

UA 51/98

Death penalty / Legal concern

16 February 1998

BURUNDILéonidas HATUNGIMANA

Jamali NSABIMANA

Ismail HUSSEIN

Haruna HAMADI

Saïdi NZANZURWIMO (in absentia)

Pierre NKURUNZIZA (in absentia)

Bosco NYANDWI

The seven men named above were sentenced to death on 12 February 1998 after being found guilty of allegedly participating in a series of mine explosions in Bujumbura, the capital, in early 1997, in which eleven people were killed. All seven have denied the charges. Amnesty International believes that their trial was unfair and is concerned at the limited appeals procedures open to the defendants and fears the prisoners may be executed.

Amnesty International is concerned at irregularities in the arrest and detention procedures of the seven men and believes that their trial may not have conformed to international standards of fairness.

Some defendants, including Djamali Nsabimana, who was initially held incommunicado in Camp Buyenzi, a military camp in Bujumbura, were initially held in incommunicado detention in illegal detention centres, and were held for weeks before being formally charged. Although the defendants had legal representation during their trial, the *chambre criminelle* of the Court of Appeal in Bujumbura, allegations of torture were not taken into consideration by the court, despite visible traces of torture on some of the defendants. Defendants claimed in court that confessions had been extracted under torture or through intimidation.

Two defendants, Pasteur Jean-Pierre Mandende, who was reportedly beaten in detention, and a journalist, Agnès Ndayikeza, were acquitted.

Another 12 defendants, including the president of the *Conseil National pour la Défense de la Démocratie*, National Council for the Defence of Democracy, (CNDD), Léonard Nyangoma, its spokesperson, Jérôme Ndiho, and Jean Marie Sindayigaya, all of whom are in exile, were charged *in absentia* with offences in connection with their alleged involvement in the mine explosions. The prosecution had called for the death penalty to be imposed *in absentia*, if they were found guilty of the offences of which they were charged. Their cases were referred to the Supreme Court for further investigation.

Amnesty International opposes the death penalty in all countries and all circumstances, because it is a state-sanctioned violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment. The situation is of special concern when people may be sentenced to death after unfair trials.

BACKGROUND INFORMATION

Over 220 people are currently under sentence of death in Burundi, the majority after being found guilty of participation in the massacres of Tutsi civilians which followed the assassination of President Melchior Ndadaye on 21 October 1993. Prisoners convicted of capital offences may appeal to the Cassation court at the Supreme Court. However, the procedure only allows for appeals on gross errors of fact or law, and many prisoners have no opportunity to have the conviction and sentence reviewed by a higher independent jurisdiction. Prisoners may then seek presidential clemency. Senior officials in the Burundi government have stated on several occasions, their

intention to proceed with executions despite national and international concern at the failure of trials to reach internationally recognized standards of fairness.

The first mine explosions in Bujumbura came immediately after the announcement of an alleged assassination plot against president Major Buyoya, by supporters of former president Jean Baptiste Bagaza. In the immediate aftermath of the explosions senior military and government officials accused supporters of Jean Baptiste Bagaza of being behind both the alleged assassination plot and the explosions. The explosions were seen as being aimed at destabilizing and embarrassing the Buyoya government. Subsequently accusations were also made against Hutu armed groups.

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in French or your own language:

- expressing concern that the men named above, all of whom were convicted after unfair trials, may be at risk of execution;
- appealing to the authorities not to carry out any further executions and for President Major Buyoya to grant presidential clemency when sentences come before him;
- urging Major Buyoya to take into consideration the unfairness of the trials when reviewing the cases;
- urging that allegations of torture by the prisoners be impartially investigated and for the findings of the investigation to be taken into consideration when the sentence is reviewed;
- urging that anyone found to have committed torture, or any other human rights violation, be brought to justice;
- appealing to the authorities to take all measures necessary to ensure that all trials taking place in Burundi conform to international standards of fairness as required by international human rights treaties to which Burundi is party, including the International Covenant on Civil and Political Rights and the African Charter on Human and People's Rights.

APPEALS TO:

President

Major Pierre Buyoya
Président de la République
Présidence de la République

Fax: 257 22 7490

Telegrams: Major Buyoya, Bujumbura, Burundi

Salutation: Dear President

Minister of Justice

Monsieur Terence SINUNGURUZA
Ministre de la Justice et Garde des sceaux
Ministère de la Justice

Fax: 257 22 21 48

Telegram: Ministre Justice, Bujumbura, Burundi

Salutation : Monsieur le Ministre

Minister for Human Rights, Institutional Reform and Relations with the National Assembly

Eugène NINDORERA
Ministre des droits de la Personne humaine, des réformes institutionnelles, et des relations avec l'Assemblée nationale
Bujumbura, Burundi

Fax: + 257 21 38 47

Telegrams: Ministre Droits de la Personne, Bujumbura, Burundi

Salutation : Monsieur le Ministre / Dear Minister

COPIES TO:

Prime Minister: Pascal Firmin NDIMIRA, Premier Ministre, Bujumbura, Burundi
Fax: 257 22 64 24

Procurator General: Maître Jean Bosco BUTASI, Procureur Général, Bujumbura, Burundi
Fax: + 257 22 21 48

and to diplomatic representatives of BURUNDI accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 30 March 1998.