Further information on UA 246/02(AFR 46/037/2002, 5 August 2002) - Health Concern

ZIMBABWE   Fletcher Dulini-Ncube (m), aged 62 (not 61, as previously stated)

On 8 August, Fletcher Dulini-Ncube was indicted for trial in relation to the abductions and murders of Cain Nkala and Limukani Luphahla, supporters of the ruling Zimbabwe African National Union - Patriotic Front (ZANU-PF) party. Shortly after the High Court decision was announced, prison officials went to the hospital where Fletcher Dulini-Ncube is under police guard. They removed his hospital clothes and replaced them with a prison uniform and leg irons.

The use of leg irons is in contravention of article 33 of the Standard Minimum Rules for the Treatment of Prisoners, which states that irons shall not be used as restraints.

Fletcher Dulini-Ncube suffers from severe hypertension and diabetes, and is recovering from the surgical removal of one eye. He has complied with all of his previous bail conditions. It therefore appears that any form of physical restraint on Fletcher Dulini-Ncube is unnecessary.

Amnesty International is concerned that the treatment of Fletcher Dulini-Ncube is also incompatible with Zimbabwe's international obligations under the International Covenant on Civil and Political Rights, and the African Charter on Human and People's Rights. Even though Fletcher Dulini-Ncube is facing criminal charges, he still retains all human rights and fundamental freedoms, including the right to be presumed innocent by a competent court or tribunal, and the right to humane treatment.

The High Court Judge presiding over the case decided to indict Fletcher Dulini-Ncube despite an appeal pending to the Supreme Court in relation to the indictment. The trial is scheduled for 11 November. Fletcher Dulini-Ncube has been granted permission to remain in hospital until his doctors determine that he is fit to leave. His lawyers filed papers at the High Court on 8 August seeking bail.

FURTHER RECOMMENDED ACTION: Please send appeals in English or in your own language:
- expressing concern that Fletcher Dulini-Ncube has been forced to wear leg irons while in hospital;
- reminding officials that this contravenes Article 33 of the Standard Minimum Rules for the Treatment of Prisonersunder the International Covenant on Civil and Political Rights, and the African Charter on Human and People's Rights, everyone, including Fletcher Dulini-Ncube, has the right to be treated humanely and presumed innocent until and unless convicted according to the law;
- urging officials to respect his right to health, life and liberty, including his right to bail;
- calling for Fletcher Dulini-Ncube to receive any access to medical care he may need in the future, in accordance with the Standard Minimum Rules for the Treatment of Prisoners.

APPEALS TO:

The Hon Andrew Chigovera

Office of the Attorney-General
PO Box 7714
Causeway
Harare

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Zimbabwe

Telegram: Attorney-General, Harare, Zimbabwe
Fax: + 263 4 790 901
Salutation: Dear Sir

The Hon Patrick Chinamasa
Minister of Justice, Legal and Parliamentary Affairs
Ministry of Justice, Legal and Parliamentary Affairs
5th Floor Corner House
Private Bag 7751
Causeway
Harare
Zimbabwe
Telegram: Minister of Justice, Harare, Zimbabwe
Fax: + 263 4 790901 / 772999
Salutation: Dear Minister

Mr Augustine Chihuri
Police Commissioner
Police Headquarters
PO Box 8807
Causeway
Harare
Zimbabwe
Telegram: Police Commissioner, Harare, Zimbabwe
Fax: + 263 4 253 212 / 728 768 / 772 033
Salutation: Dear Commissioner

COPIES TO:
The Hon John Nkomo
Minister of Home Affairs
Ministry of Home Affairs
11th Floor Mukwati Building
Private Bag 7703
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Telegram: Minister of Home Affairs, Harare, Zimbabwe
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and to diplomatic representatives of Zimbabwe accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 19 September 2002.