

EXTERNAL (for general distribution)

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Legal Concern

29 October 1990

KENYA: Christopher KAMUYU, member of parliament
D M KIMATTA, lawyer
Michael Karanja GATHIRU, businessman
Joe Njoroge KIMANI, newsagent
Timothy WANJAU, unemployed
Kiarie MBUGUA, businessman

Christopher Kamuyu, member of parliament for Dagoretti East in Nairobi, was arrested at his home in Karen, near Nairobi, on 8 October 1990. He was brought to court on 18 October and charged with possessing prohibited publications - 10 copies of the Financial Review, a business magazine, and one copy of Development Agenda, another Nairobi journal, which were both banned in 1989 for publishing articles critical of the government. The penalty for possession of a banned publication is up to three years' imprisonment. In court, he said he was not guilty of the offence with which he was charged. The magistrate refused bail. Christopher Kamuyu is a diabetic and is in poor health with a collapsed lung.

Amnesty International would regard anyone convicted of mere possession of a publication containing no advocacy of violence as a prisoner of conscience. It considers the law which permits this as being in violation of international human rights standards.

D M Kimatta, a lawyer in Nakuru, arrested in early October 1990, was brought to court in Nakuru on 15 October and charged with possession of the same banned magazine, the Financial Review; Michael Karanja Gathiru, a 62-year-old businessman in Nakuru, was also arrested in Nakuru, on 16 October, and was charged on 17 October with possession of 19 copies of the same publication.

Joe Njoroge Kimani was arrested at the Kenya/Tanzania border point at Namanga on 21 September and charged in Nairobi on 9 October with importing 798 copies of an issue of an allegedly seditious publication, African Events, a monthly journal published in London. The issue contained the published program of Mwakenya, a clandestine Kenyan opposition group whose leaflets have called for armed struggle, although there is no advocacy of violence in the program which was published in this issue. He was remanded in custody and could face a 10-year prison sentence if convicted.

Timothy Wanjau was arrested in Murang'a district on about 21 September at the home of Mukaru Ng'ang'a, a former history lecturer who was detained without charge or trial from 1986 to 1989 and is now a recognized refugee in Sweden. Timothy Wanjau has been held much longer than the maximum 14 days in which the police may hold someone without charge for investigations into the most serious offence such as treason. The reason for his arrest, and his whereabouts in custody are not known.

Kiarie Mbugua, a businessman, was arrested in Nairobi on 11 October. No explanation has been given by the police for his arrest, which is believed to be political. However, no further details are known at present.

RECOMMENDED ACTION: Telegrams/telexes/express and airmail letters:

- urging that it should not be a criminal offence to possess or distribute a publication which contains no advocacy of violence, and appealing for the unconditional release of Christopher Kamuyu, D M Kimatta, Michael Karanja Gathiru and Joe Njoroge Kimani, giving details of their cases as above;

- requesting that Christopher Kamuyu receive any necessary medical treatment while in custody;

- calling for people arrested for political reasons to be formally charged and allowed access to their legal representatives and relatives in accordance with the law, citing the cases of Timothy Wanjau and of Kiarie Mbugua, and expressing fears of ill-treatment when they are held in prolonged incommunicado custody by the police Special Branch.

APPEALS TO:

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

Telegrams: President arap Moi, Kenya
Telexes: 22003 FOREIGNRB or 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 FOREIGNRB or 22696 FOREIGNRB
(via Ministry of Foreign Affairs)

Mr Davidson Ngibuini Kuguru
Minister of Home Affairs
Ministry of Home Affairs
P O Box 30520
Nairobi, Kenya

Telegrams: Minister Home Affairs, Nairobi, Kenya
Telexes: 22003 FOREIGNRB or 22696 FOREIGNRB
(via Ministry of Foreign Affairs)

COPIES TO:

Mr James Kanyotu
Director of Special Branch
Kenya Police HQ
PO Box 30083
Kenya

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

Mr Justice Alan Hancox
Chief Justice
Law Courts
PO Box 30041
Nairobi, 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 10 December 1990.