



Decriminalisation of Laws Limiting Freedom of Expression in Africa: Burundi Executive Summary

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EXECUTIVE SUMMARY: BURUNDI

1. INTRODUCTION

This report into the use of laws that criminalise freedom of expression in Burundi is one of six country research projects into the impact of these laws conducted by the University of Pretoria on behalf of the Freedom of Expression Rapporteur of the African Commission on Human and Peoples Rights. The objective of the study is to assess whether or not the existence of such laws does limit freedom of expression in practice – and if so, the impact these laws have on this.

1.1 KEY FINDINGS

- While the constitution of Burundi promotes freedom of expression, there are a number of laws which are seen as potentially inhibiting freedom of expression. These included the Press Law (2013), the Criminal Code, the Anti-Corruption Law and the law governing the holding of public events. Provisions include bars on false news, defamation, and insulting the head of state.
- Journalists in private media, members of the opposition parties and leaders of human rights organisations and other NGOs have been the most targeted by authorities for alleged breach of provisions in the laws. While there have at the time of finalising this research (June 2014) been no prosecutions under the new Press Law, over the years individuals and organisations have faced charges and arrests under the previous law as well as under other laws. Many of these cases have not been resolved and those charged face ongoing threats of prosecution.
- There have been a range of campaigns launched against the 2013 amendments to the Press Law, including the lodging of a constitutional court challenge to the law and a petition to the East African Community's Court of Justice. Media unions and human rights based NGOs have also successfully launched advocacy initiatives to lobby for the release of those arrested on related charges.
- The major concerns raised about the Press Law regard the fines imposed for transgressions (the law removed imprisonment as a sanction but increased the fines applicable) and limitations on the right of journalists to protect their sources.
- Media groups have also been suspended from publishing for periods of time by the statutory regulatory body – the National Communications Commission (CNC).
- Concerns have been raised that the laws might increasingly be used in the lead up to the 2015 elections.

2. BACKGROUND

2.1 COUNTRY FACTS

Burundi became fully independent in 1962. It had previously been administered jointly with Rwanda by Belgium. The post-colonial period was however marred by decades of political instability and inter-ethnic conflict resulting in repeated coups d'état and the assassination of several Presidents of the country. Multi-party democracy was introduced in 1992, however shortly after the first multi-party elections in 1993 the elected president was assassinated, sparking off an over-decade long civil war. In 1995 the African Union initiated discussions to broker peace with the Arusha negotiations. The Arusha Peace and Reconciliation Agreement

was signed in 2000 and a power-sharing agreement finally brokered in 2003 putting in place a transition process. A new constitution was adopted in 2005 following a referendum.

The Constitution guarantees freedom of expression and this is reinforced in laws such as the Press Code which was amended in 2013. The Constitution further states that a National Communication Council (CNC) will be established to protect and promote freedom of expression, “having regard to public order morality” (Article 205). The CNC was established through legislation in 2007 (Law 1/18). It covers online media, broadcasting and print. The law further gives the Council regulatory powers including the power to suspend or close down media outlets it finds do not adhere to specified standards.

The government has begun a process of revising the 2005 Constitution though the move has been criticised by the opposition and sectors of civil society who have accused it of wanting to entrench executive power. A new draft Constitution was rejected by one vote in 2014. The draft Constitution proposed among other things removing the CNC from the Constitution, thus raising concerns that its mandate to protect freedom of expression will be compromised.

According to the most recent census (2008), the population then stood at just over 8 million people. Almost 90 per cent of population lived in rural areas and relied on subsistence farming. The country has low education levels – and only half of the population according to statistics is functionally literate.

2.2 OVERVIEW OF MEDIA

There is a vibrant and diverse media in Burundi. The introduction of new private media started in 1992 with the development of the new Constitution. Prior to that there was only one private newspaper group, and the rest of the media (print, radio and television) were state controlled.

There are now five television channels – including one public TV channel and four private services. There are 22 licensed radio services – including one national public service. Four of the commercial services have national licences, with others covering specific geographic areas. Several of the 21 privately owned radio services are linked to either the ruling party or opposition parties. There are two news agencies – one that is government owned and the other linked to the opposition.

There are also a number of print publications – including both government controlled newspapers and one’s affiliated with the opposition.

Radio is the most accessible and used medium: According to the research, only 5% of the population does not listen to the radio, whereas 60% say they never watch television. The press is the least accessed medium, with 88% of Burundians say they never read newspapers.¹

As noted above, the National Communication Council, CNC, is a statutory regulatory body with oversight of print, broadcasting, the internet and cinema. It is a constitutional entity charged with promoting and protecting freedom of expression. In terms of the law establishing the Council (adopted in 2007 and amended in 2013), the Council not only gives licences to media organisations and accredits journalists, but has the power to sanction breaches of the Press

¹ Burundian Association of Broadcasters (ABR), Audit of the media by the media, Final Report, October 2013, pp. 92-93

Law. Concerns have been raised by journalists organisations in Burundi about the partiality of the CNC.

Journalists established a self-regulatory body – the Burundian Press Observatory – in 2004. At the time of finalising the report (June 2014), it was in the process of strengthening its governance structures and the code of ethics that it oversees.

2.3 LAWS THAT IMPACT ON FREEDOM OF EXPRESSION

The table below summarises some of the key legal provisions that criminalise freedom of expression. There are four primary laws that impact on freedom of expression:

- Law no 1/11 of June 2013 – the Press Law – which amended a 2003 law (and as can be seen below has been challenged by the journalists’ union),
- Law no 1/05 of 2009 dealing with the Criminal Code’
- Law no 1/12 of 2006 instituting measures against corruption’ and
- Law no 1/28 of 2013 regulating public demonstrations.

Offence/issue	Detail	Law	Penalties
Failure to reveal sources in defined circumstances	Requires the media to reveal their sources in relation to a range of vaguely defined offences such as state security, breaches of public order, breaches of defence security and breaches of the “physical and moral integrity of one or more persons”.	Articles 16 & 20, The Press law, 2013	BIF2m-6m ² (approximately US\$1 300 – US\$3 900) ³
Publishing information relating to state security	No information may be broadcast or published regarding national defence, state or public security. No classified information may be published	Article 19, The Press Law, 2013	BIF2m-6m (US\$ 1 300 – US\$ 3 900)
Publishing information undermining the stability of the currency	Cannot publish information that undermines the stability of the currency.	Article 19, The Press Law, 2013	BIF2m-6m (US\$1 300 – US\$3 900)
Breaching an individual’s privacy	Privacy, including personal and medical information must be protected	Article 19, The Press Law, 2013	BIF2m-6m (US\$1 300 – US\$ 3 900)
Publishing “offences and insults against the Head of State” or “a person charged with a public mission”	The Criminal Code bars publication of insults against the Head of State. It also criminalises defaming or insulting a person charged with a public mission “in the course of performance of their duties”. The Press Law also bars the publication by print or broadcast media of any information that insults the Head of State	Articles 378 and 379, Criminal Code 2009 Article 19, The Press Law, 2013	Criminal Code: 6 months to 5 years for insulting the President and/or fine of BIF10 000 – 50 000 (+/- US\$6.5 – US\$33) Press Law: fine of BIF2m-6m (US\$1 300 – US\$3900)
Publication of defamatory statements against public or private individuals	The Criminal Code states that it is a criminal offence to “maliciously and publicly” damage the honour of someone or expose them to ridicule. The Code does not include a defence of truth – so a person can be found guilty even if the accusation is true. The Press Law states that the media does not have the right to publish “defamatory, insulting, mendacious or offensive	Criminal Code, 2009 Article 19, The Press Law, 2013	Criminal Code: BIF 10 000 – 100 000 (US\$6.5 – US\$65) and/or 1 month to 1 -12 months imprisonment Press Law: BIF2m-6m (US\$1 300 – US\$3 900)

² Note that a January 2014 constitutional court ruling found the fines to be unconstitutional as the law defines them as “settlements” rather than penalties. The Court did not dispute the amount set but rather the wording. Once the legislature has amended the legislation in line with the judgement the fines will stand.

³ This is an approximate calculation of the US\$ equivalent based on the average exchange rate of US\$1 = BIF1545. The figures are rounded off.

	statements” against anyone.		
Publication of calls inciting civil disobedience	The law bars publication of calls inciting “revolt, civil disobedience, unauthorised public demonstrations, apologia for crime, conducting blackmail or fraud, ethnic or racial hatred”	Article 19, The Press Law, 2013	BIF2m-6m (US\$1 300 – US\$3 900)
Spreading propaganda from enemies of the country	The law bars the publication of propaganda during peace or war from enemies of Burundi	Article 19, The Press Law, 2013	BIF2m-6m (US\$1 300 – US\$3 900)
Publishing information undermining the State’s reputation and the national economy	The law bars broadcast or publication of information undermining the State’s reputation and the national economy	Article 19, the Press Law, 2013	BIF2m-6m (US\$1 300 – US\$3 900)
Publication of false news	It is an offence to “knowingly contribute to the publication, broadcast, replication ... of “false news, fabricated items, forgeries or items mendaciously attributed to others” ... “with a view to breaching the peace”.	Article 602, Criminal Code 2009	Two year imprisonment and/or fine of BIF100 000 – 200 000) US\$ 65 - 130
Breach of pre-trial investigation confidentiality	This is provided for in both the Criminal Code and the Press Law. It outlaws publication of any information about a pre-trial investigation by authorities.	Article 393, Criminal Code 2009 Article 19 Press Law	Criminal Code – three months imprisonment and/or fine of BIF50 000 – BIF100 000 (US\$33 – 65) Press Code – fine of BIF2m – 6m (US\$1 300 – US\$3 900)
Falsely accusing someone of corruption (slander)	It is a crime to knowingly falsely accuse someone of, among other things, corruption, influence-peddling, embezzlement, money laundering etc to an official or through the press	Article 14, Anti-Corruption law, 2006	In the case of an individual, five – 10 years imprisonment and/or fine of BIF500 000- 1m (US\$ 165 – 650) In case of institution (eg a media organisation), fine of BIF5m-10m (US\$3 250 – 6 500)
Restrictions on public gatherings	The law on public gatherings requires prior permission for gatherings and demonstrations and provides that authorities can delay or prohibit meetings “in the interests of public order” . It also holds organisers criminally and civilly liable for actions and statements by others at any gathering.	Articles 5 , 12 & 13 Public Gatherings Law	Organisers are liable for civil and criminal prosecution as a result of actions of others at meetings.

Note that the 2013 amendments to the Press Law removed prison sentences as a penalty for violation of the provisions, though in some instances, as highlighted in the table, other laws still include these for some offences stipulated in the Press Law. The Burundi government has argued that the increase in the fines reflects this changed approach. However, under the Criminal Code, any person who cannot pay a fine awarded by a court within a specified period will face imprisonment for a period to be determined in the judgement.

While clauses in the Criminal Code relating to terrorism and treason do not specifically deal with the media, they are also important to consider as they have been used to charge journalists.

In order to assess the proportionality of the fines and penalties, the research looks at the average salary for media professionals as a means of understanding the real value of the fines provided for. In the private sector, an intermediate level media professional earns between BIF 250 000 – BIF 500 000 (US\$160 – 320) per month. The minimum fine therefore provided in the 2013 Press Law (US\$1300) is close to ten times the average monthly salary of an intermediate level media professional. In section 3.2 below, actual penalties awarded in key cases are

indicated. In 2012, the head of one of the NGOs was fined BIF 500 000 (or approximately US\$320) – the equivalent of the highest monthly salary for an intermediate professional.

The 2013 Press Law has been criticised for not linking the fines to the alleged misdemeanour but providing for a blanket fine and for upping the fines substantially from the penalties provided for the same infringement in other laws (by close to 50%) .

3. LAWS IN PRACTICE

3.1 SUMMARY OF KEY CASES CHALLENGING THE LAWS

- In 2013 the Union of Burundian Journalists (UBJ) challenged a new media law in the constitutional court. In January 2014 the Court ruled that the penalties were unconstitutional as the law referred to these as “settlements” and not penalties. The Court did not find the penalties too harsh and thus they will apply should the legislature amend the law to remove the word “settlement”. The Court decided that other provisions, including those requiring registration of journalists, removing confidentiality of sources and limiting investigative journalism did not contravene the Constitution.
- The UBJ also petitioned the East African Community’s Court of Justice on the new media law, arguing that the provisions violated treaties which the country is party to. The Union charged that provisions such as those that limit protection of journalistic sources, the powers given to the National Communications Council and provisions relating to censorship of Burundian films violated commitments to freedom of expression. The matter has been set down for January 2015.

3.2 KEY CASES

- In 2008, an online journalist for Net Press was arrested for writing an article alleging that there had been misappropriation of funds in relation to an allowance paid to the President for a trip to the Beijing Olympics. The journalist, Jean Claude Kavumbagu, refused to reveal his sources for the story. He was charged under the Press Code with insulting and breaching the honour of the President. After six months in detention, he was released after the case was dismissed as the court ruled that the President rather than the Secretary General of Government could lodge the case.
- In 2010, Kavumbagu, was again charged – this time for treason and defamation for publishing an opinion piece questioning the capacity of the security forces to counter a terrorist attack by Shabbab militia members. The commentary alleged that the security forces were better known for “looting and killing” Burundi citizens. After ten months in prison, Kavumbagu was sentenced to eight months in prison and a fine of BIF 100 000 (US\$65). The court released him immediately as it ruled that he had already served the sentence. He was found guilty of the lesser charges of undermining the economy and discrediting the state. The judge dismissed the charge of treason as he said the country was not in a legal state of war. The defamation charges were also dismissed as the court ruled that only a person and not an institution could be defamed.
- In September 2011, the National Communications Committee together with the Minister of Communications imposed a one month ban on reporting on a massacre by militia disguised as police near the border of Burundi and the Democratic Republic of Congo in which 39 people were killed. The CNC and the Minister issued the ban under provisions in the Press Law and in the Criminal Code barring reporting of pre-trial investigations. Three private

radio stations decided not to adhere to the ban, arguing that the legal limitations only applied to investigations conducted by a commission of inquiry established and not investigations by the media. They aired an interview with a person claiming to have witnessed the massacre who alleged that high level members of the security forces had been involved. Representatives of the stations were subsequently summonsed by the Public Prosecutor for questioning in relation to their coverage of the massacre and warned of possible prosecution. No prosecution has however subsequently followed.

- In February 2012 the head of a Burundian think-tank (Parole et Action Pour le Réveil des Consciences et l'Evolution des Mentalités - PARCEM) was arrested and charged with making false statements under the Anti-Corruption Law after stating in a letter to the President and in a media statement that several magistrates had informed the organisation that they had had to pay bribes in exchange for appointment. Faustin Ndikumana was released on bail after spending two weeks in prison. In July 2012 he was sentenced to five years imprisonment and a fine of BIF 500 000 (US\$325). The court also ordered Ndikumana and PARCEM to pay the Minister of Justice the sum of BIF 10,000,000 (US\$ 6 515) for moral damages. He is currently (November 2014) on bail pending an appeal against his conviction, and his movements are severely restricted under the bail conditions. No date had been set for his appeal by November 2014.
- In June 2012, a journalist for independent radio station Radio Bonesha and for Radio France International was sentenced to life imprisonment after being found guilty of participation in terrorist acts. Hassan Ruvakuki was charged after he had interviewed members of a new rebel group in Eastern Burundi. The state claimed that he had used his journalism work as a cover for terrorist activities. After an appeal, his sentence was reduced to three years. The judge accepted that he was not guilty of treason as he was not a member of the rebel group but found that he had aided and abetted armed men by recording an interview with their leader. After local and international human rights organisations protested the judgement, Ruvakuki was released in March 2013, purportedly for health reasons, just less than 18 months after he was initially arrested.
- A number of meetings organised by non-governmental organisations and opposition parties have been banned using provisions set out in the public gatherings Act or disrupted by police while in process. For example, in February 2014 a workshop of the Burundi Bar Association was banned and in March 2014 a meeting of the MSD party was not allowed to go ahead.
- While it is not a court, judgements by the statutory regulator, the CNC, are important to highlight. It has on several occasions warned media organisations and has suspended broadcast programmes or sections of print media for set periods. For example, in 2013, the section for visitor comments to a news-focused website (www.iwacu-burundi) was suspended for 30 days after the Committee ruled that certain comments were insulting to the head of state. In 2012, commentary and the editor's view point programmes on a private radio station, Radio Rema, a private station affiliated with the government, were suspended for 30 days after being found to be defamatory of civil society leaders.

In addition, the research indicates that the laws are used at times to intimidate people rather than actually charge them under the provisions. Several instances where journalists and or civil society leaders have been summonsed for questioning and threatened with prosecution which has not ensued are cited. For example, in November 2011 several staff members of different private radio stations were threatened with prosecution under different legal provisions. The

radio stations asked listeners to honk their car horns at lunchtime on a set day to protest political violence and harassment of the media. The stations received letters the day after the protest from the Minister of Telecommunication, Communication and Information saying that their actions calling for protest were regarded as “an attack on public peace”. The case has never been pursued but remained open as of November 2014.

3.3 ADVOCACY INITIATIVES IN THE COUNTRY

As noted previously, journalist organisations and other NGOs have actively campaigned against the laws, lodging petitions, using their platforms to promote debate about them and launching constitutional court and other challenges. They have lobbied both local organisations and communities and the international community. As a result of this, several countries (including France, other members of the European Union and the USA) have issued statements condemning the laws. The African Commission’s Special Rapporteur on freedom of expression and access to information has also held meetings to raise concern over provisions.

On 7 March 2014, High Commissioner for Human Rights Navi Pillay denounced the increase in restrictions imposed on the freedom of assembly and on the press ahead of the 2015 elections. She expressed concern at violent incidents involving members of the youth wing Imbonerakure against political opponents since the beginning of the year, the disruption by administrative authorities of meetings organised by an opposition party in February and the introduction of new laws creating disproportionate restrictions on peaceful assembly and freedom of expression. She also expressed concern about the authorities’ preventing the Bujumbura Bar Association from holding a workshop on the new law on public gatherings on 18 February.

4. IMPACT OF LAWS

Sixteen people from a range of government institutions, media and civil society organisations were interviewed for the research⁴. One of these, a magistrate, requested anonymity. Interviewees included those who have been charged under the laws to assess the impact on their professions and lives of such prosecution.

All of those interviewed were aware of the different laws, though their perspectives on these generally differed depending on their position (eg whether they are in state or independent media organisations, or from opposition or the ruling party).

Those that raised concern about the laws cited the new Press Law, the law governing public events, the Criminal Code and the Anti-Corruption Law.

4.1 EXPERIENCES OF LAWS

Journalists in the private media, members of human rights based NGOs and opposition parties are most often charged under the laws according to interviews and analysis of recent cases. Those interviewed raised concern about arrests and trials under provisions, but also highlighted that many cases are opened but never concluded. A magistrate interviewed for the research suggested that this might be a ploy to keep media and critical voices compliant as there is always a pending threat of prosecution.

⁴ A list of interviewees is provided in the attached appendix

One of those that has faced extensive legal action is editor in chief of private radio station Radio Publique Afrique (RPA), Bob Rugarika. In the five month period from July to November 2011 alone for example he was summonsed to appear before the public prosecutor 10 times. Accusations put to him included charges of promoting an uprising for airing a speech by the USA's Hillary Clinton in which she referred to the Arab Spring and insulting the head of state for broadcasting press conferences by opposition parties and others critical of the authorities. In an interview for the research he said that while many cases have been "opened" against him, the majority of these have not been followed up on or closed. This he said is intended to keep him constantly aware that numerous charges could be laid at any time.

Rugarika says that this has had a negative impact on his family and that his wife had left the country in fear of his arrest and out of concern for the family's safety. He said that he is also continually conscious that he could be arrested at any time and aware of being watched everywhere he goes. He said that the new Press Law had made both him and the journalists working for RPA particularly cautious as they are concerned about being compelled to reveal their sources on stories and the implications of this. He said this has a definite impact on investigative journalism in the country.

Award winning journalist for RPA, Domitille Kiramvu, has also faced prosecution. After the station ran an investigation into the murder of a World Health Organisation in 2001 she was interrogated for eight hours and repeatedly asked to reveal the station's sources. While she was not charged in that instance, she said that she was harassed following this, tailed by the secret police who she says openly watched her house. A source within the secret police told her that they did not intend to eliminate her but frighten her so that she would quit her job.

In 2006 she, along with other independent journalists, was arrested after running a story about an attempted coup. They were charged with interfering with a pre-trial investigation of the coup leaders under the original Press Law. She was arrested after questioning in November 2006 and imprisoned for 70 days (until February 2007) while the trial continued. The charges against the journalists were all dismissed as it was found that the 2003 law did not specifically indicate that coverage of pre-trial investigations was a criminal offence. Kiramvu said in the interview that both her emotional and physical health had been negatively affected by her imprisonment. She said that she had been bullied in jail (with for example dead rats placed in her bed) and had constantly worried about her three children.

"After the 70 days spent in Mpimba prison, I estimate that I lost 10 years of my life expectancy. I emerged from the prison having lost a great deal of weight, with grey hair, stomach problems and high blood pressure, whereas I had been in very good health when I went in."

Jean Claude Kavumbagu is the managing editor and founder of Net Press. He says that since founding the online news agency in 1996, he has been imprisoned five times (for periods from five days to six months). He has faced a range of charges including failure to pay a legal deposit for the agency, defamation, insulting the Attorney General and the President,

terrorism and links with sites that are critical to Burundi authorities (see section 3.2 above for details on some of these cases). He says the prosecutions are attempts to intimidate him and his agency into silence.

The agency has also been suspended from publishing by the statutory regulator on three occasions (for eight months in 1997, 36 days in 2002 and one week in 2005).

Kavumbagu says that international and local campaigns relating to his charges have helped him deal with these at a personal and professional level. He has also received assistance with legal costs of about US\$3 000 and thus has not suffered financially. He however noted that conditions in prison in Burundi are “deplorable”, due in part to overcrowding (in May 2011 he says there were close to 3500 inmates in a prison built to cater for 800). The vast majority of those imprisoned are awaiting trial with only about 30 percent of prisoners having been convicted.

He said though that the ongoing legal and other harassment of the agency has impacted on its staff who are increasingly fearful of arrest and therefore avoid covering controversial stories.

Gabriel Nikundana is another journalist interviewed who has faced litigation. He was summonsed in 2006/2007 for reporting on the attempted coup. After hearing that he was being investigated by National Intelligence, he fled the country to Uganda. He said his exile resulted in emotional and financial difficulties. He had to sell properties in Burundi to survive, swindled by a fellow Burundi national who took away his documents and demanded a fee for their return and had to deal with an imposter pretending to international organisations that they were him. He had received assistance from Amnesty International and he says luckily his employer continued paying his salary. He returned in January 2007 after charges of those accused in the coup were dismissed.

While self-censorship was raised by many of those interviewed as one of the impacts of the new Press Law, others said that state media have always exercised caution to avoid being seen as critical of the ruling party. A communications lecturer and freelance journalist for state media, Athanase Ntiyanogeye, said, for example, that in 2002, he had been censured by his boss for covering the views of all parties involved in ceasefire negotiations held in South Africa. His editor had accused him of treason for allowing “enemies” perspectives to be heard and the story was never aired.

The Director of the state owned National Radio Network on the other hand denied there was any self-censorship. While he acknowledged that the Press Law in particular might impact on freedom of expression in Burundi, he said that his organisation is not biased in their reporting and do not censor information or criticism of government. He said that professionalism is key to avoiding legal actions.

Spokesperson of opposition party, the CNDD, François Bizimana said that another challenge faced by opposition parties according to Bizimana is the partisanship of state media towards the ruling party. The former member of the legislative assembly of the East African Community noted that a 2011 study on representation on the national state broadcaster found

that opposition parties and civil society representatives only received one per cent of airtime compared to 75 per cent for the government.

4.2 GENERAL VIEWS ON THE LAWS

The two most recent amendments to legislation were the most highlighted by interviewees in relation to freedom of expression challenges: the Press Law and the Public Gatherings Act.

Several of those interviewed stated that the fines in the new Press Law were so prohibitive that any media organisation found guilty of non-compliance with the requirements would be forced to close. There was also concern raised about the limitations set on the right of journalists to protect their sources – with interviewees saying this would stop whistle blowers from exposing corruption to the media and thus affect accountability and transparent governance.

While the new Press Law had not been used in any cases against the media at the time of the research, several of those interviewed said that they expected this and other laws to be increasingly used to silence critical voices before the 2015 elections in Burundi.

Government officials interviewed, and media and civil society organisation members seen to be close to the ruling party however stated that Burundi complied with all best practice provisions on promoting freedom of expression. They said that the real challenge in Burundi is unprofessional and partisan journalism. Ruling party and government officials interviewed said that the new law removed prison terms as sanctions and thus they argued reinforced freedom of expression and removed potential limitations in the previous law. They also argued that the provisions on confidentiality of journalist sources were in line with international best practice.

A magistrate interviewed for the research to gain insight into perspectives of those that have to apply laws requested anonymity. He stated though that he thought one of the challenges facing the judiciary is a lack of understanding of media law noting that this is not explicitly taught at Burundi's universities. This is exacerbated as there had not been any workshops or training on the new Press Law, for example, which should trump any other laws in charges brought against media members as it is specific to the sector. This could lead to magistrates and judges erroneously considering the Criminal Code for example rather than the Press Law.

5. RECOMMENDATIONS

As highlighted, there are ongoing campaigns in Burundi to amend the laws – including the Press Law. These should continue and be strengthened and supported.

The report also highlights that there is a need to review provisions in other laws and notes that monitoring of implementation of laws should be intensified in the run up to the 2015 elections to ensure that information in the country flows freely in this period.

It also states that the self-regulatory structure established by journalists and editors should be strengthened and that codes developed by the media should be rigorously promoted and enforced.

List of organisations interviewed if want to include it

- CNDD (Opposition party), spokesperson, François Bizimana
- CNDD – FPP (ruling party), MP, Aimé Nkurunziza
- National Intelligence Service, spokesperson, Téléphore Bigirimana
- A lawyer and member of the Burundi Bar, François Nyamoya
- Magistrate xx (requested anonymity)
- Communications lecturer, range of Burundi and Rwanda universities, Athanase Ntiyanogeye
- Journalist, presenter and one of the founding members of private radio station, - Radio Publique Africaine, Domitille Kiramvu
- Managing editor and founder of online news agency - Net Press, Jean Claude Kavumbagu
- Radio journalist, Gabriel Nikundana
- Editor in chief of Radio Publique Africaine, Bob Rugurika
- Director of the National Radio network (public/state), Emmanuel Ngendanzi
- Director, Bonesha FM (Private/community), Patrick Ndikumana
- Radio France International correspondent, Esdras Ndikumana
- Journalist, Philibert Musobozi
- Representative from the Forum for the Strengthening of Civil Society (FORSC), Vital Nshimirimana
- President, Plate-forme intégrale de la société civile burundaise (PISC), Samuel Nkengurukiyimna

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“The exorbitant fines are there for the sole purpose of shutting down the media considering their inability to pay such fines. As to the sources of information, they constitute the very soul of information. As such, compelling journalists to reveal their sources of information amounts to closing the sources of that information and thereby preventing its dissemination.” Spokesperson for opposition party, CNDD, François Bizimana

“The campaign waged by media professionals had an impact in the sense that some of their contributions were taken into account, in particular when it came to the amounts of the fines. The campaign was also positive because it provided an opportunity for a broad-based democratic debate, and raised the awareness of the society.” Ruling party MP and chairperson of the parliamentary committee that processed the Press Law 2013, Aimé Nkurunziza

“Revealing the identity of your sources merely exposes them to reprisals. Anyone in possession of ill-gotten gains considers whoever denounces him or her as a mortal enemy. A journalist who denounces criminal activities is performing a function that he chose to perform of his own accord in full knowledge of the risks involved, but ordinary citizens would prefer to remain silent if the information that they provide exposes them to legal proceedings or reprisals.” A magistrate

“During my sleepless nights, I was constantly thinking about my three children who were 14, 12, and 8 years old, respectively, at that time: what did they need? Were they healthy? What would happen if one of them fell ill? There is one thing I shall never forget, and that is Christmas day in 2006 and New Year’s day in 2007 which I spent without my children.”
Radio journalist, Domitille Kiramvu, on the period of imprisonment

“Even when you try to observe ethical principles and the code of conduct, you are always wondering whether you may not have violated one or the other provision of the new law. Each morning, we review the previous day’s broadcasts to determine whether we have not given the authorities an opportunity to strike. Action may be initiated by the National Communication Council which ... may shut down a media outlet after three warnings. Considering that the National Communication Council receives its orders from the Government, we are afraid of being forced to close down at any moment.... As a result, the station may find itself compelled to refrain from broadcasting certain types of information.” Director, Radio Bonesha

“For the time being, the Government has become more flexible and is allowing the media to operate freely, but with the 2015 elections coming up soon, things are likely to change. The provision prohibiting the media from covering unauthorised gatherings will undoubtedly be one of those that will be most frequently used to prevent the general public from being informed about the activities of opposition parties. Nevertheless, in spite of everything, the private press will continue to do its job.” Director, Radio Bonesha

“A handful of journalists, leaders of organisations and media barons, acting in cahoots with certain civil society leaders and a few politicians, sparked off a relentless and vicious campaign against the draft Press Law in Burund... This was followed [...] by large scale media hype which certain media used to proffer threats and words of intimidation against the President of the Republic and the National Assembly, as well as to defame individual parliamentarians and senators in relation to the proposed bill. The campaign also entails the deliberate distortion and misleading interpretations of the substance of the bill.”
Samuel Nkengurukiyimna, President of *Plate-forme intégrale de la société civile burundaise* (PISC)