



Johannesburg and Kampala: 12 July 2019

Malawi: An Urgent Appeal to Release Mr. Gift Trapence and McDonald Sembereka.

The Southern Africa Human Rights Defenders Network (SAHRDN) jointly with the Pan African Human Rights Defenders Network (AfricanDefenders) call on the Malawi authorities to immediately release two detained human rights defenders (HRDs) . Gift Trapence and McDonald Sembereka. Mr. Trapence is the Vice-Chairperson of the Malawi Human Rights Defenders Coalition (HRDC) and the Executive Director of the Centre for the Development of People (CEDEP), a Malawian civil society organization while Mr Sembereka is currently not affiliated to any organisation but works closely with the HRDC.

“The brazen persecution of HRDs, legitimate political opponents and democracy actors that seems to becoming commonplace in Malawi must stop forthwith” stated Arnold Tsunga the Chairperson of the SAHRDN and Africa Director at the International Commission of Jurists. “Such persecution as physical attacks, arbitrary arrests and detentions, torture, inhuman and degrading treatment and de-legitimisation through trumped up charges and character assassination among others have no place in a democratic society” he added.

On 8 July the Malawi police arrested and detained Mr Trapence and Mr Sembereka. Mr Trapence was charged with operating an unregistered NGO without the permission of the NGO Board. Kaajal Ramjathan-Keogh the Executive Director of the Southern Africa Litigation Centre (SALC) and Board member at the SAHRDN stated that “The only offence created under the under the Malawi Non-governmental Organisations Act, 2000, is found in section 34 which reads:

‘An NGO which contravenes the provisions of Act shall be guilty of an offence and liable on conviction to a fine of K50,000.00 or an amount equivalent to the financial gains generated by the offence whichever is the greater.’

Therefore, under the NGO Act, at most the organisation could face a fine for being operated as an unregistered NGO, but there is no personal liability for operating or

being a member of an unregistered NGO. Personal liability for the operation of an unregistered organisation would be a limitation on freedom of Association.”

Ramjathan-Keogh added. “It is therefore not a convincing basis to detain any individual even if the organisation has contravened Section 34 of the allegations could be proved to be true in a court of law”. Further there are no reasons to refuse bail.

The two HRDs were also charged with fraud allegedly committed against UNAIDS. UNAIDS have in turn expressed no desire for the HRDs to be prosecuted and proceeded in a statement issued this week to condemn the use of their name as a basis to arrest and detain the two HRDs further calling on the authorities in Malawi to immediately release of the two HRDs. “This tends to show that these charges are not serious and are being used as a tool to silence human rights defenders” argued Lúcia Da Silveira the Executive Director Associacao Justica Paz e Democracia (AJPD), Angola and member of the SAHRDN board.

Malawi held general elections in May 2019 that produced a contested result that has thrust the country into turmoil. The HRDC and other groups have called on the authorities to account for the controversial way in which the elections were conducted. The leadership of the HRDC including Mr Trapence have reported to the SAHRDN and the AfricanDefenders of receiving threats - including death threats, threats of arrests and threats of being financially liquidated- for their role in demanding accountability in the way the election process was managed. Such threats have been documented by the SAHRDN and AfricanDefenders, and are deemed to be realistic. For example, on 4 July 2019, Mr. Trapence, received an anonymous text message which reads in part: “I am coming tonight I will shoot you down”. Such was the significance of the threats that the Malawi Human Rights Commission published a statement condemning threats against HRDs and called upon “ the state to prioritise provisioning of protection to HRDs, noting that their work is in the interest of the nation”.

Malawi is party to many international human rights instruments that obligate the State to protect the rights to freedom of expression, association and assembly including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples Rights.

We reaffirm the associational character of African citizens within the international instruments and frameworks; and further confirming that rights to association and

assembly are values as stipulated in the African Commission on Human and People's Rights Guidelines. "It is also important for the authorities in Malawi to allow for people to have unimpeded enjoyment of the rights provided for in the UN Declaration on Human Rights Defenders that members of HRDC are trying to promote" argued Lepeli Moeketsi, Transformation Resource Centre(TRC), Lesotho, board member SAHRDN.

The SAHRDN and AfricanDefenders condemn in the strongest terms this clamp down deliberately targeting HRDs because of their human rights work. "The blatant attack against HRDs, and the recurrent practices aiming at silencing HRDs and civil society organisations in Malawi is of particular concern to us" stated Mr Hassan Shire the Chairperson of AfricanDefenders and Executive Director at DefendDefenders. "It is a travesty of Justice, a threat to the rule of law and the protection of human rights" added Mr Shire.

The SAHRDN and AfricanDefenders call on stakeholders in the international community to closely monitor the situation in Malawi.

We call on the government of Malawi to respect their international obligations and commit to ensuring a safe working environment for HRDs in the country. The government of Malawi should release the detained HRDs forthwith.

*****END OF STATEMENT*****

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