

EXTRA 75/98

Imminent execution / Death Penalty / Legal concerns

12 October 1998

SIERRA LEONE Brigadier Hassan Karim Conteh
Corporal Tamba Gborie
Colonel Samuel Francis Koroma
Major Kula Samba (f)
Colonel Abdul Karim Sesay
And 29 other soldiers

Amnesty International fears that the execution of 34 soldiers could be imminent, after they were sentenced to death by firing squad at a court martial in Freetown on 12 October 1998.

The soldiers were charged with offences related to the military coup of 25 May 1997, in which the elected government of President Ahmad Tejan Kabbah was overthrown and the Armed Forces Revolutionary Council (AFRC) came to power.

Three other defendants were acquitted. The court martial refused to accept arguments that the death penalty was discretionary rather than mandatory for these offences.

President Kabbah was reinstated when the AFRC was forced from power in February 1998 by ECOMOG, the West African force deployed in Sierra Leone.

Trials before courts martial in Sierra Leone allow no right of appeal against conviction and sentence to a higher jurisdiction, in violation of international standards for a fair trial. Amnesty International has repeatedly urged the government of Sierra Leone to allow a judicial appeal procedure following court martial.

Article 14(5) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Sierra Leone in 1996, states that "*Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.*"

Under the Optional Protocol to the ICCPR, also ratified by Sierra Leone in 1996, if rights guaranteed by the ICCPR, including fair trial, have been violated, recourse may be sought from the United Nations (UN) Human Rights Committee. There are fears, however, that these executions could be carried out before applications are submitted and considered by the Human Rights Committee.

The Human Rights Committee has concluded that imposition of a death sentence after a trial which violates the provisions of the ICCPR, including Article 14, constitutes a violation of the right to life which is guaranteed by Article 6 of the treaty.

The Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted by the UN Economic and Social Council in 1984, state that: "*Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.*"

In December 1996 the UN Special Rapporteur on extrajudicial, summary or arbitrary executions stated, with reference to capital cases, that "*proceedings must guarantee the right of review of both actual and legal aspects of the*

case by a higher tribunal, composed of judges other than those who dealt with the case at the first instance."

Those sentenced to death may seek clemency under Section 63 of the 1991 Constitution of Sierra Leone. The prerogative of mercy is exercised by a special committee, chaired by the President, which may commute death sentences.

BACKGROUND INFORMATION

In addition to the court martial of the 37 soldiers, 58 civilians have been tried for treason and other offences, in connection with the military coup, in three separate trials before the High Court in Freetown. On 25 August 1998 16 defendants in one of the trials were convicted and sentenced to death. Foday Sankoh, leader of the armed opposition Revolutionary Front (RUF), is also being tried before the High Court. Those convicted by the High Court may appeal to the Court of Appeal and, if unsuccessful, to the Supreme Court. They also have the right to seek clemency from the presidential committee for the prerogative of mercy. All trials, including the court martial, have been open to independent observers.

Killings, torture, rape, arbitrary arrest and detention were systematic throughout the period of AFRC rule. Since the AFRC and the RUF were forced from power, they have unleashed a campaign of deliberate and arbitrary killing and mutilation against civilians in the east and north of the country. Thousands of people have been killed or suffered amputations of their hands, arms, legs, ears or lips and these atrocities are continuing. Amnesty International has repeatedly condemned these gross human rights abuses and called for effective action to be taken to stop them.

Public opinion in Sierra Leone has demanded swift and strong action to be taken against those responsible for the crimes committed by the AFRC. Amnesty International acknowledges the government's responsibility to bring to justice those responsible for these crimes, in accordance with international standards, and insists that there should be no impunity for human rights violations. It is, however, unconditionally opposed to the death penalty. There is no evidence that the death penalty has any special power to reduce crime or political violence, or to meet genuine social need.

Sierra Leone faces a difficult and daunting task in achieving reconciliation within its society after the atrocities committed by the AFRC and RUF. The organization believes, however, that the use of the death penalty will give the false impression that preventative action is being taken and will not contribute to the process of reconciliation.

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

- expressing serious concern that 34 soldiers were sentenced to death by court martial on 12 October 1998;
- acknowledging the gravity of the crimes for which the defendants have been convicted, stating that there should be no impunity for those who commit human rights violations, but stating your unconditional opposition to the death penalty;
- expressing particular concern that those sentenced to death have no right of appeal against conviction and sentence to a higher jurisdiction, in violation of international standards for a fair trial;
- noting that they have the right to seek recourse to the UN Human Rights Committee under the Optional Protocol of the International Covenant on Civil

and Political Rights and urging that no death sentence is carried out while such petitions are pending;

- urging the President to exercise clemency, to commute any death sentences referred to him and to ensure that no executions take place.

APPEALS TO:

President Ahmad Tejan Kabbah

State House

Independence Avenue

Freetown, Sierra Leone

Telegrams: President Kabbah, State House, Freetown, Sierra Leone

Faxes: + 232 22 22 22 50

Salutation: Dear President Kabbah

COPIES TO:

Mr Solomon Berewa

Attorney General and Minister of Justice

Department of Justice and Office of the Attorney General

Guma Building

Lamina Sankoh Street

Freetown, Sierra Leone

Faxes: + 232 22 22 93 66

COPIES TO: diplomatic representatives of SIERRA LEONE accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 9 November 1998.