

Introduction

On the morning of 3 December 2011, just after the electoral commission started to announce the provisional results of both the presidential and legislative elections held a week before on 28 November, Congolese mobile phone users woke up to bad news: no SMS text messages were getting through

When Facebook users started posting about the issue, there were many people who could not believe it, given that mobile text messages sent from outside the country were still being received. However, this was only until they received an official SMS message from their various mobile service providers, backed up by media stories stating: "By order of the government, SMS service is suspended until further notice" This status quo lasted for three weeks

Policy context

The 2005 Constitution of the Democratic Republic of Congo (DRC), as amended in January 2011, guarantees freedom of expression and the right to information among the fundamental freedoms. However, the freedom of the press and the freedom to transmit information by radio and television, newspapers or any other means of communication are subject to the requirements of public order, good morals and the rights of others

Law No. 06/006 of 9 March 2006 as amended in 2011, on the organisation of presidential, parliamentary, provincial, urban, municipal and local elections, provides for the functions of the National Electoral Commission and guarantees independent, impartial and transparent elections

While the electoral law states that allegations of fraud need to be backed up by proof and brought before the courts, it is expensive to have observers in each of the more than 50,000 polling centres who can countersign affidavits that serve as proof of alleged fraud. In addition, these need to be taken back to Kinshasa (sometimes over 3,000 kilometres away) where the electoral court is seated

Censorship and rumours undermine important election

The DRC, potentially a rich country, remains one of the poorest countries in the world. Corruption and armed conflicts have delayed the development of infrastructure and have complicated access for the majority of the population to basic services. Conflict has also impacted negatively on the protection and promotion of people's fundamental rights

The economy has been in free fall since the early 1990s. Mainly agricultural and artisan based, it still fails to satisfy local demand for growth. Minerals, the sadly famous face of the DRC, became the battle field of international companies and are stigmatised as one of the causes of conflict in the east of the country

In 1997, after nearly 40 years of dictatorship and unchallenged reign, President Mobutu was overthrown by a rebellion led by Laurent Kabila, also known as the "Mzee." When Kabila was murdered in 2001, his son Joseph Kabila took power and organised, after several postponements, the first free, democratic and transparent elections in the country for over 40 years. Despite a Catholic priest chairing the Independent Electoral Commission, as a pledge of neutrality and the equitable representation of the main political forces of the nation, the outcome of these elections were not satisfactory to all political parties at play

The next election, to be held in 2011, was therefore an opportunity for an alternative to be created. But in January 2011, only several months before the elections, the constitution was revised and amended eight times. Among the changes was that the president would now be elected by simple majority, rather than an absolute majority

SMS service had been suspended as a measure to ensure order and security as well as to prevent people from sharing election results before the official announcement by the Independent Electoral Commission. According to Adolphe Lumamu, the deputy minister in charge of internal affairs who spoke on a major radio station the same day: "Since the holding of presidential and legislative elections, SMS text messages encouraging people to violence or offering false partial results of the elections have been sent to mobile phones by unidentified people who want to create fear and disorder in this election period"

But the suspension of SMS service, an affordable means of communication for the majority of

social movements and political forces, powered rumours about electoral fraud. To circumvent this, the public, who noticed that text messages sent from abroad were still being received, bought SIM cards for neighbouring countries (MTN Rwanda for those living in Goma or Bukavu in the eastern DRC; Airtel from the neighbouring Republic of Congo for Kinshasa inhabitants). A number of people, although few, also used Skype services to continue to reach their target audience and to share the electoral results with their respective constituencies.

If the suspension of SMS service during the post-electoral period in the DRC was intended to keep public order and to thwart the efforts of troublemakers by preventing the premature sharing of results that had not been verified, or were simply false, it did not work. The move did not prevent the hacking of the electoral commission website, providing the public with false results for three days, or violence associated with the elections among the Congolese diaspora in South Africa, Belgium, the United Kingdom and France.

The suspension of SMS service merely showed that there were other ways of communicating the same false information, for instance, using social networks, or using SIM cards from neighbouring countries. As mentioned, far from being a solution, the suspension of service only fed suspicion of electoral fraud.

In a country doomed by violence, many people raised their voices to ask for an end to the ban. The DRC chapter of the International Federation for Human Rights warned that the ban could cost human lives in isolated regions with poor mobile phone reception, as emergency services could only be alerted to rebel attacks via text message. Mr. Kisangala, a religious minister for a deaf community in the capital Kinshasa, remembered: "It was very hard to communicate. All our communications used to go through SMS messages." The pastor in charge of a cultural centre added: "Our members were scattered across the city, some were ill in hospital, others were dying. Without communication we didn't even know about it. Few of them have been coming here; whereas with text messages, many used to come to church here on a Sunday. When shooting started in the city I wanted to contact those who were sleeping at our cultural centre and tell them not to go out. I tried to contact them but messages didn't go through. Then I remembered text messaging had been suspended. It was very disturbing."

For Stephanie Mwamba, a women's rights activist taking part in an anti-violence campaign at the time of the ban: "The government decision to ban text messaging was particularly troubling during the global campaign of 16 Days of Activism Against Violence Against Women [held each year from 25 November to 10 December]. Both internet and SMS services are

crucial to women facing violence. We had to suspend our information service running on mobile technology aimed at sharing vital information to women survivors of violence in the eastern Congo.

Mathieu Yengo, a businessman in the DRC, recalls how he had to pay three times more to maintain normal communication between his vendors and clients: "It was more than what we could afford... [W]e were thinking of how to close some of the businesses and send the vendors home until we figured out what to do next. We couldn't afford to expand our communication budget. And as if it was not enough, the SMS companies were the only ones continuing to earn money by sending thousands of SMSes to promote their products."

For Fernandez Murhola, executive secretary of RENADHOC, a human rights organisation, text messaging is an indispensable tool for the safety of citizens. Suspending it, even temporarily, is a "serious threat".

This time at least, the government was thoughtful enough to officially inform people: five years ago, in 2005, when the country was holding its first free and transparent general elections after more than 40 years of dictatorship, it did not confirm rumours of a suspension of SMS service. Nevertheless, the negative impact on the rights of freedom of expression should not be underestimated, and – equally important – the suspension of SMS service fuelled fears of corruption that undermined the spirit of the elections. Moreover, the private sector lost USD 150,000 per day during the three-week suspension of service.

Action steps

- Show the government that the suspension of SMS service violates the fundamental rights of Congolese citizens and particularly the right to information and freedom of expression as guaranteed by the constitution
- Show that there are technical means, allowed by the law, which allow mobile operators to provide the authorities with user information of people allegedly inciting people to hatred and disorder, for legal action and prosecution
- Lobby the government, together with the private sector that lost USD 150,000 per day during the three-week suspension of service, so that this does not happen again
- Propose to the Independent Electoral Commission, which by law guarantees the transparency and impartiality of the electoral process, that a technological tool be developed to communicate election results in real time at each provisional polling station. ■