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# Malawian court's cruel sentence

By *moderator*

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Steven Monjeza and Tiwonge Chimbalanga have been sentenced to 14 years in hard labour each. This is the maximum sentence that may be handed down. It follows their unjust conviction of 'gross indecency and 'unnatural acts'. Steven and Tiwonge have received this sentence because they are open about being lovers and because they held an engagement ceremony. They are extremely brave and we stand in solidarity with them.

We condemn this cruel sentence by Magistrate Nyakwawa Usiwa-Usiwa. It is a gross violation of human rights. In our view the conviction and sentence are in breach of the Malawian Constitution which bans discrimination, protects the right to privacy and states that the 'dignity of all persons shall be inviolable'.

We demand that the Malawian government frees Steven and Tiwonge. We call on the United Nations Commission on Human Rights, the African Union Parliament and the South African government to pressurise the Malawian government into reversing this travesty of justice.

We endorse the statement below issued by the AIDS and Rights Alliance for Southern Africa, Southern Africa Litigation Centre, Centre for the Development of People and Centre for Human Rights and Rehabilitation.

Please sign the petition to free Steven and Tiwonge and encourage others to do so:

<http://www.petitiononline.com/M100518R/petition.html>

Here is Magistrate Nyakwawa Usiwa-Usiwa's judgment (10MB):

<http://www.southernafricalawcenter.org/download/6/23>

Issued by:

*AIDS Consortium (South Africa)*

*AIDS Foundation of South Africa (South Africa)*

*Artists for a New South Africa (United States)*

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*Students for Law and Social Justice (South Africa)*

*Treatment Action Campaign (South Africa)*

## **African civil society outraged by harsh sentence and call for release of Malawi couple and repeal of discriminatory laws**

Jointly Issued by AIDS and Rights Alliance for Southern Africa, Southern Africa Litigation Centre, Centre for the Development of People and Centre for Human Rights and Rehabilitation

African civil society groups, in a statement released today, called on Malawian authorities to repeal discriminatory laws criminalizing private sexual behavior, and release Steven Monjeza and Tiwonge Chimbalanga. Monjeza and Chimbalanga were convicted of carnal knowledge against the order of nature and sentenced today to 14 years?the maximum penalty?in prison.

Gift Trapence, the Executive Director of the Centre for the Development of People (CEDEP) stated, ?The conviction and harsh sentence is a travesty and has set back Malawi?s efforts to address the HIV pandemic. Research has shown that laws restricting and criminalizing homosexuality hamper efforts to combat HIV in Malawi. Indeed, government officials have acknowledged the importance of not driving key populations underground in order to effectively address HIV.?

In recent months, the government of Malawi has increasingly targeted its lesbian, gay, bisexual and transgender (LGBT) populations and their perceived supporters. In February 2010, a young man was arrested for putting up posters supportive of LGBT rights. He pleaded guilty and was sentenced to 60 days community service. News reports indicate that the police are monitoring the activities of people suspected of supporting the rights of people in same-sex partnerships.

Undule Mwakasungura, Director of the Centre for Human Rights and Rehabilitation (CHRR) cautioned, ?This conviction and sentence raises serious concerns regarding the human rights of all individuals in Malawi. As we have seen in the past month, there have been alleged violations of the human and constitutional rights of ordinary Malawian citizens. Protecting human rights is not a Western issue, it is a Malawian issue. It is up to us, as Malawians to remain vigilant to ensure that the human rights of all Malawians are protected.?

Many countries in Africa retain colonial era laws criminalizing private sexual behavior between consenting adults.

Priti Patel, Programme Manager at the Southern Africa Litigation Centre (SALC) noted, ?We are seeing a troubling trend throughout Africa of authorities using homosexuality as a political weapon to stifle dissent. The attacks on homosexuality from political leaders are less about personal values and more about politics and power.?

Michaela Clayton, Director of the Namibian-based AIDS and Rights Alliance for Southern Africa (ARASA), described the prosecution, conviction and sentencing of Monjeza and Chimbalanga under sections 153 and 156 of the Penal Code as ?an abhorrent violation of their human rights?. She noted that ?governments do not get to choose who may enjoy

human rights and who may not. Every human being, regardless of sexual orientation is entitled to the right to liberty; human dignity; freedom and security of the person; and to be free from discrimination on all grounds. These rights guaranteed under the Malawian Constitution are reinforced under Malawi's regional and international legal obligations.?

For statement: <http://bit.ly/d4sOIC>

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