



Business & Human Rights
Resource Centre

Internet shutdowns in Africa

ADDRESSING THE
HUMAN RIGHTS
RESPONSIBILITIES OF
TELECOMMUNICATION
COMPANIES

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Executive summary

Internet shutdowns are a growing and pernicious issue in Sub-Saharan Africa – with increasingly well-documented human rights implications, including on the right to freedom of expression. While shutdowns are usually requested by states, they would not be possible without the involvement of telecommunications companies. At the same time, internet shutdowns also create big losses for telecoms businesses and other businesses providing online services as digital products and services are significantly disrupted.

There is growing authoritative guidance internet shutdowns infringe on international human rights law. In June 2016, the United Nations (UN) Human Rights Council adopted a resolution condemning network shutdowns and other intentional restrictions on access as violations of international human rights law.¹ In November 2016, the African Commission on Human and Peoples' Rights (ACHPR) issued a historic statement declaring internet shutdowns are not justifiable under international human rights law, even in times of conflict.² According to the UN Human Rights Committee, restrictions on online speech must be strictly necessary and proportionate to achieve a legitimate purpose.³

Some telecoms companies are recognising this and taking positive actions, such as committing to respect human rights through human rights policies as well as joining multi-stakeholder platforms, such as the Global Network Initiative (GNI) principles, and publishing transparency reports detailing instances of requests by governments to shut down the internet. Yet, while these steps are important, the conduct of many telecommunications companies is not sufficient to meet their responsibilities under the UN Guiding Principles on Business and Human Rights (UNGPs).

In view of the increasing centrality of the internet to lives and livelihoods, not just in Sub-Saharan Africa but worldwide, we urge telecoms companies to do more to ensure they live up to their responsibility to respect human rights as set out under the UNGPs. Given their importance to the economies in which they operate, telecoms companies should leverage their influence with governments to develop a regime that only limits shutdowns to legally justifiable instances and with a precise and appropriate duration and scope. Telecoms companies should undertake effective human rights due diligence which includes a 'know and show' approach to human rights risks and potential harms, actionable human rights policies and clear access to remedy for those whose human rights are harmed by internet shutdowns.

A group of people, mostly men, are protesting outdoors. They are holding various signs with handwritten text. One prominent sign in the foreground says "WHAT IS DEMOCRACY WITHOUT FREEDOM". Other signs include "CORRUPTION IS HATE ACTION PROSECUTE HATE ACTIONS", "UNDER FUNDING OF EDUCATION, HEALTH IS HATE ACTION", "SOCIAL MEDIA IS AG... FREE", and "FREE EX... IS FU... TO H... B...". The protesters are looking towards the camera with serious expressions. The background shows a street scene with buildings and other people.

Introduction

The last decade has witnessed a growing reliance on the internet for livelihoods and the enjoyment of services such as access to healthcare, education and commerce in Africa. In addition, access to online information, the enjoyment of freedom of expression and other economic and cultural rights are significantly dependent on reliable access to the internet.

This development has been accompanied by growing disruptions to internet connectivity, often instigated by government agencies. According to the Office of the High Commissioner for Human Rights (OHCHR),⁴

“ shutdowns are understood as measures to intentionally disrupt access to and use of information and communications systems online... Shutdowns may occur in a wide range of forms, including: bandwidth throttling to slow internet access, blocking of specific apps such as social media or messaging services and other services, and the partial or complete shutdown of access to the internet. Such disruptions are typically ordered by public authorities and implemented by companies that operate communications networks or facilitate network traffic.”⁵

A report by the Global Network Initiative (GNI) shows that [during the past 24 years, more than 30 African countries have cut off internet access](#). The KeepItOn Coalition identified at least 25 internet shutdowns in 2019 and 18 in 2020 in Africa.⁶ This included Benin, Cameroon, Democratic Republic of Congo, Eritrea, Ethiopia, Gabon, Guinea, Liberia, Malawi, Mauritania, Tanzania, Zimbabwe, [Burundi](#), [Chad](#), [Ethiopia](#), [Guinea](#), [Sudan](#), [Tanzania](#), [Togo](#) and [Uganda](#). According to Surfshark, a platform tracking social media censorship, Africa was responsible for 53% of global incidents of internet censorship. By 1 April 2021, Top 10 VPN had already identified [18 outages in 10 countries](#).

Internet shutdowns are often ordered during national elections⁷ and periods of civil unrest.⁸ Governments, often invoking their public order legislation, resort to national security, the need to fight against fake news, curbing online hate speech and preventing fraud during national examinations as justifications for their orders.⁹ In most cases, the telecoms companies have complied with these orders, which in turn have infringed upon their subscribers' economic, social and political rights. For example, shutting down the internet during

an election period denies citizenry access to information on the conduct of the election and information on how tallying and reporting is taking place, a threat to civil rights. A coalition of NGOs outlined the link between internet disruption and socio-economic rights [in Cameroon](#), where approximately 25% of the population has access to internet. A recent study in Uganda also found women are disproportionately affected by internet shutdowns as they are increasingly using the internet for commerce and political organising, including through social media groups. A paper from the Global Commission on the Stability of Cyberspace found internet shutdowns in the Democratic Republic of Congo, Tanzania and Uganda directly impacted economic, social and cultural rights by “vastly reducing the ability of millions of people in each country to trade, make money, and access a wide range of services, including educational and health services.”¹⁰

The [GNI’s Principles on Freedom of Expression and Privacy](#) was developed to “provide direction and guidance to the information and communication technology (ICT) industry and its stakeholders” on how to protect freedom of expression and right to privacy. The Principles outline:

“ *ICT companies should comply with all applicable laws and respect internationally recognised human rights, wherever they operate. If national laws, regulations and policies do not conform to international standards, ICT companies should avoid, minimise, or otherwise address the adverse impact of government demands, laws, or regulations, and seek ways to honour the principles of internationally recognised human rights to the greatest extent possible.*”

Pursuit of remedy by consumers, civil society organisations and telecoms have rightly been focused on the human rights obligations of governments – often the ones ordering internet shutdowns. However, private sector actors, including telecommunications companies and internet service providers, have human rights responsibilities, which they must take steps to uphold.



Human rights responsibilities of telecoms companies

Internet shutdowns anywhere impact human rights negatively. These include the right to freedom of expression, the right to health, the right to culture, the right to education, the right to access information and the right to work. David Kaye, former UN Special Rapporteur on Freedom of Expression, has stated “a general network shutdown is in clear violation of international law and cannot be justified by any means.”¹¹

The UNGPs stipulate that “all enterprises regardless of their size, sector, operational context, ownership and structure” have a responsibility to respect human rights and to address their human rights impacts.¹² For telecoms companies and Internet Service Providers, this means they must assess the ways in which their own actions, such as cutting off internet access, may negatively impact human rights such as freedom of expression and right to information. Recognising telecoms companies operate under licensing agreements and other governmental regulations, they must do so in a way that aligns with their human rights responsibilities as set out by the UNGPs.

This means when companies are ordered by states to cut internet access, they must seek to prevent and mitigate the negative human rights impacts resulting from following such orders. Even when companies do not directly cause the adverse human rights impacts, they should take measures to ensure they do not contribute to such impacts by implementing internet shutdown directives. Where it is not possible to resist the directives fully, they should limit the scope and impact on users and affected stakeholders.

Other non-binding legal documents outlining similar expectations of companies include the [OECD Guidelines for Multinational Enterprises](#), the [Global Network Initiative Principles on Freedom of Expression and Privacy](#), the European Commission’s [ICT Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights](#), among others.

A recent paper found internet shutdowns in the Democratic Republic of Congo, Tanzania and Uganda “impacted the ‘Responsibility’, ‘Restraint’ and ‘Requirement to Act’ principles, particularly as they resulted in the inability of citizens to be able to use cyberspace safely, securely, and in a way where the integrity and availability of information is assured.”¹³

The increasing number of internet shutdown cases and negative human rights impacts necessitate telecoms companies to take measures to ensure they do not contribute to human rights violations in the context of internet shutdowns and that they live up their responsibility to respect human rights in accordance with their responsibilities under the UNGPs.

Table of telecoms company human rights actions

In order to better understand the policies and practices of companies operating in Africa related to internet shutdowns, we approached 15 companies with questions about whether they have a human rights policy and, if so, whether it covers circumstances of internet shutdowns, as well as their understanding of their responsibilities when requested to shut down internet access by government agencies. Only [Vodafone](#) and [Orange](#) replied to our enquiries; Safaricom (Kenya), Ethio Telecom (Ethiopia), Sudatel (Sudan), Groupe Maroc Telecom, Groupe Orange, Guilab (Guinea), Africell (UK), MTN (South Africa), Smile Telecoms (UK), Millicom (Luxembourg), Econet Group (South Africa & UK), Zain Group (Kuwait), Bharti Airtel (India) and Viettel (Vietnam) did not.

Combined with desk research on these companies, our research found:

- Yes
- No / not available
- Not publicly available
- [🔗](#) Link

	Human rights policy?	Does the policy include an explicit commitment to freedom of expression?	Does the company publish an annual transparency report?	Ranking Digital Rights score?	Member of GNI / UN Global Compact?	Has the company ever voiced its opposition to internet shutdowns?
Vodafone	● 🔗	●	● 🔗 🔗	2	● / ●	<input type="radio"/>
Groupe Orange	● 🔗	●	● 🔗	6	● / ●	● 🔗
MTN (South Africa)	● 🔗	●	● 🔗	7	● / ●	<input type="radio"/>
Safaricom	● 🔗	<input type="radio"/>	<input type="radio"/>	—	● / ●	<input type="radio"/>
Ethio Telecom	●	<input type="radio"/>	<input type="radio"/>	—	● / ●	<input type="radio"/>
Sudatel	●	<input type="radio"/>	<input type="radio"/>	—	● / ●	<input type="radio"/>
Groupe Maroc Telecom	●	<input type="radio"/>	<input type="radio"/>	—	● / ●	<input type="radio"/>
Guilab (Guinea)	●	<input type="radio"/>	<input type="radio"/>	—	● / ●	<input type="radio"/>
Africell	●	<input type="radio"/>	<input type="radio"/>	—	● / ●	<input type="radio"/>
Smile Telecoms	●	<input type="radio"/>	<input type="radio"/>	—	● / ●	<input type="radio"/>
Millicom	● 🔗	●	● 🔗	—	● / ●	<input type="radio"/>
Econet Group	●	<input type="radio"/>	● 🔗	—	● / ●	<input type="radio"/>
Zain Group	● 🔗	●	●	—	● / ●	<input type="radio"/>
Bharti Airtel	● 🔗	●	●	10	● / ●	<input type="radio"/>
Viettel	●	<input type="radio"/>	<input type="radio"/>	—	● / ●	<input type="radio"/>

In the past, we have invited several telecoms companies to respond to calls by civil society organisations to denounce internet shutdowns. In September 2013, we invited MTN to respond to concerns arising from an internet shutdown during protests in Sudan against the doubling of the price of gas. [MTN attributed](#) the disruption to the sabotage of its local ISP cables and servers. In August 2019, we approached MTN to respond to allegations it had contributed to human rights violations in Sudan by shutting down internet. [MTN did not respond](#).

In July 2021, we invited MTN, Orange and Bharti Airtel to respond to an open letter by AccessNow on their respective performance based on the 2020 Ranking Digital Rights Corporate Accountability Index. [MTN clarified](#) it had published its transparency report, including disaggregated data on each country's legal framework on internet interceptions, data requests from government and non-government bodies including on internet interceptions and the number of interception requests fulfilled. [Orange responded](#) and attached its 2020 transparency report on the freedom of expression and protecting privacy. [Bharti Airtel did not respond](#). In April 2021, we invited MTN, Airtel Congo and Congo Telecom to respond to an open letter concerning their responsibility to uphold and respect human rights by providing open and secure access to the internet throughout the Congolese elections, and to the subsequent reports that the internet was largely shut down in the country from 21-23 March 2021. [None of the three companies responded](#).





Analysis & recommendations

All the companies which responded, and those which have publicly available information, state their compliance with the local law and/or state agencies when requests to shut down the internet are made. The telecoms companies ranked under the Ranking Digital Rights Corporate Accountability score have human rights policies with an explicit commitment to the freedom of expression. They also publish regular transparency reports with information on the agency requesting the shutdown and the duration of the shutdown.

However, a worrying number of companies have not responded to requests for information on their human rights policies or made the information public on their websites, nor have they responded where there are specific allegations against them by the civil society. Others have codes of conduct which do not explicitly mention internet shutdowns. While it is welcome to see some telecoms companies recognising their responsibilities and developing human rights policies, only a small number appear committed to engaging publicly on the issue.

The human rights implications of internet shutdowns is an evolving discourse. Telecoms companies receiving orders to shut down internet access by state agencies anchored on their licensing agreements, but which may be inconsistent with international human rights obligations, are caught in a complex position. Some experts recommend they push back against such orders by challenging their legality in courts or “challenge the directives from African governments”, while at the same time recognising this would be “political suicide for telecoms companies.”¹⁴ More authoritative guidance on the steps telecommunications companies should take to ensure they live up to their responsibility to respect human rights as set out under the UNGPs is urgently needed. We welcome the recent call for submissions by the OHCHR to inform a forthcoming report on internet shutdowns and human rights.

While further guidance is emerging, at the very least telecoms companies need to ‘know and show’ their involvement in internet shutdowns, including avoiding complicity in human rights harms. The following recommendations will help telecoms companies to make progress towards living up to their responsibility.

Recommendations

To telecommunications companies:

Telecoms must undertake effective human rights due diligence:

➔ Adopt **human rights policies**:

- ➔ Include concrete actions to understand and achieve the company's responsibility to respect human rights in their operations, business relationships and institutional culture.¹⁵
- ➔ Make human rights policies publicly available, including the commitment to upholding the rights of users or customers in line with the UNGPs and articulating their position on internet shutdowns.

➔ Be **more transparent**:

- ➔ Publish regular reports on requests made by the government to shut down the internet, including the government agency responsible and the duration of the shutdown.
- ➔ Communicate with users/customers before, during and after implementing shutdown orders about the shutdown, along with details regarding the cause, extent and duration for such shutdowns, providing users with access to remedies, especially during emergencies.

➔ Negotiate **human rights compliant licensing agreements**:

- ➔ Companies should negotiate with governments to exempt certain essential services from being impacted by internet shutdowns where the human rights impact could potentially cause irreparable damage, such as healthcare services.
- ➔ They should break away from the existing business models that do not respect human rights in the countries they operate and adopt a human rights-based business model anchored on digital equality and respect for human rights.

➔ Adopt **effective and efficient remedial processes** to enable victims of abuse to seek redress when necessary:

- ➔ Telecoms companies should cooperate with other actors, including other businesses and CSOs, seeking remedy arising from unlawful internet shutdown requests.

Telecoms companies should **collaborate with allies**, including other companies, investors, governments and civil society, to better identify and understand the human rights risks of internet shutdowns, introduce better regulations and effectively tackle the practice.

Endnotes

- 1 United Nations, [Resolution A/HRC/32/L.20 on the Promotion, Protection and Enjoyment of Human Rights on the Internet](#).
- 2 African Commission on Human and Peoples' Rights (2016), [ACHPR/Res.362\(LIX\)2016 - Resolution on the Right to Freedom of Information and Expression on the Internet in Africa](#).
- 3 United Nations General Assembly (2016), [General Comment 34; Authorization of government to limit communication Collection of the Basic Texts of the International Telecommunication Union adopted by the Plenipotentiary Conference \(edition 2019\) \(itu.int\)](#) see Article 33 – 37, page 82.
- 4 S. Kemp (2021), [Digital in Kenya: All the Statistics You Need in 2021](#). DataReportal, Global Digital Insights.
- 5 OHCHR | [cfi-report-hrc-50](#); T. Ilori (2021), [GNI report on the impacts of internet interruptions in Africa Life-Interrupted-Report](#). Global Network Initiative.
- 6 AccessNow, [KeptOn 2019 Report](#).
- 7 Uganda had presidential elections in 2016 as well as 2021. In both cases, the government ordered a shutdown of social media. See B. Duggan (2016), [Uganda shuts down social media; candidates arrested on election day](#). CNN, published February 19, 2016, and N. Bhalla and A. Mccool (2021), [100 hours in the dark: How an election internet blackout hit poor Ugandans](#). Reuters.
- 8 Example of Ethiopia shutdown. see B. Feleke (2020), [Internet cut off in Ethiopia amid outcry over death of singer-activist](#). CNN, Last modified June 30, 2020.
- 9 African Commission on Human and Peoples' Rights (2016), [ACHPR/Res.362\(LIX\)2016 - Resolution on the Right to Freedom of Information and Expression on the Internet in Africa](#).
- 10 Global Commission on the Stability of Cyberspace, [Disconnecting from Cyberstability: An Assessment of how Internet Shutdowns in the Democratic Republic of Congo, Tanzania, and Uganda Undermine Cyberstability](#), p. 8.
- 11 [DR Congo: Restore Internet services as "a matter of urgency," urges UN expert](#). United Nations. Accessed on July 6, 2021.
- 12 https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf
- 13 Global Commission on the Stability of Cyberspace, [Disconnecting from Cyberstability: An Assessment of how Internet Shutdowns in the Democratic Republic of Congo, Tanzania, and Uganda Undermine Cyberstability](#), p. 9.
- 14 Techcabal, [Telecom operators are trapped in Africa's internet shutdowns: Can they fight back?](#)
- 15 UNGP 16.



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Business & Human Rights Resource Centre is an international NGO which tracks the human rights impacts of over 10,000 companies in over 180 countries, making information available on our 10-language website.

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