

PUBLIC

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27 February 2002

Further information on UA 302/01 (AFR 16/042/2001, 29 November 2001) - Fear of torture and ill-treatment. New concern: Unfair trial, death penalty

BURUNDIZamda BAGURIKUNDA (f), businesswoman, aged 28 (note correction in gender)

New name: Dieudonné NIYONSABA (m), ammunitions controller, Nyanza lac barracks, southern Burundi

Zamda Bagurikunda and a co-defendant, Dieudonné Niyonsaba, were sentenced to death on 17 January 2002 after an unfair trial by the military court of the 5th Military Region. Neither were represented by a lawyer. They have appealed against the conviction and sentence to the Military Court of Appeal.

Following her arrest in November 2001, Zamda Bagurikunda, a businesswoman suspected of having links with an armed opposition group, the *Conseil national pour la Défense de la Démocratie - Forces pour la Défense de la Démocratie* (CNDD-FDD), National Council for the Defence of Democracy - Forces for the Defence of Democracy, was detained for two days in a military barracks in Makamba province then transferred to gendarmerie (paramilitary) custody in Makamba (*brigade de Makamba*), where she was reportedly tortured. Three days later she was transferred to Bururi prison where she is still held. Although conditions in Bururi prison are harsh, she is no longer considered to be at risk of torture.

Under Burundian law, civilians whose co-defendants include members of the armed forces are tried by military courts. Zamda Bagurikunda was accused with another civilian, Faustin, and two members of the armed forces, Abbas Kayitare and Dieudonné Niyonsaba, of stealing ammunition from the military barracks where Dieudonné Niyonsaba was based and giving or selling it to the CNDD-FDD. Abbas Kayitare, a soldier who reportedly incriminated his co-defendants and may have benefited from a reduction in sentence as a reward, received a prison sentence of two years. Faustin, who was charged with failing to inform the authorities of Zamda Bagurikunda's alleged links to the CNDD-FDD, received a prison sentence of five years. Faustin, Abbas Kayitare and Dieudonné Niyonsaba were reportedly arrested in June 2001. Zamda Bagurikunda was arrested after she returned to Burundi after a period abroad.

Military courts in Burundi are notorious for their blatant disregard for legal procedures and lack of independence. Since 1999, three members of the armed forces sentenced to death by military courts have been executed in violation of their rights to appeal to the Military Court of Appeal, the Supreme Court, and finally for presidential clemency. The last executions of people sentenced to death by civilian courts were carried out in 1997 when six people sentenced to death after grossly unfair trials were executed. In February 2002, the Minister of Justice stated that over 400 people were currently under sentence of death.

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

- expressing concern that Zamda Bagurikunda and Dieudonné Niyonsaba were sentenced to death by the military court (*conseil de guerre de la 5e région*)

militaire) on 17 January 2002 after an unfair trial in which they did not have legal counsel;

- appealing to the authorities not to carry out any executions;
- calling for an investigation into the allegation that Zamda Bagurikunda was tortured while in custody at Makamba brigade, and if substantiated, for the person(s) responsible to be brought to justice;
- expressing concern that civilians are tried by military courts which lack independence and impartiality as well as a lack of adequate training and resources;
- appealing for the case to be reviewed by a civilian court of appeal, which should take into consideration both the fairness of proceedings and the allegation of torture when reviewing the cases.

APPEALS TO:

Head of State

Son Excellence

Major Pierre BUYOYA

Président de la République

Présidence de la République

BP 1870 Bujumbura, Burundi

Telegrams: President, Bujumbura, Burundi

Faxes: + 257 22 74 90

Salutation: Monsieur le Président de la République / Dear President

Minister of National Defence

Général-Major Cyrille NDAYIRUKIYE

Ministre de la Défense Nationale

Ministère de la Défense Nationale

BUJUMBURA, Burundi

Telegrams: Ministre Defense, Bujumbura, Burundi

Faxes: + 257 24 37 24

Salutation: Monsieur le Ministre / Dear Minister

Military Prosecutor

Auditeur Général

Ministère de la Défense Nationale

Ministère de la Défense Nationale

BUJUMBURA, Burundi

Telegrams: Auditeur general, Bujumbura, Burundi

Faxes: + 257 24 37 24

Salutation: Monsieur l'Auditeur général / Dear Military Prosecutor

Minister of Justice

Monsieur Fulgence Dwima BAKANA

Ministre de la Justice et Garde des Sceaux

Ministère de la Justice

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Burundi

Telegrams: Ministre Justice, Bujumbura, Burundi

Faxes: + 257 21 86 10

Salutation: Monsieur le Ministre / Dear Minister

COPIES TO:

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

Monsieur Alphonse BARANCIRA, 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 10 April 2002.