

13 April 2000

UA 85/00

Death penalty/Fear of imminent execution/Unfair trial**BURUNDI At least 155 people under sentence of death, including:****Mathieu CONGERA, André NZOKIRANTEVYE, Dionèse NTIRAMPEBA, Anatole KANYEKORI,
Joseph NIBIGIRA, Ferdinand KAGI, MACEMI and KARENZO**

At least 155 prisoners under sentence of death may be facing imminent execution, having exhausted all their appeals. Amnesty International is also concerned that their trials were unfair.

The death penalty is widely used in Burundi. At least 90 people were sentenced to death in 1999 compared to 47 in 1998. Twenty-eight people were sentenced to death in January 2000. Virtually all have been sentenced after unfair trials. Capital trials are heard at the criminal chambers of appeal courts, and there is no right to a full appeal. The eight people named above were sentenced to death at Ngozi court of appeal, where trials have been particularly flawed, and a high proportion of defendants have been sentenced to death.

Most of the more than 330 people now under sentence of death were convicted of taking part in the October 1993 massacres of Tutsi civilians which followed the assassination of President Melchior Ndadaye by members of the Tutsi-dominated armed forces (the subsequent massacres of Hutu civilians by members of the armed forces have not been investigated). Trials for these crimes started in 1996 and were grossly unfair. Although standards have improved since then, most trials still fall far short of international human rights standards. The latest session of trials has just opened.

All condemned prisoners who wish to appeal against their death sentence are transferred to Mpimba central prison, in the capital, Bujumbura, where they are held in appalling conditions, with fewer rights than other prisoners. Two hundred condemned prisoners are currently held in three tiny cells, which also serve as a punishment block for other prisoners.

To reduce this overcrowding, 138 prisoners who have lost their appeals have been transferred to the southern prison of Rumonge. Conditions there are reported to be better than in Mpimba, but most prisoners there are isolated from their families, and the road to the south is not always passable because of armed conflict between the government and Hutu-dominated armed opposition groups. Conditions in all Burundi's prisons are extremely harsh and in many cases amount to cruel, inhuman and degrading treatment.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all circumstances, because it is a state-sanctioned violation of the right to life and the right not to be subjected to cruel, inhuman and degrading punishment. The situation is of special concern when people may be sentenced to death after unfair trials and without a right to a full appeal.

In Burundi, appeals against capital convictions by civilian courts may only be made to the Cassation chamber of the Supreme Court, and only on the grounds of gross errors of law or procedure. If the appeal is unsuccessful, the prisoner may apply for presidential clemency. Without the assistance of an experienced cassation lawyer, a successful submission - which would mean that the case

would be sent back for retrial - is virtually impossible. An appeal to the Cassation chamber must be submitted within eight days of the verdict. In most capital cases, prisoners have had to submit appeals without a lawyer and without a copy of the verdict on which the cassation appeal should be based. Some prisoners, particularly those convicted in 1996 and 1997, did not appeal apparently because they were unaware that they had the right to do so.

Six people were executed in July 1997. All had been sentenced to death after grossly unfair trials by civilian courts. In July 1999, Corporal Bonaventure Ndikumana was sentenced to death by a military court and summarily executed the next day, although he had submitted an appeal which had not been heard. Amnesty International and other organizations, including national human rights groups, have appealed for an investigation into the flagrant violation of procedures in his case, but none is known to have taken place.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in French or your own language (please check whether postal services to Burundi are operating from your country):

- expressing concern that at least 155 people, including those named above, were convicted and sentenced to death after unfair trials and may face imminent execution;
- calling for their convictions and sentences to be reviewed;
- urging the authorities not to carry out any further executions;
- calling on President Buyoya to grant clemency in all capital cases which come before him;
- calling for an immediate end to the punitive conditions in which prisoners under sentence of death are held in Mpimba central prison, and for these prisoners to have the same rights as all other inmates;
- appealing to the authorities to take all measures necessary to ensure that all trials in Burundi conform to the international standards of fairness required by the international human rights treaties to which Burundi is party, including providing the right to a full appeal in capital cases.

APPEALS TO (Please note, it can be difficult to get faxes through. Please keep trying):

President

Major Pierre Buyoya
Président de la République
Présidence de la République
BP 1870, Bujumbura, Burundi

Telegrams:Major Buyoya, Bujumbura, Burundi

Faxes:+ 257 22 7490

Salutation:Monsieur le Président / Dear President

Minister of Justice

Monsieur Térance SINUNGURUZA
Ministre de la Justice et Garde des sceaux
Ministère de la Justice
BP 1880, Bujumbura, Burundi

Telegrams:Ministre Justice, Bujumbura, Burundi

Faxes:+ 257 21 86 10

Salutation:Monsieur le Ministre / Dear Minister

State Public Prosecutor

Monsieur Gérard NGENDABANKA

Procureur Général de la République
Bujumbura, Burundi

Telegrams: Procureur General, Bujumbura, Burundi

Faxes: + 257 24 15 03

**Salutation: Monsieur le Procureur Général de la République / Dear State Public
Prosecutor**

COPIES TO:

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

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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 31 May 2000.