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December 1994 United Kingdom

THE DEATH PENALTY IN MALAWI RECENT DEVELOPMENTS

The death penalty is mandatory in Malawi for prisoners convicted of murder or treason and is optional for rape. Anyone convicted of robbery with violence, house breaking or burglary must be sentenced either to death or to life imprisonment.

Statistics on the use of the death penalty are not readily available. It is believed that in recent years approximately 30 prisoners a year have been hanged, in groups, by an executioner from South Africa visiting three times a year. At least 12 prisoners were executed in 1992; Amnesty International has received no reports of executions in 1993 or 1994.

Until the beginning of October 1993 all cases in which the death penalty must or could be imposed were tried in the "traditional courts". The "traditional court" system is not in fact traditional but was established by the British colonial authorities to deal with minor cases and customary law disputes. Their jurisdiction was extended to include murder and rape in 1970 and was further extended in 1976 to include treason. Trials before these courts did not conform to international norms for a fair trial.

At the beginning of October 1993 the then Justice Minister and Attorney General, Mr Lovemore Munlo, suspended the National Appeal "traditional court" and the Regional "traditional courts" pending discussions between the government and the opposition in Malawi over reforms of the laws and the courts to make them consistent with international standards. As a result no new death sentences were passed and the procedures for dealing with appeals against death sentences were also suspended for review.

In his inauguration speech in May 1994 the new President of Malawi, Bakili Muluzi, commuted to life imprisonment the sentences of all those then under sentence of death - 120 cases in all. In his speech he said there would be a review of the use of the death penalty in Malawi. Since then, all capital cases have been moved from the "traditional courts" to the High Courts. In October 1994 trials of cases carrying the death penalty began again. Since then, at least two people are known to have been sentenced to death. There are believed to be over 120 cases currently pending of prisoners who face mandatory death sentences if convicted.

In the near future it is likely that the penal code will be revised. Amnesty International hopes that with the provisional constitution due to become permanent in May 1995 and the laws and the penal code being reviewed, Malawi will take this opportunity to join the other African states which in recent years have abolished the death penalty.

