

ICTs and Elections

Challenges to Freedom of Expression



What is a “network shutdown”?





Google

The Saffron Revolution (2007)



Egypt 2011



Examples of network shutdowns

- In 2013 and 2014 alone, Freedom House reported network disconnections, that were likely government-ordered, in Ethiopia, Iraq, Kazakhstan, Pakistan, Syria, Sudan, Uzbekistan, Yemen and Zimbabwe.
- China (2010)
- USA (2011)
- India (2014)
- Turkey (2014)
- DRC (2015)
- Burundi (2015)

Pakistan (2005-2015)

- Regular shutdowns-
- Don't know which agencies have authorisation
- Hard to find out what happens
- V sensitive for telcos to talk about
- Vague laws
- Lack of process

Impacts of Network Shutdowns

- Restriction on freedom of expression
- No emergency services
- Crimes cannot be reported
- Contributes to panic
- Mobile banking
- Other mobile services: voting, birth registration, health info
- Doctors/GPs unable to communicate
- Students cannot access educational material
- Business impact- travel, tourism, cloud services
- Hostages unable to communicate
- Authorities unable to disseminate info
- Loss of tax revenue

What does the law say?

- Most national laws are vague
- Myanmar: Clause 77 of the Telecommunications Law:

*“The Ministry may, when an **emergency situation** arises to operate **for public interest**, direct the licensee to **suspend** a Telecommunications Service, to intercept, **not to operate any specific form of communication**, to obtain necessary information and communications, and to **temporarily control** the Telecommunications Service and Telecommunications Equipments.”*

What does the UN say?

- *“Cutting off access to the Internet, or parts of the **Internet**, for whole populations or segments of the public (shutting down the Internet) can never be justified, including on public order or national security grounds. The same applies to slow-downs imposed on the Internet or parts of the Internet.”*
- *“...using communication ‘kill switches’ (i.e. shutting down **entire parts of communications systems**)... are measures that can never be justified under human rights law.”*

Are there times when network shutdowns are justified?

- Disaster response- should the gov be able to take control of communications to co-ordinate rescue operations?
- UK example- 7/7 bombings

Egypt changes the law...

- Article 67, Pre-Arab Spring:

“The competent state authorities shall have the power to subject to their administration the telecommunications services and networks of any operator or service provider, and those working in the operation and maintenance of these services and networks, in case of natural or environmental disaster or during periods of declared general mobilization in accordance with the provisions of Law No. 87 of 1960 concerning these and other cases related to national security.”

After the Arab Spring...

“... In all cases, it shall be prohibited to disconnect telecommunications services or to stop their operation entirely or partially, except in the case that a written decision has been issued by the President of the Republic following a proposal to do so by the Cabinet.

In this case, the President of the Republic shall, within 15 days of issuing such a decision, submit a detailed report to the People’s Assembly explaining the reasons for adoption of the measure. In the event that the People’s Assembly is not in session, the submission shall be made in the first session held. In all cases, it shall not be permissible to disrupt or stop relief and emergency services.”

Key Characteristics to Include in a Country's Network Shutdown Legislation

- A shutdown must only be invoked if there is a real and imminent national emergency.
- These situations must be prescribed by law, including which bodies or agencies are authorised to make a network shutdown request.
- A shutdown request must be approved or authorised by the highest level of the government
- There must be a clear request process, with limited people allowed to make the request to operators, and a designated person in the operator to receive the request.
- The shutdown request to the network operators must be in writing
- The request must specify the duration and geographical reach of the shutdown, and demonstrating direct material necessity.
- Shutdowns should be limited in duration and geographical area.
- Where possible, the public must be informed of the shutdown, the duration, geography and services affected.
- Each shutdown must be logged/recorded, and a list published annually.
- The public must have access to emergency services.

What happens next for Myanmar?

- MCRB recommendation that gov commit to never shutting down the internet, and commit to not shutting down the network during the election.
- Need clarification in the law
- Companies need to be prepared:
 - Engage the government about a process for requests
 - Be prepared to ask to narrow the request
 - Include network shutdown requests in transparency reports



Corporate Responses to 'Hate Speech' in the 2013 Kenyan Presidential Elections

Case Study: Safaricom

2007 Kenya elections





Kenya National Commission on Human Rights: On the Brink of a Precipice

- *“The entire electioneering period was characterised by hate speech and incitement to violence...One thing that is memorable about the 2007 elections is the role played by all manner of information from all manner of sources, unsolicited and solicited- SMS, blogs, emails, newsletter, leaflets, not to mention the newspapers, TV and radio sources.”*

“Fellow Kenyans, the Kikuyus [Kenyan tribe] have stolen our children's future. Hope of removing them through the ballot has been stolen. We must deal with them the way they understand, violence. We must dominate them.”

“We say no more innocent Kikuyu blood will be shed. We will slaughter them right here in the capital city. For justice, compile a list of Luos and Kalus(ph) [ethnic communities] you know at work or in your estates, or elsewhere in Nairobi, plus where and how their children go to school. We will give you numbers to text this information.”

Enacting new laws in Kenya

National Cohesion and Integration Act:

Hate speech.

(1) A person who-

[a] uses threatening, abusive or insulting words or behaviour, or displays any written material;

[b] publishes or distributes written material;

[c] presents or directs the performance the public performance of a play;

[d] distributes, shows or plays, a recording of visual images; or

[e] provides, produces or directs a programme;

which is threatening, abusive or insulting or involves the use of threatening, abusive or insulting words or behaviour commits an offence, if such person intends thereby to stir up ethnic hatred, or having regard to all the circumstances, ethnic hatred is likely to be stirred up.

Ethnic hatred means hatred against a group of persons defined by reference to colour, race, nationality (including citizenship), or ethnic or national origins.





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“Bulk SMS”

- Different to normal SMS
- Not sent from a user's mobile phone
- A third party is involved- a “content service provider” (CSP)
- A client (business, politician, media) buys “bulk SMS” packages from a CSP.
- The CSP sends out the bulk SMS over a mobile operator's network

Guidelines for Political Mobile Advertising on Safaricom's Premium Rate Messaging Network

- 48 hour vetting process
- Identifying the sender
- Language
- Content
- Unsolicited messages

Identifying the Sender

To apply to send political bulk SMS, the CSP had to instruct the applicant to fill out a special form containing specific information:

- The content of the political message;
- A signed authorisation letter from the political party representative or individual sending the message;
- Certified copies of political party registration documents or a copy of the applicants' national ID card.
-

Language

- 42 languages spoken in Kenya
- English and Kiswahili are official languages
- Young people speak “sheng” (slang, mixture of Kiswahili and English)
- Politicians known to speak in mother tongue at rallies
- Safaricom insisted that bulk SMS messages were only sent in English and Kiswahili

Content

- *3.3 Political Messages shall not contain offensive, abusive, obscene or profane language.*
- *3.4 Political Messages shall not contain inciting or discriminatory language that may or is intended to expose an individual or group of individuals to hatred, hostility or ridicule on the basis of ethnicity, tribe, race, colour, religion, gender or otherwise.*

Unsolicited messages

- In 2007, some users reported receiving up to 50 messages a day from political parties
- Guidelines state that bulk SMS services must be “opt in”









Final numbers

- Out of 100 licensed CSPs, 8 offered political messaging services.
- 27 clients used Safaricom's network to send political bulk SMSs, consisting of 21 individual political candidates, 3 political parties and 3 independent organisations.
- 68 requests to send political messages were submitted, which translated to 963,762 SMS being sent in total.
- The Regulatory & Public Policy team rejected at least 18 message requests outright for various reasons, such as, for example, failing to submit a copy of ID, or specifying who was signing off the message. These message requests were sent back to the client for amendment due to non-compliance with the guidelines. Five out of these 18 were never returned.
- Safaricom referred one message to the NCIC, concerning land




NOT Another Kikuyu President Please

3,646 likes · 3 talking about this



Community



 3,646

Photos

Likes

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Highlights



NOT Another Kikuyu President Please

March 30

Willy Mutunga just proved that he is overrated. All the time of hearing, he was browsing gay porn in his iPad.

Like · Comment

 127  119  28



NOT Another Kikuyu President Please

March 8

Uhuru is President? Luos will have their dicks chopped off and Kalenjins will not be safe in their land no matter what. Pretend but it is the sad truth.

Like · Comment

 54  320  4



NOT Another Kikuyu President Please

March 18

Ethnic discrimination is a dog that eats at non-Kikuyus in every waking moment of their lives to remind them that the lie of their inferiority is accepted as truth in the society dominating them.

Like · Comment

 10  13  5



NOT Another Kikuyu President Please

March 7

Another KIKUYU president? Genocide is beckoning. We will have to fight the neo-colonialists

What can YOU do?



Correct the lie. Spread true and positive messages to counter the negative messages.

Report the dangerous speech **via SMS to 3002** to Uchaguzi. Send the name of the speaker, the location the speech was said and what they said.



Report the dangerous speech **via the internet** through <http://bit.ly/umatikenya>

Walk away. Discourage the spread of dangerous speech by refusing to be a listener.

“Not another Kikuyu President Please”



A screenshot of a Facebook post. At the top, a user profile picture is followed by the name "NOT Another Kikuyu President Please" and the text "shared a link. March 1". Below this is a text block containing a sensational claim about Kikuyus slaughtering Kalenjins in Eldoret, a link to a CNN video, and a truncated URL. A summary box follows, with a title "Kikuyus preparing to slaughter Kalenjins in ELDORET despite them being in the same coalition" and a link to "edition.cnn.com". Below the summary box is a promotional message for CNN.com. At the bottom, there is a section for interactions including "Like - Comment - Share", a comment count of 4, and a list of three comments from Steve Bin Mashaa, Euodia Mitchell, and Daniel Mutuku.

NOT Another Kikuyu President Please shared a link.
March 1

SEE. This is Kikuyus preparing to slaughter Kalenjins in ELDORET despite them being in the same coalition. This is happening in Eldoret now. The video was show on CNN
<http://edition.cnn.com/video/%2Fvideo%2Finternational%2F2013%2F02%2F28%2Felbagir-kenya-armed.cnn>

Kikuyus preparing to slaughter Kalenjins in ELDORET despite them being in the same coalition
edition.cnn.com

Watch the latest breaking news, politics, entertainment and offbeat videos everyone is talking about at CNN.com. Get informed now!

Like · Comment · Share 4

3 people like this.

Steve Bin Mashaa this person should be arrested en taken to court.
March 1 at 5:41pm via mobile · Like · 1

Euodia Mitchell Ondisa Serioulsy,,ths is hatred,,am CORDED bt i cant do ths,,save us ths Crap,,thank you!!!
March 1 at 5:49pm via mobile · Like · 1

Daniel Mutuku WA Mutua Who ar u? 2 hel with ur posts

သင့်ဗေဒနာအကောင်အထည်ဆိုင် လူမသေပါစေနဲ့။



Don't get people dead because of your Facebook Account.

www.ihrb.org/digitaldangers



**Corporate Responses to Hate Speech
in the 2013 Kenya Presidential
Elections. Case Study: Safaricom**