

EXTERNAL (for general distribution)

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Further information on UA 408/90 (AFR 32/30/90, 10 October 1990, and follow-up of 24 October, AFR 32/34/90) - Fear of Torture/Legal Concern

KENYA:Koigi wa Wamwere, exile opposition leader

Mirugi Kariuki, lawyer

Rumba Kinuthia, lawyer

and also (new names)

Geoffrey Kuga Kariuki, unemployed relative of

Koigi wa Wamwere

Joseph Mwaura Kinuthia, brother of Rumba Kinuthia

Mary Mwaura Kinuthia, wife of Joseph Mwaura Kinuthia

Margaret Wangui Kinuthia, sister of Rumba Kinuthia

James Gitau Mwaura, former employee of Rumba Kinuthia

At a court hearing on 2 November, lawyers for Koigi wa Wamwere, Mirugi Kariuki and Rumba Kinuthia, who face treason charges carrying mandatory death penalties, said that their clients alleged that they had been "subjected to severe torture and extremely inhuman and degrading treatment" while held in the custody of the security police (known in Kenya as the "Special Branch") before they were first brought to court on 19 October. The lawyers did not give details of the alleged torture, saying that this could prejudice their eventual trial.

The lawyers also said that they were being denied access to their clients and that a private doctor who wished to examine them in relation to the allegations of torture had also been denied access to them. Koigi wa Wamwere's lawyer said his move from Kamiti prison to Naivasha prison caused him to fear for his life and safety. None of the three has had access to their families.

At this second court appearance on 2 November, Koigi wa Wamwere was described by a reporter attending court as looking "tired and weak - his hair was unkempt and his jacket and trousers were dirty". The lawyers requested a court order to protect their clients from torture and ill-treatment and asked for them to be given access to doctors of their choice. The Chief Magistrate ordered that Japheth Shamalla, Koigi wa Wamwere's lawyer, should have access to his client together with a private doctor. With regard to the complaints about torture, he ruled that these should be addressed to the High Court, which the prosecuting counsel said had already been informed of the complaints. He adjourned the case to 15 November. The accused have not yet been required to enter pleas.

Geoffrey Kuga Kariuki, who appeared in court at the same time on 19 October and was charged with treason, has also been denied access to his legal representative and his family.

The other four accused named above, who include three relatives of Rumba Kinuthia who also worked in his law firm and a former employee of his law firm, were arrested in Nairobi on 8 October and were brought to court on 19 October and charged with misprision (concealment) of treason in the same case. They have not yet been allowed access to their legal representatives or families. The maximum penalty for misprision of treason is life imprisonment.

The Kenyan authorities have not clarified any further how Koigi wa Wamwere came to be arrested in Kenya, or commented on reports that he was secretly handed over to the Kenyan authorities by Tanzanian security officials. The initial report that a Tanzanian government opponent now detained in Tanzania, Mussa Membar, had been arrested in Kenya and handed over to the Tanzanian officials, has now apparently been contradicted by a statement said to have been made from prison by Mussa Membar himself, stating that he returned voluntarily to Tanzania from Kenya.

FURTHER RECOMMENDED ACTION: express and airmail letters:

- calling for an impartial judicial investigation into allegations by Koigi wa Wamwere, Rumba Kinuthia and Mirugi Kariuki that they were tortured by the security police before being brought to court on 19 October;
- requesting assurances that they are not ill-treated in prison;
- urging that they and the others accused of treason or misprision of treason should be given regular and private access to their legal representatives and families, and allowed to be examined and treated by independent doctors of their choice.

APPEALS TO:

Mr James Mareka
Commissioner of Prisons
Kenya Prison Service HQ
PO Box 30175
Nairobi, Kenya

**Telegrams: Prison Commissioner
Mareka, Nairobi, Kenya**

Mr Matthew Muli
Attorney General
Office of the Attorney General
PO Box 40112
Nairobi, Kenya

**Telegrams: Attorney General
Muli, Nairobi, Kenya
Telexes: 22003 FOREIGNRB
or 22696 FOREIGNRB
(via Ministry of Foreign Affairs)**

A/C Geoffrey Kinoti
Kenya Police HQ
PO Box 30083
Nairobi, Kenya
**Telegrams: A/C Kinoti, HQ
Kenya Police, Nairobi, Kenya
Telexes: 22720 COMPOL KE**

Mr Justice Alan Hancox
Chief Justice
Law Courts
PO Box 30041
Nairobi, Kenya
**Telegrams: Chief Justice Hancox
Nairobi, Kenya**

COPIES TO any of the following:

Mr Fred Ojiambo
Chairman, Law Society of Kenya
P O Box 72219

Mr James Kanyotu
Director of Special Branch
Kenya Police HQ

Nairobi, Kenya

PO Box 30083
Kenya

Mr Omondi Tunya
Chief Magistrate
PO Box 30041
Nairobi, Kenya

Officer in Charge
Kamiti Prison
PO Box 47472
Nairobi, Kenya

Officer in Charge
Naivasha Prison
PO Box 146
Naivasha, Kenya

and to diplomatic representatives of Kenya in your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat or your section office if sending appeals after 21 December 1990.