

May 2, 1990

## KENYA

### Political Crackdown Intensifies

In the last few weeks, scores of people have been arrested, questioned or threatened with arrest in Kenya. A priest charged with printing two "seditious" entries in his private desk diary has been sentenced to six years in prison in a brief "trial" where he was denied access to legal counsel, despite the presence in court of his lawyer. He has issued a long statement detailing the physical and psychological abuse he was subjected in order to sign a "confession".

A former university lecturer and political prisoner released in February 1989 has fled the country after heavily armed riot policemen ransacked his home. Security officers have visited the offices of a prominent human rights lawyer and of the editor of an outspoken magazine. Both have issued strong public statements in which they expressed their fear of imminent arrest. A lawyer of Somali origin who publicly criticized the recent decision to screen all Kenyans of Somali origin and who refused to be screened has been interrogated by the security police for offences which he says do not exist under Kenyan law. He has issued public statements challenging the authorities to withdraw or substantiate the alleged offences.

Politicians criticized as insufficiently "loyal" have been dismissed or are under attack. Many other former politicians, former senior government officials and private citizens have been arrested for brief periods and interrogated. A number of them were publicly insulted by President Moi and other senior politicians. The government forced the cancellation of a conference organized by the Law Society of Kenya, apparently on the basis that some of the papers to be presented were "subversive". Yet, in September, Kenya is scheduled to host the 23rd Biennial Conference of the International Bar Association, a prestigious organization representing over 4000 lawyers from all over the world.

The Immigration Department is currently examining the files of all those who have been granted passports in the last three months, with a view to confiscating the passports of its opponents, real or imaginary. The latest person to have their passport confiscated was Kenneth Matiba, a prominent businessman and former senior Cabinet Minister, after allegations that he had travelled to the United Kingdom and had talked to a British M.P. about the possible formation of a legal opposition party.

On April 3, Kenya's sole political party, the Kenyan African National Union (KANU)

decided to resurrect the party's national disciplinary committee, disbanded in September 1987, after it was criticized for conducting a witchhunt against members of parliament critical of the government and accused by the President of having become too powerful.

The impulse behind the new wave of repression appears to be linked to two principal developments. First, the crackdown is a sign of the government's nervous reaction to the riots that followed the murder, on February 13, of Dr. Robert Ouko, the former Minister of Foreign Affairs and International Cooperation. The authorities are reacting to what they have described as "malicious" stories that the government is implicated in his murder. A number of people who have been arrested, interrogated and have had their houses searched, have been accused of "rumor-mongering", a euphemism for speculation about the death of Dr. Ouko. Secondly, the moves are clearly designed to intimidate individuals who have called for a multi-party system in Kenya, inspired by the collapse of one party rule in Eastern Europe. Ironically, the government's actions have encouraged a number of those under attack to issue public statements referring to their arrest and interrogation, denying the accusations and in some cases condemning the harassment to which they have been subjected.

## "Rumor-Mongering" and the Death of Dr. Ouko

After the murder of Dr. Ouko, riots and anti-government demonstrations broke out, accompanied by demands for an independent inquiry. Stung and embarrassed by the belief that the government was behind the murder, senior politicians, including President Moi, have blamed the disturbances on "dissidents" who the authorities charge are exploiting the situation to malign the country's image. In an effort to quell the riots and to discourage any further demonstrations, President Moi has warned the country that his government "will never permit any kind of demonstration". He has repeatedly lashed out at those he considers responsible for anti-government rumors:

I have recently learnt quite a lot, following the death of Mr. Ouko who was my friend and my minister, whom I loved. Then others said the government killed him...And I have also learnt that I have government officials who are not faithful. And I have come to a time where I must count who is with me to build Kenya. Everyone is hesitating...does anyone really believe that my government can be involved in evil...Of course, there are individuals, as I said, who are not loyal. Those can commit crimes...\*

The Vice-President has urged citizens to report the activities of "rumor-mongers", who were

---

\* "President Moi on Aftermath of Death of Robert Ouko, Corruption," *BBC Summary of World Broadcasts, (SIWB)*, March 19, 1990.

"spinning malicious tales against the government".

On April 2, the Minister for Information and Broadcasting, Waruru Kanja, was dismissed from his cabinet post. On April 3, he was summarily expelled from KANU. His offence was his comment that Dr. Ouko was killed in a manner similar to a former prominent politician, J.M. Kariuki, killed in 1975. A parliamentary investigation committee later came up with evidence that Kariuki was killed by senior government security officials.

## **Calls for a Multi-Party System**

Since the beginning of the year, politicians in Kenya have been critical of citizens who have called for the abandonment of the one-party structure. (Kenya became a *de jure* one party state in 1982 following a constitutional amendment that outlawed all political parties other than the ruling party, KANU.) In a new year sermon, the Rev. Timothy Njoya, a long-term critic of the government's clampdown on political activity, called on African countries to reflect upon the experience of Eastern Europe and to opt for a multi-party system. In a press conference on January 3, the late Dr. Ouko took Rev. Njoya to task for his comments:

...Dr. Ouko termed the cleric's utterances not only contemptuous to the President but also to the people of Kenya...The Minister...emphasised that a multi-party system promoted tribal groupings. He said it did not follow that there was democracy in multi-party systems, adding that African states had sovereign rights to choose what is right for its people. Dr. Ouko said...that a multi-party system would result in conflicting ideologies on how to control the means of production. He said the main cause of the eruption in Eastern Europe was the economic failure of those countries, expressing shock that Rev. Njoya had therefore likened the Kenya situation with that of Eastern Europe...\*

In a recent article in The Nairobi Law Monthly which infuriated the authorities, Gibson Kamau Kuria rejected the notion that Kenya was not "ready" for a multi-party system. He argued that contrary to the government's insistence, one-party rule had not benefitted Kenya.

Since multiparty system works elsewhere and has previously worked in Kenya, one would like to know the aspect of our human nature which rendered us incapable of making it work after 1982. The implied suggestion that we are less of human beings is unacceptable. In any democracy the only divisions amongst a people are not on ethnic lines. There are cultural, political, religious, philosophical and economic differences. The claim that the one party system is operating well is not backed by a balance sheet of the gains and losses Kenya has made since 1982... Since then the country has witnessed *inter alia* the legal disappearance

---

\* "Kenyan Foreign Minister joins Vice-President in criticism of clergyman", SWB, January 5, 1990.

of the independence of the civil service, and the judiciary. One has also witnessed many complaints of the way the present electoral process is operating. Many restrictions have been placed on the exercise of the constitutional freedom of association both in the realm of agriculture and other endeavours. The exercise of freedom is increasingly being made subject to clearance or approval of some authority. It is said in democracies that that government which governs least is the best. One has witnessed too much governing since 1982, when the Kenya Constitution was amended to make it unlawful for the existence of a political party other than KANU.\*

In a press statement issued recently, Kuria attacked the argument that the introduction of the multi-party system would strengthen tribalism in Africa:

Tribalism can and does exist perhaps in worse form in Africa's one party systems. Earlier history of this country clearly shows that parties formed purely on tribal lines cannot survive politically...Clearly, any party aspiring to political power must be broadly based and take into account that Kenya has over 40 tribes. There will be no time when Kenya will achieve such "national cohesion" that there will not exist different tribal communities...Extreme forms of negative tribalism...can only be eradicated through the checks and balances which are available in a multi-party system. Such checks and balances are glaringly lacking in a one party system and this explains the sorry condition in which Africa finds itself today.

An Anglican Bishop, Henry Okullu, has also called for an end to the one-party system:

It was a mistake to make Kenya a *de jure* one-party Government and this decision should be reversed. This will allow a free discussion...He said many Kenyans feared expressing views different from KANU because they would be victimised...There is an assumption that the national destiny is and must remain in the hands of the party leaders, whether the future looks catastrophic or not and the party leaders themselves have stated and acted so...\*\*

Reflecting the government's sensitivity over this issue and its campaign to convince the country that the multi-party system would not work in Kenya, Elijah Mwangale, the Minister for Livestock Development, commented :

... Kenyans had learned just after independence that a multi-party system was not conducive to development. He described KANU as a unique party which valued individual decisions through a free electoral system that was devoid of intimidation. The queue voting system

---

\* "As long As Man Retains the Nature His Maker Gave Him, There Will Always Be Different Views", Gibson Kamau Kuria, *The Nairobi Law Monthly*, February 1990.

\*\* "Amend Constitution-Okullu", *The Daily Nation*, April 24, 1990.

and the secret ballot, thereafter, is a "fantastic combination that is free, open and democratic", the minister said.\*

The treasurer of KANU had similar observations to make:

...the multi-party system advocated by some individuals had led to confrontations and divisions, diverting the people from essential work.\*\*

## **The Sentence Against the Presbyterian Minister and Attacks Against the Church**

The Reverend Lawford Ndege Imunde, a priest of the Presbyterian Church of East Africa (PCEA), disappeared from his home in Meru on March 16 and was arrested on March 19. He was apparently picked up by two police officers as he was leaving his hotel in Nairobi, en route to Meru. The officers searched his bag, taking out his diary and letters.

Rev. Imunde's wife filed a *habeas corpus* writ after she learned of his arrest. Kiraitu Murungi, a well-known human rights lawyer, received a note from him, smuggled out of the Kileleshwa police station. No prior notice was given of his court appearance. Murungi nevertheless found out when he was due to appear in court. Once in court, Murungi stated that he was the lawyer of the accused and requested that he be allowed to represent his client. The Deputy Public Prosecutor, Bernard Chunga, proposed instead that the accused be asked if he wanted legal counsel; Rev. Imunde replied that he did not.

The refusal by the court to grant Mr. Murungi audience is not only an indication of the extent to which the rule of law has degenerated. It also highlights the lack of seriousness with which the Kenyan authorities treat members of the legal profession. This has become especially apparent since 1988, when a constitutional amendment deprived judges of the High Court and Court of Appeal of security of tenure.

Rev. Imunde is appealing the sentence. Through his lawyers, he has issued a long statement detailing the abusive interrogation tactics used to coerce him to sign a self-incriminating "confession". As so often in Kenya's recent past, Imunde was convicted on the basis of interrogation statements that were "elicited" from him during pre-trial detention.

---

\* "Mwangale: Single party best", *Daily Nation*, March 26, 1990.

\*\* "It's One Party or We Perish", *Kenya Times*, April 7, 1990.

The "evidence" for the conviction are two entries in his desk diary described as "seditious" and a third count of possessing seditious material, namely his own diary. It was not stated in court what the seditious material consisted of.

In his statement, he described these entries in the following manner:

In my diary I had a note on the Ouko death. I noted this has some implications on the stability of the regime. I had another note or comment on the government statement on the death of Ouko. I wrote, I do not like the implication that he shot himself. There was also another entry [in] which I said, the President admits that the government has a problem with unemployment, especially with the youth. Could this be the beginning or the end of the system with which most of us are fed up?...I had also an entry [about] the big fund raising. [President Moi was to preside over this event, intended to support an educational charity for the children of needy families.] The only comment I had made was, "how much of this will be used for the purposes for which it was intended?" Then I added, "The opinion of the ordinary *mwananchi* [citizen] is that only those at the fount will benefit..." There was an entry when the President said he had not started with vindictiveness, then said henceforth whoever engaged in rumor will be dealt with. Then I wrote: "the President turns vindictive. Will his enemies do something before he starts killing and detaining them?" There is nothing else in the diary.

Rev. Imunde wrote that police officers forced him to include the following entries in his diary, which were subsequently used to substantiate the charges against him:

With respect to an entry written at a time when President Moi was visiting Thailand, he said he was forced to write:

"Can't someone or a group of people do something while he was away". I did not write that, it was added to my entry.

He was also made to write:

"I wish other people are thinking the way I am - to change our situation for prosperity". I was made to write this in my diary.

Rev. Imunde was working on a part-time basis for the All Africa Conference of Churches [AACC], and was responsible for coordinating the training of church lay leaders. He had just returned from AACC related work in Ghana. He ran for parliament in the last general elections in 1988 and lost. His involvement in politics created tensions with his church and led to disciplinary proceedings being brought against him, with a view to his being defrocked. Rev. Imunde was arrested before the proceedings went any further.

They told me that PCEA, CPK [Church of the Province of Kenya], NCKK [National Council of Kenya] and LSK [Law Society of Kenya] are the main political opposition groups to the government in Kenya...I was told that if I engaged Kamau Kuria or Kiraitu, I would lose because they were sworn enemies of the government and that I would be treated the same as them. They [then] told me that if they released me, would I help them to hit at the four organizations spoiling the government. I asked them how? They said that they would say I confessed to knowledge of the groups sabotaging the government...I said I could not tell lies about the groups.

I was locked up in the cell...I heard them say write the statement quickly because we have been asked by his friends to produce him in court...They mentioned Kamau Kuria and Kiraitu Murungi...I was taken before them. I found a written statement...They told me that although they were hoping to release me, my wife had spoilt everything by rushing to court...I was asked to accept (plead guilty). I said I could not do so before I knew the charge. They told me that they had instructions from their seniors to release me if I pleaded guilty to the charge which they would suggest. I was given a charge of sedition based on Cap. 63 [of the Penal Code]. I told them that I would consider it...I was asked to sign. I hesitated. One of them pulled out a pistol and threatened me. I signed the statement. In the course of signing the statement, I saw something about the CPK, NCKK, and PCEA.

I was handcuffed and we went to the CID [Criminal Investigations Department] Headquarters. The charge was read to me. I was charged with possessing seditious documents. I was asked what I would say. I was given a pen and I wrote, I shall reply to the charge in court. I signed. They were in a hurry, they said as Chunga was waiting for them...They...said that they had instructions from above, so that if I did not allow Kamau and Kiraitu to insult the government, they would release me and show me how to plead guilty. I was told I should not appear to be fighting the government. I told them that I did not want to implicate anybody and whatever decision I made was in the best interest of my family. I was told to copy the points which I later read in court. They took away a copy which they brought the next day. They told me that I should not worry whatever the court decided as they would help me. I was given the statement just a few minutes before we got to court. That is why I said I should read the statement...I told Mr. Kiraitu not to represent me because I did not want to implicate him or to give the impression that we were fighting the government.

I was shocked when I was sentenced to 6 years because it was a betrayal of trust. They had told me that they would release me. I pleaded guilty because I had been induced. Imunde's statement gives details of the ill-treatment and psychological intimidation he suffered while in the custody of the police.

When I was being arrested at Westlands [Hotel], I was thrown on the concrete. One of the officers kicked me on the private parts and all along I was in great pain...I went without

food from the 19th March to 21st evening when I was given a spoilt piece of bread and a packet of milk. I am allergic to cold water. On 21st one officer said I was smelling like a wild animal and that I should go and shower. I explained that I was allergic to cold water. I was slapped. I went ahead and took the cold shower. I contracted pneumonia...

The following day, I was blindfolded and driven to a very quiet place like a forest. I had my hands tied at the back. A thing like a tin was placed on my head. I had already been touched with the tip of a pistol and I was requested to touch it. I was asked to cooperate. The officer fired a shot at the tin. It made a lot of noise. I was shocked and frightened...

They asked me if I could prove I was a Kenyan. I said I came from Meru. I was asked to undress so that they could see whether I was circumcised like a Meru...All the eight people used to come and insult and mock me. They wanted to coax me into believing that I was a scandal to the church. I was told that I was called to the Ministry by Satan and that I was an impostor...

Independent observers believe that the Imunde case was from the outset intended to cause friction within the church, elements of which have been outspoken in their defense of human rights. Many Kenyans believe that the government is taking advantage of Imunde's troubles with his church to harass him and to sow dissension within the ranks of the church. He wrote that, "My arrest was not a case of mistaken identity. They had been tipped".

Chunga argued in court that Rev. Imunde had given a statement to the police, implicating the NCCCK, the CPK and the PCEA "in sinister activities against the Government". Press reports quoted Mr. Chunga as saying that "the Rev. Imunde had said that as a church minister he was aware of some churches and individuals based abroad who were channelling money to some churches in Kenya to destabilise the Government".\*

In his statement, Rev. Imunde highlighted the coercive tactics used to make him sign the statement to which Mr. Chunga referred. Rev. Imunde made it clear that suspicion about the church, and in particular animosity towards the outspoken Rev. Timothy Njoya, was a central feature of his interrogation by Special Branch:

They told me that they were holding me because I belonged to the PCEA...They said that if the church had people like me, they would have nothing to do with religion...They asked me about bad sermons and Rev. Njoya...I was told the church was talking against the government and they have a lot of evidence. I was told the church was just a political party. I said I was not aware. They asked me where we got the money from...They asked me the number of foreigners we had in my church...[Then] they asked me about the sermons which have been delivered by Rev. Njoya...He said that the practice was that the Minister would

---

\*"Angry churchmen attack politicians", *The Daily Nation*, April 2, 1990.



write a mild sermon for public consumption, then he would write another scathing version attacking the government and it was the scathing sermon which was distributed to the people. I denied knowledge of this. They asked me whether the church leaders ever condemned the sermons after the government had indicated that they were offensive. I said I did not know...I had [also] been asked whether I knew that the NCKK had started an organization to continue the work of the banned magazine *Beyond*. [The magazine was banned in March 1988, after it accused the government of rigging the elections in February 1988]. I was asked [about] the Kikuyu MPs and businessmen who funded the church to criticize the government. They said Njoya did not speak without support.

Certain members of the government have been quick to exploit the case. There have been calls for "independent" investigations of the church. On April 4, Peter Ejore, an Assistant Minister for Co-operative Development, urged the government to de-register the NCKK for what he described as "its anti-government activities". Leaders of the churches in question have been forced to respond to the allegations. The Rev. George Njuguna, the Bishop of the CPK Mount Kenya South diocese said "it was wrong for politicians to use a jailed clergyman to tarnish the reputation of the church". Rev. Njoya criticized Chunga's conduct and said that "his court statement against Imunde amounted to persecution of the church and helped fuel feuds between politicians and church ministers".\*

## **The Effects on Imunde's Family**

The effects of a harsh sentence and abuse by the security policy are not limited to Imunde alone; it is an established practise of the state to undermine the families of political prisoners economically and socially. Imunde's wife, Mrs. Agnes Karimi Imunde - a primary school teacher in Egoji, Meru - has been prevented from access to her husband's bank account despite persistent attempts to retrieve the relevant documents from the Special Branch police. She has been unable to ascertain which police station, government department, government official or police officer is responsible for returning, or withholding, the documents. As well as the frequent trips she must make to Nairobi to attend to her husband's case, she supports six children.

In the past, wives of political prisoners and detainees have been unjustly dismissed from their jobs - at a time when they are vulnerable and economically dependent for survival on their wages. Mrs. Mumbi wa Maina, the wife of a former political detainee, Maina wa Kinyatti, was dismissed from her lectureship at Kenyatta College, Nairobi. Ida Odinga, the wife of Raila Odinga, detained for more than six years, was dismissed from her job as a secondary school teacher after she had filed a *habeas corpus* petition, though later reinstated in the Ministry of Education. The climate

---

\* *Church-State; Trouble Erupts Once Again, The Weekly Review, April 6, 1990.*

of intimidation and public fear, and harassment by security police on the basis of "guilt by association", effectively isolates the immediate family of convicted political prisoners.

When Agnes Imunde was alerted to her husband's arrest, and after three plain-clothes police extensively searched the family home, she tried to trace him in Nairobi while filing a *habeas corpus* petition. She was treated dismissively and contemptuously at Kileleshwa police station and Nyati House, CID police headquarters. She got no confirmation of her husband's arrest until an officer at Nyati House told her she should go to Nyayo House, security police headquarters "where we hold such people". Unable to see her husband until he appeared in court, she was denied any communication with him. After being charged, Imunde's lawyer attempted to see him in Kamiti Maximum Security Prison and was told by an official that despite their legal rights, orders "from the top" prevented the family or his lawyers exercising their visiting rights.

According to information received by Africa Watch, Imunde has repeatedly expressed fears for the safety and well-being of his family.

## **The Escape of Mukaru Ng'ang'a**

Mukaru Ng'ang'a, a former lecturer in history at the University of Nairobi and a political detainee for a number of years in the eighties, has fled the country and sought political asylum abroad, after initially going into hiding. Five members of the security police went to his home early in the morning of March 10, and asked him to accompany them. He refused as they did not have an arrest warrant. They came back with a reinforcement of thirty-five heavily armed policemen, by which time Ng'ang'a had escaped. Kiraitu Murungi and another human rights lawyer, Rumba Kinuthia, teamed up to defend Ng'ang'a and filed proceedings in the High Court seeking an order to prevent the arrest of and if arrested, the release of Ng'ang'a on bail. The judge dismissed the application, describing it as "preposterous". The judge who dismissed Ng'ang'a's application was the same judge who described the Kenyan Bill of Rights provisions in the country's constitution as "inoperative". In a long public statement issued on April 12, Ng'ang'a wrote:

Kenynes calling for democracy in Kenya have been condemned for being foreign agents...and face charges of subversion, sedition and treason...To avoid arrest and detention there was no alternative but to simply move away.

Mukaru Ng'ang'a was first arrested in 1982 after he had called for a multi-party system. He was arrested again on April 4, 1986. No reasons were given for his arrest. He was held illegally until his formal detention on July 3, 1986. Along with two other detainees, he sued the government for illegal detention and torture. He was released on June 1, 1989; his lawsuit against the government is still pending.

Ng'ang'a explained that the memory of the torture and hardship he had experienced during

his previous years of detention, played a crucial role in his decision to leave the country:

Once I was made to recall the brutal torture by security intelligence at Nyayo House I always had a second opinion. Many people find it difficult to believe what goes on there. People living without water or food for up to ten days; people kept in water cells for days, weeks or months while stark naked; being beaten with whips, sticks, broken pieces of timber, canes until the whole body is bleeding ...people being promised death every moment...

## **Beatings and Arrests Following Riots Over Ouko's Death**

An initially peaceful demonstration held by students and escorted by police from the university grounds, led to rioting in central Nairobi when the para-military General Service Unit (GSU) used brutal tactics to disperse people. Africa Watch learned from eye-witness accounts that the GSU, armed with riot shields, batons, tear gas, pistols and guns attacked many innocent bystanders, and, according to hospital reports, seriously injured over a hundred people. One man died from bullet wounds; others sustained broken limbs, deep cuts and severe bruising of the body and internal organs. One man was found with both his legs broken after the crowds had been dispersed. GSU officers were seen attacking women and men standing at bus stops, dragging people out of cars and beating bystanders attempting to flee in the immediate vicinity. When caught, people were literally beaten down with riot batons and, once on the ground, kicked in the head, shoulders and kidneys.

In Kisumu, the constituency of the late Dr. Ouko, five people were shot dead by GSU and riot police. Rioting broke out after the body of Ouko was flown to Kisumu for the funeral. According to eyewitness accounts, riot police and GSU arriving in trucks and vans shot directly into the crowd with live ammunition and tear gas. Friends and relatives had to drag the injured away from further assault. An undisclosed number of people were hospitalised with serious injuries following continuous rioting. National newspapers carried a catalogue of the injuries suffered by an estimated 100 to 150 people, expressing popular outrage at the tactics used by the GSU.

Fears that Ouko's funeral the following day would increase unrest and unleash further violence at the hands of the GSU and the police were met by a public appeal from Ouko's widow for peace. There were no further demonstrations, but the funeral ceremony and Presidential address were encircled, at gun point, by GSU and police. In the evening, when the international press and most local journalists had left for Nairobi, GSU and police patrolled the residential areas, ransacking houses for what they claimed to be goods stolen during the riots. According to local residents, they forcibly entered many houses without warrants. They confiscated household items, interrogated and arrested householders and beat people found on the streets in the evening.

In the wake of the riots in Kisumu estate and the center of town, 78 people, the majority of

them school-children, appeared in court in Kisumu, charged with "taking part in a riot and destroying property". Ten of them denied the charge and were released after they had paid a bond of 5000 shillings. Thirty-six of the families concerned were unable to raise the eight hundred shilling fine and the children were given two month gaol sentences instead. In spite of their age and the fact that they were first-time offenders, the Magistrate justified the court's decision on the basis that "the offence was serious and should be discouraged through a deterrent sentence".\*

Most of the school-children aged between 13-17 were barefoot. They looked frail, dirty and hungry. Some of them said in mitigation that they were misled by colleagues to take part in the riots. Other claim they were severely beaten by armed GSU men who broke into their houses.\*\*

Twelve were too young to stand trial and were ordered by the Magistrate to be caned by the police.

Others accused were old men- one of whom protested that he was dragged off by GSU officers as he went to the hospital to see his sick wife. With no legal aid system operating in the provinces, it is not surprising that minors have had to endure prison sentences. Given the conditions in Kenyan prisons, including poor food, substandard sanitation and rough treatment, Africa Watch is concerned about the effects of such an experience on these children.

Despite the public outcry over GSU brutality, the government ignored calls for an investigation. John Keen, a Cabinet Minister, commented that the GSU and police "handled the situation very well" and that the riots were "a couple of hundred unemployed youths taking advantage of the situation".

## Arrests and Interrogation

The following are among the prominent personalities who have been picked up and detained for questioning by the Special Branch recently, supposedly for spreading rumors about the death of Dr. Robert Ouko, and because of suspicions that they have been critical of the one-party system:

**Kenneth Matiba:** Former Minister for Transport and Communication, he resigned from President Moi's cabinet in December 1988 in protest over the rigging of party elections in Kiharu sub-branch, Murang'a District. In retaliation, President Moi had him expelled from the party, and as a result, he lost his parliamentary seat. Matiba had been in parliament since 1979 and was a Cabinet Minister

---

\* "Kisumu Riots: 78 Appear in Court", *The Daily Nation*, February 27, 1990.

\*\* *ibid.*

since 1983. Matiba told journalists that the Special Branch questioned him about whether or not it was true that he was trying to form another party in Kenya. They also wanted to know his movements both within the country and his travels abroad since the beginning of January 1990, he said. On March 20, he clarified the reasons why he had decided to issue a statement:

It is very important that the public should be made fully aware of what actually transpired at the interrogation [by Special Branch] to avoid unnecessary distortions and speculations.

**Ben Gethi:** Kenya's Commissioner of Police from 1978 to 1982, he was dismissed in August 1982, during the crackdown that followed the abortive coup attempt by members of the Kenya Air Force. He was detained until late 1983. No details were given regarding his arrest at the end of February 1990. He issued a statement to the press in which he said that his house at Rosslyn had been searched by the police. He described his arrest and the search of his house "a contravention of his constitutional rights".

**Dr. Josephat Karanja:** Vice-President between April 1988 and May 1989, he was removed from office through an orchestrated campaign to discredit him both inside and outside Parliament which finally passed a vote of no confidence in him, without giving him a chance to answer the "charges" levelled against him. According to press reports:

The Kenya Times quoting police source, said Dr. Karanja was questioned on his "utterances and activities over the last few weeks".\*

**Andrew Ngumba:** Former Assistant Minister in President Moi's government and one time mayor of Nairobi, he fled the country in 1985 to escape what he considered was a politically-motivated prosecution, following the collapse of the company of which he was the chairman, the Rural Urban Finance Company. He was expelled from KANU in absentia. Ngumba spent four years in self-imposed exile in Sweden. While in Sweden, he publicly announced he was willing to lead organized political opposition against the government and the KANU party. After he returned to Kenya, Rev. Timothy Njoya was criticized by the government for welcoming Ngumba into his congregation. There are no details available regarding what Ngumba was questioned about. But President Moi has publicly accused Ngumba of "going around to various hotels to say filthy words, including those relating to murder or anything".

**Stanley Munga Githunguri:** Former executive chairman of the National Bank of Kenya, he has been the subject of several highly publicised but unsuccessful prosecutions by the state, regarded to have been politically motivated because he was a political ally of the former minister for constitutional affairs, Charles Njonjo, who fell out of political grace and was banished to political oblivion in 1983. The prosecutions were halted by the former chief justice, the late C B Madan. Since then, there have been attempts by President Moi's political allies to sell off some of

---

\* SWB, March 7, 1990.

Githunguri's property, including the 800m shs. Lilian Towers in down-town Nairobi. (President Moi recently named the Nairobi Safari Club which is housed within Lilian Towers, the Silver Springs Hotel and the Muthaiga Country Club as the hot-beds of "rumor-mongering".)

**Wangari Mathai:** The head of the Greenbelt Movement in Kenya and recognized internationally as an environmentalist, Prof. Wangari is a long time chairperson of the Kenya National Council of Women. She was the victim of political and police harassment late last year and early this year, for opposing plans by KANU and the government to sacrifice Nairobi's largest public park, Uhuru Park, by building a 60-storey complex to house the party headquarters and KANU's Kenya Times newspaper. She was picked up early in March for questioning. After her interrogation by police, Professor Mathai issued a statement:

I have spoken publicly on topical issues and will continue doing so. I trust I shall not be harassed or intimidated on account of exercising my democratic rights as a Kenyan.

On March 29, Prof. Wangari wrote an open letter to A.K. Magugu, Minister for Transport and Communication who called in parliament for the arrest and detention of those who had been picked up for questioning:

When MPs level malicious and unfounded allegations against individuals they give reason for the security police to arrest such individuals whom they harass, intimidate and in whom they instil fear so that they may never dare challenge the MPs again...They [MPs] want a society where an MP can declare an innocent citizen subversive and expect such an individual to be summarily judged as such, be ostracized, picked up by police and summarily jailed or detained without trial and if there is a trial sometimes it is *in camera* under the pretence that such an individual is a security risk...For me personally, my source of the information surrounding the mysterious death of Dr. Ouko has been some members of Parliament at public fora or the public media...They [security police] wanted to know whether I had travelled...they also wanted to know how and where we fundraise for the Green Belt Movement and how we use the funds. This information had of course been handed over to the Registrar of Societies on 23rd December 1989 and we provided the security men with a copy of the comprehensive report...Perhaps we should remember that the Government is the PEOPLE. If I have committed a treasonable offence to warrant detention, it is the people rather than the members of the Parliament whom I have wronged. The legal system is the people's forum for those who commit crimes against the people. Members of Parliament should therefore refrain from becoming the prosecutors and judges...you are accusing innocent persons, who because they have fallen out of favour with the Government, are extremely vulnerable and easily used as scapegoats and doormats in order to conceal the guilty and punishable.

**James Mungai:** Former Assistant Commissioner of Police for the Rift Valley province, Mungai was earlier sentenced to nine months in prison, allegedly for burning a neighbour's house. The

conviction was set aside by The High Court on appeal. In a statement issued to the press on March 6, he vehemently denied having any involvement with spreading rumors or being engaged in any anti-government activities. In a public attack on Mungai, President Moi accused him of "infiltrating deep inside" after "he had harassed people in Nakuru and fled before anybody could touch him, went up to Europe and elsewhere." Referring to Mungai and the others suspected by

the government, the President added that, "The police will now embark on [dealing with] them properly..."\*

Although the crackdown by the government and the security forces appeared to be directed at high-profile public figures in Nairobi, Africa Watch has received information that many people have also been picked up in the provinces for questioning over rumors connected with the death of Dr. Ouko. The security sweep was aimed in particular at the traditionally Kikuyu dominated Central Provinces and the Luo Nyanza Province, the home of the late Dr. Ouko. At least 45 people from the two regions were convicted of "behaving in a manner likely to cause a breach of the peace". According to press reports, "Security officers in Kisumu detained 30 prominent local tradesmen and politicians for questioning on 7 March, in connection with spreading malicious rumors and engaging in anti-government activities, the Kenyan agency reported.\*\* In Nyeri, in the Central Provinces, at least 100 people were picked up and interrogated. According to one of the residents:

Some people were just picked [up] for a few hours, then released, others were inside for some days, and some "disappeared". It's different for people in Nairobi who have lawyers and publicity, but in Nyeri, there's nothing we can do.

Africa Watch has not been able to gather detailed information from large, isolated areas like the North-Eastern Province, but it would appear that the security forces took advantage of a national "mandate" to harass, arrest and interrogate anybody considered to be out of favour on a local or national level.

Public fear, due in large part to ignorance of the law and lack of access to legal protection, has become even more pronounced through this process of arbitrary and lawless intimidation. When President Moi publicly denounced "rumor-mongers", he said security police should be allowed to go into any club or bar for as long as necessary "to do their duties". Fear is already such that freedom of speech and association are severely restricted, especially in public places. In light of this, Africa Watch notes with deep concern the increasingly repressive tactics used by the government against its own citizens.

---

\* "Kenya: President Moi Denounces Rumour-Mongers, Says Demonstrations Will Not Be Permitted", *SIWB*, March 3, 1990.

\*\* "30 detained in Kisumu for "rumours and anti-government activities", *SIWB*, March 10, 1990.

## Persons Threatened with Arrest:

### Gibson Kamau Kuria

Gibson Kamau Kuria, one of the most prominent human rights lawyers in the country, was visited by Special Branch, Kenya's security police, early in the morning of April 3. As they did not find him there, they made inquiries as to when he was expected to arrive. Kuria took the precaution of leaving his office as soon as he arrived and immediately issued a press statement detailing the reasons for the government's "displeasure". He identified three reasons and explained the context in which this latest threat arises:

- \* His outspoken criticism of Kenya's one party system of government. (See above.) He stated:

I have argued in issues Nos. 20 and 21 of The Nairobi Law Monthly that there cannot be democracy in a one Party State. Kenya's experience is a good example of the manner in which a single party can be manipulated by those in control of it to perpetuate themselves in power...So far the debate has been one sided and limited to those speaking in favour of the one party...Those arguing in favour of the one Party do not wish to accord those of a different view an opportunity to be heard.
- \* His defense of clients charged with political offences, including his firm's representation of three former political prisoners who have sued the government for damages for torture and illegal detention. He wrote that during his interrogation in 1987, the Special Branch threatened to destroy him and his firm financially, unless he put an end to his work in human rights.
- \* His criticism of government interference in the recent elections of the chairman of the Law Society of Kenya (LSK), the national association of lawyers. The contest was between the incumbent, Fred Ojiambo and Paul Muite. Members of the Law Society who supported the candidature of Paul Muite, a lawyer active in the defense of human rights and outspoken on matters of public importance, complained that the elections were being rigged in order to ensure Muite's defeat. In particular, they objected to the fact that members known to be sympathetic to Muite had not received ballot papers. Kuria sent photocopies of the ballot papers to all members of the LSK. He argued that the society's regulations permitted him to act as an "agent of necessity" because the Society did not at the time have a Secretary. Challenging the legal validity of Ojiambo's election, Kuria organized a petition among some of the members, calling for a special meeting in order to have Ojiambo removed and new elections organized. President Moi stepped into the controversy and "settled" the matter by stating at a public rally that Ojiambo would remain chairman of the LSK. The dispute continues.



- \* Kuria added that "his arrest should also be seen in the light of the recent arrests and interrogation of 'prominent' members of the Kikuyu community." (Many of the people listed above who have been called in for interrogation are Kikuyus.)

Kuria was arrested in March 1987, immediately after he filed the suit for torture against the government on behalf of his three clients. He was released in December 1987 after an intense international campaign was launched on his behalf. The government refuses to return his passport, confiscated at the time of his arrest, which has prevented him from travelling abroad. In spite of his experience of arrest and detention, Gibson Kamau Kuria has continued to defend victims of human rights abuses and to speak out publicly on "unpopular" causes, urging the government to respect the independence of the judiciary and the legal profession and calling for an end to interference with freedom of expression, association, assembly and worship.

### **Gitobu Imanyara**

Following the publication of recent issues of The Nairobi Law Monthly, which dealt at length with the question of the one-party system, some politicians called on the government to "deal" with its publisher and editor, Gitobu Imanyara. An Assistant Minister for Planning and National Development, Noor Abdi Ogle, told parliament on March 21, that "the magazine had continued to publish anti-government articles and which were therefore subversive". Mr. Noor also claimed that the magazine "uses extensively articles written by people who are avowed enemies of the Government", citing Kamau Kuria as an example.\*

On March 22, a member of the Special Branch went to Imanyara's office and asked him to go to their offices. He refused to accompany them. (See *News from Africa Watch*, April 5, 1990 for details about the harassment of the magazine and its editor.) Imanyara immediately issued a strongly-worded press release in which he highlighted the government's responsibility to respect the rights guaranteed by the constitution.

### **Mohamed K. Ibrahim**

Mohamed K. Ibrahim is a lawyer of Somali origin who has taken a strong stand against the recent introduction of "screening", a process whereby all Kenyans of Somali origin and Somalis living in the country are required to produce identification papers and are then issued with a special verification card. His public refusal to be screened and his representation of clients effected by this new requirement have irritated the authorities and are the reasons for the harassment he has recently been subjected to. He was served with two notices requesting him to report to Special Branch, so as

---

\* "MPs move against magazine", *The Standard*, March 22, 1990.

to answer questions relating to the offence of "Misconduct of Good Behaviour" and later, the offence of "Matters Related to State Security". In the public statements he issued, Ibrahim argued that neither offence exists under the country's constitution. A suit submitted to the High Court requesting permission not to attend the appointment with the police was dismissed by the court. A second suit, asking the court to declare null and void the notice concerning the alleged offence of "Misconduct of Good Behaviour" is still pending. Ibrahim was interrogated by Special Branch on April 19, for three and a half-hours; he was not allowed to have his lawyer, John Khaminwa, present during the interview. In his press release,

he gave details of the questions he was asked and shed light on the screening process:

Q. Why did you object to the screening of the Kenyan Somalis?

A. ...because...the Registration of Persons Act, under which the exercise [was] purportedly ordered had not been provided for such drastic action as the screening of a whole section of the Kenyan Community to be screened on the basis of their tribe. I also looked at the constitution of Kenya and I found that the said exercise was in contravention of Section 82 of the Constitution.

Q. Why did you find it necessary to give these views to the press?

A. I wanted the public to know my position in the matter...I also was exercising my constitutional right, namely, freedom of expression. This right is enshrined in the constitution.

Q. By your statement did you want to persuade the members of the Kenyan Somali community not to go for the screening?

A. That was not the purpose of making my views known publicly. I was only expressing my personal views.

Q. Don't you think that the Kenya government was faced with serious problems such as illegal entry, poaching, smuggling and other crimes which the Government wanted to stamp out for the benefit of the country?

A. ...there are law enforcement agents like the Police, CID, Special Branch and the Attorney General's Chambers and the Courts which are equipped to deal with such problems. These are criminal offences. There are provisions in our laws, for instance, Penal Code and Criminal Procedure Code which provide for these offences and their punishment...I think it is wrong for the whole community to be condemned and to be suspect of these crimes and that the only way for them to show otherwise is to be screened and to be issued with verification cards...This hurts

me as a Kenyan. Further the screening task force have now been assigned duties of the Police, the CID and the Special Branch...In my view the screening exercise will never eradicate the problem of illegal aliens, when there is corruption...the screening exercise was not really effective because after the screening some people who never presented themselves at the stations were picked [up] from their own houses and deported. So it would appear that the Task Force knew the people they were after...

Q. Why didn't you go to the Task Force in charge of the screening and explain to them your views in the matter?

A. ...the government had already made the decision and however wrong the decision may have been it was not my duty to go [to] the people assigned to tell them how wrong they were. The best way to express my views to all including the Government was to give a press statement which I did. Besides I did not go at all to the Task Force because to do so would be to give them recognition.

Q. Does it mean that you will not take the verification card?

A. I do not intend to take the card...

## **Cancellation of Lawyers Meeting**

The Law Society of Kenya was due to hold a conference on March 8 and 9, at which various papers were to be delivered. The themes of some of the papers included: "Law and Culture in the Contemporary African Context" by Prof. J.N.K. Mugambi at the Faculty of Arts, University of Nairobi; "The Judiciary in Kenya and the Search for a Philosophy of Law" by Githu Muigai, lecturer in law at the University and "Kenya's Constitutional Theory: The Myth of Africanity" by Kiraitu Murungi. Papers were to be presented by other participants, including a number of lawyers, such as Gibson Kamau Kuria, Kathurima M'Inoti, Dr. Ooko Ombaka, Amos Wako and Lee Muthoga. The conference was cancelled, apparently because some of the papers were considered "subversive".

## **Reintroduction of KANU's Disciplinary Committee**

At a meeting on April 3, the national governing council of KANU decided to reintroduce the disciplinary committee of the party, a development which Africa Watch regards with deep concern. Before it was disbanded in September 1987, the committee had frequently taken MPs to task for comments made during parliamentary debates, in spite of the fact that freedom of expression in parliament is a protected privilege. At its first meeting following its reintroduction, it expelled Waruru Kanja, the former minister, and suspended several others for periods up to twelve months. Kanja's expulsion from the sole political party, KANU, means that he automatically loses

his parliamentary seat.

## Recommendations:

Please write appeals to the Kenyan authorities listed below, calling on the government to:

- \* Release Rev. Imunde immediately and unconditionally, in the absence of any evidence that he has committed a criminal offence, and in light of the fact that he was sentenced to imprisonment without a fair trial.
- \* Ensure that the family of Mukaru Ng'ang'a do not suffer any reprisals on account of his departure from the country.
- \* Repeal the August 1988 legislation which extended to two weeks the period during which suspects maybe held in incommunicado detention.
- \* End the practice of sentencing people on the basis of self-incriminating "confessions" made while in police custody.
- \* Guarantee that detainees are given access to their lawyers and family; pre-trial detention is the time detainees are most in need of the advice of their lawyers and the comfort and solace of their families.
- \* Members of Special Branch, C.I.D. and the police, should be given clear instructions that abusive interrogation methods which violate international standards, such as physical abuse, humiliation and psychological intimidation, will be punished severely.
- \* Attacks on churchmen, lawyers, politicians, journalists and other citizens viewed as critical of the government, rightly or wrongly, should cease. President Moi and other senior politicians should make it clear Kenyan citizens are free to express their views within the law, without fear of harsh reprisals.
- \* Call for the establishment of an independent and impartial investigation into the killings and abuses committed by the GSU and the police during the riots that followed the death of Dr. Ouko.

**Appeals Should Be Addressed to:**

President Daniel arap Moi  
Office of the President  
PO Box 30510  
Nairobi  
Kenya

Davidson Ngibuini Kuguru  
Minister of Home Affairs  
Ministry of Home Affairs  
PO Box 30520  
Nairobi  
Kenya

**Copies to:**

Ambassador Denis Afande  
Embassy of Kenya  
2249 R Street, N.W.  
Washington, DC 20008

Dr. Sally J. Kosgei  
High Commissioner  
Kenya High Commission  
24/25 New Bond Street  
London W1Y 9HD  
United Kingdom

## Previous Africa Watch Publications on Kenya

### *News from Africa Watch:*

Kenya: Once Again, a Critical Magazine Faces Threat of a Banning Order, The Nairobi Law Monthly and its Editor Under Fire, 5 April, 1990.

Kenya: Suppression of Press Freedom; Banning of Critical Papers and Intolerance of Dissent, 6 December, 1989.

Kenya: Harassment of Ethnic Somalis, 6 December, 1989.

Kenya: Forcible Return of Somali Refugees; Government Repression of Kenyan Somalis, 17 November 1989.

Africa Watch is a non-governmental organization created in May 1988 to monitor human rights practices in Africa and to promote respect for internationally recognized standards. Its Executive Director is Rakiya Omaar; Richard Carver is Research Director; Alex de Waal is Research Consultant; Janet Fleischman and Karen Sorensen are Research Associates. Jo Graham and Ben Penglase are Associates.

Africa Watch is part of Human Rights Watch, an organization that also comprises Americas Watch, Asia Watch, Helsinki Watch and Middle East Watch. The Chairman of Human Rights Watch is Robert L. Bernstein and the Vice-Chairman is Adrian DeWind. Aryeh Neier is Executive Director of Human Rights Watch; the Deputy Director is Kenneth Roth; Holly Burkhalter is Washington Director; Susan Osnos is Press Director and Joyce Mends-Cole is Washington Counsel to Human Rights Watch.

For Further Information, Contact Rakiya Omaar in London at (71) 378-8008.