

**EXTERNAL (for general distribution)**

**AI Index: AFR 36/26/93**

**Distr: UA/SC**

**UA 140/93 Fear of ill-treatment/Legal concern**

**29 April 1993**

**MALAWI: Kaphwiti Banda, opposition activist**

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Kaphwiti Banda was arrested on 21 April 1993 at the airport in Lilongwe, the Malawian capital, on his return from exile in Zambia. He is an official of the opposition United Democratic Front (UDF), which is officially recognized in Malawi to campaign in the referendum scheduled for 14 June 1993 on whether to retain the one-party system or not.

The authorities have given no explanation for his arrest and have not charged him with any offence, although the law requires that arrested persons should be charged within 48 hours or released. He is reportedly being held incommunicado in Maula prison in Lilongwe, where conditions are harsh and political prisoners have been ill-treated in the past.

Kaphwiti Banda, a businessman, had been close to the government and ruling Malawi Congress party (MCP) party in the first years after independence in 1964 but had later become a prominent opponent in exile.

#### **BACKGROUND INFORMATION**

Kaphwiti Banda had returned to Malawi to campaign with the UDF for multi-party democracy and for an end to almost 30 years of one-party rule by Life-President Dr Hastings Kamuzu Banda. In the referendum campaign in early 1993 opposition activists have been subject to considerable harassment, short-term arrest, violent attacks and death threats. Chakufwa Chihana, the leader of the other opposition "pressure-group", Alliance for Democracy (AFORD), is currently imprisoned for "sedition", in fact advocacy of multi-party democracy, and other pro-democracy activists have been charged with sedition or other political offences but have not so far brought to trial. (See further information to UA 114/92, AFR 36/21/93, dated 30 March 1993 which gives the latest information on Chakufwa Chihana.)

Other UDF officials have been arrested in 1993 including Chakakala Chaziya, the UDF vice-chairman, who was held for over two weeks in January 1993 and Bakili Muluzi, the UDF chairman, held for three days in February. Returning exiles from other political groups have also been arrested and some are still being held. (See the following Urgent Actions and their follow-ups for details on these cases: UA 11/93, AFR 36/06/93, 15 January 1993; UA 42/93, AFR 36/15/93, 18 February 1993; UA 39/93, AFR 36/14/93, 15 February 1993; and UA 53/93, AFR 36/18/93, 2 March 1993)

A United Nations (UN) technical team from the UN's Department of Political Affairs had advised the Malawi government to release all political prisoners, allow exiles to return home safely, and guarantee the right to freedom of expression and association, in order for the referendum to be free and fair.

**RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express and airmail letters**

**either in English or in your own language:**

- expressing concern at the arrest of Kaphwiti Banda on his return on 21 April 1993 from exile to participate in the referendum campaign;

- asking for the grounds for his arrest and why he is held unlawfully and incommunicado in custody beyond the prescribed 48-hour limit;

- urging that he be treated humanely and given immediate and regular access to his family, lawyer and, if necessary, a medical doctor of his choice;

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- appealing for his unconditional release as a prisoner of conscience, imprisoned for his peaceful opposition to the government.

**APPEALS TO**

1) His Excellency Life-President Ngwazi Dr H. Kamuzu Banda

Office of the President

Private Bag 301

Lilongwe 3, Malawi

**Telegrams: Life-President Banda, Lilongwe, Malawi**

**Telexes: 44389 PRES MI or 44113 EXTERNAL MI**

**Faxes: + 265 731878**

**Salutation: Your Excellency**

2) Mr John Tembo

Minister of the State

Office of the President

Private Bag 301

Lilongwe 3, Malawi

**Telegrams: State Minister Tembo, Lilongwe, Malawi**

**Telexes: 44389 PRES MI or 44113 EXTERNAL MI**

**Faxes: + 265 731878**

**Salutation: Dear Minister**

3) Mr MacWilliam Lunguzi

Inspector-General of Police

Malawi Police Headquarters

Private Bag 305

Lilongwe 3, Malawi

**Telegrams: Inspector-General Police Lunguzi, Lilongwe, Malawi**

**Salutation: Dear Inspector-General**

4) Mr Mughogho

Officer-in-Command

Maula Prison

Private Bag 130

Lilongwe, Malawi

**Telegrams: Mr Mughogho, Maul Prison, Lilongwe, Malawi**

**Salutation: Dear Sir**

**COPIES OF YOUR APPEALS TO any of the following:**

1) Mr Viliera  
Attorney General  
Attorney General's Chambers  
Ministry of Justice  
Private Bag 333  
Lilongwe 3, Malawi

3) Mr Mwale  
Commissioner of Prisons  
Malawi Prison Service Headquarters  
Box 28  
Zomba  
Malawi

2) Mr Justice Richard Banda  
Chief Justice  
High Court of Malawi  
Box 30244, Chichiri  
Blantyre 3, Malawi

4) Mr Temwa Nyirenda  
Chairman, Malawi Law Society  
Box 2420  
Blantyre  
Malawi

and to diplomatic representatives of Malawi accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Please check with the International Secretariat,  
or your section office, if sending appeals after 10 June 1993.