

MALAWI HUMAN RIGHTS COMMISSION



STATEMENT ON VIOLENT DEMONSTRATIONS AND A CALL FOR RESPONSIBLE DEMONSTRATIONS AND PROTESTS

The Human Rights Commission (the Commission) is greatly concerned with continued incidences of election related violence that have continued in some parts of the country for the past five months. The country seems to be slowly degenerating into lawlessness and anarchy. Spontaneous mass protests are becoming the order of the day, with massive destruction to property and personal injuries to innocent persons, both civilians and law enforcement officers. These have negatively impacted on the enjoyment of rights of many people. The Commission condemns this lawlessness and calls upon all stakeholders to reflect on the situation and take appropriate steps towards restoring peace, law and order.

The Commission has learnt of the unfortunate killing of Superintendent Imedi, a police officer, who was brutally killed on Tuesday, 8th October 2019, by protesters while on duty at Msundwe in Lilongwe. In the previous weeks and months, the Commission has also learnt of the death of a child at Queen Elizabeth Central Hospital as a result of teargas by Police and the death of Justin Phiri at Mzuzu prison. The Commission has also observed the brutal beating of Mr. Billy Mayaya during the demonstrations in Blantyre and also the injuries suffered by the Malawi Defence Force (MDF) soldiers while controlling protests in Karonga.

We take judicial notice of the recent Supreme Court Ruling on demonstrations which has recognized the right to demonstrate as provided for in the Constitution of the Republic of Malawi (the Constitution). Over and above the right to demonstrate the Constitution provides for other rights i.e. the right to life, the right to economic activity and access to justice and legal remedy.

Section 16 of the Constitution expressly states that every person shall have the right to life and that no person shall be arbitrarily deprived of his right. The death of Superintendent Imedi as a result of stoning by protestors, the death of Justin Phiri as a result of beating by the police and the death of a child at Queen Elizabeth Central hospital amounts to arbitrary deprivation of the right to life. These are matters that the Human Rights Commission will ensure that justice prevails.

Section 28 of the Constitution provides for the right to property and prohibits any arbitrary deprivation to it. Section 29 of the said Constitution provides a right to fully engage in economic activity. Most of the demonstrations have turned violent, resulting in looting of property and beating of some persons. In almost all the major cities government offices were targeted and vandalised. Destruction of property has also affected privately owned business premises. During the protests, there has been obstruction of traffic in some roads, particularly in cities and other urban areas. Motorists and travellers have been forced to pay money in order for them to be allowed access. People have been threatened and harassed, thereby preventing them from going to work or their businesses. In fact

most businesses including banks have actually failed to open their premises for fear of being attacked and vandalized.

Almost concurrent to these demonstrations and protests, there have been serial attacks on premises of human rights activists and politicians. Notably, the house of Mr Timothy Mtambo, Mr Moses Kunkuyu, the MCP Regional Offices in Blantyre and DPP offices in Mzuzu and Ntchisi have also been target of arson attacks.

Section 42 of the Constitution provides for the right to a fair trial and the right to be presumed innocent. Section 19 (3) prohibits torture, cruel inhuman or degrading treatment or punishment of any person. There are allegations that the police in the process of addressing the after effects of the violent demonstration are effecting arbitrary arrests and those arrested are being subjected to cruel treatment.

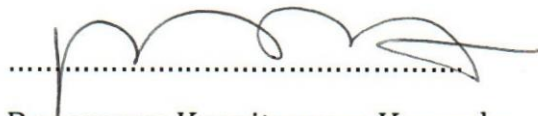
The Commission unreservedly condemns all these violations of human rights. Much as the citizens have a right to demonstrate, they have to do so within the law and without infringing upon other people's rights. Similarly in trying to preserve peace or conduct investigations, the Police are supposed to do so within the law and not violate people's rights.

The Commission has observed that much as the bulk of the demonstrations are premised on the May 2019 Elections. However, the Commission recognizes that there are some other underlying issues relating to unemployment, social justice, governance and social inequality. The Commission strongly believes that the solution lies in using the available legal frameworks to address the injustices but also a sincere and

constructive dialogue, not violence. Violence breeds violence. This country cannot afford to lose more lives to violence, neither can it afford to put at risk its already vulnerable economy.

The Commission calls upon all leaders to embrace peace. The Commission is ready to provide the guidance on the path towards peace. Peace must be embraced by all the sections of society including the State, Political Parties, Civil Society, Religious Bodies, Traditional Leaders and the Media. As part of this process, the Commission will in the next few weeks embark on quiet diplomacy. It will reach out to all stakeholders including the State, Political Parties, Religious Leaders, Civil Society, Traditional Leaders as well as Development Partners.

The Commission calls for unity for all Malawians. One Malawi one People.



Rosemary Kunitsonyo Kanyuka

COMMISSIONER



Martha Chizuma

COMMISSIONER

Dated this 10th Day of October 2019