

15 July 2019

Malawi: Judicial harassment of Human Rights Defenders Gift Trapence and McDonald Sembereka

On 12 July, **Gift Trapence** and **McDonald Sembereka** were granted bail after being detained for 48 hours. They were arrested in Lilongwe by Malawi Police on allegations of operating an illegal NGO, despite the fact that their NGO is duly registered under the Companies Act. Gift Trapence and McDonald Sembereka have been organising demonstrations demanding the resignation of Jane Ansajh, the Chairperson of Malawi Electoral Commission for alleged irregularities in the elections held on 21 May 2019.

Gift Trapence is a human rights defender and deputy chairperson of the Human Rights Defenders Coalition (HRDC) which promotes citizen participation and organises peaceful demonstrations denouncing alleged irregularities in the presidential elections in May 2019.

Reverend MacDonald Sembereka a human rights defender and coordinates the Human Rights Consultative Committee (HRCC), a network of local civil society organisations working on the accountability of government officials and promoting civil and political rights.

On 12 July, Gift Trapence and McDonald Sembereka were granted bail by the Lilongwe Chief Resident Magistrate, Violet Chipawo in Lilongwe. Stringent conditions were attached to the bail, they were asked to pay a bail bond of one million Kwacha (1162 EUR) each, surrender all travel documents to the police, and report to the police every second Friday.

Their detention is part of a pattern of harassment of human rights defenders following demonstrations denouncing alleged irregularities in the presidential elections held on 21 May 2019. On 5 July 2019, Madalitso Banda, a grass roots human right defender from Zomba, was forced to flee his home after he found an unexploded petrol bomb near his house. Madalitso Banda had received repeated threats to his life and his family.

During the demonstrations on 5 July 2019, 10 human right defenders in the Rumphu district and 29 in Muzuzu city were arrested by the Malawi Police. The human rights defenders have been charged under section 181 of the Penal code with “conduct likely to cause a breach of the peace”.

While the demonstrations have been largely peaceful, in some parts of the country they have turned violent, the HRDC has been distancing itself from the violent incidents and stated that those who engaged in violent acts in the course of the demonstrations were not part of the protests, but criminals who had infiltrated the protests. Despite condemning violence, the HRDC risks lawsuits in compensation claims from the government and private citizens following damage to property that occurred during the demonstrations. On 8 July 2019, the Ministry of Homeland Security directed government ministries, departments and agencies to claim for damages to property from organisers of demonstrations.

Front Line Defenders is deeply concerned about the crack down on human rights defenders and protestors in Malawi, as it believes that they are solely motivated by their legitimate activities in defence of human rights and the promotion of democratic values.

Front Line Defenders urges the authorities in Malawi to:

1. Drop all charges against Gift Trapence, Reverend McDonald Sembereka and release all human rights defenders arrested in connection of the peaceful demonstrations in Malawi

2. Cease targeting human rights defenders in Malawi and guarantee in all circumstances that they are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions.

Front Line Defenders respectfully reminds you that the United Nations Declaration on the Right and Responsibility of Individuals Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by consensus by the UN General Assembly on 9 December 1998, recognises the legitimacy of the activities of human rights defenders, their right to freedom of association and to carry out their activities without fear of reprisals. We would particularly draw your attention to Article 5: *“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: (a) To meet or assemble peacefully”* and Article 12 (2): *“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, threat, 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.”*

Please inform us of any actions that may be taken with regard to the above case.

Yours sincerely,



Andrew Anderson
Executive Director