

EXTERNAL (for general distribution)

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Further information on UA 114/92 (AFR 36/09/92, 6 April 1992) and follow-ups AFR 36/10/92, 14 April 1992, AFR 36/13/92, 30 April 1992, AFR 36/17/92 8 May 1992, AFR 36/19/92, 12 May 1992, AFR 36/23/92, 5 June 1992, AFR 36/32/92, 13 July 1992, AFR 36/34/92, 15 July 1992, AFR 36/39/92, 15 September 1992, AFR 36/45/92 14 December 1992, AFR 36/04/93, 14 January 1993 and AFR 36/19/93, 25 March 1993 - Legal concern and new concern: Ill-treatment

MALAWI: Chakufwa CHIHANA, aged 52, international trade union official

Chakufwa Chihana's appeal against his conviction in December 1992 for "sedition" was dismissed by Chief Justice Richard Banda on 29 March 1993 but the sentence of two years' imprisonment with hard labour was reduced to nine months with hard labour. On 14 December 1992 Chakufwa Chihana was found guilty on two counts of sedition: for possession of papers he delivered to a conference in Zambia on the prospects of multi-party democracy in Malawi and for illegally importing these papers into Malawi. Chakufwa Chihana was in the court with his lawyer for the hearing, handcuffed to two prison officers, but was not allowed to speak or make a mitigation plea.

The judge confirmed that the UN Charter's human rights standards should be applied in Malawi but added that they were subject to constitutional limitations. In fact, the Malawian constitution, as well as the country's laws on sedition and its one-party system, restrict and violate internationally-recognized basic human rights. This judgment therefore established in effect that advocacy of multi-party democracy is "seditious" and an imprisonable offence - at a time when Malawi is preparing for a referendum on 14 June 1993 on whether or not to retain the one-party state or change to a multi-party system. Although opposition parties are technically illegal, two pressure groups, the Alliance for Democracy (AFORD) and the United Democratic Front (UDF), are effectively campaigning against the one-party system and Life-President Kamuzu Banda's government.

Chakufwa Chihana has served almost four months of his sentence and would normally be eligible for remission of a third of the reduced nine months' sentence, good behaviour permitting. He will therefore possibly be released on 15 June 1993 - just one day after the referendum on the multi-party issue. He is the interim chairman of AFORD and is therefore effectively barred from participating in the referendum campaign or voting in the referendum. It is not known whether he will serve the rest of the sentence in the notoriously harsh Mikuyu prison in Zomba, or in a worse "hard-core"- regime prison at Nsanje in the south of Malawi, where deaths of prisoners (usually convicted "hard-core" criminals) are common.

Chakufwa Chihana is reported to be suffering from chest and throat infections,

severe headaches and serious weight loss as a result of harsh conditions, including the denial of proper medical treatment, poor diet and carrying out the court-imposed "hard labour" - cutting grass and carrying jerrycans of water for long hours, even when ill. He is allowed only occasional visits by his family and lawyer. Amnesty International believes that this ill-treatment and the sentence of hard labour are "cruel, inhuman and degrading treatment or punishment", and therefore in contravention of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

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Amnesty International is repeating its appeals for the immediate and unconditional release of Chakufwa Chihana as a prisoner of conscience who did not receive a fair trial or appeal hearing by an independent court, and who was convicted under a law which contradicts the internationally-recognized right to freedom of expression.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express and airmail letters in English or your own language:

- reiterating concern that Chakufwa Chihana is a prisoner of conscience, imprisoned for peacefully expressing his opinions under a law which contradicts the internationally-recognized right to freedom of expression;
- appealing for an end to the ill-treatment and cancellation of the unjustified additional sentence of "hard labour" which constitute "cruel, inhuman and degrading treatment or punishment";
- urging that he be given proper medical treatment with hospital tests and admission as needed, and regular access to his family and lawyer;
- appealing again for his immediate and unconditional release.

APPEALS TO:

1) H E The 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, 44766 JUSTICE MI, 44113 EXTERNAL MI
Faxes: + 265 731878

Salutation: Your Excellency

2) Hon. John Tembo
Minister of the State, Office of the President
Private Bag 301
Lilongwe 3
Malawi

Telegrams: Minister of State Tembo, Lilongwe, Malawi

Salutation: Dear Minister

Minister of Justice
Ministry of Justice
Private Bag 333
Lilongwe 3

Please note that Mr Friday Makuta recently
resigned from this post.

Malawi

Telegrams: Minister of Justice, Lilongwe, Malawi

Salutation: Dear Minister

COPIES OF YOUR APPEALS TO:

Mr Temwa Nyirenda
Malawi Law Society
PO Box 2420
Blantyre
Malawi

Commissioner of Prisons
Mr Mwale
Malawi Prison Service Headquarters
PO Box 28, Zomba
Malawi

Southern Africa Trade Union
Co-ordination Council
PO Box 1271
Lilongwe
Malawi

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

and 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 11 May 1993.