



Floriane Irangabiye

Another victim of politicised justice

8 February 2023

On 2 January 2023, the high court of Mukaza in Bujumbura convicted online journalist Floriane Irangabiye to 10 years in prison for “endangering the integrity of the national territory”, in an unfair trial. The conviction centred on Irangabiye’s participation in a discussion in August 2022 with two well-known government critics, broadcast on Radio Igicaniro, an online media outlet run by Burundians in exile.

Irangabiye had sharply criticised the Burundian government during the broadcast and encouraged Burundians to challenge and oppose the government, but to the knowledge of The Burundi Human Rights Initiative (BHRI), she did not explicitly advocate violence.¹

Irangabiye’s trial and conviction show that despite President Évariste Ndayishimiye’s promises to respect freedom of expression and restore the independence of the judiciary, judges are still unable or unwilling to make independent assessments in cases against government critics, often because of pressure by members of the ruling party or the intelligence service. Irangabiye’s conviction reverses the progress and a brief moment of optimism after the acquittal on 20 December 2022 of Tony Germain Nkina, a lawyer and former human rights defender who had spent more than two years in prison on trumped-up charges.²

To avoid another stain on their image, the Burundian authorities should release Irangabiye, ensure that her appeal conforms to Burundian law and international fair trial standards, and prevent political interference behind the scenes.

A flawed and unfair trial

Irangabiye’s trial was marked by numerous flaws and a lack of credible evidence to justify her conviction.

¹ Audio recording of Radio Igicaniro broadcast, 22 August 2022.

² Joint statement by six international human rights organisations, "Shocking decision as appeal court upholds conviction of lawyer Tony Germain Nkina", https://burundihri.org/english/joint_statements.php#8-October-2021, October 2021.

- ***No evidence of incitement to violence***

During the online broadcast on 22 August, Irangabiye described Burundi's leaders as tyrannical and accused them of stealing the state's assets, abusing the population and failing to lift the country out of poverty. The court claimed that she did not provide evidence to support those statements and accused her of insulting the country's leaders, including President Ndayishimiye.

In a recording of the broadcast obtained by BHRI, Irangabiye calls on Burundians to speak out about abuses and lift themselves out of what she describes as a worsening situation, and states that "wherever we've seen a revolution, there were those who sacrificed themselves, although maybe we don't have to go that far." However, she does not explicitly call on the citizens of Burundi to use violence to overthrow the government.

The court judgment states that Irangabiye "incited young people to use all means possible to overthrow the current regime as they did in 2015".³ Some of the protests against the controversial third mandate of former President Pierre Nkurunziza in 2015 turned violent, and there was a failed military coup d'état in May 2015, but most demonstrators took to the streets peacefully. The court took exception to Irangabiye's comments about the unity that had characterised the 2015 protest movement, which she said could be replicated today.

During the trial, Irangabiye and her lawyers didn't deny her participation in the broadcast, but pointed out that free speech is protected by the Burundian Constitution. In its conclusion, the court said that the right to free speech did not entitle Irangabiye to call on the population to rebel against the government or offend the government and its democratically elected officials. According to international law, freedom of expression can only be restricted for the protection of national security or public order if necessary and proportional. On the basis of the radio transcript obtained by BHRI, this does not appear to have been the case; Irangabiye's comments therefore did not warrant criminal prosecution, let alone a conviction and a 10-year prison sentence.

- ***Bias in favour of the prosecution***

As is often the case in politically motivated trials in Burundi, the court did not make an independent assessment or scrutinise the evidence; it simply rubberstamped the prosecutor's charges against Irangabiye.

The clear bias shown by the judges undermined the presumption of innocence. The judges condemned Irangabiye for participating in the online radio debate alongside journalist Bob Rugurika, director of *Radio publique africaine* (RPA), and Janvier Bigirimana, a lawyer and human rights activist, both living in exile, who also disparaged the government during the broadcast. The judges said that she "didn't have the right" to do so because of an arrest warrant against Rugurika. Irangabiye obviously cannot be held responsible for her co-panellists' alleged actions or remarks. The judges sided with the prosecutor who also accused Irangabiye of participating in meetings with Marguerite Barankitse, another well-known civil society

³ Judgment of the *tribunal de grande instance* (high court) of Mukaza, 2 January 2023.

activist in exile.⁴ The judgment states that “the accused has shown her position towards those who constantly disturbed (the country’s security) since 2015, and it is evident that she supports them.”⁵

In a response sent to the Committee to Protect Journalists, the prosecutor general, Sylvestre Nyandwi, denied that Irangabiye’s conviction was politically motivated and said that judges took decisions independently.⁶

- ***Targeted for other reasons?***

A source close to the case told BHRI that Irangabiye was detained for other unknown reasons. This theory may be supported by the fact that the prosecution accused her of additional alleged offences entirely unrelated to the broadcast – for example, spying on Burundi during her frequent visits from Rwanda, where she lives. The prosecuting authorities also mentioned that pictures of Irangabiye with Rwandan president Paul Kagame and former Burundian president Pierre Buyoya were found on her phone; the photos had been taken at social events. Visiting one’s home country and taking pictures with dignitaries are not criminal offences.

In reaction to a public outcry about her conviction, the minister of justice said that Irangabiye was “unable to present her press card even though she claims to be a journalist.”⁷ This unrelated issue was also brought up in court despite the fact that Irangabiye didn’t work as a journalist in Burundi and wasn’t in the country for professional reasons. Not having a press card does not constitute a criminal offence, let alone a security threat.

- ***Allegations of other serious irregularities***

During the trial, Irangabiye and her lawyers asked the court to disregard her statements obtained at the National Intelligence Service (*Service national de renseignement*, SNR), as she didn’t have access to a lawyer during the interrogations and they claimed that her signature had been falsified. The court dismissed their objections and did not order an investigation into these claims, despite the fact that Irangabiye’s statements at the SNR were made under duress. Because of the heavy presence of police and intelligence agents at the hearing, which they felt was intimidating, Irangabiye’s lawyers asked for the hearing to take place behind closed doors.

Irangabiye’s legal team believes that the judgment may have been altered as it did not accurately reflect proceedings during the hearing. They said it omitted certain statements made by the defence and included erroneous information that was not presented in court. Irangabiye has appealed the judgment.

⁴ Bob Rugurika and Marguerite Barankitse are among 12 exiled journalists and civil society activists tried *in absentia* and sentenced in June 2020 to life imprisonment for attempting to overthrow the government, among other charges. They were part of a group of 34 defendants accused of involvement in a failed coup d’état in 2015.

⁵ Judgment of the *tribunal de grande instance* (high court) of Mukaza, 2 January 2023.

⁶ Committee to Protect Journalists, “Burundian journalist Floriane Irangabiye sentenced to 10 years in prison”, <https://cpj.org/2023/01/burundian-journalist-floriane-irangabiye-sentenced-to-10-years-in-prison/amp/>, 20 January 2023.

⁷ Tweet by the minister of justice, https://twitter.com/MiniJustice_BDI/status/1611773572371910661, 7 January 2023.

The prosecutor general was quoted as saying to journalists that Irangabiye's lawyers had been unable to prove that her statement had been falsified and that the court had therefore based its ruling on the statement.⁸

The footprint of the intelligence agency

Irangabiye, who has been living in Rwanda for several years, was arrested while visiting her family in Burundi. On 30 August, as she was on her way to a burial, intelligence and police officials blocked the car in which she was travelling, arrested her and took her to the SNR headquarters. The SNR prevented visitors from seeing Irangabiye and only allowed food and clothes to be brought to her. In its judgment, the court confirmed that the SNR questioned her on 30 and 31 August, but wrongly stated that she was arrested on 8 September, the day of her transfer from the SNR to Mpimba prison in Bujumbura.

On 29 September, SNR agents drove Irangabiye from Mpimba to Musinga prison, in northeastern Burundi, far from her family members living in Bujumbura, a common practice for political prisoners. Transfers between prisons are typically done by penitentiary authorities. She was driven with Dr Christophe Sahabo, the director of Kira Hospital, who has been detained since April 2022 and was similarly moved far from his family when he was transferred to Ruyigi prison.⁹ Unusually, on 16 December, the day of the hearing, it was also SNR agents who drove the judges from the high court of Mukaza in Bujumbura to Musinga, where Irangabiye's trial took place.

Guarantee a fair trial

If President Ndayishimiye wants his statements about reforming the judiciary to be taken seriously, he should take action to rectify the grave injustices in trials such as Irangabiye's; cases against government opponents and critics are often marked by interference by members of the government, the ruling party or the intelligence service, undermining the independence of the courts. For as long as the government continues to imprison journalists or civil society activists like Irangabiye or Nkina, there is little chance that Burundian civil society leaders who have been in exile since 2015 will return.

The European Union, which recently announced a new support programme to the Burundian justice system,¹⁰ should call for Irangabiye's release and demand guarantees from the government that her appeal will be held without interference, promptly and with respect for the law. Diplomats should attend the appeal hearing, as they did for Nkina's trial, and call on the Burundian government to end the criminalisation of journalism and free speech.

⁸ SOS Médias, "Burundi : la condamnation de Floriane Irangabiye est une violation du droit à la liberté d'expression (Acat-Burundi)", <https://www.sosmediasburundi.org/2023/01/04/burundi-la-condamnation-de-floriane-irangabiye-est-une-violation-du-droit-a-la-liberte-dexpression-acat-burundi/>, 4 January 2023.

⁹ The Burundi Human Rights Initiative, "The Kira Hospital saga: an example of the failings of Burundi's justice system", https://burundihri.org/english/october_2022.php, October 2022.

¹⁰ Joint press release of the minister of justice and the European Union in Burundi, https://twitter.com/UEauBurundi/status/160277909516972032?s=20&t=xAsD-VWq2_JKyY-HSXmgQQ, 13 December 2022.