

# AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: AFR 16/021/2004 (Public)  
News Service No: 297  
22 November 2004

**Embargo Date: 22 November 2004 00:01 GMT**

## **Burundi: Imminent resumption of executions or summary trials and executions**

Amnesty International is calling on the National Assembly of Burundi to reject draft legislation which was adopted by the Council of Ministers on 16 November 2004.

The bill, presented as a response to rising violent crime, will reportedly be submitted to the National Assembly this week. It proposes that perpetrators of violent crimes, including murder, armed robbery and rape, caught in the act (*flagrant délit ou réputé flagrant*) be dealt with through a radically shortened judicial procedure which falls short of internationally recognized standards for fair trial.

The summary proceedings proposed by the law mean that the whole procedure from arrest to execution would last less than 40 days - including retrial - and could be significantly shorter. The emphasis on speed and the arbitrary cut-off points for police and judicial investigations as well as court proceedings, including a mere 24 hours in which to appeal against the High Court verdict, raise serious questions about the fairness of such proceedings.

Executions are repeatedly mentioned both in the body of the draft law and its introduction. The latter states that "death sentences have increasingly not been carried out leading the death penalty to lose its intended deterrent and eliminating effect. Article 25 of the current law remedies this situation by fixing the date of execution at no later than seven days from the announcement of the final verdict, unless clemency is granted".

"This law makes a mockery of justice and the government's declared commitment to respecting human rights. We are calling on the National Assembly to reject the draft law and oppose all moves to resume executions," Amnesty International said.

Although the law states that the right to defence will be guaranteed, it is impossible to accept that the best possible defence can be prepared in such circumstances. The timeframe also limits the ability of the courts to thoroughly and fully examine the evidence before them in order to reach a fair and just judgement. The law, particularly when combined with specific provisions of the Burundian Code of Criminal Procedure, opens the possibility of abuse and score settling.

Following discussion of the draft law by ministers on Tuesday, a number of modifications have reportedly been incorporated, including increasing the prison sentences applicable in rape cases and

removing some references to executions. They do not however fundamentally change the law, nor address its flaws.

Several recent public statements by the President of the Republic and other senior government representatives expressing their wish to see criminals "severely punished" and for "examples to be made", leave little room for doubt of the government's true intentions.

With government officials from the President downwards effectively demanding the resumption of executions, particularly in high profile cases, judges and prosecutors are likely to be subjected to intense political pressure to impose death sentences.

The government is undeniably faced with a serious problem of rising violent crime. However, sacrificing human lives in the name of a politically expedient strong stance on crime will not resolve the issues of justice and accountability that lie at the heart of so many of Burundi's current problems.

Domestic legislation already provides the necessary framework to bring to justice perpetrators of such crimes. However, the justice system is overburdened and under-resourced as well as weakened by corruption and political interference and decades of human rights abuses committed in virtual total impunity, as well as years of armed conflict and other political violence has contributed to lack of respect for the rule of law.

"Rather than offering society greater protection, the death penalty offers only further brutalization. The government appears to ignore the fact that violent crime has its origin in the politically motivated and widespread violence that has plagued Burundi for decades," the organization said.

By resuming executions the death penalty, the Government of Burundi would be going against the worldwide trend towards abolition. As of November 2004, 81 countries in the world, 10 of which are in Africa, have formally abolished the death penalty for all crimes. A further 10 African countries have not carried out executions for the past 10 years or more and are therefore considered to have abolished the death penalty in practice.

Instead of seeing the death penalty as the solution, Amnesty International calls on the government to undertake a comprehensive reform of the criminal justice system that is capable of translating the express commitments of the government under international standards into reality.

The draft law violates international standards relating to fair trial to which Burundi is party including the African Charter on Human and Peoples' Rights (African Charter) and the International Covenant on Civil and Political Rights (ICCPR). The African Charter's fair trial guarantees have been extended in various declarations as well as in its jurisprudence. The ICCPR protects the presumption of innocence in all cases, the right to have adequate time and facilities for the preparation of one's defence, access to counsel of one's choice, the right to appeal to a higher tribunal and the right to appeal for commutation of the sentence or pardon. The draft law also violates international standards on the death penalty to which Burundi is party.

Over 450 people are currently under sentence of death in Burundi. Many were convicted after grossly unfair trials, and without the possibility to appeal. In October 2000, two members of the Burundian armed forces were executed after a summary trial in which they were denied legal assistance. The two executed men were not allowed to appeal against their sentence. Both had been convicted of high profile murders.

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