

# Controls to manage fake news in Africa are affecting freedom of expression

By [Ashwanee Budoo](#)

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Governments across the world are responding to the Covid-19 pandemic. Alongside the mountain of related challenges, fake news has become a source of frustration. Some are now referring to this fake news phenomenon as a '[disinfodemic](#)'.



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Purveyors of fake news are disseminating propaganda and disinformation. This has increased panic amongst the public and slowed the progress of the fight against the new coronavirus pandemic.

The 'disinfodemic' has resulted in misinformed behaviours such as [drinking alcohol](#) and [applying heat](#) to kill the virus. Some people were led to believe that the virus [only affects white people](#), that testing kits [are contaminated](#), and that vaccines are being [tested on Africans](#) while the truth is that a vaccine has not yet been discovered in Africa.

Other fake news purveyors purported that [shaving makes face masks more effective](#), [made up riots](#), and made [fake claims with falsified video evidence](#) about Nigerians burning Chinese-owned shops in response to cases of harassment of Africans in China.

These instances are just the tip of the iceberg and governments have had to adopt and implement strict measures to combat

the 'disinfodemic'. Many have been able to contain fake news by warning or arresting those spreading it.

For example, in [Mauritius](#), a man who falsely claimed that riots had erupted after the prime minister announced the closure of supermarkets and shops, was arrested under the Information and Communication Technology Act.

In [South Africa](#), authorities arrested people spreading the news that the virus was being spread by foreigners. And in [Kenya](#), a 23-year-old man was arrested after he published false information with the intent to cause panic.

But these strict controls are also affecting the freedom of expression of people on the continent.

## Fake news versus freedom of expression

Even before Covid-19, many African countries used libel and defamation laws, and [internet shut downs](#) to limit the freedom of expression of citizens and the media. Some examples are Cameroon, Ethiopia, Chad, Egypt and Uganda.

With the advent of the new coronavirus, the pandemic is now being used as an excuse to further limit freedom of expression. In [Tunisia](#) for example, two bloggers who criticised their government's response to Covid-19 were arrested.

In [Mauritius](#), a woman who published a sarcastic meme against the government was arrested for spreading fake news. And in countries such as Ethiopia, Egypt, Nigeria, Kenya, Somalia and Zimbabwe, there are [increasing cases of arrests and attacks](#) by law enforcement and security agencies on journalists covering the pandemic.

These incidents act as a limitation to the freedom of expression of Africans, including that of the press. In this regard, on World Press Day – 3 May – the [UN Secretary General](#) emphasised the role of the press as an 'antidote' to the 'disinfodemic'.

Since the outbreak of Covid-19, international organisations such as the [World Health Organisation](#) and [Human Rights Watch](#) have adopted guidelines and checklists regarding the protection of human rights. This includes the freedom of expression as Covid-19 measures are implemented.

There are also many laws at the global and regional level that require countries to uphold freedom of expression even in times of pandemics. That freedom can only be limited with justification for instance where news is proven to be fake.

## Protection

Many of the arrests and attacks that are being made by government officials in different African countries are contrary to international conventions.

[Article 19](#) of the International Covenant on Civil and Political Rights protects the universal freedom of expression but provides for limitations. Measures to contain fake news during Covid-19 are permissible under the protections of public health. However, these limitations do not apply when citizens critique the measures their governments have taken as long as they [do not spread fake news](#).

The United Nations Special Rapporteur on Freedom of Opinion and Expression [published a report](#) last month on disease pandemics and freedom of opinion and expression. The Special Rapporteur emphasised that freedom of expression is critical to meeting the challenges of the pandemic.

The report recommended that states must still apply the test of legality, necessity and proportionality before limiting freedom of expression even in cases of public health threats. This recommendation can still be used to combat fake news as long as the impact on freedom of expression is minimal.

At the continental level, freedom of expression is protected by [Article 9](#) of the African Charter on Human and Peoples'

Rights. The Special Rapporteur on Freedom of Expression and Access to Information in Africa issued a recently [press statement](#) expressing concerns about internet shutdowns in African countries in the time of Covid-19.

The statement recommended that states guarantee respect and protection of the right to freedom of expression and access to information. This would be through access to the internet and social media services. The Special Rapporteur emphasised that states must not use Covid-19 as “an opportunity to establish overarching interventions”.

And the [African Commission recently published](#) its Revised Declaration on Principles of Freedom of Expression and Access to Information in Africa. According to the Declaration, freedom of expression is an indispensable component of democracy. It states that no one should

*“ be found liable for true statements, expressions of opinion, or statements which are reasonable to make in the circumstances.*

*”*

The African Charter and the International Covenant on Civil and Political Rights are binding on all African states except [Morocco](#) and [South Sudan](#) respectively.

Thus, African nations must ensure that they protect freedom of expression even in times of a pandemic. This must be the case unless governments are genuinely containing fake news.

African states should adopt regulations that clearly define what constitute fake news in relation to Covid-19. They must allow the citizens and the media to express themselves. The measures being taken in response to Covid-19 must be debated without fear of frivolous charges.

Finally, African governments must not use fake news during this pandemic as a shield to violate the freedom of expression of its citizens, or settle old scores with the press.

[Ashwanee Budoo](#), Programme manager of the Master's in Human Rights and Democratisation in Africa at the Centre for Human Rights, [University of Pretoria](#)

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## ABOUT THE AUTHOR

Programme manager of the Master's in Human Rights and Democratisation in Africa at the Centre for Human Rights, University of Pretoria.

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