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KENYA: BLATANTLY UNFAIR TRIAL ENDS IN JAIL TERMS AND CORPORAL PUNISHMENT

Amnesty International is outraged at yesterday's sentencing of three prisoners of conscience to four years in jail and six strokes of the cane each after a blatantly unfair trial that has lasted more than 16 months.

"International protests at the trial have obviously saved the three men's lives but we believe that the charges against them are false," Amnesty International said today.

"They are prisoners of conscience and as such their convictions should be quashed and they should be released immediately and unconditionally. We will continue to appeal against the use of corporal punishment which is cruel, inhuman and degrading."

All three defendants had in fact been facing the death penalty on charges of robbery with violence after they were alleged to have raided a police station near Nakuru in 1993. However, in a surprising about-turn after the trial had concluded, the magistrate in delivering his guilty verdict reduced the charge to robbery.

The three prisoners of conscience are Koigi wa Wamwere, human rights activist and former member of parliament; his brother, Charles Kuria Wamwere; and G.G. Njuguna Ngengi, a local councillor. All three are prominent critics of the government of President Daniel arap Moi. A fourth defendant James Maigwa, was acquitted. None of the four men were allowed in court yesterday to hear the judgment.

All three prisoners have the right of appeal to the High Court and Appeal Court. However, the appeal process is very lengthy and often takes several years.

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. Local and international organizations have accused the government of involvement in the politically-motivated ethnic violence in which over 1,500 people have been killed and more than 300,000 displaced since December 1991.

"The sentencing of these three prisoners of conscience to prison terms and caning is part of an increasingly violent pattern of government harassment and intimidation of its political opponents, human rights activists and journalists," Amnesty International said.

In February 1995 two human rights organizations and one opposition journal in Nairobi were fire-bombed. In August 1995 members of a new Safina opposition political party and a number of lawyers and journalists were brutally assaulted in Nakuru by over 50 men whilst

attempting to visit Koigi wa Wamwere and his co-defendants in prison. Their assailants were identified by eye-witnesses as plain-clothes Special Branch police officers and Youth Wingers of the ruling Kenya African National Union (KANU) party.

The trial was attended regularly by observers from national and international legal and human rights organizations including Amnesty International. Observers expressed serious concerns about the conduct of the trial, the major inconsistencies in the prosecution's evidence and they questioned the impartiality of the court. A clear impression was made on observers that the four accused were not receiving a fair trial under international standards.

"The abusive use of criminal charges against non-violent critics of the government undermines the rule of law in Kenya, with serious implications for freedom of expression," Amnesty International said.

At least 10 other political prisoners, including one woman, are also in prison facing robbery with violence charges. These charges appear to be being used by the authorities in preference to the much-criticized indefinite detention law (the Public Security Regulations) in order to keep their opponents in prison for years or even to threaten their lives by detaining them indefinitely.

Proceedings in the trial came to an abrupt halt in July after their defence counsel were denied the right to present their final submissions orally. The magistrate, William Tuiyot, 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 17 days. When the defence refused on the grounds that it violated their right to fair trial enshrined in international law the magistrate ruled that he would make his deliberations using the final submissions from the prosecution and his own notes of the trial proceedings.

Prison conditions in Kenya are harsh and there are reports of prisoners being ill-treated. There is severe overcrowding and frequent shortages of food, clean water and basic medication. This has resulted in a high number of deaths of prisoners. In Nakuru prison alone, where the three men are being held, over 250 prisoners have died in the last ten years.

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