

AMNESTY INTERNATIONAL

COUNTRY: KENYA

SUBJECT TITLE: CHARLES RUBIA, A PRISONER OF CONSCIENCE

February 1991

SUMMARY

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Charles Rubia, aged 62, a former cabinet minister, former Mayor of Nairobi and a prominent Nairobi businessman, was arrested on 4 July 1990. He was detained the next day under the Public Security Regulations which provide for indefinite detention without charge or trial of anyone held to be endangering the security of the state.

This document presents details about the circumstances surrounding his arrest and about his conditions of imprisonment.

Amnesty International has adopted him as a prisoner of conscience detained for his non-violent opinions as a leading supporter of multi-party democracy in Kenya.

This summarises a six-page document, Charles Rubia, A Prisoner of Conscience (AI Index: AFR 32/06/91), issued by Amnesty International in February 1991. Anyone wanting further details or to take action on this issue should consult the full document.

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KENYA: CHARLES RUBIA, A PRISONER OF CONSCIENCE

Charles Rubia, 62, a former cabinet minister, former Mayor of Nairobi and a prominent Nairobi businessman, was arrested on 4 July 1990 at the Muthaiga Golf Club in Nairobi and taken to the Nairobi police provincial headquarters. He was detained the next day under its Public Security Regulations which provide for indefinite detention without charge or trial of anyone held to be endangering the security of the state. Amnesty International has adopted him as a prisoner of conscience detained for his non-violent opinions as a leading supporter of multi-party democracy in Kenya.

Background to his arrest - the "multi-party" debate

Charles Rubia and Kenneth Matiba, another former government minister, were the most prominent of a number of businessmen, politicians, lawyers and church leaders who were calling for the introduction of multi-party democracy in Kenya, although they had not formed themselves into an opposition party. A constitutional amendment of 1982 made Kenya a one-party state with the ruling Kenya African National Union (KANU) as the only permitted party.

Since the beginning of 1990, the "multi-party" issue had been hotly debated in public and in the media. The arrest of Charles Rubia and other pro-democracy activists in July 1990 followed several weeks of increasing political tension on the issue of multi-party democracy. Those who spoke publicly in favour of the formation of other parties than KANU were branded as "subversive" by the government and the tension increased as they began to attract police surveillance, harassment and interrogation by their security police (Special Branch, also known as the Department of State Security).

In March 1990 Charles Rubia was one of many government critics held for a few hours for questioning by the police in connection with protests at the murder of the Minister for Foreign Affairs, Robert Ouko, in February 1990, in which it was widely believed that the government was involved. In May he had his passport withdrawn by the authorities.

On 6 June Kenneth Matiba and Charles Rubia announced in a statement to the press that they were going to apply for a licence to hold a public rally in Nairobi in a month's time about multi-party democracy. Government ministers in response called for their detention. President Daniel arap Moi expressed his determination that KANU should remain the only party in Kenya and the opposition rally was banned.

Arrest and detention

Charles Rubia and Kenneth Matiba were arrested on 4 July, three days before the date of the banned rally. They had said that they would not defy the ban on the rally. Their lawyer, John Khaminwa, a well-known human rights lawyer, was also arrested when he went to the police headquarters to inquire about them. Hours later, two more human rights lawyers, Gitobu Imanyara and Mohamed Ibrahim, were arrested, along with Raila Odinga, son of a prominent government critic and former Vice-President, Oginga Odinga, and a detainee on two previous occasions. Kenneth Matiba and Raila Odinga had held meetings to discuss working together to form another political party but no such agreement had been concluded.

All six were detained under the Public Security Regulations, which provide for the administrative detention for an indefinite

period without charge or trial of anyone suspected of being a danger to the security of the state. Their detentions were announced by the authorities, with the exception of Mohamed Ibrahim's detention, which was never publicly disclosed. Their families' applications for habeas corpus were refused by magistrates.

Also arrested were five employees of Kenneth Matiba but they were released a few days later. Gibson Kamau Kuria and Paul Muite, two other well-known human rights lawyers, went into hiding and two weeks later, Gibson Kamau Kuria took refuge in the US Embassy in Nairobi and later left for the USA. Kiraitu Mirungi, a lawyer who was also involved in human rights cases and the multi-party debate, was in Addis Ababa at the time of the arrests and did not return to Kenya.

Events after their arrests

Thousands of people still gathered at Nairobi's Kamakunji grounds on 7 July to demonstrate, instead, against the arrests. The demonstrators were tear-gassed and beaten by riot police, who fired shots over their heads. Anti-government rioting broke out and later spread to other areas in Nairobi and to other towns in Kenya.

Over 30 deaths were reported, together with widespread arrests of pro-democracy protesters and looters. Over 1,500 people were taken to court and some were charged with political or criminal offences. Many were arrested for using the two-finger V-salute, meaning that they supported "two parties", or for shouting "Release Matiba", amongst other anti-government slogans. Within a week other prominent advocates of a multi-party system had also been arrested, including George Anyona, a former Member of Parliament, who has been a prisoner of conscience adopted by Amnesty International before. Since then many other suspected government opponents have been arrested and brought to court, mainly charged with possession of prohibited publication or so-called seditious publications, most of which merely contained criticisms of the government and did not advocate violence. Some of those arrested had been closely associated with Kenneth Matiba and the developing multi-party movement. Most have been released on bail and not yet tried.

The three detained lawyers, John Khaminwa, Gitobu Imanyara and Mohamed Ibrahim, were released after nearly three weeks in detention but Gitobu Imanyara was immediately re-arrested and charged with sedition in relation to the publication of the Nairobi Law Monthly, of which he is the editor and publisher. He was released on bail and no date has been set for his trial. Shortly before his arrest, an issue of the Nairobi Law Monthly had been devoted to the issue of multi-party democracy in Kenya and contained articles by Kenneth Matiba, Charles Rubia and other people who are now imprisoned.

Following the widespread demands for changes to the political and electoral system, the government established a Reform Committee of KANU, headed by Vice-President Geoffrey Saitoti,

which held public hearings of people's views throughout Kenya. Although press reporting of the hearings seemed to indicate extensive public support for a multi-party system, the Reform Committee and KANU rejected this. Instead the government made changes to the electoral system to restore the secret ballot, and restored the independence of tenure of the Attorney General and judges. Demands for a multi-party system, however, continued the risk of arrest. On 13 February 1991 Oginga Odinga risked arrest to publicly announce the formation of an opposition party, the National Democratic Party (NDP), of which he is interim chairperson. He said the objectives of the NDP were to repeal the 1982 constitutional amendment making Kenya a one-party state, and to restore democracy and justice.

In prison

Charles Rubia, Kenneth Matiba and Raila Odinga remain in detention without charge or trial and have been adopted by Amnesty International as prisoners of conscience who have been detained for their non-violent opinions. The Kenyan authorities have at times implied a connection between the "multi-party" activists on the one hand, and, on the other hand, certain other government opponents alleged to be using or planning violence against the government. In October 1990, Koigi wa Wamwere, leader of the Kenya Patriotic Front (KPF, a clandestine opposition group which he formed in 1986 while in exile in Norway), was reported to have been arrested in Kenya, allegedly in possession of weapons. He and seven others, including two prominent lawyers, are awaiting trial for high treason, which is a capital offence. Amnesty International is, however, convinced that Charles Rubia did not advocate violence and had no involvement with groups which, overtly or covertly, advocated or may have advocated the violent overthrow of the government.

Under the terms of the Public Security Regulations, detentions are reviewed by a Detention Review Tribunal appointed by the President, one month after detention and thereafter at six-monthly intervals. The recommendations of the tribunal are made to the Minister in the Office of the President responsible for internal security and are advisory only. Detainees are allowed legal representation at the tribunal hearings, which are held in secret, but at other times detainees are usually denied access to legal representatives.

Family visits are rarely allowed, and only after persistent requests, and then only for a few minutes in the presence of security or prison officers who take notes of the conversation. Visitors are only allowed to speak in English or Swahili, languages which detainees' relatives do not always speak fluently if at all.

Medical treatment of detainees is inadequate and Charles Rubia is reportedly in poor health.

Charles Rubia is believed to be held in Kamiti maximum security prison near Nairobi. He is held in a special section of the prison next to cells for mentally disturbed prisoners and prisoners condemned to death. Conditions in the prison have been described by other prisoners held in the same section as "inhumane and disgusting"

Personal Details

In 1962, a year before Kenya's independence from the United Kingdom, Charles Wanyoike Rubia was elected the first African mayor of Nairobi. He resigned in 1969 to contest the Starehe parliamentary seat in Nairobi and was elected. He was an assistant minister until the general election of 1974 and then in 1979 President Daniel arap Moi appointed him Minister for Local Government, and later, Minister of Works, Housing and Physical Planning. In 1983 he was dropped from the cabinet. He lost his parliamentary seat in the 1988 general election and was expelled from KANU in March 1989 because of his criticisms of the government and party.

He has a wife, Hannah Rubia, and several children.

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RECOMMENDED ACTIONS

Please ensure that all relevant people in the section have received copies for their attention, and that the document is centrally filed for future reference. In addition please undertake as many of the following recommended actions as possible.

1. Sections: to distribute this document to Kenya contacts and specialists and publicize the case of Charles Rubia - see also similar external documents on fellow-detainees Kenneth Matiba (AI Index: AFR 32/05/91) and Raila Odinga (AI Index: AFR 32/07/91). These provide more detailed information on these three prisoners of conscience whose detentions were reported in a longer external document in November 1990, Kenya: Silencing Opposition to One-Party Rule (AI Index: AFR 32/28/90).

Note for Translators: Much of the background text for these other two documents is similar to the Charles Rubia document.

2. Target Sector Coordinators: to distribute this document to relevant target sector contacts, particularly members of parliament and business people.

3. Co-groups: to distribute this document to local contacts, in conjunction with your Section, and to liaise with Section press officers regarding publicity. Co-groups with groups working on the case of Charles Rubia: to assist the group with distribution and publicity.

4. Groups working on the case of Charles Rubia: to use this document in your work on behalf of Charles Rubia for further background information, publicity and approaches to local target sector groups, such as MPs and business people. Each group will be sent 5 copies of this document for distribution purposes.

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