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Burundi: Journalist Acquitted of Treason Charges

Media Still Subject to Criminal Prosecution for Peaceful Speech

(Nairobi) - The acquittal of a journalist on treason charges on May 13, 2011, is a positive development for Burundi, where politically motivated harassment of journalists has been on the rise, Human Rights Watch and the Committee to Protect Journalists said today. However, his conviction on a lesser charge shows the need for Burundi's government to amend its press law to decriminalize so-called press offenses, the organizations said.

The journalist, Jean Claude Kavumbagu, was arrested in July 2010 after publishing an article in his online news journal, NetPress, questioning the Burundian army's ability to respond to possible threats from the Somali militant group al-Shabaab. "Our defense and security forces shine in their capacity to pillage and kill their compatriots rather than defend our country," he wrote. The authorities charged him with treason, a crime that carries a life sentence. His trial was on April 13 in Bujumbura, the capital. The verdict, on May 13, found Kavumbagu not guilty of treason, but guilty under article 50 of the press law of publishing an article "likely to discredit the state or economy." He was given an eight-month sentence but was released on May 17, since he had spent 10 months in pretrial detention.

"Kavumbagu's release is good news, but he shouldn't have been detained at all," said Daniel Bekele, Africa director at Human Rights Watch. "His conviction on another press crime is a reminder that journalists in Burundi still risk going to prison for criticizing the government or security forces."

The Burundian government has recently taken several positive steps showing greater respect for freedom of expression after a low point in 2010, when authorities threatened and arbitrarily detained a number of journalists and media workers. Most were released after a few days.

Faustin Ndikumana, the head driver for the radio station Radio Publique Africaine (RPA), who was arrested on September 15 on charges of "threatening state security," was detained for nearly seven months. He was accused of being at a meeting at which arms deliveries to rebels were allegedly discussed. The station contended that the arrest was a form of intimidation against the radio station, which is often critical of government policies. Ndikumana was acquitted on April 14 after the only witness against him failed to appear in court.

On May 3, World Press Freedom Day, journalists organized a protest march to call attention to the ongoing detention of Kavumbagu. Two weeks earlier, police had broken up a peaceful protest of civil society organizations calling for justice in the case of a slain activist and detained two of the protesters for several hours. However, police permitted the journalists' protest to go forward, a positive step in a country in which civil society protests are often banned.

Despite these developments, media freedom in Burundi remains constrained by criminal laws, Human Rights Watch and the Committee to Protect Journalists said. So-called press offenses impose criminal penalties on journalists and media workers for defamation, "discrediting" the state, insulting the head of state, and "threatening state security." While journalists are rarely charged with crimes as serious as treason, four journalists were held for periods of four to six months in 2006 and 2007 on press offenses and others have been called in for questioning on similar charges.

Under article 19 of the International Covenant on Civil and Political Rights, to which Burundi is a party, restrictions on the right to freedom of expression must be necessary and narrowly drawn. Criminal penalties are always disproportionate punishments for harming a person's reputation and should be abolished. Civil defamation and criminal incitement laws are sufficient for the purpose of protecting people's reputations and maintaining public order and can be written and implemented in ways that provide appropriate protections for freedom of expression.

"The fact that a prosecutor in Burundi can still request a life sentence for a journalist simply for criticizing the Burundian security forces demonstrates serious weaknesses in Burundi's approach to the press," said Tom Rhodes, East Africa consultant at the Committee to Protect Journalists. "Burundi should decriminalize press offenses and allow journalists to speak and write freely without fear of harassment or arrest."

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