

3 October 1995

Further information on UA 333/93 (AFR 32/12/93, 21 September 1993) and follow-ups AFR 32/13/93, 29 September; AFR 32/14/93, 11 October; AFR 32/15/93, 25 October; AFR 32/16/93, 19 November; AFR 32/18/93, 26 November; AFR 32/20/93, 10 December; AFR 32/21/93, 15 December; AFR 32/22/93, 30 December; AFR 32/03/94, 1 February 1994; AFR 32/07/94, 14 April; AFR 32/11/95, 14 July 1995; AFR 32/16/95, 11 September 1995) - Torture / Legal Concern / Fear of ill-Treatment / Health concern / Corporal Punishment

**KENYA**Koigi wa Wamwere - human rights activist, former political prisoner, former member of parliament

Charles Kuria Wamwere - former political prisoner

James Maigwa - brother-in-law of Koigi wa Wamwere and farmer

G.G

. Njuguna  
Ngengi -  
councillor  
for Molo  
and  
farmer

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The judgment in this major political trial was handed down yesterday. Koigi wa Wamwere, Charles Kuria Wamwere and G.G. Njuguna Ngengi were all sentenced to four years in jail and to six strokes of the cane after a blatantly unfair trial that lasted more than 16 months. James Maigwa was acquitted. None of the four defendants, whom Amnesty International believes are prisoners of conscience, were allowed to be present in court to hear the judgement.

All three were facing the death penalty after having been charged with robbery with violence following an alleged raid on Bahati police station near Nakuru in 1993. However, following widespread international appeals this charge, this charge was today reduced by the magistrate to simple robbery. Each of the three were convicted on two counts of robbery and sentenced to four years on each count, to run concurrently.

It is clear that international appeals for clemency have saved these men's lives. However further appeals are needed to demand their release and prevent the use of corporal punishment which the organization considers is cruel, inhuman and degrading punishment and which violates international law.

All three prisoners have the right of appeal to the High Court and Appeal Court. However, without a time limit for hearing such appeals, the process often takes several years.

#### BACKGROUND INFORMATION

Koigi wa Wamwere, his brother, Charles Kuria Wamwere, his cousin James Maigwa and G.G. Njuguna Ngengi, a local councillor, were charged with attempted robbery with violence following an alleged raid on Bahati police station near Nakuru in November 1993. Shortly before his arrest, Koigi wa Wamwere had formed a human rights organization, the National Democratic Human Rights Organization (NDEHURIO), which had been attempting to investigate and report on incidents of political violence in the Rift Valley and other parts of Kenya. Government involvement has been alleged in the ethnic-based violence which has killed

over 1,500 people and displaced more than 300,000 since it began in December 1991.

Amnesty International believes that the police are increasingly abusing the law by using non-bailable criminal charges to detain non-violent critics of the government and their relatives. The organisation believes that their arrest and sentencing to prison terms with corporal punishment is part of an increasingly violent pattern of harassment and intimidation of human rights activists, opposition figures and journalists. The tactics employed by the Kenyan authorities are seriously undermining the right to freedom of expression in Kenya.

The trial of Koigi wa Wamwere and his three co-defendants was attended regularly by observers from national and international human rights organizations and legal organizations. Observers raised a number of concerns which related specifically to the conduct of the trial and the evidence and they questioned the impartiality of the court. A clear impression was made on observers that the four accused were not receiving a Proceedings in the trial came to an abrupt halt in July after their defence counsel were denied the right to present their final submissions orally.

The magistrate, William Tuiyot, ruled that he would only accept written submissions from the defendants despite the fact that the prosecution had been allowed to present their final submissions orally over 17 days. When the defence refused on the grounds that it violated their right to fair trial enshrined in international law the magistrate ruled that he would make his deliberations using the final submissions from the prosecution and his own notes of the trial proceedings.

In February 1995, the offices of two human rights organizations and one opposition journal were fire-bombed. In August 1995, members of the unregistered opposition Safina party and a number of lawyers and journalists were brutally assaulted by over 50 men whilst attempting to visit Koigi wa Wamwere and his co-defendants. Their assailants were identified by eye-witnesses as Kenya African National Union Youth Wingers and plain-clothes Special Branch Officers.

Prison conditions in Kenya are harsh. There is severe overcrowding, frequent shortages of food, clean water and basic medication.

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

- calling for the immediate and unconditional release of Koigi wa Wamwere, Charles Kuria Wamwere and G.G. Njuguna Ngengi as prisoners of conscience;
- calling for the sentence of caning imposed on these three to be immediately commuted;
- stating that caning is cruel, inhuman and degrading punishment prohibited by international human rights standards including the Universal Declaration of Human Rights (Article 5) and the International Covenant on Civil and Political Rights to which Kenya is a state party, and calling for it to be abolished;
- urging Kenya to ratify the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment which opposes caning;
- expressing concern at the conditions under which they are being held and the fear that they will be ill-treated in prison.

*(We ask that you write to your own Foreign Minister and send copies to your local and national press to draw international attention to Amnesty International's concerns.)*

**APPEALS TO:**

1) President Daniel arap Moi

Office of the President

PO Box 30510

Nairobi

Kenya

**Telegrams: President Moi, Nairobi, Kenya**

**Telexes: 22003 FOREIGN ROB or 22796 FOREIGN RB**

**Faxes: + 254 2 37340 (if dead tone, please try later)**

**Salutation: Your Excellency**

2) Mr Amos Wako

Attorney General

P O Box 40112

Nairobi, Kenya

**Telegrams: Attorney General Wako, Sheria, Kenya**

**Faxes: +254 2 211082**

**Salutation: Dear Attorney General**

**COPIES TO:**

1) Paul Wamae

Chairman, Law Society of Kenya

PO Box 72219

Nairobi, Kenya

2) Your local and national press

and to the diplomatic representative of Kenya accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 14 November 1995.