

# AMNESTY INTERNATIONAL

COUNTRY: £KENYA

SUBJECT TITLE: @KENNETH MATIBA, A PRISONER OF CONSCIENCE

February 1991

SUMMARY

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Kenneth Matiba, aged 58, a former Member of Parliament, former cabinet minister and prominent Nairobi businessman, was arrested on 4 July 1990 outside his office in Nairobi and taken to the Nairobi police provincial headquarters. He was detained under Public Security Regulations which provide for indefinite administrative detention without charge or trial of anyone held to be endangering the security of the state.

This document presents details about the circumstances surrounding his arrest and about his conditions of imprisonment.

Amnesty International has adopted him as a prisoner of conscience detained for his non-violent opinions as a leading supporter of multi-party democracy in Kenya.

This summarises a six-page document, Kenneth Matiba, A Prisoner of Conscience (AI Index: AFR 32/05/91), issued by Amnesty International in February 1991. Anyone wanting further details or to take action on this issue should consult the full document.

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February 1991

KENYA: KENNETH MATIBA, A PRISONER OF CONSCIENCE

*Kenneth Matiba, aged 58, a former Member of Parliament, former cabinet minister and prominent Nairobi businessman, was arrested on 4 July 1990 outside his office in Nairobi and taken to the Nairobi police provincial headquarters. He was detained the next day under Public Security Regulations which provide for indefinite detention without charge or trial of anyone held to be endangering the security of the state. Amnesty International has adopted him as a prisoner of conscience detained for his non-violent opinions as a leading supporter of multi-party democracy in Kenya.*

Background to his arrest - the "multi-party" debate

Kenneth Matiba and Charles Rubia, another former government minister, were the most prominent of a number of businessmen, politicians, lawyers and church leaders who were calling for the introduction of multi-party democracy in Kenya, although they had not formed an opposition party. A constitutional amendment of 1982 made Kenya a one-party state with the ruling Kenya African National Union (KANU) as the only permitted party.

Since the beginning of 1990, the "multi-party" issue had been hotly debated in public and in the media in Kenya. The arrest of Kenneth Matiba and other pro-democracy activists in July 1990 followed several weeks of increasing political tension on the issue of multi-party democracy. Those who spoke publicly in favour of the formation of parties other than KANU were branded as "subversive" by the government and the tension increased as they began to be subjected to police surveillance and harassment, and eventually interrogation by the security police (the Directorate of State Security Intelligence, DSSI, formerly known as the Special Branch).

In March 1990 Kenneth Matiba was one of many government critics held for a few hours for questioning by the police in connection with protests at the murder of the Minister for Foreign Affairs, Robert Ouko, in February 1990, in which it was widely alleged that the government was involved. In May he had his passport withdrawn by the authorities and he later lost a court case, where he was represented by John Khaminwa, in which he asked for it to be returned.

The most serious incident preceding his arrest was an attack on his home by people described as "armed thugs" on 14 June 1990, which appeared to be an assassination attempt. His wife was hospitalised for four days after being hit over the head with a sharp object and suffering a fractured skull, and an employee was also injured in the attack. He was not present when the attack occurred but eye-witnesses said that the attackers were particularly looking for him. Three men were later charged with carrying out the attack but were not identified by Mrs Matiba as the actual assailants and were acquitted at their trial.

On 6 June Kenneth Matiba and Charles Rubia announced in a statement to the press that they were going to apply for a licence to hold a public rally in Nairobi in a month's time on the issue of multi-party democracy. In response Government ministers called for their detention. President Daniel arap Moi expressed his determination that KANU should remain the only party in Kenya and the opposition rally was banned.

The security police attempted to arrest Kenneth Matiba but this was stopped by his lawyers because the arresting officers could not show them warrants for his arrest. His lawyers began to attract police surveillance themselves, to the point where they were being prevented from speaking to him and other clients on professional matters. Their press conferences were broken up by

police and journalists had films, notebooks, tapes and press cards confiscated.

On 22 June, Kenneth Matiba's bodyguard, John Gichangi, who had been hired after the attack on his house earlier in the month, was arrested outside his office. When Kenneth Matiba and another bodyguard, Garston Ngotho, went to the Central Police Station to inquire about the arrest of John Gichangi, the police also arrested Garston Ngotho. No reasons were given for their arrests and inquiries by lawyers also produced no results. Kenneth Matiba went into hiding for some days in fear for his safety. The bodyguards were released on 25 June and confirmed that they had been held in cells at the Central Police Station despite police denials that they were being held there. Later there were allegations that Special Branch officers had paid someone to place a bomb under Kenneth Matiba's car, but no such attempt on his life actually took place.

#### Arrest and detention

Kenneth Matiba and Charles Rubia were arrested on 4 July, three days before the date of the banned rally. They had said that they would not defy the ban on the rally. Their lawyer, John Khaminwa, a well-known human rights lawyer, was also arrested when he went to the police headquarters to inquire about them. Hours later, two more human rights lawyers, Gitobu Imanyara and Mohamed Ibrahim, were arrested, along with Raila Odinga, who had been detained on two previous occasions and is the son of a prominent government critic and former Vice-President, Oginga Odinga. Kenneth Matiba and Raila Odinga had held meetings to discuss working together to form another political party but no such agreement had been concluded.

All six were detained under the Public Security Regulations, which provide for the administrative detention for an indefinite period without charge or trial of anyone suspected of being a danger to the security of the state. Their detentions were announced by the authorities, with the exception of Mohamed Ibrahim's detention, which was never publicly disclosed. Their families' applications for habeas corpus were refused by magistrates.

Also arrested were five employees of Kenneth Matiba but they were released a few days later. Gibson Kamau Kuria and Paul Muite, two other well-known human rights lawyers, went into hiding and two weeks later. Gibson Kamau Kuria took refuge in the US Embassy in Nairobi and later left Kenya for the USA. Kiraitu Mirungi, a lawyer who was also involved in human rights cases and the multi-party debate, was in Addis Ababa at the time of the arrests and did not return to Kenya.

#### Events after their arrests

Despite the ban on a public rally, thousands of people still gathered at Nairobi's Kamakunji grounds on 7 July to demonstrate

against the arrests. The demonstrators were tear-gassed and beaten by riot police, who fired shots over their heads. Anti-government rioting broke out and later spread to other areas in Nairobi and to other towns in Kenya. Over 30 deaths were reported, together with widespread arrests of pro-democracy protesters and looters. Over 1,500 people were taken to court and some were charged with political or criminal offences. Many were arrested for using the two-finger V-salute, meaning that they supported "two parties", or for shouting "Release Matiba", amongst other anti-government slogans. Within a week other prominent advocates of a multi-party system had also been arrested, including George Anyona, a former Member of Parliament, who has been a prisoner of conscience adopted by Amnesty International before. Since then many other suspected government opponents have been arrested and brought to court, mainly charged with possession of prohibited publications or allegedly seditious publications, most of which merely contained criticisms of the government and did not advocate violent political change. Some of those arrested had been closely associated with Kenneth Matiba and the developing multi-party movement. Most have been released on bail and not yet tried.

The three detained lawyers, John Khaminwa, Gitobu Imanyara and Mohamed Ibrahim, were released after nearly three weeks in detention but Gitobu Imanyara was immediately re-arrested and charged with sedition in relation to the publication of the Nairobi Law Monthly, of which he is the editor and publisher. He was released on bail and no date has been set for his trial. Shortly before his arrest, an issue of the Nairobi Law Monthly had been devoted to the issue of multi-party democracy in Kenya and contained articles by Kenneth Matiba and other people who are now imprisoned.

Following the widespread demands for changes to the political and electoral system, the government established a Reform Committee of KANU, headed by Vice-President Geoffrey Saitoti, which held public hearings of people's views throughout Kenya. Although press reporting of the hearings seemed to indicate extensive public support for a multi-party system, the Reform Committee and KANU rejected this. Instead the government made changes to the electoral system to restore the secret ballot, and restored the independence of tenure of the Attorney General and judges. Demands for a multi-party system, however, continued to be made, despite the risk of arrest. On 13 February 1991 Oginga Odinga risked arrest to publicly announce the formation of an opposition party, the National Democratic Party (NDP), of which he is interim chairperson. He said the objectives of the NDP were to repeal the 1982 constitutional amendment making Kenya a one-party state, and to restore democracy and justice.

### In prison

Kenneth Matiba, Charles Rubia and Raila Odinga remain in detention without charge or trial and have been adopted by Amnesty International as prisoners of conscience who have been detained for their non-violent opinions. The Kenyan authorities have at

times implied a connection between Kenneth Matiba and the "multi-party" activists on the one hand, and, on the other hand, certain other government opponents alleged to be using or planning violence against the government. In October 1990, Koigi wa Wamwere, leader of the Kenya Patriotic Front (KPF, a clandestine opposition group which he formed in 1986 while in exile in Norway), was reported to have been arrested in Kenya, allegedly in possession of weapons. He and seven others, including two prominent lawyers, are awaiting trial for high treason, which is a capital offence. Amnesty International is, however, convinced that Kenneth Matiba did not advocate violence and had no involvement with groups which, overtly or covertly, advocated or may have advocated the violent overthrow of the government.

There were initial fears for the safety of Kenneth Matiba as rumours spread of his ill-treatment or even death. He was held without access to his family or lawyer for some weeks, after which his wife was allowed to see him briefly and said that he was in reasonably good health, although held in poor conditions. In October 1990 she filed a legal application challenging the constitutional validity of her husband's detention, and asking the court to arrange for him to sign an affidavit relating to the constitutional case. The court did not allow him to sign the affidavit and dismissed the case.

Under the terms of the Public Security Regulations, detentions are reviewed by a Detention Review Tribunal appointed by the President, one month after detention and thereafter at six-monthly intervals. The recommendations of the tribunal are made to the Minister in the Office of the President responsible for internal security and are advisory only, so detainees may be kept in prison even if the tribunal recommends release. Detainees are allowed legal representation at the tribunal hearings, which are held in secret, but at other times detainees are usually denied access to legal representatives.

Family visits are rarely allowed, and only after persistent requests. Even then visits only last for a few minutes in the presence of security or prison officers who take notes of the conversation. Visitors are only allowed to speak in English or Swahili, languages which detainees' relatives do not always speak fluently, if at all.

Medical treatment of detainees is inadequate and Kenneth Matiba has reportedly been refused medication prescribed for high blood-pressure.

Kenneth Matiba is held in Kamiti maximum security prison near Nairobi. He is held in permanent solitary confinement in a special section of the prison next to cells for prisoners condemned to death and mentally disturbed prisoners who scream and shout for virtually 24 hours a day. Conditions in the prison have been described by other prisoners held in the same section as "inhumane and disgusting". The food provided is poor but the detainees are not allowed to receive food or most other items from their families. They are allowed very little reading material.

### Personal Details

In 1963, as Kenya was about to gain internal self-government prior to independence from the United Kingdom later in the year, Kenneth Matiba was appointed one of the first three African permanent secretaries by the outgoing colonial government. After independence he continued as a senior civil servant working in various government ministries until 1968 when he resigned to go into business. He joined Kenya Breweries Ltd and in 1969 became its managing director and later executive chairman of its parent company, East African Breweries Ltd. He also has many business interests of his own, including ownership of tourist hotels and a flower export company. Between 1974 and 1978 he was chairman of the Kenya Football Federation. He is a patron of the Kenya Mountaineering Club.

In 1976 he was elected chairman of the KANU party branch in his home area of Mbiri in Murang'a District, and in 1979 he was elected to the parliamentary seat of Mbiri. By 1983 he was a minister in the cabinet and held different portfolios, including Transport and Communications, until 1988 when he made serious criticisms of the electoral procedures in the general election of that year. He retained his own parliamentary seat but questioned the procedure used in a neighbouring constituency and he boycotted a repeat election which was ordered. He resigned from the cabinet on this issue, lost his parliamentary seat, and was expelled from KANU.

Kenneth Matiba and his wife, Edith Matiba, have several children.

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Please ensure that all relevant people in the section have received copies for their attention, and that the document is centrally filed for future reference. In addition please undertake as many of the following recommended actions as possible.

1. Sections: to distribute this document to Kenya contacts and specialists and publicize the case of Kenneth Matiba. See also two similar new external documents on fellow-detainees Charles Rubia (AI Index: AFR 32/06/91) and Raila Odinga (AI Index: AFR 32/07/91). These provide more detailed information on these three prisoner of conscience whose detentions were reported in a longer external document in November 1990, Kenya: Silencing Opposition to One-Party Rule (AI Index: AFR 32/28/90).

Note for Translators: Much of the background text for these other two documents is similar to the Kenneth Matiba document.

2. Target Sector Coordinators: to distribute this document to relevant target sector contacts, particularly members of parliament and business people.

3. Co-groups: to distribute this document to local contacts, in conjunction with your Section, and to liaise with Section press officers regarding publicity. Co-groups with groups working on the case of Kenneth Matiba: to assist the group with distribution and publicity.

4. Groups working on the case of Kenneth Matiba: to use this document in your work on behalf of Kenneth Matiba for further background information, publicity and approaches to local target sector groups, such as MPs and business people. Each group will be sent 5 copies of this document for distribution purposes.

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