

Mandates of the Independent Expert on the enjoyment of human rights by persons with albinism; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacities as Independent Expert on the enjoyment of human rights by persons with albinism; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 37/5, 44/10, 44/5 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning human rights violations against persons with albinism including the **murder and dismemberment of Mr. Saidi Dyton; the abduction of a 1-year-old baby in Chikwawa; the attempted abductions of 9-year-old Ms. [REDACTED] in Nayuchi district, and a 12-year-old girl in Machinga district; and the discovery of body parts of a person with albinism in Mulanje.**

According to the information received:

Abduction of 1 year old baby girl

On 26 March 2021, at around 1:00am, a 1-year-old baby girl with albinism was abducted at Chikwawa district in southern Malawi. The baby's mother had awoken around this time to find her baby missing and she alerted community members about this. A search for the baby followed but was without success. To date, the baby's whereabouts are still unknown and the Malawi Police have issued a call for information and help from the public. A formal investigation is said to be ongoing.

Murder of Saidi Futon Dyton

On 1 February 2021 a 26-year-old man with albinism, Mr. Saidi Dyton, was abducted and brutally murdered for ritual purposes. He was reportedly killed on the evening of Wednesday, 27 January 2021 in his home village, Kadewere, and his disappearance was first reported to the police on Friday, 29 January. Three suspects were arrested later that day and confessed to his murder. One family member was amongst the arrested suspects, meaning that the perpetrators of the crime likely included someone he trusted. A fourth assailant is still at large. The suspects who were arrested said they intended to transport the body to the city of Zomba where it would be sold to an alleged buyer for use in "witchcraft".

Following the interrogation of the arrested suspects, the limbs of Mr. Dyton were found on the evening of Thursday, 4 February, buried in a maize garden in the village of Kadewere in Mangochi district, close to the home of one of the suspects. Mr. Dyton's arms, legs and genitals had been amputated, chopped into segments and wrapped in plastic bags before they were buried in a hole in the ground, almost six feet deep. The body parts were taken to Mangochi District Hospital Mortuary around 9pm local time. The following day, on Friday, 5 February, Mr. Dyton's head and torso were found at a separate burial site a few kilometers away from the initial gravesite. These had not been wrapped or sealed before burial, perhaps indicating the criminals' belief that they were not valuable body parts and would not therefore be later exhumed and sold to a buyer. A post-mortem examination was conducted on 5 February, revealing that all body parts had been recovered and none were missing. Mr. Dyton was buried at a funeral service, held on Saturday 6 February.

Attempted abductions

On 9 December 2020, ██████████, aged nine of Chinguwo village in Nayuchi, survived an attempted abduction around midnight.

Around 1 a.m. on 3 February 2021, in the Machinga district, a 12-year-old girl with albinism narrowly survived abduction by two unknown assailants who broke into her home. Entering through a window, the two men attempted to abduct the girl from her bedroom, where she was sleeping. As they tried to lift the girl from her bed, she realised they were intruders and shouted for help. Her mother, who was sleeping nearby, was awoken by the commotion and also shouted for help. As neighbours came to their assistance, the assailants ran away. Although an investigation has been launched, the identity and whereabouts of the assailants are currently unknown and no arrests have yet been made.

Discovery of body parts of person with albinism

On 17 November 2020, police personnel in Mulanje reportedly stopped two people on a motorcycle, in what appeared to be a random search and found they were carrying fresh human body parts of a person with albinism. The suspects however escaped the scene and have not yet been arrested. No disappearances of persons with albinism were reported to the Malawi Police at the time.

Serious concerns are expressed at the continuing human rights violations perpetrated against persons with albinism in Malawi, particularly the recent attacks, attempted abductions and the discovery of body parts which are believed to have possibly been trafficked or intended for witchcraft or ritual purposes. Between November 2020 and February 2021, the aforementioned violations occurred at an increased rate, indicating that there is an urgent need to accelerate actions to strengthen protection against persons with albinism.

We also express grave concerns that the COVID-19 pandemic has further fueled the recent attacks and killings under the mis-belief that ritual use of body parts of

persons with albinism can bring wealth and good luck. As such, we are seriously concerned that the physical and mental integrity of persons with albinism are threatened as they continue to live in fear of further attacks and killings.

While we do not wish to prejudge the accuracy of these facts 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 connection with the above information and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide detailed information on, and where available the results of, investigations, medical and other forensic examinations, and judicial or other inquiries carried out in relation to the abovementioned cases.
2. Please provide information on the measures that have been taken to strengthen protection of persons with albinism including the prevention of abductions, attacks and killings.
3. Please provide information on how the Government plans to tackle the root causes of the crimes perpetrated against persons with albinism, particularly during the current COVID-19 pandemic.
4. Please provide an update on the implementation of measures in the National Action Plan on albinism.

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.

While awaiting a reply, we encourage your Excellency's Government to continue applying due diligence in investigating and prosecuting the above allegations, as well as to take all necessary interim measures to prevent the re-occurrence of such alleged violations, protect the life, physical and mental integrity of persons with albinism, and to fight against the trafficking of body parts.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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

Gerard Quinn
Special Rapporteur on the rights of persons with disabilities

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we wish to draw your Excellency's Government's attention to article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights, to which Malawi acceded on 22 December 1993, which provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. We highlight Human Rights Committee, General Comment 36, which observes that the duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence, including persons with albinism, and must respond urgently and effectively in order to protect individuals who find themselves under a specific threat.

We would also like to draw the attention of your Excellency's Government to the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Malawi acceded to on 11 June 1996. Article 15 of the CAT provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

We would like to refer to the reviewed Standard Minimum Rules for the Treatment of Prisoners (as amended and adopted by the UN General Assembly on 5 November 2015 and renamed the "Mandela Rules") and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988. We recall that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. We also refer to paragraph 28 of the General Assembly resolution 68/156 (2014) which emphasizes that conditions of detention must respect the dignity and human rights of persons deprived of their liberty and calls upon States to address and prevent detention conditions that amount to torture or cruel, inhuman or degrading treatment or punishment.

We would also like to draw the attention of your Excellency's Government to Principle 15 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, " (1)aw enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened." (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). We further note that lethal force cannot be used in order to prevent the escape from custody of a suspected criminal or a convict who does not pose a serious and imminent threat to the lives or bodily integrity of others (Human Rights Committee, General Comment 36).

Human Rights Committee, General Comment 36, also notes that loss of life occurring in custody creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation that establishes the State's compliance with its obligations under article 6 and that investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent.

In relation to the death penalty, General Comment 36 of the Human Rights Committee states that the "violation of the fair trial guarantees provided for in article 14 of the Covenant in proceedings resulting in the imposition of the death penalty would render the sentence arbitrary in nature, and in violation of article 6 of the Covenant. Such violations might involve the use of forced confessions..."

We would also like to draw your attention to the provisions of the Convention on the Rights of Persons with Disabilities (CRPD), ratified by Malawi on 27 August 2009, and in particular on articles 10, 13 and 16. Article 10 reaffirms "that every human being has the inherent right to life" and requires State Parties to "take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others". Article 16 paragraph 1 of the CRPD requires State Parties to "protect persons with disabilities (...) from all forms of exploitation, violence and abuse, including their gender-based aspects". Paragraph 2 of Article 16 speaks directly to the obligation on States Parties to prevent violence, and paragraph 5 speaks to the necessity to end impunity and to ensure that instances of violence are identified, investigated and, where appropriate, prosecuted. Article 16 overlaps with and powerfully reinforces article 17 on the obligations to protect every person's physical and mental integrity." In addition, paragraph 4 stresses that "States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services."

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