



Ref. No. AA/Conf/MW/11

Note No. 012/2020

The Embassy of the Republic of Malawi to Ethiopia and Permanent Mission to the African Union presents its compliments to the African Commission on Human and Peoples Rights and has the honour to refer to the Activity Report of the African Commission on Human and peoples' Rights (**ACHPR**) **EX. CL/1205 (XXXVI)** as considered by the 39th Ordinary Session of the Permanent Representatives Committee (PRC) on 21st January, 2020.

The Embassy recalls that it is the sovereign right of every concerned Member State of the African Union (AU) to put on record a response to allegations leveled against it in a report of an organ such as the ACHPR, by way of annexure to the same report before its publication.

In this connection, the Embassy wishes to dispute allegations made in paragraph 46 of the ACHPR report which included Malawi among the countries where undue restrictions are imposed on the right of assembly (right to demonstrate) and where state agents use excessive force on civilian protestors. Furthermore, the report alleges that the Government of Malawi shut down the media and the internet on Election Day 21st May 2019.

Therefore, the response of the Government of Malawi to these baseless allegations is as follows:

- a) *The allegation contained in **paragraph 46 (xvii)** suggesting that there was media and internet shut down on Election Day 21st May 2019 is unfounded since there was simply no such shutdown; neither was there even an attempt by the authorities to shut down any communication platform. This*

can easily be verified by the independent electoral observer missions (local and international) that were on the ground on the said Election Day, including the African Union Elections Observation Mission (AUEOM) who reported no such thing. Furthermore, the Constitution of the Republic of Malawi guarantees access to information through print and electronic media and internet service providers (ISP's) are independent and privately owned, as regulated by the Malawi Communications and Regulatory Authority (MACRA).

- b) Similarly, the Government of Malawi challenges the allegation contained in **paragraph 46 (xix)** on restrictions on freedom of Assembly and use of excessive force by state agents in the context of protests. The Malawi Constitution guarantees freedom of Assembly and the people's right to demonstrate, and the Government of Malawi is committed to upholding these rights as sacrosanct. The civil society and opposition elements have been conducting post-electoral protests for 8 months now since the May 21 elections and they have been doing so unhindered. Throughout this challenging period, the Government of Malawi has imposed no undue restrictions on demonstrations and the security agents have exercised great restraint in handling protestors. On the contrary, the demonstrators have failed to keep their protests peaceful and have engaged in violence, looting, arson and other acts of vandalism. The evidence of State restraint can be found in the fact that although the demonstrations have been allowed to sustain, there has been no loss of civilian life directly as a result of crowd control efforts by State agents. On the contrary, there have been cases where the security agents have themselves and their households been targeted violently by the demonstrators; some have been physically assaulted, injured and their property destroyed. In one very tragic event, a policeman was mobbed and killed by the protestors while trying to protect civilian lives and property.

The Embassy therefore requests the esteemed ACHPR to put this response on record as an Annex to its report for publication.

The Embassy of the Republic of Malawi to the Federal Democratic Republic of Ethiopia and Permanent Mission to the African Union avails itself of this opportunity to renew to the African Commission on Human and Peoples' Rights the assurances of its highest Consideration.



21st January, 2020

African Commission on Human and Peoples' Rights

Banjul

THE GAMBIA

cc:

- **Commissioner, Political Affairs, AU Commission**
- **Secretary General of the Commission, AU Commission**