

URGENT ACTION

PEACEFUL ACTIVISTS JAILED FOR ‘DEFAMATION’

Activists Claude Lwaboshi Buhazi (32), Faustin Ombeni Tulinabo (26) and Serge Mikindo Waso (33), members of the citizen movement, Jicho la Raiya (*The Eye of the Citizens*) were arrested on 18 February in Kirotshe, in the Democratic Republic of Congo’s North Kivu province, as they were preparing to take part in a peaceful protest against “illegal road taxation” and allegations of mismanagement at the Kirotshe health district. They were accused of defamation and jailed at the police station in Kirotshe before being transferred to Goma Central Prison on 2 March. On 26 November, their request for release on bail was rejected by a military magistrate in Goma. Amnesty International calls for the three activists’ immediate and unconditional release.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Lieutenant-General Constant Ndimba

Governor of North Kivu

Email : secretariat.cab.gp.nk@gmail.com

Dear Governor,

I would like to bring to your attention **Claude Lwaboshi Buhazi (32), Faustin Ombeni Tulinabo (26) and Serge Mikindo Waso (33)**, three activists arrested on 18 February 2021 in Kirotshe, Masisi territory, North Kivu, Democratic Republic of Congo (DRC), who have since been arbitrarily detained in connection with their peaceful human rights activism.

On 18 February, the three activists were planning a peaceful protest over “illegal road taxation” and allegations of mismanagement in the Kirotshe health district. The three members of the citizen movement, Jicho la Raiya (*The Eye of the Citizens*) were accused of “malicious accusations” against the then head of Kirotshe health district and a construction company in charge of roads maintenance in the area. On 2 March, they were transferred to the Goma Central Prison, in North Kivu province’s capital, awaiting trial. Their initial appearance before a magistrate was only scheduled on 10 May under file number RP 2210. But because of the State of Siege announced on 6 May, and the transfer of criminal offenses from civilian to military courts, they were only presented before a magistrate and formally charged on 19 November. They have now spent over nine months in custody when the defamation offense they are accused of is punishable only from eight days to one year in prison.

Amnesty International believes that Claude Lwaboshi Buhazi, Faustin Ombeni Tulinabo and Serge Mikindo Waso’s prosecution and continued detention amount to a travesty of justice. Their plans to peacefully protest against “illegal taxation”, allegations of mismanagement of the Kirotshe health district and poor service delivery is a right under international and national laws. Their actions should be encouraged and not suppressed so that all people are able to hold authorities accountable for improving access to critical services such as health.

I call on you to order the three activists’ immediate release, as they are being detained solely in connection with the peaceful exercise of their right to freedom of expression and peaceful assembly. I also call on you to stop the prosecution of civilians before military courts, as they do not guarantee independence and impartiality under international human rights law, and to halt the use of defamation laws as a repressive tool to silence and punish peaceful dissent and critical voices.

Yours sincerely,

ADDITIONAL INFORMATION

On 3 May 2021, President Félix Tshisekedi announced that the provinces of North Kivu and Ituri were being placed under a special emergency regime dubbed a 'State of Siege'. The measure, according to his order, was meant to bring peace and stability to the two provinces after decades of armed conflicts by eradicating armed groups in the region.

Under the State of Siege, all civilian powers have been transferred to the military and police which replaced the civilian provincial government, chief of towns, city council and mayors. In the same context, all cases were transferred from civilian to military courts. Later, in September 2021, the Minister of Justice clarified that only criminal cases were to be handled by the military justice system. [On 6 May 2021](#), while welcoming the government's stated intent to protect civilians in eastern DRC, Amnesty International stressed its opposition to the transfer of the criminal jurisdiction to the military court system as they violate the DRC's obligation to guarantee independence and impartiality under international human rights law. Allowing the prosecution of civilians before military tribunals violates the right to a fair trial and due process guarantees. The African Commission on Human and Peoples' Rights Resolution on the Right to a Fair Trial and Legal Aid in Africa noted that "[t]he purpose of Military Courts is to determining offenses of a pure military nature committed by pure military personnel."

Amnesty International has also observed an increasingly restrictive environment for the right to freedom of expression under the State of Siege. Journalists, Member of Parliament at the local and national levels and human rights activists have been attacked for their criticism of the State of Siege as the solution to continued insecurity.

The UN Working Group on Arbitrary Detention has determined that those detained solely for the peaceful exercise of their human rights must be immediately released. The African Commission on Human and Peoples' Rights has called on all states parties to the African Charter on Human and Peoples' Rights, in its resolution 466 on prisons and conditions of detention in Africa, to release different groups of detainees amidst the Covid-19 pandemic, including human rights defenders, "in order to reduce overcrowding in prisons and curb the spread of the Coronavirus".

PREFERRED LANGUAGE TO ADDRESS TARGET: French

You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 31 January 2022

Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PRONOUN: Claude Lwaboshi Buhazi (32), Serge Mikindo Waso (33), Faustin Ombeni Tulinabo (26) (All He/Him)