

EXTERNAL (for general distribution)

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Further information on UA 333/93 (AFR 32/12/93, 21 September 1993) and follow-ups (AFR 32/13/93, 29 September; AFR 32/14/93, 11 October; AFR 32/15/93, 25 October; AFR 32/16/93, 19 November; AFR 32/18/93, 26 November; AFR 32/20/93, 10 December; AFR 32/21/93, 15 December; AFR 32/22/93, 30 December; AFR 32/03/94, 1 February 1994; AFR 32/07/94, 14 April) - Torture concern / Legal concern / Fear of ill-treatment / Death penalty / Health concern

KENYAKoigi wa Wamwere - human rights activist, former political prisoner, former member of parliament

Charles Kuria Wamwere - former political prisoner

James Maigwa - brother-in-law of Koigi wa Wamwere and farmer

G.G. Njuguna Ngengi - councillor for Molo and farmer (note name correction)

Proceedings in the trial of Koigi wa Wamwere and this three co-defendants came to an abrupt halt earlier this week after their counsel were denied the right to present their final submissions orally. All four men, whom Amnesty International has adopted as prisoners of conscience, face mandatory death sentences if convicted. Amnesty International believes that the charges against all four men are false and that they have not received a fair trial. The organization is appealing for their immediate and unconditional release.

On 11 July 1995 the magistrate ruled that he would only accept written submissions from the defendants despite the fact that the prosecution had been allowed to present their final submissions orally over 14 days. The defendants, who were allowed into court for the first time since 8 May, when they were barred for alleged contempt of court, refused to abide by the magistrate's ruling on the grounds that it was a denial of their constitutional right to "be tried fairly in open court". Their lawyers had earlier withdrawn for the same reasons.

The denial of the right to present oral submissions in open court violated their right to fair trial enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, both of which Kenya has ratified, because it prevented them from presenting their case on an equal footing with the prosecution. Amnesty International and other national and international human rights and legal organizations who have observed the trial have concluded that the four accused have not received a fair trial under national or international standards.

The magistrate has asked for written submissions to be presented on 25 July, the day after a major bi-lateral donors meeting to be held in Paris which will review the progress made by Kenya in relation to issues of good governance and financial management following the aid the donor countries gave in December 1994.

The trial of these four defendants is part of a pattern of harassment and intimidation of human rights activists, opposition figures and journalists which seems to be on the increase in Kenya. Since the beginning of 1995 opposition members of parliament have been arrested and detained for up to three months, an opposition journal has been fire-bombed and its printing press

put out of action, human rights organization have been harassed, one was fire-bombed six times and two others have been banned. Many human rights activists and others in Kenya see this trial as a test case. If these four men are found guilty and sentenced to death it will have serious implications for freedom of expression and the independence of the judiciary in Kenya.

BACKGROUND INFORMATION

Koigi wa Wamwere, his brother, Charles Kuria Wamwere, his cousin James Maigwa and G.G. Njuguna Ngengi, a local councillor, were charged with attempted robbery with violence following an alleged raid on Bahati police station near Nakuru in November 1993. Shortly before his arrest, Koigi wa Wamwere had formed a human rights organization, the National Democratic Human Rights Organization (NDEHURIO), which had been attempting to investigate and report on incidents of political violence in the Rift Valley and other parts of Kenya. Government involvement has been alleged in the ethnic-based violence which has killed around 1,500 people and displaced more than 300,000 since it began in December 1991.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or your own language:

- calling for the immediate and unconditional release of Koigi wa Wamwere, Charles Kuria Wamwere, James Maigwa and G.G. Njuguna Ngengi as prisoners of conscience;
- expressing concern that the denial of their right to present their final submissions orally violated Kenya's international treaty obligations because it prevented them from presenting their case on an equal footing with the prosecution;
- stating that Amnesty International and other national and international human rights and legal organizations who have observed the trial have concluded that the defendants have not received a fair trial;
- expressing concern that they face the death sentence if convicted, stating Amnesty International's opposition to the death penalty in all cases and reminding them of the South African Constitutional Court's decision on 6 June 1995 determining that the death penalty violated the rights to life and human dignity.

(We are asking you to write to your own Foreign Minister and send copies to your local and national press to draw international attention to Amnesty International's concerns before the meeting in Paris on 24 July)

APPEALS TO:

1) Mr Amos Wako
Attorney General
P O Box 40112
Nairobi, Kenya
Telegrams: Attorney General Wako, Sheria, Kenya
Faxes: +254 2 211082
Salutation: Dear Attorney General

2) Your Foreign Minister

COPIES TO:

1) Paul Wamae

Chairman
Law Society of Kenya
PO Box 72219
Nairobi, Kenya

2) Your local and national press

and to the diplomatic representative of Kenya accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your section office, if sending appeals after 25 August 1995