

EXTERNAL (for general distribution)

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Further information on UA 301/90 (AFR 32/10/90, 17 July, and follow-ups AFR 32/12/90, 27 July, AFR 32/16/90, 17 August, AFR 32/25/90, 26 September, and AFR 32/27/90, 9 October 1990) - Fear of Torture/Legal Concern

**KENYA:George ANYONA, former member of parliament**  
**Edward OYUGI, professional of educational psychology**  
**Ngotho KARIUKI, accountant, former academic**  
**Augustus KATHANGU, businessman, KANU official**

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The trial of the four people named above on charges of sedition began on 10 January 1991 and is likely to continue for a further two or more weeks. On the main charge of holding a seditious meeting in a bar, they face a maximum 10-year prison sentence. Other charges include possession of seditious publications such as an issue of the newsletter Africa Confidential which contained an article on corruption and tribalism in President Daniel arap Moi's one-party government. They have legal counsel and the case is being heard in open court before a magistrate in Nairobi. They have been held in custody with bail refused since their arrest in Nairobi on 11 July 1990. All four have pleaded not guilty.

In the trial, no evidence has been presented by the prosecution on what was said by the defendants when they met for drinks in a Nairobi bar on 11 July 1990. They were apparently arrested on mere suspicion of sedition because three of them were former political prisoners, George Anyona in particular being a well-known critic of the government and supporter of a multi-party system. Documents allegedly found in their possession were shown to the court but none advocated violence.

On 24 January Ngotho Kariuki told the court that he had been tortured and that a statement which the prosecuting counsel, Philip Murgor, sought to admit as evidence against him was obtained from him by torture. He said that after arrest he was held incommunicado for 14 days by the security police (Special Branch or Directorate of State Security Intelligence, DSSI) in their Nairobi headquarters in Nyayo House. He said that he was kept naked in a dark water-flooded basement cell which he also had to use as a toilet, starved, beaten and made to do vigorous physical exercises, despite having a back injury due to torture after his previous arrest in 1986. He was threatened with death or detention, and verbally abused while paraded naked before women security officers. He said he had previously been tortured under the supervision of the same chief interrogator in 1986, when he was adopted by Amnesty International as a prisoner of conscience while detained without trial until 1988. He was refused access to a lawyer or doctor.

At the police Criminal Investigation Department (CID) headquarters, he said he was taken before a panel of senior police officers from the CID and DSSI, and was forced at gunpoint to sign prepared statements. In his affidavit, he stated, "Two officers with their guns threatened me and pointed to the places I was supposed to sign. With guns I could not argue. I had to sign under threat of guns. This was repeated for some subsequent statements the following day."

Ngotho Kariuki has also complained of ill-treatment in Kamiti prison where he is now held. He suffers from a duodenal ulcer and haemorrhoids but has not been allowed medication or a special diet prescribed by a doctor. He is also not being given adequate physiotherapy for a back injury caused by torture in 1986, and despite the doctor's recommendation, is denied a bed, mattress and chair in his cell. He sleeps on the cold

cement floor with only a blanket.

Testimony of similar torture has also been received from Edward Oyugi. He said that after his arrest he was taken to Nyayo House blindfolded in the boot of a car and beaten until almost unconscious. He was subjected to the same torture and also forced at gunpoint to sign prepared statements. Edward Oyugi said that when they were taken to court, they were regularly stripped naked in the corridors of the basement cells in the Law Courts and subjected to intimate and humiliating body searches. George Anyona and Augustus Kathangu were reportedly also tortured and ill-treated in similar ways and forced to sign prepared statements.

On 4 February the trial judge, Senior Resident Magistrate Francis Mabele, rejected the torture complaints and ruled that Ngotho Kariuki's statement was admissible as trial evidence.

Amnesty International, however, finds the above statements by Ngotho Kariuki and Edward Oyugi credible and consistent in all details with other reports of torture in Kenya in 1990 and previous years. Courts in Kenya have consistently rejected complaints of torture by political prisoners without initiating any investigation into the complaints.

**FURTHER RECOMMENDED ACTION: Telexes/telegrams/express and airmail letters:**

- expressing concern about Ngotho Kariuki's allegations in court that he was tortured and forced at gunpoint to sign false statements which the magistrate has admitted as prosecution evidence;
- expressing concern too at the reported torture and ill-treatment (as described above) of Ngotho Kariuki, Edward Oyugi, George Anyona and Augustus Kathangu, and commenting that these allegations are consistent with numerous other reports of torture of alleged government opponents in Kenya in the past few years;
- calling for the government to establish an impartial investigation into the allegations of torture, as required by the UN Declaration against Torture;
- urging improvements in the prison conditions of all four defendants and particularly that they be allowed medical treatment or other needs prescribed by their doctors, citing the complaints mentioned above.

**APPEALS TO:**

President Daniel arap Moi  
 President of the Republic of Kenya  
 Office of the President  
 PO Box 30510  
 Nairobi, Kenya

**Telegrams: President arap Moi, Kenya**

**Telexes: 22003 / 22696 FOREIGNRB (via Ministry of Foreign Affairs)**

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

**Telegrams: Attorney General Muli, Nairobi, Kenya**

**Telexes: 22003 / 22696 FOREIGNRB (via Ministry of Foreign Affairs)**

**COPIES TO:**

- Mr Fred Ojiambo, Chairman, Law Society of Kenya, PO Box 72219, Nairobi, Kenya
- Mr Justice Alan Hancox, Chief Justice, Law Courts, PO Box 30041, Nairobi, Kenya
- Mr James Kanyotu, Directorate of State Security Intelligence, Kenya Police HQ, PO Box 30083, 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 26 March 1991.