



**28
SEPT
2023**

THE IMPORTANCE OF THE
**ONLINE SPACE FOR ACCESS
TO INFORMATION**

The International Day for Universal Access to Information 2023.

#AccessToInfoDay
#RightToKnow

Concept Note for the Celebration of The importance of the online space for Access to Information (IDUAI) 2023

CI-2023/IDUAI/2023/CN/7

Slogan: The Importance of the Online Space for Access to Information 2023;

Organizer: UNESCO;

Other partners: UN Agencies, Member States, Civil Society Organisations, Professional Network & Experts;

Date: 28 September 2023;

Global Celebrations Venue: Oxford University, United Kingdom.

1. Summary

The Global Conference to celebrate the International Day for Universal Access to Information will be held at the University of Oxford, United Kingdom, on 28 September 2023. The event will be organized back-to-back with the international judicial symposium on freedom of expression on 29 September 2023.

The celebration will take place at the Bonavero Institute of Human Rights of the University of Oxford, which is organizing the event in cooperation with UNESCO and the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland. UNESCO also intends to partner with FOIANet, ARTICLE 19, Access Now, the International Conference of Information Commissioners, Open Government Partnership, and the Freedom Online Coalition and other actors in developing the program of the event.

Recognizing the significance of access to information, the 74th UN General Assembly proclaimed 28 September as the International Day for Universal Access to Information (IDUAI) at the UN level in October 2019. The day had been proclaimed by the UNESCO General Conference in 2015, following the adoption of the 38 C/Resolution 57 declaring 28 September of every year as International Day for Universal Access to Information (IDUAI). UNESCO commemorates the Day every year since 2016 by organizing a Global Conference and several national events all over the world.



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2. Theme: The importance of the online space for access to information

3. Points to ponder

Internet shutdowns and restrictions

The online space is increasingly where people seek and share information. Therefore, access to the Internet is an important factor in delivering universal access to information. When governments shut down or restrict people's Internet access, this can severely restrict their ability to exercise their rights, including access to information and engage in democratic processes.

Access to information, including through the Internet, is widely recognized as an enabler of a broad range of human rights.¹ It is not only essential for freedom of expression but, as digitalization advances, it is also central to the realization of the rights to education, to freedom of association and assembly, to participation in social, cultural and political life, to health, to an adequate standard of living, to work and to social and economic development.

The Sustainable Development Goals reinforce States' human rights obligations to work towards guaranteeing public access to information (SDG 16.10.2), where universally available and accessible Internet, free from unjustified restrictions, plays a crucial role (SDG 9.c). In SDG target 5.b, States also pledged to "enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women".

Access to the Internet in today's digital world is crucial for access to information. Information is crucial for realizing other human rights and implementing the goals of the 2030 Agenda. Internet shutdowns go against this development logic and thereby hinder the realization of human rights.



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Internet disruption and its impact on access to information

Internet shutdowns are measures taken by a government, or on behalf of a government, to intentionally disrupt online access to and the use of information and communications systems. They include actions that limit the ability of a large number of people to use online communications tools.

Disruption includes complete or partial blocks of Internet connectivity or accessibility of the affected services. Between 2016 and 2023, there were reports of 1198 Internet shutdowns in 74 countries. ² Globally, all regions have experienced multiple shutdowns, but the majority reported occurred in Asia and in Africa. The latest information provided by leading NGO Access Now shows that, in 2022, there were 187 Internet shutdowns in 35 countries.

The modalities of disruptions, including shutdowns, have evolved from blanket interventions to more targeted approaches, following the increased penetration of communications platforms and the emergence of new tools that have enabled targeted disruptions and restricted access to the global Internet.

The scope and duration of disruptions can vary greatly, with some interventions lasting long periods of time and combining different modalities of disruption. While some disruption measures affect entire countries, many specifically target regions, towns or even neighborhoods.

Internet disruptions not only restrict access to information provided by the media and others, but also disrupts the provision of public information through e-platforms and other e-governance services and, often, also disrupts the access to information that would keep people safe, such as during protests or in crisis and conflict situations.

Preliminary findings from research currently being undertaken in Latin America and the Caribbean indicate that internet shutdowns and restrictions can be major disruptors of the implementation of access to information (ATI) legal frameworks, especially where the provision of public information is highly digitalized.

The increasing interdependence between Internet access and democratic resilience means that lack of access to the Internet and de facto lack of access to information, will undermine the ability of individuals to exercise their democratic rights and inhibit institutions from discharging their functions, including in the context of elections.

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#RightToKnow**Dialogue on Internet disruptions in today's human rights law**

Internet disruption constitutes a highly intrusive form of censorship, but in the context of a rising tide of incitement to violence on social media platforms, there is a need to have a more transparent and nuanced conversation about how to counter incitement and hate speech without major disruptions of the Internet.

The starting point when looking at Internet shutdowns and restrictions is to understand the indiscriminate and disproportionate impact these can have on individuals' realization of their human rights. States should refrain from the full range of Internet shutdowns. In addition, there are often serious economic consequences from such shutdowns, which can be especially damaging in poorer societies.

States considering imposing disruptions should, in all cases, examine six requirements put forward by the report "Internet shutdowns: trends, causes, legal implications and impacts on a range of human rights" issued in 2022 by the Office of the United Nations High Commissioner for Human Rights:

- Clearly grounded in unambiguous, publicly available law;
- Proportional to the legitimate aim and the least intrusive means to achieving that end; so, they should be as narrow as possible in terms of duration, geographical scope and the networks and services affected;
- Necessary to achieve a legitimate aim, as defined in human rights law;
- Subject to prior authorization by a court or another independent adjudicatory body to avoid any political, commercial or other unwarranted influence;
- Communicated in advance to the public and telecommunications or Internet service providers with a clear explanation of the legal basis for the shutdown and details about its scope and duration;
- Subject to meaningful redress mechanisms accessible to those whose rights have been affected by the shutdowns, including through judicial proceedings in independent and impartial courts;

The recommendations of the Office of the United Nations High Commissioner for Human Rights for companies (para 69) and for development agencies, regional organizations and international organizations (para 70) and civil society (para 70), next to the above-mentioned recommendations for the States should serve as a solid base to develop a multistakeholder approach.



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Role of the judiciary in preventing Internet shutdowns and restrictions and protecting universal access to information

An independent judiciary is crucial for enabling victims and civil society to seek accountability for human rights violations caused by deliberate restrictions placed on people's ability to go online. In recent years, cases have been brought before numerous national and regional courts against government agencies, officials and companies carrying out shutdowns, with a growing number of courts expressing concerns relating to shutdowns. Courts have found past shutdowns illegal, ordered the reinstatement of Internet connectivity in cases of ongoing shutdowns, enjoined authorities from imposing shutdowns in the future and granted compensation.

On the regional level, the Council of Europe in its Recommendation CM/Rec(2007)16 of the Committee of Ministers to Member States on measures to promote the public service value of the Internet, stated that "Member States should adopt or develop policies to preserve and, whenever possible, enhance the protection of human rights and respect for the rule of law in the information society. In this regard, particular attention should be paid to the right to freedom of expression, information and communication on the Internet and via other ICTs promoted inter alia by ensuring access to them [...]."

The Economic Community of West African States Court and East African Court of Justice has also explicitly ruled in favor of Internet Freedom and the Protection of Human Rights, including access to information, in the Digital Environment.

Role of Information Commissions in protecting the access to information in the context of internet shutdowns and restrictions

Information Commissions and similar bodies mandated to implement ATI legislation have a unique role to play in adjudicating situations aimed to prevent disruption of the implementation of ATI laws during total or partial disruption, as well as advising the government on the legitimacy, proportionality, and necessity of such actions.

UNESCO is preparing a study focused on good practices of Information Commissioners in the Latin American and Caribbean region active in ensuring internet availability for access to information and adjudicating cases of internet disruption.

While the number of legal frameworks guaranteeing access to information is growing, the implementation of these laws increasingly relies on access to the Internet and the application of ICT based solutions such as information request platforms and AI solutions, while requesting information from the authorities. Information Commissions and other enforcement and oversight bodies mandated to implement ATI legislation, need to use their authority to prevent internet shutdowns and restrictions.



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Role of Internet service providers and telecommunications companies

Private sector companies have a range of good practices in assessing the risks of ordered Internet shutdowns, ways of mitigating adverse human rights impacts, and establishment of operational policies, including engagement and collaboration with all stakeholders. The question arises what possible lawful measures companies could undertake to prevent Internet disruptions that they have been asked to implement from proceeding and, if the shutdown should nevertheless proceed, how best is it to prevent or mitigate to the extent possible adverse human rights impacts.

4. Programme

High-level Participants: Host country representatives, UNESCO, the International Communications Union (ITU), Office of the United Nations High Commissioner for Human Rights, the Organization of Economic Development and Cooperation (OECD), a former Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, representatives of Regional Courts in Regional Integration Organizations (ECHR, ECOWAS, etc.).

Content of the High-level Roundtable: The panel “Guaranteeing Access to Information in the Age of the Internet” will discuss access to information and internet shutdowns and restrictions in the context of the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights, in 1993. The Declaration reaffirmed the solemn commitment of all States and parties to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all. The panel will focus on the importance of access to information via the Internet in today’s world and call on the Member States to promote, in the spirit of the Vienna Declaration, effective access to the Internet and other digital technologies for the sake of ensuring the access to information and other human rights.

Three additional panels will focus on Internet accessibility and connectivity as enablers of access to information and the role of governments, the judiciary, and information commissioners in securing the proper functioning of the Internet as an enabler of the ability to exercise rights online, as well as a need for international cooperation in the field of strengthening access to information to achieve human rights and the Global Goals of the 2030 Agenda.



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Panel 1: Technology for democracy and sustainable development.

Organized with Access Now, Freedom Online Coalition and technology companies.

Panel 2: Internet connectivity as an enabler of the ability to exercise rights online, with a particular focus on access to information.

Organized with FOIANet and ARTICLE 19.

Panel 3: Judicial and information regulators perspective on accessibility and connectivity of Internet.

Organized with the representatives of International Courts and members of the judiciary symposium and the International Conference of Information Commissioners.