

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

REFERENCE:  
AL NGA 4/2021

22 July 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 43/4 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning an **executive order to restrict access to the social media platform Twitter in Nigeria**.

According to the information received:

On 1 June 2021, President Muhammadu Buhari posted a tweet that stated: "Many of those misbehaving today are too young to be aware of the destruction and loss of lives that occurred during the Nigerian Civil War. Those of us in the fields for 30 months, who went through the war, will treat them in the language they understand." Although Mr Buhari did not refer to a particular group in his tweet, his message was understood by many to threaten violence against separatist militia groups in Southern Nigeria.

The comments in the tweet appeared to be taken from a speech the President made earlier, in response to a wave of arson attacks against several electoral offices in the country. The President's account also re-tweeted a video from the President, accompanied by the quote: "Whoever wants the destruction of the system will soon have the shock of their lives. We've given them enough time... we will treat them in the language they understand."

On 2 June 2021, Twitter removed the tweet for violating its 'abusive behaviour' policy. A statement by Twitter said the post "was in violation of the Twitter Rules. The account owner will be required to delete the violative Tweet and spend 12 hours with their account in read-only mode".

On 4 June 2021, the Government issued a press release indefinitely suspending Twitter operations in Nigeria. As the reason for the suspension, the press statement cited "the persistent use of the platform for activities that are capable of undermining Nigeria's corporate existence." The Government did not identify under which national law the suspension was ordered. In the statement, the Government also ordered the National Broadcasting Commission (NBC) to immediately launch a licensing procedure for Over-The-Top (OTT) and social media operations in Nigeria.

On 5 June 2021, the office of the Attorney General threatened to prosecute individuals who used Twitter in contravention of the executive order. A spokesperson of the Attorney General reportedly said that prosecutors had been directed to “swing into action” and “ensure the speedy prosecution of offenders without any further delay.”

Also on 5 June 2021, the Association of Licensed Telecommunication Operators of Nigeria (ALTON) published a statement indicating that its members had suspended access to Twitter. The suspension was based on a directive by the telecommunications industry regulator, Nigerian Communications Commission (NCC).

On 6 June 2021, the NBC directed all broadcasting stations to suspend the use of their Twitter accounts in compliance with the executive order.

On 8 June 2021, a claim was initiated against the Federal Government of Nigeria for violation of human rights before the Economic Community of West African States (ECOWAS) Community Court of Justice in Abuja, calling for an interim order restraining the Government from implementing the indefinite suspension of Twitter in Nigeria in Application no. ECW/CCJ/APP/23/21.

In a ruling on 22 June 2021, the ECOWAS Court of Justice ordered the Government “to refrain from imposing sanction on any media house or harassing, intimidating, arresting and prosecuting the Applicants, concerned Nigerians for the use of Twitter and other social media platforms,” pending the determination of the substantive suit.

On 9 July 2021, the ECOWAS Court of Justice set a hearing for 29 September 2021.

Reportedly, these measures have been adopted in a broader context where social media platforms have contributed to ensure individuals in Nigeria have communicated, gathered, and demanded accountability from the Nigerian authorities, particularly during the #EndSARS protests that took place in 2020.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern at the reported control and censorship of information in Nigeria through the blocking of social media, in apparent violation of articles 19 and 20 of the Universal Declaration of Human Rights (UDHR), and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which Nigeria acceded in 1993. According to the information I received, this measure lacks any form of transparency and appears to have taken place without any legal basis and in the absence of a judicial authorization. Therefore, it appears to constitute an unlawful restriction on the rights to freedom of expression and freedom of association. We are also concerned that this measure may have been taken in retaliation for actions taken by the platform against the President for failing to adhere to the website’s Terms and Conditions of the platform’s services, and with the aim of stifling political dissent.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility under the mandates provided to us by the Human Rights Council to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information about the legal basis for the restrictions on the rights to freedom of expression and of peaceful assembly through the blockage of the social media platform Twitter. Please explain how these measures comply with international human rights standards, including articles 19 and 21 of the ICCPR.
3. Please provide information on the measures taken to restore access to information via Twitter following the temporary injunctive decision of the ECOWAS Community Court of Justice on 22 June 2021.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge your Excellency's Government to suspend the executive order(s) that prevent access to Twitter and to take all necessary measures to ensure that the rights to freedom of expression and of peaceful assembly are fully respected in Nigeria. Moreover, we request that your Excellency's Government adopt effective measures to prevent future restrictions on internet services.

In addition, we wish to notify your Excellency's Government of our intention to submit an amicus curiae brief to the ECOWAS Community Court of Justice to inform the court on the relevant standards of international human rights law and publicly express my concerns regarding the implications of restrictions on access to social media websites for the exercise of the rights to freedom of expression and freedom of assembly. The amicus curiae brief will indicate that we have been in contact with your Excellency's Government to request information regarding the above-mentioned allegations.

Please accept, Excellency, the assurances of our highest consideration.

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

## **Annex**

### **Reference to international human rights law**

In relation to the above described facts and concerns, we wish to draw the attention of Your Excellency's Government to relevant principles of international law, including the right of every individual to freedom of opinion and expression and freedom of peaceful assembly and freedom of association, as set forth in articles 19 and 20 of the Universal Declaration of Human Rights (UDHR), and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which Nigeria acceded in 1993.

In its General Comment No. 34 on the right to freedom of opinion and expression, the Human Rights Committee noted that "The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. The public also has a corresponding right to receive media output" (CCPR/C/GC/34, para 13). This right includes not only the exchange of information that is favorable, but also that which may shock or offend.

We would also like to underline the principle affirmed by the Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions that are not consistent with paragraph 3 of article 19, including on (ii) the free flow of information and ideas, including practices such as the banning or closing of publications or other media and the abuse of administrative measures and censorship, and (iii) access to or use of information and communication technologies, including radio, television and the Internet.

Further, we would draw attention to Human Rights Council Resolution 24/5, and in particular operative paragraph 2, which "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

We also note Principle 38 of the Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019, which provides that "States shall not interfere with the right of individuals to seek, receive and impart information through any means of communication and digital technologies, through measures such as the removal, blocking or filtering of content, unless such interference is justifiable and compatible with international human rights law and standards." The principle further goes on to say that "States shall not engage in or condone any disruption of access to the internet and other digital technologies for segments of the public or an entire population."