

**CELEBRATING**

*10 Years*

*of the Model Law on Access to Information in Africa*

**+**

*20 Years*

*of the Special Rapporteur on Freedom of Expression  
and Access to Information in Africa*

**Special Edition:** Presented by the Centre for Human Rights,  
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# PREFACE



I am honoured to welcome this timely publication prepared by the Centre for Human Rights (the Centre), Faculty of Law at the University of Pretoria. The articles featured in this newsletter were compiled in commemoration of the 10th year anniversary of the Model Law on Access to Information for Africa (the Model Law), which was celebrated in 2023. The Model Law, officially adopted by the African Commission on Human and Peoples' Rights (Africa Commission) in 2013, was conceived with the overarching objective of advancing access to information throughout the continent. This commemorative initiative presents a valuable opportunity to reflect on the accomplishments in promoting access to information across the continent while simultaneously acknowledging the challenges that continue to impede such progress.

This newsletter comprises a compilation of insightful articles authored by diverse researchers and human rights experts. These contributions were presented during a seminar organised by the Centre for Human Rights on **27 and 28** September 2023, marking the 10th-year anniversary of the Model Law. The seminar served as a significant platform for reflection, discussion, and collaboration, aimed at furthering the advancement of access to information in Africa. The articles delve into critical issues in the African information ecosystem, encompassing

topics such as the domestic implications of African Union human rights standards on access to information, challenges, and opportunities inherent in the implementation of access to information laws, the role of technology in advancing access to information, information disorder in the digital age, and exemplary practices and case studies in access to information initiatives.

The Model Law, a detailed set of provisions embodying international standards on access to information, is uniquely tailored to suit the African context. Its primary objective is to shape and facilitate the development of national legislation in accordance with prevailing regional and international standards on access to information. Functioning as a potent advocacy tool, it collaborates synergistically with other pertinent instruments such as **the Declaration of Principles on Freedom of Expression and Access to Information in Africa** and **the Guidelines on Access to Information and Elections in Africa** (the Guidelines). These instruments have collectively bolstered campaigns advocating for the right of access to information and freedom of expression throughout the continent. Notably, over the past decade since its adoption, there has been a noteworthy surge, with the number of African states with access to information laws escalating from 5 to 27—a manifestation of substantial progress. Nevertheless, the fact that approximately half of the member states are yet to adopt such legislation underscores the imperative for concerted efforts to ensure the universal adoption and effective implementation of access to information laws.

It is noteworthy to underscore that despite advancements in diverse domains, including the establishment of normative frameworks, considerable impediments persist in fostering unrestricted information dissemination and safeguarding the right

to freedom of expression across the continent. This underscores the existence of a substantial journey yet to be traversed. Some states resort to shutting down the internet access as a means to quell dissent, while others actively criminalise free expression and restrict civic space. The proliferation of misinformation and disinformation on social media platforms, fueled by technological advancements, further compounds these challenges.

In light of the prevailing context, I recommend that African Union Member States without access to information laws adopt such legislation. Similarly, those with existing laws that do not meet the required standards should review and amend their legislation to align with the aforementioned standards, specifically in compliance with article 9 of the African Charter on Human and Peoples' Rights (the African Charter), the Model Law, the Guidelines, the 2019 Declaration and other international human rights laws and standards that promote access to information offline and online. Member states should also refrain from restricting internet connectivity and facilitate universal, equitable, affordable and meaningful access to the internet. Access to the internet is necessary for the realisation of freedom of expression, access to information and the exercise of other human rights. In addition, it is the responsibility of member states to actively empower their citizens, including those in marginalised communities like rural areas, with the requisite tools and skills to effectively seek, receive, and share information, both offline and online.

It is fitting that this publication coincides with another significant milestone, the 20th anniversary of the establishment of the mechanism of **the Special Rapporteur on Freedom of Expression and Access to Information in Africa**. The mechanism was established in 2004 with the primary objective of

advancing freedom of expression and subsequently incorporated a focus on access to information in its presently multifaceted mission, due to the digital age. In my capacity as the current mandate holder, I'm privileged to preside over this pivotal moment and am unwaveringly committed to partnering with stakeholders—be they governmental bodies, civil society organizations, or other entities—to propel the agenda of information accessibility and freedom of expression across the continent. It is through such collaborative initiatives that we ensure the realisation of these fundamental human rights, thereby contributing substantively to the promotion of foundational principles of good governance.

Finally, I would like to commend the Centre for Human Rights for its diligent preparation of this newsletter, and for its invaluable contribution to advancing human rights on the continent. The Centre notably plays a significant role in promoting information rights, including the right of access to information and freedom of expression. I earnestly encourage the Centre to continue its important initiatives aimed promoting and advocating for the implementation of the Model Law. Through steadfast dedication to this objective, the realisation of widespread access to information can be attained throughout the continent, fostering active citizenship, participation, and substantially contributing to the cultivation of principles associated with good governance, rooted in transparency and accountability.

**Commissioner Ourveena Geereesha  
Topsy-Sonoo**

*Special Rapporteur on Freedom of Expression  
and Access to Information in Africa*

# ACKNOWLEDGMENT

The Centre for Human Rights, Faculty of Law, University of Pretoria, sincerely thanks all individuals involved in the project commemorating the 10th anniversary of the Model Law on Access to Information for Africa (2013). This initiative involved organizing a commemorative seminar held on September 27 and 28, 2023, and the preparation of this newsletter, which includes papers presented during the seminar. The success of this endeavor was made possible through the collaborative efforts of several key contributors. The project was led by Hlengiwe Dube and Henok Ashagrey Kremte of the Expression, Information, and Digital Rights Unit of the Centre.

We would like to acknowledge Hon. Commissioner Ourveena Geereesha Topsy-Sonoo, the Special Rapporteur on Freedom of Expression and Access to Information in Africa at the African Commission on Human and Peoples' Rights, for her steadfast support, keynote address during the seminar, and compelling preface for this newsletter. We also express our deep appreciation to Pansy Tlakula, Chairperson of the Information Regulator of South Africa, former Chairperson of the African Commission on Human and Peoples' Rights, and former Special Rapporteur on Freedom of Expression and Access to Information in Africa, for sharing her insights as an oversight institution through an audio recording intervention during the seminar. Our sincere thanks go to all the authors who presented their papers during the seminar and consented to have their work published in this newsletter. We are also grateful to Maxwell Kadiri from OSF Africa, Sarah Wesonga from Article 19 Eastern Africa, and Liliane Mouan from Amnesty International for their presentations on various themes, during the seminar.

Finally, we thank the reviewers of the articles published in this newsletter, Michael Gyan Nyarko, Hlengiwe Dube, Henok Ashagrey, Ivy Gikonyo, Jared Gekombe, and Dr Marystella Simiyu, and extend special recognition to Busisiwe Crafford for her graphic design work.

The articles included in the newsletter are published in the AfricLaw blog.

# The State of Access to Information in Africa - An Overview

**By Hlengiwe Dube**

## **Introduction**

The right to access to information is a fundamental right and a component of democratic engagement and human rights, enshrined in key international and regional frameworks. It is guaranteed under Article 9 of the African Charter on Human and Peoples' Rights (African Charter). This right has evolved into a cornerstone of democratic governance, essential for ensuring accountability, transparency, and good governance. By facilitating access to information, it empowers individuals to make informed decisions, promotes civic participation, and holds governments accountable. In the African context, the African Commission on Human and Peoples' Rights, through the Special Rapporteur on Freedom of Expression and Access to Information, plays a crucial role in elaborating and advancing this right through the development of soft law instruments providing state obligations on freedom of expression and access to information in various contexts including elections in Africa. Despite significant strides in implementing these frameworks through legal and policy reforms, numerous challenges persist, including restrictive legal frameworks, inadequate information infrastructure, and socio-political barriers that obstruct equitable access. This article provides a comprehensive overview of the state of the information ecosystem across Africa, exploring current trends and patterns affecting the right to access to information, and highlighting both the progress achieved and the persistent obstacles that hinder its full realisation.

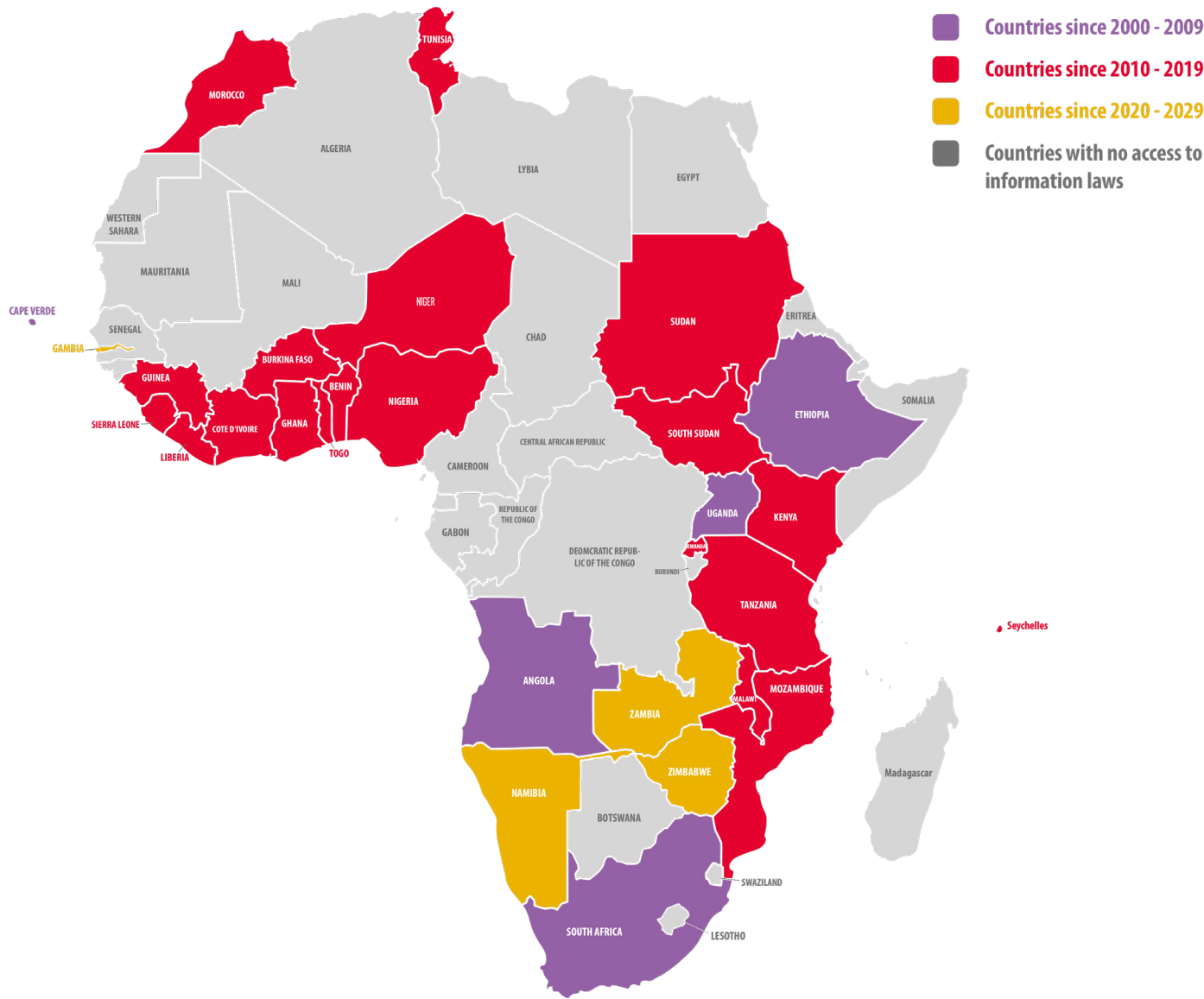
## **Legal Framework**

Article 9 of the African Charter on Human and Peoples' Rights enshrines the intertwined rights of access to information and freedom of expression, highlighting their foundational role in democratic governance and human rights. Beyond this core provision, access to information is also recognised in various other continental instruments. These include the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, the African Union Convention on Preventing and Combating Corruption, the African Charter on Statistics, the African Youth Charter, the African Charter on Democracy, Elections and Governance, the African Charter on Values and Principles of Public Service and Administration, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Under the guidance of the Special Rapporteur on Freedom of Expression and Access to Information, the African Commission on Human and Peoples' Rights has developed a robust framework that underpins access to information policy and legislation across the continent. This framework consists of several key instruments designed to promote a vibrant and rights-based information ecosystem in Africa. These instruments collectively advance the promotion and protection of the right to access to information.



Adopted in 2013, the Model Law on Access to Information in Africa (Model Law) represents a significant advancement in guiding states toward developing robust national access to information legislation, firmly rooted in international human rights standards. Prior to its adoption, only a handful of countries, including Nigeria, South Africa, Zimbabwe, and Uganda, had access to information laws. Even in countries like Zimbabwe, where the Access to Information and Protection of Privacy Act (AIPPA) existed, the legislation often presented formidable barriers rather than facilitating access. The introduction of the Model Law has sparked a transformative shift across the continent, with 29 African states now having enacted and others in the process of enacting access to information laws. Recent additions include Ghana, Namibia, Malawi, and Zambia, while others, like Botswana, are advancing bills through parliamentary consideration. This evolution indicates a marked change in legislative priorities, with access to information now gaining prominence and becoming a central issue in many countries' legislative agendas—a testament to the Model Law's influence in advancing transparency and accountability across Africa.

## Lists of countries with access to information laws



In response to the recurring issues of credibility and transparency deficits that continue to mar many African elections, the 2017 Guidelines on Access to Information and Elections in Africa (Guidelines) aim to promote proactive transparency through access to information. The Guidelines highlight the significance of access to information in safeguarding democratic participation, as enshrined in Article 13 of the African Charter. They offer detailed directives on information disclosure obligations, emphasising the need for proactive transparency by key stakeholders, including electoral management bodies (EMBs), civil society actors, media and media regulators, political parties, election monitors and observers, and authorities that appoint the EMBs. By delineating specific categories of election-related information that must be made available, the Guidelines aim to promote a transparent and credible electoral environment across the continent. This proactive approach not only enhances the integrity of elections but also empowers the electorate by ensuring they are well-informed participants in democratic processes, thereby reinforcing the legitimacy and trust in electoral systems throughout Africa.

The 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa (the 2019 Declaration) marks a significant advancement from the 2002 Declaration, notably expanding the scope and detail of access to information. While the previous Declaration only addressed access to information briefly under a single principle, the 2019 Declaration introduces a comprehensive framework through Principles 26 to 36. This updated framework delineates a broad array of obligations for states, encompassing essential aspects such as the primacy of access to information, proactive and maximum disclosure, and the duty to manage and maintain information effectively. It also outlines detailed procedures for accessing information, appeals, and exemptions, as well as establishing mechanisms for oversight and protection of public interest disclosures. This substantial elaboration reflects a more robust commitment to ensuring transparency and accountability in Africa.

Furthermore, the 2019 Declaration notably incorporates considerations pertinent to the digital age, a dimension absent in the earlier version. It addresses contemporary challenges such as access to the internet, privacy protection, and regulation of internet intermediaries, alongside the safeguarding of personal information and the legal framework for privacy and communication surveillance. This modernised approach ensures that the principles of freedom of expression and access to information are upheld in an increasingly digital world, reinforcing protections against interference and supporting vulnerable and marginalised groups. By integrating these new elements, the 2019 Declaration provides a more comprehensive and relevant framework for managing freedom of expression and information in the current global context.

## **Challenges**

The rise of the internet as a critical instrument for information sharing has further complicated the state of ATI in Africa. Principle 37 of the Declaration frames access to the internet as requisite for the realisation of the right to access to information, among other rights. The impediment of this access therefore jeopardises this right, as recognised by Principle 38 of the Declaration, which calls for non-interference by states. However, internet shutdowns are commonly weaponised by African states precisely in recognition of their ability to disrupt the free flow of information. A recent instance of this occurred in Senegal, when government authorities shut down the internet following widespread opposition to former president Mack Sall's delay of

presidential elections that had been set for the 25th of February. This was the most recent of a series of incidents in which this measure was taken, cited as necessary to curb the dissemination of hate speech and disinformation.

As a member state of the African Union, Senegal is mandated to uphold access to information through the Charter and the Declaration. Article 8 of the Senegalese constitution reiterates this right. Beyond this, however, the state's regulatory framework to uphold this right is weak. The state has no legislation particularly pertaining to ATI, although it is enshrined in other laws, such as Article 6 of the General Code of Local Authorities, which allows for citizens to request information from local officials. The state also has myriad laws that serve to stifle access to information, including Articles 256 and 258 of the Criminal Code, which prohibit the dissemination of "immoral" media and statements that attack the honour of a person, respectively. These sweeping laws make room for the application of disproportionate measures to suppress information, such as internet shutdowns, and ultimately serve to act in opposition to efforts to promote ATI.

Ethiopia is another example that illustrates the alarming nature of internet shutdowns. Since 2016, the country has enforced internet shutdown measures at least 26 times, making it a leading perpetrator of such actions in sub-Saharan Africa. The most recent shutdown, which is still in place, has been implemented in the Amhara region of Ethiopia since August 2023, plunging millions into a communication blackout. This prolonged blackout measure prevents people from accessing life-saving information and staying connected with each other amidst conflict and human rights violations. It also allows human rights abuses to be covered up. The frequency and manner of internet shutdowns in the Country are deeply concerning. Various organisations, including the UN Human Rights Committee (UNHRC), have condemned these measures. The UNHRC noted that internet shutdowns are implemented in the country 'without a clear legal basis and are disproportionate in their range and duration.' Additionally, these measures are characterised by a lack of transparency.

The development of the disinformation regulation that is often weaponized to legitimise shutdowns is frequently implemented under the guise of combatting the actual proliferation of disinformation, exacerbated by the rise of the internet. Organised disinformation campaigns, intended to destabilise systems and manipulate populations have occurred around the continent, from Mali to Burkina Faso to Tunisia to South Africa. According to the Africa Centre for Strategic Studies, such campaigns have increased by almost 400% since 2022. This complicates the regulation of the information ecosystem significantly. While actions must clearly be taken to manage the spread of disinformation, such regulation should not be instrumentalized to hinder citizens' rights to freedom of expression and ATI as is frequently the case with government use of internet shutdowns.

Another challenge to ATI on the continent is the implementation of ATI legislation. For example, despite Nigeria's development of a Freedom of Information Act in 2011, it has largely failed to foster a significantly more open information ecosystem. Despite mandating proactive disclosure of information by public institutions, a 2021 report by the Africa Freedom of Information Centre and Free Press Unlimited found that few institutions adhered to this legal commitment. It also found little movement to develop institutional processes that facilitated ATI, through, for example, providing information portals on websites or training of information officers. This case reminds

us that the development of legislation is only a step - albeit a consequential one - towards creating a robust information ecosystem that aligns with international human rights standards.

Beyond the legislative aspects, internet penetration, inclusion and literacy are also challenges deeply affecting the realisation of the right to ATI in Africa. In 2022, the World Bank reported internet penetration to be at 36%, showing a massive digital divide. This issue is compounded by identity. It has been seen that the digital divide also presents an intersectional issue, as women, rural populations, persons with disabilities, and children are all unevenly affected by this. The divide is a severe hindrance to the progression of ATI on the continent, as the internet is becoming increasingly vital to facilitating access to information and enjoying many other human rights. The COVID-19 pandemic clearly exposed this inequality, where digital exclusion slowed the dissemination of pandemic-related information, affected people's ability to access information and resources about the pandemic, and prevented populations from accessing spheres that had moved online, such as work and education. This lag in internet access is largely due to affordability, with the high cost of digital devices and mobile data prices in sub-Saharan Africa being the most expensive in the world, and insufficient infrastructure, both in terms of energy and internet cables.

## **Opportunities**

Recognising that access to the internet is a critical aspect of facilitating ATI in the digital age, programs involved in the development of infrastructure and programming that enable this access provide immense opportunity for improving ATI on the continent. One promising method for this is the construction of community internet networks. These networks are built and operated by community members to provide accessible connectivity, thereby promoting ATI and meeting their communication needs. Furthermore, these initiatives inherently encourage digital literacy and skill-building because they are generally community-owned and their maintenance typically relies on collective efforts to manage the infrastructure. Promoting these types of connections is a great opportunity to bridge the digital divide on the continent.

Beyond raising awareness about the possibilities for communities to engage in such projects, collaboration is vital for their successful adoption. Communities must be equipped with knowledge, training, and seed funding to develop community networks sustainably. Zenzeleni Community Networks in South Africa is a prime example of the potential of these. Established collaboratively with organisations such as the University of the Western Cape, the Association for Progressive Communications, and the Internet Society, the network was initially established to serve the rural community of Mankosi in the Eastern Cape. It has since sustained, expanded, and acquired international recognition for its social impact. The South African government has also partnered with them through the Department of Telecommunications and Postal Services. In servicing various communities in the Eastern Cape, it provides training and literacy programs. Through the initiative, populations are trained and empowered to become digital citizens capable of meaningfully using and maintaining the network. This case shows how impactful these programs can be to improve access to information for unconnected, under-resourced populations.

Not all community networks need to be internet networks, and in some cases, this may be seen as an advantage. For example, Mesh Bukavu, operating in the

Democratic Republic of the Congo (DRC), is a grassroots-led network that operates as a mesh intranet. Community members are still able to access internet sources downloaded by the people who run the service, as well as communicate securely with others who are linked to the network. This framework shows an excellent alternative to increasing ATI in previously unconnected communities while also being a way to navigate internet shutdowns, which have been a repeated concern in the DRC. Mesh Bukavu may be seen as a potential model for communities across the continent, both for fulfilling the communication needs of populations and as a tool to manage state-sanctioned shutdowns.

The engagement of civil society organisations (CSOs) also provides many opportunities for the advancement of ATI. Engaged in work across the field, civil society organisations are deeply involved in promoting, monitoring, supporting, and implementing ATI initiatives across the continent. The Africa Freedom of Information Centre is an advocacy organisation that operates across Africa to promote the right to ATI, tracking the development and implementation of the right in the field. Africa Check is a fact-checking organisation committed to promoting accurate information in the public sphere. Internet Society, focused on expanding and sustaining access to the internet, is heavily engaged in projects furthering this work on the continent. These organisations are a few of many working in myriad sectors to champion the right to ATI and support others in doing the same.

Many CSOs engage in initiatives to bridge gaps between communities, states, and private companies, presenting opportunities to strengthen the information ecosystem through multi-stakeholder engagements. A compelling example of this can be seen in the work of South African stakeholders to combat disinformation ahead of the upcoming elections. Committed to facilitating cross-sector engagements toward this end, Media Monitoring Africa spearheaded the development of a Framework of Cooperation between themselves, the South African Independent Electoral Commission, and digital platforms Google, Meta, and TikTok. This Framework articulates the role of each of these stakeholders in curbing disinformation online, including how to engage citizens to participate in this work through literacy and reporting programs. It can be seen that protecting, promoting, and collaborating with CSOs to advance human rights encourages many opportunities for the fulfilment of this aim.

## **Conclusion**

Exploring the state of ATI on the continent reveals a complex landscape. In recognising the importance of this right in empowering populations and advancing other human rights, significant efforts have been made towards its protection and development. The establishment of relevant AU instruments has created a valuable framework, encouraging states to advance ATI on the continent. The expansion of domestic legislation in this field suggests the impact of this corpus. Community and civil society networks have also played a notable role in furthering ATI, often engaging collaboratively with other organisations to do so. However, challenges to the realisation of this right for all are many. States must take measures to protect ATI, ensuring that legislation is robust and that regulations are aligned to prioritise this right throughout government policy and action. The effective progression of this right relies heavily on the proactive multi stakeholder engagement to enhance awareness and protection of ATI. In doing so, societies will be enabled to realise this right, and empowered to exercise the many others it facilitates.



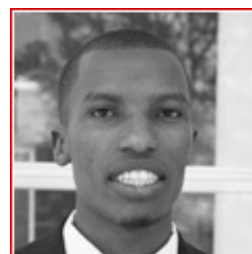
# Celebrating the enduring legacy of the Special Rapporteur on Freedom of Expression and Access to Information in Africa



**The Declaration reaffirmed the importance of freedom of expression and access to information as cornerstones of democracy, urging member states to respect and fulfil these rights.**

**A**ccess to information, often known as Freedom of Information (FOI) or Right to Information (RTI) is a fundamental right that enables individuals to seek, receive, and impart information freely. It is a fundamental cornerstone of transparent governance, democratic principles, and citizen empowerment. It enables individuals to participate in the decision-making processes of their governments, fosters accountability, and strengthens the foundations of democratic societies. To this end, countries worldwide have enacted access to information laws with the aim of ensuring public access to government and privately held information. However, despite the noble intentions of these laws, their effective implementation remains a multifaceted challenge, impeding the realisation of a truly open and accountable society.

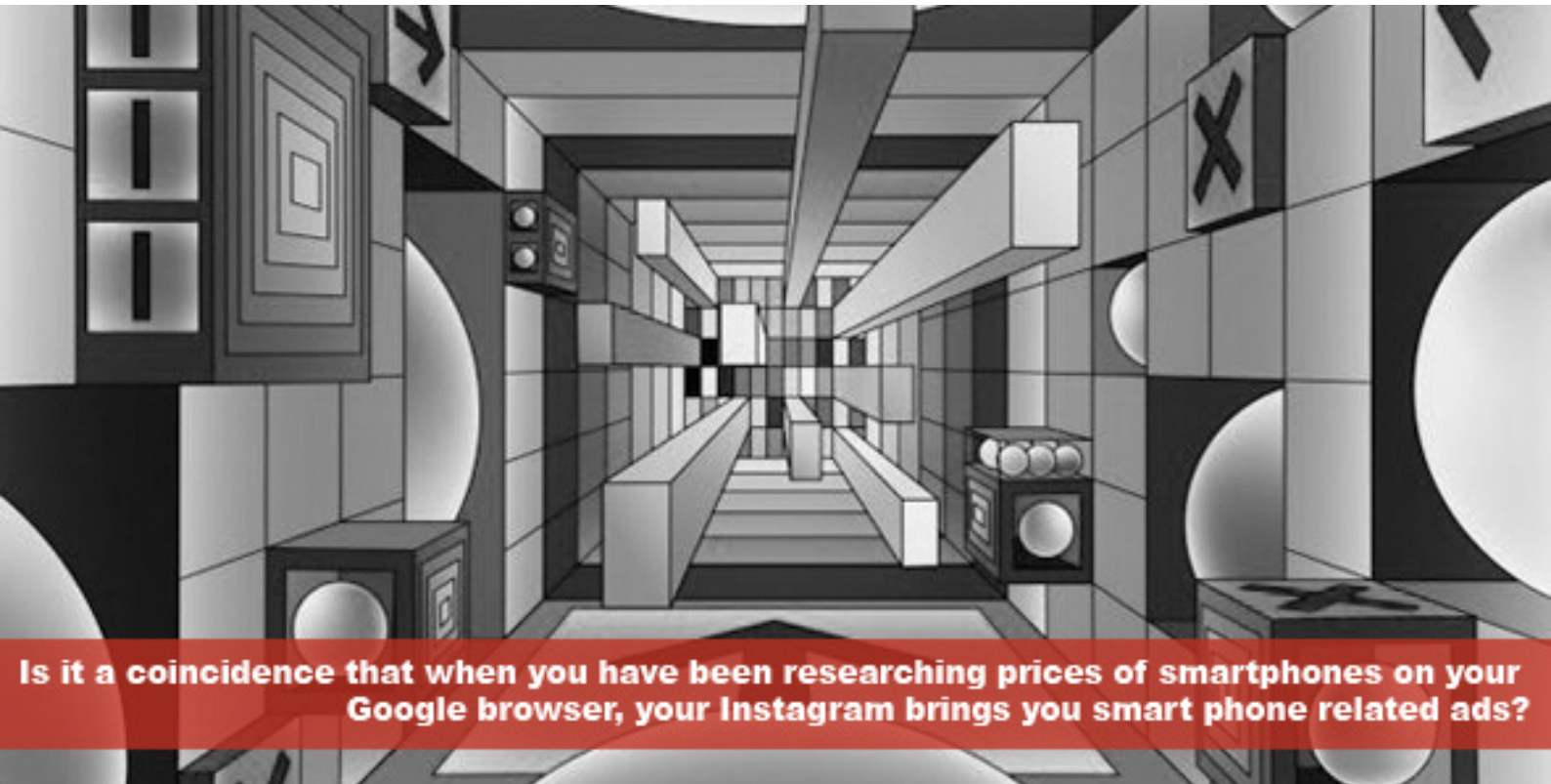
This article delves into the intricacies of access to information laws, examining the complexities, obstacles, and potential avenues for improvement in their implementation. Additionally, it acknowledges the opportunities these laws present for fostering transparency, good governance, and civic engagement. The exploration will be organised into three primary dimensions: legal challenges, institutional challenges, and cultural challenges, each posing unique hurdles to effective implementation. Furthermore, we will draw insights from the experiences of different countries, emphasising successful strategies and best practices that have paved the way for the realisation of access to information goals.



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 [\*\*\*Read the full article here.\*\*\*](#)

# Technology and Access to Information: Effect of Search Algorithms on Access to Information



**Is it a coincidence that when you have been researching prices of smartphones on your Google browser, your Instagram brings you smart phone related ads?**

**A**re you accessing all the information on your Facebook, Threads, Google, Bing or Instagram? The increased technological advances in Africa have been characterised by the increased use of the internet which is driven by the increased use of Artificial Intelligence (AI), hence confirming that we are in the Fourth Industrial Revolution (4IR). **Statistics** by Statista show that as at 2024, Africa had approximately 646 million internet users which is a slight increase from the 570 million internet users in 2022. As a result of the increased internet use, there is a lot of information that is out there which can be accessed through the various search engines or social media platforms. The science behind the internet may be complicated but it can easily be described by one word – algorithms. Algorithms are machine learning techniques that have been programmed to provide certain output based on the information that they are fed. Tarleton Gillespie attempts to give context as to what algorithms are and states that they are encoded procedures that transform the input data into a desired or specific output based on certain calculations.



**Author: Wendy Ashikomela Ashilenje**  
*Advocate of the High Court of Kenya*

Access to the internet is a means by which individuals can exercise their freedom of expression and the right of access to information. The internet is vast with information from all corners of the world and hence the question of access to information will always arise with the use of the internet. Search engines allow users to access specific information while social media platforms like Instagram provide information based on the people that you ‘follow’ on the platform. The right of access to information is governed by various principles such as proactive disclosure, maximum disclosure, processes to facilitate access, costs, right of appeal, limited scope of expectations, promotion of open government and protection for whistleblowers. Through various international law instruments, states have been mandated to enforce the right of access to information through enactment of the various statutes and regulations.

The right of access to information is not an absolute right and there are situations when it may be limited. This paper seeks to understand whether all the limitations are justified.

 [Read the full article here.](#)

# From limitation to derogation of rights: Revisiting internet shutdowns during elections in Africa



**Internet shutdowns are defined as measures to intentionally prevent or disrupt access to or dissemination of information online.**

**F**ree access to information, free speech and liberty of expression contribute to democratic elections. Article 9 of the African Charter on Human and Peoples' Rights (the African Charter) guarantees the right to receive information and safeguards freedom of expression and dissemination of opinions.

Access to information and press freedom are important elements of free expression. This right is now exercised both offline and online, as provided under Principle 5 of the 2019 press freedom. However, systemic internet disruptions and restrictions on access to communication platforms are on the rise in Africa. This has negatively affected the people's right to expression during elections, and meaningful access to vital electoral information, necessary to make informed decisions.

This article considers internet shutdowns during elections in Africa, as unnecessary derogations on peoples' rights. It compares government-led internet shutdowns during elections with the legal test of



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limitation of rights. It holds the view that governments should limit internet access during elections, only under permissible exceptional circumstances, in compliance with international human rights standards, to avoid regression.

Internet shutdowns are defined as measures to intentionally prevent or disrupt access to or dissemination of information online. Internet shutdowns may include broad measures by States or private telecommunication companies ranging from blocking access to websites, disconnecting communication towers and blocking access to social media platforms. Intentional disruption of internet access during elections, therefore borders a derogation on the right to access information, disguised as permissible limitation of rights by governments.



**[Read the full article here.](#)**



# Testing the Waters of Transparency: The Impact of Namibia's Access to Information Act on Constitutionalism

In January 2022, the High Court of Namibia held that the government cannot invoke the secrecy and confidentiality of Cabinet documents when the people requested such documents without justifying why it invokes such secrecy. Indeed, the Attorney-General v Gondwana Collection Ltd (hereinafter 'Gondwana') shows how access to information, including information contained in Cabinet documents, can serve to hold the sovereign to account to his subjects. Conversely, the case proves that unjustified opacity and secrecy may adversely affect fair trial rights and, more generally, shield the executive branch from accountability.

Later, in December of the same year, and in the wake of Namibia's ugliest corruption scandal – the infamous 'Fishrot' Files – the country's Parliament took a decisive step toward heightened transparency by enacting the Access to Information Act 8 of 2022. This legislation does not just respond to a moment of crisis. Rather, it marks a considerable shift toward constitutionalism, offering citizens a mechanism to hold the officialdom accountable.

This paper evaluates the effectiveness of the newly passed Access to Information Act in advancing the goals of constitutionalism in Namibia by enabling robust and transparent access to information.



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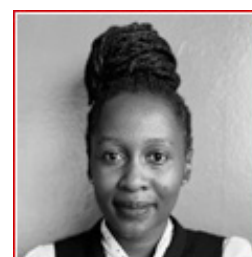


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## Proactive disclosure of information post the 2013 Model Law on Access to Information: Assessing the compliance of the Zimbabwe Electoral Commission with the Guidelines on Access to Information and Elections in Africa and the Declaration on Principles of Freedom of Expression in the 2023 harmonised elections



Regional and international instruments guarantee the right to access information. Article 9 of the African Charter on Human and Peoples Rights (African Charter) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR) provide for the right to access and receive information. Both treaties have been ratified by



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Zimbabwe. Section 62 of the Constitution of Zimbabwe, 2013 (the Constitution) also guarantees the right to access information. The provision enunciates access to information to every Zimbabwean citizen or permanent resident, including juristic persons and the media. The duty bearers are outlined as any institution or government agency for purposes of public accountability.



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# Implementation of the access to information law in Nigeria

Implicit in the guarantee for freedom of expression under section 39(1) of the Nigerian 1999 Constitution is the right to receive and disseminate information and since this right is meaningless without a corresponding right to freedom of access to information, the latter is by implication granted. The right is, however, superseded by the constitutional recognition of the right of the government to restrict access to certain information confidentially received or which it considers prejudicial to public security, order, health, and morality. An example of a law enacted to restrict access to government-held information is the Official Secrets Act, 1962. Under the Act, virtually any information only needs to be placed under a system of security classification currently in use to deny members of the public access to it. Public officials are in fact routinely required to keep sealed lips concerning the conduct of government business.

The enactment of the Freedom of Information Act, 2011 (NFOIA) in Nigeria, therefore, brought much promise of a more open and transparent conduct of governmental and public affairs. However, despite the commencement of the Act, the conduct of governmental business at various levels has neither become more transparent nor have public officials (elected and appointed) become more accountable to the general populace. Despite the clear provisions of section 2(a) of the NFOIA, a visit to the website of any public authority in Nigeria, if one exists, would for instance discover such a paucity of information that one wonders why the website was created in the first place.



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## Pay or be denied: The impact of fees and charges on journalists' perception of the effectiveness of Ghana's Right to Information Law



There has been a global upsurge in the demand for transparency, accountability and the establishment of norms in favour of democracy. These norms include the passage of universal Access to Information (ATI) laws and the respect for the right to access information across the world.

In Africa, the adoption of the Model Law of Access to Information for Africa in 2013 was a response to emerging questions about

widening inequality, widespread poverty, corruption and lack of accountability in public office. Indeed, the model law is consistent with other relevant laws including the African Charter on Human and Peoples' Rights (the African Charter).

The recent rise in military coups, autocracy, economic mismanagement, and general recession of democracy and its ideals in Africa underscores the need for the consolidation of the implementation of ATI laws, easy flow and accessibility of information on the continent.

On the contrary, in Africa, even in countries where ATI laws have been passed, such as Ghana, there appears to be a widespread restriction to information access, especially among journalists whose profession lies at the heart of the right to seek, receive, and impart information. Sometimes, the denial comes in the form of exorbitant fees charged before the release of information.



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## Beyond Crisis: The State of Access to Information and the Internet for Rural Dwellers in South Africa

**S**outh Africa has a long history of socio-economic underdevelopment, largely resulting from the sustained effects of apartheid. Despite the end of apartheid, the position of rural communities in South Africa remains precarious, with limited access to resources and infrastructure. The creation of

Bantustans during apartheid further exacerbated economic disparities amongst different racial groups, leading to poverty, inequality, and unemployment. Slow technological adoption and development in South African rural areas also contribute to limited access to information and restricted opportunities. This situation has resulted in the maintenance of the status quo, with socio-economic underdevelopment and inequality continuing to be major challenges in post-apartheid South Africa. In this context, this article seeks to critically examine the state of access to information for rural dwellers in South Africa and the initiatives being taken to improve this situation.



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## A Decade of Constitutionalised Right to Access Information in Morocco: Reflections on the Progress and Challenges

**O**riginally limited and considered as a right to access administrative records, the right to information has evolved over time to become a key element in strengthening good governance and institutional transparency. By endorsing foundational texts such as Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the United Nations Convention against Corruption (UNCAC), member states have committed to advancing the recognition of this right. In fact, the UNCAC calls upon state parties to take appropriate measures in accordance with their domestic laws to ensure the right to information and facilitate its access.

While the choice between constitutionalising the right to access information or merely enshrining it in a basic law is a matter for each country to decide, constitutionalisation is seen as a means to provide it with a more robust guarantee of existence. Nonetheless, the promulgation of a specific law remains necessary to detail the exercise of this right further. In this regard, Morocco initially leaned toward the latter option before eventually embracing constitutionalisation, a shift influenced by the wave of the Arab Spring.



**The constitutional reform of 2011 provided the opportunity to enshrine and introduce the right to access information into the country's legislative framework**



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# Repressive Laws Silencing Dissidents, Deviants and Destabilisers in Uganda

My crime is that of  
curiosity

The EC denied him access to this information, justifying their refusal by explaining that candidate Museveni's nomination required no verification of academic documents since his qualifications were obtained at the University of East Africa, which is now extinct.

minorities whose behaviours departed from societal norms, and destabilisers suspected of subverting the entrenchment of President Yoweri Museveni's 37-year-old regime. I triangulate autoethnography with public media content analysis and law review to explore this incongruence within the right of access to information and free expression in Uganda.



[Read the full article here.](#)



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In Uganda, there is an incongruence between the legal regime governing access to information and freedom of expression on one hand, and a barrage of restrictive laws on the other. Although a decade has passed since the African Commission on Human and People's Rights adopted the Model Law on Access to Information for Africa, growing state repression in Uganda generated laws aimed at silencing, denying access to information, criminalising and penalising government dissidents, deviants or

## Analysing Ethiopia's Adherence with the Guidelines on Access to Information and Elections in Africa: A Spotlight on the 2021 National Election



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A fundamental element of democracy is the freedom to choose political leaders through elections. As envisaged under Article 13 of the African Charter on Human and People's Rights (the African Charter), for elections to be free, fair and credible, the electorate must have access to information at all stages of the electoral process.

The Special Rapporteur on Freedom of Expression, a special mechanism established by the African Commission, with the specific mandate of monitoring member states' compliance with article 9 of the African Charter adopted the Guidelines on Access to Information and Elections in Africa (hereinafter, **the Guidelines**), in 2017. The Guidelines provide directions on access to information in the electoral process as a means of strengthening democratic governance in Africa and specifically incorporates the principle of proactive disclosure of information. The principle of proactive disclosure requires that those who hold information of public interest must routinely provide such information to the public even without being requested to do so.



The principle of proactive disclosure requires that those who hold information of public interest must routinely provide such information to the public even without being requested to do so.

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# Misinformation and disinformation in the digital age and its impact on the information ecosystem

**T**raditional media has been replaced with social media as a source of reliable news. South Africa has reached 26 million social media users as of January 2024. This represents a three-fold increase from 9.8 million users in 2014 and highlights the increasing dependence of people on social media instead of traditional media. This heavy social media dependency creates space for information disorder to filter through. The pervasiveness of information disorder presents a serious threat to the information ecosystem, and to society, as it has the potential to significantly alter beliefs, behaviors and policy. Such information is rarely false, but it is used to distort understanding by including elements of accurate and inaccurate claims, making it complicated to judge fair and accurate information.

 [Read the full article here.](#)



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## Internet Shutdowns in Sudan: From Authoritarian Tool to Weapon of War

**I**nternet shutdown or blockage means the deliberate suspension or termination of internet and electronic communication services, making them inaccessible or practically inoperable for a particular group of people or geographic area, usually to control the flow of information.

This exercise has been used by governments as a tool to suppress dissent, censor information, conceal serious infringements of individual rights,

and evade accountability for human rights violations, especially during periods of conflict, civil unrest, and contested political transitions.

The use of internet shutdowns under the pretext of national security or preventing electoral fraud has been prevalent in various African countries. For instance, in Chad, the government disrupted internet services for nearly a week in February 2021 during protests against then-president Idriss Déby, shortly after members of the presidential guard attacked a prominent opposition politician. In Malawi, the Democratic Republic of Congo, and Mauritania, the authorities have enforced internet shutdowns during elections, while the government of Burkina Faso cut off internet access following attempted coups d'état.

Additionally, the Tigray region in Ethiopia has experienced one of the longest recorded internet shutdowns globally, where the government has suspended all public services, including electricity, banking, telecommunications, and internet access, since November 2020. This blackout coincided with the military confrontation between the Ethiopian government and its allies and the security forces of the Tigray region.

Furthermore, there have been occasions where governments disrupted internet access purportedly to prevent exam cheating among students. This practice has been common in North African countries, particularly Algeria.[8] These authoritarian strategies enable governments to abuse human rights under the veil of secrecy and evade responsibility for their actions.

 [Read the full article here.](#)



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# Enhancing Access to Information through Community Media in South Africa



**Community media also enhances democratic participation by giving marginalised and underrepresented groups a platform to express their concerns and share information.**

South Africa's community media sector plays a crucial role in addressing the diverse needs and interests of its various geographic and interest-based communities by ensuring access to relevant and accurate information. These media outlets are dedicated to developing and disseminating content that reflects local issues, cultural practices, and linguistic preferences. This localised approach ensures that content is tailored to the immediate needs and interests of specific communities, which is vital for community engagement and empowerment. By focusing on the specific concerns and interests of their audiences, community media provides essential information that might not be covered by mainstream media, reinforcing the public's right to access crucial information. This access supports informed decision-making and strengthens local identity, promoting active civic participation and contributing to the overall resilience and cohesion of the community.

International standards for community media highlight the importance of diversity, inclusivity, and accessibility. The 2019 **Declaration of Principles on Freedom of Expression and Access to Information in Africa** (the 2019 Declaration) emphasises the importance of supporting community media as independent, non-profit entities dedicated to serving the interests of local or culturally shared communities. States are urged to promote the development of such media by ensuring that their ownership, management, and programming are truly representative of the communities they serve. Licensing for community broadcasters should be straightforward, efficient, and affordable, promoting genuine community involvement while avoiding restrictive conditions. Additionally, states should allocate a designated percentage of the radio frequency spectrum to community broadcasters to enhance diversity and inclusivity in media representation. Similarly, international organisations such as the **United Nations Educational, Scientific and Cultural Organization** (UNESCO) and the **International Federation of Journalists** (IFJ) advocate for community media that reflect a wide range of voices, including marginalised and minority groups. They also promote key benchmarks including ensuring equitable access to media resources, promoting local content that addresses the specific needs and interests of communities, and safeguarding freedom of expression.



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 [Read the full article here.](#)

# Navigating a restrictive access to information infrastructure in Uganda through the use of social media

From late February into March 2024, a hashtag ran on X (formerly Twitter) under the designation **#UgandaParliamentaryExhibition**. According to the protagonists behind this hashtag, the purpose of this move was to **cast light on the outrageous spending within Uganda's parliament**.

The internet is considered to be the most disruptive piece of technology that enables the receipt and dissemination of information. Uganda is home to 2.6 million social media users. Few people can doubt the power of the internet in general and social media specifically, in **stimulating democratic culture**. Even some of the critics of digitisation accept that digital technologies lower the **costs of access to information**. The use of social media to organise and mobilise persons for action came to the fore in the early 2010s in what was known as the Arab Spring; a series of protests that led to the ousting of dictatorial governments in Tunisia, Egypt, and Libya. It was known for the youthful demonstrators that staged street protests and used social media to coordinate, raise awareness of the political issues, and record the events on the **ground**. The results of the Arab Spring are that dictatorships that had managed to stifle access to information and free flow of ideas for many years were toppled in part, due to the mobilisational capacities of social media.



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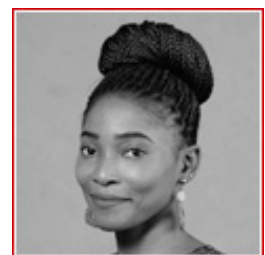


## Challenges and Opportunities in Implementing Access to Information Laws

Access to information, often known as Freedom of Information (FOI) or Right to Information (RTI) is a fundamental right that enables individuals to seek, receive, and impart information freely. It is a fundamental cornerstone of transparent governance, democratic principles, and citizen empowerment. It enables individuals to participate in the

decision-making processes of their governments, fosters accountability, and strengthens the foundations of democratic societies. To this end, countries worldwide have enacted access to information laws with the aim of ensuring public access to government and privately held information. However, despite the noble intentions of these laws, their effective implementation remains a multifaceted challenge, impeding the realisation of a truly open and accountable society.

This article delves into the intricacies of access to information laws, examining the complexities, obstacles, and potential avenues for improvement in their implementation. Additionally, it acknowledges the opportunities these laws present for fostering transparency, good governance, and civic engagement. The exploration will be organised into three primary dimensions: legal challenges, institutional challenges, and cultural challenges, each posing unique hurdles to effective implementation. Furthermore, we will draw insights from the experiences of different countries, emphasising successful strategies and best practices that have paved the way for the realisation of access to information goals.



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[Read the full article here.](#)

# The impact of internet shutdown on freedom of expression in Ethiopia



## No internet

Try:

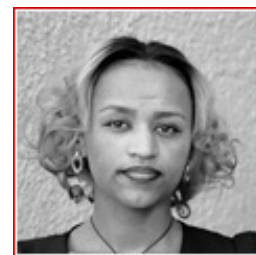
- Checking the network cables, modem, and router
- Reconnecting to Wi-Fi
- Running Windows Network Diagnostics

ERR\_INTERNET\_DISCONNECTED

**Despite repeated calls from civil society and digital rights activists, internet shutdowns have not received the attention they deserve from the government.**

Access to the internet is essential for many aspects of daily life. Even though it is not explicitly classified as a human right, it is considered an enabler for the enjoyment of human rights. One of the threats to internet access nowadays is internet shutdowns. An internet shutdown typically involves the deliberate disruption of internet or electronic communications, rendering them partially or fully inaccessible. These shutdowns often target specific populations or regions to control the flow of information, though they can sometimes impact entire countries. Despite the internet's crucial role in communication, information sharing, and exercising fundamental freedoms, internet shutdowns have become an alarming issue across the world. The internet has greatly enhanced free speech, enabling individuals to express their opinions without fear of censorship or retribution. It has also encouraged the exchange of ideas and facilitated the spread of information, benefiting society. However, this fundamental right is threatened in Ethiopia by a concerning pattern of internet shutdowns. In response to protests, civil unrest, and other forms of social and political activism, the government has resorted to invasive shutdowns. These measures significantly limit citizens' freedom of expression, impede democratic dialogue,

and obstruct the flow of essential information in society, leaving millions uninformed and potentially infringing on their rights to freedom of expression, access to information, assembly, and association, as well as other human rights. The right to freedom of expression is protected under international law and most national constitutions. This right has evolved to encompass the internet as a vital communication medium, raising important questions about the extent to which internet access is protected under existing normative principles.



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