

## KENYA BRIEFING - FINAL TEXT

### KENYA The quest for justice

#### BACK COVER

Amnesty International's concerns in Kenya include:

- the use of repressive laws which breach internationally agreed human rights standards
- torture and ill-treatment by police
- police killings
- arbitrary arrests
- cruel, inhuman or degrading punishments
- the death penalty
- systematic discrimination against women
- harassment and intimidation of opposition party supporters, journalists and human rights activists

#### INSIDE FRONT COVER

Amnesty International is a worldwide voluntary movement that works to prevent some of the gravest violations by governments of people's fundamental human rights. The main focus of its campaigning is to:

- free all prisoners of conscience. These are people detained anywhere for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, who have not used or advocated violence;
- ensure fair and prompt trials for political prisoners;
- abolish the death penalty, torture and other cruel, inhuman or degrading treatment of prisoners;
- end extrajudicial executions and "disappearances".

Amnesty International also opposes abuses by opposition groups, including hostage-taking, torture and killings of prisoners and other deliberate and arbitrary killings.

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Amnesty International does not grade countries according to their record on human rights; instead of attempting comparisons it concentrates on trying to end the specific violations of human rights in each case.

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## KENYA: THE BACKGROUND

### Population

About 30 million. Kiswahili is the official language; English and scores of African languages are spoken. There are more than 40 different ethnic groups in Kenya, and several religions, including Christianity, Islam, Hinduism and African traditional religions.

### Political background

Kenya gained independence from the United Kingdom (UK) in 1963 and was ruled until 1978 by its first President, Jomo Kenyatta, and from 1978 by Daniel arap Moi at the head of the Kenya African National Union (KANU) party.

In 1982 the KANU government led by President Moi amended the Constitution to make Kenya a one-party state; this move was followed by a long period of arrests and torture of suspected government opponents. The momentum for multi-party democracy intensified during the late 1980s and early 1990s. Eventually, under intense national and international pressure, President Moi agreed in 1991 to amend the Constitution to end one-party rule. Multi-party elections took place, amid allegations of electoral irregularities, in December 1992. Since then, however, despite some human rights improvements, widespread repression of the opposition has continued. Presidential and legislative elections in Kenya have to take place before January 1998. In 1996 Kenya was given a seat on the United Nations (UN) Security Council.

### Human rights standards

Kenya has acceded to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. In 1992 Kenya ratified the African Charter on Human and Peoples' Rights, and in 1997 it acceded to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). Kenya is also party to the UN Convention on the Elimination of All Forms of Discrimination against Women and the UN Convention on the Rights of the Child.

### Economy

In 1994, according to World Bank estimates, Kenya's gross national product was US\$260 per head. Tourism is the country's principal source of foreign exchange.

### Military and police

In June 1995 Kenya's armed forces numbered 24,200. Military assistance is received from the UK and the USA. The National Police, the Criminal Investigation Department (CID) and the Directorate of Security and Intelligence (the Special Branch) are regulated by the Police Act. Kenya also has an administration police force controlled by the provincial administration and a paramilitary force, the General Services Unit.

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Cover: A demonstrator being chased by riot police who forcibly broke up a peaceful student protest over the suspicious death of student leader Solomon Muruli in February 1997. © AP

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#### PAGE 1 - BETRAYAL OF TRUST

Tourists visit Kenya in large numbers, drawn by its stunning scenery and exotic wildlife. International business and political interests have long viewed it as a stable country in a continent ravaged by crises. The people of Kenya, however, have paid a high price for political continuity. The ruling elite has used intimidation and repression to silence dissent and maintain its power. The justice system has failed to defend people's basic rights and corruption is widespread. Incidents of mob violence have increased as people have taken the law into their own hands.

Frequent police brutality goes largely unpunished. Police routinely beat suspects, while some prisoners have been subjected to sustained torture. Peaceful protesters have been violently attacked by police, and unarmed criminal suspects have been shot dead even though they posed no threat to life.

Despite improvements in the human rights situation since the late 1980s and the introduction of a multi-party political system in 1991, the government has continued to silence its critics. In the run-up to elections in 1997, several pro-democracy rallies have been violently disrupted.

Harassment and intimidation have been aimed not only at opposition politicians and their supporters, but also at journalists and human rights activists. Organizations raising awareness of civic and human rights are among those whose work has been disrupted by the authorities. The fundamental human rights of Kenyans trying to work for a better society have been restricted by laws which should be repealed or amended because they breach standards agreed by the entire international community. The Kenyan Government is not immune to pressure. In response to campaigns by Kenya's vigorous human rights community and by international organizations, Kenyan officials have promised to respect human rights. They have signed international human rights treaties, and they have prosecuted some police officers for human rights crimes.

There is still a long way to go. Those who govern Kenya in coming years should bring to justice anyone who abuses official power and violates human rights. They should undertake a wide-ranging program of legal and institutional reform. They should support — rather than suppress — the non-governmental organizations (NGOs) working to improve respect for human rights. Only then will government promises be translated into reality for the people of Kenya.

Photo caption: Police and security officers in Nairobi prevent more than 10,000 people from joining a pro-democracy rally, May 1997

PAGE 2/3 -(Torture & ill-treatment)  
FROM AI FILES...

Josephine Nyawira Ngengi, an outspoken human rights defender, was arrested in May 1994. During questioning, she was beaten with clubs, planks and iron bars, then forced to lie on the ground while an officer stood on her stomach.

She was detained on fabricated charges of robbery with violence until her acquittal in March 1996. When she returned home to her family, her four-year-old son was unable to recognize her. She has since had major surgery for a hernia that developed as a result of her long period of imprisonment.

Lomurodo Amodoi was a 17-year-old herdsboy who lived in the remote northern district of Turkana. He was standing by the side of a road, waiting for his brother, when he was arrested by two administration police after a stranger accused him of having robbed him earlier that week. He was taken to the police station in Lokichokio on 5 May 1997. That was the last time his family (pictured above) saw him alive. His relatives tried to visit him, but were turned away from the police station. After two days of frantic searching, they eventually found his body in the mortuary in Lodwar, 160 kilometres away.

A police post-mortem failed to establish a cause of death, but his family insisted on another post-mortem. This concluded that the 17-year-old had been beaten and had died of strangulation and head injuries.

The District Commissioner told Amnesty International delegates that a policeman had been arrested and charged with the death, but he was apparently still at large and there was no court record of any charge against him.

Geoffrey Ndungu Gichuki was one of four young men permanently disabled by Special Branch officers in Dundori forest, near Nakuru, in December 1994. The four were part of a group of 67 men arrested a few days earlier and accused of holding an illegal meeting. They were tied to trees and beaten. At least 13 others were also reportedly tortured. They were not given treatment for their injuries for six days. By this time, Geoffrey Ndungu Gichuki had developed gangrene and when he was taken to hospital, his arm had to be amputated.

#### CLIMATE OF FEAR

‘They told me to lick my blood off the floor and make it clean.’

More than a year after his ordeal, 19-year-old Samuel talks in chilling detail about his torture by Kenyan police. He wants the world to know exactly what happened to him. Twice a day for two months Samuel was taken to a torture chamber, stripped naked and beaten all over his body. Twelve or thirteen men, all wearing suits, were there, four carrying out the torture and the others watching and applauding. They tied electric wire round his testicles and then pulled it for about three minutes — repeatedly. The pain was excruciating.

Samuel was one of dozens of people from western Kenya arrested in 1995, accused of belonging to a shadowy underground movement, and held for up to a year. Most of them were tortured.

Anyone arrested in Kenya is at risk of torture or ill-treatment. Police routinely beat criminal suspects, especially those who are poor and not in a position to pay bribes or pursue complaints. The beatings stop only when the suspect agrees to "confess".

Sometimes the effects are so obvious that they cannot be ignored. Seven people appeared before a Nyahururu court in September 1996 with fresh, gaping wounds. Their lawyer said they looked as if

they had been in a car crash. One had reportedly had his genitals crushed, his arm broken and had head injuries. The magistrate in this case ordered a medical examination.

Certain groups are at particular risk. Many women detainees have been raped in custody. Children are imprisoned — especially street children, thousands of whom live in Nairobi — and are abused by fellow prisoners as well as by police and prison guards.

Political prisoners are often subjected to sustained torture. Well-known government critics are generally not physically tortured, but grassroots political activists, especially those from ethnic groups regarded as anti-government, have been tortured so severely that some have been disabled for life. Suba Churchill Mechack, a student activist, was arrested four times in late 1995 and tortured under interrogation. "I was stripped naked and tortured by three special branch men [whom he named]. They... tried to pull out my toe nails with pliers, hit my knees with a hammer and twisted my fingers with spanners." He suffered long-term internal injuries.

Torture in Kenya has been widely publicized by local and international human rights organizations and the Kenyan press in recent years. Donor governments have also taken up the issue. This pressure has led to some action by the Kenyan Government.

In February 1997 a new Police Commissioner publicly ordered all police officers to stop beating suspects during interrogation and to stop harassing journalists. The following month, Kenya acceded to the UN Convention against Torture, a legally binding international treaty which outlaws torture and exposes Kenya to scrutiny by fellow states. In a landmark case in March 1997, three police officers from Embu were sentenced to 10 years' imprisonment for torturing a prisoner to death in 1994.

These measures appear to have had some limited effect in reducing the incidence of torture.

However, much more needs to be done. Within days of the Police Commissioner's statement, three young people appeared in a court in Thika district, bruised, bandaged and unable to walk without assistance. Their lawyer alleges that they were tortured by a senior police officer.

Police and security force officers have committed torture in Kenya for many years. Members of the youth wing of the ruling KANU party have also illegally detained and tortured people.

The climate of impunity which makes these people believe that they can get away with torturing suspects will not be dispelled by words alone. Determined action by those in authority is needed — and such action is rare.

#### Deaths in custody

Each year, a number of Kenyans are tortured so badly that their suffering ends in death. Figures for the number of such deaths in custody vary, but Amnesty International believes that at least five people died under torture in 1996. The violence has continued. In March 1997 Ali Hussein Ali died in Wajir, North Eastern province, after eight days' interrogation. A post-mortem found evidence of brutal beatings.

Amodoi Achakar Anamilem was tortured to death in police custody in July 1996. After considerable pressure by local church and human rights bodies, the Attorney General ordered an investigation into his death and an inquest was eventually announced in April 1997. However, the police officers alleged to be responsible are still on duty. Local human rights activists say there has been a cover-up by police and the district administration.

All allegations of torture should be vigorously investigated and those responsible brought to justice in accordance with Kenya's obligations under international law. The onus lies with the authorities, not the victims. Until there is consistent action against torturers by the highest authorities, Kenya's police cells will continue to be the site of horrific brutality.

#### Prison conditions

Conditions in Kenya's 78 prisons are so appalling that a Kenyan High Court judge called them "death chambers". Overcrowded and filthy prison cells lack blankets and basic sanitary requirements. Prisoners are deprived of adequate food, clothes and medical care. Disease is rife, and the mortality rate frighteningly high. Official figures are scarce, but in October 1995 a government minister stated that more than 800 prisoners had died in the first nine months of the year.

#### Caning

Caning is a cruel, inhuman and degrading treatment, and is therefore prohibited by international human rights treaties. However, Kenyan courts continue to impose caning as a punishment for many offences including robbery and rape, in addition to imprisonment. Many of the victims of caning have been convicted after unfair trials, in which they did not have a lawyer to assist them with their defence.

PHOTO CAPTION: Police teargas pro-democracy demonstrators, Uhuru Park, Nairobi, May 1997

#### PAGE 4 - POLICE KILLINGS

Hundreds of Kenyans have been killed in recent years by the very people who are supposed to protect them — the police.

The number of killings indicates either that the police are operating a "shoot to kill" policy condoned at a senior level — which the authorities deny — or that they are out of control.

Poorly paid and ill-disciplined police officers have extorted bribes, arrested and ill-treated people who could not afford to pay them, violently attacked peaceful protesters and shot at unarmed suspects with live ammunition. Some victims of police killings have died in custody as a result of torture. Others have been shot dead by police even though they posed no threat. Several political opponents of the government have died in suspicious circumstances.

According to the Kenya Human Rights Commission (KHRC), a local non-governmental organization, 316 people were killed by the police between 1994 and 1996. These figures include only cases known to the KHRC, who believe that the true number is certainly higher.

The Commissioner of Police responded to the launch of a campaign against police killings by the KHRC. He claimed that in "the few cases where police officers have been found to have overstepped their powers, appropriate action has been taken".

This statement is simply untrue. Stephen Muthuo Kahara was just 21 years old when he was shot dead by administration police in October 1996. He was a lay Christian preacher who heard the cries of his neighbour being assaulted in the middle of the night and, along with a number of other villagers, went to help. He was reportedly shot at point-blank range as he lay injured on the ground by the side of the road.

Police also shot and seriously injured his brother, Gichere, when he tried to rescue him. A police officer from Kiambu claimed that the two brothers were part of an armed gang, and the police officers who shot them have never been apprehended.

In December 1996, three university students were shot dead in two separate incidents during student demonstrations. The killings provoked widespread revulsion and demands for the resignation of the Police Commissioner. He was subsequently replaced. A "thorough investigation" was announced.

Twelve police officers were charged in connection with one incident and an inquest held in the other. However, unlawful killings by police have continued unabated. The KHRC recorded 11 police killings in the first two weeks of 1997 alone.

In March 1997 Anthony Chege, a student, was shot by police officers as he walked along the street with two friends. He died on the way to hospital. His two friends were badly beaten and held by police for seven days.

FROM AI FILES:

Solomon Muruli, a student leader at the University of Nairobi, was burned to death in his room on campus in February 1997.

In November 1996 he had been abducted and detained for five days, before being dumped unconscious in a church compound. He said that his abductors had questioned him about his links with Safina (an unregistered political party) and that he was certain they were police officers.

In the months that followed, Solomon Muruli lived in a constant state of fear. He received death threats and believed he was being followed. Two weeks before he died he told the university authorities that he feared for his life. Just one week before his death he positively identified a senior police officer at an identification parade as one of the men who had abducted him.

Janai Robert Orina, a student activist, was in his fourth year at Moi University, near Eldoret, when he was suspended for supporting a nation-wide strike by university lecturers in 1994. Since then he has been trying to sit his exams. Despite an order from the Eldoret High Court ordering the university authorities to allow him to sit the exams, he has not been permitted to do so. The university authorities have refused to give him copies of essential academic documents and references. Amnesty International believes he has been targeted because of his efforts to represent his fellow students and improve their lot.

Today he is in fear for his life. With six other student leaders he put out a public statement in April 1997, stating that they had been under constant and close surveillance. Two of the student leaders had received threatening phone calls in the middle of the night at a youth seminar on constitutional change.

PAGE 5/6/7 - State Repression

FROM AI FILES:

Twenty-one members of a human rights organization, Release Political Prisoners (RPP), were arrested in Nairobi in July 1996 (see above). They were charged with holding an illegal meeting without a licence, incitement to violence and disobeying the law. Their "crime" was their attempt to attend a three-day cultural meeting they had organized in memory of their Secretary General, Karimi Nduthu, who had been murdered in suspicious circumstances five months previously. They were denied bail and kept in appalling prison conditions for 19 days.

Members of the Kenya Human Rights Commission (KHRC) have faced enormous pressure to stop their legitimate human rights work. KHRC members have been arrested and beaten by police.

Meetings and demonstrations have regularly been broken up by police.

Undeterred, on 25 January 1997 the KHRC launched a campaign against police killings. Wafule Buke, a KHRC staff member, was arrested while giving out leaflets (his arrest is pictured below) and held for six hours. Another member of staff, Thiong'o Kagicha, went to protest and was beaten by a senior police officer who injured his leg. The venue for the launch was cordoned off by 50 riot police, but the human rights activists outwitted the security forces and held their meeting elsewhere.

There were more arrests of KHRC members during the campaign. A protest was organized in April 1997 after police shot Anthony Chege (see Police killings). KHRC members planned to carry Anthony's coffin through the streets of Nairobi before his burial. About 100 people assembled at the parliament building, where they said prayers. The police moved in and took about 80 people to the Central police station. Maina Kiai, the KHRC's executive director, was questioned for about three hours before being released.

This determined campaign has produced some results. In April 1997 a government minister announced that administration police would no longer carry firearms and that ordinary police would not carry live ammunition on duty. However, this has yet to be implemented in law or practice.

Susan Musoke is a photographer. In February 1997 she was on assignment for The Daily Nation at Mathari Chiefs' Camp, covering a story about delays and extortion in the issuing of new identity cards. As she photographed people waiting in line, she was assaulted by armed administration police, who grabbed her camera and destroyed the film. "I was hit by two policemen. One hit me across the face, very heavily, which made me dizzy." She and a colleague were held for an hour and a half before being released without charge.

Lawyer Juma Kiplengi is acting for his nomadic community of some 20,000 people who claim that they have been deprived of compensation promised them when they were moved off their land in the early 1970s. The Endorois community occupies areas in President Moi's constituency of Central Baringo and the adjacent South Baringo constituency. Juma Kiplengi has received death threats and has been arrested and accused of being a member of an unlawful society. In February 1997 police tried to search the law office where he works.

Koigi wa Wamwere, a prominent critic of the government, former member of parliament and founder of the National Democratic and Human Rights Organization, has been repeatedly imprisoned. In October 1995 he was sentenced with two others after a grossly unfair trial to four years in prison and six lashes of the cane. He had earlier been charged with attempted robbery with violence, which carries a mandatory death sentence, but after concerted campaigning on his behalf the charges were reduced. Koigi wa Wamwere said: "When AI declared we were prisoners of conscience, we knew it would make it very difficult for the government to do the worst. And if we had to die, at least we would die with the world knowing we were innocent." Amnesty International believes the charges were fabricated and that the real reason for his arrest was his criticism of the government. He is currently on bail pending appeal in order to receive medical treatment abroad.

## REPRESSION AND RESISTANCE

In theory, Kenya is a democratic state in which Kenyans have freedom of expression and association. In practice, many of those who criticize the government have been harassed, intimidated or worse. Opposition politicians and their supporters have been arbitrarily arrested, interrogated and ill-treated. Meetings held by political parties, church groups, civic and human rights organizations have been stopped or dispersed by police, sometimes violently. Critics of the government also face official harassment such as police raids on their homes and businesses, increased tax bills, denial of government contracts and dismissals from government posts.

### Repressive laws

The authorities use a whole array of repressive laws to restrict Kenyans' human rights. The Bill of Rights in the Constitution includes most basic rights, but it also allows for these rights to be curtailed or ignored by the government in a wide range of circumstances.

The Constitution allows the President to declare a state of emergency by issuing a notice in the Official Gazette and gives the President wide powers of political patronage.

The Constitution also discriminates against women, despite Kenya's public commitment to the Beijing Declaration and Platform of Action, agreed by the world's governments at the Fourth UN World Conference on Women in 1995.

Kenya has agreed to be bound by a number of international human rights treaties (see inside cover).

To bring Kenya's laws into line with these standards requires wide-ranging legal reforms. The Constitution should be strengthened to guarantee

fundamental rights at all times, and the courts should be empowered to be guardians of the Constitution. Legislation should not allow the arbitrary restriction of freedom of expression, association and assembly.

The following laws are among those which should be amended or repealed:

- The Preservation of Public Security Act, which allows indefinite detention without trial and restrictions on freedom of movement;
- The Defamation Act and sections of the Penal Code dealing with sedition, which are used to arbitrarily restrict freedom of expression and have been used to hold opponents of the government on false charges;
- The Chiefs' Authority Act, which permits arbitrary arrests and allows local administration chiefs to restrict freedom of movement and other rights;
- The Societies Act, which restricts freedom of association and inhibits organizations, including trade unions and political parties, from gaining registration..

#### Mass arrests

Police in Kenya have regularly swooped on poor areas and rounded up large groups of people. Many are arbitrarily arrested just for being in the wrong place at the wrong time.

Police target the poor, women, street children and refugees, accusing them of being drunk and disorderly, of hawking, vagrancy, prostitution, or of being illegal aliens. They are held in police cells, where few have access to a lawyer, either because of their poverty or because they do not know their rights. They rarely get bail, and many are rushed to court, swiftly convicted and sentenced to fines or periods in one of Kenya's overcrowded and insanitary prisons.

#### Opposition parties

The Kenyan Government was forced to abandon the one-party state in 1991 by a combination of internal and external pressures. There have been some improvements in the human rights situation, opposition parties have been legalized, and elections held. However, opposition politicians, including members of parliament, have faced serious police harassment.

The Safina opposition party has been a particular target since its formation in 1995. It has been refused official registration, its meetings have been disrupted, its literature confiscated and its supporters attacked. In February 1997 riot police assaulted Safina supporters at a market-place in Nyeri. Journalists and Safina activists were whipped and clubbed, while two members of parliament — Paul Muite and Kiraitu Mirungi — were chased and beaten. The police denied the incident ever took place, despite numerous eye-witnesses.

Njehu Gatabaki, a member of the opposition party FORD-Asili and editor of the monthly magazine Finance, was detained in May 1996. Despite his poor health, he was held in a mosquito-infested cell for nine days and made to sleep on cold cement. He still faces sedition charges arising from an article published in April 1995.

As the 1997 elections approached, violence against opposition politicians intensified. Within one week in April 1997, there was a series of incidents in which members of parliament were targeted by police. Raila Odinga of the National Democratic Party of Kenya (NDPK) and Oburu Odinga of FORD-Kenya were injured by police who broke up a meeting in Eldoret. Charity Kariuki Ngilu, of the Democratic Party, who had been beaten by police in November 1996, was besieged in her home by police. On 14 April the bodyguard of the FORD-Kenya Chairman Michael Kijana Wamalwa was shot and wounded by armed police who were trying to prevent the opening of a FORD-Kenya office in Kakamega.

#### Reform efforts

Police have violently disrupted a number of pro-democracy rallies. In early May 1997, for example, about 2,000 heavily armed police and paramilitary officers prevented more than 10,000 people attending a pro-democracy rally at Kamakunji, a park in a Nairobi suburb. Their methods were brutal — many people in the crowd were beaten with whips and batons, and some seriously injured. The

rally was called by the non-governmental National Convention Assembly, an alliance of opposition parties, human rights groups, religious leaders and others, which is pressing for constitutional reform. Later that month, police fired teargas into a crowd of several thousand people who were peacefully praying at a rally in Uhuru Park, Nairobi. Police and security force personnel later beat bystanders as well as protestors and looters.

The closure of civic education seminars to inform Kenyans of their rights has been a feature of the pre-election period.

On 21 April 1997, for example, police broke up a Catholic Justice and Peace seminar in Kalokot, Lodwar. Officials arrived with six administration police. Eight people were arrested and several beaten.

It emerged in April 1997 that the orders to prevent human rights education programs came from the highest level, when a district officer in Lokichokio cited a confidential circular from the Office of the President.

In June 1997 President Moi accused an NGO coalition of being a front for an underground opposition organization. Some NGO members were subsequently interrogated by police.

#### Journalists

Journalists have been assaulted by police and by members of KANU's youth wing. They have been arrested and have had their cameras destroyed. Opposition newspapers have been impounded and printing presses have been dismantled or firebombed.

Evans Kanini (left) has been harassed by police for years because of his work, especially his reporting on government-sponsored ethnic violence in the Rift Valley in the early 1990s. He was convicted in February 1996 of creating a disturbance after writing an article accusing police of beating him and stealing money. In April he was attacked by members of KANU's youth wing. He was repeatedly followed by police, and a government official accused him of subversive activities. In December 1996 he was dismissed from The Daily Nation after 15 years' service. In March 1997 he was warned of an assassination plot against him. When he went to Eldoret police station to report it, instead of taking his statement the police locked him up for 12 hours.

#### The judiciary

The President appoints the Attorney General and the Chief Justice. Magistrates who have made politically unpopular decisions have been transferred to remote areas. The judiciary has been criticized for being unduly influenced by the government, although several magistrates have dismissed confessions obtained through coercion.

President Moi has stated that the courts should not interfere in land disputes or issues relating to political parties or universities. The Attorney General has said that these were President Moi's personal views, but the power of the President in Kenya is such that they cannot be ignored.

Magistrates have been prevented from attending legal meetings. In 1996 and 1997 the Chief Justice barred delegations of judges and magistrates from travelling to Law Society of East Africa conferences. Legal seminars within Kenya have also been restricted.

Lawyers are among those who have fallen victim to state repression. Raphael Wang'ondu Kariuki was tortured by police in 1995 and still suffers dizziness and pain.

'To be slapped, kicked, knocked to the ground in broad daylight in public inflicts unimaginable emotional trauma'

Paul Muite MP, February 1997

‘The government...has noted with grave concern the activities of NGOs carrying out civic education. These organisations are posing a threat to the security of the state and their activities must be curtailed.’

Circular, Office of the President

Photo caption: The arrest of KHRC staff member Wafule Buke in April 1997

PAGE 8 - Death penalty / Time for change

Death penalty

More than 700 people are under sentence of death in Kenya. No executions have been reported for nine years, but many prisoners on death row have died as a result of appalling prison conditions. Prisoners under sentence of death have been convicted after grossly unfair trials. Some were convicted on the basis of statements extracted under torture. Others pleaded guilty under duress. Many had no lawyer to help them.

The death sentence is mandatory under the penal code for crimes including treason, murder, robbery with violence and attempted robbery with violence. Only defendants charged with murder and treason are tried in the High Court, where they qualify for state legal aid to help them pay for a lawyer if they cannot afford one. Cases of robbery with violence and attempted robbery with violence are heard by magistrates' courts, where there is no legal aid. As a result, many prisoners have been condemned to death without having had legal representation – in violation of international standards.

In a number of cases the authorities have used capital charges (for which bail is not available) to detain political opponents.

**KENYA: TIME FOR CHANGE**

Kenyans are demanding change. Human rights defenders from many walks of life and in many areas of the country are calling for human rights reform, undeterred by the risks they face.

Elections are a time of change, and provide opportunities for those working for human rights.

Politicians can be pressed to make commitments on human rights issues, and newly elected governments can be urged to implement their election pledges. The 1997 elections in Kenya are just such a window of opportunity.

Change is long overdue. For too long, Kenyans have suffered widespread police brutality and systematic suppression of critics of the government. Kenya's human rights record is stained by repressive laws, torture, ill-treatment and police killings.

The authorities have harassed and intimidated opposition politicians, student activists, journalists and human rights defenders. Prison conditions are appalling, cruel and inhuman punishments are imposed by courts and hundreds of people languish under sentence of death.

It is time to support the courageous work of those campaigning for a better society in Kenya. The Kenyan authorities do respond to concerted national and international pressure, as recent history shows. International solidarity can make a difference — join us in our worldwide campaign to promote greater respect for human rights in Kenya.

Photo Caption: Church leaders, members of opposition parties, and human rights activists lead a 10,000-strong pro-democracy rally later violently disrupted by police, Nairobi, May 1997

**INSIDE BACK COVER: ACTION FOR HUMAN RIGHTS**

Amnesty International delegates met representatives of the Kenyan Government, as well as opposition leaders, human rights activists, professional groups, business leaders and members of the international community during a two-week visit in June 1997. Alarmed by the potential for violent confrontation,

the delegates called for meaningful dialogue within Kenya, but were accused by the government of “incitement”.

Amnesty International believes that the following action is necessary to enhance the protection of human rights in Kenya.

Amnesty International is calling on the Government of Kenya:

- To guarantee the basic human rights of Kenya's citizens by repealing or amending the country's laws and Constitution to bring them into line with internationally agreed human rights standards. Kenya has agreed to be bound by these standards.
- To protect Kenyans against torture, ill-treatment and police killings by ending incommunicado detention and by ensuring that all allegations of torture, ill-treatment and extrajudicial execution are investigated and those responsible brought to justice. In addition, cruel and inhuman punishments such as floggings and executions should be abolished.
- To ensure that all Kenyans are allowed to exercise their basic human rights, including freedom of expression, association and assembly.

Amnesty International is calling on the international community:

- To deploy human rights monitors in Kenya, particularly in rural areas, until after the elections.
- To condemn publicly human rights violations in Kenya.
- To increase pressure on Kenya to bring its laws and practices into line with the international standards Kenya has pledged to uphold.

Amnesty International is calling on companies with links to Kenya:

- To condemn publicly human rights violations in Kenya and to raise concerns about human rights in Kenya in their contacts with the Kenyan Government.
- To promote respect for human rights in Kenya through their own practices.

Amnesty International is calling on international aid and development organizations working in Kenya:

- To protect local NGOs with whom they work from human rights abuses.
- To include human rights promotion as an objective in their activities.
- To condemn publicly human rights violations in Kenya and to raise concerns about human rights in Kenya in their contacts with the Kenyan Government.

What you can do

Help raise awareness about the realities of life in Kenya

Distribute Amnesty International's publications on human rights violations in Kenya. Raise the issue with any relevant organizations you are in contact with. Write letters to the press about human rights violations in Kenya.

Urge your government to act

Write to your government. Call on ministers to use their influence with the Kenyan Government, and within intergovernmental bodies, to press for human rights reform.

Urge your government to condemn publicly human rights violations in Kenya and to raise concerns about human rights in Kenya in their contacts with the Kenyan Government.

Urge your government to do everything in its power to protect Kenyans who are campaigning for human rights reform.

Support human rights defenders in Kenya

Write letters of support to Kenyan human rights groups, which you can contact via:  
The NGO Council,  
PO Box 48278,  
Nairobi,  
Kenya.

Build links with Kenyan human rights groups. Offer moral support and practical international solidarity.

Urge the Government of Kenya to protect human rights

In addition to writing to your own government, you could also write to:

President of the Republic of Kenya,  
Office of the President,  
PO Box 30510,  
Nairobi,  
Kenya.

Urge the President to promote and protect human rights in Kenya by taking the steps outlined above.

Join our campaign

Contact the Amnesty International office in your country and ask how you can help.

The more people join the campaign for human rights in Kenya, the more likely it is to succeed.

#### AMNESTY INTERNATIONAL IN AFRICA

Section addresses:

Algeria:

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Tunisia:  
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Section Tunisienne,  
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1001 Tunis

Countries with groups:

Botswana, Burkina Faso, Cameroon, Egypt, Gambia,  
Mali, Morocco, South Africa, Togo, Uganda, Zambia, Zimbabwe