

EXTERNAL (for general distribution)

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Further information on UA 79\91 (AFR 32/09/91, 4 March 1991) - Fear of Torture/Legal Concern

KENYA:Gitobu Imanyara, journalist, lawyer, human rights activist

Gitobu Imanyara, editor of The Nairobi Law Monthly journal, who was arrested on 1 March, was taken to court in Nairobi on 5 March 1991 and charged with publishing a seditious publication, namely The Nairobi Law Monthly, containing a seditious editorial entitled "Tribalism", intended to "bring into hatred or contempt or to excite disaffection against the Government of Kenya" - charges which carry a possible maximum jail sentence of 10 years. He was also charged with publishing a magazine without proper government clearance. Gitobu Imanyara, who has reportedly denied the charge of publishing without proper government clearance, is expected to enter a plea of not guilty on the sedition charges.

Gitobu Imanyara was refused bail by Nairobi's Chief Magistrate, Omondi Tunya, who directed that the accused should be accorded medical treatment whilst on remand. His lawyer has alleged that he was arrested without a proper warrant, that he had been denied access to lawyers or to his family since his arrest, and that he was not brought before a court and charged within 24 hours, as required by law in Kenya. He is expected to appeal in the High Court against refusal of bail. Gitobu Imanyara is probably held in Kamiti prison near Nairobi, where conditions are known to be harsh. No date has been set for his trial.

The publisher of the Nairobi Law Monthly, Dominic Martin, a British citizen, was also charged with publishing The Nairobi Law Monthly, and another magazine, without proper government clearance, and with being in Kenya illegally. At a court hearing on 6 March 1991, he pleaded guilty to printing the Nairobi Law Monthly and Finance magazine without proper government authorization, for which he was fined 20,000 Kenya shillings (about \$800), but denied charges of being in Kenya illegally.

Gitobu Imanyara is believed to be charged with sedition because of his editorial, entitled "Tribalism", in the February 1991 issue of The Nairobi Law Monthly, which has been seized by police; it implies that a disproportionate number of state-run organizations are headed by members of the small Kalenjin ethnic group, to which President Daniel arap Moi belongs. The same edition of The Nairobi Law Monthly also contained the manifesto of a new opposition political party, whose formation was announced by Oginga Odinga, a prominent government critic, on 13 February 1991.

In July 1990 Gitobu Imanyara was held in administrative detention for three weeks. Immediately after release he was re-arrested and charged with publishing a "seditious" publication, (the Nairobi Law Monthly), and this charge is still pending against him.

FURTHER RECOMMENDED ACTION: Telexes/faxes/express and airmail letters:

- expressing concern that Gitobu Imanyara has been refused bail, and urging that he be given immediate, regular and private access to his legal representative, family and medical doctor;
- requesting assurances that he is not being subjected to torture or ill-treatment;
- stating that, as he appears to have been arrested solely for his non-violent opinions - which contravenes Article 19 of the International Covenant on Civil and Political Rights, guaranteeing the right to freedom of expression, to which Kenya has acceded - he is a prisoner of conscience and should be released immediately and unconditionally.

APPEALS TO:

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

Telexes: 22003 FOREIGNRB or 22696 FOREIGNRB
(via Ministry of Foreign Affairs)
Faxes: + 254 2 33 7340 (Ministry of Foreign Affairs)

Mr Matthew Muli
Attorney General
Office of the Attorney General
PO Box 40112
Nairobi, Kenya

Telexes: 22003 FOREIGNRB or 22696 FOREIGNRB
(via Ministry of Foreign Affairs)
Faxes: + 254 2 33 7340 (Ministry of Foreign Affairs)

COPIES TO:

Mr James Kanyotu
Director of Dept of State Security Intelligence
Kenya Police HQ
PO Box 30083
Kenya

Mr Philip Kilonzo
Commissioner of Police
Kenya Police HQ
PO Box 30083
Nairobi, Kenya

Mr James Mareka
Commissioner of Prisons
Kenya Prison Service HQ
PO Box 30175
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 23 April 1991.