

# Government differs with MISA on arrested journo

By Gregory Gondwe: @Kalipochi

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The government of Malawi have reacted to the [arrest of Justice Mponda](#), an online journalist, saying it is becoming increasingly concerned with the false publication by Malawi Voice where the journalist worked for. Mponda has since been released on bail by the Lilongwe Senior Magistrates Court.

During the bail application, which the courts did not object to, state prosecutor, Happy Mkandawire told the court that Mponda will now only be charged with false publications - dropping the other two counts, which were criminal libel and insulting the president.

## Publishing of false news

Director of Information, Isaac Cheke Ziba said the most unfortunate thing is that the falsehood by Malawi Voice has now been picked up by the international media and the international community at large.

He said this in reference to the alleged deportation of the Tanzanian High Commissioner to Malawi and that the government has declared His Excellency Patrick Tsere persona non grata.

"Government would like to put it on record that the publication and its contents were false. His Excellency Patrick Tsere remains in situ as the High Commissioner of Tanzania to Malawi," said Ziba in a statement released to the media.

## Destabilising relationships

The statement also quotes Minister of Justice, Constitutional Affairs and attorney general Ralph Kasambara who, said that the "publication had the potential to destabilize our cordial relationship with Tanzania and bring uneasiness to the rest of the diplomatic missions in the country. The publication, to an extent, has done some damage to the image of the Republic of Malawi because we now have had to respond to many enquiries in regard to the matter".

Kasambara said while government respects and will always ensure that freedom of expression is guarded, it will not tolerate publication of false news.

"Government would, therefore, like to appeal to institutions like MISA-Malawi and Media Council of Malawi to be proactive in taking steps to discipline reporters, newsmen and media houses that publicize falsehoods," said Kasambara.

He said as a government which is respectful of the rule of law, the journalist responsible was apprehended by the police

and brought before a competent court of law within the required period of 48 hours.

## **Based on outmoded pieces of legislation**

MISA Malawi issued a statement that attacked the way government arrested the journalist calling it 'unconstitutional and retrogressive for Malawi's nascent democracy'.

"Reports are rife that the arrest is based on the journalist's articles in the Malawi voice, an online publication most people brand as unprofessional and blacklisted by the Banda administration," said MISA-Malawi chairperson, Anthony Kasunda.

He said the arrest of Mponda is based on outmoded pieces of legislation enacted during the colonial era to suppress dissent and promote colonial superiority. Among others, Mponda has been charged with insulting the president based on the Protected Names, Flag and Emblems Act, a law which is archaic and retrogressive for our country.

"It is important to note that in any democracy, free speech is paramount and affords the citizenry, including the media, a chance to debate and shape public opinion. Without free speech, the media cannot effectively perform its watchdog role and check abuse of power and safeguard democracy," argued Kasunda.

## **Repeal and review of laws**

He further states that this is why MISA-Malawi has been in the forefront campaigning for repeal and review of laws that restrict free speech, such as Criminal Defamation and the Protected Flags, Emblems and Names Act, which have both been used to arrest Mponda.

"We have brought these laws to the attention of relevant authorities and reiterate our plea for their urgent review. In fact, that some of these laws - Protected Flags, Emblems and Names Act for example, still quote a fine to be paid in Pound Sterling (1 000 Pounds, about Mk480 000) and not in Malawi Kwacha supports the fact that the laws remain stuck in the repressive colonial era and proves the urgency with which legal reforms must take place in Malawi, forty-eight years after independence," explained Kasunda.

"We commended government for repealing Section 46 of the Penal Code - which empowered the Minister of Information to ban any publication deemed not to be in the public interest, as defined by the minister, but at the same time requested a critical look at other laws that negate on the Constitutional guarantee to free speech and media freedom as provided for under Sections 35 and 36 of the Constitution," explained Kasunda.

He said archaic laws have no role to play in a democracy and government should be called to desist from implementing them and dragging the country to the colonial era.

"We are also shocked and disturbed with the conduct of the police who have transferred Mponda 340 kilometers away from Blantyre to Lilongwe, Malawi's Capital. This is torture and a clear demonstration by the law enforcers that they are not through with investigations and taking deliberate steps to subject Mponda to mental and physical torture," he said.

Government, he said, has all the resources at its disposal and clearly capable of keeping Mponda in Blantyre and subjecting him to mental and physical torture is unconstitutional and should not be condoned in our day and age.

"We have hope in the leadership of Mrs. [president] Joyce Banda and strongly encourage overzealous cohorts to desist from making decisions that would ruin her administration and tarnish the good image her administration has tried hard to build," said Kasunda.

## **Government's relationship with the media**

Kasunda said MISA-Malawi has always supported a win-win relationship between the media and government and strongly

appeal to authorities to engage relevant bodies such as MISA-Malawi and the Media Council of Malawi whenever disagreements arise between government and the media.

"Arresting journalists will only tarnish the image of the government and ruin the benefits of dialogue. Only dialogue between government and the media would provide a more enabling environment for media freedom, freedom of expression and ultimately citizen empowerment," he said.

On the other hand the director of information insisted that government appeals to all media houses and journalists at large to carry out their duties with a great sense of responsibility towards their country.

"Government wishes to reiterate its stance that the media will always be an important partner as we endeavour to develop this country so it is a better place for every Malawian," said Ziba.

## **Media ombudsman needed**

While MISA-Malawi has taken this stand, some journalists are saying the arrest of Mponda brings to mind the need for a media ombudsman.

One journalist said while journalists have always been against the arrest of any journalist for what they write, a way has to be found for making journalists responsible for what they write.

"The status quo that anybody should be free to create a blue lie and publish it in a newspaper and accuse the government of muzzling free press if the latter reacts shall go on and on if the media industry does not self-regulate," argued a journalist in his contribution on the MISA-Malawi internet forum.

## **ABOUT GREGORY GONDWE: @KALIPOCHI**

Gregory Gondwe is a Malawian journalist who started writing in 1993. He is also a media consultant assisting several international journalists pursuing assignments in Malawi. He holds a Diploma and an Intermediate Certificate in Journalism among other media-related certificates. He can be contacted on [gregorygondwe@gmail.com](mailto:gregorygondwe@gmail.com). Follow him on Twitter at @Kalipochi.

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