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Foreign and Commonwealth Office

London SW1A 2AH

17 July 1986

*Prime Minister*  
*Some more material*  
*on Commonwealth*  
*middle.*  
*FILE WITH CDF*

Dear Charles,

Thank you for your letter of 4 July.  
/ I enclose notes on detention without trial;  
one covering Commonwealth Africa and the  
other India and Sri Lanka.

Yours ever,

Colin Budd

(C R Budd)  
Private Secretary

C D Powell Esq  
PS/10 Downing Street

*Keep in office*  
*re*

COMMONWEALTH AFRICA: DETENTION WITHOUT TRIAL

1. Introduction

Currently the situation is much improved over 1985. The worst cases then, Uganda and Nigeria, have had changes of government and both now have governments which have markedly better policies and performance in human rights. In most other Commonwealth African countries there has been a movement towards imprisonment after trial and in these the number of past detentions has been limited and selective, not extensive. However, even trials in some countries are suspect and severe sentences have sometimes been imposed for obviously political reasons. The following examples illustrate the improvement. South African subversive and terrorist activities in the Front Line States appear to have contributed to internal tensions.

2. West Africa

- a. Nigeria. Over 500 politicians detained in early 1984 after December 1983 military coup. 250 released in October 1984, 144 more in December 1984, 85 in August 1985 before the 27 August military coup, another 87 after. Remainder, including the former President Shagari and his Vice-President, released July 1986, but they and some others remain restricted to their home areas. Over 1000 others (ie non-political) detainees also released since August 1985.
- b. Ghana. A small number of political dissidents are detained under the Preventative Detention Act 1982.
- c. Sierra Leone. About 200 detained at the end of 1983, reduced to 30 by the end of 1984.
- d. Gambia. Nil.

3. East Africa

- a. Uganda. About 2000 in detention without trial in 1984 of whom over 250 were political detainees detained under the Public Order and Security Act. Most of these were released in July 1985 after the overthrow of the Obote government. The new Museveni government which came to power in January 1986, has declared that all cases will be brought to trial.

/b. Kenya

- b. Kenya. Since 1966 up to 50 detainees have been held at any one time, including leading politicians under the Preservation of Public Security Act. After the death of President Kenyatta in 1978, these numbers were reduced but increased again after an attempted coup in August 1982. In January 1984 about 35 were in detention but only 3 by the end of 1984. From 1982 upwards a number of prisoners were convicted for possession of seditious documents and in 1986 there have been numerous arrests and convictions on this count. Currently the policy is to convict political offenders rather than to detain them without trial but at least two have been detained since 1982.
- c. Tanzania. There was strong Parliamentary pressure for the repeal of the Preventive Detention Act preceding the introduction of a new constitution in 1985. 24 people were detained in Zanzibar for a short time early in 1984. 14 people were detained in 1983 following the uncovering of a coup plot and released in April 1986. 19 others were brought to trial for the same plot of whom 9 were convicted and 10 acquitted. There are no known political detainees at present but a small number of politicians are in exile.
4. Central Africa
- a. Malawi. Detentions without trial were common until the mid-1970s when there was a marked improvement following a purge of police and Party. Few have been detained since but they include the leading opponents of the regime, Mr and Mrs Chirwa whose sentences of death were commuted in 1984 to life imprisonment. In 1983 they had been convicted by a traditional court in which they had no legal representation. 13 other detainees were freed in May 1984, including 4 who had attempted to form a political party. At least 4 others remained in detention at the end of 1984, when punitive detention of hard-core criminals who had completed their sentences was also reported.
- b. Zambia. At least 8 detentions took place in 1981 under the Preservation of Public Security Regulations after the discovery of an alleged plot against the government. 6 detainees were freed in 1984 but 2 remained in detention.

/c. Zimbabwe

c. Zimbabwe. Detentions reached a peak of about 400 in 1985, mostly members of the opposition parties. They were either held under Section 17 of the Emergency Powers (Maintenance of Law and Order) Regulations or held illegally, mostly at a Bulawayo detention camp, Stops Camp. Many of these detentions were for short terms of 30-40 days but the subjects were often maltreated. But following representations by Amnesty International fresh illegal detentions ceased and since December 1985 the number in detention has declined from 400 to about 150: on 9 July the Zimbabwe Government announced the release of a further 8 detainees - some of whom had been held since 1984 for suspected security offences. This improvement may reflect recognition by the Zimbabwe Government of its need to curb abuses of human rights if it is to be a credible critic of South African abuses.

5. Southern Africa

a. Lesotho. The Internal Security (General) Act permits detention for up to 42 days. Following the military take-over on 20 January, some members of the previous government have been confined to their homes, but in practice few restrictions have been placed on them. Several members of the Lesotho Parliamentary Force (now the Royal Lesotho Defence Force) have been detained since 17 January following a meeting. Three have died in detention. The new Lesotho authorities have promised a full enquiry and to make the findings public. 26 of the mutineers remain in detention and are appearing before a court martial.

## INDIA AND SRI LANKA: DETENTION WITHOUT TRIAL

### 1. India

a. A Government of India figure of 110,806 arrested during 1975-77 under Emergency regulations appears in "India: Government and Politics in a Developing Nation", by Robert Hardgrave, an American academic. Of the 110,806, 34,988 were detained under the Emergency Maintenance of Internal Security Act (MISA) and 75,818 under the Defence of India Rules. These figures are believed to be accurate. In April 1977 the GOI announced that 34,630 had been detained without trial under MISA during the Emergency. The Guardian of 25 November 1977, however, quoted a figure of 100,000 detained under MISA at the height of the Emergency.

b. Detention without trial is still permitted under the 1980 National Security Act when there is judged to be a threat to national security. Such detentions are subject to periodic judicial review: we do not know how many people are detained under this Act.

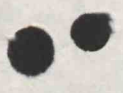
c. The Defence of India Rules for Preventive Detention can be invoked under the Defence of India Act of 1962. This Act was used during the Bangladesh war and during the 1975-77 state of emergency. Also a Terrorism and Disruption Activities Prevention Act appears to have been approved in 1985 for application in specific areas.

### 2. Sri Lanka

The 1979 Prevention of Terrorism Act permits detainees to be held for 18 months without trial. Most of those detained appear to be suspected of sympathy/or support for Tamil extremist groups. Amnesty International claimed (April 1986) that "hundreds of people had been arrested", particularly Tamils, in the North and East, and many had been held incommunicado for many months. We have no independent confirmation of these figures.

Amnesty also quoted reports of many arrests in other parts of the island in recent months, of Sinhalese as well as of Tamils. These were said to give details of more than 2,000 people who had been killed and more than 500 who had disappeared during 1985-86.

S. AFRICA  
RELATIONS  
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