Press Statement

Human Rights Based Perspective on the Coronavirus / COVID-19 Disease Response in Malawi

1. The Malawi Human Rights Commission (the Commission) commends and welcomes the Government of Malawi’s proactive response to put in place measures, as declared by His Excellency Professor Arthur Peter Mutharika, the State President, to restrain the spread of the COVID-19 pandemic and help stem the spread of the virus in Malawi. The State President declared a state of national disaster over the coronavirus pandemic on 19th March 2020 with a set of mitigating measures.

2. The Commission recognises that this declaration is in line with the World Health Organization’s (WHO’s) declaration that the Coronavirus is a “public health emergency of international concern”.

3. The Commission applauds the government’s decision of putting in place preventive measures such as suspending some national and community operations to contain the spread of the virus especially considering that Malawi has now registered cases of the pandemic.

4. The Commission recognises the unique role of government in disseminating information relating to this disease for the sole purpose of exactitude and consistency of information and compliance with international protocols such those of WHO.

5. While the Commission acknowledges that the current extraordinary times call for extraordinary emergency strategies and unity of purpose to mitigate the effects of the COVID-19 virus, the Commission wishes to bring to the fore the following:
5.1 THAT in employing the necessary preventive measures to contain the COVID-19, all duty bearers, both in public and private sectors, must apply a human rights-based approach. This means that any directive, policy or mechanism must be in tandem with principles of participation, human dignity, non-discrimination and protection of the marginalised and most vulnerable, in other words, "Leaving No One Behind."

5.2 THAT the basic needs of the most vulnerable in our communities must be considered and be at the centre of all the rapid responses. This includes, women and children, the elderly, the sick, persons with disabilities, persons with albinism, women and children, the rural population in marginalised areas, refugees, prisoners and those in police custody, who are likely to be most disadvantaged by measures which may be introduced to contain the virus and could threaten their daily survival. The Commission particularly wishes to highlight those whose livelihood could be negatively affected due to the introduction of some preventive measures announced by Government which may include the need for self-quarantine. In such circumstances, those who will not have the purchasing power or storage facilities to stock up supplies could be impacted negatively. The Commission, therefore urges, both central and local government to put in place measures, including affirmative action, emergency relief supplies so as to cushion the poor and most vulnerable groups in communities. This is in line with the State obligations under Laws of Malawi and international law.

5.3 THAT whilst it is understood that the current pandemic presupposes life-threatening circumstances, the Commission wishes to reiterate that in the enforcement of measures by Government all rights must be respected and protected. Further, in particular, the Commission wishes to underline the respect of the right to life, freedom from torture, inhuman and degrading treatment or punishment, and freedom from slavery, the prohibition of genocide, fair trial, the right to equality and recognition before the law and 

habeas corpus. Nevertheless, the Commission wishes to appeal to the general public to align the exercise of their fundamental rights, such as , freedom of movement, freedom of association with the measures Government has put in place to contain the pandemic. It must be noted that rights are interdependent and require responsibility for those enjoying them.
5.4 FURTHER and in following up to the presidential declaration and notices from the Ministry of Health, regarding the guidelines pertaining to sanitation and hygiene as well as gatherings and social distance, the Commission recommends that the Malawi government, through Ministry of Justice and Constitutional Affairs, should put in place mechanisms to monitor operations of the law enforcement agents as they carry out their enforcement duties, to avoid incidents of abuse and human rights violations and harassments through arbitrary arrests and false imprisonment. All the rights under the Constitution and international law, which Malawi is party to, should at all times be respected, protected and fulfilled.

6.0 In view of the foregoing, the Commission CALLS UPON:

6.1 Central and Local Governments should:

(a) ensure that the preservation of the human dignity and a human rights-based approach is at the centre of all the responses to combat the COVID-19 disease;
(b) do all that is within their powers to cushion the most vulnerable in our communities to ensure that their access to the basic necessities and needs of life is not compromised;
(c) monitor and ensure accessibility and affordability of the necessary supplies in adequate quantities to bolster hygiene including portable and safe water, soap, sanitizers and other protective materials. This should be extended to the urban poor and the typical rural hard-to-reach areas so that the aspect of leaving no one behind is adhered to fully;
(d) sustain the provision of up-to-date, frequent, timely and accurate information to the public on all the vital information relating to the COVID-19 disease and; that while allowing free flow of adequate, relevant and correct information to the populace, there will be efforts to curb misinformation and disinformation.
(e) Ensure that mechanisms are in place to address cases of domestic violence and abuse arising from periods of confinement to the home and support women especially in their role as caregivers so that their health is not compromised.
(f) Increase mass awareness to traditional and religious leaders including community action groups about the increased risk of violence against women and children and ensure that services for survivors remain accessible.
6.2 Private sector and business community should:

a) refrain from practices such as hoarding, overpricing of goods and forestall any unfair labour practices particularly targeting those in short-term employment;
b) provide the required standards of hygiene and provide adequate protective gear to its employees to avoid exposure in line with the occupational safety requirements and other labour laws;
c) exercise more corporate social responsibility in support of measures put in place by Government;
d) ensure that domestic workers and other lowly paid workers are paid while they are at home if it happens that Government directs that there be a lockdown and;
e) Internet and Mobile Phone Service providers will ensure facilities are up to date to facilitate efficiency of electronic money transactions and access to information in view of the less personal contacts.

To ensure that enterprises, particularly small scale enterprises do not cloud-out, Government may consider putting up incentives that will support these business enterprises to provide goods and services without necessarily passing on the pressure to break even unto the consumers.

6.3 Consumer rights defenders and the Competition and Fair Trading Commission should:

a) heighten vigilance and ensure that consumer rights are not abused with regard to quality, affordability and accessibility of goods and services;
b) ensure that business enterprises do not hoard goods and services with the aim of influencing pricing or indulge in predatory or rent seeking behaviours in order to take advantage of the pandemic and;
c) ensure that consumer rights secured under the Constitution of the Republic of Malawi and other laws are well guarded and enjoyed by all consumers.

6.4 The mainstream and social media should:

a) ensure dissemination of the accurate and timely information which is key to addressing the pandemic.
b) remain true to their professionalism and as usual exercise due diligence to monitor and ensure accurate and objective reporting of the COVID-19 pandemic to keep the citizens well informed on the progress in a bid to avert unnecessary panic through misinformation; avoid use of jokes that trivialise this serious challenge that is killing thousands of people throughout the world.

c) stick to official sources of information on the pandemic such as the government, WHO and other such accredited local and international organisations in order to avoid misinformation and disinformation.

6.5 The Inspector General of Police and the Army Commander should:

a) facilitate the development and enforcement of human rights based guidelines to be used in this emergency;

b) direct all officers to desist and avoid situations of compromise, unwarranted deprivation of the right of security and liberty of the persons, harassment, extortion and bribery and while effecting their duties, they should ensure respect for human rights, including limited use of force;

c) ensure that there is requisite support provided to officers and men in uniform in the course of their duty, including protective gear and medical care to mitigate the threats of the COVID-19 disease and;

d) ensure that all actions are carried out in an apolitical manner.

6.6 The Ministry of Health should:

a) ensure all health workers are protected when attending to patients both in public and private health facilities;

b) provide all health workers and frontline staff with the requisite occupational and safety gears and relevant working tools to cushion them from infection in the course of their noble duties;

c) upscale and sustain the training of health workers and frontline staff at Malawi’s boarders and airports on how to contain the spread of the COVID-19 disease;

d) confirm the accessibility and availability of the rapid response teams activated throughout the country;

e) prioritise the procurement of testing, screening equipment and tools and enhance establishment of more screening centres in the country;

f) intensify public health education through radio television and social media on COVID-19. This should include the status of COVID-19 in Malawi;
g) ensure that COVID-19 information and communication is accessible to persons with disabilities, including use of sign language for all live and recorded communications, press briefings, national addresses and live social media and;

h) ensure places providing COVID-19 testing and services including facilities of sanitization are accessible to persons with disabilities.

i) ensure the protection and respect of patients’ rights including the right to privacy, human dignity and non-discrimination.

6.7 Public transport owners and operators should:

a) introduce and enforce the precautionary measures and abide by the laws and guidelines stipulated by the Ministry of Transport to prevent and contain the spread of the Coronavirus within the transport system;

b) introduce measures for the safety and protection of the transport operators, including drivers, conductors, cashiers and stewards and;

c) observe relevant basic hygiene procedures for the protection of users of public service vehicles. This should be in respect of how many passengers sit per seat, ventilation, size of the vehicle and sanitization.

6.8 The general public:

The Commission encourages all people to remain vigilant and put in place precautionary measures in their homes, business and workplaces and their communities to protect themselves and others as advised by the government to support its efforts in curbing the spread of the COVID-19 disease. It is every individual’s responsibility to remain safe and seek immediate medical attention if they have any COVID-19 symptoms.

6.9 On fresh Presidential Election

The Commission recognises that the Constitutional Court, through its ruling of 3rd February, 2020, ordered that fresh Presidential elections be held. This, in essence, calls for campaigning of concerned political parties contesting for the presidency and a number of activities including meetings that need to be carried out by MEC and other stakeholders. Such activities demand the gathering of large numbers of political party supporters during campaigns or other meetings to be conducted by or activities to be carried out by MEC, thereby going against public health measures that prevent the spread of the COVID-19. It is, therefore, the considered view of the Commission, that where elections are to be held on the suggested
date, all stakeholders involved should employ creative means of carrying out their activities and functions in compliance or pursuant of the election processes in a manner that generally observes the public health guidelines with specific focus on physical distancing. Otherwise, the Commission recommends that the political parties should show leadership by coming up with a joint position on this matter.

7.0 In conclusion, the Commission will closely monitor the unfolding of events to ensure that human rights for all are upheld in all the concerted efforts to tackle the COVID-19 disease. The Commission urges all people in the country to remain vigilant, individually and collectively, and keep safe by following the measures and mechanisms announced by the government in order to contain the spread of COVID-19 disease.

Reverend Patrick Semphere
Chairperson

Lilongwe, Malawi 3rd April, 2020