

PUBLIC

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UA 180/06 Arbitrary Detention / Medical Concern/Possible Prisoner of Conscience

BURUNDI **Aloys Kabura (m), journalist with the Burundian Press Association, *l'Association Burundaise de Presse, ABP***

Aloys Kabura, a journalist with the Burundian Press Association (*l'Association Burundaise de Presse - ABP*) has been illegally detained in Ngozi prison in northern Burundi since 1 June. Since his detention, he has developed a severe medical condition with his legs and is unable to walk. He requires immediate medical treatment.

Aloys Kabura is reportedly detained with several other inmates in a cell nine meters squared. Prisons in Burundi are often overcrowded and unsanitary, and detention can amount to cruel, inhuman and degrading treatment. On 21 June, Aloys Kabura officially contacted the director of Ngozi Prison requesting to consult a doctor or nurse at Ngozi hospital about the medical condition with his legs because no doctors or nurses visit the prison. He has not received any answer.

Aloys Kabura was arrested after he reportedly made comments in a bar criticizing the conduct of the national police forces when they detained, and in some cases severely assaulted, around 30 journalists at a press conference held at the house of National Council for the Defense of Democracy – Forces for the Defense of Democracy (*Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie, CNDD-FDD*) parliamentarian, Matthias Basabose, in Kinindo, Bujumbura on 17 April, 2006.

Aloys Kabura was initially detained on the basis of article 273 of the Burundi penal code, which imposes the maximum punishment of 2 months in prison and/or a fine of 5,000 Burundian francs (US\$5) for: "...[those who] in public, commit any act or make any gesture or remark that demonstrates or incites contempt in relation to the established powers, to agents of public authorities..."

The penal procedure code only allows for the pre-trial detention of those suspected of crimes which carry a punishment of over one year imprisonment. The public prosecutor in the province of Kayanza was questioned on 4 June about this apparent violation of the penal code procedure. The following day he issued a new arrest warrant, which was back-dated to the date of the original warrant, listing additional offences to strengthen the grounds on which Aloys Kabura could be held in pre-trial detention.

On 23 June 2006, the Ngozi appeal court confirmed the legality of the pre-trial detention of Aloys Kabura. In their ruling, which is officially dated 29 June although it was issued on 23 June, the judges of the appeal court stated that they did not find any irregularities in the procedure. Even though Aloys Kabura went to the appeal court hearing on makeshift crutches, the judges stated: "We admit that we are judges not knowledgeable about medicine. It is therefore necessary to obtain a report by a qualified doctor for clarification to enable us to make a correct and fair ruling." (*"Nous sommes un juge et nous l'avouons, ignorant en matière de médecine d'où la nécessité d'une pièce émanant d'un médecin compétent pour nous éclairer afin de pouvoir prendre une décision juste et équitable"*).

If convicted, Amnesty International will consider Aloys Kabura a prisoner of conscience, as he has been detained solely for peacefully exercising his right to freedom of speech.

BACKGROUND INFORMATION

Over the last few months, Amnesty International has received reports of members of civil society being subjected to intimidation by the authorities. Arbitrary arrests and detentions seem to be increasingly used by the authorities to target people critical of either government policy or the conduct of security forces.

Terence Nahimana, the director of the NGO *Cercle d'initiative pour une vision commune* (CIVIC), has been detained in Mpimba Prison since 10 May 2006 after claiming that the government were intentionally stalling peace negotiations with the National Liberation Forces (*Forces Nationales de Libération, FNL*) (see UA 147/06, AFR 16/007/2006).

Three members of the organisation AC Genocide were arrested on 21 May as they attempted to hold a monthly meeting at a local centre in the town of Gitega. One was released on medical grounds. The other two were charged with "threatening state security", and each paid 20,000 Burundian francs (US\$20) as bail. Their lawyer stated that the release will be permanent as no formal charges were brought against them (see UA, 149/06, AFR 16/008/2006).

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- Expressing concern at reports that Aloys Kabura has not received medical treatment for a serious medical condition with his legs, and calling for him to be given immediate access to a doctor and any necessary medical treatment;
- Urging the authorities to immediately and unconditionally release him as he has been detained solely for exercising his right to freedom of expression;
- Reminding the authorities that the right to freedom of expression is laid down in the Burundian Constitution and in international standards such as the African Charter on Human and Peoples' Rights and International Covenant on Civil and Political Rights. Burundi is a state party to both of these instruments and has an obligation to ensure freedom of expression.

APPEALS TO:

President of the Appeal Court of Ngozi

Monsieur Diomède Vyizigiro

Président de la Cour d'appel de Ngozi

Cour d'Appel Ngozi

Ngozi

Burundi

Fax : +257 30 23 01

Salutation: Monsieur le Président

Minister of Justice

Madame Clotilde Niragira

Ministère de la Justice

BP 1880

Bujumbura

Burundi

Fax: +257 21 86 10

Salutation: Madame la Ministre

Public Prosecutor for the Appeal Court of Ngozi

Monsieur Jean Paul Manirakiza

Procureur Général auprès de la Cour d'Appel de

Ngozi

Cour d'Appel Ngozi

Ngozi

Burundi

Fax : +257 30 23 01

Salutation : Monsieur le Procureur

COPIES TO:

Warden of Ngozi Prison

Monsieur Jean-Baptiste Mimboma

Directeur de la Prison Centrale de Ngozi

Commissariat Régional de la Police Judiciaire

Ngozi

Burundi

Fax: +257 30 27 70

Salutation: Monsieur le Directeur

and to diplomatic representatives of Burundi accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 8 August.