

AMERICAN BAR ASSOCIATION

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PLEASE REPLY TO:
1800 M STREET, N.W.
WASHINGTON, D.C. 20036

September 19, 1988

His Excellency Daniel arap Moi
President, Republic of Kenya
Nairobi, Kenya

Dear Mr. President:

I am writing to you in my capacity as President of the American Bar Association. Our Association and its more than 350,000 member lawyers have a deep commitment to the preservation of the rule of law in the international community. In particular, we seek to encourage the maintenance of judicial systems which are independent from governmental interference, and which respect the independence of judges and lawyers in order to maintain internationally recognized standards of fairness and justice. These objectives are embodied in a "Rule of Law Resolution" adopted by the Association's House of Delegates in February 1975.

Pursuant to this resolution, I am writing to you to express our deep concern regarding the refusal of the authorities of the Republic of Kenya to return to advocate Gibson Kamau Kuria his passport and thus enable him to visit the United States at our invitation.

Last August, the American Bar Association wrote to you about Mr. Kuria while he was detained without charge or trial, under the Preservation of Public Security Act. The Association was greatly encouraged when he was released unconditionally by your government last December.

On May 4, 1988, the American Bar Association invited Mr. Kuria to the United States to honor him for his work "in promoting respect for and observance of the rule of law." Unfortunately, on June 1, 1988, we were informed that the Kenyan authorities had denied Mr. Kuria's request for the return of his passport which was taken from him when he was detained in February 1987. We further understand that no Kenyan authority has yet acknowledged it is holding Mr. Kuria's passport nor explained to Mr. Kuria why he cannot have his passport returned since he has never been charged with any offense.

This matter may well reflect a serious violation of the rule of law in the international community. Article 13(2) of the

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Universal Declaration of Human Rights provides that everyone has the right to leave his country. This important right is also enunciated in Article 12(2) of the International Covenant on Civil and Political Rights, of which Kenya is a signatory.

The ability of lawyers to represent their clients is fundamental to maintaining international norms of equal justice for all. It is our understanding that Mr. Kuria has acted in accordance with his professional standards and has upheld the maintenance of law and order by his participation in the administration of justice. Furthermore, Mr. Kuria was never charged with or convicted of any crime that would endanger national security, and he was released unconditionally.

The American Bar Association's chief concern in this matter is the promotion and observance of the rule of international law and that the elements necessary to maintain it are in place. We agree that preservation of the security of the state is a responsibility of all governments. However, it is our understanding that Mr. Kuria has posed no such threat. It is further our impression that Mr. Kuria has been, and continues to be, penalized for his professional and legal activities, including the representation of clients who are political prisoners.

If the reports we have received are accurate, we respectfully urge that Mr. Kuria's passport be returned to him and that he be allowed to travel to the United States to meet with representatives of the American Bar Association and other legal colleagues in this country.

Thank you for your attention to this important matter. We look forward to receiving your response.

Sincerely,



Robert D. Raven
President

RM/mlc

cc: His Excellency Denis D. Afande
The Honorable George P. Shultz
The Honorable Mervyn M. Dymally

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