

URGENT ACTION

BURUNDI: DEMAND RELEASE OF ONLINE EDITOR

Jean-Claude Kavumbagu, the editor of a Burundian online news agency, *Netpress*, has been detained since July after suggesting that the Burundian security forces could not defend the country. He has not been tried and was denied a bail request on appeal in November.

Jean-Claude Kavumbagu published an article on 12 July 2010, one day after suicide bombings in Kampala, Uganda, criticizing the capacity of Burundian security forces to protect the country from a terrorist attack. Somali Islamist armed group, al-Shabaab, claimed responsibility for the bombings in Uganda. They also threatened to attack Burundi in retaliation for Burundi's participation in the African Union Mission in Somalia (AMISOM).

Jean-Claude Kavumbagu's article said that "the anxiety has been palpable in Bujumbura and all those who have heard about [the bombings] yesterday in Kampala were convinced that if the al-Shabaab militants wanted to try 'something' in our country, they would succeed with disconcerting ease, [as] our defense and security forces shine in their capacity to pillage and kill their compatriots rather than defend our country." He was arrested on 17 July, questioned without a lawyer, charged with treason, and transferred to Mpimba Central Prison, Bujumbura.

Treason is a crime punishable by life imprisonment and is only applicable under Burundian law in time of war. Jean-Claude Kavumbagu has also been charged with defamation and violating Burundi's press law. Amnesty International considers him to be a prisoner of conscience detained solely for exercising his right to freedom of expression. His detention may detrimentally impact on the exercise of free expression in Burundi. It could increase self-censorship by other journalists to protect themselves from arbitrary arrest and detention.

Jean-Claude Kavumbagu's bail request was rejected on 6 September. At the appeal on 9 November, his defence claimed that violating the press law and defamation do not justify preventative detention and that treason is not a valid charge. However, the Appeal Court of Bujumbura confirmed his pre-trial detention on 11 November. As of 6 December, his lawyers had not received a copy of the ruling and were waiting for the trial date to be announced.

Mpimba Central Prison is overcrowded and insanitary and conditions fall well below international standards.

PLEASE WRITE IMMEDIATELY in French, English, Kirundi or your own language:

- expressing grave concern that journalist Jean-Claude Kavumbagu has been detained on charges of treason and defamation for criticizing the Burundian security services;
- urging the authorities to release him immediately and unconditionally, as he is a prisoner of conscience detained solely for exercising his right to freedom of expression;
- reminding the authorities that, as a state party to the African Charter of Human and Peoples' Rights and the International Covenant on Civil and Political Rights, Burundi is obliged to uphold the right to freedom of expression.

PLEASE SEND APPEALS BEFORE 17 JANUARY 2011 TO:

President

Pierre Nkurunziza, Président de la République, Présidence de la République, Boulevard de l'Uprona, Rohero I, BP 1870, Bujumbura, Burundi

Fax: +257 22 24 89 08

**Salutation: Monsieur le Président/
Your Excellency**

Minister of Justice and Keeper of Seals

Madame Ancilla Ntakaburimvo
Ministre de la Justice et Garde des Sceaux, Ministère de la Justice et Garde des Sceaux, BP 1880 Bujumbura, Burundi

Fax: +257 22 21 86 10

Salutation: Madame la Ministre

And copies to:

The Prosecutor of the Republic

Monsieur Elyse Ndaye
Procureur Générale de la République
Parquet Général
BP 105

Bujumbura, Burundi

Fax: +257 22 27 30 53

Also send copies to diplomatic representatives accredited to your country. Check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

Burundi has a vibrant media and journalists continue to criticize the government despite attempts to silence them. The Burundian government has used prolonged pre-trial detention, harassment by judicial authorities and substantive and procedural violations of Burundian law to unduly restrict freedom of speech. Burundi is a state party to both the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights, which guarantee the right to freedom of expression.

The Burundian government is particularly sensitive to criticism of their security forces. Al-Shabaab, a Somali Islamist armed group, has threatened to attack Burundi, as well as Uganda, in retaliation for their contributions to the African Union Mission in Somalia (AMISOM). AMISOM is a peace support operation mandated to protect the institutions of the Transitional Federal Government of Somalia. The 11 July bombings in Kampala, Uganda, for which al-Shabaab claimed responsibility, killed 74 people who had come together to watch the World Cup Final, and injured another 70.

Jean-Claude Kavumbagu was arrested on 17 July by Colonel David Nikiza, the Commander of the Western Region, who presented him with a *mandat d'amener* (an order calling him before the prosecutor). He was charged with treason defined under Article 570 of the Burundian criminal code as: "any Burundian who, in times of war... knowingly participates in an attempt to demoralize the Army or the Nation, with the object of weakening national defense." Jean-Claude Kavumbagu has also been charged with defamation (*imputations dommageables*), under Article 251 of the penal code, and violating Article 50 of the 2003 press law (*loi No 1 025 du Novembre 2003 regissant la presse du Burundi*).

On 30 July, Jean-Claude Kavumbagu was brought before the High Court in Bujumbura (*Tribunal de Grande Instance de la Mairie de Bujumbura*). His lawyer requested bail, arguing that his pre-trial detention was not prescribed by Burundian law. The court did not rule on the case because one judge had been transferred to another court two days earlier - a move attracting criticism from 10 civil society organizations in a joint communiqué because the judge waited until the trial date to notify the court. The court was forced to wait until September, after the August judicial holidays, to reconvene.

Jean-Claude Kavumbagu's bail request was finally heard on 1 September. The court ruled on 6 September that Jean-Claude Kavumbagu would be remanded in custody to ensure his availability for the investigation. At the appeal on 9 November, the defence called for provisional liberty claiming that two charges – violating the press law and defamation – did not, under Burundian law, justify preventative detention. The defence stated that if Jean-Claude Kavumbagu were to be charged with treason, the Prosecution would need to declare that Burundi was at war on 12 July. The representative for the Public Prosecutor stated that Burundi had not been at war on 12 July, but that it was for the court to decide. The Appeal Court of Bujumbura confirmed his pre-trial detention on 11 November.

Jean-Claude Kavumbagu has been a prisoner of conscience several times, most recently in 2008 when he was charged with defamation. He alleged that the cost of President Nkurunziza's trip to see the opening ceremony of the Beijing Olympics had caused some civil servants' salaries to be paid late. He was held in pre-trial detention for seven months before being acquitted in March 2009. The Prosecutor appealed the acquittal and the case remains open.

UA: 248/10 Index: AFR 16/004/2010 Issue Date: 06 December 2010

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