

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	231
Land:	Rwanda
Kilde:	Human Rights Watch
Titel:	Rwanda: Arrest, Prosecutions over YouTube Posts
Udgivet:	30. marts 2021
Optaget på baggrundsmaterialet:	4. juni 2021

Document #2048301

HRW – Human Rights Watch

Rwanda: Arrests, Prosecutions over YouTube Posts

Urgent Reforms Needed as Commonwealth Summit Approaches

(Nairobi) – [Rwandan](#) authorities have threatened, arrested, or prosecuted at least eight people reporting or commenting on current affairs on YouTube over the past year, Human Rights Watch said. A poet who published his poems on YouTube has been missing since February 7, 2021.

As Rwanda prepares to host the Commonwealth Heads of Government Meeting in June, authorities should stop harassing, immediately release, and drop all charges against YouTube commentators and bloggers facing abusive prosecutions that violate freedom of expression. The authorities should also open credible, independent, and transparent investigations into suspicious deaths and disappearances of critics, opposition members, civil society actors, and journalists, and prosecute those responsible.

“Rwanda’s track record of intolerance and abusive reprisals against critics raises serious questions regarding the safety of a new generation of bloggers and commentators,” said [Lewis Mudge](#), Central Africa director at Human Rights Watch. “The Commonwealth should not turn a blind eye to the repression of fundamental democratic guarantees and should press Rwandan authorities to introduce much-needed reforms to protect free speech.”

In February and March, Human Rights Watch interviewed seven Rwandan commentators, bloggers, and journalists, and nine other witnesses, family members, or sources with direct knowledge of the cases. Human Rights Watch researchers also reviewed laws, trial documents, public speeches, and social media posts relating to the cases. This report is not exhaustive but focuses on recent cases that Human Rights Watch has verified. Identifying information has been withheld to protect sources from retaliation by authorities.

YouTube has emerged as an increasingly contested space for free speech in Rwanda. In recent years, frustrated by the absence of critical debate in the media, some Rwandan bloggers and commentators have [taken to the platform](#) to publish videos on sensitive issues and discuss current – and sometimes controversial – matters. Such matters include evictions from poor neighborhoods of the capital Kigali and the strict lockdowns imposed and shutdown of schools from March to November 2020 in response to Covid-19.

On February 9, 2021, Innocent Bahati, a 31-year-old singer and poet, was reported missing to the Rwanda Investigation Bureau (RIB), two days after he was last seen in Nyanza, Southern Province. His poems, which he recites in videos posted on YouTube, have focused on social issues such as [growing poverty](#) or [criticism of the lockdown](#) and its impact. Two people who saw him before he disappeared told Human Rights Watch that he had traveled to Nyanza district on February 7 to research material for a new poem. The RIB spokesperson [told the media](#) an investigation into his whereabouts was ongoing.

Several sources said that Bahati was previously detained in 2017 for criticizing the [decision to move](#) the Kigali Institute of Education campus from Kigali to Rukara, Eastern Province. Given Bahati’s previous detention, his recent criticism of government policies, and the pattern of [mysterious disappearances of government critics](#) in Rwanda, his disappearance should be treated as suspicious, Human Rights Watch said.

On March 19, 2021, Human Rights Watch wrote a letter to Justice Minister Johnston Busingye to share information about the cases it has documented, including Bahati’s disappearance, and to request information on the Rwandan authorities’ steps to address violations of the right to freedom of expression. The government has not responded.

In April 2020, police arrested four bloggers and one driver working with Rwandan YouTube channels that reported on the impact of the Covid-19 guidelines on vulnerable populations. The arrests appeared retaliatory, and charges were brought against three of them. Dieudonné Niyonsenga, known as “Cyuma Hassan,” the owner of Ishema TV, and his driver Fidèle Komezusenge were accused of forgery, impersonating journalists, and hindering public works but both were acquitted on March 12, 2021. Théoneste Nsengimana, the owner of Umubavu TV, was held in pretrial detention on accusations of fraud but released in May 2020 for lack of evidence.

While it is positive that none of the cases have resulted in convictions, the threat and fear of prosecution for reporting on sensitive issues has a persistent chilling effect. Rwanda’s narrow definition of journalists as “a person who possesses basic journalism skills and who exercises journalism as his/her first profession” runs counter to

[international standards](#) and has allowed the state to prosecute bloggers doing important public interest reporting on the government’s response to Covid-19, Human Rights Watch said.

According to the [World Bank](#), the Rwandan economy is one of the most affected by the pandemic in sub-Saharan Africa due to the stringent lockdown measures, and this crisis is “dramatically increasing poverty,” particularly affecting people in urban areas, children, and women. The police has arbitrarily [detained tens of thousands of](#) people accused of violating the public health measures, without legal grounds or due process, holding them in stadiums, and the government perceives criticism of its response as particularly sensitive.

Other bloggers detained or arrested in the last year include Yvonne Idamange, an online commentator who has also discussed growing poverty in Rwanda and criticized the lockdown; Agnès Uwimana Nkusi, editor of Umarabyo news site and YouTube channel, who was [detained for several hours](#) after recording one of Idamange’s pretrial hearings; and Valentin Muhirwa and David Byiringiro, bloggers with Afrimax TV who distributed food after people they interviewed said they were going hungry, and were released 12 days later.

Commentators such as Idamange and Aimable Karasira, a former professor and the owner of a YouTube channel, who used their videos to discuss the 1994 genocide or crimes committed by the ruling Rwandan Patriotic Front (RPF) in its aftermath, have also faced threats and accusations of denying or minimizing the genocide.

In recent years, several people who have been victims of abusive detentions or prosecutions told Human Rights Watch that during interrogations or in pretrial detention, they were beaten and told to confess to crimes they had not committed. Some also said officials working in the president’s office threatened them and told them not to speak about the abuse they have faced.

During the [January 2021 Universal Periodic Review](#) of its human rights record at the United Nations, Rwanda received numerous recommendations from other countries to amend its domestic legislation to protect freedom of expression and opinion.

“In Rwanda, being consistently critical of the government almost guarantees some form of reprisal – whether arrest, harassment, or a mysterious disappearance,” Mudge said. “Threats by ruling party or government officials and fear of prosecution have created an environment that can only be described as hostile to free speech and demanding self-censorship.”

Regulation, Threats, Prosecutions

Rwanda’s judicial authorities operate in a political context in which the executive dominates the judiciary and there is an official antipathy to views diverging from those of the government and the ruling party, the Rwandan Patriotic Front (RPF). The extensive limitations on and criminalization of freedom of expression in the law provide ample opportunities for abusive prosecutions.

In recent years, plans to regulate social media and online expression have threatened to further curb free speech. On May 8, 2019, President Kagame [gave a chilling warning](#) to those using online platforms: “Those that you hear speak on the internet, whether they are in America, in South Africa, or in France, they think they are far. They are far, but they are close to the fire. The day they get closer, the fire will burn them.”

A few days later, the information communication technology (ICT) and innovation minister, Paula Ingabire, [told the Senate parliamentary Standing Committee on National Budget and Patrimony](#) of plans to regulate content shared on social media, because “it has to be information that is building the people, that is building a country, but not just really circulating misinformation, defamation.”

In December, the Rwanda Media Commission (RMC), a self-regulatory body, came under fire when it announced plans to [register YouTube channels](#) operating as media. The RMC executive secretary, Emmanuel Mugisha, [told the media](#) that the move was in response to complaints received, and that: “We are not doing this for regulatory purposes, rather we are doing this for recognition purposes. When a YouTube blogger offends a certain group of people, we have to hold them accountable.”

The registration process required journalists to provide employer details, a press accreditation, criminal records, the media’s “editorial line,” and to pay a fee of 50,000 Rwandan Francs (US\$50). Following criticism from bloggers, the RMC [suspended the planned registration of YouTube channels](#) later that month.

Registration or regulation proposals may ostensibly aim to ensure that those practicing journalism are competent to do so. However, in Rwanda, given the existing climate of fear and levels of self-censorship practiced by the media, this confers additional power on the authorities to target those perceived as critics and violates the right to freedom of expression.

Prosecutions of Bloggers and Commentators

Since 2018, over a dozen YouTube bloggers, journalists, and commentators have been detained, arrested, or put on trial.

In April 2020, four bloggers working for Afrimax TV, Ishema TV, and Umubavu TV were arrested in circumstances that appeared retaliatory and accused of a range of offenses, including violating Covid-19 lockdown measures. They had been doing [sensitive reporting on a range of issues](#), including the impact of the lockdown on the population. In previous months, they had also [shared testimony](#) about a longstanding dispute with the authorities over land evictions in “Bannyahe,” a poor neighborhood in the capital.

Dieudonné Niyonsenga, the owner of Ishema TV, and his driver, Fidèle Komezusenge, were arrested on April 15, while on a reporting trip. The prosecution had accused them of working without accreditation from the RMC and sought an eight-year sentence for Niyonsenga and five-year sentence for Komezusenge.

On March 12, 2021, the Gasabo Intermediate Court in Kigali acquitted Niyonsenga of forgery, “claiming to be attached to a profession,” and “hindering public works,” and Komezusenge of complicity in forgery and impersonation. Both were released on March 13. On March 13, Niyonsenga said in an [interview on Umubavu TV](#) that after his arrest, he was held in multiple locations, told to confess to working with the Rwanda National Congress (RNC), an exiled opposition party with [reported](#) ties to armed groups, and accused of taking drugs and attacking law enforcement officers.

On April 12, 2020, [RIB tweeted confirmation of the arrest](#) of Théoneste Nsengimana, the owner of Umubavu TV, for alleged fraud. RIB accused him of promising 20,000 Rwandan Francs (\$20) to people to say they were receiving assistance from abroad “for the purpose of soliciting the story for his own benefit.” A Kicukiro court ordered Nsengimana’s release from pretrial detention in May due to the prosecution’s lack of evidence against him, but the charges had not been dropped at time of publication.

On April 8, 2020, RIB and police agents arrested Valentin Muhirwa and David Byiringiro, two bloggers with Afrimax TV, in Kangondo II, Kigali. A witness told Human Rights Watch [at the time](#) that after interviewing the population about their concerns, including not having enough food, the journalists had returned with food and supplies. Two residents said that after 30 minutes, RIB and police agents appeared, accused them of violating the government directives and organizing an unauthorized distribution, confiscated the goods, and arrested them. Muhirwa and Byiringiro were released later that month.

The RMC [said in a statement](#) on April 13, 2020 that the detained bloggers were not arrested in retaliation for their work and that online bloggers, such as those using YouTube, are not journalists and are “not authorized to interview the population.” Despite the RMC’s efforts to dispute the status of bloggers, the United Nations Human Rights Committee, which interprets the International Covenant on Civil and Political Rights, has issued authoritative [guidance](#) to governments on their obligations with respect to freedom of expression confirming that journalism is a function shared by a variety of actors, including bloggers.

Flying in the face of the facts, during Rwanda’s 2021 UPR, Justice Minister Johnston Busingye [said](#) that “there are no prosecutions that target persons simply because they are politicians or journalists or human rights defenders, and the so-called political trials do not exist.” The justice minister’s statement raises serious questions over the government’s willingness to carry out the necessary reforms to protect free speech, Human Rights Watch said.

Accusations of Genocide Denial

Over the last 27 years, a campaign allegedly to combat “divisionism” and “genocidal ideology” has in fact created the risk of serious consequences for anyone who questions official interpretations of Rwanda’s past. Talking about the victims of violence by the soldiers of the ruling RPF as they took over the country in 1994 [is seen by many as a red line that will most likely lead to retaliation](#).

Yet, in recent years, some commentators have taken to YouTube to discuss the 1994 genocide and the war crimes committed by the RPF in its aftermath. One example is Aimable Karasira, a former information communication technology professor at the University of Rwanda, who has spoken about losing family members both to Hutu extremists and to the RPF in 1994 on his [YouTube channel called “Ukuri Mbona”](#) (“the truth I see” in Kinyarwanda).

In July 2020, [Edouard Bamporiki](#), culture and youth minister, attacked Karasira on social media and said he should not be allowed to teach. Karasira was dismissed from the University of Rwanda on August 14 for “the expression of attitudes and opinions through controversial statements” and “spreading information intended for inciting people to dislike or dishonor your institution and public institutions in general.” He later [said in a YouTube video](#) that he was summoned to the RIB office on December 8, where he was told to stop talking about the genocide.

Yvonne Idamange, an online commentator who has criticized the lockdown and the government-organized genocide commemorations, was arrested on February 15, 2021, after posting a video in which she falsely [claimed](#) that President Kagame was dead, and called for the army to serve the people or face the wrath of God, and for Rwandans to march with their Bibles toward the office of the president. Policemen forced their way into Idamange’s home without an arrest or search warrant and took her into custody, two well-informed sources said.

Rwanda National Police [accused](#) her of “exhibit[ing] behavior that mixes politics, criminality, and madness.” Idamange has been denied bail and faces charges including “inciting public disorder,” and “publication of rumours.” She remains in detention. On March 9, a journalist and editor of Umurabyo news site and YouTube channel, Agnès

Uwimana Nkusi, was [detained for several hours](#) and her phone apparently searched after recording one of Idamange’s pretrial hearings.

In her first video, Idamange criticized the monetization of genocide memorials for tourism, in which “the bodies of our relatives are being sold” and questioned notions of collective guilt and commemorations. She has been charged with “disposing of or degrading evidence or information relating to genocide.”

On February 5, the National Commission for the Fight Against Genocide (Commission nationale pour la lutte contre le genocide, CNLG) in a [statement](#) warned against speech on social media that is criminalized under the 2018 genocide ideology law, and later named Idamange on national radio. The commission is an ostensibly [independent body](#) that defends the official narrative on the genocide. On February 14, the commission’s executive secretary, Jean Damascène Bizimana, in a Voice of America interview, [cited a number of YouTube channels](#) he considered to be “crossing a red line” and to be providing a platform for genocide denial or minimization.

Idamange also said in her last video that Bamporiki visited her home twice, threatened her, tried to bribe her to stop posting videos, and told her that if she did not stop, she would die. Bamporiki later [confirmed](#) his visit to Idamange’s house but denied her allegations. Two of Idamange’s domestic workers and two of her friends, who were detained at the time of her arrest, were released one week later.

In Rwanda, government officials [often issue warnings and threats](#) against those who speak out on sensitive issues.

The combination of threats, vaguely defined offenses, and the risk of incurring disproportionate prison terms or fines has created an environment in which the threat of prosecution looms over anyone who dares to speak out about controversial or sensitive issues, Human Rights Watch said.

It’s legitimate for the government of Rwanda to seek to restrict the kind of dangerous, vitriolic speech that led to the deaths of over half a million people in 1994, but current laws and practices go far beyond this purpose and effectively stifle opinions, debate, and criticism of the government, Human Rights Watch said.

Domestic Law Hostile to Free Speech

Rwandan law allows for overly broad and vague limitations on free speech, which violate the right to freedom of expression and media freedom protections afforded by international law. Article 38 of the 2015 Constitution nominally protects freedom of expression but claws back that protection through ill-defined restrictions on the basis of “public order, good morals, the protection of the youth and children, the right of every citizen to honor and dignity and protection of personal and family privacy.” These restrictions are incompatible with Rwanda’s regional and international obligations.

Rwanda’s 2018 Penal Code contains several provisions that can enable abusive prosecutions and have fostered a culture of self-censorship. Although the Supreme Court [ruled in April 2019](#) to repeal articles that criminalized “public defamation of religious rituals” and the “humiliation” of authorities and public servants, several provisions remain that place disproportionate and unwarranted sanctions on speech deemed defamatory or false. For example, article 236 criminalizes “insults or defamation against the president,” punishable by up to seven years in prison and fines of up to 7 million Rwandan Francs (\$7,050).

In recent years, Human Rights Watch has also [documented several cases](#) of abusive prosecutions of people who spoke out about human rights abuses and were convicted of “spreading false information with intent to create a hostile international opinion against the Rwandan state.” The Law on the Prevention of Cybercrimes also [prohibits](#) the publication of “rumors,” punishable by up to five years in prison and a fine of up to three million Rwandan Francs (\$3,000). Falsity of information alone does not constitute legitimate grounds to criminalize free speech under international law.

Rwanda’s [2013 Media Law](#) narrowly defines journalists and the activities they can carry out, yet the African Commission on Human and Peoples’ Rights’ (ACHPR) [Declaration of Principles on Freedom of Expression and Access to Information in Africa](#) broadly protects journalists and online media. The Media Law also introduced a self-regulatory body, the Rwanda Media Commission (RMC), which is tasked with regulating “the conduct of journalists.” During Niyonsenga and Komezusenge’s trial, the prosecution accused them of working without registration from the RMC and cited the Media Law’s narrow definition of journalists to justify its charges of “impersonation” and “forgery.”

In the Media Law, the national utilities statutory regulator – the Rwanda Utilities Regulatory Authority (RURA) – is tasked with the regulating “audio, audiovisual media and internet.” Under Rwanda’s [ICT Law](#), communications deemed “grossly offensive,” “false” or “causing annoyance, inconvenience, or needless anxiety” are prohibited and the government can direct RURA to ensure the suspension of networks or services “to protect the public from any threat to public safety, public health or in the interest of national security.”

Article 126 of the ICT Law also allows the government to interrupt private communications deemed contrary to “existing law, public order or good morals.” In its [general comment 34](#), the Human Rights Committee has affirmed that imposing a general ban on operating some websites and systems is inconsistent with the International Covenant on Civil and Political Rights.

Finally, Rwandan laws on the genocide, which may have been intended to prevent and punish hate speech of the kind that led to the 1994 genocide, have in fact restricted free speech and imposed strict limits on how people can talk about the genocide and other events of 1994. [Rwandan law defines genocide ideology](#) as a public act that manifests an ideology that supports or advocates for destroying – in whole or in part – a national, ethnic, racial, or religious group.

The latest revision of the [law adopted in 2018](#) removed language requiring evidence of a “deliberate” act. “Affirm [ing] that there was a double genocide,” which could be interpreted to refer to crimes committed by the RPF, “providing wrong statistics about victims of the genocide” and “distort[ing] the facts about genocide for the purpose of misleading the public” are punishable by up to seven years in prison and a fine of at least 500,000 Rwandan Francs (\$500).

Rwandan authorities’ efforts to combat genuine genocide denial should not involve criminal penalties for mere speech and should not attempt or aim to stifle discussion and debate on historical events. The criminal law, or any laws that create vaguely defined offenses, should not be used to prevent people challenging official versions of events, Human Rights Watch said.

Recommendations

Rwanda’s international partners, particularly those traveling to Kigali in June for the Commonwealth Heads of Government Meeting, should use the opportunity to press Rwanda to make tangible progress toward reforming laws and ending abusive prosecutions and harassment of bloggers and commentators ahead of the meeting.

Rwanda should urgently implement the [recommendations it received during its 2021 Universal Periodic Review](#) to amend its penal code and media laws, ensure the independence of the Rwanda Media Commission in law and practice, and take measures against the legal ambiguity of media regulatory bodies. Rwanda should conduct a comprehensive review of its legal framework, including its genocide ideology and ICT laws, resulting in amendments to laws that are contrary to Rwanda’s regional and international obligations.

Rwandan authorities should allow the BBC Kinyarwanda service, suspended in 2014, to resume its broadcasts. RURA orders to block websites and platforms that are inconsistent with international standards should be lifted to enable the population to access information or express views online. Rwanda should also issue an open invitation to the special rapporteurs on freedom of expression from the African Commission on Human and Peoples’ Rights and the UN to assess the situation and provide recommendations on ways to create an enabling environment for freedom of expression both in law and in practice.

To uphold the Commonwealth’s [commitment](#) to promoting media freedom and open societies, Rwandan authorities should guarantee the right of all independent civil society organizations and journalists to operate freely, to investigate and to publish information on sensitive subjects, including allegations of human rights abuses.

ecoi.net summary:

At least 8 persons who posted
critical comments on YouTube were
threatened, detained or prosecuted
in 2020

Country:

Rwanda

Source:

[HRW – Human Rights Watch](#)

Original link:

<https://www.hrw.org/news/2021/03/30/rwanda-arrests-prosecutions-over-youtube-posts>

Document type:

Appeal or News Release

Language:

English

Published:

30 March 2021

Document ID:

2048301

Austrian Red Cross Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD)	Wiedner Hauptstraße 32, 1041 Wien T (Telephone) +43 1 589 00 583 F (Fax) +43 1 589 00 589 info@ecoi.net	Contact Imprint & Disclaimer F.A.Q. Data Protection Notice
--	--	---

ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

