

**Mandates of the Independent Expert on the enjoyment of human rights by persons with albinism; 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**

REFERENCE:  
UA MWI 2/2019

21 May 2019

Excellency,

We have the honour to address you in our capacity as Independent Expert on the enjoyment of human rights by persons with albinism; 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 37/5, 34/18, 32/32 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged threats, intimidation and defamation against human rights defender Mr. Timothy Mtambo in the context of the tripartite elections** scheduled for 21 May 2019.

**Mr. Timothy Mtambo**, is the Executive Director of the Centre for Human Rights and Rehabilitation (CHRR) in Lilongwe, and is also the Chairperson of the Human Rights Defenders Forum (HRDC) in Malawi.

The Centre for Human Rights and Rehabilitation (CHRR), established in 1995, is a human rights NGO working to contribute towards the protection, promotion and consolidation of good governance by empowering rural and urban communities in Malawi to increase awareness about and exercise of their rights through research, education, advocacy and networking.

According to the information received:

On Monday 13 May, just after midnight, at the Gutter's Bar in Lilongwe,

[REDACTED] verbally attacked Mr. Mtambo for his public criticisms against President Mutharika throughout his term. He further threatened Mr. Mtambo, shouting that "they" (presumed DPP cadets) have planned to "deal" with him and that "they" have made sure that the police would not intervene to protect Mr. Mtambo no matter how he tried, highlighting that the police were "under [them]" and that the state apparatus are "on [their] side". Furthermore, it is reported that [REDACTED] added:

“you’d better pray that the President loses [the elections], warning Mr. Mtambo that if DPP wins the elections, he will be the first “target” on the list of people they would “deal with” and that Malawi will be a dangerous place for him. Reportedly, ██████’s outbursts attracted attention and some bystanders tried to intervene to keep ██████ physically away from Mr. Mtambo.

It is reported that ██████ then filed a complaint with the police, alleging that Mr. Mtambo beat him unprovoked, along with six others, including the “bodyguards” of Mr. Lazarus Chakwera, a Presidential candidate for the Malawian Congress Party (MCP). On 14 May, Mr. Mtambo was told by an officer from the Criminal Investigations Department (CID) that he had come to the office premise of the Centre for Human Rights and Rehabilitation (CHRR) as he was being summoned to the police station in Area 3. Upon the advice of his lawyer, Mr. Mtambo reported to the police in Area 30. When his lawyers requested more information as to why Mr. Mtambo had been being summoned, the police officers present allegedly responded that he was no longer summoned as ██████ had admitted that Mr. Mtambo did not physically attack him. Reportedly, Mr. Mtambo was subsequently asked to make a statement to the police.

It is reported that in recent months, Mr. Mtambo has been particularly vocal on several human rights issues. On 6 March 2019, a peaceful assembly was organised in Lilongwe to demand action from the Government to end violence against persons with albinism. On 27 February 2019, Mr. Mtambo signed a letter addressed to the Malawi Police Service Commission demanding an investigation and arrest of police officers who were on duty when a suspect in the killing of a person with albinism died in police custody. When the Police Chief announced that a commission of inquiry over the murder of the suspect would be formed on the matter, Mr. Mtambo criticised the lack of independence of the Malawi Police Service in this inquiry. Following the publication of a report by the Malawi Human Rights Commission on that case, Mr. Mtambo also called for the arrest of the nine suspect police officers who had been mentioned in the report.

It is alleged that this incident is the latest in a series of reported attempts to intimidate and discredit Mr. Mtambo as the country was approaching the tripartite elections. It is reported that his name has been linked to the opposition, with the aim of undermining his credibility and that of HRDC by raising questions about their independence and impartiality, in the context of elections.

It is further reported that the personal safety of Mr. Mtambo, who is protected by security guards of the security firm G4S, since a petrol bomb was thrown at his home in August 2018, might be at risk, as these guards are all incidentally from Thyolo, where President Mutharika originates from, a factor which is said to be significant given the importance regionalism plays in political alliances in Malawi.

Mr. Mtambo alleges that the attempt to link him to opposition members is for the purpose of discrediting him publicly.

Concern is expressed at the alleged threats and intimidation against Mr. Timothy Mtambo which may be related to his human rights work and the exercise of his right to peaceful assembly and of association and to freedom of opinion and expression. Further concern is expressed at his safety and that of his family. We also express concerns at the reported smear campaign against Mr. Mtambo by the ruling party (DPP) and state media outlets in an attempt to damage his credibility as a human rights defender.

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), acceded to by Malawi 22 December 1993.

We remind your Excellency's Government of the duty under the ICCPR Article 19 in conjunction with Article 2, to put in place effective measures to protect against attacks aimed at those exercising their right to freedom of expression, CCPR/C/GC/34 para. 23. It requires States parties to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or entities, *Id.*, para. 7. Attacks, including threats to life should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims [...] be in receipt of appropriate forms of redress", *Id.* para. 23.

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](http://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 person(s) in compliance with international instruments.

As 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. Please provide information on the measures that have been taken to ensure the physical and psychological integrity of Mr. Timothy Mtambo.
3. Has a complaint been lodged by or on behalf of the alleged victim, in particular relative to the threats and intimidation 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 this case. If no inquiries have taken place, please explain why.
4. Please provide information about the measures taken to ensure that human rights defenders are able to carry out their peaceful and legitimate work in a safe and enabling environment, free from any physical or other harassment.
5. Please provide information about measures taken – specifically in the lead-up to elections – to ensure the security and safety of all persons living in Malawi, including persons with albinism?
6. Please provide information on measures taken to ensure timely and impartial investigations of killings and attacks against persons with albinism?

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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Ikponwosa Ero

Independent Expert on the enjoyment of human rights by persons with albinism

David Kaye

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Clement Nyaletsossi Voule  
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Michel Forst  
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