



## **Joint submission to the United Nations Human Rights Council Universal Periodic Review 2018 Cycle – Cameroon**

### **About Access Now**

1. Access Now ([www.accessnow.org](http://www.accessnow.org)) is an international organisation that works to defend and extend digital rights of users globally. Through representation in 10 countries around the world, including engagement with stakeholders and policymakers in Cameroon, Access Now provides thought leadership and policy recommendations to the public and private sectors to ensure the internet's continued openness and the protection of fundamental rights. We engage with an action focused global community, and our Technology Arm operates a 24/7 digital security helpline that provides real time direct technical assistance to users around the world.
2. Access Now advocates an approach to digital security that promotes good security policies that protect user rights, including privacy and freedom of expression. Access Now has worked extensively to draw attention to digital rights in Cameroon, including commenting on the January 2017 internet shutdown.

### **About Internet Sans Frontières (Internet Without Borders)**

3. Internet Sans Frontières is a non-governmental organization, and a network of organizations, with the non-profit status under French law. The organization promotes and defends rights and freedoms in the digital space, including freedom of expression and the right to privacy, and an open web accessible to all, without discrimination. Internet Sans Frontières' expertise on Internet and Human Rights in West and Central Africa is internationally recognized.

### **About the Association for Progressive Communications (APC)**

4. The Association for Progressive Communications (<https://www.apc.org>) is an international network and non-governmental organisation founded in 1990 that wants everyone to have access to a free and open internet to improve lives and create a more just world. The APC network has 55 organisational members and 30 individual members active in 76 countries, including Cameroon. Together we work in the areas of research, policy advocacy, capacity building, movement building, and strategic use of information and communications technologies to advance human rights, gender quality, social justice, and sustainable development.

### **About ADISI-Cameroun**

5. ADISI-Cameroun is a non-profit Cameroonian non-profit association created in 2010. It works on human rights issues and its strategic axes are: access to information and Open Data, freedom of press and expression as the foundations of democracy and institutional governance (governance of information). Its headquarters is based in Douala, the economic capital of Cameroon.

## Domestic and international human rights obligations

6. This is the third review for Cameroon, last reviewed in May 2013 where the Cameroonian government received 177 recommendations in the area of human rights during the review at the Universal Periodic Review mechanism (UPR) in Geneva.
7. Cameroon has signed onto various international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and International Covenant on Economic, Social and Cultural Rights (ICESCR).
8. The preamble of the Cameroonian Constitution explicitly commits the government to respect regional and international frameworks that support human rights, including the African Charter on Human and People's Rights, the Universal Declaration of Human Rights and the United Nations Charter.
9. The preamble also guarantees "freedom of communication, of expression, of the press, of assembly, [and] of association" and the inviolable right to the privacy of all correspondence.
10. Article 4 of Law 2010/013 of 21 December 2010 governing electronic communications in Cameroon guarantees citizens' rights to benefit from electronic communications.
11. Article 1 of Cameroon's Law on Cybersecurity and Cybercriminality (Law 2010/012) aims to "protect basic human rights, in particular the right to human dignity, honour and respect of privacy."
12. Article 1 of the general provisions of Cameroon's 1990 Law on Social Communication (Law 90/052) confirms the "right to know." Article 2(1) further specifies that freedom of communication applies to all forms of communication.
13. The February 2013 Decree N° 2013/0399/PM establishes the modalities of protection for electronic communications of consumers and states that consumers are entitled to have their protection kept private.
14. Various regional and international human rights bodies have spoken directly to the threat that internet shutdowns pose to freedom of expression and related rights. For example, the United Nations Human Rights Council, in Resolution A/HRC/RES/32/13, "*condemns unequivocally* measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all States to refrain from and cease such measures." The African Commission on Human and Peoples' Rights, in Resolution ACHPR/Res.362(LIX) 2016, expressed its concern over "the emerging practice of State Parties of interrupting or limiting access to telecommunication services such as the Internet, social media and messaging services, increasingly during elections".<sup>1</sup>

## Developments of digital rights in Cameroon

15. The ICT sector in Cameroon makes up only about 3.5% of the country's GDP, which is low for the region. In the World Economic Forum's 2016 Global Information Technology Report, Cameroon ranked 124 out of 139 countries in its Network Readiness Index, performing poorly on measures such as infrastructure, the availability of digital content, and affordability. Similar shortcomings

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<sup>1</sup> African Commission on Human and Peoples' Rights, *Resolution on the Right to Freedom of Information and Expression on the Internet in Africa*, 59<sup>th</sup> Ordinary Session, held Banjul, Islamic Republic of The Gambia, from 21 October to 04 November 2016, ACHPR/Res. 362(LIX) 2016.

placed Cameroon 155 out of 193 countries in the UN's 2016 E-Government Survey. According to statistics from International Telecommunication Union, 68.1% of Cameroonians hold mobile-cellular subscriptions and 25% use the Internet.

16. Since 2009, fiber optics have been controlled by the Cameroonian government through the state-owned Cameroon Telecommunication (CAMTEL), which provides bandwidth to other operators, including mobile telephone operators. They are thus subjected to unfair competition with the State with which they offer all the same data and voice services.
17. Developing its digital economy has become a strategic priority for the Cameroonian government. As a result, the government developed the 'Cameroon Digital 2020' program aimed at improving connectivity nationwide. The program includes the construction of a SAIL submarine cable linking Cameroon to Brazil, which is expected to improve international bandwidth and lead to reductions in access prices for consumers<sup>2</sup>. CAMTEL (Cameroon Telecommunications), Cameroon's national telecommunications company, has built over 8,000 km of fibre, aiming to build 20,000 km in the medium-term<sup>3</sup>, and has deployed newly built fibre loops in Douala and Yaounde. Additionally, Mobile broadband based on LTE was established at the end of 2015 and this has been the catalyst for a fast-developing mobile broadband sector. Increased market competition among telecommunications operators has contributed to decrease the cost of access to Internet<sup>4</sup>. Investment programs among operators over the next few years are expected to substantially increase mobile broadband services in rural areas.<sup>5</sup> Although the cost of services continues to make the internet inaccessible for many Cameroonians, internet access in Cameroon increased by 16.5% in 2016 alone, finally peaking at 18% at the end of the year.<sup>6</sup>

## Violations of access to information and freedom of expression

18. Cameroon is home to Buea, also known as the Silicon Mountain, the capital of the Southwest region and a tech hub for self-employed developers to develop Cameroon's digital economy. In a few years, the town has produced more than 50 tech startups and a growing community of innovators. The town hosts tech community meetups like BarCamp Cameroon, Google Developer Groups and the Kamer Design Meetups. Since 2015, the Buea Technosystem has organized the Silicon Mountain conference, which invites developers from the Mountain Area and around Africa.
19. The Cameroonian government has regularly challenged Cameroonian citizens' rights to freedom of expression and access to information online through threats and intimidation. On October 2016, the Minister of Transport accused social networks of enabling rumor-mongering and the Minister of Communications, the spokesperson for the government, labeled social media a threat to peace. On November 2016, the President of the National Assembly called internet users as

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2 Henry Lancaster, 'Cameroon - Telecoms, Mobile and Broadband - Statistics and Analyses' (Budde, 5 May 2017), <https://www.budde.com.au/Research/Cameroon-Telecoms-Mobile-and-Broadband-Statistics-and-Analyses>, accessed August 1, 2017.

3 'Infrastructures' (CAMTEL) <http://www.camtel.cm/en/infrastructures/>, accessed August 1, 2017.

4 BMI Research, '3G competition to drive growth' <http://www.telecomsinsight.com/industry-news-3g-competition-drive-growth-mar-2015>.

5 Henry Lancaster, 'Cameroon - Telecoms, Mobile and Broadband - Statistics and Analyses' (Budde, 5 May 2017), <https://www.budde.com.au/Research/Cameroon-Telecoms-Mobile-and-Broadband-Statistics-and-Analyses> accessed August 1, 2017.

6 Brice R. Mbodiam, 'Cameroon ranked among the three African countries with the highest growth in internet access in 2016' (Business in Cameroon, 10 February 2017) <http://www.businessincameroon.com/telecom/0102-6859-cameroon-ranked-among-the-three-african-countries-with-the-highest-growth-in-internet-access-in-2016>

“traitors of the cyberspace” and social media as “terrorists”<sup>7</sup>. In 2017, the government used telecom companies to send text messages to subscribers threatening up to two years in prison if they used social media to spread rumors and false news.<sup>8</sup> Moreover, the government refuses to pass a law on access to information and public data, which remain only a vague part of the preamble to the constitution. Only the guarantors of civil liberties (judges) and those of public order (sub-prefect and prefect) decide the extent of this freedom.

20. The government has also violated the right to freedom of expression and access to information, and a range of human rights through intentionally disrupting access to communication networks. On January 17, 2017, the government ordered the suspension of internet services in the Northwest and Southwest anglophone regions of Cameroon. The shutdown lasted 94 days and impacted the region’s 5 million residents, and cost an estimated 4.5 million euros, according to latest estimates, based on available methodology. The internet outage came amidst a new wave of government repression, after months of protests against the dominance of French-language use in courts and schools. In Cameroon’s Constitution, French and English are meant to be co-equal languages. However, the country’s anglophone minority maintains that public services, including the educational and judicial systems, favor French and discriminate against anglophones, a frequent complaint raised in demonstrations by teachers and lawyers. In December 2016, these protests escalated into clashes with the police in which at least 4 were killed and many others were injured. In response, The Cameroon Anglophone Civil Society Consortium (CACSC) and Southern Cameroons National Council (SCNC) led “Ghost Town” strikes, in which they ask members of the public to stay at home and shops and businesses to close. On the same day these organizations were banned the internet was shut off.
21. There is substantial evidence that this shutdown was ordered by the Cameroonian government. A recorded phone conversation with a senior MTN executive indicates that companies received explicit instructions from the government to block internet connectivity as a condition of their license agreements.<sup>9</sup> A letter from Cameroon Telecommunications (CAMTEL), Cameroon’s national telecommunications company, to the minister for post and telecommunications confirms that the company “coercively enforced” the government’s instructions to suspend internet services “in certain sensitive regions”.<sup>10</sup> Two months into the shutdown, following a call to action from Access Now, Orange Cameroon responded stating that it “complies with the local legislation and therefore obeys to any national security instruction received from the authorities in accordance with its Telecommunications License.”<sup>11</sup>
22. The internet blackout, and resulting violence, created “internet refugees”, as anglophone Cameroonians were forced to travel into francophone regions or Nigeria to get internet access. The “Silicon Mountain”, which is located in the affected region, was especially crippled by the loss of internet. After weeks of commuting to the almost 74 km from Buea to the commercial capital of Douala to access the internet, tech developers built a internet “refugee camp” in Bonako, a

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7 Julie Owono, ‘Cameroon’s reflection on the “false news” debate stirs censorship fears’ (Internet Sans Frontiers, 21 November 2016), <https://internetwithoutborders.org/fr/cameroonian-governments-dangerous-stance-against-a-free-and-open-internet/> accessed August 1, 2017.

8 Edward Snowden, (Twitter, January 27, 2017).

<https://twitter.com/Snowden/status/825045034097602560> accessed August 4, 2017.

9 See Soundcloud link at <https://soundcloud.com/ameroon/1248776918531895a>.

10 [https://twitter.com/Dbergeline/status/822798121688305665/photo/1?ref\\_src=twsrc%5Etfw&ref\\_url=https%3A%2F%2Fqz.com%2F893401%2Fcameroon-pressured-mtn-and-other-operators-to-shut-down-internet-in-bamenda-buea-regions%2F](https://twitter.com/Dbergeline/status/822798121688305665/photo/1?ref_src=twsrc%5Etfw&ref_url=https%3A%2F%2Fqz.com%2F893401%2Fcameroon-pressured-mtn-and-other-operators-to-shut-down-internet-in-bamenda-buea-regions%2F).

11 Business & Human Rights Resource Centre, <https://business-humanrights.org/en/oranges-response>.

village near the toll gate separating the Southwest from the Francophone region of Littoral.<sup>12</sup>

23. The Jan. 17 shutdown continued for 93 days before being lifted. When announcing the internet shutdown was lifted on April 20, President Biya failed to justify or apologize for the disruption, and in fact threatened to interfere again. This shutdown represented an impermissible interference with freedom of expression, but was unfortunately repeated this year.
24. Reports indicate that the government issued orders to block access to the entire Internet for a second time on Oct. 1, 2017 in anglophone regions, and thereafter to block only social media platforms. This social media censorship continues as of Oct. 5, 2017 and affects anglophone regions of the country and nearby francophone areas.<sup>13</sup>
25. This marks the second period in 2017 that Cameroon's government, despite international condemnation, has chosen to deprive millions of citizens of the fundamental right to access and impart information online. The censorship appears to contradict a statement made on Sep. 27, 2017, in which the Minister of Posts and Telecommunications declared that Cameroon is a country where the rights of citizens, including the right to access and share information on the Internet, are guaranteed and protected.
26. The international community labels this type of blocking of telecommunications networks and services as an "internet shutdown."<sup>14</sup> Research shows that internet shutdowns and human rights infringements go hand-in-hand.<sup>15</sup> Shutdowns disrupt the free flow of information and create a cover of darkness that allows state and non-state actors to persecute vulnerable groups without scrutiny. They also drastically harm the economy, especially by impacting mobile money transfers.
27. A growing body of jurisprudence declares shutdowns to violate international law. In 2015, experts from the United Nations (UN) Organization for Security and Co-operation in Europe (OSCE), Organization of American States (OAS), and the African Commission on Human and Peoples' Rights (ACHPR), issued an historic statement declaring that internet "kill switches" can never be justified under international human rights law, even in times of conflict.<sup>16</sup> In 2016, the Human Rights Council expressed deep concern about internet shutdowns in its consensus Resolution 32/13, which "*condemns unequivocally* measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all States to refrain from and cease such measures".<sup>17</sup> The African Declaration on Internet Rights and Freedoms characterizes internet shutdowns as a direct interference with the right to freedom of assembly and association.<sup>18</sup>
28. The internet has enabled significant advances in the rights to health, education, and culture, and

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12 Abdhi Latif Dahir, 'Reeling from an internet shutdown, startups in Cameroon have created an "internet refugee camp' (Quartz Africa, 28 March 2017), <https://qz.com/942879/an-internet-shutdown-in-cameroon-has-forced-startups-to-create-an-internet-refugee-camp-in-bonako-village/>

13 'Cameroon Internet Shut for Separatists' (BBC, 2 Oct. 2017) <[www.bbc.co.uk/news/world-africa-41468149](http://www.bbc.co.uk/news/world-africa-41468149)>; See also Julie Owono, 'Cameroon: Le gouvernement restreint à nouveau Internet' (Internet Sans Frontières, 2 Oct. 2017), <https://internetwithoutborders.org/fr/cameroun-le-gouvernement-eteint-internet-sur-fond-de-tensions-politiques>

14 "Fighting Internet Shutdowns" (Access Now) <https://www.accessnow.org/internet-shutdowns>

15 Sarah Myers West, 'Research Shows Internet Shutdowns and State Violence Go Hand in Hand in Syria' (Electronic Frontier Foundation, 1 July 2015) <https://www.eff.org/deeplinks/2015/06/research-shows-internet-shutdowns-and-state-violence-go-hand-hand-syria>

16 Peter Micek, (Access Now 4 May 2015) 'Internet kill switches are a violation of human rights law, declare major UN and rights experts' <https://www.accessnow.org/blog/2015/05/04/internet-kill-switches-are-a-violation-of-human-rights-law-declare-major-un> accessed 18 February 2016.

17 A/HRC/RES/32/13 (18 July 2016), available at [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/32/13](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/32/13)

it is now essential to fully realize human rights including participation in elections and access to information. Shutdowns and blocking of internet services are inconsistent with international human rights law, and delay and deter the benefits of these advances and economic development more broadly, by obstructing trust in the digital economy, undermining access to information, and frustrating personal communications and resources needed for crisis response.

29. By targeting anglophone communities, the shutdowns in Cameroon also violates the government's responsibility to respect, protect, and fulfill the human rights of all of its citizens without discrimination of any kind, including on the basis of language, political opinion, and similar characteristics.
30. When announcing the internet shutdown was lifted on April 20, President Biya failed to justify or apologize for the disruption, and in fact threatened to interfere again. This shutdown represents an impermissible interference with freedom of expression, and should not be repeated.

## Violations of the right to privacy

31. Recent legislation has allowed the government to violate online privacy with little oversight.<sup>19</sup> The 2010 Cybersecurity and Cybercriminality law includes measures that permit the immediate identification of internet users without sufficient safeguards against abuse of power and invasion of privacy:
  - a) Section 25 requires network operators, internet service providers (ISPs) and operators of information systems to retain traffic data of their users for at least 10 years. Access, service, and content providers must also retain data which allows it to identify users for 10 years. This is much longer than the average time companies hold on to this data for business purposes, and the justification and objective of this data retention is not defined. These provisions pose serious risks to users' privacy, as retaining large stores of sensitive user data increases risk of breach by malicious attackers, misuse by staff, or unlawful access by government officials.
  - b) Section 26 provides that "operators of information systems assess, review their security systems and introduce if necessary the appropriate changes in their practices, security measures and techniques according to the evolution of technology." These provisions could be interpreted to permit operators of information systems to introduce backdoors in the systems they are supposed to secure.
  - c) Section 55 of the cybersecurity law also requires encrypted, encoded and compressed data to be handed over to authorities upon request. Private keys must also be delivered on request of regulated agents and, if they are not available, the judicial authorities may appoint an expert to "perform technical operations to obtain the clear version of said data." The law allows authorities to appeal to a hacker to decipher an encrypted communication, possibly for any procedure. These provisions pose significant risks to the privacy of users, and do not fit the requirements of necessity and proportionality imposed by international law.
  - d) Section 83 makes it a crime to propose sex to a person of the same sex by way of electronic communications, and conviction carries a prison sentence of up to 2 years and a fine up to 1

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18 African Declaration on Internet Rights and Freedoms, available at <http://africaninternetrights.org/articles/>

19 For an overview of online privacy in Cameroon, see, "Cameroon: The stammerings of Cameroon's communications surveillance", in *Global Information Society Watch, 2014: Communications surveillance in the digital age*, available at <https://www.giswatch.org/sites/default/files/gw2014-cameroon.pdf>.

million CFA francs. Cameroonian law plans to double these penalties when the proposals are followed by sex. These provisions are clearly detrimental to respect for individuals' privacy, and pose a risk to people whose rights are already precarious in the physical space. In combination with Law 2010/012, they create chilling effects and threaten lawful expressive activity, association, and privacy, among other human rights.

e) Section 92 gives broad powers to various authorities in charge of the implementation of the law: police officers can intercept, record or transcribe any electronic communication without having to respect the rules of the Cameroonian Penal Procedure Code. Some offenses such as spreading false news - which is broadly defined by the law - enable police to implement the measure, which seriously violate citizens' privacy.

32. Recent news from Cameroon give examples of how the vagueness of the law allows privacy violations. In April 2017, after the government restored internet access to anglophone regions of Cameroon, the Minister of Post and Telecommunications admitted that the country was implementing surveillance programs to monitor activities of citizens online<sup>20</sup>. On 19 March 2014, the general manager of the ANTIC (Agence Nationale des Technologies et l'Information de la Cameroun) gave an interview to the government's daily newspaper Cameroon Tribune detailing how social media and websites are monitored in Cameroon. He revealed that the ANTIC uses a technical platform that searches for profiles on social networks using keywords to detect "illicit content representing a potential threat for the national security and the image of Cameroon," including those that incite hatred or are slanderous.<sup>21</sup> Such social media monitoring interferes with fundamental rights, and should only occur under impartial judicial oversight, when necessary and appropriate to strictly achieve a legitimate aim.

## Recommendations

Cameroon can improve its human rights record and treatment of digital rights in several areas. We accordingly recommend that the government of Cameroon:

1. Refrain from intentionally slowing, blocking, or shutting down internet and telecommunications services, particularly during elections and public assemblies.
2. Adopt a comprehensive human rights-based approach in providing and in expanding access to the internet, with a goal to bridge the many forms of the digital divide.
3. Adopt a law on access to information and public data that guarantees freedom of expression.
4. Amend the law on freedom of association, assembly, and public demonstration to include a clear definition of these concepts taking into account the Internet as a public space where these public freedoms can be exercised.
5. Amend the law on social communication in Cameroon to include Internet as a media in its own right.
6. Implement legal safeguards to prevent unlawful surveillance, and ensure that surveillance powers are only used when necessary and proportionate to achieve a legitimate aim.
7. Disclose to the public how it uses surveillance powers, including the number of data requests

<sup>20</sup> Julie Owono - Internet Back in Anglophone Cameroon, But More Surveillance?

<https://internetwithoutborders.org/fr/internet-back-in-anglophone-cameroon-but-more-surveillance>

<sup>21</sup> Serge Daho, Sylvie Siyam, 'The stammerings of Cameroon's communications surveillance' (Global Information Society, 2014), <https://giswatch.org/en/country-report/communications-surveillance/cameroon> accessed August 1, 2017.

made to telecommunications and internet companies, and number of accounts implicated.

8. Amend the 2000 law on archives and its implementing decree of 2001, taking into account the numerical and digital aspects of the archives, and also increasing the availability and accessibility of the archives.

9. Amend Law 2010/012 relating to Cybersecurity and Cybercriminality, specifically provisions 25, 26, 55, 83 and 92, to ensure adequate protection for the fundamental right to privacy and adherence with the ICCPR and other commitments.

10. Ensure that legislation is in place, and is judicially enforceable, that protects the right to access and impart information on the Internet.

11. Ensure that legislation is in place, and is judicially enforceable, that protects the rights to freedom of expression, assembly and association, and privacy, online and offline, in line with the ICCPR.

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