

£MALAWI

@March-July 1992: mass arrests of suspected government opponents

An extraordinary upsurge of public dissent in Malawi is being met with severe repression. Since mid-May 1992 the police have conducted extensive searches of offices and private homes. They are looking for the sources and distributors of the pro-multi-party literature which now circulates widely within the country. At least dozens and probably hundreds of people have been arrested and many are still detained without charge. Often the reason for their detention is simply that they work in an office where opposition leaflets are believed to have been photocopied, or are active members of church congregations where the government's human rights record has been criticized.

One of the offending documents is a pastoral letter issued in March this year by the country's Roman Catholic bishops. The letter criticized various aspects of the government's human rights record and advocated greater popular participation in the government of the country. The government has declared the pastoral letter a seditious publication, making possession of it a criminal offence. Chichiri and Maula, the main prisons in the leading towns of Blantyre and Lilongwe respectively, are reported to be severely overcrowded because of the recent wave of arrests. One recently released prisoner has described 285 prisoners being kept in a cell five metres by four metres, with one prisoner dying there on average every two nights.

The multi-party movement is the first public expression of dissent since the mid-1960s. Malawi is a one-party state ruled by the Malawi Congress Party (MCP). The Life-President of both party and country is Dr H. Kamuzu Banda, who is believed to be aged in his 90s. Much political power is wielded by the Minister of State in the President's Office, John Tembo, who is also the uncle of President Banda's "official hostess", Cecilia Tamanda Kadzamira. Not only is any form of political opposition strictly prohibited, but almost any form of dissenting opinion is likely to be harshly repressed. For example, people are often imprisoned because of unguarded remarks made in private conversations and overheard by party or police informers. Religious freedom only exists within strictly defined limits: Jehovah's Witnesses, whose members refuse to join the ruling party, are banned and other denominations have attracted repression in recent months for criticizing abuses of power. There is frequent discrimination on ethnic grounds, in favour of Chewa-speakers from the Central Region - the home area of both President Banda and John Tembo - and against Tumbuka-speakers from the Northern Region in particular. The Malawian Government has so far resisted calls both from within the country and from a number of foreign governments to introduce a multi-party political system. In June 1992, elections were held for the single-party parliament. The government claimed that more than 80 per cent of the

electorate participated in the poll; the exiled opposition claimed that the turn-out was 40 per cent or less, an estimate which was endorsed by foreign diplomats in Lilongwe.

Arrests of office workers and others

In the weeks leading up to the election, dozens or possibly hundreds of suspected government opponents were arrested and detained without charge. Many of those arrested are office employees suspected of having used faxes and photocopiers to receive, copy and transmit pro-multi-party literature. Since before the Roman Catholic bishops' pastoral letter in March 1992 anonymous leaflets have been circulated criticizing the one-party system and government human rights violations. Those arrested are apparently suspected of circulating such documents, as well as the pastoral letter itself. Exiled opposition groups in Zambia have also been sending fax messages at random into the country. The police appear to have used this as a pretext for harassing people with access to a fax machine. In some instances it appears that anti-government literature has been circulated by *agents provocateurs* in order to give a pretext for arrests.

Among those arrested were at least 20 employees of the National Bank of Malawi in Blantyre, picked up in late May. The arrests followed a strike by workers at the bank from 18 to 20 May. The following day, 21 May, a bank employee named **Mitinda** is reported to have been arrested. On 22 May 1992, **Winfrey Yonam Mphande** was arrested, with about 18 more bank employees picked up on about 28 May. They are believed to have been taken first to Chichiri Prison in Blantyre. Some, including Winfrey Mphande, are since believed to have been transferred to Zomba Central Prison, presumably because of severe overcrowding at Chichiri. Those detained are believed to have been suspected of having anti-government documents in their office.

The entire computer section at the Electricity Supply Commission of Malawi (ESCOM) in Blantyre was arrested between 20 and 27 May 1992, consisting of at least 10 people. They included **Grey Nkungula**, the systems manager, and **Grey Nyenje**, the acting manager of the computing section. The latter is feared to have been tortured. According to some reports he may have died in custody. **Gloria Gadama**, another computer section employee, was arrested with her small baby and taken to Chichiri Prison, where conditions are insanitary and overcrowded.

At least three employees of Old Mutual Insurance Company in Blantyre were arrested in the first week of June. One, **Gerald Banda**, is the son of Margaret Marango Banda, a former broadcaster and prominent lay member of the Anglican Church who was detained without charge between 1988 and 1991. Amnesty International adopted her as a prisoner of conscience. Gerald Banda appears to have been arrested specifically because he is the son of Margaret Marango Banda, after being stopped at a police roadblock. He was later

released without charge. Ms **Kondwani Mtawali** and **Ignatius Kanyengambeta** were apparently detained on suspicion of possessing pro-multi-party literature. Earlier, in the third week of May, police had attempted to arrest **Kennedy Msonda**, a senior executive of Old Mutual. They arrested his brother by mistake, giving Kennedy Msonda the chance to flee the country. His brother was later released.

Jack Chiutsi, a senior executive officer in the Registry of Lands in Blantyre, was arrested in May. **Simon Pandule**, director of a small market research company, was arrested in May at Blantyre's Shelter Club, apparently after being overheard speaking in favour of a multi-party system. Mr **O. Mkandawire**, a senior manager of the Tobacco Association of Malawi, was arrested in Blantyre in mid-May. Only days earlier he had received a letter delivered to him by hand which was believed to contain pro-multi-party literature. As in other cases anti-government leaflets appear to have been distributed by *agents provocateurs*. He was released without charge in June.

Ismael Khani, a businessman from Mzuzu in northern Malawi, was arrested at the Mzuzu Club on 10 May, apparently because he was suspected of having made remarks on favour of a multi-party system. **Charles Kabuzi Mkandawire**, who works for Marie Stopes International, a family planning organization, was arrested at his Blantyre home on about 22 May. Apparently he was suspected of having a copy of the bishops' pastoral letter or other multi-party literature.

It is notable that many of those arrested have a connection with communications or information technology. As well as the members of the National Bank computer section, they are reported to include: Mr and Mrs **Somanje** who work for Business Machines; Mrs **Mitinda** of Intertec Contracting (Central Africa); Miss **Mabasa** of Olivetti; and **George Thaka**, who works for a telecommunications company.

The case of Krishna Achutan

One of those also arrested in May was **Krishna Achutan**, director of the Rank Xerox office machine company. The reason for his imprisonment was apparently that he gave an interview to the British Broadcasting Corporation (BBC) about the case of his father-in-law, who had been detained without charge for more than 12 years. Officers of the police Special Branch took him from his home in Blantyre on the morning of 16 May.

Krishna Achutan is married to Mbumba, the daughter of Aleke Banda, the former secretary general of the ruling MCP. At the time of his arrest and detention in 1980, Aleke Banda was managing director of Press Holdings Ltd, a company owned by the ruling party and chaired by President Banda. The apparent reason for Aleke Banda's arrest was that he had criticized the payment of a large "unsecured loan" from Press Holdings into President

Banda's personal account. (Aleke Banda is not related to the President - the name is a common one in Malawi.) Aleke Banda, who was adopted by Amnesty International as a prisoner of conscience, was finally released from Mpyupyu Prison on 10 July 1992.

On 15 May 1992 Krishna Achutan gave an interview to "Focus on Africa", a BBC radio program. He said that Aleke Banda was suffering from depression and high blood pressure as a consequence of his long imprisonment. This interview appears to have been the cause of his arrest the following day.

Lawyers acting on Krishna Achutan's behalf filed an application in the High Court for the authorities to produce him and state the legal basis for his detention. At an initial hearing on 26 June the authorities failed to produce him. At a second hearing on 7 July, Krishna Achutan was not produced again. However, government lawyers informed the judge, Justice Mtegha, that Krishna Achutan had been charged on 30 May with two offences. The judge ruled that Krishna Achutan should have been brought to court when he was charged in order that an application for bail could be considered. It was also noted that Krishna Achutan has not been allowed to consult his lawyer since his arrest. The judge adjourned the hearing until 14 July, ordering that Krishna Achutan be brought before the court then.

Krishna Achutan was finally released the day before the hearing was due to resume. However, he still faces two charges which could result in him receiving a long term of imprisonment. First, he is charged under the Preservation of Public Security Act with publishing information likely "to be prejudicial to public security". This carries a maximum penalty of five years' imprisonment. Second, he is charged under Section 60 of the Penal Code with making a publication or broadcast "harmful to the interests or to the good name of Malawi". This carries a maximum penalty of life imprisonment. If Krishna Achutan were convicted and imprisoned on either of these counts Amnesty International would regard him as a prisoner of conscience.

In most cases, however, it is unclear whether there is even this flimsy legal basis for imprisonment. The Preservation of Public Security Regulations, 1965, allow for indefinite detention without trial by presidential order of anyone deemed a threat to national security. However, in a speech on Independence Day, 6 July, President Banda stated that only 11 people were held as political prisoners - presumably referring to those formally detained on an indefinite basis under the Regulations. The Regulations allow the police to detain someone for up to 28 days if they suspect that there may be a basis for them then being detained under a presidential order. However, many of those arrested have been held for longer than 28 days, so their detention would appear to be unlawful.

Although there has been a significant increase in political arrests in recent months, such cases are not just a recent phenomenon. For example, **Shubert Nyirongo** from

Rumphu in the Northern Region was arrested in February 1992 after a casual remark in a grocery store in favour of a multi-party system. He is still held without charge at Mzuzu Prison. **S.C. Mwanza**, the District Commissioner for Ntcheu, was arrested in December 1990 because he was suspected of favouring a multi-party system. He is held without charge in Maula Prison. In January 1992, three youths from Karonga, **Daniel Phakati**, **Martin Mbewe** and **Felix Baleke Nwakikunga**, were arrested after performing a play which was regarded as politically subversive. Felix Nwakikunga was later released but Daniel Phakati and Martin Mbewe are believed to remain in detention.

Ill-treatment and harsh prison conditions

The conditions of imprisonment of those arrested in recent months are reported to be exceptionally poor. The two main prisons to which they have been taken - Chichiri in Blantyre and Maula in Lilongwe - were already those with the worst conditions and the most severe overcrowding in the whole of Malawi. (Conditions were described in detail in Amnesty International's report *Malawi: Prison conditions, cruel punishment and detention without trial*, AI Index: AFR 36/03/92, March 1992) Previously prisoners in Chichiri spent nights sitting up back-to-back because there was not enough room for them to lie down. Now there are reports that prisoners are forced to spend the night standing crammed together because there is not even space for them to sit. One prisoner recently released from Chichiri Prison reports that in his cell, measuring roughly five metres by four metres, there were 285 prisoners. On average one prisoner died in each cell every two nights, he estimated. Whenever a prisoner died he was immediately replaced so that the number remained constant at 285. This suggests that overcrowding was being used as a deliberate form of ill-treatment by the prison authorities.

Many of those arrested recently are alleged to have been tortured. Amnesty International has received reports of severe beatings and electric shocks, including one case of a woman who was stripped naked, beaten and poked with an electric cattle prod. There are also repeated accounts from Lilongwe, Blantyre and Zomba of detainees being forced to clear human excrement out of cells with their bare hands.

In Mikuyu Prison near Zomba, by contrast, conditions are reported to have improved somewhat in recent weeks. Cells have been repainted and there have been slight improvements in the diet. However, the pattern of deaths in detention described in Amnesty International's March 1992 report continued with the unexplained death in custody in April of Frackson Zgambo, a political detainee held since 1989. There have been persistent reports that he died as a result of poisoning. Despite the requirements of the Inquests Act and the Prisons Act no inquest into his death has been held.

Repression against the churches

The recent upsurge of criticism of the government was prompted by the Roman Catholic bishops' lenten pastoral letter, which was read in churches throughout the country on 8 March. Sixteen thousand copies were printed and distributed widely. The letter criticized abuses in the administration of justice and severe restrictions on freedom of expression.

"Academic freedom is seriously restricted; exposing injustices can be considered a betrayal; revealing some evils of our society is seen as slandering the country; monopoly of mass media and censorship prevent the expression of dissenting views; some people have paid dearly for their political opinions; access to public places like markets, hospitals, bus depots, etc, is frequently denied to those who cannot produce a party card; forced donations have become a way of life."

On 10 March, the bishops were taken to police headquarters in Blantyre for questioning and held for eight hours. They were then confined to the Archbishop's House in Blantyre, where they remained until 13 March. During their interrogation the bishops were repeatedly accused of sedition and the government then publicly declared the pastoral letter to be a seditious publication. Possession of the document is thus a criminal offence.

The government response to the pastoral letter was expressed in inflammatory language. An editorial in the government-owned *Malawi News*, entitled "No Mercy", described the authors of the pastoral letter as "Mafia-style crooks", who were aiming to "import IRA [Irish Republican Army] terrorism into this country". One of the bishops, Monsignor John Roche who is an Irish national, was later expelled from the country, along with another Irish priest.

On 11 March Cabinet Ministers and senior party officials met to discuss the letter. Their meeting was broadcast live to the nation. Some participants called for the bishops to be killed, among them Mai Manjankosi, a senior official of the party Women's League, who described the Life-President as being "the Son of God, just like Jesus" (*Mwana wa Mulungu ngati Yesu*). President Banda himself had earlier threatened that political opponents would be "meat for crocodiles". There is little doubt that such incitements will be understood literally. After international pressure the government's language moderated somewhat. However, members of the paramilitary Malawi Young Pioneers or the Malawi Congress Party have taken official statements as a licence to commit acts of violence against Roman Catholics. On 19 March an arson attack was reported at the Montfort Fathers' press in Balaka where the letter was printed. There have been reports of Young Pioneers barricading churches and, ominously, strewing the branches of trees at the entrances of churches - the traditional Malawian symbol for a funeral.

Although the government has tried to present the pastoral letter as a sectarian action by the Roman Catholic Church, the Presbyterian Church of Scotland, of which President Banda is a prominent member, publicly supported the Roman Catholic bishops. In June, a delegation from the World Alliance of Reformed Churches, which includes among its members both the Church of Scotland and the Church of Central Africa (Presbyterian) (CCAP), met President Banda and made an appeal for improved respect for human rights.

Individual members of the CCAP have been targets of government repression. A South African minister in the CCAP, Reverend Ryk van Veerden, was expelled from the country and senior party officials directed threats against a presbyterian minister from the United States, Reverend Robert Rasmussen. Several members of the Mzuzu Synod of the CCAP have been detained without charge. Reverend **Aaron Longwe**, minister of the Mzuzu presbyterian congregation, was arrested on 27 April after he had preached the previous day on a biblical text from the book of Micah: "The godly have been swept from the land; not one upright man remains." He was released after one day but rearrested on 29 April by an officer of the Special Intelligence Service (SIS). Also arrested was an elder of the Mzuzu congregation, **Steven Chenda Mkandawire**. The two men were taken to Maula Prison in Lilongwe. The following day two other elders of the congregation were arrested: **Gift Kaunda** and **Jairos Beza**. Gift Kaunda appears to have been arrested because of a sermon he preached at Easter, which was interpreted as being critical of the government. Jairos Beza was apparently detained because of the sermons preached by Reverend Longwe and Gift Kaunda, although he did not preach himself and only led hymn-singing. Reverend Longwe was released on 12 May and Steven Chenda Mkandawire later in the same month. Reverend Longwe reports continuing harassment by the police, with security officers repeatedly coming to his house and attending all services in his church. Gift Kaunda and Jairos Beza remained in detention without charge at Mzuzu Prison until they were released in July.

Members of the Watchtower Bible and Tract Society - Jehovah's Witnesses - have been persecuted in Malawi for many years for their refusal to join the ruling MCP. Jehovah's Witnesses were declared a banned organization in the 1960s and many members were imprisoned, killed or driven into exile. Possession of a party card remains essential for access to basic services, including markets, buses and health care. In recent months there have been reports that people in the drought-affected south of the country have been forced to produce party cards or electoral registration cards before they could draw water or receive food relief. There have also been reports of the arrest of Jehovah's Witnesses for their continued refusal to bow to this requirement. Thirty-two Jehovah's Witnesses are reported to have been arrested in recent months at Chilomoni in Blantyre and are believed to be held without charge at Chichiri Prison. More than 20 church members arrested in Thyola are reported to be held in Zomba Central Prison and in April there were further reported arrests of Jehovah's Witnesses in Nsanje, in the far south. Some 40 Jehovah's Witnesses were reported to be held at Maula Prison in June 1992, but were later released.

Worker opposition and the case of Chakufwa Chihana

The Roman Catholic bishops' pastoral letter was not the first expression of criticism of the Malawian Government - there had been *samizdat*-type leaflets circulating for some months earlier - but it was the first time that anyone had dared to make such criticisms publicly. A number of the exiled opposition groups took advantage of this new mood of internal opposition to delegate **Chakufwa Chihana**, a veteran trade union leader, to organize support for a pro-multi-party movement.

Chakufwa Chihana is secretary general of the Southern Africa Trade Union Coordination Council (SATUCC), a regional body with its headquarters in Lilongwe. Aged 52, he had been a trade union official before Malawi became independent in 1964. He had had political differences with the Malawi Congress Party even then, since he argued that the trade unions should be independent from the party, rather than subordinate to it as the MCP leadership maintained. In the 1970s Chakufwa Chihana was one of many hundreds of suspected government opponents detained without charge. He was held for five years, tortured and kept for long periods in leg-irons.

On 1 March 1992 Chakufwa Chihana was held by police at the border for some hours as he tried to leave Malawi to attend meetings in Zambia. When he returned to the Kamuzu International Airport in Lilongwe on 6 April, plain-clothes police officers bundled him into a car as he tried to read a speech. He was taken to the SATUCC offices, where other members of staff were also arrested. His lawyer, **Michael Bazuka Mhango**, was held by police for several hours when he tried to gain access to Chakufwa Chihana.

Michael Mhango filed an application in the High Court in Lilongwe, requiring that the authorities produce Chakufwa Chihana in court and explain the legal basis for his imprisonment. He made similar applications on behalf of the other detained SATUCC staff - **William Chisimba**, **Florence Lungu**, **Yaredson Ngwira**, **Lloyd Tembo** and **Joseph Maritowe** - all of whom were released without charge within a few weeks.

The High Court's Judge Kalaile set 6 May 1992 as the date for hearing the application on Chakufwa Chihana's behalf. The police failed to present him in court. The judge adjourned the hearing for 24 hours, but the police again failed to produce Chakufwa Chihana. It subsequently emerged that during his early weeks in detention Chakufwa Chihana was being held for long periods in leg-irons at Mikuyu Prison. However, the following week members of a visiting international trade union delegation were allowed to see Chakufwa Chihana - the first time since his arrest that he had contact with the outside world - and he was then allowed to consult his lawyer. Nevertheless, on 2 June the police once again failed to produce him in court. On 19 June Judge Kalaile himself failed to

appear in court to give his ruling on an application from Michael Mhango for Chakufwa Chihana's release. Finally, on 10 July, he ruled that Chakufwa Chihana should be released on bail. Chakufwa Chihana was released the following day and on 13 July was formally charged on three counts relating to possession and importation of seditious publications. The publications in question were the Roman Catholic bishops' pastoral letter, the speech which Chakufwa Chihana tried unsuccessfully to deliver at the airport, his address to the Lusaka conference of exile groups and press releases from that same conference.

One of the conditions of Chakufwa Chihana's bail was that he reported each week to the police. When he reported to Lilongwe police station on the afternoon of 14 July, four days after his release, accompanied by his wife, he was taken back into police custody without explanation. A delegate of the International Confederation of Free Trade Unions, who was in Malawi to monitor the case, was expelled from the country. Chakufwa Chihana apparently remains in police custody without legal basis, although police are reported to have told his lawyer that he is likely to face further sedition charges relating to press interviews he gave after his release.

In the past the general climate of intimidation and fear has deterred lawyers from applying to the courts in cases of unlawful detention. Malawi has two parallel judicial systems. The conventional system, with the High Court and Court of Appeal at the apex, generally conforms to international standards of judicial independence and fair trial. However, the few political cases which have come to trial have been heard by "traditional" courts, where judges are directly answerable to the Life-President, the accused are not allowed legal representation and sometimes may not even call witnesses in their defence, and normal rules of procedure and evidence are disregarded. All capital cases are heard by the "traditional courts" and Amnesty International is currently aware of 45 prisoners under sentence of death after unfair trials. Chakufwa Chihana's was believed to be the first political case to come before the High Court since the 1960s. The government's attitude to the court's rulings is thus an important test of its assurances that it respects the rule of law. In practice, the authorities failed repeatedly to produce Chakufwa Chihana in court, denied him basic rights of access to legal counsel and family, held him unlawfully for more than three months and then, when he was at last lawfully charged and released, they promptly rearrested him. Thus at every stage the behaviour of the authorities has been in open defiance of the authority of the courts and the rule of law.

It should be added that the charges against Chakufwa Chihana, which each carry a maximum penalty of five years' imprisonment, do not constitute recognizably criminal offences, since they relate solely to his non-violent advocacy of a multi-party political system. Amnesty International regards Chakufwa Chihana as a prisoner of conscience and is calling for his immediate release and the withdrawal of all charges against him.

While Chakufwa Chihana was in custody, Sophia Nkosana, the mother of his personal secretary, was arrested and tortured in an apparent attempt to persuade her daughter, Dorothy Kawala, to testify against Chakufwa Chihana. Sophia Nkosana was arrested on about 17 April 1992 and held for about five days before being released without charge. While she was in custody at police headquarters in Lilongwe she is reported to have been stripped naked, beaten, poked with a cattle prod and placed in a cell smeared with excrement.

Industrial and plantation workers have taken advantage of the new atmosphere created by the Roman Catholic bishops' letter and the return of Chakufwa Chihana to press their claims for increased wages and improved conditions of employment. An unprecedented series of strikes began in early May, organized outside the official structures of the Trades Union Congress of Malawi, which is affiliated to the ruling party. Official repression of the strike movement began on 6 May when striking workers from the David Whitehead textile factory and Blantyre City Council, accompanied by students from Blantyre Polytechnic, tried to march from the city's industrial area to the town centre. Police intervened to stop the march. The following day, a spontaneous demonstration also erupted in Lilongwe after the failure of the police to produce Chakufwa Chihana in court. In the course of demonstrations and riots in Blantyre lasting for two days, the police are reported to have shown initial restraint. However, by the time the demonstrations were finished more than 40 protesters had been shot dead, many of them allegedly by the so-called "Red Army". This is reported to be a newly organized force which combines the red-shirted paramilitary Malawi Young Pioneers, who enjoy powers of arrest, and members of the *Resistência Nacional Moçambicana* (RENAMO), Mozambique National Resistance. The latter is a Mozambican rebel organization with a long history of gross human rights abuse which has operated from bases on Malawian soil and apparently still enjoys some official support.

The suppression of dissent in the university

Students at the University of Malawi were among the first to endorse publicly the criticisms of the government made by the Roman Catholic bishops. In March there were demonstrations at all three branches of the university: Chancellor College in Zomba, Blantyre Polytechnic and Bunda Agricultural College near Lilongwe. The government has for many years been wary of the threat of criticism from within the academic community. In 1983 four students were detained without charge for a year on suspicion of organizing a political party. Jack Mapanje, head of the English department at Chancellor College, was detained without charge or explanation from 1987 to 1991, as was a former English lecturer, Blaise Machila, between 1988 and 1991. Four students were expelled from Chancellor College in 1989 for their contributions to a student newsletter which was regarded as subversive. In 1991, a lecturer in the law department was detained for a few days after he had written to the press criticizing a law which forbids women from wearing trousers.

A demonstration by Chancellor College students on 15 May was greeted with cautious tolerance on the part of the police, possibly because of the presence of a lorry-load of soldiers who shouted their support for the students and the Roman Catholic bishops.

The government reacted to a further demonstration the following day by closing the college. When it reopened in late April it was promptly closed again after a further student protest. Students returning to the college are being required to sign an undertaking not to engage in political activity.

In Blantyre on 17 March, police responded to a student demonstration by raiding dormitories at the polytechnic and arresting up to 75 students, many of whom may have played no part in the protests. Amnesty International received reports of severe beatings of students at Chichiri prison, and Chilomoni and Ndirande police posts. Two student union officials, **Samuel Mkandawire** and **Kenneth Govati**, were also alleged to have been tortured by having their genitals squeezed. There were persistent reports that six people, including students, were tortured to death in police custody and their bodies later delivered to Blantyre city mortuary, where they remained unidentified for several weeks. However, Amnesty International has not been able to establish the identities of the six or how they died. Most of those arrested were later released. Twelve students arrested on 17 March, including Samuel Mkandawire and Kenneth Govati, were charged with public order offences arising out of the demonstration and released on bail. Their case has not yet been tried. An initial hearing of the case was postponed, apparently because Samuel Mkandawire was unfit to appear because of torture.

The reaction of the international community

The situation in Malawi has been of serious concern to human rights organizations for many years. However, it is only relatively recently that these concerns have found an echo in the public attitudes of governments which have significant bilateral relations with Malawi. Representations from the European Community governments and the United States appear to have played a part in securing the release of nearly 90 political detainees in 1991. In December 1991, these governments made a joint *démarche* to the Malawian authorities, calling for the release of political detainees, inspection of the country's prisons by the International Committee of the Red Cross (ICRC), freedom of expression and progress towards a multi-party political system. Developments since December 1991 show that the Malawian Government is not indifferent to international opinion. It has agreed to ICRC inspection of its prisons and has stated that visits are to begin in August 1992. On the other hand, the government continues to refuse access to human rights monitoring organizations. Amnesty International was not given permission to visit the country to attend the High Court hearing of Chakufwa Chihana's case which was due to take place on 6 May.

In January 1992 a number of political detainees were released - possibly as many as 50. In June 1992 a further eight detainees were released from Mikuyu Prison, including Machipisa Munthali, who had been held for 27 years, and Danny (Goodluck) Mhango, detained in apparent reprisal for the writings of his exiled journalist brother. In his Independence Day speech on 6 July 1992, President Banda stated that the government held only 11 political detainees and announced that a tribunal chaired by a High Court judge would review their cases in future. The figure of 11 detainees presumably referred to those held under indefinite presidential detention orders, although this is impossible to ascertain with certainty since there is no legal requirement that the names of detainees be published. Later the same week a further nine long-term detainees were released, of whom the best known was Aleke Banda, a former secretary-general of the MCP. Also released were Tukulani Sikweya Banda, detained since 1979 because he was suspected of sending information to exiled government opponents, and Owen Jumo, a former driver who had worked for another disgraced MCP secretary general, also held since 1979. All these releases are welcome. However, the claim that the Malawian Government was only holding eleven detainees is extraordinary in the light of the scores - if not hundreds - arrested in the weeks before President Banda's speech. Only one or two appear to have been charged with any offence.

When the consultative group of Malawi's principal aid donors met in Paris on 11 May 1992 to review the government's human rights record, they also took into consideration the threats against the Roman Catholic bishops and other critics of the government's human rights record and the killing of more than 40 demonstrators in Blantyre, as well as the authorities' defiance of the courts over the case of Chakufwa Chihana. The consultative group decided to suspend all non-humanitarian development aid to Malawi for six months - and made the resumption of aid after six months conditional upon the government making significant improvement in respect for human rights. Amnesty International takes no position on this decision to suspend aid to Malawi and make its resumption conditional upon human rights improvements. As a matter of general policy the organization neither advocates nor opposes sanctions or embargoes of development aid or investment to countries where human rights are violated. However, Amnesty International is concerned that all governments which have bilateral relations with Malawi should press the authorities there to take immediate steps to end human rights violations as set out below.

Amnesty International's recommendations

Amnesty International has welcomed a number of steps taken by the Malawian Government to improve respect for human rights, notably the release of uncharged political detainees - possibly more than 60 since the beginning of 1992 - and the opening of prisons to inspection by the International Committee of the Red Cross. The announcement by President Banda

of the creation of a review tribunal chaired by a High Court judge to review the cases of remaining administrative detainees is also a welcome reform. However, Amnesty International considers that these steps fall far short of what is required to guarantee respect for the human rights. In particular, Amnesty International is calling on the Malawian Government:

- to release all prisoners of conscience, that is all those imprisoned for their non-violent political, religious or other beliefs;
- to lift legal restrictions on the Jehovah's Witnesses and on independent political or trade union bodies, in order that their members or adherents should not face imprisonment;
- to ensure that all those arrested for political reasons are charged with recognizably criminal offences and brought to trial promptly and fairly;
- to repeal those provisions of the Penal Code and the Preservation of Public Security Regulations creating offences such as publishing information "harmful to the good name of Malawi", which serve to make the non-violent expression of conscientiously-held views a crime or allow for indefinite detention without trial;
- to abolish the powers of the "traditional courts" to try political and capital offences, to guarantee that all those charged with such offences have their cases heard before an independent and impartial court, to release prisoners of conscience, including Orton and Vera Chirwa, leaders of the opposition Malawi Freedom Movement, who are serving sentences imposed by the "traditional courts", and to commute the sentences of all those facing the death penalty;
- to issue clear public instructions forbidding torture and cruel, inhuman or degrading treatment or punishment by police or prison officials;
- to ensure that all deaths in custody are promptly investigated by an independent judicial authority as provided by the Inquests Act;
- to ensure that the conditions and practices in Malawian prisons are brought into line with the provisions of the United Nations Standard Minimum Rules for the Treatment of Prisoners, for example in forbidding the use of corporal punishment, leg-irons and the "dark cell";
- to establish an independent judicial commission of inquiry into the cruel, inhuman and degrading punishment of prisoners, notably in the "hard-core program" whereby prisoners at Nsanje and Dzeleka Prisons are severely beaten, chained naked to the

ground and denied food (described in detail in Amnesty International's March 1992 report, *Malawi: Prison conditions, cruel punishment and detention without trial*);

- to establish an independent judicial commission of inquiry into the deaths of more than 40 people at the hands of law enforcement officials in the course of disturbances in Blantyre on 6 and 7 May 1992.