



February 13, 2014

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RE: Investigation of Central African Republic for Crimes Against Humanity
EVIDENCE OF COMMUNICATIONS DISRUPTIONS

Dear Appointed Prosecutors:

We appreciate the opportunity to submit evidence to this investigation of human rights violations in the Central African Republic (“CAR”).

Access has gathered evidence indicating that the CAR government ordered communications network shutdowns during the summer of 2014. These shutdowns may have exacerbated the crimes against humanity and war crimes occurring in the country.

Intentional telecommunications disruptions are unacceptable, yet not uncommon, measures by governments to curtail freedom of expression and association. Under the pretense of securing public safety, such shutdowns and slowdowns create a climate of impunity which governments can leverage to commit acts of violence and crimes against their citizens.

Below, we provide 1) background on our organization, our research, and our analysis of how government network disruptions thwart freedom of expression and association; 2) evidence on the Central African Republic case; and 3) analysis of human rights violations related to the disruption.

1. **Background**

Access (www.accessnow.org) is an international organization that defends and extends the digital rights of users at risk around the world. As part of our work, we monitor the impact of telecommunications companies on the human rights to privacy, free expression, association, and access to information. During crises, we seek to intervene through direct engagement with the stakeholders involved, including companies, in hopes of securing open and secure communications for all users.

Over the past few years, we have noted a stark pattern of abuse: besieged by protests, conflicts, or political crises, a government will order telecommunication providers to shut down or degrade networks to unusable levels. Once the disruption takes hold, police and armed forces intensify repression against public protestors, often through tactics that cause egregious human rights abuses. This dynamic series of events has unfortunately been



repeated; some examples include Myanmar¹ in 2007, Iran² in 2009, Egypt³ and San Francisco, USA⁴ in 2011, and Sudan⁵ in 2013.

For instance, in Sudan, protests in Khartoum and elsewhere grew after an increase in petrol prices. The government responded by attacking traditional print media outlets, beginning on 19 September 2013⁶, and shutting down the internet a few days later. A violent government crackdown against public demonstrations on 25 September 2013 resulted in dozens of deaths.⁷ This sinister pattern appears clearly: the government took steps to silence social communications and news media, both online and offline, before unleashing its forces of repression on opposition demonstrators.

2. **Central African Republic**

Access sees similarities to the Sudan case in the network shutdown in Central African Republic beginning in June 2014.

Through emails with Orange (attached as *Enclosure 2*), we learned that the four telcos operating in CAR - Azur, Moov, Telecel and Orange - agreed to shut down SMS services entirely in the country since early June. They took this action after receiving a 2 June 2014 suspension order from the Telecommunications Ministry signed by Abdalla Kadre Assane (attached as *Enclosure 1*). News reports cited and quoted the order in part.⁸

The order refers to the authority of Article 10, paragraph 5 of domestic law n°07.022, and the order threatens the companies for any disobedience. Specifically, it reads, “People contravening to this instruction expose themselves to disciplinary sanctions” (translated from the French). The order concludes by asking for “usual collaboration” from the telcos, suggesting this type of extra-judicial arrangement may have occurred previously.

On 12 June 2014 we learned that the CAR government had requested further collaboration from the telcos: according to Orange, telcos operating in CAR were asked to sever all international “roaming” connections (see *Enclosure 2*). This would further isolate the

1 NY Times, “Burmese Government Clamps Down on Internet” (28 September 2007), available at <http://thelede.blogs.nytimes.com/2007/09/28/burmese-government-clamps-down-on-internet>.

2 AP, “Iran blocks internet on eve of rallies” (6 December 2009), available at <http://www.cbsnews.com/news/iran-blocks-internet-on-eve-of-rallies>.

3 NY Times, “Egypt Cuts Off Most Internet and Cell Service” (28 January 2011), available at <http://www.nytimes.com/2011/01/29/technology/internet/29cutoff.html>.

4 NY Times, “F.C.C. Asks for Guidance on Whether, and When, to Cut Off Cellphone Service” (2 March 2012), available at <http://www.nytimes.com/2012/03/03/technology/fcc-reviews-need-for-rules-to-interrupt-wireless-service.html>.

5 Access, “Mass internet shutdown in Sudan follows days of protests” (Oct. 15, 2013), <https://www.accessnow.org/blog/2013/10/15/mass-internet-shutdown-in-sudan-follows-days-of-protest>.

6 APC News, “African leaders reaffirm commitment to internet access amid blackout in Sudan” (10 October 2013), available at <https://www.apc.org/en/node/18610>.

7 Reuters, “At least 29 killed in central Sudan's worst unrest for years” (26 September 2013), available at <http://www.reuters.com/article/2013/09/26/sudan-protest-idUSL5N0HM2SN20130926>.

8 AFP, “Text Messages Banned and Blocked in Central African Republic” (4 June 2014), available at <https://www.yahoo.com/tech/text-messages-banned-and-blocked-in-central-african-87810779574.html>



country's citizens from the outside world, directly violating their right to freedom of expression, and leave them vulnerable to further crackdowns and physical violence. Indeed, a "fresh wave of sectarian violence" erupted in June, according to news reports,⁹ and the UN special envoy warned the situation had deteriorated during that month.

Upon learning of threats to mobile communications, Access notified civil society partners in the region, and advised Orange on the proper actions to take in the face of this abusive government demand. When Orange and other telcos jointly refused to implement the roaming restriction, the government rescinded the request.

However, it was not until 26 July 2014, after coordinated resistance from the four telcos that operate in CAR, that the government lifted its order to suspend SMS services countrywide.

3. **Violations**

Access believes that these orders from the CAR government, whether or not they were issued under domestic legal authority, violated the fundamental rights of CAR citizens to opinion, expression, and association. Specifically, the orders conflict with the CAR's duties under the Universal Declaration of Human Rights (UDHR)¹⁰, the International Covenant on Civil and Political Rights (ICCPR)¹¹, and the African Charter on Human and People's Rights (ACHPR).¹²

Article 19 of the UDHR calls for the protection of the right to freedom of opinion and expression without interference, including receiving and imparting information and ideas "through any media and regardless of frontiers." The SMS messaging shutdown ordered by the CAR government was a direct violation of this article, as it interfered with the sending and receiving of information and ideas by CAR citizens.

The government order likewise violates Article 19 of the ICCPR, which requires governments not to interfere with the right of freedom of expression. While Article 19 does allow certain restrictions on the exercise of such rights "for the protection of national security or of public order," the CAR government did not respond properly under international law. In order to pass the test affirmed in General Comment 34, the latest official interpretation of Article 19, restrictions must be a necessary or proportionate measure.¹³ Rather than restoring public

⁹ The Guardian, "US increases aid to Central African Republic amid new surge of violence" (26 June 2014), available at <http://www.theguardian.com/global-development/2014/jun/26/us-increases-aid-central-african-republic-violence>.

¹⁰ Universal Declaration of Human Rights, available at <http://www.un.org/en/documents/udhr>.

¹¹ International Covenant on Civil and Political Rights, available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

¹² African Charter on Human and People's Rights, available at <http://www.chr.up.ac.za/index.php/documents-by-theme/african-charter-achpr.html>.

¹³ See Human Rights Committee, *General Comment 34*, at para 35 ("When a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat").



order, the network shutdown enabled the perpetration of systematic and widespread crimes against humanity by preventing citizens from communicating among each other, or from reaching appropriate domestic and international media and authorities.

Finally, under Article 9 of the ACHPR, CAR is obliged to uphold the right of its citizens to receive information, and the right to express and disseminate their opinion. Ordering the shutdown of the region's telecommunication networks directly inhibited that right.

Conclusion and Recommendations

Although we are not in the position to provide technical evidence about the shutdowns, there is no dispute that the shutdown occurred.¹⁴ Further, the authenticity of the legal order calling for the shutdown, signed by Minister Assane, is not in question. The Suspension Order was addressed to Azur, Moov, Telecel and Orange, the telcos that provide network services in the region. Since they complied with this CAR government order, the telcos should be able to provide the ICC with additional evidence about the network shutdowns. **We urge the ICC to ask the regional telcos to supply more detailed information.**

We submit this evidence in the hope that future atrocities will not be committed or enabled by these types of communications disruptions. By ordering a country-wide blackout of SMS messaging the government added to a chaotic landscape of internal confusion and unaccountability. **This shutdown violated a number of treaties that CAR pledged to uphold, infringing the rights of its citizens, and should not go unaddressed by international bodies or set a precedent to be mimicked by other regimes.**

Thank you for your attention to this matter. Access hopes that this submission aids the ICC in their investigation and efforts to bring justice to the many victims who have suffered serious human rights violations in CAR.

If you have any further questions or concerns, please do not hesitate to contact us.

Sincerely,

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<http://www2.ohchr.org/english/bodies/hrc/docs/CCPR-C-GC-34.doc>.

¹⁴ Vice News, "Central African Republic Bans Text Messages" (4 June 2014), available at <http://www.bbc.com/news/world-africa-27640616>.