



URGENT ACTION

PUBLIC

AI Index: AFR 16/02/99

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Further information on UA 51/98 (AFR 16/05/98, 16 February 1998) and follow-up (AFR 16/23/98, 15 September 1998) - Death penalty/Legal concern

BURUNDI

At least 260 people under sentence of death, including at least 73 people awaiting presidential clemency

New names: Gaëtan Bwampaye

Marie Rose Uwamahoro (f)

Jean Marie Matereza

Réverien Sakubu

Déo Shoféri

At least 73 people under sentence of death have now exhausted the limited appeals procedure available to them in Burundi. Their only recourse is presidential clemency. Amnesty International fears they could face execution and is appealing for their death sentences to be commuted.

All those now awaiting presidential clemency, and most of the others sentenced to death, had been found guilty of participation in the massacres of Tutsi civilians which followed the assassination of President Melchior Ndadaye on 21 October 1993. The vast majority of trials have been grossly unfair. Many of those who are now awaiting presidential clemency were convicted in trials in which they had no lawyers. Many claim they were tortured or ill-treated to extract incriminating statements, and many were convicted on the basis of unsubstantiated allegations, without defence witnesses. Some trials - of defendants who denied the charges - lasted under 30 minutes.

Appeals against capital convictions may only be made to the Cassation Chamber of the Supreme Court. This allows for a limited review of the conviction on questions of law and gross violations of form. The factual basis for conviction is not reviewed. Few appeals in these trials have been successful. The process is complex, and without the assistance of an experienced cassation lawyer, a successful appeal - which means that the case is sent back for retrial - is virtually impossible. An appeal must be submitted within eight days of the judgement. Many prisoners have been forced to submit appeals without a lawyer and without a copy of the judgement on which the cassation appeal should be based. The cassation chamber has refused to accept later, more detailed, submissions made with the assistance of a lawyer. Some prisoners have not appealed, apparently unaware of this right.

Thirty-nine of those who have now lost their appeals were transferred in October 1998 from Mpimba Central prison in Bujumbura to Rumonge prison in southern Burundi. Official sources say this was to reduce overcrowding in Mpimba central prison, where prisoners under sentence of death are held in three extremely overcrowded cells in conditions amounting to cruel, inhuman and degrading treatment. Although human rights groups monitoring this and other transfers had been told that prisoners would be transferred to prisons nearer their homes - thus making it easier for their families to visit and bring much needed additional food and other basic necessities - many are now further from their families than before. Although Rumonge prison suffers less from overcrowding than other prisons, conditions are very harsh. The prison is particularly difficult to access because of armed conflict in the surrounding area.

FURTHER RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in French or in your own language after checking with your post office whether there is post to Burundi from your country:

- expressing concern that those named above, all whom were convicted after unfair trials, face imminent execution;
- appealing to the authorities not to carry out any further executions and for President Buyoya to grant clemency when sentences come before him;
- urging President Buyoya to take into consideration the unfairness of the trials when reviewing the cases;
- appealing to the authorities to take all measures necessary to ensure that all trials taking place in Burundi conform to international standards of fairness as required by international human rights treaties to which Burundi is party, including the International Covenant on Civil and Political Rights and the African Charter on Human and People's Rights;
- seeking assurances that all prisoners will be treated humanely and not subjected to cruel, inhuman or degrading treatment regardless of what they are convicted of, or their sentences;
- reminding the government of Burundi of its commitment to the Universal Declaration of Human Rights, in particular Article 3: "Everyone has the right to life, liberty and the security of person".

APPEALS TO: (please note that it can be difficult to get faxes through. Please keep trying.)

President

Major Pierre Buyoya
 Président de la République
 Présidence de la République
Faxes: + 257 22 7490
Telegrams: Major Buyoya, Bujumbura, Burundi
Salutation: Dear President

Minister of Justice

Monsieur Terence SINUNGURUZA
 Ministre de la Justice et Garde des sceaux
 Ministère de la Justice
Faxes: + 257 21 86 10
Telegram: Ministre Justice, Bujumbura, Burundi
Salutation : Monsieur le Ministre

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

Monsieur Eugène NINDORERA
 Ministre des droits de la Personne humaine, des réformes institutionnelles, et des relations avec l'Assemblée nationale
 Bujumbura, Burundi
Faxes: + 257 21 38 47
Telegrams: Ministre Droits de la Personne, Bujumbura, Burundi
Salutation: Monsieur le Ministre / Dear Minister

COPIES TO:

Procurator General: Maître Gerard Ngendabanka, Procureur Général, Bujumbura, Burundi
Faxes: + 257 21 86 10

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 3 March 1999.