

PUBLIC

AI Index: AFR 16/018/2003

EXTRA 49/03

Fear of torture / Fear of “disappearance”/  
Fear of “forcible return”

07 November 2003

BURUNDI/  
RWANDA

Aimable NKURUNZIZA (m), Rwandese national  
Joseph NZEYIMANA (m), Congolese national  
MASUMBUKO (m), Burundian national

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Aimable Nkurunziza, Joseph Nzeyimana, and Masumbuko, currently detained in paramilitary (gendarmierie) custody in Burundi, are at great risk of being forcibly transferred to Rwanda. Amnesty International is concerned that if taken to Rwanda, they would be at risk of torture or “disappearance”.

The three men were arrested on or around 21 October 2003 in the southern Burundian town of Rumonge. All three are reported to be deserters from the Rwandese armed forces. Since their arrest they have been held in paramilitary custody in Rumonge. It is not clear whether the motive for the arrest is their desertion or whether, as some independent sources indicate, they are suspected of belonging to an anti-Rwandese Congolese armed opposition movement. This is made up of South-Kivu Tutsi known as Banyamulenge, led by Commander Patrick Masunzu, and allied to Congolese Mayi Mayi militia. Furthermore, a close relative of Aimable Nkurunziza is reported to be the bodyguard of former King Kigeri V, who is perceived by the Rwandese authorities to be a focal point for political opposition abroad.

#### BACKGROUND INFORMATION

On several occasions in recent years, suspected opponents have been forcibly returned to the neighbouring countries of Democratic Republic of Congo and Rwanda from Burundi. In August 2002, six Banyamulenge refugees with suspected links to Commander Masunzu were arrested in Burundi and transferred to DRC where they were detained by the *Rassemblement congolais pour la démocratie au Congo* (RCD-Goma), Congolese Rally for Democracy in Congo, a Rwandese-backed armed political group and then *de facto* authority in eastern DRC. Some of the group were tortured in RCD-Goma custody. In February 2000, three Rwandese nationals who had fled Rwanda were arrested in Bujumbura and forcibly returned to Rwanda, in circumstances which remain unclear. All were detained in military custody on their arrival in Rwanda.

While torture and ill-treatment in custody in Rwanda has diminished in recent years, it has not been eradicated and political or military opponents remain vulnerable. During 2003, in the run up to presidential elections a number of political opponents were arrested and at least five have since “disappeared”. Muvunyi John Sebigabo, “disappeared” in Kigali in May 2002 after giving an interview on international radio on issues pertaining to the Banyamulenge identity.

Burundi is a state party to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment which prohibits the forcible return of persons to a country where they would be at risk of torture. This principle is also part of customary international law.

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

To the Burundian authorities:

-calling on them to prevent the forcible transfer of Aimable Nkurunziza, Joseph Nzeyimana, and Masumbuko, if it has not already occurred, on the grounds that there is a well-founded risk that they could be at risk of torture or “disappearance” if they are taken to Rwanda;

-expressing concern that moves to take the men to Rwanda appear to be outside of any legal framework, placing them at greater risk;  
-calling on them to conduct an immediate and impartial investigation into the circumstances of the arrest and detention, and possible forcible return of the three men;  
-seeking clarification of the legal grounds of their detention in Burundi and of their transfer to Rwanda;  
- reminding them that the forcible return of persons to a country where they would be at risk of torture would be a violation of Burundi's obligations under international human rights law;  
-asking them what assurances they have sought that the men will be protected from human rights violations in Rwanda.

To the Rwandese authorities:

-calling on the men to be protected, if transferred to Rwanda, from torture and other forms of ill-treatment, and "disappearance", for their place of detention to be made public and for them to have immediate and sustained access to their families, medical care and legal counsel, as well as human rights and humanitarian organizations.  
-seeking clarification of the legal grounds for the men's transfer to Rwanda and the reasons for their continued detention.

**APPEALS TO:**

**Burundian authorities**

President of the Republic:

Son Excellence

Monsieur Domitien NDAYIZEYE

Président de la République

La Présidence

Burundi

**Telegrams: President, Présidence, Bujumbura, Burundi**

**Faxes: + 257 21 26 70**

**Salutation: Monsieur le Président de la République / Your Excellency**

Minister of Defence

Général-Major Vincent NIYUNGEKO

Ministre de la Défense nationale

Ministère de la Défense nationale, Bujumbura, Burundi

**Telegrams: Ministre défense, Bujumbura, Burundi**

**Faxes: +257 24 87 15**

**Salutation: Monsieur le Ministre / Dear Minister**

**Rwandese authorities**

President of the Republic

President Paul KAGAME

Kigali, Rwanda

**Fax: +250 847 69 / 84390**

**Email: [presirep@rwanda1.com](mailto:presirep@rwanda1.com)**

**Salutation: Monsieur le Président de la République/ Your Excellency**

Minister of Defence

Major General Marcel GATSINDI

Minister of Defence

Kigali, Rwanda

**Faxes: + 250 57 69 69**

**Salutation: Monsieur le Ministre / Dear Minister**

**COPIES TO:**

Burundian Minister of Human Rights

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, Bujumbura, Burundi.

**Fax: + 257 21 75 49**

President of the Rwandese human rights commission

Madame Kayitesi SAINABU,

National Human Rights Commission,

Kigali, Rwanda.

**Email: [cndh@rwanda1.com](mailto:cndh@rwanda1.com)**

**Fax: + 250 510 393**

and to diplomatic representatives of BURUNDI/RWANDA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**