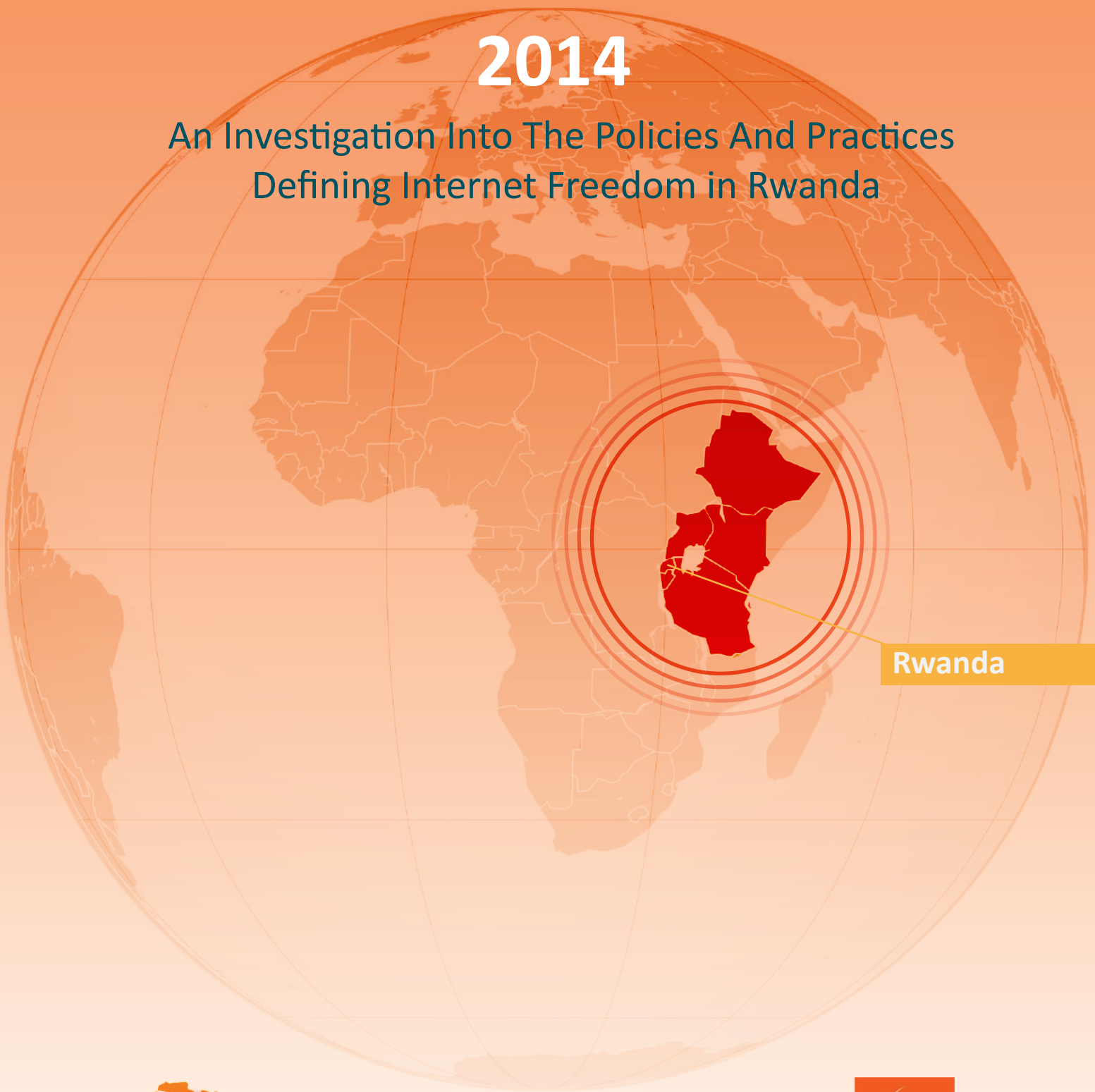
State of Internet Freedoms in Rwanda 2014

An Investigation Into The Policies And Practices Defining Internet Freedom in Rwanda



OpenNet Africa

CIPESA

Credits

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Introduction

Rwanda has a history of regressive control over the media, particularly after the media fuelled ethnic tensions during the 1994 genocide. Journalists have routinely been charged and harassed for a variety of reasons, such as criticism of the president and government institutions, or "promoting the genocide ideology". Human rights watchdogs have also accused the government of stifling political opposition and curtailing the activities of civil society actors. This tight control over the media is starting to creep into the country's online space.

According to Freedom House, the Media High Council (HMC) started "systematic" monitoring of online media during the genocide period in April 2012 with the aim of "high lighting the civic contribution of the media during the commemoration period and discerning the extent to which media abide by legal and professional standards while covering genocide related issues".[1]

Nonetheless, the Rwanda government has put Information and Communication Technology (ICT) at the forefront of its social and economic development.[2] Initiatives such as the National ICT Literacy and Awareness Campaign[3], Promoting Digital Opportunities for Women in Rwanda, Vision 2020, the National Information Communication Infrastructure (NICI) plan and the National Fibre Optic project[4], amongst others, are aimed at ICT skills development geared at minority groups, private sector development and eGovernment. The country has also been undertaking a reform of media laws to make them more supportive of freedom of expression.

Background to ICT usage

Rwanda's population of 10.5 million[5] is serviced by three mobile phone operators namely MTN, Airtel, and TIGO. Fixed telephony services are provided by MTN and Rwandatel (formerly a state-owned entity now operating as Liquid Telecom LTD). There are ten internet service providers: MTN, Rwandatel, TIGO, New Artel, ISPA, Altech Stream, 4G Networks, BSC, 4G Rwanda and Airtel. The country had a mobile penetration rate of 63 cellphones per 100 inhabitants, while internet penetration stood at 19.55% as of December 2013.[6]

Rwanda has a universal access fund (UAF)[7] which is aimed at accelerating the use of ICTs in remote and under-served parts of the country. The fund is financed by a 2% contribution from the annual turnover of licensed telecommunications operators. Initiatives under UAF include: providing internet connectivity to all districts in the country, telecentres, public and private universities, secondary schools, police sites, army sites, immigration border posts, private institutions and local business.

[1] *Freedom House, Freedom on the Net and Freedom of the Press Annual Reports, http://www.freedomhouse.org*
[2] *The Republic of Rwanda, Ministry of Youth and ICT, ICT Sector Profile, 2012, http://admin.theiguides.org/Media/Documents/Rwanda-ICT-Profile-2012.pdf*
[3] *http://focus.rw/wp/2013/01/ict-literacy-campaign-gets-under-way/],*
[4] *Reuters, Rwanda Completes $95 million fibreopic network, http://www.reuters.com/article/2011/03/16/ozabs-rwanda-telecoms-idAFJOE72F07D20110316*
[5] *National Institute of Statistics of Rwanda, 2012 Population and Housing Census, Provisional Results, http://www.statistics.gov.rw/publications/article/how-many-are-we-rwanda*
[6] *Rwanda Utilities Regulatory Authority (RURA), StatisticsAndTariffInformationInTelecomSectorAsOfDecember2013, http://www.rura.rw/fileadmin/docs/statistics/Telecom_Statistics_Report_December_2013.pdf.*
[7] *Universal Access Fund, http://www.rura.rw/index.php?id=7 and Universal Access Fund Current Status inStatisticsAndTariffInformationInTelecomSectorAsOfDecember2013http://www.rura.rw/fileadmin/docs/report/Annual_Report_2012_2013.pdf*

Relevant Agencies

Rwanda Utilities Regulatory Agency (RURA) was established under the 2001 law governing telecommunications as an autonomous institution to regulate the provision of public utilities goods and services, including telecommunications. The 2001 law was amended in 2013 and RURA's mandate was extended to include "telecommunications, information technology, broadcasting and converging electronic technologies including the Internet and any other information and communication technology."[8]

The President appoints members of RURA's board. As part of its duties, the board is tasked with having "due regard" to the country's security and national defense "when making decisions concerning certain public utilities". According to the enacted law, the agency is independent, open, transparent and objective when carrying out its activities. However, Article 30 gives the Prime Minister powers to revoke any RURA decision, "if it appears that the security of Rwanda or relations with any foreign country may be adversely affected it."

RURA is financed through fees levied for the application and grant of licences to utility operators and annual fee percentages of operator turnover. Article 8 requires operators to provide information about their activities to RURA. This information includes financial, technical, scientific, marketing, commercial, legal cases and product information within a specified period. In Article 10, RURA has the powers to access the business premises of operators "with or without notice" to inspect and obtain any type of necessary information where it is believed that the operator is acting in contravention of the law.

The Media High Council (MHC)[9] was set up to advocate for media freedom, build capacity, participate in initiating and implementing policies and strategies to develop the media sector, and assist in creating an enabling environment for the development of the sector. According to the Law determining the responsibilities, organisation and functioning of the MHC of 2013, the governing board of the council is appointed by presidential order.[10]

The Rwanda Media Commission (RMC) was established under the 2013 Law Regulating Media[11] as the media industry's self-regulatory body. Its mandate is (1) Promoting, nurturing and protecting ethical journalistic practices; (2) defending media freedom and; (3) speaking on behalf of the media fraternity as a whole, especially in matters related to the promotion and protection of ethical standards as well as media freedom. The commission, whose operations are in infancy stages, "enforces the journalistic code of ethics, acts as the primary and highest adjudicator of complaints against the media, represents the broader interests of journalists and defends media freedom and media consumers in general."[12] In March 2014, the commission's head dismissed reports that there was no freedom of the press in Rwanda.[13]

The Rwanda Internet Exchange (RINEX) aims to facilitate faster and cheaper local internet traffic. Currently, five of the ten local ISPs have opted to peer through the RINEX and the rest use international gateways.[14]

[8] *Law No. 09/2013 Establishing Rwanda Utilities Regulatory Authority (RURA), http://www.rura.rw/fileadmin/laws/Official_Gazette_no_14_bis_of_08_04_2013.pdf*
[9] *Media High Council, http://www.mhc.gov.rw/general-information/home.html*
[10] *Law No. 03/2013 Determining the Responsibilities, Organisation, and Functioning of the Media High Council (MHC), http://www.mhc.gov.rw/fileadmin/templates/PdfDocuments/Laws/Itegeko_rishya_rya_MHC_-_Official_Gazette_n__10_of_11_March_2013.pdf*
[11] *Law No.2/2013, http://www.rura.rw/fileadmin/laws/Media_Law_Official_Gazette_no_10_of_11_03_2013.pdf*
[12] *Igihe, http://igihe.com/IMG/pdf/rmc_tor_background.pdf*
[13] *James Karuhanga, Regulatory commission rebuts state of media report, The New Times, March 25, 2014; http://www.newtimes.co.rw/news/index.php?i=15672&a=75569*
[14] *Rwanda Internet Exchange, http://www.rinex.org.rw*

Policy and Regulatory Environment

Freedom of Expression and Media Freedom

Article 33 of the Rwanda's 2003 Constitution guarantees freedom of thought, opinion, conscience, religion and worship. It states, "Freedom of thought, opinion, conscience, religion, worship and the public manifestation thereof is guaranteed by the State in accordance with conditions determined by law." [15]

Article 34 also provides for freedom of information and freedom of the press. This freedom, however, must not "prejudice public order and good morals, the right of every citizen to honour, good reputation and the privacy of personal and family life. It is also guaranteed so long as it does not prejudice the protection of the youth and minors." [16] The 2013 Law Regulating Media[17]determines the rights, obligations, organisation and functioning of media in Rwanda. It gives journalists the right to freedom of opinion and expression, including the "right to seek, receive, give and broadcast information and ideas through media."Section 3, Article 19 of this law is dedicated to internet based media and states, "Every person has the right to receive, disseminate or send information through internet. He/she is entitled to the right of creating a website through which he/she disseminates the information to many people. Posting or sending information through the internet does not require the user to be a professional journalist."

The 2013 law was welcomed as a positive reform of the regressive 2009 law for its recognition of self-regulation, the legal rights for journalists and no requirements for academic qualifications. However, some critics note that the law fails to meet international standards by maintaining control of media through strict accreditation requirements, not adequately protecting journalist sources and maintaining broad and vague provisions relating to defamation, "divisionism" and "genocide ideology". [18]

Access to Information

Public access to information in the possession of Rwandan authorities is provided for in the Law Relating to Access to Information of 2013. [19] The law outlines the procedures and modalities for requests, receipt, copy and use of information. Information requests can be made in "writing, telephone, internet and other means of communication." However, the law has no provisions for response times to information requests. Article 11 states that an information officer takes a decision to release information "according to priorities".

Privacy and data protection

The 2001 Law Governing Telecommunications [20] requires operators to only collect and process personal information of individual users, which is "strictly necessary for providing bills to users and for determining interconnection payments." Indeed, Article 54 of the law recognises privacy and data protection, and forbids interception of communications. It states, "every user's voice or data communications carried by means of a telecommunications network or telecommunications service, remains confidential to that user and the user's intended recipient of that voice or data communications."

[15] *Constitution of Rwanda(2003), http://www.rwandahope.com/constitution.pdf*
[16] *ibid*
[17] *Law No.2/2013, http://www.rura.rw/fileadmin/laws/Media_Law_Official_Gazette_no_10_of_11_03_2013.pdf*
[18] *Article 19, http://www.article19.org/resources.php/resource/3665/en/rwanda:-media-law-does-not-go-far-enough and http://www.article19.org/resources.php/resource/2919/en/rwanda:-proposed-media-law-fails-to-safeguard-free-press*
[19] *Law No.4/2013, Relating to Access to Information, http://www.rura.rw/fileadmin/laws/Media_Law_Official_Gazette_no_10_of_11_03_2013.pdf*
[20] *Law No. 44/2001 of 30/11/2001 Governing Telecommunications, http://www.rura.rw/fileadmin/laws/TelecomLaw.pdf*

However, this provision does not apply if a court has authorised the interception or recording of communications in the interests of national security and the prevention, investigation, detection and prosecution of criminal offences. An application to the court, supported by evidence "which clearly demonstrates that the interception of communications is necessary" may be made by the ministry of justice, the ministry of defence, the ministry of commerce or the regulatory board.

If a court makes an order permitting the interception of communications under the 2001 law, it may:

- Limit the extent of that order to a particular type of interception
- Limit the duration in time of the interception of communications
- Specify the persons permitted to carry out the interception of communications
- Limit the geographical area in which the interception of communications may take place.

Besides, Article 52 of the telecommunications law gives the government sweeping powers to "do all such things as are necessary concerning telecommunications networks and telecommunications services as it ensures the preservation of the national integrity." This includes the power to interrupt private communications which "appear" dangerous to national integrity, contrary to the law, public order or public morals; and to suspend a telecommunications service for an "indeterminate period" either generally or only for certain communications.

In August 2013, the Rwandan government passed amendments to a 2008 law relating to the interception of communications.[21] In the new law, national security services can apply for issue of an interception warrant to monitor citizens' voice and data communications on grounds of national security. Article 4 of the interception law "strictly" prohibits the interception of communications of the president.

Government authorities of "the relevant security organs" are authorised to apply for an interception warrant. Warrants are issued by a national prosecutor who is appointed by the justice minister (Article 9). In urgent security matters, a warrant may be issued verbally, "but the written warrant shall be completed in a period not exceeding twenty four (24) hours". A warrant shall be valid for three months.

Whereas Article 7 of the 2013 law requires service providers to ensure that their systems "are technically capable of supporting interceptions at all times, security organs have powers to intercept communications using equipment that is not facilitated by communication service providers." Article 10 states that authorities can apply for a warrant "without recourse" to the communication service providers. The law relating to arms governs the equipment used for such interception and the president has the powers to determine which organ is in charge of such equipment.

Article 12 provides for the appointment of "inspectors" to ensure that authorised interceptions are enforced in accordance with the law. However, the independence of these inspectors may be called into question given that they are appointed by the president.

[21] *Law No.60/2013 Regulating the Interception of Communications, http://rema.gov.rw/rema_doc/Laws/Itegeko%20rishya%20rya%20REMA.pdf*

Intermediary Liability

Chapter 3, Article 8 of the 2010 law relating to electronic messages, electronic signatures and electronic transactions [22] absolves intermediaries and telecommunications network service providers of liability of the contents of documents or electronic messages transmitted through their networks by an individual. This liability applies to the creation, publication and dissemination of electronic messages on the network, and the use of such electronic messages in contravention of the law. Furthermore, telecommunications operators and intermediaries are not liable for providing access to information, transmission or its retention, as long as they do not initiate the transmission of the information or select the addressee and cannot modify the electronic communication (Article 10).

On the issue of hosting, Article 12 states that service providers are not liable for damages arising from information stored as long as they are not aware that the information or activity relating to the information infringes any person and "upon receipt of a takedown notification provided by this law acts expeditiously to remove or to disable access to the information."

Take down notices are provided for in Article 14. A written complaint by an individual or organisation, containing, among others, the names and address of the offended party, the rights infringed, justification of the unlawful activity and the remedial action sought of the unlawful activity must be sent directly to the service provider. The article makes no provisions for appeal or procedures to be followed by service providers in dealing with take down requests.

A general provision for computer misuse and cybercrimes is made in Article 65 of the 2010 law. It states that any offences committed shall be punished in accordance with the provisions of the Penal Code. [23]

However, the limited liability provisions of the above law are restricted by telecommunications service provider obligations as set out in their licensing agreements and the telecommunications law.

Other relevant laws

The above laws notwithstanding, the penal code, and legislations on discrimination, sectarianism and genocide ideology broadly restrict freedom of expression, including on the internet. Criminal offenses include authoring of speeches, written statements or actions based on ethnicity, origin, colour, sex, religion, which may cause conflict, strife or an uprising. Transmission over radio, television, in a meeting or "public place" is punishable by a fine of up to 5 million Rwandan francs (USD 8,100) and up to five years imprisonment. [24]

Statutes in the Penal Code forbid defamation of the head of state or other public officials, which can carry up to five years in prison and fines of up to 10,000 Rwandan francs (USD 16). Meanwhile, the 2008 law on Genocide Ideology similarly threatens freedom of expression

[22] *Law No 18/2010 Law relating to electronic messages, electronic signatures and electronic transactions, http://www.minicom.gov.rw/IMG/pdf/Law_relating_to_electric_messages_electronic_signatures_and_electronic_transactions.pdf*

[23] *Law No 01/2012/OL of 02/05/2012 Organic Law instituting the penal code; http://www.police.gov.rw/uploads/tx_download/Official_Gazette_no_Special_of_14.06.2012-4.pdf*

[24] *Law NO 47/2001 on Prevention, Suppression and Punishment of the crime of Discrimination and Sectarianism, http://www.geneva-academy.ch/RULAC/pdf_state/Law-47-2001-crime-discrimination-sectraianism.pdf*

online. It prescribes heavy prison sentences and fines for any offender who disseminates genocide ideology– described as "aggregate of thoughts characterised by conduct, speeches, documents and other acts" aimed at inciting others in public.[25]

Following international criticism[26] of Rwanda's freedom of expression record, the country's government has taken positive steps on amending the genocide law. In July 2013, the Senate approved amendments to the law to include a less ambiguous definition of offenses and a requirement to prove criminal intent of a suspect. Sanctions were also reduced from 25 years imprisonment to 9 years. To date, the president is yet to assent to the new law.[27]

Internet Freedom Violations

Internet users in Rwanda are reported to have become more vocal in criticising the government, particularly on social media, probably because of the perceived anonymity of the web. According to Freedom House, in 2012, Rwandans used Twitter to protest a decision by the Kigali City Council to close down a local entertainment venue. In the same year, in response to a United Nations Report implicating Rwanda in the armed conflict in neighbouring Congo, Rwandans used the social media platform to circulate a petition against development aid cuts.[28][29] However, there have been recent reports that the government uses false user accounts on Twitter to intimidate journalists and spread propaganda. According to the Committee to Project Journalists, in March 2014, an official in the Office of the President taunted foreign journalists over their coverage of the government's possible involvement in the murder of an opposition leader. The Twitter account used was found to be a pseudonym belonging to a staff of the president's office.[30]

In April 2014, it emerged that Rwanda had intercepted the communications of two suspects in a treason and terrorism case. Private messages sent over the phone, Whatspp and Skype by a local musician were presented in court as evidence to show that he, together with a local radio journalist, conspired with an exiled opposition group to topple the government.[31]

In the same month, the editor of an online news publisher reported that his website had been hacked by an unknown actor. John Williams Ntwali alleged that he had lost control of www.ireme.net and disowned content posted under his name. It was initially reported that Mr. Ntwali had fled the country but in an interview with a local media house, he denied fleeing.[32] As of early May 2014, the website www.ireme.net was down for maintenance.

[25] *Law No18/2008 Relating to the Punishment of the Crime of Genocide Ideology, http://www.refworld.org/docid/4acc9a4e2.html*
[26] *Amnesty International, Restrictions on Freedom of Expression in Rwanda, http://www.amnesty.org/en/library/asset/AFR47/002/2011/en/ef7cd1a3-d1db-46da-b569-818b7555b83b/afr470022011en.pdf*
[27] *Draft Law on Genocide Ideology heads to State, http://www.newtimes.co.rw/news/index.php?a=68728&i=15421 and Senate Approve Genocide Law, http://www.africareview.com/News/Rwandan-senate-approves-amended-anti-genocide-law/-/979180/1932950/-/ddevp9z/-/index.html*
[28] *The New Times, Twitter: 2012 was a very interesting year for 'RwOT", http://newtimes.co.rw/news/views/article_print.php?&a=13541&week=52&icon=Print*
[29] *Freedom House, Freedom on the Net 2013: Rwanda, http://www.freedomhouse.org/report/freedom-net/2013/rwanda#.UzydzVx87Rc*
[30] *CPJ, Twitter War Shines Light on How Rwanda Intimidates Press, http://www.cpj.org/blog/2014/03/twitter-war-shines-light-on-how-rwanda-intimidates.php*
[31] *The East African, Phone Evidence Used in Terror, Treason Case, http://www.theeastafrican.co.ke/news/Phone-evidence-used-in-terror/-/2558/2294196/-/klwpvi/-/index.html*
[32] *Ireme Website Editor Dismisses Fleeing Claims, http://en.igihe.com/news/ireme-website-editor-dismisses-fleeing-claims.html*

Meanwhile, there were reports that Stanley Gatera, editor of online news site Umusingi, was arrested and detained for six hours by authorities on charges of attempted extortion. Mr. Gatera, who had in March 2014 given an interview to Al-Jazeera's People and Power programme on the difficulties of practicing journalism in Rwanda, is alleged to have fled the country. [33]

During a press conference on the April 2014 incidents, an RMC official was reported as stating that the ongoing cases against journalists were related to crimes outside the profession.[34]

Nonetheless, in 2013, Freedom House reported that a few critical news websites that were previously blocked in 2010-2011 were intermittently inaccessible throughout 2012 and early 2013 and a number of critical blogs were unavailable altogether. It was unclear whether their unavailability was due to direct government interference or technical issues.

According to Freedom House, it was reported that online news websites, Umusingi-www.umusingi.com and Umurabyo – www.umurabyo.com, were contacted by authorities during 2012 and early 2013 to delete content related to local political affairs and ethnic relations. Umusingi and Inyereri – also a news site - were reportedly blocked on some ISPs. The former was first blocked in 2011 but as of mid 2013 its content remained available only via its Facebook page.[35] The content of other websites that had been blocked over the years was accessible through their associated blogs.[36]

In June 2011, Jean Bosco Gasasira, the exiled editor of Umuvugizi newspaper, was sentenced to two and half years in jail for civil disobedience and insulting President Paul Kagame on the online version of his newspaper.[37] In April of the previous year, the print publication of the same newspaper had been suspended for six months for allegedly inciting violence and criticising the head of state.[38] The MHC ordered that the website be blocked, arguing that the ban on the newspaper had to apply online as well. Umuvugizi was unblocked after the six-month suspension period had expired, though it reportedly experienced periodic filtering throughout 2011.[39]

John Kalisa, a citizen journalist with the entertainment website Kigalihits[40] was at the end of 2012 arrested on allegations of defamation after he posted a photo of a young girl on a drinking spree on his Facebook wall. Mr. Kalisa had previously been arrested and warned on similar offences.[41]

There are no documented reports of phone tapping in Rwanda. At the time of writing, there were no organisations in the country which were promoting online freedoms or safety and responsible behaviour.

33 *Wave of Intimidation of Kigali Media, http://allafrica.com/stories/201404282091.html?viewall=1*
34 *Media Council Issues Journalists Stern Warning, http://allafrica.com/stories/201404220295.html*
35 *Umusingi Newspaper, https://www.facebook.com/pages/Umusingi-Newspaper/122730681083696*
36 *Freedom House,Freedom on the Net 2013: Rwanda, http://www.freedomhouse.org/report-types/freedom-net*
37 *http://www.umuvugizi.com/?lang=en*
38 *CPJ, Rwanda: Exiled editor sentenced for 'insulting' president, http://www.cpj.org/2011/06/rwanda-exiled-editor-sentenced-for-insulting-presi.php*
39 *CPJ, Rwanda: Rwanda news Web site blocked after paper suspended, http://www.cpj.org/2010/06/rwanda-news-web-site-blocked-after-paper-suspended.php*
40 *http://kigalihits.net*
41 *Rwanda Journalist Arrested Over Defamation, http://www.rwandashow.com/celeb/1571/rwanda-k-john-arrested-over-defamation/*

Recommendations

- Whereas online user rights are recognised in various laws, restrictions applied in the context of national security, sectarianism and genocide ideology should be more explicitly defined.
- There is need for progressive amendments to the Interception of Communications law outlining the modalities and procedures of interception, particularly when a telecommunications service provider does not facilitate it or where interception is on the basis of a verbal warrant.
- Civil society including activists, media, academia and other stakeholders need skills training in staying secure online and in responsible user behaviours online. This would result in awareness on individual safety and security as well as increased advocacy to promote and protect internet freedoms.
- The Media High Council, RURA and related state organs should make public and consult stakeholders on their procedures prior to taking action against internet users and the mechanisms employed in media monitoring.
- The 2013 law regulating media makes no distinction between professional journalists and citizen journalists. Provisions should be made clearer on the rights and penalties under which the two kinds of journalists operate.

This report was produced by the Collaboration on International ICT Policy in East and Southern Africa (CIPESA) under the Open Net Africa initiative (www.opennetafrica.org) which monitors and promotes internet freedoms in a number of African countries including Ethiopia, Kenya, Rwanda, Burundi, Tanzania, Uganda and South Africa. As part of the project, we are documenting internet rights violations, reviewing cyber security policies and how they affect internet freedoms, promoting information availability and conducting awareness-raising.

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