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Introduction

1. Digital rights and freedoms should be accorded the same protection as offline rights. Protection of freedom of expression, access to information, data protection and privacy have been guaranteed in international and regional instruments to which Nigeria is a party. Consequently, they must be considered in the recommendations made to Nigeria during the fourth cycle of the UPR.
2. During the third cycle of the UPR in November 2018, Nigeria received 290 recommendations, accepted 240 and noted 50 recommendations. Two of the recommendations were specific to freedom of opinion and expression while no specific recommendation was related to online rights.
3. This report reflects on digital rights and freedoms by assessing Nigeria's implementation of the recommendations emerging from the third cycle and compliance with the established national, regional and international standards over the period preceding the fourth cycle. Recommendations are made to Nigeria on how its digital rights record can be improved.

Updates from the Previous Review

4. Nigeria's Internet penetration has grown from 98.39 million internet users in 2019 to 122.5 million internet users at the start of 2023. Active social media users grew from 24.00 million users to 31.60 million social media users as of January 2023, equating to 14.3 percent of the total population.¹
5. To improve internet and broadband access in the country, in October 2019, the Federal Ministry of Communications was renamed the Federal Ministry of Communications and Digital Economy. In November 2019, the National Digital Economic Policy and Strategy was unveiled to fast-track digital development and empower citizens to create technologically enhanced solutions that will advance digital transformation in the country.² In December 2019, the Nigerian National Broadband Plan 2020-2025 was inaugurated.³ The plan was designed to improve and deliver data download speeds of about 25 Mbps in urban areas and 10Mbps in rural areas.
6. A policy and legal regime was set up by the government, allegedly to protect the citizens against misinformation, disinformation, and false news. They include the Nigeria Broadcasting Code, 2020; National Security Strategy 2019. The Nigeria Data Protection Regulation 2019 was

¹Data Reportal(2023), "Digital 2023 Nigeria," retrieved from <https://datareportal.com/reports/digital-2023-nigeria>; <https://datareportal.com/reports/digital-2019-nigeria>; <https://datareportal.com/reports/digital-2023-nigeria>

² National Digital Economic Policy and Strategy: https://ngea.gov.ng/Content/resources/DTTWG%20Training_National%20Digital%20Economy%20Policy%20and%20Strategy.pdf

³ Nigerian National Broadband Plan 2020-2025: <https://ncc.gov.ng/documents/880-nigerian-national-broadband-plan-2020-2025/file>

specifically enacted to safeguard the rights of natural persons to data privacy, to foster safe conduct for transactions involving the exchange of Personal Data and to prevent manipulation of Personal Data.⁴

7. In 2019, some bills were also brought forward to control the use of social media, they include the Anti-social media Bill 2019 and the Hate Speech (Prohibition) Bill, 2019. Due to pushbacks, these bills did not scale through. Other amendment bills include - Nigerian Press Council Act (Amendment) Bill, 2019; Penal Code (Northern States) Federal Provisions Act (Amendment) Bill, 2019; Criminal Code Act (Amendment) Bill, 2019.
8. Over the past five years, there has been a decline in the civic space rating in Nigeria. In 2019, Nigeria's civic space rating was downgraded from 'obstructed' to 'repressed' by the CIVICUS Monitor and it has remained 'repressed' since then.⁵
9. At the last UPR in 2018, Reporters without Borders, a global freedom of expression and media index ranked Nigeria at 119th out of 180 countries assessed.⁶ Over the next 5 years, the ranking fluctuated, between 120th position in 2019, 129th in 2022 and currently at 123rd in 2023. Nigeria has been stated by RSF in the latest ranking as one of West Africa's most dangerous and difficult countries for journalists, with several arbitrary attacks and arrests recorded during the 2023 elections.⁷
10. Similarly, Freedom House's "Freedom on the Net" report, which assesses global online freedom trends relating to obstacles to access, limits on content, violations of user rights, rated Nigeria as partly free with a score of 57/100.⁸
11. There have been efforts to regulate the internet through social media legislation. However, it has faced push backs by civil society actors. These bills include - the Protection from Internet Falsehood and Manipulation Bill -2019 (social media Bill) and National Commission for the Prohibition of Hate Speeches Bill -2019 (Hate Speech Bill).
12. Overtime, the Cybercrime (Prohibition, Prevention, etc) Act, 2015⁹ and the Terrorism (Prevention and Prohibition) Act, 2022,¹⁰ have been used against bloggers and journalists. There are concerns on the powers provided by the Cybercrimes Act and the Nigerian polity have witnessed increased monitoring of social media posts, intimidation and arrest of opposing voices and government

⁴ Nigeria Data Protection Regulation: <https://nitda.gov.ng/wp-content/uploads/2020/11/NigeriaDataProtectionRegulation11.pdf>

⁵ Civicus Monitor: <https://monitor.civicus.org/country/nigeria/>

⁶ See, <https://rsf.org/en/index?year=2018>

⁷ See, <https://rsf.org/en/index?year=2023>

⁸ Freedom on the Net: <https://freedomhouse.org/country/nigeria/freedom-net/2022>

⁹ Cybercrime Prohibition Act: https://incb.npf.gov.ng/uploads/CyberCrime_Prohibition_Prevention_etc_Act_2015.pdf

¹⁰ Terrorism (Prevention and Prohibition) Act, 2022: <https://placng.org/i/wp-content/uploads/2022/05/Terrorism-Prevention-and-Prohibition-Act-2022.pdf>

critics for alleged hate speech.

13. The National Information Technology Development Agency (NITDA) of the Federal Ministry of Communications - have issued several regulations, standards, guidelines and frameworks to guide the development, standardisation, and regulation of information technology practices in Nigeria.
14. Guidelines and Frameworks introduced during this review period include: Guidelines For Nigerian Content Development in Information and Communication Technology (ICT) (as Amended, August 2019), to enable and present indigenous ICT companies with opportunities that will improve their capacity to provide relevant products and services;¹¹ Nigeria Data Protection Regulation 2019: Implementation Framework;¹² Framework and Guidelines for Public Internet Access (PIA) 2019, to provide for public internet access in Nigeria and ensure safe use of public internet access¹³, Framework and Guidelines for the Use of Social Media Platforms in Public Institutions 2019, to guide on the use of Social Media within the Public Institutions' communications environment in order to improve government transparency, participation and interaction with the public¹⁴, Guidelines for the Management of Personal Data by Public Institutions in Nigeria, 2020, for Public Officers guidance on the management of personal information.¹⁵
15. Some policies enacted include: Nigeria Cloud Computing Policy 2019, to create an enabling environment for more investment in Cloud infrastructure and platforms¹⁶, National Identity Policy for Sim Card Registration 2020 and Revised National Identity Policy for Sim Card Registration 2021, to mitigate identity fraud and other online crimes and to validate SIM card registration records and allow it to be used as a digital identity to authenticate subscribers for e-government and other value-added services¹⁷ Also, the National Policy on Fifth Generation (5G) Networks for Nigeria's Digital Economy 2021, which creates a deployment plan to ensure that major cities across the country benefit from 5G technologies¹⁸, National Digital Economy Policy and Strategy (2020-2030), to provide a plan for using digital technology as a platform for stimulating growth in

¹¹ Guidelines For Nigerian Content Development in Information and Communication Technology (ICT) (as Amended, August 2019)- <https://nitda.gov.ng/wp-content/uploads/2020/11/GNCFinale2211.pdf>

¹² Nigeria Data Protection Regulation 2019: Implementation Framework- <https://nitda.gov.ng/wp-content/uploads/2021/01/NDPR-Implementation-Framework.pdf>

¹³ Framework and Guidelines for Public Internet Access (PIA) 2019: <https://nitda.gov.ng/wp-content/uploads/2020/11/FrameworkAndGuidelinesForPublicInternetAccessPIA1.pdf>

¹⁴ Framework and Guidelines for the Use of Social Media Platforms in Public Institutions 2019: <https://nitda.gov.ng/wp-content/uploads/2020/11/FrameworkAndGuidelinesForTheUseOfSocialMediaPlatformsInPublicInstitutions1.pdf>

¹⁵ Guidelines for the Management of Personal Data by Public Institutions in Nigeria, 2020: <https://nitda.gov.ng/wp-content/uploads/2020/11/GuidelinesForImplementationOfNDPRInPublicInstitutionsFinal11.pdf>

¹⁶ Nigeria Cloud Computing Policy 2019, to create an enabling environment for more investment in Cloud infrastructure and platforms: https://nitda.gov.ng/wp-content/uploads/2020/11/NCCPolicy_New1.pdf

¹⁷ Revised National Identity Policy for Sim Card Registration 2021: <https://nitda.gov.ng/wp-content/uploads/2021/05/REVISED-NATIONAL-DIGITAL-IDENTITY-POLICY-ON-SIM.pdf>

¹⁸ National Policy on Fifth Generation (5G) Networks for Nigeria's Digital Economy 2021: https://nitda.gov.ng/wp-content/uploads/2022/01/NATIONAL-POLICY-ON-5G-ISBN_compressed-1.pdf

all sectors of the economy through the development of a digital economy for the country.¹⁹

16. Some standards include the Nigeria Data Protection Regulation 2019, specifically enacted to safeguard natural persons' rights to data privacy; the Code of Practice for Interactive Computer Service Platforms/ Internet Intermediaries 2022, to set out measures to combat online harms such as disinformation and misinformation; and adopt and apply a co-regulatory approach towards implementation and compliance.²⁰
17. At the wake of Covid-19 pandemic in 2020, a control of Infectious Diseases bill 2020 was proposed by the House of Representatives in April 2020 to curtail the spread of fake news.²¹ On May 16, 2020, the Nigeria Governors' Forum (NGF) demanded the step down of the bill after the eighth teleconference meeting. The governors noted that a bill of such nature needed proper consultation to gather the pulse of the public before its introduction into the chambers of the National Assembly.²² Due to pushbacks, a two-day public hearing was held by the House of Representatives on the bill in June 2020 called for submission of Memoranda on the bill for transparency and accountability.²³ Despite opposition, the Bill was passed into law in December 2021.²⁴

Freedom of expression and opinion

18. Chapter 4, Section 39 of the Constitution of the Federal Republic of Nigeria (1999) as amended provides that; "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference".²⁵
19. Nigeria is also bound by regional and international instruments that guarantee freedom of expression including article 9 of the African Charter on Human and Peoples Rights (ACHPR), article 19 of the Universal Declaration of Human Rights (UDHR) and article 19 of the International Covenant on Civil and Political Rights (ICCPR). Despite the constitutional, regional and international guarantees, a number of actions including legislative measures have undermined freedom of expression in the country.

¹⁹ National Digital Economy Policy and Strategy (2020-2030): <https://nitda.gov.ng/wp-content/uploads/2020/11/National-Digital-Economy-Policy-and-Strategy2.pdf>.

²⁰ Code of Practice for Interactive Computer Service Platforms/ Internet Intermediaries 2022: <https://nitda.gov.ng/wp-content/uploads/2022/10/APPROVED-NITDA-CODE-OF-PRACTICE-FOR-INTERACTIVE-COMPUTER-SERVICE-PLATFORMS-INTERNET-INTERMEDIARIES-2022-002.pdf>

²¹ Control of Infectious Diseases bill 2020 was proposed by the House of Representatives in April 2020: <https://placng.org/i/wp-content/uploads/2020/05/Control-of-Infectious-Diseases-Bill-2020.pdf>

²² <https://www.channelstv.com/2020/05/14/infectious-diseases-bill-should-be-stepped-down-ngf/?fbclid=IwAR2dg7VGc3APbYA9rKQINb-wlOJf3NDY7QI9TLnDrEduXa1nygaFMc>

²³ <https://thenigerialawyer.com/house-of-reps-to-hold-public-hearing-on-the-infectious-diseases-bill-on-10-11th-of-june-2020-calls-for-memoranda/>

²⁴ <https://thenationonlineng.net/reps-pass-infectious-diseases-bill-despite-opposition/>

²⁵ Nigerian Constitution: <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

20. Other legal frameworks regulating freedom of opinion and expression in Nigeria include; The National Broadcasting Commission Act, 2004²⁶; the Freedom of Information Act, 2011²⁷; the Cybercrimes (Prohibition, Prevention etc) Act, 2015²⁸; the Administration of Criminal Justice Act, 2015²⁹; the Criminal Code Act 1990³⁰ the Penal Code Act 1960³¹; the Nigeria Data Protection Regulation 2019³² and the Nigerian Communication Commissions Act, 2003³³
21. During the reporting period, several violations to freedom of expression occurred, including severe assaults and death of a journalist. On January 6, 2019, armed soldiers invaded Daily Trust regional office in Maiduguri, Borno state and arrested the regional editor, Uthman Abubakar and a reporter, Ibrahim Sawab.³⁴
22. On May 8, 2019, Steven Kefason, a Kaduna-based journalist was arrested for criticising the government by officers of the Rivers State Police Command. He spent five days in detention before being released. Following the petition by the Kaduna state government, he was rearrested and detained in Kaduna Prison, and he spent 162 days in prison before his release despite a court order to release him.³⁵
23. On July 22, 2019, Precious Owolabi, a Nigerian journalist and a National Youth Service Corps (NYSC) member, serving with Channels Television, was shot dead while covering a protest by members of the Islamic Movement in Nigeria (IMN).³⁶
24. Regulatory bodies also contributed to the restriction of expression in the country. On May 16, 2021, The Human Rights Writers Association of Nigeria (HURIWA) accused the Federal Inland Revenue Service (FIRS) of attempting to muzzle free speech by illegally asking the nonprofit civil rights body to pay over N70m (Appx 91,078 USD) as Company Income Tax. HURIWA noted that it was a way to silence its independent voice and punish them for its criticism against mal-

²⁶ NBC Act 2004: https://ictpolicyafrica.org/api/documents/download?_id=5d5f78e1d3584b001b7422a3

²⁷ FOI Act: <https://www.cbn.gov.ng/FOI/Freedom%20Of%20Information%20Act.pdf>

²⁸ Cybercrimes (Prohibition, Prevention etc) Act, 2015:
https://www.cert.gov.ng/ngcert/resources/CyberCrime_Prohibition_Prevention_etc_Act_2015.pdf

²⁹ Administration of Criminal Justice Act, 2015:
<https://policehumanrightsresources.org/content/uploads/2017/09/Administrationof-Criminal-Justice-Act-2015-2.compressed.pdf?x96812>

³⁰ Criminal Code Act 1990: <http://lawsofnigeria.placng.org/laws/C38.pdf>

³¹ Penal Code Act 1960: https://policehumanrightsresources.org/content/uploads/2016/07/Penal-Code-Northern-States_-Federal-Provisions-Act-1960.pdf?x96812

³² Nigeria Data Protection Regulation 2019:
<https://ndpb.gov.ng/Files/NigeriaDataProtectionRegulation.pdf>

³³ Nigerian Communication Commissions Act, 2003: <https://ncc.gov.ng/documents/128-nigerian-communications-act-2003/file>
<https://dailytrust.com/breaking-armed-soldiers-shut-down-daily-trust-office-in-borno-arrest-editor-reporter/>

³⁵ <https://tv.guardian.ng/guardiantv-exclusive/steven-kefason-narrates-his-gruesome-162-days-experience-in-kaduna-prison/>

³⁶ <https://www.premiumtimesng.com/news/headlines/342389-nigerian-journalist-shot-dead-while-covering-shiites-protest.html?tztc=1>

administration in the FIRS.³⁷ On June 23, 2021, civil society applauded the introduction of a new FIRS Tax Administration Solution (TaxPro-Max) for ease of tax payments and filing online.³⁸

25. The state also clamped on the right of radio and TV stations through the National Broadcasting Commission (NBC) by shutting down radio stations and imposing fines on some stations for either conducting certain interviews or airing content viewed as contrary. In February 2022, an Abuja-based radio station – Vision FM was shut down by the National Broadcasting Commission for discussing the controversial extension of the tenure of Director General, National Intelligence Agency (NIA), Rufai Abubakar and his alleged incompetence. NBC alleged it was against the country's national security.³⁹
26. On October 17, 2022, the state government shut some stations including Radio Nigeria's Pride FM, NTA, Gamji Television, Vision FM, and Al'Umma TV for covering a political event organised by the opposition Peoples Democratic Party (PDP) in the state capital, Gusau. It was alleged that the media houses were shut down because they violated their professional ethics by attending a rally organised by the opposition PDP in the state which was earlier banned by the state government for "security reasons". Ibrahim Dosara, spokesperson of the state governor, said the media houses were punished for "the violation of government order and journalism practice."⁴⁰ This action has widely been condemned by journalists and other professional associations.⁴¹ On October 28, 2022, the Nigerian Guild of Editors (NGE), described the closure of the stations as "unlawful" and "unconstitutional" stating that no state government has the right to shut any media house. The Zamfara government however bowed to pressure and withdrew the order and the security forces deployed to the media houses to allow the personnel to resume their work.⁴²
27. Violations to freedom of expression online were also reported. Under section 24 of the Cybercrime Act 2015, law enforcement officers are empowered to arrest journalists and bloggers on grounds of cyberstalking.⁴³ In June 2022, the police invited a lawyer and social media personality, Abdul Mahmud, popularly known as "The Oracle", over allegations of conspiracy, cyber-stalking and wilfully making a false statement. The invitation was reportedly not honoured because according to The Oracle's lawyer, the police needed to state the substance of the complaint and the name of the complainant before his client could honour the invitation. Oracle further alleged the invitation was in connection to his political stance and a way to silence opposition voices.⁴⁴

³⁷ <https://punchng.com/huriwa-tackles-firs-for-demanding-n70m-as-income-tax/>

³⁸ <https://authorityngr.com/2021/06/23/huriwa-endorses-new-firs-tax-administration-solution/>

³⁹ <https://dailypost.ng/2022/02/02/nbc-shuts-down-vision-fm-for-discussing-alleged-corruption-of-nia-boss/>

⁴⁰ <https://www.mfwa.org/nigerian-state-govt-shuts-down-media-houses-for-covering-oppositions-rally/>

⁴¹ <https://procyonnews.com/zamfara-government-shuts-radio-tv-stations-for-covering-pdp-rally/>

⁴² <https://www.thecable.ng/zamfara-bows-to-pressure-withdraws-order-shutting-down-broadcast-stations>

⁴³ https://www.cert.gov.ng/ngcert/resources/CyberCrime_Prohibition_Prevention_etc_Act_2015.pdf

⁴⁴ <https://www.premiumtimesng.com/news/more-news/540080-police-invite-popular-social-media-influencer-over-alleged-cyber-stalking-conspiracy.html>

28. On November 29, 2022, a blogger - Abimbola Olajumoke Olawumi, raised the alarm over the alleged threat to her life in connection to her social media posts criticising Bisi, the wife of Kayode Fayemi, former governor of Ekiti state. Olawumi was accused of posting “malicious, false and offensive messages” on Facebook, designed to malign Bisi’s character in contravention of section 24 of the Cybercrimes Act 2015.⁴⁵
29. On November 29, 2022, it was reported that Aminu Adamu, an undergraduate of the Federal University, Dutse, Jigawa State was languishing in detention after security officials arrested him over his post on Twitter alleging that the wife of President Muhammadu Buhari, Aisha, was “fattening” on poor people’s money. He was arrested without the knowledge of his parents, beaten and taken to Aso Rock, the official presidential villa.⁴⁶ However, the First Lady, Aisha Buhari, withdrew the case against Aminu Mohammed on December 2, 2022, following pressure and condemnation by activists, including Amnesty International, the National Association of Nigerian Students, and other citizens. In moving the motion for withdrawal, the prosecution council cited section 108 subsection 2(a) of the Administration of Criminal Justice Act,⁴⁷ which states that⁴⁸ before the defendant is called upon to make his defence, he shall be discharged of the offence.
30. During the 2023 elections, violations were also recorded. On February 27, 2023, 14 journalists were reported to have been detained, harassed, or assaulted while covering the 2023 presidential and National Assembly elections. Haruna Salisu, the owner of *WikkiTimes* was detained in police custody on the allegation that he was inciting the electorate.⁴⁹
31. Ahmed Musa, a Bauchi state publisher of *WikkiTimes* (an online media outfit) – was arrested in Duguri, the hometown of the governor on 25th February 2023 while covering the elections and was taken to the police criminal investigation department before his arraignment. He was charged with “inciting disturbance of public peace to blackmail” contrary to Section 114 of the Penal Code. The case was adjourned as Musa denied all the charges levelled against him.⁵⁰
32. On March 21, 2023, the Committee to Protect Journalist (CPJ) reported that at least 28 journalists and media workers were harassed, beaten, and denied access while covering gubernatorial and state assembly elections.⁵¹

⁴⁵ <https://www.thecable.ng/blogger-alleges-threat-to-life-as-fayemis-wife-petitions-police-over-cyberbullying/amp>

⁴⁶ <https://punchng.com/aminu-said-he-was-arrested-beaten-on-aishas-order-uncle/>

⁴⁷ https://punchng.com/breaking-aisha-buhari-withdraws-case-against-aminu/?utm_medium=Social&utm_source=Twitter#Echobox=1670006124

⁴⁸ Administration of Criminal Justice Act, 2015, <https://policehumanrightsresources.org/content/uploads/2017/09/Administration-of-Criminal-Justice-Act-2015-2.compressed.pdf?x96812>

⁴⁹ <https://punchng.com/nigeriaelections2023-14-journalists-detained-attacked-by-police-others-report/>

⁵⁰ <https://punchng.com/bauchi-court-remands-journalist-for-alleged-blackmail-of-gov/#Echobox=1677613903>

⁵¹ <https://cpj.org/2023/03/at-least-28-journalists-harassed-beaten-denied-access-while-covering-nigerian-state-elections/>

33. Agba Jalingo, a journalist and publisher of an online medium- *CrossRiverWatch*, was remanded at the Kuje Custodial Center Abuja on March 27, 2023, by Justice Zainab Abubakar of a Federal High Court in Abuja for allegedly publishing an article that was deemed 'insulting' to Mrs Elizabeth Ayade - the wife of the younger brother of the Cross River State Governor, Ben Ayade. Despite his plea of not guilty, he was alleged to have committed an offence punishable under Section 24 (1)b of the Cybercrimes (Prohibition, Prevention, Etc) Act 2015.⁵² He was initially arrested on August 22, 2019, on treason and terrorism charges due to the critical article he published. On February 17, 2020, he was granted bail of 10 million naira after 174 days in detention. He was re-arrested on August 19, 2022.⁵³
34. In March 2023, Chude Nnamdi, a Twitter social media influencer was arrested by the police in Onitsha, Anambra state and taken to Abuja on cyber stalking allegations. It was alleged that his activities online contravene the provisions of the Cybercrimes Act.⁵⁴ On April 20, 2023, he pleaded not guilty, but was granted 10-million-naira (Appx 12,883 USD) bail by a Federal High Court on a one-count charge of cyber stalking. He was further ordered by the justice to produce one surety, who must be a level 14 civil servant or a resident of the Federal Capital Territory (FCT)- Abuja with verified landed property.⁵⁵

Freedom of information and Censorship of Content

35. Article 39 of the Constitution of the Federal Republic of Nigeria (1999) guarantees access to information, stating *"(1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. (2) Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions".*⁵⁶
36. In furtherance to this, the Freedom of information Act (FOIA) 2011 was enacted to enhance access to information.⁵⁷ The Act ensures public records and information are available and accessible. However, sections 11, 12, 14, 15, 16 and 17 of the Act makes exemptions to which disclosure of information will not be granted i.e. exemption of international affairs and defence, law enforcement and investigation, personal information, third part information, personal or other privileges conferred by law, and exemption of course or research material.

⁵² <https://tribuneonlineng.com/journalist-jalingo-remanded-for-allegedly-insulting-gov-ayades-in-law/>

⁵³ <https://www.thecable.ng/just-in-agba-jalingo-regains-freedom-after-five-months-in-custody>

⁵⁴ <https://www.thecable.ng/police-chude-nnamdi-social-media-influencer-was-arrested-for-cyberstalking>

⁵⁵ <https://thenationonlineng.net/alleged-cyberstalking-ourt-admits-social-media-influencer-to-n10m-bail/>

⁵⁶ <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

⁵⁷ <https://www.cbn.gov.ng/FOI/Freedom%20Of%20Information%20Act.pdf>

37. In 2019, a bill was sponsored by Senator Muhammad Sani Musa, titled 'Protection from Internet Falsehoods and Manipulations and Other related Matters Bill 2019'⁵⁸
38. There was an increase in the spread of false information online in the 2023 elections. This was used by various supporting parties to either appeal to the public to vote for them or used against their opponent. February 10, 2023: The All-Progressives Grand Alliance (APGA) governorship candidate in Enugu, Frank Nweke Jnr., addressed the news that he endorsed APC Presidential candidate, Bola Tinubu, as false.⁵⁹
39. On August 4, 2020, the Federal Government launched the reviewed sixth Broadcasting Code of the National Broadcasting Commission (NBC). The Code prohibits hate speech and raised the fine from N500,000 to N5million (Appx 6,323 USD)⁶⁰. Despite push backs on the Code on grounds of not undertaking proper consultation, Radio stations and TV stations have been fined for "unprofessional" broadcasts. On August 13, 2020- the NBC fined Nigeria Info 99.3FM Lagos (a radio station) N5 million for unprofessional broadcast (Appx 6441.89 USD).⁶¹ In October 2020, 3 stations (Arise TV, AIT and Channels) were each fined 3 million naira (Appx 3,794 USD) for unprofessional coverage of the #EndSARS protests.⁶²
40. Similarly, on August 3, 2022, the NBC imposed a N5,000,000 (Appx 6441.89 USD) fine each on Multichoice Nigeria Limited, owners of DSTV, TelCom Satellite Limited (TSTV) and NTA- StarTimes Limited for broadcasting a documentary by the BBC AFRICA EYE titled, "*Bandits Warlords of Zamfara*", which NBC said glorified the Banditry activities and undermines the National security of Nigeria. It also contravened the provisions of the Nigeria Broadcasting Code, Sixth edition.⁶³
41. On April 1, 2023, the NBC fined Channels Television N5,000,000 (Appx 6441.89) over allegedly violating the NBC code over its interview with the Labour Party vice-presidential candidate, Datti Baba- Ahmed. During his interview, Datti called on President Muhammadu Buhari and the Chief Justice of Nigeria not to swear in Bola Tinubu – the Independent National Electoral Commission - INEC declared president-elect, based on the circumstances surrounding his emergence as a winner.⁶⁴ This sanction has been condemned by people and the media to silence opposing

⁵⁸ <https://guardian.ng/wp-content/uploads/2019/11/Protection-from-Internet-Falsehood-and-Manipulation-Bill-2019.pdf>

⁵⁹ <https://www.franknwekeii.com/post/fake-news-frank-nweke-jrs-endorsement-of-bola-ahmed-tinubu>

⁶⁰ <https://www.channelstv.com/2020/08/04/fg-launches-amended-broadcasting-code-says-hate-speech-fine-now-n5m/>.

⁶¹ https://www.channelstv.com/2020/08/13/mailafia-nbc-fines-radio-station-n5m-for-unprofessional-broadcast/?fbclid=IwAR3Eyt2gR-lqXyfYapb34z74pgCH51xCkCvFvOyF0twUXhE38qS_bSXvs-l.

⁶² <https://www.vanguardngr.com/2020/10/endsars-nbc-fines-arise-tv-ait-channels-television-for-unprofessional-coverage/>

⁶³ <https://www.channelstv.com/2022/08/03/nbc-fines-dstv-trust-tv-startimes-others-over-documentary-on-bandits/>

⁶⁴ <https://www.premiumtimesng.com/news/top-news/591249-nbc-fines-channels-tv-n5-million-over-dattis-ending-democracy-comment.html>

⁶⁵ <https://www.channelstv.com/2023/04/07/soyinka-condemns-sanction-over-channels-tv-interview-commends-presenters-valiant-efforts/>

voices.⁶⁵

42. On May 11, 2023, after a ruling by a Court in Abuja, the NBC was barred from imposing fines on broadcast stations as it has no constitutional right to impose fines/sanctions or conduct criminal investigation on broadcast organisations, but rather the judicial power of the court.⁶⁶
43. On June 4, 2021, the government of Nigeria banned the use of Twitter after President Muhammadu Buhari's tweet was deleted by Twitter on account of that his post violated rules on abusive behaviour and threatened violence (hate speech) against a certain tribe (Igbos), which are from the South-Eastern part of the country.⁶⁷ People were unable to access the social media platform and some resorted to circumvention tools such as the Virtual Private Networks (VPNs). The government subsequently threatened to prosecute Nigerians accessing Twitter through circumvention tools and ordered media organisations to stop using the platform. On July 14, 2022, the Court of the Economic Community of West African States (ECOWAS) ruled that the banning of Twitter by the Nigerian government was unlawful.⁶⁸ The ban was lifted on January 13, 2022 – after seven months of blocking twitter access.⁶⁹
44. On June 8, 2021, the NBC directed all broadcast stations to suspend the use of Twitter, a microblogging and social networking service, in Nigeria. Citing section 2 (1) of the NBC Act which entrusts the Commission with responsibility to ensure strict adherence to the national laws, rules, and regulations.⁷⁰ On June 16, 2021, The Minister of information and Culture, Lai Mohammed, directed the House of Representatives to include internet broadcasting under the control of the NBC. The bill requires online media entities to get approval from the NBC before operating.⁷¹ In June 2023, the Commission called for public input on the bill.⁷²
45. There have been cases where websites that are critical of the government were blocked or suspended. On November 27, 2020, it was reported that some websites linked to the *EndSARS* protesters were inaccessible from Nigeria. It was also reported that the websites of the Feminist Coalition were blocked. They include: (<http://radioisiaq.com>) (<http://feministcoalition2020.com>)

⁶⁵<https://www.channelstv.com/2023/04/07/soyinka-condemns-sanction-over-channels-tv-interview-commends-presenters-valiant-efforts/>

⁶⁶<https://techcabal.com/2023/05/11/court-bars-nigerian-broadcasting-commission-nbc-from-imposing-fines-on-broadcast-stations/>

⁶⁷ <https://www.theguardian.com/world/2021/jun/04/nigeria-suspends-twitter-after-presidents-tweet-was-deleted>

⁶⁸ <https://www.thecable.ng/twitter-ban-in-nigeria-unlawful-ecowas-court-rules>

⁶⁹ <https://punchng.com/breaking-after-222-days-buhari-lifts-twitter-ban/>

Succinctly summarised: <https://www.accessnow.org/nigeria-blocks-twitter-keepiton/>

⁷⁰ <https://www.vanguardngr.com/2021/06/nbc-directs-all-broadcast-stations-to-suspend-twitter-handles/>

⁷¹ <https://www.premiumtimesng.com/news/headlines/468090-nigerian-govt-seeks-to-amend-nbc-act-wants-control-over-online-broadcasting.html>

⁷² <https://mediarightsagenda.org/nbc-set-to-review-the-nigerian-broadcasting-code-calls-for-inputs/>

and (<http://endsars.com>).⁷³ These websites were notable for the roles they played during the October 2020 #EndSARS protests led by youth across Nigeria.

46. On January 27, 2021, the [website](#) of People Gazette, a local online newspaper notable for its investigative journalism, was reportedly blocked and unable to be accessed using the mobile internet services provided by Airtel, MTN, 9mobile, and Glo.⁷⁴ It was alleged that they published an unfavourable article indicting Ibrahim Gambari- the Chief of Staff to President Muhammadu Buhari. A different URL was created to access the website- "Peoples Gazette," <https://gazettengr.com/>. On December 3, 2021, it reported that MTN- Nigeria's telecommunications network confirmed it blocked subscribers from accessing the website based on government's directives.⁷⁵
47. The Terrorism Prevention Act⁷⁶ has been used to censor certain information from the public and illegitimately charge critics. On September 9, 2021, Terrorism charges were filed against a female blogger- Amudat Babatunde by the Department of State Services (DSS) for holding a Facebook Live on July 1, 2021, when the DSS in a joint operation raided the Ibadan residence of Yoruba Nation leader, Sunday Adeyemo also known as Sunday Igboho.⁷⁷
48. On April 7, 2022, the Federal High Court barred journalists and members of the public from attending proceedings in terrorism-related cases. The court held ruled that "Proceedings of offences of terrorism, subject to the provisions of section 232 of the Administration of Criminal Justice Act, 2015 and section 34 of the Terrorism (Prevention) Act, 2011 (as amended), shall be held in camera or as may be ordered by the Court, ". Therefore, except in cases where the trial judge grants permission, media coverage is prohibited. It further noted that "a person who contravenes an order or direction made under these Practice Directions shall be deemed to have committed an offence contrary to section 34(5) of the Terrorism (Prevention) Act, 2011 (as amended).⁷⁸
49. On April 10, 2023, the leader of the Indigenous Peoples of Biafra, Nnamdi Kanu's special counsel, Aloy Ejimakor, faulted the new practice direction on terrorism trials issued by the Federal High Court denying journalists access to court rooms, for contravening open court principles. He described the new practice direction as "unconstitutional" and "unjustifiable". This contravenes section 36 of the Constitution of Nigeria which requires all trials to be in public. Herein,

⁷³ <https://www.premiumtimesng.com/news/more-news/428302-endsars-related-websites-inaccessible.html?tztc=1>

⁷⁴ <https://twitter.com/GazetteNGR/status/1354446025000415246>

⁷⁵ <https://gazettengr.com/buhari-regime-ordered-us-to-block-peoples-gazettes-website-in-nigeria-mtn-9mobile-say/>

⁷⁶ Terrorism (Prevention and Prohibition) Act, 2022,

https://www.nfiu.gov.ng/Home/DownloadFile?filePath=C%3A%5CNFIU%5Cwwwroot%5Cdocuments%5CTPp_DfV8G6

⁷⁷ <https://punchng.com/dss-files-terrorism-charges-against-blogger-who-streamed-igbohos-house-raid-on-facebook/>

⁷⁸ <https://www.premiumtimesng.com/news/headlines/522492-federal-high-court-bars-journalists-public-from-terrorism-trials.html?tztc=1>.

"Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal".⁷⁹

50. However, in as much as several violations occur, the government recognises the need to uphold normative freedom of expression and access to information standards. On October 24, 2022, during the opening session of the 11th edition of the UNESCO Global Media and Information literacy week at the State House Conference Centre, President Muhammadu Buhari noted that despite the challenges posed by misinformation and hate speech, the world must come together to defend freedom of speech and uphold other cherished values.⁸⁰ Similarly, On March 10, 2023, the National Human Rights Commission (NHRC) inaugurated the Freedom of Information (FOI) Unit to ease access to public information.⁸¹ This was in fulfilment of the commitment to make public records more readily accessible to the citizenry and all persons in the country,

Right to Data Protection and Privacy on the Internet

51. Section 37 Nigeria's Constitution guarantees the right to privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications. Section 8 of the Child Rights Act, 2003 also guarantees the Right to private and family life of every child. It states that, "every child is entitled to his privacy, family life, home, correspondence, telephone conversation. and telegraphic communications" ⁸²
52. In January 2019, Nigeria enacted the Data Protection Regulation (NDPR)⁸³ pursuant to section 6 (a) and (c) of the National Information Technology Development Agency Act 2007 (the 'NITDA Act'). The Act aims to safeguard the rights of natural persons to data privacy and to prevent manipulation of personal Data.
53. Guidelines under the Act were issued in November 2020. These stipulate the implementation framework for NDPR guiding data controllers and data administrators in compliance with the NDPR through understanding their measures and controls.⁸⁴ The Guidelines aim to provide guidance to Public Officers on how to handle and manage personal information in compliance with the NDPR, acknowledging that Governments at all levels are the biggest processors of personal data of Nigerians and in Nigeria.⁸⁵

⁷⁹ <https://punchng.com/barring-journalists-from-terrorism-trials-unconstitutional-nnamdi-kanus-lawyer/>

⁸⁰ https://tribuneonline.ng.com/misinformation-challenge-we-must-defend-freedom-of-speech-%e2%80%95-buhari/?utm_source=dldr.it&utm_medium=facebook

⁸¹ https://web.facebook.com/100064851333988/posts/pfbid0jtp2Ce8Ws8USuYF4un3tTuoE8FdvALKXyZTrryVNhRwJ9j5zPF8NbyESCmkdTmLI/?sfnsn=mo&mibextid=6aamW6&_rdc=1&_rdr

⁸² <https://www.refworld.org/pdfid/5568201f4.pdf>.

⁸³ <https://ndpb.gov.ng/Files/NigeriaDataProtectionRegulation.pdf>

⁸⁴ <https://nitda.gov.ng/wp-content/uploads/2021/01/NDPR-Implementation-Framework.pdf>

⁸⁵ <https://nitda.gov.ng/wp-content/uploads/2020/11/GuidelinesForImplementationOfNDPRInPublicInstitutionsFinal11.pdf>.

54. Most recently, in June 2023, the newly elected president of Nigeria - Bola Tinubu signed the Nigeria Data Protection Bill 2023⁸⁶ into law. The Act provides a legal framework for the protection of personal data and establishes the Nigeria Data Protection Commission for the regulation of the processing of personal data, and for related matters.⁸⁷
55. Despite having a robust legal framework, data breaches have been reported in the country. On February 20, 2020, it was reported that the growing arrest, detention and prosecution of journalists across the country was due to information leaks by telecommunication companies and mobile network providers that were releasing information to the police in total breach of privacy standards.⁸⁸
56. There were reports of #Endsars protesters being surveilled, their bank accounts frozen and allegedly charged with terrorism financing. On November 4, 2020, the Federal High Court granted the Central Bank of Nigeria (CBN) the permission to freeze the accounts of 20 persons involved in the #EndSARS protest in Nigeria, on accounts of terrorism financing. This was estimated to last for an initial period of 90 days, subject to renewal⁸⁹. On February 10, 2021, the accounts were finally unfrozen after the legal teams of both the CBN, and the 20 defendants ended the case with the help of the judicial panel of Inquiry setup to probe police brutality and the #EndSARS protest.⁹⁰ In April 2021, Olorunrinu Oduola – one of the #EndSARS leaders recounted her ordeal in an interview on how her accounts were blocked and her phone bugged because of being part of the protest.⁹¹
57. There have been concerns regarding the government's heavy investment in surveillance tools and technology. On July 12, 2021, it was reported that the National Assembly approved a N4.87bn (Appx 6,220,541.58 USD) budget for the National Intelligence Agency to track, intercept and monitor calls and messages on mobile devices, including Thuraya and WhatsApp. Also, the Defence Intelligence Agency, got a capital vote of N16.8bn (21,458,952.48) to provide infrastructure, cyber intelligence centre/laboratory, independent lawful intercept platform (voice and advanced data monitoring) and tactical mobile geological platform⁹². This was heavily criticised as it contravenes section 37 of the Constitution which protects correspondence, telephone conversations and telegraphic communication of citizens.⁹³

⁸⁶ Data Protection Bill: https://ndpb.gov.ng/Files/Nigeria_Data_Protection_Bill.pdf

⁸⁷ President Tinubu signs Data protection bill into law: <https://www.channelstv.com/2023/06/14/tinubu-signs-nigeria-data-protection-bill-into-law/>

⁸⁸ <https://punchng.com/police-cash-in-on-call-data-to-clamp-down-on-journalists/>

⁸⁹ <https://www.vanguardngr.com/2020/11/cbn-secures-order-to-freeze-accounts-of-20-endsars-protesters/>

⁹⁰ <https://www.premiumtimesng.com/news/headlines/441864-updated-court-orders-cbn-to-unfreeze-20-endsars-protesters-bank-accounts.html>.

⁹¹ <https://techcabal.com/2021/04/01/bank-accounts-blocked-phone-bugged-rinu-endsars-activist-speaks-about-her-life-and-aspirations/>

⁹² <https://punchng.com/nia-gets-n4-87bn-budget-to-track-intercept-calls-messages/>

⁹³ <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

Recommendations to the Government of Nigeria

1. Given this background on Nigeria's record on freedom of opinion and expression, freedom of information and censorship of content, and the right to data protection and privacy on the internet, the following recommendations have been proposed:
 - a. End intimidation and harassment of journalists and others exercising their right to free expression on and offline and hold to account those that violate media rights.
 - b. The Nigerian National Broadcasting Commission should end its clamp down on state criticism and end its practice of restricting the flow of information through imposing exorbitant fines and shutting down broadcast media in adherence to the 2023 Court ruling.
 - c. Repeal or otherwise amend laws which provide for overboard powers to infringe upon the right to freedom of expression and access to information
 - Specifically repeal section 24 of the Cybercrime Act 2015, which gives law enforcement officers broad powers to arrest journalists, bloggers and critics on grounds of cyberstalking.
 - Amend provisions under the Terrorism Prevention Act illegitimately used to censor information from the public, charge critics and bar media from covering courts.
 - d. Ensure that the internet, including social media and other digital communication platforms including websites, remain open, accessible, and secure across Nigeria (in respect of the ECOWAS Court ruling).
 - e. Refrain from indiscriminate surveillance of activists and guarantee adequate data privacy protections.
 - f. Speedily finalise and adopt the national human rights action plan 2022 – 2026 to further strengthen Nigeria's commitment to protecting human rights.