

Freedom of expression online

My name is Michael Kaiyatsa, and I am the Acting Executive Director for the Centre for Human Rights and Rehabilitation, a local human rights NGO based in Lilongwe Malawi.

I am here to talk about challenges facing freedom of expression online in Malawi and to highlight why it is important for UPR recommendations to reflect the need for freedom of expression to be protected online as well as offline, in line with Malawi's obligations under Articles 17 and 19 of the ICCPR.

Section 35 of Malawi's constitution guarantees the right to freedom of expression, stating that "every person shall have the right to freedom of expression."

Despite this enabling provision, in practice freedom of expression online continues to face severe restrictions, with the government using a number of laws to restrict online communications.

In the second cycle of the UPR, Malawi received 199 recommendations from 69 countries. Malawi supported two of the three recommendations that were categorized as relating to Freedom of Opinion and Expression and/or Freedom of the Press. None of these recommendations explicitly mentioned the online sphere, although three are implicitly relevant.

Since the last review, the number of individuals using the internet in Malawi has continued to grow. At the time of the second review in 2015, only 4.1 in every 100 inhabitants had an internet subscription, but by 2017, the most recent year ITU data is available, the figure had reached 25.5 in every 100.

However, in 2016, Malawi adopted the Electronic Transactions and Cybersecurity Act, which has empowered the government of Malawi to restrict freedom of expression online in the name of protecting order and national security.

The law also penalizes "offensive communication" via the internet with penalties of fines or a maximum 12-month prison sentence.

A number of people have been arrested under this law, including Tumpale Mwakibinga, who was arrested and charged with cyber violation and offensive communication for a Facebook post in which he mocked the former First Lady. He is now on bail pending trial. One of his bail conditions prohibits him from posting anything on social media related to the former first lady.

Recommendations

In light of Malawi's existing record on freedom of expression online, CHRR calls on states to offer the following recommendations to Malawi:

- In compliance with international standards and the right to freedom of expression guaranteed under Article 19 of the ICCPR, Malawi should guarantee the freedom of expression and opinion online for media and individuals, including marginalized and discriminated groups;
- Malawi should repeal provisions in the Electronic Transaction and Cybersecurity Act that threaten freedom of expression online;
- Develop an action plan to ensure that internet laws comply with the government's commitment to guarantee the freedoms of expression and information, ensuring free access to electronic media and enabling journalists, bloggers and other internet users to play a full and active role in promoting and protecting human rights.

Covid-19 and impact on freedom of expression online

Due to the Covid-19 pandemic, people are being encouraged to work from home. This entails use of the internet for communication, e-business and e-Learning.

Unfortunately, the Internet is priced beyond the reach of the majority of Malawians. A monthly data bundle of 10GB costs MK15, 500 (\$20) with both TNM and Airtel, which is about half the monthly income of the average Malawian. Currently, the minimum wage stands at K35, 000 (\$47). This means that the cost of the Internet is way beyond the reach of minimum wage earners. Therefore, Malawi should be called upon to reduce internet costs to enable more Malawians to connect to the Internet during this pandemic.

From the Centre for Human Rights and Rehabilitation

For more information, contact:

Michael Kaiyatsa

Programmes Manager

Email: michaelkaiyatsa@gmail.com

Mobile: +26599 88 95 699