

## BRIEFER: NIGERIA

---

# Human rights implications of Nigeria's Twitter Ban

JUNE 2021

On June 4, 2021, the federal government issued a [press release](#) suspending Twitter operations in Nigeria. This happened after Twitter had [removed](#) the President's tweet threatening violence against separatist militia groups in Southern Nigeria. The Press Statement cited "the persistent use of the platform for activities that are capable of undermining Nigeria's corporate existence," as the basis for the suspension. The announcement is unclear under which law the suspension was ordered; nonetheless, the Attorney General/ Minister of Justice has threatened to prosecute offenders who contravene the directive.

In the statement, the Nigerian government also ordered the National Broadcasting Commission (NBC) to immediately start the process of licensing all Over-The-Top (OTT) and social media operations in Nigeria. The NBC on June 6 directed all broadcasting stations to suspend the use of their twitter handles in compliance with the executive Ban. Similar instructions were issued by the [National Communications Commission](#) on June 5 to all licensed telecommunications operators in Nigeria.

The Press statement raises a number of concerns from a human rights standpoint. In particular, there are significant implications for the rights to freedom of expression and access to information, as well as the rights to association and assembly online.

## Nigeria's Duty to Protect Human Rights

Nigeria is a party to the International Covenant on Civil and Political Rights (ICCPR), which in Article 19 obligates States to guarantee the right to freedom of expression, encompassing the right to hold opinions without interference, and the freedom to seek, receive, and impart information and ideas of all kinds through any medium regardless of frontiers.

Restrictions on speech and expression guaranteed in Article 19 of the ICCPR are lawful only when they pass a three-part cumulative test:

- (1) It must be provided by law, which is clear and accessible to everyone (principles of predictability and transparency); and

- (2) It must pursue one of the purposes set out in article 19(3) of the Covenant: (i) to protect the rights or reputations of others, or (ii) to protect national security or of public order, or of public health or morals (principle of legitimacy); and
- (3) It must be proven as necessary, and the least restrictive means required to achieve the purported aim (principles of necessity and proportionality).

The UN Human Rights Committee has stated that “any restrictions on the operation of websites, blogs, or any other internet-based electronic or other such information dissemination systems” must comply with Article 19.<sup>1</sup> The burden lies on the State to show that a restriction on the freedom of expression passes the aforementioned three-part test.<sup>2</sup>

At the regional level, Article 9 (2) of the African Charter on Human and Peoples Rights (ACHPR) also guarantees every person’s right to express and disseminate opinions within the law.<sup>3</sup> The *African Commission Declaration of Principles on Freedom of Expression and Access to Information in Africa* prohibits States from interfering 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.<sup>4</sup>

## Analysis

The Ban unduly restricts the freedom of expression in contravention of international law for several reasons:

- (i) There is **no legal basis** stated for the suspension of twitter. It appears that the suspension was ordered via executive fiat, which does not satisfy the legality principle of Article 19’s three-part test. The Nigerian Government should therefore publicly state the legal basis for the recent Press statement to allow individuals appreciate the scope of authority and their options for redress.
- (ii) Secondly, the rationale for the Ban **fails to meet a legitimate aim** under Article 19(3) of the ICCPR. The bald assertion that Twitter is being used to undermine state corporate interests is not one of the enumerated aims for permissible restrictions.

---

<sup>1</sup> Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression*, UN Doc. CCPR/C/GC/34 (2011), para. 43.

<sup>2</sup> General Comment No. 34, *supra* note 2, at para. 27.

<sup>3</sup> The African Commission on Human and Peoples’ Rights has further recognized that dissemination of opinions may be restricted by law, as long as such restrictions conform to overriding human rights standards. *Article 19 v. Eritrea* (2007) AHRLR 73 (ACHPR 2007).

<sup>4</sup> Principle 38 (1). Principle 37 (1) also obligates States to facilitate the rights to freedom of expression and access to information online and the means necessary to exercise these rights.

- (iii) Thirdly, a blanket ban on twitter constitutes a **disproportionate response** because it does not sufficiently target the illegitimate speech sought to be proscribed, but instead blocks access to an entire online platform. This contravenes Nigeria’s obligations under the ICCPR and ACHPR. As the UN Special Rapporteur on the promotion and protection of freedom of opinion and expression has noted, state actions that restrict or censor content disseminated via internet-in a manner that is clearly unnecessary or disproportionate are clearly incompatible with States’ obligations under international human rights law.<sup>5</sup>

In conclusion, the blanket ban is an unlawful restriction on freedom of expression and other freedoms exercised online. <sup>6</sup> The government should immediately revoke the directive in line with its international obligations and adopt measures to foster digital freedoms in consultation with all stakeholders.

---

<sup>5</sup> See, United Nations Human Rights Council, A/HRC/17/27, “Report of UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue” May 16, 2011, para. 26.

<sup>6</sup> See UN Special Rapporteur on the rights to freedom of peaceful assembly and of association report ([A/HRC/41/41](#))