



January 8, 2009

His Excellency, Dr. Bingu wa Mutharika, President of the Republic of Malawi  
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Your Excellency:

On behalf of the International Gay and Lesbian Human Rights Commission (IGLHRC), I call on you to release Steven Monjeza and Tiwonge Chimbalanga, who were arrested on December 28, 2009, after a traditional engagement on December 27, 2009 and charged with “unnatural offenses” and “indecent practices between males,” Sections 153 and 156 of the Malawi Penal Code. I also call on you to repeal these Sections, which legislate discrimination on the basis of sexual orientation.

The Court has denied bail to Monjeza and Chimbalanga, citing “fear that the public will be hostile against them” as justification for their ongoing incarceration. A continued stay in prison, however, instead exposes them to more abuse and violation of their fundamental rights at the hands of fellow inmates and jailers.

The arrests and subsequent mistreatment of Monjeza and Chimbalanga violate their constitutional rights to equality (Article 20), to freedom of association, conscience, opinion, and expression (Articles 32-35), and to the enjoyment of a cultural life of one’s choice (Article 26). The arrests also violate Malawi’s international human rights commitments, including the rights to privacy and non-discrimination that the International Covenant on Civil and Political Rights guarantees to all regardless of sexual orientation, as well as the rights to equality, dignity, security and life in the African Charter on Human and Peoples’ Rights (Articles 3-6). The Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity, a document signed by several respected African jurists states that governments must “repeal criminal ...provisions that prohibit ...consensual sexual activity among people of the same sex” to ensure all people’s rights to equality and non-discrimination (Principle 2). The lives of Steven Monjeza and Tiwonge Chimbalanga must be respected without discrimination, regardless of their sexual orientation or gender identity.

Reports indicate that the prosecution seeks to further humiliate the two by subjecting them to internal medical examinations to confirm the sodomy charges without their consent. Such examinations cannot be allowed as they are in direct violation of Malawi’s Constitution, including the right to dignity (Article 19), which states that no person shall be subject to degrading treatment or punishment, and the right to privacy (Article 21), which includes the right not to be subject to search of one’s person.

International Gay and Lesbian Human Rights Commission  
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These arrests create a climate of fear in Malawi, and intimidate human rights advocates, negating the progress made in the National Aids Strategy to stem the spread of HIV and AIDS by targeting outreach efforts at men who have sex with men (MSM). This persecution stifles the voices of sexual minorities and makes it difficult or impossible to provide effective HIV/AIDS prevention, outreach, and treatment, setting a dangerous precedent for fundamental human rights and public health in Malawi.

To ensure the equality and dignity of all people Sections 153 and 156 of the Malawi Penal Code must be repealed. I call on you to drop these unconstitutional charges and release Monjeza and Chimbalanga. Should they be tried, I call on you to ensure that all fair trial guarantees under the Malawi Constitution and international law are followed, and to ensure Monjeza and Chimbalanga's safety, dignity, and well-being while they are in custody.

Sincerely,



Cary Alan Johnson  
Executive Director, IGLHRC

**CC:**

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The International Gay and Lesbian Human Rights Commission's mission is to advance human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity, and gender expression. A non-profit, non-governmental organization, IGLHRC is based in New York, with offices in Cape Town and Buenos Aires.  
[www.iglhrc.org](http://www.iglhrc.org)

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