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JOINT CSOs' PRESS STATEMENT

URGENT CALL FOR PROTECTION OF REFUGEE RIGHTS AND A HALT TO STATE-SPONSORED LAWLESSNESS

Lilongwe, 1 August 2023

We, a consortium of Institutions and Civil Society Organizations dedicated to promoting and protecting human rights, urgently call upon the Government to immediately cease the relocation of refugees and asylum seekers in Malawi. The relocation exercise, which should uphold the rights of vulnerable individuals, has been tainted by acts of lawlessness within the Malawi Police Service (MPS) and certain party cadres, resulting in gross human rights violations. We demand an immediate stop to this state-sponsored lawlessness.

Background:

On 27th March 2023, the Government of Malawi issued a directive mandating the relocation of all refugees residing outside designated areas back to the camp within 14 days. Since then, our proactive engagement in assessing the human rights implications of this exercise has revealed alarming lawlessness and gross violations. The MPS has resorted to excessive and disproportionate force during arrests of suspected illegal immigrants and refugees, demonstrating outright illegality.

Violation of Human Rights:

In this distressing situation, vulnerable individuals from the Rwandese and Burundian communities have suffered significantly. They have been subject to exploitation by the Police, who demanded bribes and confiscated their hard-earned property and money. Furthermore, there is public information implicating the Malawi Congress Party (MCP) cadres and the Police, to have instigated terror and committed serious crimes under the guise of safeguarding national security.

National Insecurity and Inhumane Treatment:

These actions have led to a state of national insecurity, contradicting the very purpose of institutions mandated to ensure safety. The Ministry of Homeland Security's statements have fueled xenophobia, undermining the principles of Umunthu Philosophy that are deeply cherished by the common Malawian. Incidents like the Salima robbery/theft are indicative of multiple instances of criminality allegedly involving the Malawi Police sponsored by the ruling MCP party.

Systematic Violations during Relocation:

Throughout the relocation process, we have observed systematic violations of human rights. Notably, on 17th and 18th May 2023, a total of 505 individuals suspected to be refugees, asylum seekers, and illegal immigrants were detained at Maula Prison, including 202 males, 89 females, and a concerning 117 children. The relocation from their homes to Dzaleka was accompanied by cruel, inhumane, and degrading treatment amounting to torture. Refugees endured overcrowded conditions, physical abuse, lack of access to legal representation and family, detention without trial, and limited access to basic amenities such as food and menstrual pads. Families were torn apart, and previously self-reliant asylum-seekers were forced into overcrowded camps, losing their means of sustenance.

Reform and Constitutionality:

Recognizing that our Refugee Act 1989 is an outdated legislation lacking in comprehensive refugee rights protection, temporary Encampment policies have been put in place, but these have been weakened over time. It is disheartening that even the minimal rights and obligations, such as recognition of their status and protection from refoulement, postulated in this archaic law have not been upheld.

Recommendations:

Given the gravity of the situation, we urgently call for the following actions:

1. The immediate cessation of the refugee relocation exercise.
2. An urgent, independent investigation by the Malawi Human Rights Commission into the human rights violations.
3. An independent investigation by the Independent Police Complaints Commission into the conduct of the Malawi Police including the Salima robbery/theft
4. The immediate arrest and timely prosecution of Police and civilians involved in the persecution of refugees and theft of their livelihood/property.
5. An immediate halt to the backdoor extradition exercise, preventing the forced deportation of refugees to countries where they risk persecution.
6. Urgent provision of necessities for over 52,000 refugees at Dzaleka, and consideration of temporary permits for those without criminal history and established lives to support themselves and contribute to the nation.
7. The expedited review of the country's Refugees Act to align it with international standards and ensure the protection of refugees' fundamental rights, with the Bill to be tabled in the November/December 2023 Parliamentary sitting.
8. Conduct public awareness campaigns to enlighten the local population about the plight of refugees, fostering empathy, and emphasizing the significance of their protection and integration.

Conclusion:

Humanity demands that we treat all individuals with dignity, and the Rule of Law obliges us to adhere to legal principles even when dealing with alleged criminals. Refugees, as human beings, are entitled to basic human rights, and seeking refuge should never be

considered a crime. It is vital to prioritize their protection and ensure that they are treated in line with both international law and Malawi's Constitution.

Signed by:

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Southern Africa Litigation Centre (SALC)

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