



The Internet as an Enabler of Human Rights in Africa

The internet is one of the most powerful instruments of the 21st century for increasing transparency in the conduct of the powerful, access to information, and for facilitating active citizen participation in building democratic societies.¹

Frank La Rue, former UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

How can the internet be an enabler of human rights in Africa?

By fundamentally changing the way in which people interact, trade, learn and communicate, the internet presents an array of opportunities and challenges in Africa, including enormous potential to enable the enjoyment of human rights. For those who have access, the internet not only facilitates the right to receive and impart information, but also to freely assemble and associate through social media, for example; to make progress towards realising the right to education, through online and long-distance learning; to exercise the right to work, with mobile applications and online platforms giving wider reach to small businesses and creating new opportunities to work; to improve access to the right to health and reduce response times through mobile health technology; and to take part in and contribute to cultural life, through new forms of sharing and accessing culture online.

What are internet rights and freedoms?

Internet rights and freedoms refer to the principle that the ability to access and share information and communicate freely using the internet is vital to the realisation of human rights as enshrined in the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, and other relevant international and regional human rights instruments. Affordable and reliable internet access has become a vital means to exercise fundamental human rights and to support economic, social and human development.

1. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, to the Human Rights Council 17th session (17/27) www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A_HRC.17.27_en.pdf

What are the barriers to internet rights in Africa?

There are four main barriers that must be overcome in order for the internet to enable human rights in Africa, broadly speaking.

- **First:** Unaffordability and lack of infrastructure inhibit access and perpetuate the digital divide.
- **Second:** Political and civil rights online, including freedom of expression, association and assembly and the right to privacy, are insufficiently protected in Africa.
- **Third:** The lack of availability of accessible content in relevant languages and formats is a major inhibitor to access in the region.
- **Fourth:** While there is value in recent African government initiatives to develop laws and policies to regulate the internet, there is also a concerning trend of governments increasing their control of the internet and restricting what people can say and do online, rather than developing open, enabling environments.

Therefore, a positive agenda for internet rights and freedoms in Africa is needed.

Are internet rights recognised by international bodies?

Yes.

- **In 2011:** The African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression, Faith Pansy Tlakula, together with the UN Special Rapporteur on Freedom of Opinion and Expression, Frank La Rue, the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, Catalina Botero Marino, and the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, Dunja Mijatovic, issued a Joint Declaration on Freedom of Expression and the Internet. The declaration highlighted the need to protect and promote the internet and the limitations on the state in the regulation of this medium.²
- **In 2012:** The United Nations Human Rights Council passed a resolution affirming that "the same rights that people have offline must also be protected

2. Joint Declaration on Freedom of Expression and the Internet www.oas.org/en/iachr/expression/showarticle.asp?artID=848





online.”³ Building on this landmark resolution, the HRC and the UN General Assembly have adopted a number of resolutions in recent years⁴ elaborating on various aspects of internet rights, including the right to privacy in the digital age, the digital gender divide, the safety of journalists online, and the importance of applying a comprehensive human rights-based approach in expanding access to the internet in order to achieve the Sustainable Development Goals, among others.

- **In 2015:** The regional Special Rapporteurs on freedom of expression issued a Joint Declaration on Freedom of Expression and Responses to Conflict Situations,⁵ which elaborated that filtering of online content and using communications “kill switches” (i.e. shutting down entire parts of communications systems) can never be justified under human rights law. It also declared that surveillance of communications must be in line with international human rights norms, and that encryption and anonymity online enable the free exercise of the rights to freedom of opinion and expression and, as such, may not be prohibited or obstructed and may only be subject to restriction in strict compliance with the three-part test under human rights law.

3. Human Rights Council Resolution on “The promotion, protection and enjoyment of human rights on the Internet” (20/8) ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/20/8

4. See, for example, HRC Resolutions 26/13 and 32/13 on “The promotion, protection and enjoyment of human rights on the Internet”, HRC Resolution 28/16 on the “The right to privacy in the digital age”, and UNGA Resolutions 68/167 and 69/166 on “The right to privacy in the digital age”.

5. Joint Declaration on Freedom of Expression and Responses to Conflict Situations <https://www.article19.org/resources.php/resource/37951/en/joint-declaration-on-freedom-of-expression-and-responses-to-conflict-situation>

What is the African Declaration?

The African Declaration on Internet Rights and Freedoms⁶ is a pan-African initiative to promote human rights standards and principles of openness in internet policy formulation and implementation on the continent. The Declaration elaborates the principles necessary to uphold human and peoples’ rights on the internet, and to cultivate an internet environment that can best meet Africa’s social and economic development needs and goals.

The Declaration builds on well-established African human rights documents including the African Charter on Human and Peoples’ Rights of 1981, the Windhoek Declaration on Promoting an Independent and Pluralistic African Press of 1991, the African Charter on Broadcasting of 2001, the Declaration of Principles on Freedom of Expression in Africa of 2002, and the African Platform on Access to Information Declaration of 2011. Our mission is for the Declaration to be widely endorsed by all those with a stake in the internet in Africa and to help shape approaches to internet policy making and governance across the continent.

What can the African Commission on Human and Peoples’ Rights do?

As the body charged with ensuring the promotion and protection of human and peoples’ rights throughout the African continent, the African Commission on Human and Peoples’ Rights is well positioned to proactively advance internet rights and freedoms. The ACHPR should pass a resolution to advance internet rights and freedoms, including by establishing a mechanism to promote and monitor internet rights and freedoms in Africa.

6. africaninternetrights.org

