

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning concerning **alleged threats, intimidation and defamation against human rights defenders Mr. MacDonald Sembereka and Mr. Gift Trapence and their organizations.**

Mr. **MacDonald Sembereka** is the national coordinator of the **Malawi Network of Religious Leaders Living or Personally Affected by with HIV/AIDS (MANERELA+)**, a network of religious leaders established to reduce stigma and discrimination in relation to persons living with HIV/AIDS. Mr. Sembereka was the subject of a previous communication sent to your Excellency's Government by various Special Procedures mandate-holders on 10 October 2011 (see A/HRC/19/44, case no. MWI 4/2011). While we welcome the prompt response from your Excellency's Government dated 17 October 2011, we regret that, to our knowledge, no investigation was carried out with regards to the arson attack at the home of Mr. Sembereka.

Mr. **Gift Trapence** is the executive director of the **Centre for the Development of People (CEDEP)**, a human rights organization dedicated to supporting and promoting the rights of groups at risk in Malawi through civic education, training, capacity-building and research.

According to the information received:

Since December 2014, MANERELA+ in conjunction with several other civil society organizations was involved in the organization of peaceful demonstrations in Malawi. On 13 January 2015, marches were organized in Mzuzu, Karonga and Lilongwe to protest a number of governance issues including diversion of funds away from the National Aids Commission. The demonstrations took place without incident and in a peaceful manner. According to sources, some of the demonstrators' signs were taken away from them by the authorities.

On 12 January 2015, a day before the demonstrations were to take place, the NGOs involved in organizing the demonstrations met with three government Ministers at the Office of the President and Cabinet (OPC). During the meeting, the Ministers allegedly attempted to dissuade the organizers from going ahead with the demonstrations. On the same day, at a press conference on the Malawi Broadcasting Corporation TV, the Minister of Gender, Children, Disability and Social Welfare allegedly threatened to deregister any NGO participating in the demonstrations. She also allegedly issued a directive to the NGO Board, a statutory body authorized by the NGO Act of 2000 to register and regulate the operations of civil society organizations, to deregister any participating NGO.

On 13 January 2015, a petition from 20 civil society organizations behind the protests referred to the Government's attempts to undermine the exercise of the rights to freedom of peaceful assembly and expression. According to the reports, Mr. Sembereka has received many anonymous threatening phone calls since December 2014, which are believed to come from supporters of the ruling party. Mr. Gift Trapence also received around 50 anonymous threatening phone calls over a two week period before the demonstrations on 13 January.

In addition to the intimidation and threats, certain state media outlets have allegedly engaged in a personal smear campaign against Mr. Sembereka and targeted MANERELA+ and CEDEP for their involvement in the demonstrations, labelling them as "stooges of the west".

Furthermore, MANERELA+'s offices have been broken into on several occasions and the organization had to relocate its offices as a safety precaution on 5 January 2015. In 2014, the offices of CEDEP in Lilongwe, Blantyre and Mangochi were also broken into and computers were stolen. Following these incidents, the offices in Lilongwe were relocated for security reasons.

Concern is expressed at the alleged threats and intimidation against Mr. MacDonald Sembereka, Mr. Gift Trapence and their organizations, as well as about their

safety and that of their families. We also express concern at the smear campaign against Mr. Sembereka and the two organizations. Further concern is expressed that this might result from their legitimate human rights work and their exercise of the right to peaceful assembly and to freedom of opinion and expression.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above, in particular articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Malawi in 1976.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, 6, 7 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Has a complaint been lodged by or on behalf of the alleged victims, in particular relative to the threats and intimidation, the break-in their premises and the media defamation campaign? Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, please explain why.
3. Please provide detailed information on the alleged directive by the Minister of Gender, Children, Disability and Social Welfare to "deregister" any NGO participating in the 13 January demonstrations, indicating how this is compatible with international human rights norms and standards, namely articles 19, 21 and 22 of the ICCPR.

4. Please indicate what measures have been taken to ensure that human rights defenders and members of associations in Malawi are able to carry out their peaceful and legitimate work, including the rights to freely associate, assemble, and express opinions, in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Michel Forst
Special Rapporteur on the situation of human rights defenders