

## **News Release, 27<sup>th</sup> April 2007**

### **“30 saved from the death penalty in Malawi - The beginning of the end of the mandatory death penalty in Africa”**

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In a landmark judgment, the High Court of Malawi today declared unconstitutional the death sentences on all prisoners on death row.

In their unanimous judgment, the High Court ruled that the automatic nature of the death penalty in Malawi for murder and other offences violated the right to life and amounted to inhuman punishment, as it did not provide the individuals concerned with an opportunity to mitigate their death sentences. As a result, several dozen prisoners currently on death row, including the Applicant, Francis Kafantayeni, will fall to be re-sentenced with the death penalty as a possible, but only a possible option.

The legal team representing Mr Kafantayeni in the High Court included, Ralph Kasambira, John-Gift Mwakhwawa and Noel Chalamanda, Attorneys at Law and Redson Kapindu from the Malawi Human Rights Commission. They have been assisted by a team of UK lawyers comprising of Saul Lehrfreund MBE and Parvais Jabbar (who run the Death Penalty Project Ltd in association with Simons Muirhead & Burton, solicitors) and Keir Starmer QC and Joseph Middleton of Doughty Street Chambers. They travelled to Malawi on a number of occasions before the hearing to co-ordinate the case and assist with the drafting of legal arguments. In addition, they attended the hearing in the High Court. Their assistance was partly funded by the Global Opportunities Fund of the Foreign and Commonwealth Office, the United Nations Voluntary Fund for Victims of Torture and Doughty Street Chambers.

Saul Lehrfreund MBE, Parvais Jabbar, Keir Starmer QC and Joseph Middleton are part of a larger team that has been involved in successfully challenging the mandatory death penalty in nine Caribbean countries since 2000, and in Uganda in 2005, in a case which saved 417 prisoners from the death penalty.

Saul Lehrfreund MBE and Parvais Jabbar, human rights lawyers and Executive Directors of the Death Penalty Project state:-

*“The cases of at least thirty prisoners on death row in Malawi will now have to be reviewed. The implications for future murder trials will be the introduction of a completely new set of procedures restricting the imposition of the death penalty in the first instance. We are delighted with the jurisprudence from Uganda and other regions in the world has now been accepted in Malawi and that the decision reflects the notion that law should move progressively towards the greater protection of human rights. This decision is a milestone in the international campaign against the death penalty.”*

Keir Starmer QC, who last year won the Bar Council Award for outstanding commitment to death penalty cases, said:-

*“This is undoubtedly the beginning of the end of the mandatory death penalty in Africa. The implications for all English speaking jurisdictions around the world who retain the death penalty are profound”*

#### Notes to Editors

1. The Death Penalty Project Limited is an international human rights organisation providing free legal representation to many individuals still facing the death penalty in the Caribbean and Africa. The project receives generous support from the Sigrid Rausing Trust, the Oak Foundation, the UK Foreign & Commonwealth Office, Simons

Muirhead & Burton, solicitors and by a grant from the Foundation of the Open Society Institute.

2. For further information please contact Saul Lehrfreund or Parvais Jabbar, Executive Directors of the Death Penalty Project Ltd at Simons Muirhead & Burton or Keir Starmer QC, Joseph Middleton or Christine Kings (Practice Manager) at Doughty Street Chambers.

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