

To: The Honorable Joseph Nkaissery,
Minister of Interior and Coordination of National Government of the Republic of Kenya

CC: Attorney General of the Republic of Kenya; Director of Prosecutions of the Republic of Kenya; Inspector General of Police, Chairman, Commission on Administration of Justice; Chairman, Kenya National Commission on Human Rights

Dear Honorable Cabinet Secretary,

Deportation of The Times correspondent amid media crackdown

We, the undersigned organizations, are writing to express our concern about the detention and deportation of a British journalist and the wider growing repression of the media in Kenya in the run-up to the presidential, parliamentary and local council elections in August this year.

We are calling on the Kenyan authorities to allow Jerome Starkey to return to Kenya to resume his work; publicly reaffirm oft-expressed commitments to the right to freedom of expression and media freedom and to initiate thorough, impartial and transparent investigations into attacks and killings of journalists mentioned below.

On the evening of 8 December 2016, Jerome Starkey, Africa Correspondent for The Times newspaper, was detained on arrival from the United Kingdom at the Jomo Kenyatta International Airport in Nairobi and deported back 24 hours later.

Immigration officials told Jerome that, at the time of his detention, he had been held for security reasons because of a 'security block'. Jerome's lawyer, George King, was prevented from meeting his client at the airport, denying him the right to legal representation.

After several requests for an explanation from The Times, a spokesman for the Kenyan High Commission, informed the newspaper in a letter dated 10 January that Jerome was expelled because his work permit had been rejected. However, he had previously been assured by the Immigration Department that no decision had been made on his work permit and when applications are rejected the Immigration Department issues a written notice to that effect. He had not received a letter.

These inconsistencies shed a worrying light on the reasons behind Mr. Starkey's expulsion and more generally on the ability of journalists to work freely in Kenya.

We are also concerned by several cases of Kenyan journalists and human rights defenders who have faced harassment and interference in their work, most notably:

- John Kituyi, the Editor of the Mirror Weekly, an Eldoret-based newspaper, was murdered in 2015, after publishing an article on developments relating to the International Criminal Court (ICC) case against Deputy President, William Ruto. He was also working on an article about a missing witness due to speak out against William Ruto. To date, suspected perpetrators have not been brought to justice.

- On 27 September 2016, the police harassed and attacked Duncan Wanga, a K24 television journalist, and destroyed his camera, while he was covering a demonstration in Eldoret in the Rift Valley. He was arrested and released without any charges.
- On 1 October 2016, the Deputy President, William Ruto, sued activist Boniface Mwangi for defamation after he posted a tweet linking the Deputy President to the murder in May 2016 of businessman Jacob Juma. The Deputy President's lawyers demanded that Mwangi offer an apology, retraction and clarification within seven days. Boniface, through his organization PAWA254, has been using art to highlight human rights violations in the country. He organized and led demonstrations against exorbitant salaries for Members of Parliament and documented human rights violations during post-election violence in 2007.

Last October the office of a lawyer representing Boniface was broken into and a laptop and camera were stolen. Boniface also received a death threat through a letter given to his wife by a man claiming to be working in the office of a person connected to the Deputy President. Though the man has been arrested, during interrogation by the police, he outlined how the activist was to be killed through a planned road accident. .

Bloggers perceived as critical of the government have also been arrested.

Yassin Juma was arrested on 23 January 2016 for posting information about an attack on the Kenyan Defence Forces on his social media account. Police ransacked his home, looked through his computer and took away flash discs. He was arrested for allegedly misusing a licensed telecommunication gadget under section 29 of the Information and Communication Act. He was later released without charge. ARTICLE 19 filed a case before the High Court in Nairobi that the provisions of the act were vague, uncertain and an unjustifiable limit to the freedom of expression, as well as violating basic criminal law principles. In April 2016, the High Court declared section 29 unconstitutional.

Allegations of government pressure on the Daily Nation to censor stories have also raised concerns about freedom of the press in Kenya. For over two decades Godfrey Mwampembwa, aka Gado, has graced the Daily Nation cartoon pages. His often critical cartoons about public officials, including presidents, were held up as examples of the Kenyan government's commitment to allow the right to freedom of expression.

According to Gado, since Jubilee came into power, The Daily Nation has come under severe pressure to drop him. Initially, he was asked to go on a sabbatical, after a stinging editorial cartoon about former Tanzania President Jakaya Kikwete. He was slated to return in 2016, but on 28 February, 2016, he received a letter from The Daily Nation saying that his contract would not be renewed after all. According to reports, Editor-in-Chief Tom Mshindi denied that his sacking had anything to do with political pressure.

Denis Galava, Managing Editor of the Daily Nation's Weekend Edition, was dismissed over the newspaper's 2016 New Year's editorial critical of the Kenyatta administration. The Nation issued a statement saying he had not followed the correct procedure in writing the editorial. Galava has since sued the Daily Nation for wrongful dismissal.

These incidents have taken place amidst a wider crackdown on dissent, including existing and draft legislation such as the new Security Laws (Amendment) Act and the draft Cyber, Security and Protection Bill, both of which are inconsistent with Kenya's obligations under international

and regional human rights treaties as well as Kenya's own constitutional Bill of Rights—and present a significant threat to the right to freedom of expression.

We, the undersigned organizations, therefore urge the Government of Kenya to publicly reaffirm its oft-repeated commitments to the right to freedom of expression and media freedom, in line with Kenya's Constitution and Kenya's international and regional obligations, including in the run-up to the August 2017 general elections and beyond.

We also urge the Government of Kenya to:

1. Allow Jerome Starkey to return to Kenya to resume his work;
2. Initiate thorough, impartial and transparent investigations into the murder of John Kituyi and bring to justice anyone suspected of being responsible;
3. Initiate thorough, impartial and transparent investigations into the attack on Duncan Wanga and bring to justice anyone suspected of being responsible and ensure Wanga's access to an effective remedy;
4. Guarantee Boniface Mwangi's right to security and investigate and prosecute anyone suspected of being responsible for the threats to his life.

Sincerely,

Amnesty International Kenya

ARTICLE 19

Committee to Protect Journalists

English PEN

Human Rights Watch

INDEX on Censorship

MUHURI

PEN International

Reporters Sans Frontières