

EXTERNAL (for general distribution)

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Cruel, inhuman or degrading punishment/
Legal concern

26 July 1991

MALAWI: Orton CHIRWA, aged in his 70s, politician
CHIGWENEMBE, prison warder
another prison warder
three adult children of Gwanda CHAKUAMBA PHIRI

Amnesty International is concerned at reports that two warders at Zomba Central Prison have been detained without charge for smuggling correspondence from political prisoners. One of the prisoners involved, Orton Chirwa, adopted by Amnesty International as a prisoner of conscience, is reported to be kept permanently in leg irons as a punishment. Amnesty International considers this to be a form of cruel, inhuman or degrading punishment and it is expressly forbidden under the United Nations Standard Minimum Rules for the Treatment of Prisoners (approved by the UN's Economic and Social Council in 1957 and again in 1977).

BACKGROUND INFORMATION

In late May 1991 a prison warder named Chigwenembe is reported to have been arrested for allegedly smuggling a communication from Gwanda Chakuamba Phiri, a former government minister serving a prison sentence for his part in an alleged coup plot, to his children. His two daughters and son, all aged in their 20s, are also reported to have been arrested. None is believed to have been charged and they are probably held under the provisions of the Public Security Regulations, 1965, which provide for indefinite detention without trial on security grounds.

At about the same time another warder at Zomba, whose name is not yet known to Amnesty International, was arrested after communications from prisoner of conscience Orton Chirwa had been intercepted. This second warder is also believed to be detained without charge. Orton Chirwa, who is aged in his 70s, is since reported to be kept permanently in leg-irons as a punishment. In the early years after his arrest in 1981, Orton Chirwa was held in leg-irons for long periods, but more recently his conditions were believed to have improved. The UN Standard Minimum Rules for the Treatment of prisoners states: "Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints" (Article 33).

Orton Chirwa, leader of the exiled Malawi Freedom Movement (MAFREMO), is serving a life sentence for treason. He and his wife, Vera Chirwa, were arrested in 1981 and tried in 1983 before a "traditional court" which denied them the most basic of guarantees for a fair trial. They were denied legal counsel or the right to call witnesses in their defence, and rules of evidence and jurisdiction were manipulated in favour of the prosecution. They were convicted and sentenced to death, a decision which was upheld on appeal. However, after widespread international appeals on their behalf, Life-President Dr H. Kamuzu Banda commuted the sentences on Orton and Vera Chirwa to life imprisonment. Amnesty International has adopted them as prisoners of conscience.

Political prisoners in Malawi are often denied the right to send and

receive correspondence, although the UN Standard Minimum Rules state that prisoners should be allowed to communicate by correspondence both with their family and with some others (Article 37). It is not known whether Orton Chirwa or Gwanda Chakuamba was allowed to send correspondence out of the prison at the time when their letters were intercepted.

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RECOMMENDED ACTION: Telegrams/telexes and airmail letters:

- urging the Malawi authorities to refrain from the use of leg-irons to punish Orton Chirwa. Amnesty International considers this to be a form of cruel, inhuman or degrading punishment and it is expressly forbidden by the UN Standard Minimum Rules for the Treatment of Prisoners;

- calling for the release of Chigwenembe, the other detained prison warder and the three children of Gwanda Chakuamba Phiri, unless they are to be charged with a recognizably criminal offence and brought promptly to trial;

- seeking assurances that all prisoners held for political reasons are entitled to send and receive correspondence, subject to normal considerations of prison security;

- calling for the immediate and unconditional release of Orton Chirwa.

- PLEASE NOTE: Appeals to the Commissioner of Prisons should be based only on the first point (use of leg-irons) and the third point (receiving correspondence) as these are among his direct areas of responsibility.

APPEALS TO:

His Excellency The Life-President
 Ngwazi Dr H. Kamuzu Banda
[Salutation: Your Excellency]
 Life-President of the Republic of Malawi
 Office of the President and Cabinet
 P/Bag 388
 Lilongwe 3
 Malawi

Telegrams: Life-President Banda, Lilongwe, Malawi
Telexes: 4389 PRES MI

Mr MacWilliam Lunguzi
 Inspector-General of Police
 P/Bag 305
 Lilongwe 3
 Malawi

Telegrams: Inspector General Lunguzi, Lilongwe, Malawi

The Commissioner of Prisons ***See note above re appeals**
PO Box 28
Zomba
Malawi

Telegrams: Commissioner of Prisons, Zomba, Malawi

Mr J.B. Villiera
[Salutation: Dear Attorney General]
Attorney General
c/o Ministry of Justice
P/Bag 333
Lilongwe 3
Malawi

Telegrams: Attorney General Villiera, Lilongwe, Malawi

COPIES TO:

diplomatic representatives of Malawi in your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your section office, if sending appeals after 6 September 1991.