

Internet Freedom in Central African Republic (CAR)



POLICY BRIEF

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Introduction

Internet freedom is legally defined by fundamental human rights that apply both online and offline¹. Some of these fundamental rights are freedom of expression, respect for private life, respect for the confidentiality of communication, net neutrality and many others that can be used as examples to understand freedom on the Internet. The CAR has a relatively low rate of Internet penetration in Central Africa, 11.3% in 2021². This low penetration rate and that of users of social networks, especially Facebook, at 2.6%³, is accompanied by inadequate legislative frameworks and regulations to create an environment conducive to freedom of expression online and offline. Despite the difficulties encountered by the CAR in strengthening freedom of expression and access to information, the country has obligations as a State party to the African Commission on Human and Peoples' Rights (ACHPR) and the International Covenant on Civil and Political Rights (ICCPR)⁴, which requires respect for freedom of expression and access to information under Articles 18: "everyone shall have the right to freedom of thought...", and 19 "everyone shall have the right to freedom of expression..." The CAR also has a duty to align its national laws with these international standards in any process of drafting laws on Internet access, with the objective of better structuring its legal framework related to freedom of speech and freedom of opinion and the reduction of the digital divide, the basis of the on the principles of African Commission on Human and Peoples' Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR) and the Declaration of Principles of Freedom of Expression and Access to Information in Africa⁵.

Internet freedom in the Central African Republic (CAR), manifests differently as compared to other countries in the region. First, the Internet penetration rate in CAR is one of the lowest in the region. In June 2021, the number of Internet users in the country was estimated at only 557,085 with the penetration rate of the internet at 11.3%⁶ in the same period, out of 4.9 million inhabitants⁷. This period shows a net decrease compared to the first quarter of 2020. Despite the very low levels of ICT infrastructure, the Internet penetration rate in the Central African Republic reached 14%⁸ in January 2020 and this increase shows the enthusiasm of Internet users in CAR and a strong connection to social networks. In the same period, out of a total of 2.1 million mobile connections, the number of social media users reached 120,000 users, representing an increase of 17,000 subscribers (+16%) between April 2019 and January 2020⁹. The legislative frameworks that regulate and safeguard the digital space and freedom on the Internet are limited and hamper any real development of the Internet environment. This lack of legal frameworks also affects freedoms online, especially about press freedom. Nowadays, when press freedom is threatened, internet freedom is equally impacted. In the 2021 ranking by Reporters Without Borders (RSF), CAR ranked 126th¹⁰ in the world out of 132 countries. This figure is a clear improvement in 2020 which masks the real realities of the situation of Internet freedom in the country.

1 "Libertés sur Internet, Wikipedia", July 2021, <https://bit.ly/3ymnqos>

2 "Internet World stats", 2021, <https://bit.ly/3xIH30>

3 "Ibid"

4 "International Covenant on Civil and Political Rights", OHCHR, 1976, <https://bit.ly/3zPa4B6>

5 Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019, ACHPR, 2019, <https://bit.ly/37jlocO>

6 "Internet World stats", 2021, <https://bit.ly/3xIH30>

7 "République centrafricaine Population", coutrymeters.info, July 2021, <https://bit.ly/3ic4NxK>

8 "DIGITAL 2020: THE CENTRAL AFRICAN REPUBLIC", Hootsuite report, February 17th, 2020, <https://bit.ly/3ieybDF>

9 "Ibid"

10 "Journalists harassed, murders unpunished", RSF report, Rsf.org, 2013, <https://bit.ly/3id1CN>

Legislative and Policy Frameworks



The legal frameworks in CAR have been better structured since 1995. The Constitution of January 14, 1995 and the constitution of March 30, 2016 have allowed the emergence of several other laws in a context of political liberalism. These laws can now respond to certain realities of the evolution of digital rights and Internet freedom in the country. Since then, the communication and media environment has undergone significant changes. Despite these changes, the country still does not have specific legislation that covers the framework of digital rights and freedoms on the Internet. Having gone through periods of major political crises, the country regularly records arrests of activists and journalists for their opinion online or offline.

Article 15 of the Constitution of the Central African Republic¹¹ and other legislation recognise freedom of the press, opinion, and expression. In particular, the law 006 of 2017¹² completes the creation process of the High Council for Communication (HCC) indicated in title XII of the constitution, and responsible for ensuring respect for the freedom and protection of the

press. In article 15¹³, the Constitution of 2016 guarantees “the freedom to inform, express and disseminate one’s opinions by word, pen and image, subject to respect for the rights of others is individually and collectively guaranteed”. It also guarantees “the exercise of this freedom and equal access for all to the state media are ensured by an independent body whose status is determined by law” through an “independent body whose status is determined by law”.

In general, the HCC is responsible for ensuring the exercise of freedom of expression and equal access for all media in compliance with the laws in force as defined by the constitution of 2016 in its article 137. Alongside the HCC, the Central African Republic has since 2005, with the initiative of journalists, a self-regulatory media body, the Central African Media Observatory (OMCA), whose role is to *limit the excessive intervention of public institutions, regulation of society and the media (Justice, government, public institution for media regulation, as well as the High Council for Communication)*¹⁴.

In a context where journalists and civil society are constantly asking for a law on the media, on Monday, November 30, 2020, the Freedom of Communication Law¹⁵ was adopted by the National Assembly. This law was drafted with the support of High Council for Communication (HCC), International Organization of La Francophonie (OIF) and Internews¹⁶, and it provides for a modern context that is able to improve the face of the online press while the country awaits a formal law. For now, the effects of the Freedom of Communication Law of November 2020 remain weak for better regulation of all aspects of online and offline media.

11 “Constitution de la république centrafricaine de 2016”, Document.clentearth.org, 2016, <https://bit.ly/2TNkBO4>

12 “Loi portant composition, organisation et fonctionnement du Haut conseil de la communication”, Hcc.rca.org, February 13th, 2017, <https://bit.ly/3fgBg46>

13 “2016-03-30-constitution-de-la-republique-centrafricaine”, 2016, <https://bit.ly/3xifNxP>

14 “Observatoire des Médias Centrafricains (OMCA)”, Omcara, 2005, <https://bit.ly/2UZIkMP>

15 “Centrafrique: le projet de loi sur la liberté de la communication a été adopté”, Agenceecofin.com, December 1st, 2020, <https://bit.ly/3j7zcfR>

16 “LA CONFIANCE EN BERNE : L’information sur la COVID-19 au cœur d’une crise multiple en Centrafrique”, Internews, March 2021, <https://bit.ly/2WEt2fl>

Internet Access and Accessibility



The Central African Republic (CAR) does not have policies and regulations relating to promotion of Internet access and accessibility. CAR still needs direct technical support to facilitate access to high-speed Internet, notably through the establishment of the necessary infrastructure and facilities, including access to spectra operated under free licenses or unlicensed, electricity supply, community ICT centers, and digital libraries. These are crucial to make the Internet accessible and affordable for all.

However, Internet accessibility in CAR has not improved much in recent years. The number of subscribers with access to 2G or 3G Internet data remains relatively low. In the second quarter of 2020, the number of mobile Internet customers was 503,342. Additionally, the accessibility of mobile or fixed Internet is comparatively low compared to the number of mobile subscribers. In 2012, the country had approximately 1.15 million mobile subscribers, representing a penetration rate of 25.3%. In 2020, the country had around 2.6 million customers, representing

a penetration rate of 48% in the second quarter of 2020. *The mobile coverage rate is 56% nationwide against 51% 3G+ coverage¹⁷. Four operators share the subscriber market, some of which offer 3G+ services, notably Telecel. Moov, Orange and Azur. According to the Regulatory Authority for Communications and Posts (ARCEP), the mobile telephony market generated nearly 9.5 billion FCFA in income in the third quarter of 2020, i.e. 249.3 million FCFA more in three months. This revenue is mainly made up of the voice service (8.8 million FCFA, nearly 93%)¹⁸.*

The country does not yet have an Internet Exchange Point (IXP), which should contribute to a better internet connection and reduce traffic costs at the national, local and sub-regional level. According to the International Telecommunication Union (ITU), *“exchange points allow people to exchange of national traffic between peers at the local level, to reduce the number of network hops during the exchange of traffic, to increase the number of routing options available, to optimize the use of connectivity International Internet, to improve the resilience of networks (and possibly quality of service), reduce transmission costs and, possibly, to increase the penetration and use of the Internet over the long term. In addition, operators and Internet Service Providers (ISPs) benefit a reduction in the costs of international capacity (in millions of dollars per year)”¹⁹*

Access to the Internet and respect for users rights are sacred. An extract from the African Declaration of Internet Rights and Freedoms²⁰ states that *“access to the Internet should be available and accessible to everyone in Africa without any discrimination based on, inter alia, race, color, sex, language, religion, political or other opinions, national origin or social, fortune, birth or any other situation. Access to the Internet plays an essential role in the full realization of human development, which facilitates the exercise and enjoyment of many*

17 “Le marché mobile”, Arcep report 2020, Arcep.cf, September 2020, <https://bit.ly/3ide2gY>

18 “Ibid”

19 “Les points d’échange Internet (IXP)”ITU, 2013, <https://bit.ly/3rNNuX4>

20 “African Declaration on Internet Rights and Freedoms”, africaninternetrights.org, 2013, <https://bit.ly/3leaPzE>

fundamental rights and freedoms, including the right to freedom of expression and access to life information, the right to education, the right to assembly and association, the right to participate fully in social, cultural and political life, and the right to economic and social development”.

Press Freedom and Internet Censorship



Since 2019, the environment in which media professionals operate has deteriorated in the country. As several crises rock the country, journalists and communication professionals are often arrested, private media offices are often closed and equipment ransacked. Most of the journalists are arrested on the basis of their position in a context of conflict, and this in a legal vacuum. Since November 30, 2020, the National Assembly of the Central African Republic has voted for the first law on Freedom of Communication²¹. This law is still waiting to be fully promulgated by the President of the Republic.

The adoption of this legal framework is considered not to be decisive for the Central

African Republic media landscape, but a framework for promoting freedom of expression online or offline. Impunity is rife when crimes, arbitrary arrests, and extrajudicial killings are committed against journalists by the government or army groups. A few cases to be noted are the murders of journalists Elisabeth Blanche Olofio, Désiré Luc Sayenga and René Padou, who lost their lives while performing their duties at the height of the political crisis in 2014²².

In the case of violations of freedom of expression in times of crisis, some violations are orchestrated by the army and others by illegal armed groups, notably the Seleka and the anti-Balaka. According to the Reporters Sans Frontières (RSF) 2020 report on CAR, the context of the political crisis infringes on the rights of journalists and press freedom in general. Journalists who interview the various protagonists of the conflict are often called spies²³. Several images and messages that are reported of the violations are censored for reasons of national security.

Given that CAR is a country that is often faced with political crises, the government and operators take advantage of the situation to control the freedoms on the Internet. Such crises force Internet users to sometimes live in fear and self-censor. In such conditions, the realisation of press freedoms is difficult. The law on Freedom of Communication of 2020²⁴ voted by the National Assembly could help limit the effects of the political crisis on freedom of expression if certain provisions are amended in favor of internet freedom in the country's social communication space. Without appropriate laws or obsolete provisions, censorship, controls or arrests, which are often little known, are carried out on the fringes of a legal vacuum. In addition, the rise in hate speech after several ethnic

21 “Centrafrique : une nouvelle loi sur la liberté de la presse”, Radiodekeluka.org, December 2020, <https://bit.ly/3id2Uk9>

22 “RSF dénonce les sévices infligés aux professionnels des médias en Centrafrique”, Voafrique.com, June 24th 2014, <https://bit.ly/3yfrV45>

23 “Des journalistes sous pression et des crimes restés impunis”, RSF, 2020, <https://bit.ly/3fc100Y>

24 “Centrafrique : vers la promulgation d’une nouvelle loi sur la liberté de la communication”, Xinhuanet.com, December 2020, <https://bit.ly/3lgOstG>

tensions does not foster free speech online in CAR; for fear of being targeted by one camp or the other, Internet users are often forced into self-censorship.

The African Declaration of Internet Rights and Freedoms specifies with regard to connectivity that

‘the best possible level of Internet connectivity at affordable and reasonable costs for all, with special initiatives for unserved or underserved areas and communities. Cutting or slowing down access to the Internet or parts of it for entire populations or segments of the public should not be permitted on any basis, including for reasons of public order or national security. Internet service intermediaries should be required to be transparent about the traffic and information management practices they use, and relevant information on those practices should be made available in a form accessible to all interested parties.’²⁵

To this provision is added the Declaration of Principles on Freedom of Expression and Access to Information in Africa. In part four on Freedom of Expression and Access to Information on the Internet, principle 37 in section 1, 2 and 3 on access to the Internet calls on States to promote the enjoyment of the rights to freedom of expression and access to online information and the means necessary to exercise these rights. Also, States should recognize that universal, equitable, affordable and meaningful access to the Internet is necessary for the realization of freedom of expression and access to information and the exercise of other human rights. Finally, it calls on States to adopt laws, policies and other measures, in cooperation with all relevant stakeholders, to ensure universal, equitable, affordable and meaningful access to the Internet, without discrimination.

Internet Freedoms and Legal Frameworks



Although the country does not have a cyberlaw, CAR has ratified regional and international provisions that may help promote digital rights and Internet freedom in the country, in particular the African Charter on Human and Peoples' Rights, which stipulates in Article 9²⁶ that everyone has the right to information; everyone has the right to express and disseminate their opinions within the framework of laws and regulations. In 2017, the African Union (AU) adopted a joint declaration on Internet Governance, including rights and freedom on the Internet²⁷. This document applies to all countries with an Internet ecosystem.

In April 2011, the United Nations (UN) published a report on the right to freedom, of opinion and freedoms of expression,²⁸ beside the International Covenant on Civil and Political Rights²⁹. These documents fight against acts

25 "African-Declaration-French-Final", Afdec, 2013, <https://bit.ly/3lhmuOq>

26 "African Charter on Human Rights and Peoples", AU, June 1981, <https://bit.ly/3BYbQSz>

27 "33025-wd-african declaration on internet governance", Au.int, February 13th, 2017, <https://bit.ly/3j6F4pD>

28 "Resolution adopted by the Human Rights Council 16/4 Freedom of opinion and expression: mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression", UN, March 2014, <https://bit.ly/3rl2Ufa>

29 "International Covenant on Civil and Political Rights", OHCHR, March 1976, <https://bit.ly/3C26q9d>

of cutting off Internet access, and violations of intellectual property rights. The UN report sheds light on the context of violations of Internet rights based on the muzzling of freedom of expression, particularly in the CAR.

In 2020, during the Internet Governance Forum which took place from 2nd to 6th November 2020, UNESCO presented the principles and indicators³⁰ on the universality of the Internet. UNESCO has structured the DOAM-X principles and the DOAM-X indicators. These DOAM-X principles state that the Internet is based on Human Rights: it is open, it should be accessible to all, and it is powered by the participation of Multiple actors. The DOAM-X indicators³¹ are the right to the internet: the openness of the internet, accessibility to all to the internet, and the multiple participation of actors and cross-cutting indicators. These principles and indicators are important to assess the level of accessibility and freedom of the Internet in CAR.

Conclusion



With the challenges relating to digital rights and internet freedoms, CAR through all stakeholders in the Internet ecosystem must set up clear strategies on the protection of digital rights and Internet freedom. To achieve this, the government of CAR and all stakeholders must develop the digital rights and internet freedoms framework based on the following recommendations:

- Revise the press freedom law as the current law does not empower journalists to enjoy

freedom of expression or opinion online, without fear of reprisal. A revised law will make it possible to lay down the rules of information in the Internet age, to draw up a statute for journalists and to define the relations between the media and civil society. The current law, inspired by a colonial law of July 29, 1881, on Freedom of the Press (and renewed by the Plantey Ordinance of October 6, 1958), is completely obsolete and unsuited to the current socio-political context of the Central African Republic.

- Revise the legal frameworks that regulate online communications in the country. The laws created by the regulatory structure (High Communication Council) do not contain any content on the regulation of online communications and as such the law must be revised to include this critical component.
- Establish a clear legal framework on digital rights and Internet freedoms. This clear legal framework will guide and facilitate the country's development through digital technology and the Internet.
- Develop the internet network infrastructure and regulations in the country to facilitate accessibility. These regulations must include equal and universal access to the Internet, including fair and transparent digital market regulation, the establishment of universal service requirements and licensing agreements.
- Build internet policies based on best practices and facilitate access to information based on the African Charter on Human and Peoples' Rights on its article 9.
- Stop the censorship of freedom of opinion and expression online, to contribute and improve the country's digital rights rankings.
- Raise awareness among populations and Internet users on the concepts of Internet freedoms, digital rights and Internet governance.

30 "Indicateurs sur l'universalité de l'Internet", UNESCO, 2019, <https://bit.ly/3ljA7wm>

31 "Indicateurs de l'UNESCO sur l'universalité de l'Internet: cadre pour évaluer le développement de l'Internet", UNESCO, 2020, <https://bit.ly/2TOTHW6>



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