

EXTERNAL

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Prisoner of conscience / Health concern

7 June 1996

KENYANjehu GATABAKI, aged in his 50s, opposition member of parliament, editor

Parliamentarian Njehu Gatabaki, currently on bail and in hiding, is due to appear in court in Nairobi on 10 June 1996. The police are likely to take this opportunity to rearrest him and he may face imprisonment. If this happens, Amnesty International would consider him to be a prisoner of conscience, detained for his non-violent criticism of the government. Moreover the organization fears that if imprisoned, given his poor state of health, his life would be put at risk by the appalling conditions in Kenyan prisons.

Njehu Gatabaki, who is also editor of the monthly magazine *Finance*, was arrested on 14 May 1996 by at least 20 police officers and taken to the headquarters of the Criminal Investigations Department (CID) in Nairobi and then to Parklands Police Station. He made a statement denying accusations by the police that he was involved in the murder of Police Superintendent Bernard Kahumbi, a policeman who was murdered in May 1995 shortly after he failed to arrest Njehu Gatabaki, who had gone into hiding. Two men were arrested in June 1995 in connection with the murder of Police Superintendent Kahumbi and the case against them is continuing. Committal proceedings are currently underway in the magistrates court and Njehu Gatabaki had not until May 1996 been mentioned in any statements by the two men, including their depositions. It has just been learned that one of the defendants has now alleged that Njehu Gatabaki **was** involved in the May 1995 murder. It is feared that this allegation may have been made as a result of torture.

Njehu Gatabaki was released on bail on 22 May. Officers from the CID were waiting to rearrest him as he left the court but with the help of opposition MPs he evaded arrest. Amnesty International is seriously concerned that he will be detained for up to 14 days and that if charged with murder, which is non-bailable in Kenya, he will face lengthy detention, prior to a trial which may not be fair.

Njehu Gatabaki is in poor health and suffers from hypertension. He was held for several nights after his arrest at Railway Police Station in a solitary cell, without bedding and infested with mosquitos. On 20 May 1996 he released a statement in which he said, "Having stayed in solitary confinement for one week, sleeping on cold cement in a poorly lit cell, I find a further confinement ... chillingly stunning. I have suffered incredibly for simply holding different opinions to those in authority. I have stood firmly for democracy and human rights. These are causes for which I will always champion, irrespective of personal suffering and inconveniences to my family and my constituents".

BACKGROUND INFORMATION

Njehu Gatabaki, a prominent critic of the government, has been arrested on a number of occasions and currently has several sedition cases pending as a result of articles which he published in *Finance*. In May 1995 Bernard Kahumbi was found dead in his car. In the weeks following Bernard Kahumbi's death, claims were made in the Kenyan parliament and elsewhere that he was murdered by a government hit squad because of his failure to arrest Njehu Gatabaki. This was vigorously denied by the authorities.

Torture is frequently used by the Kenyan police to obtain "confessions" or false statements incriminating others, especially in political cases. False criminal charges have also been used to imprison non-violent dissidents.

Prison conditions in Kenya are harsh. In September 1995 a Kenyan High Court judge described them as "death chambers" because of the high mortality rate.

He noted that "going to prison these days has become a sure way for a death certificate". In October 1995 the Minister for Home Affairs, Francis Lotodo, announced that over 800 prisoners had died since the beginning of the year.

Prisoners suffer from severe overcrowding, insanitary conditions and a lack of adequate food, clothing and blankets. In these conditions infectious diseases spread easily and there are few, if any, medical facilities.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes in English or your own language:

- expressing concern that the police may attempt to arrest Njehu Gatabaki on 10 June on false charges;
- expressing serious concern at the possibility that Njehu Gatabaki may be subsequently charged with a non-bailable offence and sent to prison;
- voicing fears for the safety of Njehu Gatabaki if this were to happen, given his poor health and the extremely harsh conditions in Kenyan prisons;
- appealing for him not to be arrested or imprisoned on account of his non-violent opinions.

APPEALS TO:

President Daniel arap Moi
 Office of the President
 PO Box 30501, Nairobi, Kenya
Telegrams: President Moi, Nairobi, Kenya
Telexes: 22003 FOREIGN ROB / 22796 FOREIGN RB
Faxes: + 254 2 337340 (if no tone, please try later)
Salutation: Your Excellency

Mr Amos Wako
 Attorney General
 Office of the Attorney General
 PO Box 40112, Nairobi, Kenya
Telegrams: Attorney General Wako, Sheria, Kenya
Faxes: + 254 2 211 082
Salutation: Dear Attorney General

Mr Noah arap Too
 Director, Criminal Investigation Department
 c/o Kenya Police Headquarters
 PO Box 30083, Nairobi, Kenya
Telegrams: Director CID, Police Headquarters, Nairobi, Kenya
Salutation: Dear Director

COPIES TO:

Mr Paul Wamae
 Law Society of Kenya
 PO Box 28214
 Nairobi, Kenya

and to diplomatic representatives of KENYA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.