCB banned one advertisement for containing sexual content and another for allegedly supporting abortion.

In 2017, the KFCB banned six children’s television programs for allegedly promoting homosexuality “against our Kenya’s moral values and culture.”^{[65](#)} The programs had aired on television and online.

The government also occasionally requests content removals for reasons other than morality. Between June and December 2019, Google received three takedown requests regarding 14 items, all relating to regulated goods and services, and removed four of those items.^{[66](#)} Between July and December 2018, Facebook restricted access to one post, based on a privately reported defamation claim.^{[67](#)}

Authorities have sometimes compelled ordinary users and online journalists to delete content from their social media profiles and websites. In December 2018, a court ordered blogger Cyprian Nyakundi to remove an article on his website that allegedly defamed politician Steve Mbogo.^{[68](#)} In 2017, blogger Robert Alai removed photos he had posted on his Facebook page of President Kenyatta’s family in a Nairobi hospital; he was also arrested for the photos.^{[69](#)}

B3 0-4 pts

Do restrictions on the internet and digital content lack transparency, proportionality to the stated aims, 3 / 4 or an independent appeals process?

Restrictions on the internet are largely transparent, but censorship of online content sometimes lacks fairness or proportionality.

The KFCB has justified banning advertisements that contain sexual content and promote abortion services (see B2) by invoking a law that prohibits the airing of sexual content before 10 p.m. Those found to have distributed video content without KFCB approval face fines of up to 100,000 shillings (\$960) and prison terms of up to five years,^{[70](#)} as outlined in the Films and Stage Plays Act, 2012.^{[71](#)}

In advance of the 2017 election, the CA implemented new guidelines to curb online abuse in partnership with the National Cohesion and Integration Commission (NCIC), a statutory body that works to reduce interethnic conflict.^{[72](#)} The broadly worded guidelines prohibit political messages that "contain offensive, abusive, insulting, misleading, confusing, obscene, or profane language," and analysts have warned that they could be used to limit legitimate online expression. The guidelines also require administrators of social media pages to "moderate and control the content and discussions generated on their platform," and give mobile service providers the power to block the transmission of political messages that do not comply with the guidelines at their discretion.^{[73](#)} In addition, bulk political messages require prior approval from the NCIC.

Internet intermediaries in Kenya can be held liable for illegal content, such as copyright infringements and hate speech, though they are not required to actively monitor traffic passing through their networks unless they are made aware of illegal content.^{[74](#)} Under the National Cohesion and Integration Act, 2008, which outlaws hate speech, a media enterprise can be fined up to 1 million shillings (\$9,600) for publishing hate speech, which is broadly defined in the legislation.^{[75](#)} This provision can be invoked to block or take down online content, according to the Association of Progressive Communications.^{[76](#)}

B4 0-4 pts**Do online journalists, commentators, and ordinary users practice self-censorship? 3 / 4**

Arrests of online journalists and statements by media regulators have prompted concerns about self-censorship by the press. The importance of government advertising purchases for the financial survival of media outlets, including those that publish online, results in some self-censorship among journalists (see B6).

In a lawsuit challenging the March 2020 arrests of bloggers for allegedly posting false or alarming information about COVID-19, as charged under the Computer Misuse and Cybercrimes Act, 2018 (see C2), the Law Society of Kenya argued that such arrests and convictions would encourage self-censorship by online publishers.^{[77](#)}

Separately in March 2020, the Kenya Editors Guild responded with concern to a statement by the Media Council of Kenya, a media regulator, that accused editors of breaching the code of conduct in the practice of journalism. The Editors Guild said the statement posed a threat to media freedom, and that such accusations could increase self-censorship among journalists.^{[78](#)}

According to the Media Council of Kenya, there were 54 violations of press freedom in 2019 and 44 as of May 2020. This represented a sharp increase from previous years, with a total of 181 cases from 2013 to May 2020. The police and other government authorities are reportedly responsible for most of the attacks against journalists.^{[79](#)} Such attacks have a chilling effect on speech and can lead to self-censorship online.

B5 0-4 pts**Are online sources of information controlled or manipulated by the government or other powerful 3 / 4 actors to advance a particular political interest?**

Online sources of information are not systematically controlled or manipulated by the government or other powerful actors to advance a particular political interest. However, coordinated online campaigns have been observed in the past, notably in the run-up to the 2017 election.

Misinformation about the COVID-19 pandemic is widespread in Kenya, including on social media platforms like WhatsApp.^{[80](#)} The problem has affected the country's ability to effectively manage the spread of the virus, with many residents of informal settlements reportedly believing that the virus cannot be contracted by Kenyans.^{[81](#)} The government has threatened fines and imprisonment for people who spread false COVID-19 information via online channels (see C2).^{[82](#)}

Loosely organized "bloggers for hire" use their collective clout on social media to shape public opinion and manipulate the online information landscape.^{[83](#)} One such group, known as the "36 Bloggers," allegedly works within the Executive Office of the President's Directorate of Digital Communication.^{[84](#)} Another group is known as the "527 militia," with 527 ostensibly signifying the amount of Kenyan shillings paid to each blogger to promote certain hashtags.^{[85](#)} In 2019, bloggers for hire were generally most active on Facebook, Twitter, and WhatsApp, using both human-run and automated "bot" accounts to attack opposition figures and support the government, most often through targeted advertising and disinformation.^{[86](#)}

In October 2018, Facebook announced that it would partner with Africa Check, Africa's first independent fact-checking organization, and Agence France-Presse (AFP) to help assess the accuracy of information being disseminated on its platform.^{[87](#)}

During the 2017 election season, online manipulation and overt disinformation proliferated on social media. A number of websites were registered with legitimate-sounding names, such as CNN Channel 1,⁸⁸ to disseminate false news, undermining the quality of information available online. Propaganda, hate speech, and attacks on candidates were common, spread in part through Google ads and sponsored posts on Facebook.⁸⁹ According to the communications consultancy Portland’s *How Africa Tweets 2018* report, bot armies worked to “undermine the influence of media outlets, independent bloggers, government entities, and even messages from politicians and campaigners themselves.”⁹⁰ The British political consulting firm Cambridge Analytica reportedly aided Kenyatta’s reelection bid and was linked to two websites—TheRealRaila.com and UhuruForUs.com⁹¹—that respectively spread hate speech and negative ads about opposition presidential candidate Raila Odinga and pushed positive narratives about the incumbent.⁹²

B6 0-3 pts

Are there economic or regulatory constraints that negatively affect users’ ability to publish content 2 / online? 3

There are few regulatory constraints that negatively affect users’ ability to publish content online, but media outlets’ reliance on revenue from government advertisements causes economic challenges for some entities.

The Government Advertising Agency (GAA) was established in 2015 to manage government advertising purchases. In August 2018, the DCI began an investigation of the GAA for allegedly failing to pay 2.8 billion shillings (\$27 million) in advertising fees owed to media outlets.⁹³ The Kenya Media Sector Working Group claimed in May 2019 that the GAA was actively working to muzzle the media by starving outlets of needed revenue.⁹⁴ In July 2019, Cabinet Secretary Mucheru assured the media that all debts owed by the government would be paid.⁹⁵ As of March 2020, the ICT Ministry reportedly owed media houses up to 2.5 billion shillings (\$24 million).⁹⁶

The government has been known to use its advertising budget to influence media outlets’ editorial choices, resulting in financially induced self-censorship.⁹⁷ Some online outlets also adjust the tone of their content to avoid upsetting other major advertisers,⁹⁸ though this phenomenon has been more frequently observed among traditional media outlets.

Powerful, politically influential media owners have affected the editorial lines and reporting of their outlets to advance their own interests.⁹⁹

B7 0-4 pts

Does the online information landscape lack diversity? 3 / 4

The online information landscape is diverse and vibrant, with outlets reporting on many issues and offering a wide range of viewpoints. Social media platforms have become an important means for journalists to gather and share news. Traditional broadcast outlets have increasingly utilized social media and digital platforms to interact with users in real time.

Bloggers and social media personalities have gained influence in recent years. Fast and affordable internet connections in major cities and towns have enabled a growing class of digitally skilled citizens to create content and provide alternative sources of news and information.

B8 0-6 pts

Do conditions impede users’ ability to mobilize, form communities, and campaign, particularly on 6 / political and social issues? 6

Online tools for civic mobilization are freely available to users, but the authorities’ suppression of some forms of digital dissent limits their effectiveness. Social media, especially Twitter, continue to be a critical platform for debate, advocacy, and mobilization on issues of public interest.

In May 2020, social media users organized around the hashtag #EndPoliceBrutalityKE, reporting and tracking police brutality in Kenya and pushing for accountability.¹⁰⁰ This online mobilization resulted in physical protests.¹⁰¹ In the face of exceptionally high youth unemployment,¹⁰² Kenyans also use the hashtag #IkoKaziKE as a resource to find jobs and share hiring opportunities.

In the spring of 2019, the police in Mombasa launched an operation to arrest people for allegedly using social media to “incite” others against registering for the National Integrated Identity Management System (NIIMS), a biometric registration system.¹⁰³

The hashtag #SwitchoffKPLC was used to raise awareness of and organize protests against the Kenya Power and Light Company (KPLC), which owns and operates most of the electricity transmission and distribution systems in the country, over inflated consumer bills.¹⁰⁴ Online activists urged customers to submit their power bills to a Nairobi lawyer, who used them as evidence to file a petition against the company in court.¹⁰⁵ In July 2018, 20 KPLC managers were charged with economic crimes and abuse of office, partly substantiating the lawyer’s petition.¹⁰⁶ The case was settled out of court in October 2018, which led to mixed reactions from the public, as many people argued that the settlement was too lenient. The agreement stipulated that the KPLC must establish billing query centers across the country. According to the deal, customers can have their actual meter readings weighed against the KPLC’s estimates to determine the amount owed.¹⁰⁷

In February 2018, in the wake of the High Court’s decision against decriminalizing consensual same-sex conduct,

Kenyans used the hashtag #Repeal162 to air their views on Twitter.[108](#)

C Violations of User Rights

Courts upheld the constitutionality of a law criminalizing the publication of false information online and a monitoring system that permits the government to access mobile subscriber data. A number of citizens were arrested for spreading false information online, including misinformation related to COVID-19. A new data protection law permits the government to sidestep its safeguards on personal data.

C1 0-6 pts

Do the constitution or other laws fail to protect rights such as freedom of expression, access to information, and press freedom, including on the internet, and are they enforced by a judiciary that lacks independence? 3 / 6

Score Change: The score declined from 4 to 3 because the High Court ruled that a law criminalizing various forms of online speech does not violate freedom of expression, and due to the impunity enjoyed by law enforcement officers who commit crimes against journalists.

Freedom of expression is enshrined in Article 33 of the 2010 constitution and includes the rights to seek, receive, or impart information and ideas. However, these rights are frequently violated in practice, including for online journalists and other internet users. Propaganda, hate speech, and incitement to violence are not protected by the constitution.

The judiciary is relatively independent, though recent high-profile rulings have failed to protect the fundamental rights of online journalists and ordinary users. The Bloggers Association of Kenya (BAKE), with support from the rights group Article 19, filed a petition that led a court to temporarily suspend 26 sections of the Computer Misuse and Cybercrimes Act, 2018, before it came into effect in May 2018.[109](#) In February 2020, however, High Court judge James Makau dismissed this petition and lifted the suspension of the 26 sections, which prescribe hefty fines and prison sentences for a range of online activities, including publishing false information and cyberharassment (see C2).[110](#)

Beginning in February 2020, the government imposed movement restrictions to mitigate the spread of COVID-19, including a curfew announced in March.[111](#) Despite a government order exempting the media, police have intimidated, threatened, attacked, and arrested journalists during the curfew.[112](#)

Law enforcement officers who unlawfully kill or injure Kenyans rarely face penalties. Officers often fail to comply with a law that requires the police to report, investigate, and prosecute extrajudicial killings.[113](#) After the curfew was declared in March 2020, police tasked with enforcing it shot and beat people without justification, in some cases before the announced restrictions had officially taken effect.[114](#) As of June 2020, a government accountability body reported that police had killed at least 15 people and injured at least 31 since the curfew began.[115](#)

C2 0-4 pts

Are there laws that assign criminal penalties or civil liability for online activities? 2 / 4

Laws on hate speech and defamation are frequently used to prosecute online critics of the government.

The Computer Misuse and Cybercrimes Act, 2018, which was adopted in May 2018 and subsequently challenged in court, threatens to further restrict freedom of expression online. According to the act, anyone who “knowingly publishes information that is false in print, broadcast, data or over a computer system, that is calculated or results in panic, chaos, or violence among citizens of the Republic, or which is likely to discredit the reputation of a person” can be sentenced to a fine of as much as 5 million shillings (\$48,000) and up to 10 years in prison.[116](#)

Shortly after the law was promulgated, BAKE sued to overturn 26 problematic provisions,[117](#) which were suspended until the court could hear the case.[118](#) A High Court judge ultimately dismissed BAKE’s case in February 2020, ruling that the law does not violate freedom of expression and allowing the suspended provisions to take effect. Later that month, BAKE and the Law Society of Kenya appealed the High Court’s ruling to the Court of Appeal.[119](#)

Also in February 2020, amid rising concern over COVID-19, government spokesperson Cyrus Ogunu warned that those spreading false information related to the novel coronavirus on social media were being monitored and would face arrest under the cybercrimes act.[120](#)

In 2017, the High Court struck down Section 132 of the penal code on constitutional grounds; the section criminalized “undermining the authority of public officers” and had been used to prosecute both online and offline speech.[121](#) Section 29 of KICA was separately ruled unconstitutional in 2016.[122](#) It had penalized bloggers and social media users for using ICTs to disseminate messages deemed “grossly offensive” or to cause “annoyance, inconvenience or needless anxiety to another person,” carrying a fine of up to 50,000 shillings (\$480), three years in prison, or both.[123](#)

Hate speech is penalized under the 2008 National Cohesion and Integration Act, which was passed in response to widespread ethnic violence following the 2007 general elections.[124](#) Individuals found guilty of spreading hate speech, broadly defined, can face a fine of up to 1 million shillings (\$9,600), a prison term of up to three years, or both.

C3 0-6 pts**Are individuals penalized for online activities? 3 / 6**

Numerous bloggers and social media users were arrested or summoned for questioning during the coverage period, continuing an alarming trend.

Several individuals were arrested for allegedly sharing false information related to COVID-19:

- In March 2020, blogger Cyprian Nyakundi was arrested for allegedly publishing false information related to the pandemic.¹²⁵ Though he was freed on bail shortly after his arrest, a magistrate issued a warrant for Nyakundi to be rearrested in April, claiming that he had failed to present himself before the court.¹²⁶
- Also in March, prominent blogger Robert Alai was charged with publishing false information after he posted on social media about alleged coronavirus deaths. He was released on bail after three days and ordered not to publish any more coronavirus-related information.¹²⁷
- Separately the same month, Elijah Muthui Kitonyo was arrested under Section 23 of the Computer Misuse and Cybercrimes Act for “publishing misleading and alarming information” about the coronavirus on Twitter. The post in question implied that the government was misleading the public about coronavirus-related information.¹²⁸

In January 2020, activist and blogger Mildred Owiso was arrested and later released on cash bail for allegedly inciting the public to violence. She had recorded an encounter with the traffic police and posted it online, arguing that it was unlawful for a traffic officer to enter the car of someone suspected of a traffic offense.¹²⁹

Robert Alai was arrested in June 2019 for posting photos of police officers who were victims of a terrorist attack in Wajir County earlier that month. A police spokesperson warned internet users that circulating such images was “unpatriotic” and supportive of Al-Shabaab, the Somalia-based militant group believed to have perpetrated the attack.¹³⁰ Later that month, Patrick Safari, a prison warden based in Mandera, was arrested for posting online pictures of officers from the same incident.¹³¹

In the spring of 2019, the police in Mombasa launched an operation to arrest people for using social media to “incite” others against registering for NIIMS (see B8).¹³²

A number of arrests and prosecutions for online activity, particularly for alleged hate speech, occurred around the 2017 election. Among those arrested was blogger Paul Odhiambo, who was detained for spreading alleged hate speech on Facebook and WhatsApp.¹³³ Robert Alai was arrested for information he posted about the health of a family member of President Kenyatta.¹³⁴ Alai has been arrested numerous times for his online activities.

C4 0-4 pts**Does the government place restrictions on anonymous communication or encryption? 3 / 4**

Kenyans can freely use encryption tools, but a number of regulations and monitoring systems limit anonymous communication. Several publications and technology blogs often encourage Kenyans to install encryption tools.

Anonymity is compromised by the expanding scope of mandatory SIM-card registration and efforts to track the illicit sale of mobile phones. In April 2020, the Court of Appeal reversed a High Court decision barring the government’s plan to implement the Device Management System (DMS), a mechanism for identifying counterfeit and illegal phones.¹³⁵ The High Court had ruled that the system, which gives the CA access to mobile subscriber data, including call records, would infringe on subscribers’ right to privacy, among other concerns.¹³⁶ The Court of Appeal ruled that the High Court lacked evidence to reach this conclusion. Service providers had previously disclosed that personal data of subscribers would be handled by third parties contracted by the CA to maintain the DMS.¹³⁷ In June 2020, after the coverage period, the Law Society of Kenya appealed the case to the Supreme Court; while the appeal is considered, the DMS will be implemented.¹³⁸

In 2017, Safaricom began keeping records of anyone registering for or renewing a SIM card.¹³⁹ This was in compliance with existing SIM-card registration requirements under the Kenya Information and Communications (Registration of SIM-Cards) Regulations, 2015, which prescribe penalties of up to 300,000 shillings (\$2,900), imprisonment for up to six months, or both for failure to abide by the registration requirements.¹⁴⁰ The regulations also grant the communications regulator access to service providers’ offices and records without a court order, raising concerns about the lack of judicial oversight.¹⁴¹

In July 2019, legislators introduced a bill to amend KICA by requiring the registration of bloggers and assigning a penalty of up to 500,000 shillings (\$4,800) in fines or two years’ imprisonment for blogging without a license.¹⁴² As of June 2020, the bill had not progressed.

C5 0-6 pts**Does state surveillance of internet activities infringe on users’ right to privacy? 2 / 6**

Article 31 of the 2010 constitution provides for the right to privacy. However, authorities engage in surveillance of internet activities under laws that enable them to search and seize data on national security grounds, directly infringing on users’ privacy rights. The Data Protection Act, 2019, passed in November of that year, leaves room for officials to continue to bypass user consent and access private data for national security reasons (see C6).

Evidence of unlawful or disproportionate state surveillance has emerged in recent years. According to 2018 research published by Citizen Lab, a Canadian internet watchdog, Kenya is one of 45 countries worldwide where the use of Pegasus, a surveillance software tool developed by the Israeli technology firm NSO Group, has been detected. The spyware has targeted customers of Safaricom and Simbanet, and it is known to be used by governments elsewhere to intrusively monitor journalists, human rights defenders, and political opponents.^{[143](#)}

During the 2017 election, officials at the electoral commission allegedly exploited their access to voters’ data—including information such as phone numbers, identification numbers, and photos—and sold them to politicians, who then targeted the voters with campaign messages in the run-up to the polls.^{[144](#)}

In January 2020, a High Court ruling barred the government from proceeding with the implementation of NIIMS, a biometric registration system, until it developed a comprehensive regulatory framework. The court also prohibited the collection of genetic and satellite-based location data under NIIMS, finding that such collection violates Article 31 of the constitution.^{[145](#)} Despite the ruling, the government has indicated that it intends to begin implementing NIIMS.^{[146](#)}

Section 48 of the Computer Misuse and Cybercrimes Act, 2018, allows the authorities to search and seize stored computer data and to collect and intercept data in real time.^{[147](#)}

KICA prohibits many forms of monitoring and interception of communications,^{[148](#)} though the Prevention of Terrorism Act, 2012, allows the authorities to limit constitutional freedoms, such as the right to privacy, during investigations into terrorism.^{[149](#)} Amendments to the Prevention of Terrorism Act in 2014 explicitly enabled national security bodies to intercept communications “for the purposes of detecting, deterring, and disrupting terrorism,”^{[150](#)} though this must be authorized through an interception order from the High Court.^{[151](#)}

Independent research in recent years has revealed various surveillance technologies that the authorities or other actors may employ to monitor citizens. In 2017, research published by the Centre for Intellectual Property and Information Technology Law (CIPIT) revealed the presence of a “middlebox” on a Safaricom mobile network.^{[152](#)} While middleboxes have legitimate functions, such as network optimization, they can also be used to manipulate traffic and assist in surveillance, which led to concerns about potential violations of privacy. Safaricom denied using a middlebox, and subsequent tests returned negative results, prompting the researchers to conclude that the technology was no longer in use.

The United Kingdom-based nonprofit organization Privacy International (PI) separately revealed in a 2017 report that national security agencies in Kenya, especially the National Intelligence Service (NIS), have unlawful direct access to communications systems, allowing for the interception of both traffic data and content.^{[153](#)} Based on interviews, PI found that law enforcement and national security agents have a physical presence in the facilities of telecommunications providers. The report also indicated that intercepted information could be freely shared with other government agencies.

PI also assessed two new NIS cybersecurity projects, the Network Early Warning System and the National Intrusion Detection and Prevention System, which aim to monitor telecommunications traffic for cybersecurity threats. PI raised concerns that the two systems could monitor content as well as traffic, based on internal documents it received.^{[154](#)} Given the national security framework in which the systems are being implemented, transparency and oversight will be limited.

C6 0-6 pts

Are service providers and other technology companies required to aid the government in monitoring 4 / the communications of their users? 6

Service providers and other technology companies are not usually required to aid the government in monitoring the communications of their users, although authorities have reportedly made requests for such assistance. A data protection law passed in November 2019 offers safeguards for user data but includes broad exemptions that allow the government to sidestep the protections, endangering the right to privacy.

The Data Protection Act, 2019, regulates the collection, processing, storage, use, and disclosure of information relating to individuals.^{[155](#)} Processing that is “necessary for national security or public interest” is broadly exempted from the law’s protections, opening the door to government abuse. The law establishes the Office of the Data Commissioner to oversee implementation, but the new entity has not been classified as an independent office under the constitution, raising concerns about its autonomy.^{[156](#)} A data commissioner had yet to be appointed at the end of the coverage period, and the recruitment procedure remained in dispute.^{[157](#)}

Other laws, like the Preservation of Public Security Act, the Official Secrets Act, the National Intelligence Act, 2012, and the Prevention of Terrorism Act, limit the privacy of personal data, ostensibly to safeguard national security.^{[158](#)}

In November 2018, the CA released a tender for the development of a regulatory strategy for over-the-top (OTT) video streaming services such as those offered by WhatsApp, Skype, and Facebook.^{[159](#)} The tender was extended to end in May 2019; no further information was available during the coverage period.^{[160](#)}

PI has reported that Safaricom, the leading mobile internet provider, routinely supplies data to authorities without a warrant for intelligence purposes. Safaricom claims that it only cooperates when authorities present a court order.^{[161](#)}

C7 0-5 pts

Are individuals subject to extralegal intimidation or physical violence by state authorities or any other actor in retribution for their online activities? **3 / 5**

Bloggers and internet users have faced increasing intimidation and violence in retaliation for their online activities in recent years, particularly during the run-up to the 2017 election.

More than a quarter of Kenyan women have experienced some form of online gender-based violence, according to an August 2020 report from Pollicy, a technology consulting firm.¹⁶² In April 2020, Brenda Cherotich, one of the first Kenyans to be publicly identified as a person who recovered from COVID-19, faced extensive online harassment, including the nonconsensual sharing of her private chats and photos.¹⁶³ Women in politics encountered especially harsh online harassment during the pandemic, according to a brief from the Kenya ICT Action Network (KICTANet).¹⁶⁴

During the restive 2017 election period, authorities often destroyed the cameras and phones of journalists to suppress reporting on violence and human rights violations.¹⁶⁵ The heightened political tensions also led to more instances of intimidation and harassment in retaliation for online activities. There was rampant online harassment of female candidates to deter their political ambitions,¹⁶⁶ and it was often accompanied by offline sexual harassment and violence.¹⁶⁷

Ordinary users can face retaliation for online activity that impacts their livelihoods. In February 2019, the Machakos County government suspended Dr. Alice Kasyoka from practicing medicine after she criticized county officials in a Facebook post. During her suspension, Kasyoka was paid half of her salary.¹⁶⁸

C8 0-3 pts

Are websites, governmental and private entities, service providers, or individual users subject to 2 / widespread hacking and other forms of cyberattack? **3**

Hacking and other forms of cyberattack are a growing problem in Kenya. The National Computer Incident Response Team detected 25.2 million cyberthreats in the period from July to September 2019, down from 26.6 million during the previous quarter.¹⁶⁹

Since 2015, Kenya has been subjected to scores of cyberattacks, many of which were directed at financial institutions. In 2017, Kenya lost an estimated 21 billion shillings (\$202 million) to cybercrime, up from 17 billion shillings (\$163 million) in 2016.¹⁷⁰ In January 2018, hackers stole 29 million shillings (\$280,000) from the National Bank of Kenya.¹⁷¹

According to media reports, among the hackers targeting local banks is a home-grown group known as SilentCards who work with unscrupulous bank officers and take advantage of naive customers.¹⁷² As part of a crackdown on cybercrime, police in February 2019 arrested a man suspected of being the leader of a group of hackers that stole customers' deposits from banks.¹⁷³ Under the Computer Misuse and Cybercrimes Act, 2018, hackers face a fine of up to 5 million shillings (\$48,000), up to three years in prison, or both for unauthorized access to, interference with, or interception of data on computer systems; unauthorized disclosure of passwords; and cyberespionage, among other offenses.¹⁷⁴

During the 2017 election period, hackers repeatedly attempted to access the Independent Electoral and Boundaries Commission's website. The commission asserted that the attempts were unsuccessful,¹⁷⁵ but the opposition claimed otherwise, alleging that the results of the election were manipulated, leading to Odinga's loss.¹⁷⁶ Neither side's assertions about the hacking were substantiated.

Footnotes

- ¹Communications Authority of Kenya, Quarterly Sector Statistics Report: Q1 FY 2019/2020 (July-September 2019), <https://ca.go.ke/wp-content/uploads/2019/12/Sector-Statistics-Report-Q1...>
- ²Communications Authority of Kenya, Quarterly Sector Statistics Report: Q1 FY 2019/2020 (July-September 2019), <https://ca.go.ke/wp-content/uploads/2019/12/Sector-Statistics-Report-Q1...>
- ³Communications Authority of Kenya, Quarterly Sector Statistics Report: Q1 FY 2019/2020 (July-September 2019), <https://ca.go.ke/wp-content/uploads/2019/12/Sector-Statistics-Report-Q1...>
- ⁴Cable.co.uk, “Worldwide broadband speed league 2019” <https://www.cable.co.uk/broadband/speed/worldwide-speed-league/#regions>.
- ⁵Brian Ngugi, “Safaricom to Launch 5G this year”, Business Daily, February 13, 2020, <https://www.businessdailyafrica.com/corporate/companies/Safaricom-set-f...>
- ⁶ICT Authority, “National Fibre Optic to cover all 47 counties by December 2015” <http://icta.go.ke/national-fibre-optic-project-phase-2-roll-out/>.
- ⁷Government of Kenya, “Second Medium Term Plan, 2013 – 2017: Transforming Kenya: Pathway To Devolution, Socio Economic Development, Equity And National Unity,” December 31, 2012, <https://sdgfunders.org/reports/second-medium-term-plan-2013-2017-transf...>
- ⁸Ministry of Information, Communications, and Technology, “Ministry of ICT Strategic Plan (2013-2017)” and “Kenya National ICT Master Plan (2013/14 – 2017/18)”, <https://ict.go.ke/policy-and-strategy-documents/>.

- ⁹Kenn Abuya, “Safaricom Data Services are down,” Techweez, August 22, 2019, <https://techweez.com/2019/08/22/safaricom-internet-down/>.
- ¹⁰Kevin Rotich, “Safaricom restores data, voice services after major outage,” Business Daily, November 24, 2019, <https://www.businessdailyafrica.com/news/Safaricom-restores-services/53...>
- ¹¹Anfernee Onamu, “Safaricom Issues Compensation To Home Fibre Customers Following Outage,” Gadgets Africa, April 15, 2020, <https://gadgets-africa.com/2020/04/15/safaricom-compensation-for-last-w...>
- ¹²Kenn Abuya, “Airtel Kenya is Currently Experiencing Service Outage [UPDATE: ISSUES FULLY RESOLVED],” Techweez, October 16, 2019, <https://techweez.com/2019/10/16/airtel-kenya-is-currently-experiencing-...>
- ¹³Edwin Mutai, “Safaricom probed over costly M-Pesa outage,” Daily Nation, December 9, 2018, <https://www.nation.co.ke/business/Safaricom-probed-over-costly-M-Pesa-o...>; Daily Nation, “Safaricom’s M-Pesa services down,” December 8, 2018, <https://www.nation.co.ke/news/M-Pesa-services-down/1056-4887498-o7137iz...>
- ¹⁴Daily Nation, “Safaricom hit by network outage,” November, 9, 2018 <https://www.nation.co.ke/news/Safaricom-hit-by-network-outage/1056-4845...>
- ¹⁵Augustine Sang, “Safaricom explains internet outage,” Daily Nation, July 22, 2018, <https://www.nation.co.ke/news/Internet-outage-hits-Safaricom-users/1056...>
- ¹⁶Omar Mohammed, “Kenya’s Safaricom restores services after voice and data outage,” Reuters, July 22, 2018 <https://af.reuters.com/article/topNews/idAFKBN1KC0HH-OZATP>.
- ¹⁷CIO East Africa, “WFH Video requirements putting pressure on networks,” May 18, 2020, <https://www.cio.co.ke/wfh-video-requirements-putting-pressure-on-networ...>
- ¹⁸Alliance for Affordable Internet, “Africa Regional Snapshot 2018 Affordability Report” <https://1e8q3q16vvc81g8l3h3md6q5f5e-wpengine.netdna-ssl.com/wp-content/...>
- ¹⁹“Alliance for Affordable Internet, “Africa Regional Snapshot 2019 Affordability Report” <https://1e8q3q16vvc81g8l3h3md6q5f5e-wpengine.netdna-ssl.com/wp-content/...>
- ²⁰Uwezo Kenya, “Are Our Children Learning? Remote Learning Survey Report,” May 2020, <https://palnetwork.org/wp-content/uploads/2020/05/Usawa-Agenda-2020-Rep...>
- ²¹Business Daily, “Safaricom, Airtel sued over data expiry losses,” October 22, 2019 <https://www.businessdailyafrica.com/news/Airtel-sued-over-data-expiry-l...>; “Safaricom backs down on data expiry losses,” CNBC Africa, October 23, 2019, <https://www.cnbc africa.com/east-africa/2019/10/23/safaricom-backs-down-...>; Sam Kiplagat, “Lawyer sues Safaricom, Airtel, over data bundle expiry,” Daily Nation, October 22, 2019, [https://www.nation.co.ke/kenya/life-and-style/lawyer-sues-safaricom-air...](https://www.nation.co.ke/kenya/life-and-style/lawyer-sues-safaricom-air-...)
- ²²James Wanzala, “Airtel rolls out no-expiry data rates,” Standard Media, December 10, 2019, <https://www.standardmedia.co.ke/business/article/2001352663/airtel-roll...>
- ²³John Walubengo, “What’s behind Safaricom’s no-expiry data move?” October 29, 2019, <https://www.nation.co.ke/oped/blogs/dot9/walubengo/2274560-5328654-138t...>
- ²⁴Republic of Kenya, “The Finance Act, 2018,” September 21, 2018, <https://www.kra.go.ke/images/publications/Finance-Act-2018.pdf>.
- ²⁵Saruni Maina, “The Grim Effects of Kenya’s Finance Act 2018 on Cost of Internet,” Techweez, October 19, 2018, <https://techweez.com/2018/10/19/effects-finance-act-2018-internet-cost/>.
- ²⁶Based on Kenya National Bureau of Statistics, “Economic Survey 2017,” July 5, 2017, <https://www.theelephant.info/documents/kenya-national-bureau-of-statist...>; for gender disparity, see page 249.
- ²⁷Muthoki Mumo, “Sh74 billion needed to bridge Kenya’s yawning digital divide,” Daily Nation, May 28, 2013, <https://www.nation.co.ke/business/news/Sh74-billion-needed-to-bridge-Ke...>
- ²⁸Communications Authority of Kenya, “CA connects 68 remote sub-locations to mobile voice services,” November 19, 2019, <https://ca.go.ke/ca-connects-68-remote-sub-locations-to-mobile-voice-se...>
- ²⁹Communications Authority of Kenya, “Education Broadband Connectivity Project,” October 16, 2019, <https://ca.go.ke/education-broadband-connectivity-project/>.
- ³⁰Hapa Kenya, “Fibre optic cable networks to now be registered with ICTA in new regulations,” July 25, 2019, <https://web.archive.org/web/20190725113820/https://hapakenya.com/2019/0...>
- ³¹Interview with [Official at Bloggers Association of Kenya], [June, 2020].
- ³²TeleGeography, “Submarine Cable Map”, accessed on June 14, 2017, <http://www.submarinecablemap.com/#/country/kenya>.
- ³³International Telecommunication Union, “Kenya defines licensing framework for liberalized sector,” <https://www.itu.int/ITU-D/treg/Newsletters/Research%20Material/Kenya-Ca...>
- ³⁴Okuttah Mark, “Mombasa Internet traffic re-routed to Nairobi hub,” Business Daily, June 8, 2015, <http://www.businessdailyafrica.com/corporate/Mombasa-Internet-traffic-r...>

- ³⁵Ishaq Jumbe, “Mombasa tipped to be region’s internet hub after IXP launch,” The Standard, June 23, 2016, <https://www.standardmedia.co.ke/business/article/2000206339/mombasa-tip...>
- ³⁶Communications Authority of Kenya, Quarterly Sector Statistics Report: Q1 FY 2019/2020 (July-September 2019), <https://ca.go.ke/wp-content/uploads/2019/12/Sector-Statistics-Report-Q1....>
- ³⁷Lynette Mukami, “Kenya’s telecoms regulator approves Airtel, Telkom merger,” The East African, December 13, 2019, <https://www.theeastafrican.co.ke/business/Airtel-Telkom-merger-approved....>
- ³⁸Communications Authority of Kenya, Quarterly Sector Statistics Report: Q1 FY 2019/2020 (July-September 2019), <https://ca.go.ke/wp-content/uploads/2019/12/Sector-Statistics-Report-Q1....>
- ³⁹Safaricom, “Safaricom Annual Report 2019,” https://www.safaricom.co.ke/annualreport_2019/assets/Safaricom_FY19_Ann....
- ⁴⁰Abdi Latif Dahir, “Airtel and Telkom are uniting to take on Safaricom in Kenya,” Quartz Africa, February 12, 2019, <https://qz.com/africa/1548281/airtel-and-telkom-are-uniting-to-take-on-...>
- ⁴¹Jaindi Kisero, “Safaricom faces M-Pesa break up in market dominance war,” Business Daily, February 23, 2017, <http://www.businessdailyafrica.com/corporate/Safaricom-faces-M-Pesa-bre...>
- ⁴²Muthoki Mumo, “Regulator drops plan to split up Safaricom,” Business Daily, January 3, 2018, <https://www.businessdailyafrica.com/corporate/companies/Regulator-drops...>
- ⁴³Edwin Mutai, “Parliament opens probe into telcos mobile money and service charges,” Daily Nation, July 8, 2018, <https://www.nation.co.ke/business/Parliament-opens-probe-into-telcos-mo...>
- ⁴⁴Communications Authority of Kenya, “Register of unified Licensing Framework Licenses”, <http://www.ca.go.ke/index.php/telecommunication>.
- ⁴⁵Communications Authority of Kenya, “Register of Unified Licensing Framework Licensees,” May 2017/2018, <https://ca.go.ke/wp-content/uploads/2018/03/Register-of-Unified-Licensi...>; Communications Authority of Kenya, “Register of Unified Licensing Framework Licensees,” February 2017, <https://web.archive.org/web/20170619190047/http://ca.go.ke/images/downl...>
- ⁴⁶Laws of Kenya, “Kenya Information Communication Act,” Section 6, <https://www.unodc.org/res/cld/document/ken/1930/information-and-communi...>
- ⁴⁷Laws of Kenya, “Kenya Information and Communication Act,” Section 11, <https://www.unodc.org/res/cld/document/ken/1930/information-and-communi...>
- ⁴⁸Communications Authority of Kenya, “Authority gets new Board Members,” July 23, 2019, <https://ca.go.ke/authority-gets-new-board-members/>; Elizabeth Kivuva, “CS Mucheru announces new board settling another leadership wrangle,” The Star, July 27, 2019, <https://www.the-star.co.ke/business/2019-07-27-cs-mucheru-announces-new...>
- ⁴⁹Victor Amadala, “CA intensifies search for a new director general,” The Star, May 23, 2020, <https://www.the-star.co.ke/business/kenya/2020-05-23-ca-intensifies-sea...>
- ⁵⁰John Muchangi, “Wanjau remains acting CA Boss, says board chair Gituku,” The Star, November 16, 2019, <https://www.the-star.co.ke/news/2019-11-16-wanjau-remains-acting-ca-bos...>
- ⁵¹Carol Maina, “Court lifts CA director Francis Wangusi’s suspension,” The Star, January 30, 2018, <https://www.the-star.co.ke/news/2018-01-30-court-lifts-ca-director-fran...>; Paul Wafula, “Wangusi: I was kicked out for opposing illegal payments,” Standard Digital, February 4, 2018, <https://www.standardmedia.co.ke/article/2001268397/wangusi-i-was-kicked...>; Paul Wafula, “Wangusi: The ICT ministry irritant that just won’t go away,” Daily Nation, December 10, 2019, <https://nation.africa/kenya/business/wangusi-the-ict-ministry-irritant-...>
- ⁵²Galgallo Fayó, “CA settles employment dispute with its boss Wangusi,” Business Daily, September 28, 2018 <https://www.businessdailyafrica.com/news/CA-settles-employment-dispute-...>
- ⁵³Nicholas Komu, “Francis Wangusi says CA has no Sh1bn for police,” Daily Nation, March 21, 2018 <https://www.nation.co.ke/news/CA-boss-Wangusi-defies-Uhuru-s-Sh1bn-cash...>
- ⁵⁴Open Observatory of Network Interference Explorer, “Kenya County Page,” Accessed March 28, 2019, <https://explorer.ooni.org/country/KE>.
- ⁵⁵Open Observatory of Network Interference Explorer, “Kenya County Page,” Accessed March 28, 2019, <https://explorer.ooni.org/country/KE>.
- ⁵⁶BBC, “Kenya TV channels still off air despite court order,” February 1, 2018, <https://www.bbc.com/news/world-africa-42905290>.
- ⁵⁷Jina Moore, “Kenya’s Name a ‘People’s President,’ and TV Broadcasts Are Cut,” The New York Times, January 30, 2018, <https://www.nytimes.com/2018/01/30/world/africa/raila-odinga-kenya.html>.
- ⁵⁸Fay Ngina, “Ezekiel Mutua speaks out on Ethic’s new song ‘Soko,’” The Standard, April 20, 2020, <https://www.standardmedia.co.ke/ureport/article/2001368587/ezekiel-mutu...>
- ⁵⁹Ezekiel Mutua, @EzekielMutua, “We are pleased to report that the video Soko by Ethic Entertainment has now been taken down from YouTube following the complaint we filed yesterday. The Board will take up the

matter with security agencies to ensure that the culprits face law for promoting defilement of girls,” April 20, 2020, <https://twitter.com/ezekielmwua/status/1252266524569550848?lang=en>.

- ⁶⁰Paul Ombati, “They should be arrested! Ezekiel Mutua condemns Ethic’s new song ‘Tarimbo’,” Citizen Digital, November 3, 2019, <https://citizentv.co.ke/lifestyle/arrested-ezekiel-mutua-condemns-ethic...>.
- ⁶¹Vincent Kejitan, “Ethic’s Tarimbo deleted from YouTube despite apology,” The Standard, November 9, 2019, <https://www.standardmedia.co.ke/ureport/article/2001348719/ethic-s-tari...>.
- ⁶²Kenya Film Classification Board, “CEO’s Statement,” April 27, 2018, <http://kfcg.co.ke/wp-content/uploads/2018/04/CEO-STATEMENT-ON-RAFIKI-RE...>.
- ⁶³Kenya Film Classification Board, “Governing Laws,” Accessed July 16, 2018, <http://kfcg.co.ke/about/governing-laws/>. Penal Code Sections 162, 163 and 165 punishes gay relationships with jail terms ranging from 5 to 21 years dependent upon whether relations were consensual. Attorney General, Penal Code Chapter 63. Nairobi: National Council for Law Reporting, 2014.
- ⁶⁴Hillary Kimuyu and Sam Kiplagat, “Court lifts ban on Rafiki, film to run for an Oscar,” Daily Nation, September 21, 2018, <https://www.nation.co.ke/news/Rafiki-ban-film-lifted-for-Oscars-nod/105...>.
- ⁶⁵Kenya Film Classification Board, “Statement on Children Television Programmes Promoting Homosexuality in Kenya,” June 15, 2017, <http://kfcg.co.ke/wp-content/uploads/2017/06/STATEMENT-ON-CHILDREN-TELE...>.
- ⁶⁶Google, “Transparency Report: Government requests to remove content-Kenya,” <https://transparencyreport.google.com/government-removals/by-country/KE...>.
- ⁶⁷Facebook, “Transparency: Content Restrictions-Kenya,” accessed June 8, 2020, <https://transparency.facebook.com/content-restrictions/country/KE>.
- ⁶⁸Faith Karanja, “Court orders blogger Nyakundi to pull down defamatory articles against politician,” The Standard, December 20, 2018, <https://www.standardmedia.co.ke/article/2001306978/court-orders-blogger...>.
- ⁶⁹Nairobi News, “Blogger Robert Alai arrested after leaking photos of Kenyatta in hospital,” August 19, 2017, <http://nairobi.news.nation.co.ke/news/robert-alai-arrested-photos-kenyatta...>.
- ⁷⁰Bonface Otieno, “Fresh Fry, Marie Stopes ads banned over sexual, abortion content,” Business Daily, September 11, 2018, <https://www.businessdailyafrica.com/news/Pwani-Oil-Marie-Stopes-ads-ov...>.
- ⁷¹National Council for Law Reporting, “Films and Stage Play Act Chapter 222,” Revised 2012, <http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/FilmsandStagePla...>.
- ⁷²Communications Authority of Kenya, “Guidelines on Prevention of Dissemination of Undesirable Bulk and Premium Rate Political Messages and Political Social Media Content via Electronic Communications Networks in Kenya,” July 2017, <https://ca.go.ke/wp-content/uploads/2018/02/Guidelines-on-Prevention-of-...>.
- ⁷³Article19, “Kenya: New Draft Guidelines on dissemination via Electronic Communications Networks should be scrapped,” July 28, 2017, <https://www.article19.org/resources/kenya-new-draft-guidelines-on-disse...>; Reporters Without Borders, “Kenyan election campaign hits journalists and media freedom,” July 8, 2017, <https://rsf.org/en/news/kenyan-election-campaign-hits-journalists-and-m...>.
- ⁷⁴Alice Munyua, Grace Githaiga and Victor Kapiyo, “Intermediary Liability in Kenya,” (research paper, commissioned by Association for Progressive Communication), https://www.apc.org/sites/default/files/Intermediary_Liability_in_Kenya....
- ⁷⁵National Council for Law Reporting, “National Cohesion and Integration Act No. 12 of 2008,” Revised 2012, accessed September 12, 2014, <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/NationalCohesionandI...>. Section 62 (1) defines hate speech as “words intended to incite feelings of contempt, hatred, hostility, violence or discrimination against any person, group or community on the basis of ethnicity or race.” Section 62 (2) holds: “A newspaper, radio station or media enterprise that publishes the utterances referred to in subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings.”
- ⁷⁶Alice Munyua, Grace Githaiga and Victor Kapiyo, “Intermediary Liability in Kenya,” (research paper, commissioned by Association for Progressive Communication), https://www.apc.org/sites/default/files/Intermediary_Liability_in_Kenya....
- ⁷⁷Annette Wambulwa, “State opposes LSK case against arrest of bloggers,” The Star, June 3, 2020, <https://www.the-star.co.ke/news/2020-06-03-state-opposes-lsk-case-again...>.
- ⁷⁸Wilfred Ayaga, “Stop killing press freedom, editors tells Media Council,” The Standard, March 2, 2020, <https://www.standardmedia.co.ke/article/2001362525/stop-killing-press-f...>; Churchill Otieno, “Media council’s action a serious affront to editorial independence,” Daily Nation, March 18, 2020, <https://www.nation.co.ke/oped/opinion/Media-council-action-serious-affr...>.
- ⁷⁹Media Council of Kenya, “Press Freedom Violations: Current Status,” <https://www.mediacouncil.or.ke/en/mck/index.php/all-news/307-press-free...>.
- ⁸⁰Yomi Kazeem, “With over 250,000 cases, misinformation is compromising Africa’s Covid-19 response,” Quartz Africa, June 22, 2020, <https://qz.com/africa/1871683/whatsapp-is-a-key-source-of-covid-19-info...>.

- ⁸¹Georgina Smith, “Stamping out misinformation in Kenya’s COVID-19 fight,” Aljazeera, April 25, 2020, <https://www.aljazeera.com/news/2020/04/stamping-misinformation-kenya-co...>.
- ⁸²Africa Times, “Kenya warns of up to 50k fines for spreading fake covid-19 news,” March 3, 2020, <https://africatimes.com/2020/03/03/kenya-warns-of-up-to-50k-fines-for-s...>.
- ⁸³Patrick Mayoyo, “Fake news by bloggers could mess Kenya’s 2017 elections,” The Standard, April 21, 2017, <https://www.standardmedia.co.ke/business/article/2001237115/fake-news-b...>.
- ⁸⁴Kenya Today, “Government’s 36 bloggers FINALLY Report to work Today,” October 26, 2015, <https://www.kenya-today.com/news/governments-36-bloggers-finally-report...>.
- ⁸⁵Research conducted by author in 2017-2018.
- ⁸⁶Samantha Bradshaw and Philip N. Howard, “The Global Disinformation Order: 2019 Global Inventory of Organised Social Media Manipulation,” Computational Propaganda Research Project, University of Oxford, September 2019, <https://comprop.ox.ac.uk/wp-content/uploads/sites/93/2019/09/CyberT...>.
- ⁸⁷Abdi Latif Dahir, “Facebook is launching fact-checking tools in Africa – but WhatsApp is its real problem,” Quartz Africa, October 3, 2018, <https://qz.com/africa/1411947/facebook-starts-africa-fact-checking-tool...>.
- ⁸⁸Abdi Latif Dahir, “Fake news is already disrupting Kenya’s high-stakes election campaign,” Quartz Africa, June 25, 2017, <https://qz.com/1011989/fake-news-and-misinformation-are-upstaging-kenya...>.
- ⁸⁹David Ndi Exposed, “Walter Menya,” #MaizePriceScandal, and #GoKDelivers were a few examples of social media campaigns started or promoted by pro-government or opposition social media users. See, for example, the news cycle on Walter Menya arrest: Daily Nation, “Blogger who leaked exclusive DCI photos of Walter Menya,” June 20, 2017, <http://www.nation.co.ke/news/Pauline-Njoroge-Walter-Menya-photos-DCI/10...>.
- ⁹⁰Abdi Latif Dahir, “How social media bots became an influential force in Africa’s elections,” Quartz Africa, July 18, 2018, <https://qz.com/africa/1330494/twitter-bots-in-kenya-lesotho-senegal-equ...>.
- ⁹¹Jina Moore, “Cambridge Analytica had a role in Kenya Election, Too,” The New York Times, March 20, 2018, <https://nyti.ms/2uWD2zx>.
- ⁹²Kampala Dispatch, “Uhuru hires data firm behind Trump, Brexit victories,” May 10, 2017, <http://dispatch.ug/2017/05/10/uhuru-hires-data-firm-behind-trump-brexit...>.
- ⁹³Simon Ndonga, “DCI probing Sh2.8bn scandal at Government Advertising Agency,” Capital News, August 11, 2018, <https://www.capitalfm.co.ke/news/2018/08/dci-probing-sh2-8bn-scandal-at...>.
- ⁹⁴Rawlings Otieno, “Advertising body a tool to muzzle media, say editors,” The Standard, May 4, 2019, <https://www.standardmedia.co.ke/article/2001323867/advertising-body-a-t...>.
- ⁹⁵Kenya News, “Government To Clear All Debts Owed To Media Houses, CS Mucheru,” July 10, 2019, <https://www.kenyanews.go.ke/government-to-clear-all-debts-owed-to-media...>.
- ⁹⁶Bob Wekesa, “Why Government Advertising Agency was doomed to fail,” August 18, 2018, <https://www.nation.co.ke/dailynation/blogs-opinion/opinion/why-governme...>.
- ⁹⁷Alan Rusbridger, “Kenya: The Devious Art of Censorship,” The New York Review of Books, December 8, 2016, <http://www.nybooks.com/articles/2016/12/08/kenya-devious-art-of-censors...>.
- ⁹⁸For example, after publishing a critical report about Safaricom, Kenya’s leading telecommunication provider, in early 2017, one journalist later said that his editor had not authorized the story in a move that effectively distanced the outlet from the article’s findings. Author’s Phone Interview in Nairobi, March 2017, in reference to CIPIT’s surveillance findings on Safaricom Internet networks; Moses Karanja, “CIPIT Research Reveals Evidence of Internet Traffic Tampering in Kenya: The Case of Safaricom’s Network,” CIPIT, March 23, 2017, <https://cipit.strathmore.edu/cipit-research-reveals-evidence-of-interne...>.
- ⁹⁹Ramadhan Rajab, “Press freedom reels under new forms of censorship,” The Star, May 3, 2019, <https://www.the-star.co.ke/news/big-read/2019-05-03-press-freedom-reels...>.
- ¹⁰⁰Twitter, #EndPoliceBrutalityKE, <https://twitter.com/hashtag/EndPoliceBrutalityKE>; Instagram, #EndPoliceBrutalityKE, <https://www.instagram.com/explore/tags/endpolicebrutalityke/>.
- ¹⁰¹Aljazeera, “Protestors march against Kenyan police brutality,” June 8, 2020, <https://www.aljazeera.com/news/2020/06/protesters-march-kenyan-police-b...>.
- ¹⁰²Patrick Alushula, “Census: 39pc of Kenyan youth unemployed,” February 24, 2020, <https://www.businessdailyafrica.com/economy/39pc-of-Kenya-youth-are-une...>.
- ¹⁰³Douglas Mwarua, “Police in Mombasa hunting for persons inciting locals not to register for Huduma Namba,” Tuko, <https://www.tuko.co.ke/302650-police-mombasa-hunting-persons-inciting-l...>.
- ¹⁰⁴Twitter, #SwitchOffKPLC <https://twitter.com/hashtag/SwitchOffKPLC?src=hash>.
- ¹⁰⁵#SwitchOffKPLC, @JerotichSeii, “Our Shujaa, @MboyaApollo, was fully ready to proceed with today’s hearing. The others? Not so. The weekend arrests @ODPP_KE @DCI_Kenya has thrown them into a tailspin. Na bado. Next date: 3 Oct. We keep on 🍌🍌”, July 18, 2018 <https://twitter.com/JerotichSeii/status/1019493332794343424>.

- ¹⁰⁶Peter Munaita, “Lawyer Mboya Vindicated in Kenya Power Billing Fiasco,” Daily Nation, July 16, 2018 <https://www.nation.co.ke/news/Lawyer-Apollo-Mboya-vindicated-after-long-...>
- ¹⁰⁷Jacob Onyango, “Kenyans angered by lawyer who sued Kenya Power for inflated bills after opting to settle matter out of court,” Tuko, <https://www.tuko.co.ke/289641-kenyans-angered-by-lawyer-sued-kenya-powe...>
- ¹⁰⁸Twitter, #Repeal162, <https://twitter.com/hashtag/Repeal162?src=hash>
- ¹⁰⁹Wamathai, “Justice Chacha Mwita Suspends 26 Sections Of The Computer Misuse And Cybercrimes Act,” Bake, May 29, 2018, <https://www.blog.bake.co.ke/2018/05/29/justice-chacha-mwita-suspends-26...>
- ¹¹⁰Maureen Kakah, “Court dismissed bloggers’ cybercrime law case,” Daily Nation, March 18, 2020, <https://www.nation.co.ke/news/Court-dismisses-bloggers-case-challenging...>; Republic of Kenya, In the High Court of Kenya at Milimani (Nairobi), Constitutional & Human Rights Division, “Petition No. 206 of 2019,” <http://kenyalaw.org/caselaw/cases/view/191276/>.
- ¹¹¹CGTN, “Kenya’s president orders stepped-up effort against COVID-19,” February 29, 2020, <https://news.cgtn.com/news/2020-02-29/Kenya-s-president-orders-steppe...>; VOA, “Kenya Taking Drastic Measures to Curb Coronavirus Spread,” March 28, 2020, <https://www.voanews.com/science-health/coronavirus-outbreak/kenya-takin...>
- ¹¹²Najma Abdi, “Protect Kenya’s Journalists Reporting on Covid-19,” Human Rights Watch, May 4, 2020, <https://www.hrw.org/news/2020/05/04/protect-kenyas-journalists-reportin...>
- ¹¹³Human Rights Watch, “Kenya: Nairobi Police Executing Suspects Dozens Killed in Low-Income Areas,” July 2, 2019, <https://www.hrw.org/news/2019/07/02/kenya-nairobi-police-executing-susp...>
- ¹¹⁴Human Rights Watch, “Kenya: Police Brutality During Curfew - Several dead, Others with Life-Threatening Injuries,” April 22, 2020, <https://www.hrw.org/news/2020/04/22/kenya-police-brutality-during-curfew>.
- ¹¹⁵Amanda Sperber, “‘They have killed us more than corona’: Kenyans protest against police brutality,” The Guardian, June 9, 2020, <https://www.theguardian.com/global-development/2020/jun/09/they-have-ki...>
- ¹¹⁶National Council for Law Reporting, Republic of Kenya, Kenya Gazette Supplement, “The Computer Misuse and Cybercrimes Act, 2018,” May 16, 2018, <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ComputerMisuseandCyb...>
- ¹¹⁷Juliet Nanfuka, “Sections of Kenya’s Computer Misuse and Cybercrimes Act, 2018 Temporarily Suspended,” Collaboration on International ICT Policy for East and Southern Africa, May 30, 2018, <https://cipesa.org/2018/05/sections-of-kenyas-computer-misuse-and-cyber...>
- ¹¹⁸Christopher Tredger, “Bloggers gain upper hand in dispute over Kenya’s cybercrime law,” IT Web Africa, October 4, 2018, <http://www.itwebafrica.com/security/515-kenya/244939-bloggers-gain-uppe...>
- ¹¹⁹Kiruti Itimu, “Court of Appeal Judges To Hear Application Against Controversial Computer Misuse Law,” Techweez, June 3, 2020, <https://techweez.com/2020/06/03/judges-to-hear-application-computer-mis...>
- ¹²⁰John Muchangi, “Coronavirus rumourmongers will be fined Sh5 Million – Oguni,” The Star, March 2, 2020, <https://www.the-star.co.ke/news/2020-03-02-coronavirus-rumourmongers-wi...>
- ¹²¹Republic of Kenya in the High Court of Nairobi Constitutional and Human Rights Division, “Petition No 174 of 2016,” accessed June 1, 2017, <http://kenyalaw.org/caselaw/cases/view/135467/>; Article 19, “Kenya: Win for freedom of expression as penal provision declared unconstitutional,” April 26, 2017, <https://www.article19.org/resources/kenya-win-for-freedom-of-expression...>
- ¹²²Article 19, “Kenya: Win for freedom of expression as repressive law declared unconstitutional,” April 19, 2016, <https://www.article19.org/resources/kenya-win-for-freedom-of-expression...>
- ¹²³Republic of Kenya National Council for Law Reporting, “The Kenya Information and Communications Act, chapter 411A,” 2009, https://www.researchictafrica.net/countries/kenya/The_Kenya_Information...; National Council for Law Reporting, Republic of Kenya, Kenya Gazette Supplement, “The Kenya Information and Communications (Amendment) Act, 2013,” December 18, 2013, <http://kenyalaw.org/kl/fileadmin/pdfdownloads/AmendmentActs/2013/KenyaI...>
- ¹²⁴“Analysis: Taming hate speech in Kenya,” The New Humanitarian via Reliefweb, August 24, 2012, <https://reliefweb.int/report/kenya/analysis-taming-hate-speech-kenya>.
- ¹²⁵Cyrus Ombati, “Blogger Cyprian Nyakundi arrested over coronavirus post,” The Standard, March 25, 2020, <https://www.standardmedia.co.ke/article/2001365603/blogger-cyprian-nyak...>
- ¹²⁶Sharon Maombo, “DCI declares blogger Cyprian Nyakundi a wanted man,” The Star, April 21, 2020, <https://www.the-star.co.ke/news/2020-04-21-dci-declares-blogger-cyprian...>
- ¹²⁷Joseph Wangui, “Blogger Alai charged over ‘alarming’ coronavirus post,” Daily Nation, March 23, 2020, <https://www.nation.co.ke/news/Alai-faces-court-over-Covid-19-post/1056-...>; Japheth Ogila, “Blogger Robert Ali freed on Sh50,000 cash bail over Covid-19 post,” Standard Media Digital, March 23, 2020, <https://www.standardmedia.co.ke/article/2001365322/blogger-alai-freed-o...>
- ¹²⁸Grace Ng’ang’a, “Kenyan man arrested for fake corona virus post on social media,” The Standard, March 16, 2020, <https://www.standardmedia.co.ke/article/2001364432/kenyan-man-arrested-...>

- ¹²⁹Hillary Kimuyu, “Controversial activist Mildred Owiso set free after run-in with police,” Daily Nation, January 25, 2020, <https://www.nation.co.ke/news/activist-Mildred-Owiso-set-free-after-run-...>
- ¹³⁰Japheth Ogila, “Blogger Robert Alai Arrested, driven to DCI Headquarters,” The Standard, June 18, 2019, <https://www.standardmedia.co.ke/article/2001330358/blogger-robert-alai-...>
- ¹³¹Cyrus Ombati, “Second Blogger arrested after Robert Alai for sharing pictures of officers killed in terror attack,” The Standard, June 19, 2019, <https://www.standardmedia.co.ke/article/2001330559/second-blogger-arres-...>
- ¹³²Douglas Mwarua, “Police in Mombasa hunting for persons inciting locals not to register for Huduma Namba,” Tuko, <https://www.tuko.co.ke/302650-police-mombasa-hunting-persons-inciting-l-...>
- ¹³³Douglas Mwarua, “Kenyan blogger behind bars over his social media post,” Tuko, July 2017, <https://www.tuko.co.ke/245609-kenyan-blogger-bars-social-media-post.html>.
- ¹³⁴Nairobi News, “Blogger Robert Alai arrested after leaking photos of Kenyattas in hospital,” August 19, 2017, <http://nairobi.news.nation.co.ke/news/robert-alai-arrested-photos-kenyat-...>
- ¹³⁵Nelson Havi, “Devil is in the detail on phone privacy ruling,” The Standard, April 28, 2020, <https://www.standardmedia.co.ke/business/article/2001369322/devil-is-in-...>
- ¹³⁶Columbia University: Global Freedom of Expression, “Okoti v. Communications Authority of Kenya,” <https://globalfreedomofexpression.columbia.edu/cases/okoti-v-communicat-...>
- ¹³⁷Kamau Muthoni, “Why Safaricom raised the red flag over call snooping system,” April 28, 2020, <https://www.standardmedia.co.ke/business/article/2001369321/why-safaric-...>
- ¹³⁸Kenn Abuya, “Law Society of Kenya Seeks to Stop Installation of Spying Tool by State,” Techweez, June 10, 2020, <https://techweez.com/2020/06/10/lsk-ca-kenya-dms-case/>.
- ¹³⁹Interview with Safaricom agents in Nairobi, May 2017.
- ¹⁴⁰Kenya Gazette Supplement No. 137, Kenya Information and Communications (Registration Of SIM-Cards) Regulations, August 14, 2015, <http://kenyalaw.org/kl/fileadmin/pdfdownloads/LegalNotices/163-Kenya-In-...>
- ¹⁴¹Section 13. “A licensee shall grant the Commission’s officers access to its systems, premises, facilities, files, records and other data to enable the Commission inspect such systems, premises, facilities, files, records and other data for compliance with the Act and these Regulations.” The Kenya Information and Communications (Amendment) Act, 2013, <https://www.mediacouncil.or.ke/en/mck/index.php/publications/media-laws-...>
- ¹⁴²National Council for Law Reporting, Republic of Kenya, Kenya Gazette Supplement, “The Kenya Information and Communication (Amendment) Bill No. 61,” July 24, 2019, <http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2019/TheKenyaInform-...>
- ¹⁴³Bill Marczak, John Scott-Railton, Sarah McKune, Bahr Abdul Razzak, and Ron Deibert, “Hide And Seek: Tracking NSO Group’s Pegasus Spyware To Operations In 45 Countries,” The Citizen Lab, September 18, 2018, <https://citizenlab.ca/2018/09/hide-and-peek-tracking-nso-groups-pegasus-...>
- ¹⁴⁴Brian Wasuna, “How rogue IEBC staff minted cash from sale of voters’ data,” The Star, May 10, 2018, <https://www.the-star.co.ke/news/2018-05-10-how-rogue-iebc-staff-minted-...>
- ¹⁴⁵Republic of Kenya in the High Court of Nairobi Constitutional & Judicial Review Division, “Consolidated Petitions No 56, 58 & 59 of 2019,” <http://kenyalaw.org/caselaw/cases/view/189189/>; Privacy International, “Kenyan Court Ruling on Huduma Namba Identity System: the Good, the Bad and the Lessons,” February 24, 2020, <https://privacyinternational.org/long-read/3373/kenyan-court-ruling-hud-...>
- ¹⁴⁶Marvin Chege, “Oguna Finally Hints at Huduma Namba Release,” Kenyans.co.ke, January 31, 2020, <https://www.kenyans.co.ke/news/49261-high-court-clears-government-issue-...>; Cyrus Ombati, “Stop misinformation on Huduma Namba, State tells DP Ruto allies,” Standard Media, September 26, 2020, <https://www.standardmedia.co.ke/nairobi/article/2001387809/stop-misinfo-...>
- ¹⁴⁷National Council for Law Reporting, Republic of Kenya, Kenya Gazette Supplement, “The Computer Misuse and Cybercrimes Act, 2018,” <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ComputerMisuseandCyb-...>
- ¹⁴⁸National Council for Law Reporting, “Kenya Information and Communications Act, Article 31,” <http://admin.theiguides.org/Media/Documents/Kenya%20Information%20Commu-...>
- ¹⁴⁹Government of Kenya Financial Reporting Centre, Acts and Regulations Downloads, see Prevention of Terrorism Act 2012, article 35, <http://frc.go.ke/downloads/category/2-acts-and-regulations.html>.
- ¹⁵⁰The Republic of Kenya, “Prevention of Terrorism Act No. 30 of 2012,” http://www.vertic.org/media/National%20Legislation/Kenya/KE_Prevention-...
- ¹⁵¹National Council for Law Reporting, Republic of Kenya, Kenya Gazette Supplement, “The Security Laws (Amendment) Act, 2014,” December 22, 2014, <http://kenyalaw.org/kl/fileadmin/pdfdownloads/AmendmentActs/2014/Securi-...>

- ¹⁵²Moses Karanja, “CIPIT Research Reveals Evidence of Internet Traffic Tampering in Kenya: The Case of Safaricom’s Network,” CIPIT, March 23, 2017, <https://cipit.strathmore.edu/cipit-research-reveals-evidence-of-interne...>.
- ¹⁵³Privacy International, “Trace, Capture, Kill: Inside Communication Surveillance and Counterterrorism in Kenya,” March 15, 2017, <https://privacyinternational.org/report/43/track-capture-kill-inside-co...>.
- ¹⁵⁴Privacy International, “Trace, Capture, Kill: Inside Communication Surveillance and Counterterrorism in Kenya,” March 15, 2017 <https://privacyinternational.org/report/43/track-capture-kill-inside-co...>; According to the report, Traffic monitoring projects (Network Early Warning System and National intrusion Detection and Prevention Systems) have been detailed as enabling not just monitoring but deep inspection of all Internet traffic coming through the country.
- ¹⁵⁵National Council for Law Reporting, Republic of Kenya, Kenya Gazette Supplement, “The Data Protection Act, 2019,” November 11, 2019, <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/2019/TheDataProtecti...>.
- ¹⁵⁶Privacy International, “Analysis of Kenya’s Data Protection Act, 2019,” January 2020, <https://privacyinternational.org/sites/default/files/2020-02/Analysis%2....>.
- ¹⁵⁷Sam Kiplagat, “Labour court suspends interviews for new data commissioner position,” Business Daily, July 7, 2020, <https://www.businessdailyafrica.com/news/Labour-court-halts-hiring-of-D...>.
- ¹⁵⁸Association for Progressive Communications, “Policy Brief: Data Protection in Kenya,” https://www.apc.org/sites/default/files/Data_protection_in_Kenya_1.pdf.
- ¹⁵⁹Communications Authority of Kenya, “Request for Proposals for Provision of Consultancy Services for the Study On Over-The-Top (OTTs) Technologies/Services in Kenya,” 2018, <https://ca.go.ke/wp-content/uploads/2018/10/Consultancy-Services-For-Th...>.
- ¹⁶⁰Communications Authority of Kenya, “Extension Of Closing Date For The Rfp Tender For Provision Of Consultancy Services For The Study On Over The Top (OTTs) Technologies /Services In Kenya,” May 10, 2019, <https://ca.go.ke/document/extension-of-closing-date-for-the-rfp-tender-...>.
- ¹⁶¹Privacy International, “Trace, Capture, Kill: Inside Communication Surveillance and Counterterrorism in Kenya,” March 15, 2017 <https://privacyinternational.org/report/43/track-capture-kill-inside-co...>.
- ¹⁶²Neema Iyer, Bonnita Nyamwire, and Sandra Nabulega, “Alternate Realities, Alternate Internets,” Pollicy, August 2020, <https://ogbv.policyp.org/report.pdf>.
- ¹⁶³Cecilia Maundu, “Online violence in times of covid-19,” KICTAMet, May 29, 2020, <https://www.apc.org/en/news/kictanet-online-gender-based-violence-times...>; Basillio Mutahi, “Kenyan nurse: ‘I was shunned over coronavirus fears,’” BBC News, May 12, 2020, <https://www.bbc.com/news/world-africa-52630804>.
- ¹⁶⁴Mwara Gichanga and Liz Orembo, “Trends of Online Violence against Women in Politics During the COVID19 Pandemic in Kenya,” KICTANet, June 2, 2020 <https://www.kictanet.or.ke/mdocs-posts/trends-of-online-violence-again...>.
- ¹⁶⁵Human Rights Watch, ““Kill Those Criminals” Security Forces Violations in Kenya’s August 2017 Elections,” October 15, 2017 <https://www.hrw.org/report/2017/10/15/kill-those-criminals/security-for...>.
- ¹⁶⁶Njeri Wangari, “Political Cyber bullying of Women Aspirants in 2017 Kenyan Election,” AfroMum, August 14, 2017 <http://www.afromum.com/political-cyber-bullying-women-aspirants-2017-ke...>.
- ¹⁶⁷Daily Nation, “What female politicians go through in quest to ascend to power,” May 29, 2017 <https://www.nation.co.ke/news/politics/kenya-female-politics/1064-39471...>.
- ¹⁶⁸Lolyne Ongeri, “Machakos County Government Interdicts Dr Alice Kasyoka For Allegedly Publishing Derogatory Post on Facebook,” iFreedoms Kenya, March 4, 2019 <https://www.ifree.co.ke/2019/03/machakos-county-government-interdicts-d...>; Kahawa Tungu, “Governor Alfred Mutua Wants Machakos Doctor Dismissed for Criticising him through Social Media,” February 28, 2019 <https://www.kahawatungu.com/2019/02/28/governor-alfred-mutua-wants-mach...>.
- ¹⁶⁹Communications Authority of Kenya, Quarterly Sector Statistics Report: Q1 FY 2019/2020 (July-September 2019), <https://ca.go.ke/wp-content/uploads/2019/12/Sector-Statistics-Report-Q1...>.
- ¹⁷⁰James Anyanzwa, “Top suspect arrested in bank hackers crackdown,” Business Daily, February 5, 2019 <https://www.businessdailyafrica.com/news/Top-suspect-arrested-in-bank-h...>.
- ¹⁷¹Hillary Orinde, “Hackers sneak into National Bank, walk away with 29 million,” The Standard, January 19, 2018 <https://www.standardmedia.co.ke/article/2001266528/hackers-sneak-into-n...>.
- ¹⁷²Victor Amadala, “Revealed: Here are hacker groups looting banks in Kenya,” The Star, May 2, 2019, <https://www.the-star.co.ke/business/2019-05-02-revealed-here-are-hacker...>.
- ¹⁷³James Anyanzwa, “Top suspect arrested in bank hackers crackdown,” Business Daily, February 5, 2019, <https://www.businessdailyafrica.com/news/Top-suspect-arrested-in-bank-h...>.
- ¹⁷⁴National Council for Law Reporting, Republic of Kenya, Kenya Gazette Supplement, “The Computer Misuse and Cybercrimes Act, 2018,” Section 14, May 16, 2018, <http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ComputerMisusean...>.

- [175](#)Business Day, "Kenyan election watchdog confirms hacking attempt," August 10, 2017, <https://www.businesslive.co.za/bd/world/africa/2017-08-10-jittery-kenya...>
- [176](#)Kimiko de Freytas-Tamura, "Kenya Election Returns Were Hacked, Opposition Leader Says," The New York Times, August 9, 2017, <https://www.nytimes.com/2017/08/09/world/africa/kenya-election-results-...>

ecoi.net summary:

Report on digital media and
internet freedom (reporting period
June 2019 - May 2020)

Country:

Kenya

Source:

[Freedom House](#)

Original link:

<https://freedomhouse.org/country/kenya/freedom-net/2020>

Document type:

Periodical Report

Language:

English

Published:

14 October 2020

Document ID:

2039098

Austrian Red Cross Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD)	Wiedner Hauptstraße 32, 1041 Wien T (Telefon) +43 1 589 00 583 F (Fax) +43 1 589 00 589 info@ecoi.net	Contact Imprint & Disclaimer F.A.Q. Data Protection Notice
--	---	---

ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

