

EXTERNAL (for general distribution)

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Further information on UA 261/91 (AFR 36/07/91, 26 July 1991) - Fear of extrajudicial execution / cruel, inhuman or degrading punishment (Please note change of concern)

MALAWI

Orton CHIRWA, aged in his 70s, politician
CHIGWENEMBE, prison warder
KUMWENDA, prison warder
three adult children of Gwanda CHAKUAMBA PHIRI

and new names

Christopher MWENELUPEMBE
John NYENGA

Amnesty International fears for the safety of Orton Chirwa, Kumwenda, Christopher Mwenelupembe and John Nyenga, three of whom were imprisoned after being discovered smuggling letters out of a prison.

Orton Chirwa, a leader of the country's illegal opposition, is serving a life sentence for treason at Zomba Central Prison. Kumwenda, a prison warder, was arrested in May 1991 when police intercepted letters from Orton Chirwa. Christopher Mwenelupembe and John Nyenga are apparently supporters of Orton Chirwa who are alleged to have received the letters and smuggled them to neighbouring Tanzania. They were arrested at about the same time. Some reports suggest that Kumwenda, Christopher Mwenelupembe and John Nyenga have been killed in custody, but other information received by Amnesty International indicates that they are in fact detained in an underground cell at Kanengo Prison in Lilongwe. Although reports of their death are probably untrue, Amnesty International remains gravely concerned that they are in danger of torture or extrajudicial execution.

Orton Chirwa is reported to have been subjected to a special regime known as "cell punishment" after the letters were discovered. He was kept in his cell for two days, with both legs and arms in irons. He was forced to squat on the floor with arm and leg-irons chained to a metal rod behind his knees. He is reported still to be in an extremely poor physical condition as a result of this punishment.

Chigwenembe is thought to be held at Chichiri prison, Blantyre, and Amnesty International is investigating his case. Amnesty International is also continuing inquiries into the reported detention of the three adult children of Gwanda Chakuamba Phiri. No further action is requested from Urgent Action participants on their behalf.

BACKGROUND INFORMATION:

The United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted by the UN's Economic and Social Council in 1957 and again in 1977, state: "Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints" (Article

33).

Orton Chirwa, leader of the exiled Malawi Freedom Movement (MAFREMO), is serving a life sentence for treason. He and his wife, Vera Chirwa, were arrested in 1981 and tried in 1983 before a "traditional court" which denied them the most basic of guarantees for a fair trial. They were denied legal counsel or the right to call witnesses in their defence, and rules of evidence and jurisdiction were manipulated in favour of the

prosecution. They were convicted and sentenced to death, a decision which was upheld on appeal. However, after widespread international appeals on their behalf, Life-President Dr H. Kamuzu Banda commuted the sentences on Orton and Vera Chirwa to life-imprisonment. Amnesty International has adopted them as prisoners of conscience.

Political prisoners in Malawi are often denied the right to send and receive correspondence, although the UN Standard Minimum Rules state that prisoners should be allowed to communicate by correspondence both with their family and with some others (Article 37). It is not known whether Orton Chirwa was allowed to send correspondence out of the prison at the time that his letters were intercepted, although he has generally not been able to send or receive letters.

RECOMMENDED ACTION: Telegrams/telexes/faxes/express and airmail letters:

- seeking assurances of the safety and physical integrity of Kumwenda, Christopher Mwenelupembe and John Nyenga and urging that they be allowed visits from relatives and lawyers and medical practitioners of their choice;
- calling for the release of these three prisoners unless they are to be charged with a recognizably criminal offence and brought promptly to trial;
- condemning the use of arm and leg-irons in the "cell punishment" reportedly imposed on Orton Chirwa. Amnesty International considers this to be a form of cruel, inhuman or degrading punishment which is expressly forbidden by the UN Standard Minimum Rules for the Treatment of Prisoners;
- calling for the immediate and unconditional release of Orton Chirwa;
- seeking assurances that all prisoners held for political reasons are entitled to send and receive correspondence, subject to internationally recognized considerations of prison security.

APPEALS TO

1) H E The Life-President Ngwazi Dr H. Kamuzu Banda **Your Excellency**
 Life-President of the Republic of Malawi
 P/Bag 305
 Office of the President and Cabinet
 P/Bag 388, Lilongwe 3, Malawi
Telegrams: Life-President Banda, Lilongwe, Malawi
Telexes: 44389 PRES MI; or 44113 EXTERNAL MI
 (via Ministry of Foreign Affairs, attn: Life-President Banda)

2) Mr J.B. Villiera **Dear Attorney General**
 Attorney-General
 c/o Ministry of Justice
 P/Bag 333, Lilongwe 3
 Malawi
Telegrams: Attorney General Villiera, Lilongwe, Malawi
Telexes: 44766 (attn: Attorney General); or 44113 EXTERNAL MI
 (via Ministry of Foreign Affairs, attn: Attorney General)

COPIES TO:

Mr MacWilliam Lunguzi
 Inspector-General of Police
 P/Bag 305
 Lilongwe 3
 Malawi

The Commissioner of Prisons
 PO Box 28
 Zomba
 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 12 December 1991.