

URGENT APPEAL - THE OBSERVATORY

MWI 001 / 0311 / OBS 045

Threats /

Reprisals following communication with an international body

Malawi

March 24, 2011

The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), requests your urgent intervention in the following situation in **Malawi**.

Description of the situation:

The Observatory was informed by reliable sources of the condemnation (see below) by the President of the Republic of Malawi of communications made by Malawian human rights organisations, including the Centre for Human Rights and Rehabilitation (CHRR), to the United Nations (UN) Human Rights Council and to the UN Special Rapporteur on the situation of human rights defenders, as well as of the subsequent death threats received by Mr. **Undule Mwakasungula**, Executive Director of the CHRR and Chair of the Human Rights Consultative Committee (HRCC), a coalition of more than 90 organisations.

According to the information received, on March 9, 2011, the Civil Society Grand Coalition for the Defense of Democracy and Good Governance, a coalition of Malawi human rights organisations, which includes the Centre for Development of people (CEDEP) and the CHRR, presented a petition to the UN Special Rapporteur on the situation of human rights defenders. The petition was asking her to investigate the imminent dangers faced by human rights defenders in Malawi, and to advise the UN to condemn the Malawian government and to inform the International Criminal Court of human rights violations in the country.

On March 16, 2011, Mr. **Levi Mvula**, Programme Manager of the CHRR, and Mr. **Gift Trapence**, Executive Director of the CEDEP, made a statement on the issues of governance and human rights abuses in Malawi at the 16th session of the UN Human Rights Council in Geneva, Switzerland.

Following the statement, the President of the Republic of Malawi, Mr. Bingu wa Mutharika, allegedly expressed his disapproval regarding those communications to UN human rights mechanisms. On March 18, 2011, as he was commissioning a confectionery factory in Limbe, Blantyre, he allegedly stated that a group of fifteen people was “roaming” in Europe, claiming that there are violations of human rights in Malawi. He allegedly said that he was waiting for those people to come back to Malawi and to present their agenda. On March 20, 2011, at a political meeting held in Mangochi, the President reportedly expressed that non-governmental organisations were working against national interest by informing the international community on rights abuses in Malawi. The President also singled out Mr. Undule Mwakasungula as leading the civil society in telling lies to donors on human rights and governance in Malawi.

According to the information received, the same day, on March 20, 2011, Mr. Undule Mwakasungula received two phone calls from unknown individuals. In the first call, he was allegedly accused of tarnishing the government’s image and undermining the good work of the President, and warned that the ruling party and government would “deal with him at all cost”. In the second call, the unknown interlocutor warned him that he would be “slaughtered” if he was not careful, and accused him of carrying out his work to dismiss a potential candidate at the next presidential elections. He further accused him of misinforming the donors on human rights and governance situation in Malawi. Mr. Mwakasungula has filed a complaint at the police station but no-one has been arrested yet.

The Observatory expresses its deepest concern regarding the acts of harassment faced by Mr. Undule Mwakasungula and the stigmatisation of the work of human rights organisations of Malawi, as they seem to merely aim at sanctioning their human rights activities.

The Observatory further condemns the alleged statements made by the Malawian President against human rights NGOs communicating with international human rights bodies.

The Observatory recalls that such statements are in violation of article 5(c) of the Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, which states that “For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels to communicate with non-governmental or intergovernmental organisations.”

The Observatory further recalls the Resolution 12/2 on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, adopted by the Human Rights Council on October 12, 2009. Its article 1 urges “Governments to prevent and refrain from all acts of intimidation or reprisal against those who (a) Seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them; (...) (c) Submit or have submitted communications under procedures established by human rights instruments, and all those who have provided legal or other assistance to them for this purpose”.

Background information:

On February 14, 2011, Malawi Police and Lilongwe City Assembly stopped human rights NGOs and civil society organisations from holding a peaceful march in Lilongwe City on the 2 year-long escalating fuel crisis and deterioration of good governance in Malawi, in spite of prior demand to obtain the authorisation of assembly from the Lilongwe City Assembly, more than 48 hours in advance, as required by the Police Services Act amended in 2010. The authorities stated that the purpose of the assembly was not valid.

On February 23, 2011, the President of Malawi invited some civil society organisations leaders to his State residence to warn them that he would mobilise his political party members to stop any civil society demonstrations aimed at any dissenting views from him or his government.

Following this incident, human rights defenders, including Mr. Undule Mwakasungula, reported that they have been receiving threats, including anonymous phone calls and text messages asking the location of their offices and homes.

In addition, the HRCC received a letter dated March 2, 2011, signed by the National Youth Forum threatening to close down their offices and its leadership.

On March 3, 2011, four unknown individuals driving a saloon car, equipped with knives and gallons of petrol, broke into CHRR offices and demanded that the guard takes them to Mr. Mwakasungula’s home. The guard was reportedly beaten and abandoned away of the office after he told them wrong directions to Mr. Mwakasungula house.

On March 6, 2011 the President of Malawi held a public mass rally for the Democratic Progressive Party in Blantyre, broadcasted on the national television and radio, during which he allegedly told his party supporters to fight and crush all those who were opposing his views or criticising the Malawi government on issues of human rights, democracy and governance.

On March 7 , 2011, senior party officials from the ruling Democratic Progressive Party held a press conference where they reportedly defended the President's instructions to attack everyone with dissenting views. During the press conference, the officials stated that the President statement did not mean that his critics should be attacked from dissent.

Actions requested:

The Observatory urges the authorities of Malawi to:

- i. Guarantee in all circumstances the physical and psychological integrity of Mr. Undule Mwakasungula and of all human rights defenders in Malawi;
- ii. Refrain from stigmatising and discrediting the peaceful and legitimate activities of human rights defenders and ensure that they can work in a safe environment without fear of being prosecuted for criticising Government policy or Government officials.
- iii. Order an immediate, thorough, effective and impartial investigation into the threats against Mr. Undule Mwakasungula, the result of which must be made public, in order to identify all those responsible, bring them before a civil competent and impartial tribunal and apply to them the penal sanctions provided by the law;
- iv. Conform to the provisions of the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, especially:
 - Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”;
 - Article 5(c), which states that “For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels (...) to communicate with non-governmental or intergovernmental organisations”;
 - Article 6(a), which provides that “everyone has the right, individually and in associations with others, to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms”;
 - and Article 12.2, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.
- v. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Malawi.

Addresses:

- HE Dr. Bingu wa Mutharika, President of the Republic of Malawi, Office of the President and Cabinet, Private Bag 301, Capital City, Lilongwe 3, Malawi. Fax: +265 1 788 456; +265 1 789 273.
- Hon. Joyce Banda MP, Vice-President of the Republic of Malawi, Capital City, PO Box 30399 , Lilongwe 3. Fax: +265 1 788218, Email : vicepres@malawi.gov.mw

- Hon. Aaron Sangala, Minister of Home Affairs and Internal Security, Ministry of Home Affairs and Internal Security, Private Bag 331, Capital City, Lilongwe 3, Malawi. Fax: +265 1 789 509.
- Hon. Dr. George Chabonda MP, Minister of Justice and Constitutional Affairs, Ministry of Justice Headquarters, Capital Hill, Private Bag 333, Lilongwe 3, Malawi. Fax: +265 1 788 332/841 ; E-mail: justice@malawi.gov.mw
- Peter Mukhito, Inspector General of Police, Malawi Police services Headquarters, Lilongwe. Fax: + 265 1 797 979.
- John Kapito, Chairperson of the Malawi National Human Rights Commission, H.B. House, Private Bag 378, Capital City, Lilongwe 3, Malawi. Fax: +265 01 750 943, Email: info@malawihrc.org;
- Embassy of the Republic of Malawi in Brussels, Rue de la Loi 15 , 1040 Brussels, Belgium, Fax: +32 2 231 10 66.

Please also write to the diplomatic representations of Malawi in your respective countries.

Geneva-Paris, March 24, 2011

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory, an OMCT and FIDH venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need.

To contact the Observatory, call the emergency line:

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