



## **MALAWI:**

**Submission to the 61<sup>st</sup> Ordinary Session of African Commission on Human and People's Right**

### **CHRR AND CEDEP STATEMENT AT THE 61ST SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

**BANJUL**

**November 2017**

**Your Excellency Madam Chairperson, Honorable Commissioners, State delegates, representatives of National Human Rights Institutions, esteemed fellow representatives of Civil Society Organizations, Ladies and Gentlemen,** on behalf of the Centre for Human Rights and Rehabilitation (CHRR) and Center for Development of People (CEDEP), I would like to thank you for granting us this opportunity to address the 61<sup>st</sup> Session of the African Commission on Human and Peoples' Rights on the situation of human rights in Malawi.

This is a special moment because the commission is commemorating its 30<sup>th</sup> anniversary of its noble service of protecting, promoting and defending human and peoples' rights on the continent. The ACHPR is a success story, I salute our founding fathers and mothers and all the commissioners present and former for the invaluable service they have rendered to the African Continent.

**To begin with Madam Chairperson, Ladies and gentlemen,** allow me to express our heartfelt gratitude for the presence of the Malawi Government and the Malawi Human Rights Commission. The fact that my government is here with us is a demonstration beyond measure that the government is committed to the honorable commission which is our golden hub in advancing humanity and justice in our lovely continent. Beyond this, the state has in recent years passed a number of progressive laws and policies for the protection and promotion of human and peoples' rights of the people of Malawi. To mention but a few, gender and child related laws, the disability act, the trafficking in persons act, the marriage act, the access to information act, the national human rights action plan and the establishment of the human rights unit in the ministry of justice. This is progress madam chair! It is our hope and appeal that the State will continue and remain true to these sacred obligations. Let me single out the human rights Unit for the great job it is doing in mobilizing all stakeholders in Malawi for the advancement of human and peoples' rights of our people.

**This said Madam Chairperson**, let me borrow the wise words said yesterday by the wise and dynamic leader, the new president of the new Gambia His Excellency Adama Barrow, the reformist, that passing Laws and signing to the human rights treaties is not an end in itself but the means, the end lies in the implementation by developing necessary institutions, policies and programmes for the advancement of justice and humanity the very essence the Commission and governments were created for. We therefore, appeal to our government to ensure that these laws, policies and institutions established are operational and properly funded: For instance we have the Legal Aid Bureau which is under-staffed and under-funded, we have progressive gender related laws but in the recent past, cases of gender based violence in Malawi have escalated, the human rights action plan was finalized but up-to date, it has not yet been adopted and it is not operational, the establishment and operationalization of the police complaints commission has taken more than long time, we have the anti-corruption bureau yet corruption cases have escalated in recent times and its independence is sometimes questionable . These are bad indicators but we believe our government can work on this. **We urge the commission to continue encouraging the Government of Malawi to continue with the good measures it has initiated in safeguarding fundamental rights and freedoms by walking the talk through implementation.**

Further to this, **Madam Chairperson, honorable Commissioner, ladies and gentlemen**, allow me to make the follow few submissions which our government needs to consider seriously:

- a. We commend our government and stakeholders for a great job they have done in fighting the barbaric and inhuman experiences people with albinism were facing in the country. The killing and abduction of people with albinism was the worst experience which greeted our great country. Thanks to the efforts coordinated by the government, the cases have drastically reduced and we are moving towards the eradication of this malpractice.
- b. However madam chairperson, we have been greeted by another unconceivable experience about the gruesome murder of people suspected to be blood suckers. This is an issue which remains more mythical than real. Sadly, we have lost about 8 lives of innocent people in the districts of Thyolo, Chiradzulu, Phalombe, Mulanje, Nsanje and Blantyre for being suspected to be blood suckers. We would like to thank the government for the efforts being made so far in ensuring that this myth should be cleared and that those responsible for acts of mob justice should face justice. We call upon the government to increase security in the affected districts.
- c. The government should put plans and strategies in addressing other serious human rights issues such as poor conditions in prisons, corruption, shortage of drugs in health facilities, and electricity challenges which continue to affect the social and economic rights of the people in Malawi
- d. The government should, as a matter of urgency, bring to book those responsible for the brutal murder of one of directors of the Anti-corruption Bureau, the late Mr. Issa Njaunju and a student activist Robert Chasowa. These are issues that have taken suspiciously too long to be brought to an end: and are typical cases of justice denied is justice delayed.
- e. Madam chairperson, we can only describe it as unfortunate, our Government's decision to direct the Malawi Human Rights Commission, an institution which is mandated to safeguard the rights of all the people in Malawi, to conduct a public enquiry on the rights of the LGBTI. We consider this unfortunate and a slap in the face for the good work the government is doing in the country. Human Rights issues should never be subjected to any form of a popular vote or opinion such as referendum and public enquiry. The directive by the government for the human rights commission to conduct a public inquiry on LGBTI will reinforce human rights violations against LGBTI persons. This is not only inconsistent with human rights principles but also our constitution and resolution 275 of the African Commission on Human and Peoples' Rights. We appeal to the commission to

impress it on the state party to desist from this majoritarian application of human rights and remain true to resolution 275 of the ACHPR. We are happy that the MHRC has started reviewing the concept so that it focuses on documenting the violations faced by members of the LGBTI community. This is commendable because it is in-line with one of the landmark United Nation's Universal Periodic Review (UPR) recommendations Malawi accepted during its last UPR.

**Madam Chairperson**, I will be doing a disservice to the cause if I do not raise our concerns on the shrinking political and civic space in Malawi. Recently, we have had cases of political violence between members of the ruling party and the opposition which has left many injured and in search for justice albeit to no avail. There have also been threats and unlawful arrests of people for demanding their rights: for instance, recently, 7 citizens working for the National Registration Bureau were unlawfully arrested in Mzuzu City after an order by the minister of internal affairs. Their trumped up crime was assembling to discuss the way forward to have their salaries which they were not being paid in time. This was a breach of labour rights. Public institutions such as the Malawi Communications Regulatory Authority (MACRA), the Malawi Revenue Authority (MRA), Non Governmental Organisations (NGO) Board and the Anti Corruption Bureau have time and again been used to silence political and human rights activists as well as media houses that have vigilantly reported on corruption. As I speak, government has drafted an NGO policy and an amendment to the NGO Act of 2001 which if adopted and passed as they are will have a negative impact on the operation of NGOs and activists in the country.

- We urge Malawi government to depoliticize the state governance institutions such as MACRA, Malawi Broadcasting Corporation, Malawi NGO Board and Anti-corruption Bureau which have been used as vehicles to stifle the civil and political space.
- We further appeal to Malawi government to review the draft NGO policy and NGO Bill so that they are in line with international best practices of NGO policies and laws. In a democracy NGO policies and laws should aim at strengthening NGOs and expanding the Civic space rather than the opposite.

**In conclusion Madam Chair, we further call upon the Commission to urge the Government of Malawi to give serious attention to:**

- Reform the Anti-corruption Bureau for its complete independence by making the Bureau to report to parliament rather than the executive as it is now.
- Investigating and bringing to book persons who were responsible for arbitrary arrests, death threats and arson of offices and homes of various human rights and political activists in Malawi from 2009 to 2012? This includes the July 20 brutal killing of innocent and unarmed citizens! For sure we should not allow impunity go unpunished by all means. This will set a bad precedent for our country!!
- Passing the overdue HIV and AIDS bill into law.
- Operationalise the Independent Police Complaints Commission established under the new Police Act?
- Expedite the operationalisation and implementation of the access to information act.

**I thank you for your kind and undivided attention:** May the heavens shower Africa with endless blessings of freedom, peace, love, development and justice.