State of Internet Freedom in Somalia 2016

Charting Patterns in the Strategies African Governments Use to Stifle Citizens' Digital Rights

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Credits

This research was carried out by the Collaboration on International ICT Policy for East and Southern Africa (CIPESA) as part of the OpenNet Africa initiative (www.opennetafrica.org), which monitors and promotes Internet freedom in Africa.

The report presents the findings of a study on what the government in Somalia is doing to inhibit citizens' access to ICT, for example content blocks, censorship, filtering, infrastructure control, law-making, court cases; using ICT activity and data to monitor citizens; and how government bodies and functionaries are using propaganda, impersonation, threats, cloning, and other tactics to shape online content in their favour. Other country reports for Burundi, Democratic Republic of Congo, Ethiopia, Kenya, Rwanda, Tanzania, Uganda, Zambia and Zimbabwe as well as a regional State of Internet Freedom in Africa 2016 report, are also available.

CIPESA recognises Mohamed Ibrahim, and reviewers who prefer to remain anonymous, for contributing to this report.

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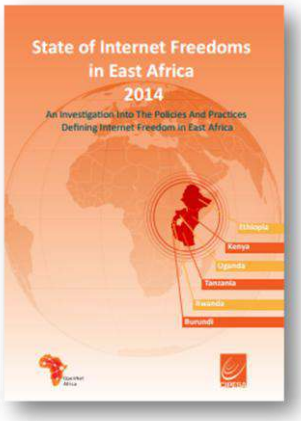
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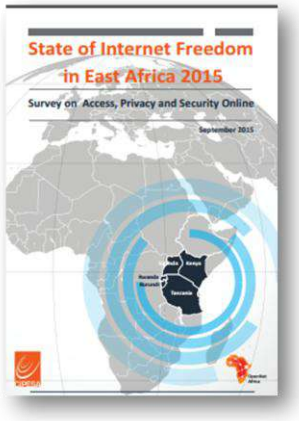
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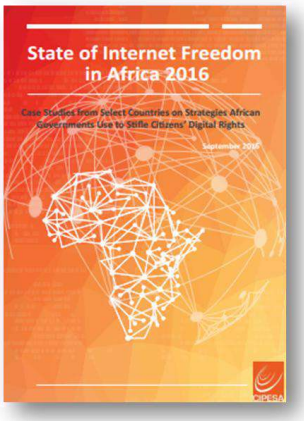
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1. Introduction

Internet access and use in Somalia is growing albeit slowly. Although the country has a posts and telecoms ministry which is meant to oversee the Information and Communication Technologies (ICT) sector, the sector remains largely unregulated. In some regions, including semi-autonomous ones, local authorities make the rules regarding what citizens may or may not do with ICT. These authorities include local administrators and militant groups such as the Al Shabaab. Nonetheless, there has been a steady growth in telephone penetration, which currently stands at 52%. Comparatively, internet use is very low, estimated by the International Telecommunications Union (ITU) to be 1.8% as of 2015.[1] Access to the internet is constrained by the low spread of infrastructure, with some areas not having coverage and many areas outside of major towns experiencing particularly low speeds. Majority of Somalis access the internet through mobile phones.

It is believed that one of the drivers of the high uptake of mobile phone subscriptions is the lack of effective regulation by government authorities. Another driver is mobile money, a service which an estimated 40% of mobile subscribers in the country use. Somalia has a big diaspora community that sends an estimated US$1.6 billion in remittances annually into Somalia.[2]

In order to promote internet freedom in the country, there is a need to understand what the state of internet freedom is, what the obstacles are, which stakeholders are most at risk, and what the tactics state and non-state actors use to curtail internet freedom. This report therefore discusses the factors influencing ICT use in Somalia and how laws and policies affect internet freedom. It focuses on the controls initiated by the government to inhibit citizens' access to ICT, such as internet shut downs, censorship, law-making, court cases against internet users, and surveillance. The report concludes with a series of recommendations.

The research results presented in this report focus on recent legal and policy developments, as well as on abuses and violations of internet freedom over the 12 months period to November 2016. However, in order to establish trends on strategies of information controls used by the government of Somalia, the study takes an interest in practices over the last five years.

2. Research Methodology

The research presented in this report was conducted through a mixed methods approach. Researchers based in Somalia interviewed key informants who were purposively selected on the basis of their knowledge about issues related to or affecting internet freedom in the country. They included activists and human rights defenders that are advancing free expression and association in the country, as well as

[1] ITU, Somalia Country ICT Data 2015, http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx

[2] Tony Onyulu, More phones, few banks and years of instability are transforming Somalia to a cashless society, http://qz.com/625258/more-phones-few-banks-and-years-of-instability-are-transforming-somalia-to-a-cashless-society/

some of those who had been victims of abuses and violations. Others were internet and telecom service providers, regulators, law enforcement officials, and journalists.

Policy analysis was conducted to generate an understanding of the existing and proposed laws that affect digital rights. The analysis took an interest both in policies and laws that have been used to curtail internet freedom and those that could potentially be employed in curtailing freedom of expression and access to digital technologies. Moreover, document review was done, including of open access sources such as media articles and secondary research reports, as well as analysis of records such as court orders and regulatory decisions, some of which are not readily available in the public domain.

3. Country Context

3.1 Access

Somalia was among the last countries on the eastern coast of Africa to get connected to the international marine fibre, partly because of the insecurity in its waters off the Indian Ocean. Until early 2014, international connectivity was provided almost entirely by satellite using very small aperture terminals (VSATs) that are expensive and unreliable, particularly when used for data traffic, according to the World Bank.[3] This changed once Somalia got connected to international fibre through the East African Submarine System (EASSy), whose local partner was the telecom company Dalkom.

There are five major multinational telecom companies in Somalia - Golis Mobile, Hormuud Telecom, Nation Link, Somafone, and SomTel as well as at least three smaller ones. Not all of the major service providers have a presence in all the three main regions of Somalia - South/Central, Puntland and Somaliland. Some of the providers operate under different names in the various regions of the country.

Somalia is served by 58 radio stations, 28 newspapers and 12 Somali language television stations, including five based in the United Kingdom. Whereas the majority of newspapers are based in the breakaway region of Somaliland, there are no independent radio stations in Somaliland, with the government monopolizing the radio broadcasting service and prohibiting the establishment of private stations.[4] There are several online publishers, many based in the diaspora. With the numerous offline attacks on journalists, media development organisations such as Somali Independent Media Houses Association (SIMHA) say internet freedom is particularly crucial in the country and directly linked to the work of media practitioners and human rights defenders.[5]

Somalia is one of the most dangerous countries globally for journalists going by the number of attacks on journalists. An August 2016 report by the United Nations (UN) shows that, between August 2012 and June 2016, a total of 30 journalists and 18 parliamentarians were killed in Somalia. Moreover, between January 2014 and July 2016, some 120 cases of arbitrary arrest and detention of media workers had

[3] Project appraisal document on a multi-partner fund grant [...] for an ICT sector Support project, https://www.somaliampf.org/sites/smpf/files/ICT.pdf

[4] Somalia 2016 Human Rights Report, https://www.state.gov/documents/organization/265512.pdf

[5] OpenNet Africa interview with SIMHA Director, Hassan Ali Gesey, August 2016

been recorded.[6] The UN report faults the Al-Shabaab for prohibiting all media to operate in areas under its control and targeting media workers across the country. Meanwhile, federal and state-level security forces, including the national army, the police and the National Intelligence and Security Agency, are cited as the main perpetrators of violations against media workers and political activists.

3.2 Laws and Policies Affecting Internet Freedom in Somalia

Article 18 of the 2012 Provisional Constitution of the Federal Republic of Somalia provides for the right to freedom of expression and opinion, freedom of speech, and freedom of the media, including on all forms of electronic and web-based media.[7] On the other hand, Article 25 of the Transitional Constitution of Puntland Regional Government also provides for the right to freedom of expression, which includes the right of every citizen to "freely express his/her opinion in oral, press, writing, media, audio-visual, literature and other methods according to the law without any interference."[8] Unfortunately, practices and subsequent efforts to legislate have greatly undermined these provisions.

In December 2015, parliament passed a controversial media law that critics described as being retrogressive in nature, because of its restrictions on media freedom and the practice of journalism in Somalia.[9] Article 35 for example requires a minimum of a university degree in journalism and passage of a special examination administered by the Somalia Media Commission for one to practice journalism in the country.[10]

The law, which took effect in January 2016, protects the right to information for journalists and prohibits censorship or forced reporting on issues contrary to public interest. It also prohibits "disseminating false news", "inciting violence" and "defamation of persons or institutions".[11] An independent National Media Council established under this law was approved in June 2016. However, whereas it has to its credit an equal number of representatives from state media and independent media (three each), as well as a representative each from the Somali Women Organisations and the Somali Bar Association, journalists' bodies and some regional governments rejected the law and the council due to its restrictions on press freedom.[12]

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[6] Report on the Right to Freedom of Expression: Striving to Widen Democratic Space in Somalia's Political Transition, August 2016, http://www.ohchr.org/Documents/Countries/SO/UNSOM_FreedomExpressionReport_Aug312016.pdf

[7] See the Provisional Constitution: http://hrlibrary.umn.edu/research/Somalia-Constitution2012.pdf

[8] Transitional Constitution of Puntland Regional Government, http://www.refworld.org/pdfid/4bc589e92.pdf

[9] BBC, Back to school for Somalia's journalists? http://www.bbc.com/news/world-africa-35303220

[10] SBC, Parliament passed Media Bill threatens Media Freedom in Somalia, http://allsbc.com/parliament-passed-media-bill-threatens-media-freedom-in-somalia/

[11] Report on the Right to Freedom of Expression: Striving to Widen Democratic Space in Somalia's Political Transition, August 2016, http://www.ohchr.org/Documents/Countries/SO/UNSOM_FreedomExpressionReport_Aug312016.pdf

[12] Hiiraan Online, Somalia's new controversial media law takes effect, https://www.hiiraan.com/news4/2016/Jan/103550/somalia_s_new_controversial_media_law_takes_effect.aspx

The draft Somalia Communications Bill 2015, that provides for the regulation of the telecommunication (including the internet and ICT) and broadcasting industry in Somalia, was yet to be passed by parliament.[13] The draft Act was approved by cabinet in October 2014 and presented to Parliament in December 2014 for its first reading.[14] However, the Bill was not debated until 2015 when it had two readings. To-date, the parliament has not yet undertaken the third and final reading of the Bill.

4. Results

4.1 Website Blocking and Suspensions

As the bug of internet shut-down swept across the continent, in February 2016, ISPs in Somalia blocked 29 websites critical of the government. This action followed a November 2015 order from the federal government's Attorney General to the Ministry of Information and the Ministry of Telecommunications instructing ISPs to suspend 35 news websites accused of publishing anti-government propaganda and failing to comply with journalistic ethics.[15] This, the Attorney General claimed, was after various complaints from both the government and the public were filed to his office.[16] The ISPs reportedly declined to block access to six websites connected to Al Shabaab, as the authorities were not able to guarantee their security from possible retaliation.[17] [18] According to the UN, some ISP staff were arrested and released after 24 hours after promising to comply with the instruction. Further, the Attorney General warned that non-compliance would be considered an act of treason. As of September 11, 2016, the websites could not be accessed within Somalia. Most of the 29 websites closed are owned by members of the Somali diaspora and are critical of national leaders and Federal Government of Somalia actions.

The letter from the Office of the Attorney General dated November 8, 2015 was signed by the Dr. Mohamoud Abdi Haji Adam and read as follows:

> *"The Office of the Attorney General has received complaints against websites that propagate issues against the ethics and the good manner the media should work. Among the websites are*

[13] Article 19, Somalia Communication Act Analysis, https://www.article19.org/data/files/medialibrary/38063/A19-Somalia-Communication-Act-Analysis-2015--16-7-2015.pdf
[14] World Bank, Supporting ICT Sector in Somalia, http://blogs.worldbank.org/ic4d/supporting-ict-sector-somalia
[15] Somali attorney general orders the suspension of 35 Somali news websites Over allegations of Ethics http://www.radiodalsan.com/2015/11/09/somali-attorney-general-orders-the-suspension-of-35-somali-news-websites-over-allegations-of-ethics/
[16] Somalia Blocks Access to 35 Websites, http://www.garoweonline.com/en/news/somalia/somalia-blocks-access-to-35-websites
[17] Report on the Right to Freedom of Expression: Striving to Widen Democratic Space in Somalia's Political Transition, August 2016, http://www.ohchr.org/Documents/Countries/SO/UNSOM_FreedomExpressionReport_Aug312016.pdf
[18] Internet Censorship in Somalia: Blocking websites is a threat to the free speech, http://waagacusub.net/articles/1166/Internet-Censorship-in-Somalia-Blocking-websites-is-a-threat-to-the-free-speech

waagacusub.com which has been identified for unethically reporting smear campaigns against public officials and individuals of integrity in the community. Specifically, these days they exaggerate false information about Somali people whom the websites say are Christians, information that is baseless and biased.

Therefore, the ministries to whom this letter is addressed directly are informed to take actions on what is being complained about and investigate the websites known for unethical reporting. Since the office is performing investigations against these websites that can result into criminal liability based on their reporting, this office orders the suspension of the websites: waagacusub.com and others related to the investigations."

In February 2016, the Federal Ministers of Security, Information and Post and Telecommunications and the Attorney General held three meetings in Mogadishu with national ISPs following the November 8, 2015 order. On November 9, 2015, a prosecutor in the Attorney General's Office had told the media that the Attorney General had no legal basis or power to issue such an order. Management of the Waagacusub website called the suspension a threat to freedom of expression.[19]

Below is a list of the 35 websites included in the Attorney General's order

Waagacusub.com
Waagacusub.info
Indhaha.com
Kacaan.com
Qarninews.com
Ayaamonews.com
Dahiralasow.com
Muungaab.com
Curubo.com
Harowo.com
Waagacusub.net
Sunatimes.com
Awdalstate.com
Kampalanews.com
Galmudugnews.com
Shacbiga.com
Cunaabi.com
Asoj.org
Dalmaax.com
Somion.com
Xikmada.com
Wadankanews.com
Codkaqaranka.com
Puntlander.com
Qaarhaye.com
Coomaad.com
Astaanta.net
Gaaloos.com
Ragenews.com
Qubanaha.com
Rajoqaran.com
Raadraac.com
Barbaariye.com
Soomaalida.net
Nalamaadso.com

Blocking access to a website is a restriction to the right to information as well as freedom of expression. It is only allowed under international human rights law if provided by law or for the protection of one of

[19] Internet Censorship in Somalia: Blocking websites is a threat to the free speech, http://waagacusub.net/articles/1166/Internet-Censorship-in-Somalia-Blocking-websites-is-a-threat-to-the-free-speech

the permissible grounds, and after a court has conducted a necessity and proportionality analysis. Based on the information available, these conditions were not met, and the blocking of the 29 websites therefore represented a violation of freedom of expression. The Somali parliament debated the matter and several lawmakers spoke out in support of blocking the websites.[20]

This was not the first time authorities in the Horn of Africa country were ordering a blockage of websites in recent times. On April 19, 2014, a court in the breakaway region of Somaliland ordered telecom companies to block the websites of two prominent newspapers (Haatuf and Somaliland Times) for allegedly insulting government officials.[21] The telecom companies that received the order include Telesom, Somtel, and African Online which are Somaliland's internet providers. The term "insult" is used by the authorities whenever they want to silence specific media institutions deemed critical of government officials. The newspapers Haatuf and Somaliland Times have been very critical of the government, exposing corruption allegations and as such supported the opposition groups in Somaliland, the breakaway region in the northern part of Somalia.

Continuing the tradition where regional authorities order website blocking, in October 2014, Golis Telecom in the semi-autonomous region of Puntland blocked five news websites following an order from the Puntland presidential palace's communication office without any court ruling.[22] The websites, affected were Puntlandtoday.com, Galgalanews.com, Puntlandnow.com, Jidbaale.com and Xaysimo.com. The Media Association for Puntland (MAP), an association that represents the media and journalists in Puntland, said banning the websites was against the freedom of the press and other human rights guaranteed by the constitution of Puntland.[23] The restrictions were lifted in January 2015. However, there were no specific reasons provided for why the blockage was ordered.

Earlier, on October 9, 2012, Puntland authorities ordered telecom companies to block the Horseed media website, a local FM radio station based in Garowe, the capital of Puntland. [24] [25] This was the first documented order to block a website in Puntland.

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20 Somtribune, Somalia: "The cost of Human suffering over Negative Publicity Amounts to Suicide," says Prof. Ibbi, http://somtribune.com/somalia-the-cost-of-human-suffering-over-negative-publicity-amounts-to-suicide-says-prof-ibbi/

[21] Somalicurrent, a news portal based in Minneapolis, also reported on the issue: http://www.somalicurrent.com/2014/04/19/internet-providers-in-somaliland-ordered-to-block-haatuf-websites/

[22] Garowe Online, Media Association of Puntland condemns Telecom Company's blocking of 5 Websites, http://www.garoweonline.com/en/news/press-releases/somalia-media-association-of-punt-land-condemns-telecom-companys-blocking-of-5-websites

[23] MAP Condemns Telecom Companies Blocking of 5 Websites, http://mediapuntland.org/media-association-of-puntland-condemns-telecom-companys-blocking-of-5-websites/

[24] Somaliland Sun, Somaliland City Court Orders Telecoms to Block Haatuf Websites, reportshttp://www.somalilandsun.com/contact-us/44-government/government/5549-somaliland-city-court-orders-telecoms-to-block-haatuf-websites-

[25] Committee to Protect Journalists (CPJ), https://cpj.org/2012/10/puntland-authorities-close-down-radio-and-website.php

4.2 Internet Shutdown

The Al Shabaab banned mobile internet in South/Central Somalia in January 2014, after the United States (US) and its allies increased targeted assassinations of senior Al Shabaab commanders. The Al Shabaab believed that, in carrying out such attacks, the US and its allies were using mobile internet to establish the group leaders' locations. The rebel group made the announcement during a broadcast on January 9 by Andalus Radio, which was affiliated with the group, and in a statement issued to local media, specifying that "services known as mobile internet and fibre optics must be stopped in Somalia."[26] The statement also stated, "Any individual or company that is found not following the order will be considered to be working with the enemy and they will be dealt with in accordance with Sharia law…"[27] Telecom companies complied with the order

The Somalia interior ministry urged companies to disregard the threat. "The Somali government strongly condemns such acts which show continued brutality and terrorist tactics of intimidation by trying to ban Somalis from using the Internet," minister Abdikarim Hussein Guled said in a statement. "Our constitution guarantees freedom of expression and every citizen has the right to access information without fear."[28] With the central government unable to provide security to telecom operators, including in some areas controlled by the government and mostly in those under the insurgents, the telecom providers had no alternative but to implement the Al Shabaab directive.[29] Some telecom companies effected the blockage in areas under their control as well as in some areas controlled by government forces.

5. Recommendations

Internet freedom in Somalia still faces challenges at a policy and regulatory level as well as practice. Unlike other countries with strict and in some cases draconian regulations, the lack of an applicable law presents a unique challenge for online users as authorities can issue orders curtailing internet freedom with no legal basis. It is also clear that besides federal government and regional government officials, internet users also live in fear of reprisals from the Al Shabaab militants.

5.1 Government

- The government should expedite the process of passing the Communications Bill 2015 that guarantees freedom of expression, including internet rights, into law, so as to provide a legal framework for communication regulation in Somalia. The current situation enables abuse of citizens' online rights by both state and non-state actors.
- The government should refrain from restricting access to the internet and online communication through blockages and suspensions of websites.

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[26] Somalia's al-Shabab militants issue internet ban, http://www.bbc.com/news/world-africa-25666470
[27] Al-Shabaab bans Internet in areas it controls, https://rsf.org/en/news/al-shabaab-bans-internet-areas-it-controls
[28] Somalia warns telecom companies not to comply with Al-Shabaab Internet ban, http://edition.cnn.com/2014/01/11/world/africa/somalia-shabaab-internet-shutdown/
[29] Somalia Powerless to Stop Al-Shabaab Mobile Internet Shutdown, http://www.ipsnews.net/2014/02/somalia-powerless-stop-al-shabaab-mobile-internet-shutdown/

- The government should proactively encourage the establishment of community cyber cafes, both in the urban and rural areas to ease access to internet services.

5.2 Media

- The media need to speak out more often and authoritatively against the government's actions to block and suspend online communications, including websites. This is especially true for journalists based in the diaspora who have more access to online resources and have less fear of attracting reprisals for speaking out.

5.3 Civil Society

- Given the fact that civic space within Somalia is restricted, international human rights organisations and development agencies should support initiatives that promote freedom of expression in Somalia, as well as monitoring and highlighting rights abuses and violations, with a view of bringing to light these violations, including using the United Nations and the African Commission Peer Review mechanisms to hold the government accountable.

This report was produced by the Collaboration on International ICT Policy in East and Southern Africa (CIPESA) under the OpenNet Africa initiative (www.opennetafrica.org) which monitors and promotes internet freedoms in a number of African countries including Ethiopia, Kenya, Rwanda, Burundi, Tanzania, Uganda and South Africa. As part of the project, we are documenting internet rights violations, reviewing cyber security policies and how they affect internet freedoms, promoting information availability and conducting awareness-raising.



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