

**Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

Ref.: AL MWI 1/2024  
(Please use this reference in your reply)

22 March 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 52/4 and 52/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of continued harassment, intimidation and threats against journalist and human rights defender **Mr. Gregory Gondwe**.

Mr. Gondwe is a distinguished investigative journalist and a prominent human rights defender from Malawi. He is editorial director of the Platform for Investigative Journalism (PIJ), a non-profit making entity that focuses on promoting transparency, accountability, and the rule of law through investigative journalism.

According to the information received:

On 31 January 2024, Mr. Gondwe was informed by "top ranking officials" that the Malawi Defence Force (MDF) intended to arrest him for "endangering state security" and to detain him incommunicado unless he revealed his sources for a report he published earlier that month. The report details allegations exposing the military's multi-million-dollar payments to companies owned by a businessman under investigation for corruption.

On 1 February 2024, Mr. Gondwe announced on Facebook that he had gone into hiding as a result of the risk of arrest and fear for his life, safety and security. According to reports, Mr. Gondwe's family have been under constant surveillance and subjected to harassment as a result of his work and recent hiding.

In a statement, the Malawi chapter of the regional press freedom body Media Institute of Southern Africa (MISA) said that it had received assurances from Attorney General and MDF Commander General that Mr. Gondwe would not be arrested.

This is not the first time Mr. Gondwe has been targeted as a result of his journalistic work. In April 2022, he was detained and questioned for several hours by police, which demanded that he reveals the sources for an article he wrote about alleged corruption between the military and the above-mentioned businessman.

Without prejudice to the accuracy of the information made available to us, we express our concern in relation to the acts of harassment, intimidation and threats of

arrest against Mr. Gondwe, which appear to be directly as a result of his legitimate work as an investigative journalist and human rights defender. We are alarmed that Mr. Gondwe has gone into hiding for fear of his life, safety and security.

We are deeply concerned that the threats against Mr. Gondwe take place in a context of acts of violence against human rights defenders, journalists and political activists who have been targeted for commenting or advocating on matters of public interest, with apparent no response from the authorities. These attacks represent a serious violation of the right to freedom of expression, and have a chilling effect on the ability of journalists and human rights defenders to carry out their legitimate work without fear of reprisal. We remind your Excellency's Government of its obligations as a signatory of international human rights treaties including the International Covenant on Civil and Political Rights and the African Charter on Human and People's Rights to respect, protect, promote, and fulfil the human rights of everyone in the country including the rights to freedom of expression, association and press freedom.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please outline the measures your Excellency's Government is taking to ensure the safety and security of Mr. Gondwe, so that he can return from hiding and continue his work as an investigative journalist and human rights defender.
3. Please indicate what measures have been taken to ensure that human rights defenders and other civil society actors in Malawi are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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

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(s) responsible for the alleged violations.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by Malawi on 22 December 1993.

We would like to refer to the International Covenant on Civil and Political Rights (ICCPR), in particular to articles 6 and 19, which establish the rights to life, liberty and security of the person, the right to freedom of expression.

The right to security of person refers to protection against physical or psychological injury, or physical and moral integrity, and obliges States parties to take appropriate measures to protect individuals from foreseeable threats to their life or physical integrity from any State or private actor. As the Human Rights Committee has emphasized in its general comment No. 35, States parties should respond appropriately to patterns of violence against certain categories of victims, such as intimidation of human rights defenders (CCPR/C/GC/35, para. 9). Similarly, in its General Comment No. 36 on the right to life enshrined in Article 6 of the ICCPR, the Human Rights Committee found that the duty to protect the right to life requires States Parties to adopt special measures of protection for persons in vulnerable situations whose lives are at particular risk due to pre-existing patterns of violence. This includes, of course, human rights defenders (CCPR/G/GC/36, paragraphs 23 and 53).

In its General Comment 6, paragraph 3, the Human Rights Committee noted that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts. In addition, in its General Comment No. 31, the Committee stated that there is a positive obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by private persons or entities, which includes the duty to take appropriate measures to prevent, investigate, prosecute and punish those responsible and repair the damage caused by private persons or entities (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

Under article 19 of the ICCPR, which guarantees the right to freedom of opinion, and the right to freedom of expression, subject to the strict limitations of Article 19 paragraph 3. The right to freedom of expression includes the right to seek, receive and impart information and ideas of all kinds, which not only applies to information that is favourable, but also to information that may shock or offend. Any restriction to the rights under article 19(2) must pursue a legitimate aim, in accordance with a law that is sufficiently clear, and conform to the requirements of necessity and proportionality. As established by the Human Rights Committee in its general comment 34, any State party seeking to invoke a legitimate ground for restriction of

freedom of expression on the basis of a perceived threat to national security or public order, must demonstrate in specific and individualised fashion the precise nature of the threat and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat (CCPR/C/GC/34, para 35). As mentioned above, and repeatedly underlined in previous communications, we further emphasise that attacks against individuals, such as through arbitrary detention and criminalisation, for the exercise of freedom of expression is incompatible with the Covenant.

Finally, we would like to refer to articles 4, 5, 6 and 7 of the African Charter on Human and Peoples' Rights (African Charter), ratified by Malawi on 17 November 1989, which guarantee respectively that every human being shall be entitled to respect for his life and the integrity of his person, all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited, shall have the right to liberty and to the security of his person and shall have the right to have his cause heard.

We would like to refer your Excellency's Government to the fundamental principles set forth in 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, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.