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## **KENYA**

### **SILENCING OPPOSITION TO ONE-PARTY RULE**

Amnesty International is appealing to the Kenyan Government for the immediate and unconditional release of prisoners of conscience held since July this year in a new crackdown on criticism of the government. Three are being held in administrative detention on an indefinite basis without charge or trial under the Public Security Regulations because they criticized the government and ruling party and wanted a multi-party political system in Kenya. Four others are in custody awaiting trial in January 1991 for "sedition" and face possible 10-year prison terms if convicted; and at least 20 others who have mostly (unusually) been released on bail are awaiting trial on charges such as possessing a prohibited or seditious publication, for which they could be imprisoned for up to three or seven years respectively.

Amnesty International fears that the three administrative detainees could be held for a long and indefinite period, and that those charged with sedition could be sentenced to long prison terms after unfair trials.

In addition, there is particular concern for the safety and health of the prisoners, who are held in conditions amounting to deliberate cruel, inhuman or degrading treatment. Some are also reported to have been tortured.

More recently, in October 1990 eight men and women were charged with treason or misprision (concealment) of treason. The charges alleged they "compassed, imagined or intended the overthrow by unlawful means of the government" between January 1989 and 8 October 1990. The eight defendants are Koigi wa Wamwere, an exile opposition leader arrested in Kenya in mysterious circumstances, two prominent lawyers, Rumba Kinuthia and Mirugi Kariuki, and five male and female relatives of Koigi wa Wamwere and Rumba Kinuthia. Amnesty International is concerned that they should receive a fair trial,

but there are allegations that they have been tortured, and at the time of preparation of this document, although they had already appeared in court to be remanded in custody, they were still being held incommunicado, contrary to the law. No date has been set for their trial.

### **Background to the recent arrests and detentions**

During early 1990 there was some public debate in Kenya on the country's political system and human rights, with calls from church leaders, lawyers and others for amendments to the Constitution to bring back a multi-party system. Since the banning of the opposition Kenya People's Union (KPU) in 1966 and a constitutional amendment in 1982, the only permitted political party has been the ruling Kenya African National Union (KANU). The multi-party proposals were fiercely opposed by the government and in June 1990 President Daniel arap Moi ordered the debate to end. The leading advocates of a multi-party system, **Kenneth Matiba** and **Charles Rubia**, both prominent businessmen and former government ministers, were subject to considerable police harassment and even death threats - Kenneth Matiba's home was attacked by armed men and his wife injured, his bodyguards were arrested, and it was alleged that security police had tried to bribe someone to plant a bomb in his car.

Kenneth Matiba and Charles Rubia planned to call a public rally in Nairobi on 7 July on the multi-party issue but the government banned it. On 4 July they were both arrested, and their lawyer, **John Khaminwa**, was also arrested when he went to the police to seek access to them. All three were immediately detained for an indefinite period without charge or trial under laws which allow administrative detention without charge or trial on an indefinite basis, known in Kenya as the Public Security Regulations.

Two other lawyers were also arrested and detained under the Public Security Regulations - **Gitobu Imanyara**, editor and publisher of The Nairobi Law Monthly, which had published an edition on the multi-party debate, and **Mohamed Ibrahim**, a Kenyan Somali lawyer who had criticised the recent "screening" and separate identity card system for ethnic Somalis in Kenya and had also supported a multi-party system. In addition, **Raila Odinga**, son of former Vice-President Oginga Odinga, a prominent government critic and former KPU party leader, was detained for the third time in recent years under the Public Security Regulations, apparently on account of having a meeting with Kenneth Matiba and Charles Rubia.

Two other prominent human rights lawyers, **Gibson Kamau Kuria** and **Paul Muite**, went into hiding, fearing detention or even, they said, extrajudicial execution. The former sought asylum in the US embassy in Nairobi, later being allowed to leave Kenya to travel to the US. He was joined in the US by his law firm partner, **Kiraitu Murungi**, who was abroad at the time but also sought asylum in the US. They and John Khaminwa had been virtually the only lawyers in Kenya willing to represent political prisoners in the 1980s in habeas corpus applications, trials, appeals, appearances before

the Detention Review Tribunal or suits against the government complaining of torture or illegal detention. Both Gibson Kamau Kuria and John Khaminwa had been detained in the past because of their professional legal activities in the field of human rights.

The banned 7 July pro-democracy rally still went ahead in Nairobi's Kamakunji grounds. The crowd was broken up by riot police using teargas and beating people. Anti-government rioting and looting broke out in Nairobi and several other towns in central Kenya over the next few days. Many were killed by the security forces. The police announced that over 1,500 people were arrested. Most were released after some days or weeks but some were later brought to court and charged with political or criminal offences.

After considerable international criticism and pressure over the detentions, the three detained lawyers - John Khaminwa, Gitobu Imanyara and Mohamed Ibrahim - were released on 25 July, and Paul Muite emerged from hiding to meet President Moi and return to his private law practice. Gitobu Imanyara was, however, immediately re-arrested and charged with publishing a "seditious" publication - The Nairobi Law Monthly. He was released on bail, then re-arrested again on a non-political charge relating to a legal matter some years previously, and also charged with failing to comply with official regulations about publications in Kenya. He was again released on bail. The Attorney General banned The Nairobi Law Monthly in September, thereby making it a criminal offence punishable by up to three years' imprisonment to possess any past or present copy of this prohibited publication. Its latest issue had commemorated the late Bishop Muge (see below) and criticised the recent arrests and detentions. The ban was, however, unexpectedly suspended by a High Court ruling in October.

The three detained lawyers had also criticized the government over the recent Law Society of Kenya elections. They alleged that the government had rigged the elections which Paul Muite lost to a pro-government candidate, Fred Ojiambo, the new chairman of the society.

Kenneth Matiba, Charles Rubia and Raila Odinga remain in indefinite detention. The government has not publicly given any precise reason for detaining them. Amnesty International has adopted them as prisoners of conscience detained for supporting a multi-party system. Raila Odinga's detention is also evidently another attempt to silence his father, Oginga Odinga, who nevertheless published an open letter to the government accusing it of "dictatorial" practices and human rights violations, and again called for a multi-party system. Raila Odinga is a former prisoner of conscience, having been detained twice previously, from 1982 to 1988, and again from 1988 until 1989.

As a result of criticism of these detentions and of the repression of the multi-party debate, President Moi established a KANU Reform Committee, headed by Vice-President George Saitoti, to hear people's views on political and electoral reform. Many gave opinions criticizing KANU, one-party rule, detentions and restrictions on the freedoms of speech and association, and their statements were published in the news media, without their being arrested at the time. The government continued to reject any amendment to the Constitution to allow an opposition party. Two government ministers publicly called for violence against

advocates of a multi-party system; they were not prosecuted nor made to retract their threats. The report of the KANU Reform Committee has not yet been published.

Renewed criticism of the government broke out with the death of **Bishop Alexander Muge** of the Anglican Church on 14 August 1990. He was killed in a car crash which many suspected to have been an assassination engineered by the government or security officials. As Bishop of Eldoret he had been among prominent church leaders who had criticized the government for denying political freedoms and violating human rights. The Minister of Labour, Peter Okondo, had publicly threatened shortly beforehand that if he proceeded with his plans to address a meeting in western Kenya he would be killed. The minister later resigned from the government after much criticism of his death threat. The Attorney General rejected church leaders' demands for an independent and public commission of inquiry into Bishop Muge's death, instead saying there would be an inquest, which has not yet opened.

Scores of other alleged government opponents, including lawyers, church leaders, journalists, political critics and former political prisoners, have been arrested and interrogated or harassed or threatened by security police during the mid-1990 crackdown on dissent. In most cases those arrested were released after some hours or days, but some were held for longer periods before being either released or charged with a political offence such as possession of a seditious or prohibited publication.

### Sedition charges and impending political trials

After the detentions and subsequent demonstrations and riots in early July, other prominent government critics were also arrested and charged with sedition, although not in connection with the demonstrations or rioting. Over 20 are currently awaiting trial for alleged sedition.

Four were arrested on 11 July and charged with holding a seditious meeting and possessing seditious or prohibited publications: **George Anyona**, a former member of parliament and previously detained prisoner of conscience (he had been arrested in 1982 for planning to form an opposition party), **Edward Oyugi**, professor of educational psychology at Kenyatta University and former prisoner of conscience, **Ngotho Kariuki**, a tax accountant and former Dean of Commerce at the University of Nairobi, also a former prisoner of conscience, and **Frederick Kathangu**, a KANU official in Embu and businessman, former director of the Kenya Pyrethrum Board. The alleged seditious publication was an issue of Africa Confidential, a widely-read subscription newsletter on African affairs published in London, and the prohibited publications were Financial Review, a Nairobi business journal, and Beyond, a Kenyan Anglican church magazine. The four are due

for trial on 25 January 1991. The maximum penalty for the main charge of sedition is 10 years' imprisonment.

Immediately after his release from detention on 25 July, **Gitobu Imanyara** was charged with publishing a seditious publication - The Nairobi Law Monthly - but was released on bail. No date has yet been set for his trial.

Several other people were charged with possessing the same issue of Africa Confidential, which is not banned in Kenya. The issue causing offence to the government was called "Security Home Boys" and listed members of President Moi's ethnic group, the Kalenjin, who were said to dominate all branches of the security forces as well as the civil service and business. **Joe Ager**, a tourism operator, former British Airways representative and a relative of Oginga Odinga, was arrested for possessing this issue. He was released on bail of half a million Kenya shillings (about US\$21,700). His wife, **Mary Ager**, a nurse at Kenyatta National Hospital, was later charged with the same offence and released on bail. Their joint trial has been set for 17 December. **Florence Nyaguthie Murage**, a University of Nairobi administrative officer, was also charged with this offence and released on bail after some days in custody. Possession of a seditious publication carries a maximum sentence of seven years' imprisonment.

**Philip Gachoga Githaiga**, a business partner of Kenneth Matiba and his election agent, was arrested on 16 August and charged with possessing a leaflet of an underground political organization, Mwakenya (Muuangano wa Wazalendo wa Kukumboa Kenya, Union of Patriots for the Liberation of Kenya) whose leaflets have called for the violent overthrow of the government. Many people have been imprisoned since 1986 for alleged possession of Mwakenya leaflets or for being members of Mwakenya, being charged in that case with "taking an illegal oath" (and thereby joining Mwakenya). Philip Githaiga was released on bail two weeks after being charged, which was unusual in such cases.

A schoolteacher, **Caleb Mokaya Githana**, who was arrested on 22 August, was also charged with possessing a Mwakenya publication. He had earlier been arrested with George Anyona on 11 July but after being quickly released he was pressed by police to sign certain documents and be a prosecution witness against George Anyona and his co-defendants. He refused, was re-arrested, again pressed to give evidence against Anyona, and when he maintained his refusal, he was charged with this new offence. He was later released on bail.

In other similar cases of people charged with possession of seditious publications, the motive for their arrest appeared to be to punish them for their views or connections with opposition politicians - as in the case of **Joe Ager**, a relative of Oginga Odinga, whose wife was also arrested. In some cases, however, as with the Nairobi member of parliament, **Christopher Kamuyu**, who was not regarded as an opponent of the government, the political background was obscure - he is charged with possessing a prohibited publication, Financial Review.

Other arrests also took place of people who produced, distributed, sold or had in their possession tape music cassettes of popular songs criticising the government. **Joe Mwangi Mathai**, whose company recorded the songs on the cassettes, his shop employees who sold them, and street vendors who sold the cassettes, were arrested. They were among over 50 people who appeared in court in Nairobi, Nakuru and Nyeri, charged with possessing or distributing the cassettes, described as "seditious publications". Those who could raise the high bail set by magistrates were released pending trial, but charges against Joe Mwangi Mathai and others were later withdrawn and all were presumed to have been released by October.

These cassettes were being widely sold and played at the time in Nairobi and other towns and featured songs criticizing the detention of Kenneth Matiba and Charles Rubia, the destruction of Muoroto shanty-town in Nairobi on the orders of the Provincial Commissioner, and the murder of the Foreign Minister **Robert Ouko** in February 1990, where a government cover-up has been alleged. The government commissioned a British police inquiry into the murder but refused to publish its findings. Instead, in early October a judicial commission of inquiry was opened. Reports indicated that he had been abducted, tortured, shot dead and his body burned and then dropped into the bush from a helicopter. It was suggested that after a recent official visit to the US where he accompanied President Moi he came to be perceived as a threat to President Moi's leadership.

Details have been difficult to obtain about those held in the mass arrests following the 7 July demonstrations and riots, and it must be assumed that most have been released without being charged. Kenyan law prescribes that arrested persons must be released without 24 hours if they are not brought to court and charged, or within 14 days if suspected of a capital offence such as treason. However, in political cases these limits have consistently been ignored by the police and judicial authorities in Kenya and it is possible that many of those arrested in July were held in police custody for weeks or longer, or may be still held without charge.

The political charges brought against some of those arrested, as reported in the Kenyan news media, included possession of seditious or prohibited publications, conspiracy to riot, and "causing a public disturbance", for example by making a two-finger V-sign, speaking against the government, calling for the release of political prisoners, or advocating a multi-party system. The V-sign signified "two parties", i.e. support for an opposition party, although no opposition party has so far been formed or planned. It also meant an insult to the government and KANU, and "victory" for the democracy movement.

Some cases are known where people were brought to court and convicted. For example, **Gerald Chirabika Beti** and **Elijah Rukose Khasalika**, believed to be peasant farmers, were each sentenced to five months' imprisonment in the western town of Kakamega on 13 September. They denied the charge which alleged that that had

shouted "Up with Matiba, down with Moi" and made V-signs. Some other people are known to have been convicted and fined but there may be others convicted of such offences and sentenced to prison terms.

### **Amnesty International's Concerns about the Sedition Trials**

Amnesty International is concerned about the sedition trials on three counts: first, that it believes most of those charged with sedition were arrested for their non-violent opinions; secondly, that the laws under which they were charged have in the past been interpreted by the courts so as to permit the imprisonment of prisoners of conscience; and thirdly, that they are unlikely to receive fair trials in accordance with recognized international standards.

Amnesty International opposes the imprisonment of people for expressing their opinions non-violently and has called for charges to be withdrawn where people are accused of possessing a publication or expressing their views. Amnesty International has also called for the repeal of the parts of the sedition law (sections 56 and 57 of the Penal Code) which have been used in the past to convict and imprison prisoners of conscience for up to seven years and to repress freedom of speech and opinion. Kenya has ratified the International Covenant on Civil and Political Rights, which guarantees these freedoms, but changes are required to the sedition law to remove this incompatibility between the law and internationally-recognized standards.

Amnesty International is also concerned that if these prisoners are brought to trial, they may not receive fair trials according to international standards. In Kenya there has been a pronounced lack of judicial independence in courts hearing political cases and at no level of the judiciary has any judge ordered a thorough and impartial investigation into allegations of torture or illegal detention. Many political prisoners in recent years have been convicted and sentenced to long prison terms after pleading guilty where it was obvious or highly probable that they had been tortured, held unlawfully and incommunicado, and denied their basic legal rights, such as access to legal counsel. Allegations of torture made in court have commonly been dismissed without any investigation by the judge or magistrate. When prisoners pleaded guilty, no evidence was or had to be adduced by the prosecution when presenting its case, which was nearly always led by Bernard Chunga, the Deputy Public Prosecutor, and heard by the Chief Magistrate, currently Omondi Tunya. Under Kenyan law, no appeal against conviction against a guilty plea can succeed, although in the past two years some appeals for reduction of sentence by prisoners who pleaded guilty have succeeded.

It was also alleged that in several previous sedition cases the alleged seditious publication was planted on the defendant by the police or that the police evidence of finding the documents in the defendant's possession was fabricated. In many cases it has been apparent that this charge was being used to punish a government opponent, particularly in cases where the publication clearly did not advocate violence against the government or was an openly

distributed publication such as Africa Confidential, that the charge was being used simply to punish a government opponent. In no case have the courts allowed any proper argument about whether a particular publication was seditious or not - the contents of Mwakenya documents, for example, were not allowed to be disclosed in court for reasons of security of the state. Even if a document did advocate violence, as with some Mwakenya leaflets, mere possession of it could not prove adherence to its views or membership of Mwakenya.

Amnesty International's concerns are similar with regard to those charged with or imprisoned under articles 52 - 54 of the Penal Code for alleged possession of a prohibited publication, which carries a penalty of up to three years' imprisonment. Prohibited publications in Kenya include maoist literature banned in the 1960s and three recent Kenyan church and business publications - Beyond, Financial Review and Development Agenda - none of which have advocated violence against the government.

Amnesty International believes that many of those convicted in recent years on charges of possessing or distributing "seditious" or prohibited publications, whether these were banned church or business publications or Mwakenya publications, or convicted of "neglecting to report a felony" (i.e. failing to report the existence of a seditious organization) or "taking an illegal oath" (e.g. to join a seditious organization), were unfairly convicted. The organization regarded many people imprisoned for possessing such leaflets as prisoners of conscience. Since 1986 over 80 people have been convicted of political offences of this kind. Most pleaded guilty, evidently as a result of torture or other duress. The most recent cases of this nature occurred in September 1990, when **Charles Kuria Wamwere**, brother of the exile opposition Kenya Patriotic Front (KPF) leader, Koigi wa Wamwere, was sentenced to four years' imprisonment after pleading guilty to taking an illegal oath (to join the KPF) - he had been held incommunicado, had no legal representation, and was allegedly tortured; and in October 1990, when **Charles Rukwaro**, a mechanic, was sentenced to six months' imprisonment for possessing a copy of Financial Review.

The majority of convicted political prisoners who were arrested in the past few years have now been released after serving their sentences, but at least 20 are still in prison serving sentences of up to seven years' imprisonment. Amnesty International has appealed particularly on behalf of two of them imprisoned in early 1990:

- the **Reverend Lawford Imunde**, a Presbyterian church minister, sentenced to six years' imprisonment in March 1990 for possession of a "seditious publication" - notes in his desk diary which expressed criticisms of the government: he pleaded guilty but later lodged an appeal on the grounds that he had been coerced and misled to make a false plea of guilty, and he also claimed that some of the diary entries were inserted by police after his arrest;

- **Sheikh Aziz Said Rimo**, an Islamic preacher in the coastal Kwale district, sentenced to six years' imprisonment for sedition in March

1990 for allegedly speaking against the government at Friday prayers.

### The Treason Charges against Koigi wa Wamwere and Seven Others

**Koigi wa Wamwere**, a former member of parliament who had twice before been detained without trial for his political opposition to President Moi's government and also to the previous government of President Jomo Kenyatta, fled to Norway in 1986 to avoid re-arrest. He was recognized as a political refugee there and later founded the Kenya Patriotic Front (KPF) with the objective of overthrowing President Moi's government.

On 9 October 1990 the Kenyan police announced that Koigi wa Wamwere had been arrested in Buru Buru estate in Nairobi the previous day, in possession of weapons and with accomplices. A government statement accused him of entering Kenya secretly and leading a group planning a campaign of violence to destabilise the government. The police later said that he had been arrested in a different part of Nairobi (Kariobangi South) at the home of **Rumba Kinuthia**, a prominent lawyer and critic of the government. Rumba Kinuthia's arrest on 8 October had already been reported but journalists present at his arrest were not told of weapons being found at his home or of Koigi wa Wamwere being arrested at the same time - indeed, Koigi wa Wamwere's arrest was not disclosed until the next day. Another lawyer, **Mirugi Kariuki**, a former prisoner of conscience, was also arrested on 8 October, at his home in Nakuru, and there were similar discrepancies between the first and later reports of his arrest. President Moi said on 10 October that weapons had been found at Mirugi Kariuki's home, but this had not been announced at the time and was also denied by his wife.

Koigi wa Wamwere, Mirugi Kariuki and Rumba Kinuthia were brought to court in Nairobi on 19 October after being held incommunicado by the security police. They were charged with treason, although no details of the charges were given, except that the offences took place in Kenya over the previous 22 months. A fourth person was also charged with treason, **Geoffrey Kuga Kariuki**, an unemployed cousin of Koigi wa Wamwere.

Four other men and women were charged the same day with misprision (concealment) of treason - three relatives of Rumba Kinuthia (his brother, **Joseph Mwaura Kinuthia**, his brother's wife, **Mary Mwaura**, and his sister, **Margaret Wangui Kinuthia**, all of whom were working in his law firm) and a former legal assistant in his law firm, **James Gitau Mwaura**. No details of the misprision charges were given. Even after the court hearing, access to their legal representatives was denied. Their lawyers subsequently filed legal applications to be granted access to

them. They also deposited affidavits alleging torture and applied to the court to protect their clients' constitutional and human rights. At the time of writing, the results of these legal actions were not known.

It was widely alleged that Koigi wa Wamwere had been arrested in Tanzania and secretly handed over to the Kenyan authorities, despite being a recognized refugee and therefore guaranteed protection by the United Nations' and Organization of African Unity's Conventions on Refugees from being forcibly returned to his country of origin. Amnesty International is continuing to investigate these reports, which have not yet been clarified by the Kenyan or Tanzanian governments. Interventions by the Norwegian Government over the arrest and incommunicado detention of Koigi wa Wamwere led in October to the Kenya Government breaking diplomatic relations with Norway. The Kenyan authorities said they would not allow a Norwegian or foreign lawyer to assist in his defence, as had been requested.

### Torture and Ill-treatment

In recent years it has been common for the police and security police (known as the Special Branch, reportedly recently re-named the Department for Security and Intelligence, DSI), to detain people much longer than the 24-hour limit allowed by the Constitution - or, under a 1988 constitutional amendment, 14 days in capital cases such as treason - and to hold them incommunicado. During this period of incommunicado detention many have been tortured by being held for several days in a cell flooded with water, without food, and being beaten and subjected to death threats. Some have died as a result of torture and medical neglect but even though an inquest into the death in February 1987 of **Peter Njenga Karanja**, a businessman and rally-driver arrested for alleged links with Mwakenya, concluded that he may have been tortured, the Attorney General took no action to prosecute those responsible.

After the publication of an Amnesty International report in 1987, "Kenya: Torture, Detentions and Unfair Political Trials", it is believed that a special torture unit within the Special Branch was disbanded. However, reports have been received of continuing torture by the water method, sometimes referred to as the "swimming pool". The **Reverend Lawford Imunde** is appealing against his imprisonment in March 1990 on the grounds that he had been tortured and threatened with death so as to make him plead guilty. **George Anyona** claimed in court in August 1990 that he had been put into a water-logged cell and subjected to "cruel and inhuman" treatment.

Torture complaints filed in 1987 by three prisoners of conscience, **Wanyiri Kihoro**, **Mirugi Kariuki**, both lawyers, and **Mukaru Ng'ang'a**, a history lecturer, have not yet been heard in court. Pressure was placed on them to withdraw the cases and when they refused, they continued to be held in detention long after others arrested with them had been released. The three were finally released in June 1989. (Mukaru Ng'ang'a subsequently fled the

country to avoid re-arrest but Mirugi Kariuki was re-arrested in October 1990, as described above.) **Gibson Kamau Kuria** (see also above), the lawyer who filed their complaints, was himself later detained in early 1987 and tortured. He was released in December 1987 but his legal suit against the Attorney General over the torture has still not been heard in court.

Conditions under which political prisoners are held when they have been charged or otherwise transferred to an official prison are harsh and amount to deliberate cruel, inhuman and degrading treatment. They are made to wear prison uniform, which is often dirty and ragged, have no beds or mattresses, and medical treatment is often refused. The nutritional quality and quantity of their food, which their families are not allowed to supplement, is extremely poor. Administrative detainees are allowed very rare access to relatives or legal representatives, and are usually kept in permanent solitary confinement, without books or writing material. Convicted prisoners are allowed a monthly family visit and reading material. Recent administrative detainees have been held in a special block in Kamiti maximum security prison near Nairobi that is reserved for psychologically disturbed and often violent prisoners who are supposed to be receiving psychiatric treatment.

Complaints about torture and ill-treatment were made by **George Anyona** during an appearance in court in August 1990. He said he and his three co-accused had been detained incommunicado, refused access to their lawyers except for brief meetings just before the court hearing, and denied all access to their families. They were held in Kamiti maximum security prison near Nairobi instead of the remand centre for untried prisoners specified on the official warrant. They were permanently hand-cuffed and held in dimly-lit isolation cells next to quarantined and mentally ill prisoners and made to sleep on a cold concrete floor with no bedding except for two blankets. He said they had been subjected to dehumanising and degrading treatment. They were given food "unfit for human consumption" and only at the unusual hours of 6 am, 9 am, and 11 am, and were given no food at all while attending court. They were shut in their cells almost 24 hours a day, made to wear prison uniform and not allowed clothing or any other items sent by relatives. They could not wash and had to "wade through urine and human faeces while queuing for the toilet in our bare feet which have sores". They were previously held for some time in cells flooded with water - the main method of torture in Kenya in recent years - and stripped naked for interrogation by women police officers.

George Anyona also subsequently complained that he had later been "threatened, harassed and intimidated" by two Kamiti prison officers on account of the complaints he made in court. Quite evidently, he was being subjected to deliberately harsh treatment as an extrajudicial punishment.

The Chief Magistrate made no attempt to investigate his allegations of torture and ill-treatment but merely directed that the prison authorities should investigate them. The state counsel, Bernard Chunga, rejected the complaints out of hand, saying that

"prison is not a holiday resort where a person could expect comfort". The Chief Magistrate refused George Anyona's request for his handcuffs to be removed in court so that he could take notes of the proceedings, where he was conducting his own defence.

The security police practice of prolonged and often illegal incommunicado and unacknowledged detention - prisoners virtually just "disappear" for periods ranging from a few days to several weeks - coupled with the failure of the courts and of those responsible for the administration of justice to investigate torture allegations and punish torturers, has resulted in fears being raised after virtually all political arrests that the prisoners are being tortured. In many cases, these fears have turned out to be justified, although many released prisoners have refused to speak of their treatment due to having been threatened with reprisals if they disclose any torture or ill-treatment. There are currently fears that Koigi wa Wamwere and the other seven arrested in connection with him may have been tortured.

### Amnesty International's Appeals

Amnesty International is calling for the immediate and unconditional release of **Kenneth Matiba, Charles Rubia** and **Raila Odinga**, who are prisoners of conscience imprisoned for supporting a multi-party political system. The organization also opposes the prolonged detention without charge or trial of government opponents.

Amnesty International opposes the imprisonment of people for expressing their opinions non-violently and is consequently appealing for the unconditional release as prisoners of conscience of **George Anyona, Edward Oyugi, Ngoto Kariuki and Augustus Kathangu** and any others who are imprisoned for possession of allegedly seditious or prohibited publications or distribution of publications which do not advocate violence. Amnesty International is urging the Kenyan authorities to withdraw charges against them and also against others arrested on the same grounds who have been released on bail. Those parts of the sedition and prohibited publications laws which have been used to imprison prisoners of conscience and repress freedom of speech and opinion should be repealed as they contravene the International Covenant on Civil and Political Rights, which Kenya ratified in 1972.

Amnesty International is also concerned that if they are brought to trial, these prisoners may not receive fair trials, due to a lack of judicial independence by judges hearing political cases.

Amnesty International is urging the authorities to conduct independent and impartial investigations into allegations that **George Anyona** and others of these prisoners have been tortured or ill-treated, and are held in inhuman and degrading prison conditions.

The organization is investigating the cases of **Koigi wa Wamwere, Mirugi Kariuki, Rumba Kinuthia** and the five others who have been charged with treason or treason-related offences, and is pressing the authorities to ensure that they receive a fair trial in accordance with recognized international standards. It has brought to the attention of the authorities its concern about the denial of legal access so far and allegations of torture or ill-treatment. It will seek to send an observer to attend their trial. An important issue will be whether any of them might be prisoners of conscience imprisoned for their non-violent opinions.

## APPENDIX

### List of Political Prisoners Arrested July-October 1990

#### 1. Administrative Detainees

**Kenneth Matiba**, businessman, former Member of Parliament and government minister

**Charles Rubia**, businessman, former Member of Parliament, government minister and mayor of Nairobi

**Raila Odinga**, businessman, son of Oginga Odinga, former prisoner of conscience (1982-1988 and 1988-1989)

All three are detained indefinitely without charge or trial under Kenya's Public Security Regulations and are adopted by Amnesty International as prisoners of conscience.

#### 2. Imprisoned and awaiting trial for sedition

**George Anyona**, former Member of Parliament, former prisoner of conscience (1976-1978 and 1982-1984)

**Edward Oyugi**, professor of educational psychology, Kenyatta University, former prisoner of conscience (1982-1984)

**Ngotho Kariuki**, accountant and former Dean of Commerce at the University of Nairobi, former prisoner of conscience (1986-1988)

**Augustus Kathangu**, businessman and KANU official

The above are charged with holding a meeting with seditious intentions and have been denied bail. In addition, George Anyona and Augustus Kathangu are charged with possession of Africa Confidential and prohibited publications - including Beyond and Financial Review. All four are considered by Amnesty International to be prisoners of conscience.

#### 3. Imprisoned for "creating a public disturbance"

**Gerald Chirabika Beti**

**Elijah Rukose Khasalika**

- two farmers sentenced to five months' imprisonment for shouting "Up with Matiba, down with Moi" and making V-signs. Amnesty International considers them to be prisoners of conscience and believes they may not have been fairly tried and convicted. There are probably more cases where people have been imprisoned on such grounds.

#### 4. Released on bail and awaiting trial for possessing of a seditious publication

**Gitobu Imanyara**, lawyer and editor/publisher of The Nairobi Law Monthly

**Christopher Kamuyu**, Member of Parliament for Dagoretti East (Nairobi)

**Caleb Mokaya Gichana**, secondary school teacher in Nairobi

**Joe Ager**, tour operator and relative of Oginga Odinga

**Mary Ager**, nurse, wife of Joe Ager  
**Florence Nyaguthie Murage**, university administrator  
**Edward Hima Kumaliya**, a Tanzanian national living in Nairobi  
**Philip Gachoga Githaiga**, businessman and election agent of  
 Kenneth Matiba  
**Samuel Kamau Njogu**, businessman in Nakuru  
**Jacob Thing'au Mimana**  
**Geoffrey Waweru Thuo**, primary school teacher in Nakuru  
**David Karobi Musa**  
**Daniel Kimani Mwangi**  
**James Kisenge Musyoka**

They are charged with possession of Africa Confidential in some cases, or possession of banned magazines or Mwakenya leaflets in other cases. There may be others also charged with similar offences whose names are not known to Amnesty International.

5. Other prisoners - sentenced or believed to be held without bail

**Charles Rukwaro**, mechanic, jailed for six months for possessing Financial Review  
**Caleb Ooro Odero**, a schoolteacher, in Kisumu district in western Kenya, charged with illegal possession of prohibited publications, mostly works of Mao Tse Tung  
**Sammy Maina**, former KANU official in Nairobi, charged with uttering words with seditious intent  
**Harrison Githaiga Gacheru** and **Sammy Kinyanjui Waitheru**, from Nakuru, charged with writing seditious letters  
**Charles Kuria Wamwere**, a brother of Koigi wa Wamwere, sentenced to four years' imprisonment for taking an illegal oath to join a seditious organization  
**Thomas Kipkurui Murgor**, a graduate and son of a former assistant minister, charged with "behaving in a manner likely to cause a breach of the peace" by saying that "a multi-party system is best" and making a V-sign  
**Joe Njoroge Kimani**, charged with importing copies of Africa Events, published in London, which contained the Mwakenya program  
**Michael Karanja Gathiru**, a businessman in Nakuru charged with possessing Financial Review  
**D M Kimatta**, a lawyer in Nakuru charged with possessing Financial Review