

PUBLIC

AI Index: AFR 16/11/99

8 July 1999

Further information on UA 51/98 (AFR 16/05/98, 16 February 1998) - Death penalty / Legal concern

BURUNDI Léonidas HATUNGIMANA
Djamali NSABIMANA
Ismail HUSSEIN
Haruna HAMADI
Bosco NYANDWI

Saïdi Nzanzurwimo (in absentia)
Pierre Nkurunziza (in absentia)

The death sentences imposed on the five men named above were confirmed on 29 March 1999 after a hearing by the cassation chamber of the Supreme Court in Bujumbura. The men may now appeal for clemency to the head of state. Amnesty International is concerned they may face execution.

The men were sentenced to death in February 1998 by Bujumbura Court of Appeal after a trial which Amnesty International considers to have been unfair (Saïdi Nzanzurwimo and Pierre Nkurunziza were sentenced to death *in absentia*). The men were found guilty of participating in a series of land mine explosions in Bujumbura in early 1997. Although they had legal representation and despite some of the defendants showing visible traces of having been tortured, allegations that they had made incriminating statements only under torture were not taken into consideration. Two other defendants who received long prison sentences also appealed unsuccessfully to the cassation chamber.

The men are currently held in Mpimba central prison, Bujumbura, where prisoners under sentence of death are held in three extremely overcrowded cells in conditions that amount to cruel, inhuman and degrading treatment. The cells are also used as punishment cells for other prisoners.

Another 12 people living in exile, including the president and other key members of the *Conseil National pour la Défense de la Démocratie* (CNDD), National Council for the Defence of Democracy, political wing of one of the armed opposition groups active in Burundi, were also charged, *in absentia*, with involvement in the mine explosions. At the close of the trial in February 1998, their cases were referred to the Supreme Court for further investigations. No further investigations are known to have taken place.

Appeals against capital convictions may only be made to the Cassation Chamber of the Supreme Court, and only on the grounds of gross errors of law or procedure. Without the assistance of an experienced cassation lawyer, a successful appeal - which would mean that the case would be sent back for retrial - is virtually impossible. An appeal must be submitted within eight days of the judgement. In the majority of capital cases, prisoners have been forced to submit appeals without a lawyer and without a copy of the judgement on which the cassation appeal should be based. The cassation chamber has been inflexible in accepting later more detailed submissions. Some prisoners have not appealed, apparently unaware of this right.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in French or in your own language (please check with your post office whether postal services are functioning to Burundi):

- expressing concern that the men named above, who were convicted after unfair trials, may face execution;
- urging the President to grant clemency when their cases come before him;
- calling for the authorities not to carry out any further executions;
- seeking assurances that all prisoners will be treated humanely and not subjected to cruel, inhuman or degrading treatment regardless of the nature of their convictions and sentences;
- 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 the international human rights treaties to which Burundi is party, including by providing for the right to a full appeal in capital cases.

APPEALS TO (Please note that it is sometimes difficult to send faxes to Burundi. Please keep trying).

President

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

Telegrams:Major Buyoya, Bujumbura, Burundi

Faxes:+ 257 22 7490

Salutation: Monsieur le Président / Dear President

Minister of Justice

Monsieur TERENCE SINUNGURUZA
Ministre de la Justice et Garde des sceaux
Ministère de la Justice
Bujumbura, Burundi

Telegrams:Ministre Justice, Bujumbura, Burundi

Faxes:+ 257 21 86 10

Salutation:Monsieur le Ministre / Dear Minister

State Public Prosecutor

Monsieur Gerard NGENDABANKA
Procureur Général de la République,
Bujumbura, Burundi

Telegrams:Procureur Général, Bujumbura, Burundi

Faxes:+ 257 24 15 03

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

COPIES TO:

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

Monsieur Eugène NINDORERA, Ministre des droits de la Personne humaine, des réformes institutionnelles, et des relations avec l'Assemblée nationale, Bujumbura, Burundi. **Faxes: + 257 21 75 49**

President of the National Assembly

Monsieur Léonce NGENDAKUMANA, Président de l'Assemblée nationale, Bujumbura, Burundi. **Faxes: + 257 23 26 22**

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 19 August 1999.