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Free speech under siege

Across West Africa, governments are increasingly turning to content moderation laws to control public discourse — with dire effects on press freedom

Authoritarian overreach is redefining itself across West Africa, fuelled by armed conflicts, military coups, and electoral manipulation and violence, as the region experiences a decline in democracy. Notably, repressive governments are increasingly turning to content moderation laws as the newest tools for gagging the press and stifling free speech on the internet.

The internet means many different things to many people. For some, it means a free space to express themselves and ventilate their thoughts without fear of retribution, silencing or coercion. For politicians, it is a powerful tool to recruit supporters and disseminate campaign messages. For activists, it is a platform to build solidarity, draw attention to social causes, and foster accountability for governments and corporations. For the media, the internet has revolutionised operations by providing innovative and creative ways for news production, audience engagement, information gathering and dissemination. For smaller media houses, which otherwise would have struggled with visibility and the costs associated with physical newsroom operations and news production, the internet has offered smarter and cheaper ways to amplify their work.

But the internet's many successes in facilitating access to critical information and spaces for raising citizens' concerns have not come without their downsides. The digital revolution has, unfortunately, also provided a platform for widespread misinformation and disinformation, posing a real threat to national security, public order and democratic governance — a paradigm that is particularly troubling for developing democracies like those in West Africa. Although the challenge of misinformation is not new, the wide scope of manipulation and the multiplicity of techniques and platforms to disseminate information, enabled by evolving technology, have placed the issue in a very unique and unprecedented context.

Ample room for misuse and misinterpretation

In response, state authorities have implemented several technological measures to counter this threat, including the introduction of content moderation laws. These laws, presented as genuine efforts to combat the spread of false information and maintain social order, often end up clashing with already existing laws that guarantee freedom of expression.

In particular, the vague and broad wording of these laws leaves room for misapplication and executive overreach, providing state actors with the impetus to regulate the press or severely punish journalists they consider 'stubborn'. Adeboye Adegoke, a digital rights expert and senior manager at Paradigm Initiative, says that 'content moderation through executive fiat is very common, in which case governments can take down "offending" content as they choose. That is the major problem when content moderation laws are not made in consideration of existing laws.' This issue is exemplified in Mali, where stakeholders denounced the new Suppression of Cybercrime Law, stating that its provisions affecting online press freedom were inconsistent with constitutional laws protecting the press.

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The implementation of these content moderation laws has had a deleterious effect on press freedom across the region. Under the provisions of these laws, journalists have been subjected to harassment, intimidation and legal action.

Nigeria, for example, has passed and implemented a Cybercrimes Act, originally developed as a tool to curb internet-related offenses. Section 24 of the Act, which criminalises the dissemination of offensive, false or menacing messages, has been particularly contentious. The case of Agba Jalingo, a journalist accused of treasonable felony, terrorism and an attempt to topple the Cross River State Government, has become emblematic of the government's relentless pursuit of dissident journalists.

Similarly, since taking over power in 2022, Burkina Faso's junta-led government has overseen the suspension of various media outlets in the country. The country has amended its penal code to criminalise the reporting of terrorist attacks or security issues that could 'undermine public order' or 'demoralise security and defence forces'. Such offenses can lead to imprisonment for up to 10 years as well as hefty fines. Similar

legislation has been enacted in other West African countries like Ghana, Senegal, Togo, Sierra Leone and others.

Self-censorship

While physical harm and overt legal actions are already problematic, the widespread press suppression through legal actions, also known as strategic lawsuits against public participation, or SLAPP suits, has also led to a climate of fear among journalists, who now resort to self-censorship to avoid punitive measures. In turn, journalists are increasingly afraid to report on sensitive issues.

Blessing Oladunjoye, a Nigerian journalist and publisher of *BONews Service*, is currently being prosecuted under the Cybercrimes Act for an undercover investigation on fertility clinics and surrogacy in Nigeria. She expressed the effect of this legal action on her work as follows: 'After I was served those papers, I started asking myself, what kind of stories am I supposed to do now that I am sure will not provoke anybody? It was terrifying. It has affected the kind of stories I want to pursue.'

In environments where content moderation laws are harshly enforced, journalists may choose to avoid reporting on government corruption, human rights abuses or social unrest. An anonymous Nigerien journalist from a government-owned media house explained that they often had to gauge the government's stance before publishing stories: 'Sometimes, you need to feel the pulse of the government. It determines what you write. For instance, with any content that goes against the interest of my principal, you have to think about it beforehand. Personally, I had to be transferred to another state as a result of a story that I wrote that was not in the interest of the government.'

In a true democracy, the press does not live in fear.

But the campaign of calumny against journalists is not only championed by governments; Non-state actors have also taken a page from the authoritarian playbook now, as seen in the case of Oladunjoye. 'Non-state actors are emboldened to commit attacks against journalists because state actors do it with impunity and, of course, no one holds them accountable for it', she laments.

Democratic governance in West Africa has been extremely challenging, especially in the last decade, and the suppression of press freedom through content moderation laws poses a significant threat to democratic stability in the region. A free and empowered press – free from any form

of control and censorship – is essential for any functional democracy. The press acts as a check on governments and powerful entities, uncovering corruption, human rights violations, abuse of power and other breaches of social contracts. When journalists are silenced, either through direct legal action or self-censorship, these critical functions are compromised.

As West Africa continues to grapple with these challenges, the path forward requires a nuanced approach that respects the freedoms of the press while addressing the real dangers posed by digital misinformation. While misinformation and disinformation may have become more prevalent with the rise of digital technologies, content moderation laws must be narrowly tailored to target genuine threats to public order and national security without being used as tools of repression. The implications of content moderation on journalists can only be mitigated if content moderation laws are developed in the context of existing constitutional laws and with strict legal guidelines applied to protect journalists and ensure that their rights to free expression and access to information are upheld. In a true democracy, the press does not live in fear.



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