

UA 25/03 Detention without charge/Unlawful detention/Fear of ill-treatment

BURUNDI Alexandre Nzeyimana, aged approximately 12 Alexandre Nzeyimana, believed to be aged approximately 12, is being detained without charge in Mpimba central prison, Bujumbura. This is in violation of Burundian law, which states that no child under the age of 13 may be detained. He is at risk of physical and mental abuse, primarily at the hands of other prisoners and due to harsh prison conditions.

Alexandre Nzeyimana was arrested in April 2002 near his home in Gatora sector, Bubanza province on suspicion of involvement in the murder of a member of a government militia, the *Gardiens de la paix*, (Guardians of the Peace), which he denies. He was transferred to Mpimba central prison, some 40 kilometres from his home, on 26 August. He is still being held without charge. Since his transfer, the Association burundaise pour la défense des droits des prisonniers (ABDP), Burundian Association for the Defence of Prisoners' Rights, have raised concerns about Alexandre Nzeyimana's age, reportedly given as 20 in his case file. Independent human rights activists, including ABDP representatives, who have seen him, strongly dispute this. Like many other children in Burundi, Alexandre Nzeyimana has found it impossible to prove his age.

In January 2003, a representative of the ABDP visited Bubanza province to verify Alexandre Nzeyimana's age. From their enquiries with local authorities, relatives and neighbours they remain convinced that he was aged 12 or younger at the time of the alleged offence.

Burundi has 4,600 detainees awaiting trial out of a prison population of over 8,000. It can be several years before a case is heard. Alexandre Nzeyimana could spend years in prison before he gets the chance to prove his age in court. Child detainees previously interviewed by Amnesty International in Burundi have spoken of sexual abuse by co-detainees. Although in Mpimba central prison, juveniles sleep in a separate wing at night, during the day they are with adult inmates, and are vulnerable to abuse. Many child detainees who are isolated from their families face malnutrition as all detainees depend on food from their families to supplement the meagre prison diet.

BACKGROUND INFORMATION

Under Burundian law, no child under the age of 13 may be detained. However, particularly the police and gendarmerie are still detaining children under the age of 13. In many cases, children's births are not registered and thus they find it difficult to "prove" their age and some members of the security forces, penitentiary services and judiciary accuse children of claiming to be younger than they are to secure release. Some children allege that police and gendarmes have deliberately falsified their ages so that they may be detained. The spirit of international human rights law, in particular the UN Convention on the Rights of the Child, to which Burundi is party, is that when there is genuine doubt with regard to a child's age, any decision should be in favour of the child.

Despite significant improvements, conditions in Burundi's prisons and detention centers are generally harsh, often severely overcrowded and dangerously unsanitary. Mpimba central prison officially has capacity for 800 inmates. Currently there are over 2,500, of which 80 are juveniles. Child detainees are spared none of the abuses inflicted on adults. They are susceptible to torture and dire conditions and can be detained for years without charge or trial. Few benefit from the assistance of a lawyer or adequate medical attention. Some child detainees complain of sexual abuse, largely from co-detainees, within prison, many are malnourished and have lost contact with their families. Educational and recreational activities appropriate to their age and special needs are not provided. For further information on the plight of children in Burundi please see Amnesty International's report, Burundi: Poverty, isolation and ill treatment, Juvenile Justice in Burundi (AI Index: AFR 16/011/2002, September 2002).

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in French or your own language, quoting Alexandre Nzeyimana's case file number: RMPG 2926/H.Gé:

- Expressing concern at Alexandre Nzeyimana's ongoing detention in Mpimba central prison, Bujumbura;
- Stating that it appears Alexandre Nzeyimana was aged 12 or younger at the time of the alleged offence and is therefore unlawfully detained;
- asking the authorities to immediately provisionally release Alexandre Nzeyimana, who has been detained since April 2002, while they verify his age, and for all charges to be dropped if it is confirmed that he was aged less than 13 at the time of the alleged offence, or if after investigation there is still genuine doubt over his age, for him to be released in accordance with Burundi's international obligations.
- for as long as his detention continues, seeking guarantees that Alexandre Nzeyimana will be protected from all forms of abuse, by both guards and co-detainees;
if his age, at the time of the alleged offence, is confirmed as 13 or older, and if there is substantial incriminating evidence against him calling for him to be promptly brought to trial in accordance with international standards of fair trial, including the right to a lawyer.
- calling on the authorities to ensure that juvenile arrests are monitored to ensure that children are detained for questioning only when necessary, and that arrest and detention procedures laid down in the Burundian Penal Code

are scrupulously followed, and to remind all police and security officials that the detention of children aged under 13 is prohibited under Burundian law.

APPEALS TO (Please note, fax numbers may be difficult to obtain, but please keep trying.):

President

Son Excellence Pierre BUYOYA,
Président de la République,
Présidence de la République,
BP 1870 Bujumbura, Burundi.
Telegrams: President, Présidence, Bujumbura, Burundi
Faxes: + 257 22 81 50
Salutation: Monsieur le Président de la République / Your Excellency

Vice-President

Monsieur Domitien NDAYIZEYE,
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Faxes: + 257 22 64 24
Salutation: Monsieur le Vice-Président / Your Excellency

Minister of Justice

Monsieur Fulgence DWIMA BAKANA,
Ministre de la Justice et Garde des Sceaux
Ministère de la Justice, Bujumbura, Burundi
Telegrams: Ministre Justice, Bujumbura, Burundi
Faxes: +257 21 86 10.
Salutation: Monsieur le Ministre / Dear Minister

Minister of Interior and Public Security

Monsieur Salvator NTIHABOSE
Ministre de l'Intérieur et de la Sécurité publique
Ministère de l'Intérieur et de la Sécurité publique
Bujumbura, Burundi
Telegrams: Ministre interieur, Bujumbura, Burundi
Faxes: + 257 21 78 18
Salutation: Monsieur le Ministre / Dear Minister

COPIES TO:

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
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 March 2003.