

**PUBLIC**

**AI Index: AFR 16/023/2004**

**19 November 2004**

**UA 316/04**      **Fear of execution**

**BURUNDI**      **Draft legislation proposing summary trials and executions**

---

A draft law proposing that people caught in the act of committing violent crimes, including murder, armed robbery and rape, be dealt with through a radically shortened judicial procedure is due to be presented to the National Assembly of Burundi next week. The draft law is being presented as a response to an increase in violent crime.

For it to become law, it must be adopted by the National Assembly, then the Senate before being confirmed by the President of the Republic. If implemented, the draft law would significantly increase the risk of death sentences being imposed and executions carried out after unfair trials. Other defendants would be sentenced to potentially long prison sentences for which there would be no possibility of conditional release.

The emphasis of the draft law on the death penalty and executions have added to fears that the government is considering the resumption of executions after a gap of seven years. The introduction to the draft law states that "death sentences have increasingly not been carried out leading the death penalty to lose its intended effect of deterrence and elimination"; a situation "remedied" by this law. This echoes statements made by senior government figures, including the President of the Republic, who have expressed their wish to see criminals "severely punished" and for "examples to be made". In high profile cases, judges and prosecutors are likely to be subjected to intense political pressure to impose death sentences.

Under the new law, the whole procedure from arrest to execution – including retrial – will take less than 40 days, and could be significantly shorter. The law sets the date of execution "no later than seven days from the announcement of the final verdict", unless clemency is granted.

The emphasis on speed and the arbitrary cut-off points for police and judicial investigations raise serious questions about the fairness of such proceedings. 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 time restrictions imposed by the draft law also prevent courts from having the time consider cases thoroughly.

The draft law violates international standards relating to fair trial to which Burundi is party, including the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights (ICCPR), as well as international standards on the death penalty by which Burundi is also bound.

#### **BACKGROUND INFORMATION**

Over 450 people are currently under sentence of death in Burundi. Many were convicted after grossly unfair trials, and without the possibility of appeal. The last executions of people sentenced to death by civilian courts were carried out in 1997, when six people were executed after grossly unfair trials.

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.

Violent crime including rape, armed robbery and murder appears to be on the increase in Burundi. The country has suffered over 10 years of conflict and decades of systematic human rights abuse, perpetrated with impunity. The justice system is overburdened and under-resourced as well as weakened by corruption

and political interference. Much of the population has access to arms and many people live in desperate poverty. The civil war has contributed to lack of respect for the rule of law.

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in French or your own language:**

- express concern that a new draft law (*Projet de Loi No... Portant procédure spéciale de répression des crimes flagrants ou réputés flagrants de sang, de vols à main armée et de viol*) due to come before the National Assembly is in contravention of international standards for fair trial;
- say that the law does not provide those being tried under this special procedure with adequate time for the preparation of a defence at any stage, or for the courts to consider their case thoroughly, or to appeal against their convictions;
- say that the law could lead to death sentences being imposed and executions carried out after unfair trials;
- refer to recent statements by government officials that indicate an apparent willingness to resume executions, and point out that numerous studies have failed to show that the death penalty is any more effective than other forms of deterrent;
- express concern that it appears that Burundi is going against the worldwide trend of abolition, and that the proposed law violates international treaties to which Burundi is party, including the African Charter and the International Covenant on Civil and Political Rights; and
- call on the National Assembly to reject the law and to instead impose a moratorium on executions.

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

Speaker, National Assembly

Monsieur Jean MINANI  
Président de la l'Assemblée nationale  
Palais de Kigobe, BUJUMBURA  
Republic of Burundi

**Faxes: + 257 23 26 22**

**Salutation: Monsieur le Président / Dear Speaker**

President of the Parliamentary Human Rights and Justice Commission

Monsieur Léonidas NTIHABAZI  
Président, Commission permanente de la Justice, des Droits de l'homme, de la prévention du génocide et de la lutte contre l'exclusion  
Assemblée nationale  
Palais de Kigobe  
Republic of Burundi

**Salutation : Honorable / Dear Sir**

**Faxes : + 257 23 26 22**

**COPIES TO:**

Burundian Minister of Human Rights

Monsieur Déogratias RUSENGWAMIHIGO, Ministre des Droits de la Personne humaine, des Réformes institutionnelles et des Relations avec l'Assemblée nationale, Ministère des Droits de la Personne humaine, Bujumbura, Burundi.

**Fax: + 257 21 75 49**

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 December 2004.