

PUBLIC

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Fear of execution

24 February 2004

BURUNDI

Simon MUNYAKAZI (m)]	
Apollinaire MWISENEZA (m)]	Rwandese nationals
James GAKURU (m)]	
Francis MAHESHI (m)]	

The four Rwandese men named above were tried on charges which carry the death penalty, on 23 February. Amnesty International believes their trial was unfair. They were denied legal assistance, and had no time to prepare a proper defence. The verdict is expected to be announced shortly. Amnesty International is concerned at reports that, if convicted and sentenced to death, the men's right to appeal may be undermined and they may be executed shortly afterwards.

The trial, at the *Tribunal de Grande instance* (TGI), the High Court, in Bujumbura, lasted approximately three hours. The men were reportedly unable to find a Burundian lawyer willing to represent them. The court turned down their request for lawyers from Rwanda and ordered the men to represent themselves. The state public prosecutor has called for the death penalty.

The men were arrested on 31 January 2004, following a bank robbery in the Burundian capital, Bujumbura, on 29 January 2004. It is highly unusual for a trial to take place so soon after the arrest. They are reported to have been badly treated during questioning at the *Brigade spéciale de recherche* (BSR), gendarmerie special investigations unit, in Bujumbura. Human rights groups were denied access to the men while they were at the BSR. They are now detained in Mpimba central prison.

Under the Burundian Code of Criminal Procedure, if convicted, the men would have the right to appeal to the Court of Appeal and then to the Cassation Chamber of the Supreme Court. As a final resort, a plea for presidential clemency may be introduced. However, a Bujumbura gendarmerie commander, at a press conference on the arrests, called for heavy penalties to be imposed and for the sentences to be carried out, to deter rising crime. A top government official is also reported to have agreed that an example needs to be made.

BACKGROUND INFORMATION

Seven men robbed the *Banque de Gestion de Financement de Bujumbura*, one of Burundi's main banks, on 29 January 2004. They killed a guard during the robbery, and escaped with a large amount of money. The year 2003 saw a dramatic increase in crime committed with firearms across the country, and the robbery has incensed Bujumbura society.

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.

In July 1999, army corporal Bonaventure Ndikumana was executed in Mabanda military camp one day after he was sentenced to death by Bujumbura military court (*conseil de guerre*). His lawyer, the Head of the Burundian Bar Association, had lodged an appeal with the Military Court of Appeal (*Cour militaire*), but the appeal was not heard. 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.

Over 450 people are currently under sentence of death in Burundi. Many were convicted after grossly unfair trials, and without the possibility to appeal. Until September 2003, capital cases were tried at the level of the

Court of Appeal, denying defendants the right to a full appeal against conviction and sentence. No measure has been introduced which would enable a review of cases of people sentenced to death by the Courts of Appeal.

President Domitien Ndayizeye is a member of the political party *Front pour la Démocratie au Burundi* (FRODEBU), Front for Democracy in Burundi. The party's manifesto includes a commitment to abolish the death penalty.

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

- acknowledging that the authorities have the right to try those accused of violent crimes but stating that trials should be in accordance with international standards for fair trial;
- expressing concern that the four men named above (please give names) have been tried on capital charges without the assistance of a lawyer, and that the court denied their request for legal assistance;
- expressing concern at reports that the men were ill-treated while detained at the BSR;
- expressing concern that statements by the members of the security forces involved in the case, on the need for an example to be made, may be prejudicial to the outcome of the trial;
- expressing concern that in the past, several people have been executed in flagrant denial of their rights and of the procedures set down in the Burundian legal system;
- expressing concern that while devolving capital cases to the lower courts should be a step towards fair trials, in practice, it appears that defendants' rights are still blatantly violated;
- urging that if the men are convicted, their right to appeal is fully respected and that they are granted legal assistance;
- calling on the president to grant clemency if death sentences are passed and upheld, and reminding him that FRODEBU has committed itself to abolishing the death penalty which is a cruel, inhuman and degrading punishment;
- calling on the president to commute any death sentences which come before him.

APPEALS TO:

President of the Republic

Son Excellence

Monsieur Domitien NDAYIZEYE

Président de la République

La Présidence

Burundi

Salutation: Monsieur le Président de la République / Your Excellency

Faxes: + 257 21 26 70

Telegrams: President, Presidency, Bujumbura, Burundi

Minister of Justice

Monsieur Didace KIGANAHE

Ministre de la Justice et Garde des Sceaux

Ministère de la Justice

Bujumbura, Burundi

Salutation: Monsieur le Ministre / Dear Minister

Fax: + 257 21 86 10

Telegrams: Ministre Justice, Bujumbura, Burundi

State Public Prosecutor

Monsieur Gerard NGENDABANKA

Procureur Général de la République

Parquet Général

Bujumbura, Burundi

Salutation : Monsieur le Procureur Général / Dear Sir

Fax: + 257 21 86 10

Telegrams: Procureur General de la République, Bujumbura, Burundi

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.

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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 6 March 2004.