

KENYA Tony Gachoka, editor in chief of the Post on Sunday

Editor Tony Gachoka has been sentenced to six months' imprisonment for contempt of court after publishing articles alleging corruption in the judiciary. Amnesty International believes that he was not given a fair trial. He is believed to be serving his sentence in Athi River Prison, close to Nairobi.

In February 1999 two issues of the *Post on Sunday* carried articles by Tony Gachoka, alleging that the Court of Appeal, and in particular the Chief Justice, were implicated in bribery relating to cases arising from Goldenberg, Kenya's biggest corruption scandal. The Chief Justice has sued Tony Gachoka for libel over the stories.

The contempt case was brought by the Attorney General, claiming that the cases referred to were still subjudice, and that the stories were an attack on the courts and the character of judges, which needed to be protected to maintain confidence in the administration of justice.

Amnesty International does not take a position on the content of the articles, but is concerned that Tony Gachoka did not receive a fair trial.

The court rejected Tony Gachoka's application to give oral testimony in his defence or to call witnesses from the judiciary and senior government officials, including President Moi and the Attorney General, whom he had said could prove the criticisms made in the articles.

In an unusual step, the contempt case was heard before seven judges of the Court of Appeal, rather than the High Court, which has the power to hear matters of contempt made outside a courtroom. This means that there is no possibility of an appeal against the sentence. This is in violation of Article 14(5) of the International Covenant on Civil and Political Rights (ICCPR), and Article 7(1)(a) of the African Charter on Human and People's Rights (the African Charter), both of which Kenya has ratified.

Amnesty International is also concerned that three judges who are overseeing some of the cases relating to Goldenberg, and who were mentioned in the articles, were part of the seven judge bench. This is in violation of Article 14(1) of the ICCPR and Article 7(1)(d) of the African Charter which establishes the rights to a hearing before a independent and impartial tribunal.

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

- expressing concern at violations of fair trial rights in the case of Tony Gachoka, in particular at the fact that he was not tried before an impartial tribunal, that he was not allowed to give testimony in his defence and that there is no possibility of appeal
- urging that he be immediately released unless he is promptly charged with a recognizable criminal offence and brought to trial in accordance with international standards.

APPEALS TO:

President Daniel arap Moi
Office of the President
PO Box 30501, Nairobi, Kenya

Telegrams: 22003 FOREIGN ROB / 22796 FOREIGN RB
Faxes: + 254 2 337340 (if no tone, please try later)
Salutation: Your Excellency

Mr Amos Wako
Attorney General
PO Box 40112
Nairobi, Kenya

Telegrams: Attorney General Wako, Nairobi, Kenya
Faxes: + 254 2 211082
Salutation: Dear Attorney General

COPIES TO:

Kenya Human Rights Commission
PO Box 55235
Nairobi
Kenya

Fax: + 254 2 574997

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 4 October 1999.