Update on the State of Internet Freedom in Burundi 2015
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Introduction

Following on from the *State of Internet Freedoms in Burundi 2014*[1] report published last May, this brief presents an update on Information and Communication Technology (ICT) access, the legal and regulatory policies and practices that affect internet freedoms in the Burundi. It covers the period from March 2014 to May 2015. Notably, Burundi has been rocked by a coup attempt and intermittent public protests against President Pierre Nkurunziza's plan to contest for a third term in office in apparent defiance of a two terms limit set by the constitution. During the upheavals in April and May, the country's communications regulator reportedly directed internet service providers to cut access to social media, and several media houses were pillaged. Meanwhile, the East African Court of Justice declared sections of the country's media law undemocratic, but it upheld articles on the regulation of print and online media, which have been criticised by journalists and human rights defenders for negating freedom of expression.

Access to ICT

Burundi has the lowest ICT access figures among the five members of the East African community. As of June 2014, the industry regulator known as *L'Agence de Régulation et de Contrôle des Télécommunications* (ARCT), reported that the country had 3,249,796 mobile phone subscribers. This represented a 31% mobile penetration rate amongst the country's estimated 10 million population. Fixed line subscriptions stood at 21,619.[2] Burundi's internet penetration as of December 31, 2014 was estimated to be 4.9% by the Internet World Stats.[3] A 2013 survey carried out by National Bureau of Statistics in Burundi (ISTEEBU) had estimated the percentage of individuals using the Internet at 1.7%.[4]
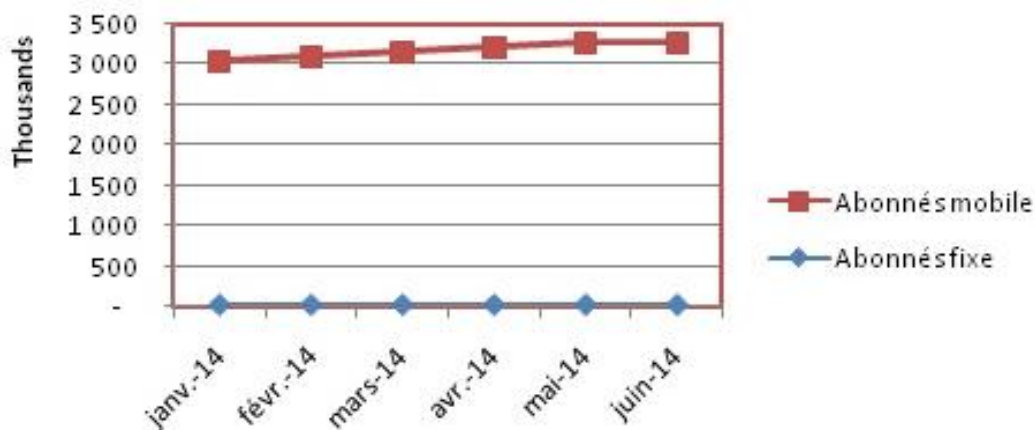

Figure 1: Evolution of mobile and fixed line subscription in Burundi, January 2014 to June 2014 (Source: ARCT)

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[1] State of Internet Freedoms in Burundi 2014, http://www.cipesa.org/?wpfb_dl=80
[2] ARCT, Market Observatory First Half of 2014, http://www.arct.gov.bi/index.php/statistiques/43-observatoire-des-marches-premier-semestre-2014
[3] Internet World Stats, Africa, http://www.internetworldstats.com/africa.htm
[4] ISTEEBU, Enquête sur les Conditions de Vie des Ménages au Burundi, 2013

In March 2015, a new telecom company - Viettel Burundi - launched commercial operations, having been licenced a year earlier.[5] The company, a subsidiary of the Vietnam-based Viettel Group, is operating under the commercial name LUMITEL.[6] The national telecommunications regulatory authority first announced the entry of the sixth mobile phone operator in Burundi in its March 2014 Market Observatory report.[7] The new entrant joins Onamob, Africell Tempo, Econet and Ucom in the voice market. Previously, there were eight licensed Internet Service Providers, namely CBINET, OSA NET, Spider Net, USAN, Onatel, Africell Tempo, Econet, and Leo (UCOM). However, in October 2014, the global arm of Econet announced the acquisition of the assets of Leo (UCOM).[8] Onatel and Onamob are state-owned.

The national backbone infrastructure, Burundi Backbone System (BSS), which was launched in January 2014, now covers all the country's 17 districts. A consortium of the country's telecom operators is implementing the project, with support from the World Bank and the government. [9]

On July 15, 2014, the deadline for registration of mobile phone users in Burundi expired and all unregistered SIM cards were blocked on the same day. According to the ARCT, 1,289,654 unregistered SIM cards were blocked. This accounted for more than one third of all mobile phone users in Burundi. Subscribers whose SIM cards were blocked have since been invited to register with the phone companies to have their SIM cards reactivated.

As per the press release published on the official website of the Government of Burundi on June 26, 2014, mandatory data to be provided for registration includes a copy of national identity card or national passport and a passport photo. In addition, each subscriber has to be physically present for registration. [10]

Meanwhile, a new mobile telephony taxation structure that started on December 24, 2014 imposed a tax of 42 Burundian Francs (US$0.024) per minute on local calls. The move is aimed at increasing income sources for the country's 2015 budget.[11] After the new tax measures were implemented on January 1, 2015, all bonuses and promotional offers by mobile phone operators were stopped. These increased costs for communication led to protests by civil society organisations, such as the general strike organised on March 5.[12] Government talks with protestors were futile and the tax remains applicable to-date.[13]

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[5] International Telecommunications Union (ITU), Statistics News Log, Viettel Wins Mobile Concession in Burundi, http://www.itu.int/ITU-D/ict/newslog/Viettel+Wins+Mobile+Concession+In+Burundi.aspx

[6] See web page at www.lumitel.bi and Facebook page at https://www.facebook.com/lumitelburundi/info?tab=page_info

[7] L'Agence de Régulation et de Contrôle des Télécommunications (ARCT), Market Observatory First Half of 2014, http://arct.gov.bi/index.php/statistiques/43-observatoire-des-marches-premier-semestre-2014

[8] EconNet Announces Acquisition of Telecel Globe Operations in Burundi and CAR, http://www.techzim.co.zw/2014/10/econet-announces-acquisition-of-telecel-globe-operations-burundi-car/

[9] Burundi Backhone System Company, http://bbs.bi

[10] Ministeres de Telecommunications, de L'Information, de da Communication et des Relations avec le Parlement, Communique de Press, http://www.burundi-gov.bi/IMG/pdf/Communique_de_Presse-3.pdf

[11] Burundi/Economie: Le Parlement Burundais Vote Le Budget de 2015, http://www.burundi-gov.bi/spip.php?article3744

[12] Burundi: appel à une grève générale à partir de jeudi, http://www.rfi.fr/afrique/20150304-burundi-appel-une-greve-generale-prevue-jeudi-collectif-contre-vie-chere-pierre-nku/

[13] A New General Strike in Burundi, http://www.rfi.fr/afrique/20150309-vers-nouvelle-greve-generale-burundi-collectif-contre-vie-chere-pierre-nkurunziza-s/

Policy and Regulatory Environment

On June 4, 2013, the President of Burundi promulgated the new press law of Burundi.[14] In August 2013, the Burundi Journalists Union (BJU) petitioned the Constitutional Court to declare the law unconstitutional for undermining media freedom and freedom of expression.[15] Earlier in July, the union had also petitioned the East African Court of Justice (EACJ) to repeal the law.

Following the complaint made by the BJU, the Constitutional Court in January 2014 invalidated some of the clauses of the law.[16] Thereafter, the government proposed some revisions to the press law which were tabled and approved before parliament on March 4, 2015. The revisions are pending senate approval before being assented to by the country's president. Whilst BJU welcomed the move by government, the Union's president regretted that some regressive clauses remained and stated that they still awaited the decision of the EACJ.[17] [18]

Hearings in the case before the regional court started on February 9, 2015.[19] On May 15, judges at the court ruled that Articles 19 and 20 of the Burundian Press Law were against the principles of democracy and press freedom as enshrined in the Treaty for the establishment of the East African Community (EAC).[20] The Judges stated that they would direct Burundi to "take measures, without delay, to implement the Judgement within its internal legal mechanisms."[21]

Meanwhile, in November 2013, government had begun the process of drafting a Cyber Security Law. However, according to an interview with a high-ranking ARCT official, this process was halted as the required budget was yet to be granted.

Incidents of Online Freedoms Violations

During April 2015 demonstrations against President's Nkurunziza's bid for a third term in office, in defiance of the two-terms limit set by the Constitution, mobile access to social media networks such Viber, Whatsapp and Facebook was reportedly blocked. The regulator, ARCT, reportedly ordered service providers to block access to the sites as they were being used by protest organisers to mobilise demonstrators.[22] Radio broadcasters were also affected during the turmoil. Broadcasts by Radio Isanganiro, Radio Publique Africaine (RPA), and Radio Bonesha – were suspended beyond the capital Bujumbura.

Amidst a May 2015 coup attempt, the privately-owned RPA was hit by a rocket and reportedly set ablaze by police and pro-ruling party youth. Rema radio and television, said to be allied to the ruling party, was torched by protesters. State-owned radio and TV were forced on and off air and their headquarters was the scene of fierce fighting, as forces jostled for the control of Bujumbura and the channels of mass communication.

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[14] Law Governing the Press 2013, http://www.presidence.bi/spip.php?article3779

[15] Law governing the press: the UBJ takes over after the judgment of the Constitutional Court, http://www.iwacu-burundi.org/loi-regissant-la-presse-ubj-cour-constitutionnelle/

[16] Constitutional Court quashes several repressive provisions of Burundian media law, http://www.ifex.org/burundi/2014/01/08/articles_quashed/

[17] La loi sur la presse enfin sur le bon chemin au Burundi!, http://www.ubj-burundi.org/la-loi-sur-la-presse-enfin-sur-le-bon-chemin-au-burundi/

[18] East African Court of Justice, Pending Cases, http://eacj.org/?page_id=2344

[19] Burundi Journalists Association Case Comes Up For Hearing, http://eacj.org/?p=2722

[20] East African Court Declares Sections of Burundi's Media Law "Undemocratic", http://www.cipesa.org/2015/05/east-african-court-declares-sections-of-burundis-media-law-undemocratic/

[21] EACJ Ruling, BJU Vs. The Republic of Burundi, http://eacj.org/wp-content/uploads/2015/05/Reference-No.7-of-2013-Final-15th-May-2c-2015-Very-Final1.pdf

[22] Protest Hit Burundi Cuts Mobile Social Network Access, http://www.thesundaily.my/news/1399504

Even before the upheavals related to the attempted coup, Burundian authorities were clamping down on media. For instance, Bob Rugurika, the Director of Radio Publique Africaine, was jailed for a month from January to February 2015 after he broadcast the results of his investigation into the murder of three Italian religious Sisters of Kamenge parish in September 2014. While the official murder investigation incriminated one murderer acting for personal reasons, Rugurika's investigations revealed that the crime was planned and executed by secret service officers including the chairman of the Burundian secret services himself. Rugurika broadcast an interview with a policeman who purportedly participated in the murder but said that he was in hiding to avoid being murdered himself. Among the reasons cited by authorities for jailing the journalist was that he should have revealed his sources to the police.

There are no reported cases against bloggers or individuals related to postings on blogs or social media. However, talks with citizens, civil society actors and journalists reveal that there is a general perception that highly skilled individuals working with government are spying on communications.

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The brief was produced in the context of OpenNet Africa (www.opennetafrica.org), an initiative of the Collaboration on International ICT Policy for East and Southern Africa (CIPESA, www.cipesa.org) that monitors and promotes internet freedom in Africa.