

AMNESTY INTERNATIONAL

Public Statement

AI Index: AFR 62/014/2006 (Public)

News Service No: 173

4 July 2006

Democratic Republic of Congo (DRC): Acts of political repression on the increase

Amnesty International today condemned as flagrantly unfair a trial by military tribunal that resulted on 16 June in heavy prison sentences against evangelical church leader Pasteur Fernando Kutino, his colleague, Pasteur Timothée Bompere, and a third man, Junior Nganda. Amnesty International also condemned as illegal the expulsion from the country on 15 June of Supreme Court lawyer Mukadi Bonyi.

Amnesty International considers that Pasteur Fernando Kutino and his co-defendants, who were accused of illegal possession of firearms, criminal conspiracy and attempted murder, have been deprived of their right to a fair hearing by a competent, independent and impartial court of law. The organization is concerned that the trial by military tribunal was summary and that some of the evidence presented by the prosecutor against the accused was extracted under torture. The organization is calling for the verdicts in this case to be set aside. If the state believes that there is enough admissible evidence, the case should be heard before a properly constituted civilian court which respects international standards of fair trial and excludes the possibility of the death penalty. In the absence of a fair trial before a civilian court, Amnesty International believes that the imprisoned men should be released.

Amnesty International is also concerned by the arbitrary and unlawful expulsion on 15 June of lawyer Mukadi Bonyi, following a week of incommunicado detention. Maître Mukadi Bonyi was denied the opportunity to contest the allegations against him, the legality of his detention, or the decision to expel him before a judge or other properly-constituted legal authority.

Amnesty International believes that the accusations against all these men were politically motivated. The unlawful and arbitrary conduct of the state authorities in these cases represents a deterioration in respect for human rights in the DRC amid an already tense political atmosphere in advance of elections set for 30 July. The organization is concerned that state security services -- notably those reportedly accountable only to DRC President Joseph Kabila and his special security advisor, including the *services spéciaux* (Special Services) police -- appear to be acting in an increasingly repressive manner towards perceived political opponents and critics.

The organization appeals to the DRC government to uphold, and to direct its security services to fully respect the right to liberty and the rights to freedom of expression and association guaranteed by the Constitution of the DRC and by the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and People's Rights (ACHPR), treaties to which the DRC is a state party.

Background

Pasteur Kutino, who had only recently returned to the DRC after three years in exile, was detained by

services spéciaux police after a speech he made on 14 May to a large crowd in the capital, Kinshasa. His speech was reportedly critical of so-called foreign influence over the DRC's transitional government and called for an inclusive national dialogue between Congolese political parties before the elections. The initial charge against him was 'incitement to hatred' (*'incitation à la haine'*). However, he and the two other men appeared before a military tribunal on 31 May on charges of illegal possession of firearms (*'détention illégale d'armes de guerre'*), criminal conspiracy (*'association des malfaiteurs'*), and attempted murder (*'tentative d'assassinat'*). The prosecution alleged that the arms had been discovered by police during a search of Pasteur Kutino's *Armée de Victoire* (Army of Victory) church at the time of arrest. The other charges relate to an alleged conspiracy to kill the leader of another church, Pasteur Ngalasi, in 2003, apparently over a property dispute.

The trial before a military tribunal was held at the *Inspectorat Provincial de Kinshasa* (IPK), the Kinshasa Provincial Inspectorate, a police headquarters in the city. On 16 June the tribunal sentenced Pasteur Kutino to 20 years' imprisonment, Pasteur Timothée Bompere to 10 years' imprisonment, and Junior Nganda to 20 years'. The verdicts are being appealed. Two other men, 'Patu' and Freddy Musamu, were tried and sentenced in absentia to heavy prison terms, while another man was acquitted.

The trial, in which the prosecution demanded the death penalty, was summary, lasting for only nine sittings despite the seriousness and complexity of the charges. The accused maintained their innocence, Pasteur Kutino protesting that his only "offence" had been to exercise his right to freedom of expression. A request by defence lawyers for the case to be transferred to a civilian court as the proper jurisdiction was rejected by the tribunal. Pasteur Kutino was not present for most of the trial, stating that he was too ill to attend. His lawyers filed a request for adjournment which the tribunal rejected, despite medical evidence supporting Pasteur Kutino's claim. On 7 June, defence lawyers walked out of the tribunal, protesting the conduct of the trial. At the time of delivery of the verdict, neither the accused nor their lawyers were present.

The evidence against the men is disputed. One of the detainees, Junior Nganda, alleged that testimony he gave to police in 2003 over the alleged murder attempt was obtained through torture while he was detained at the IPK police detention centre. Amnesty International has recently publicly documented reports of torture and cruel, inhuman or degrading treatment at the IPK (see AI Urgent Action AFR 62/012/2006, published on 8 May 2006). Nevertheless the tribunal reportedly continued to rely on parts of this testimony in its deliberations. Other evidence relied on testimony, recorded on video, which was again allegedly obtained under torture at the IPK in 2003 of a man, Maboso Lisasi, who has since died in detention. No independent investigations on these allegations of torture have been carried out. The alleged intended victim of the murder plot, Pasteur Ngalasi, apparently refused to implicate Pasteur Kutino or his associates directly, restricting his deposition only to the fact that in 2002 and 2003 he had brought legal complaints against 'persons unknown' for armed attacks at his home. Irregularities were also alleged in the state's handling of the weapons' evidence.

In the second case, Maître Mukadi Bonyi, a lawyer at the DRC's Supreme Court of Justice and university professor, who served also as legal adviser to Oscar Kashala, a presidential candidate in the forthcoming elections, was arrested by the *services spéciaux* police in Kinshasa on 8 June. After a week in incommunicado detention he was taken to the airport and summarily expelled from the country to Belgium on 15 June. The reasons for his arrest and expulsion have not been made clear, but followed the expulsion in May 2006 of 32 so-called "foreign mercenaries" whom state authorities, to widespread incredulity, alleged were preparing a coup d'état. These men, from South Africa, Nigeria and the USA, had, it is reported, been engaged to work as private security personnel for Oscar Kashala and his political party. Maître Mukadi Bonyi had been involved in submitting legal applications to the DRC authorities that would license the men to carry firearms in the DRC. Although Congolese by birth, he is reportedly the holder of a Belgian passport. Amnesty International understands that another lawyer, Maître Lumbala Ilunga detained at around the same time as Maître Mukadi Bonyi, has since been released.

