



amnesty  
International

INTERNATIONAL SECRETARIAT  
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United Kingdom

**URGENT  
ACTION**

EXTERNAL (for general distribution)

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Fear of ill-treatment/Legal concern

15 February 1993

Njehu Gatabaki, journalist

Amnesty International is concerned about the treatment in custody of Njehu Gatabaki, editor and publisher of Finance magazine, who was arrested on 2 February 1993 outside the Nairobi Chief Magistrate's Court. According to press reports eight plain-clothes police officers seized him, bundled him into a car and drove off without saying where they were taking him or why. The next day police took him back to the same court and he was charged with publishing a seditious publication - the 31 January 1993 issue of Finance which contained articles entitled "Moi family has 150 billion shillings abroad" (US\$1.5 million equivalent) and "Stealing an election" (referring to the December 1992 parliamentary and presidential elections). The magistrate refused bail and he was remanded in the Industrial Area Remand Prison in Nairobi, where conditions are harsh and he may be ill-treated.

When he was arrested, he had just left the court with his lawyer in connection with two earlier arrests in July and November 1992 when he had been charged with the same offence and eventually granted bail after several days in custody. The Chief Magistrate set the trial for 15 March 1993. Police had seized all copies of Finance magazine on at least three occasions in 1992 when the magazine published articles criticising the government and President Moi.

#### BACKGROUND INFORMATION

The Kenyan authorities have frequently used the charge of "sedition" against political opponents, including publishers or journalists who have published articles critical of the government and others accused of possessing such publications. Currently seven other Kenyan journalists, including Pius Nyamora of Society magazine, are also still facing charges of sedition for articles published in 1992 - they could be jailed for up to 10 years on each charge. Sedition trials in the past few years have been grossly unfair, and have led to the imprisonment of prisoners of conscience.

At the time of Njehu Gatabaki's latest arrest, several other magazines were openly publishing articles criticising irregularities by the government and ruling Kenya African National Union (KANU) party in the December 1992 elections, where KANU won 100 seats against the combined opposition's 88 seats, and criticising President Daniel arap Moi who was re-elected. The Attorney General reportedly warned people against committing the offence of sedition by possessing any seditious publication, defined as any publication having the intention to "bring into hatred or contempt or to excite disaffection against the person of the President or the Government of Kenya". The penalty for possessing a "seditious" publication is up to seven years' imprisonment. Amnesty International considers that the application of the sedition law violates the internationally recognized right to freedom of expression.

**RECOMMENDED ACTION:** Please send telegrams/telexes/faxes/express and airmail letters:

- expressing concern at the arrest on 2 February 1993 of Njehu Gatabaki in connection with articles he wrote or published in Finance magazine;
- expressing concern that he has been charged with "sedition", for which he could be imprisoned for 10 years;
- appealing for his immediate and unconditional release as a prisoner of conscience imprisoned for expressing his non-violent opinions, in

☎ (44)(71) 413 5500 Telegrams: Amnesty London WC1 Telex: 28502 FAX: 956 1157

Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the release of men and women detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religious creed, provided they have not used or advocated violence. These are termed prisoners of conscience. It works for fair and prompt trials for all political prisoners and works on behalf of such people detained without charge or trial. It opposes the death penalty and torture or other cruel, inhuman or degrading treatment or punishment of all prisoners.

contravention of the internationally recognized right to freedom of expression;  
 - urging that as long as he remains in custody he be treated humanely and be allowed regular access to his family, legal representative and medical doctor if required.

**APPEALS TO:**

1) His Excellency President Daniel arap Moi  
 President of the Republic of Kenya  
 Office of the President  
 P O Box 30510  
 Nairobi, Kenya  
 Telegrams: President Moi, Nairobi, Kenya  
 Telexes: 22003 FOREIGNRB or 22696 FOREIGNRB  
 (via Ministry of Foreign Affairs)  
 Faxes: + 254 2 33 7340 (Ministry of Foreign Affairs)

Salutation: Your Excellency

2) Mr Amos Wako  
 Attorney General  
 Office of the Attorney General  
 P O Box 40112  
 Nairobi  
 Kenya  
 Telegrams: Attorney General Wako, Ghoria, Nairobi, Kenya  
 Faxes: + 245 2 211022

Salutation: Dear Attorney General

**COPIES OF YOUR APPEALS TO:**

Mr James Mareka  
 Commissioner of Prisons  
 Kenya Prisons Service Headquarters  
 P O Box 30175  
 Nairobi, Kenya

Mr Charles Gituma  
 Assistant Senior Commissioner  
 Kenya Prisons Service Headquarters  
 P O Box 30175  
 Nairobi, Kenya

Mr Philip Kilonzo  
 Commissioner of Police  
 Kenya Police Headquarters  
 P O Box 30083  
 Nairobi, Kenya

Mr Justice Alan Hancox  
 Chief Justice  
 Law Courts  
 P O Box 30041  
 Nairobi, Kenya

Mr Babu Achieng  
 Nairobi Chief Magistrate  
 Law Courts  
 P O Box 30041  
 Nairobi, Kenya

and to diplomatic representatives of Kenya accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 29 March 1993.

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended actions. If possible, send a telegram, telex, fax or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards.
- Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3 — "Everyone has the right to life, liberty and security of person."

Article 5 — "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Article 9 — "No one shall be subjected to arbitrary arrest, detention or exile."

- The name of Amnesty International may be used, although letters written in a private or personal capacity may be more effective.
- Copies of appeals should be sent to relevant diplomatic representatives in your country.
- In Urgent Actions cases, Amnesty International has to act rapidly on behalf of victims of grave human rights violations. An appeal is issued when Amnesty International believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new facts.
- Copies of any replies received from government authorities should be sent immediately to your section's Urgent Action co-ordinator or direct to the Campaign and Membership Department of the International Secretariat. If appropriate, thank the official who has replied and ask to be kept informed of the outcome.