

SMS Africa – Kenya – January 2016_2

1) Positions in the Debate around the Regulation of Social Media

The frequent arrest of ‘bloggers’ and issuance of warnings related to the use of social media led to a discussion around what exactly is illegal.

Online policing...what exactly is that? (Kachwanya, 2016)

According to detectives, blogging is now a serious crime. So #bloggers watch what you post. Cc @C_NyakundiH (Kenyancitizen, 2016)

Warning to all posting, sharing or transmitting photographs being circulated by terrorists on Social media (NPSOfficial_Ke, 2015)

"It is an offense punishable by the law to post, share,transmit or in any way deal with prohibited photographs being illegally circulated by terrorists on social media. This is an offense punishable under PROHIBITED PUBLICATION AND BROADCASTING ACT CONTRARY TO SECTION 66A(1) of THE PENAL CODE.

MAN CHARGED in Kiambu court for posting photos on WhatsApp group allegedly showing KDF soldiers killed by Al-Shabaab in Somalia last Friday.
(Nationbreaking_Kenya, 2016)

Kenyan blogger Yassin Juma arrested over posting photos of KDF El Adde attack on his blog and social media (CTNSIS, 2016)

According to Duncan Ondimu from the Office of the Director of Public Prosecutions these arrests have not met the standard for prosecution under Section 29 of the Kenya Information and Communication Act.

@MarkMasai @johnallannamu @Oleltumbi kindly note that the @ODPP_KE did not approve Yasin charge sheet #PressPass (Matundura78, 2016)

@calvin_ski @Yassinjuma decisions made by @ODPP_KE are guided by the Constitution especially Article 157 (Matundura78, 2016)

@Asamoh_the @ODPP_KE only approves charges once the evidential and legal test are met @ConsumerKenya (Matundura78, 2016)

1. Section 29(b) Kenya Information and Communication Act provides “sends a message that he knows to be false for the purpose... #CivicDuty
2. “...of causing annoyance, inconvenience or needless anxiety to another person” #CivicDuty

A matter currently before the high court challenges the constitutionality of the ‘misuse of communication devices’ clause since the constitution guarantees freedom of speech

except in cases of a) propaganda for war; b) incitement to violence; c) hate speech; or d) advocacy for hatred that; (i) constitutes ethnic incitement, vilification of others or incitement to cause harm or (ii) based on any ground of discrimination as per Article 27.

Eagerly awaiting the determination of Petition on constitutionality of S. 29 KICA on 28 Jan (Kattaloo, 2016)

The Director of Digital Communications at the Office of the President, Dennis Ole Itumbi, once a 'blogger', himself. The term is used as a catchall for 'individuals who make it their business (literally and figuratively) to express their opinions on the Internet'. Itumbi appeared on the television program 'Press Pass' and argued that freedom of speech was not sacrosanct. This perspective has a fair amount of support:

Yet another blogger arrested - exploring the issue of blogging, crime and freedom of expression <https://youtu.be/xOSBshQrYp4> (Oleltumbi, 2016) 7 When an opinion is published it ceases enjoying absolute protection #PressPass (Oleltumbi, 2016)

@ali_naka @ClanSewe @SDEKenya Excuse Kenyans kindly. They believe anything written by so-called bloggers (CharlesGacheru, 2016)

This nonsense of FREE so and so is so reptilian. Are we saying that bloggers and random journalists are above the law? (CharlesGacheru, 2016)

@Olez so we allow reptilian minds to continue abusing people and aiding terrorists in the name of FREE SPEECH? (CharlesGacheru, 2016)

Others disagreed:

@Oleltumbi you were once a blogger, now you are a mboga [cabbage]

Freedom of Speech, Information, Publication and Expression are basic elements of a democracy. YES to #BloggersAssociation #PressPass (BKhaniri, 2016)

As bloggers it's our responsibility to use and protect the Freedom of speech and Expression at all times #BloggersAssociation #PressPass (BKhaniri, 2016)

Let's differentiate between ones opinion, criticism and crime in the digital space. E.g. sharing images of dead KDF=crime #presspass (BKhaniri,2016)

One thing @Oleltumbi presses for, incessantly, is regulation of bloggers. Sorry you cannot regulate opinions of your citizens. #PressPass (Changeniwewe, 2016)

#PressPass Seriously? Repeatedly arresting folks on spurious charges that keep getting dropped is not harassment? @Oleltumbi @MarkMasai (Gathara, 2016)

The problem we face is, the government holds on to information leaving a void which social media tends to fill - Allan Namu #PressPass (NtvKenya, 2016)

@ntvkenya we rely more on blogger because the government has already tamed the media houses and they lie about sensitive issues. #presspass

Twitter and bloggers are doing what the traditional media has failed to do. This is the new age. #PressPass (ItsMJ254, 2016)

2) “Terrorist Sympathisers”

While some among the general public feel that the influence of traditional media had diminished in favour of social media, it seems that there are *actual** terrorist sympathisers who seek to cloak themselves in the legitimacy of a news outlet (*the last report discussed how official security had taken to describing anyone repeating news provided by Al Shabaab as a terrorist sympathiser):

Be cautious of this @Newsday247 he’s a FRAUD/Shabaab agent, formerly @AbdulazizHOA, not a journo. Said to be in Majengo. (KinyanBoy, 2016)

GroundHawk alerted me to the presence of @K1LL3BR07 who ‘outs’ terrorist sympathisers on *Twitter* and takes down their accounts. @K1LL3BR07 had set their sights on Al Shabaab

Lone Wolf @K1LL3BR07 launched a massive attack on #Alshabaab social media accounts, over 150 affiliated accounts were suspended. We salute (Groundhawk_KE, 2016)

Lone Wolf Cyber Attack on #Al Shabaab social media accounts, @K1LL3BR07 Take down +150 #Al Shabaab affiliated accounts (Terror_Monitor, 2016)

3) Social Media Visibility of Various Officials and Institutions

Throughout the El Adde disaster, MOD’s social media activity was non-existent. Instead, other official accounts reported on social media on their behalf. CTNSIS became even more active on both *Twitter* and *Facebook*. The Police in contrast with the KDF is prolific on social media, with respect to both interacting with users and touting their successes:

A look at some benefits that the Integrated Control and Command Center, IC3 has brought to the Police and the public. (NPSOfficial_KE, 2016)

Tom Clement Ombija who likes to interact with CTNSIS provided his two cents on how he felt their social media strategy was going. His use of ‘we’ suggests a real or imagined kinship:

@CTNSIS need to re-examine/change tact on online propaganda. How to counter, we’re soft and distracted. Challenge sources head on digitally. (Tomclemenombija, 2016)

Inspector General Joseph Boinnet hosted the Inspector General's conference, attended by President Uhuru Kenyatta and CS Nkaisserry, at which the National Police Service launched a 'Strategic Plan and Communications Strategy'. It appears that at some point Gen Nkaisserry has been convinced of the value of social media as he and the Permanent Secretary at the Ministry of the Interior announced a social media presence. Days later, CS Nkaisserry expressed pleasure with the results of the exercise:

On Tuesday only, I dealt with over 1,500 msgs from the platforms I provided, especially whatsapp. Be assured I am reading all of them (GenNkaisserry, 2016)

I am impressed by the correspondence I am receiving on my p/platforms, it is amazing how Kenyans are eager to help in securing our nation (GenNkaisserry, 2016)

The feedback is incredible. My PS @Karanjakibicho and I discussed ways in which action will be taken on the issues you've raised (GenNkaisserry, 2016)

We shall ensure action is taken on every case that you have raised with immediate effect. From IDs to immigration & police affairs (GenNkaisserry, 2016)

The IG @JBoinnet is also a key partner to helping us ensure we correct any wrongdoing (GenNkaisserry, 2016)

I continue to receive many more up until now and I encourage you to keep up with the interaction (GenNkaisserry, 2016)

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