



**REPUBLIC OF MALAWI**

**NATIONAL ADDRESS**

**BY**

**HIS EXCELLENCY**

**DR. LAZARUS McCARTHY CHAKWERA,  
PRESIDENT OF THE REPUBLIC OF MALAWI**

**KAMUZU PALACE, LILONGWE**

**18<sup>th</sup> JANUARY 2023**

**Fellow Malawians,**

**For the past two weeks, I have been reviewing the report of the findings and recommendations of the Commission of Inquiry that I established last month to look into the circumstances that led to and surrounded the arrest of Ms. Martha Chizuma, the Director-General of the Anti-Corruption Bureau. Today, I would like to announce the decisions I have made to address both the matters the report has revealed and other related issues that have arisen since I ordered its release.**

**Before I get into the substance of the report, I want to state that I wanted this investigation to be independent of State involvement because it was an inquiry into the conduct of State agents. I did this by ensuring that the membership of the Commission was made up of individuals who do not work in Government, individuals who have long distinguished themselves as men and women of integrity and objectivity, individuals who have a reputation for speaking truth to power, and individuals who have no**

**incentive to bend the truth for anyone. And so to protect the independence of this inquiry, I rejected any suggestion to give the task to a state organ or to appoint state officials as serving members of the Commission.**

**I, therefore, want to thank the members of the Commission for their service to the country under enormous pressure, for delivering their report to my office in the time prescribed, and for their courage and humility in enduring the cyber-bullying and slander they have been subjected to for producing a report that has challenged the biases of many, including me. Therefore, in considering the report, I have tried to resist the temptation of concluding that my biases are more accurate than the findings of a diverse team of upstanding citizens led by a seasoned Supreme Court Justice who knows from experience the difference between evidence and hearsay better than most of us.**

**Now, the first issue I want to address is that of the alleged involvement of Cabinet members or officials appointed by me. On the day of the arrest, several**

**members of my Cabinet told me that they did not know of the arrest before it happened, and although I had no reason for disbelieving them, I wanted this inquiry to independently verify whether this was indeed the case. And according to the report, which is based on the testimony of over 30 people who appeared before an independent Commission that invited anyone who had any evidence to bring it out in the open, the Commission found no evidence that any member of my Cabinet or person appointed by me ordered Ms. Chizuma's arrest or even knew about it before it happened. The Commission's report states this on page 30 as follows: "Government Ministers became aware of the arrest of the DG of ACB on 6<sup>th</sup> December 2022 in the early hours before 7:30am through social media platforms."**

**Now if there is any evidence to the contrary, one might expect that anyone from the public, especially the opposition, would readily bring it forward. But it is stated on pages 6 and 8 of the report that when the opposition was invited to present evidence, not only did they fail to do so, but they failed to even make an appearance. Even so, I want to say here and now that**

**if anyone has any evidence that proves that any members of my Cabinet or anyone appointed by me was involved in Ms. Chizuma's arrest or interfered with the independence of this Commission of Inquiry, you are welcome to bring it forward to my office through my Executive Assistant so that action can be taken based on substance, not suspicion.**

**The second issue I want to address is the role of Dr. Steven William Kayuni, who is also the Director of Public Prosecutions. The report says that the police acted on a lawful complaint that was lodged by Dr. Kayuni because he feels personally and criminally injured by the sentiments expressed by Ms. Chizuma in the audio that leaked a year ago. The Commission also acknowledged that as any citizen of Malawi, Dr. Kayuni has a constitutional right to file a case against Ms. Chizuma in his personal capacity. However, where the Commission found Dr. Kayuni in the wrong was in his decision to file a personal complaint on matters pertaining to his office as Director of Public Prosecutions while still holding that office, which the Commission found to be a conflict of interest and an act of unsound judgment.**

**As President, I consider this act of unsound judgment by Dr. Kayuni to be a breach of public trust, for it is a serious matter for Malawi's lead prosecutor to have a moment of unsound judgment or a conflict of interest. So I consider this a great failure for Dr. Kayuni and a great disappointment to me. For this reason, as the appointing authority for that important office, I summoned Dr. Kayuni to express to him my great displeasure and to hear his response in the interest of natural justice. While he expressed deep regret for his unsound judgment, he also made it clear that he feels deeply wounded by the continuing damage caused to his reputation and personal safety by the audio that leaked a year ago. As such, to prevent him from using a public office to settle a personal injury, I have removed Dr. Kayuni from office with immediate effect, and I thank him for his many years of service. In his place, I have appointed Masauko Edwin Chamkakala as Malawi's new Director of Public Prosecutions, and I call on all agencies of the State to support his efforts.**

**The third issue I want to address is the Commission's recommendation regarding Ms. Chizuma herself, that**

**some action ought to be taken regarding offences she may have committed in last year's leaked audio. Since I had already dealt with this as an administrative matter when I forgave Ms. Chizuma last year, I sought clarification from the Commission on how they found the leaked audio to be relevant to the attack on Ms. Chizuma on December 6<sup>th</sup>. It was explained to me that because the complaint the Police acted on to arrest Ms. Chizuma was centred on the audio, and since the Courts have already ruled that anyone injured by that audio has a right to file a complaint to the police, then obstructing anyone injured by that audio from exercising their individual right to file a legal complaint and seek court relief not only leaves those injuries unaddressed, but also leaves Ms. Chizuma at risk of unjust attacks from those injured parties and leaves her credibility in the eyes of other agencies the ACB needs support from compromised.**

**So I want to make this clear today: I stand by my decision to not fire Ms. Chizuma a year ago and I stand by my choice of her as my champion against corruption today, but I have never said that this means that no one else is allowed to bring a case**

**against her for their own injuries, because that would be unconstitutional. In this country, everyone has the constitutional right to bring a case against anyone, and when they do, the accused have the right to defend themselves in a court of law, where they are presumed innocent until proven guilty. Even Ms. Chizuma herself has the constitutional right to file a police complaint against the person who recorded her against her wishes, if she so decides, in which case the law would take its course. That is our justice system. That is the rule of law. And as President, I swore an oath to defend and uphold the Constitutional rights of all Malawians, and so I would never obstruct any citizen from seeking court relief for injuries they suffered, even from something I myself have forgiven. But what I will obstruct is any person seeking to use the powers of their position in a public institution to assault another just to settle personal scores. That, I can't allow.**

**This brings me to the fourth issue that emerges from this inquiry, namely that the leaked audio from last year continues to harm the professional credibility of the ACB and to undermine interagency cooperation in**

**the fight against cooperation. On this, the Commission recommends that interagency cooperation in the fight against corruption needs to be improved. I have taken note of this recommendation and have directed the Secretary to the President and Cabinet to bring the heads of the relevant institutions together over the next few weeks to agree on an administrative framework for their interagency cooperation going forward. Not only do I expect all of them to comply with this framework, but I will remove from office without apology anyone who fails to, because while our system has agencies that are operationally independent, there are none that are constitutionally autonomous and none that are allowed to become anyone's personal colony or empire with no accountability to anyone.**

**So make no mistake: no strategy against corruption is a winning strategy if it does not treat interagency cooperation as a necessity. The necessity of interagency cooperation is why even at the Anti-Corruption Conference that I hosted in Blantyre six months ago, I brought together all the relevant stakeholders to commit to specific roles in the twelve**

**pillars of our National Anti-Corruption Strategy. The necessity of interagency cooperation is why when I addressed the delegates of that conference, I called on the Anti-Corruption Bureau and all stakeholders to adopt a new approach that involves all institutions working together in order to make our fight sustainable and our victories irreversible. Crucially, the necessity of interagency cooperation is also why I announced at that conference that my office was going to develop an action plan for reactivating Malawi's membership in the worldwide Open Government Partnership by the end of the year, which we have successfully done, and which will put in place functioning and interconnected Anti-Corruption systems that raise the level of accountability in and across all agencies of our government. That is a more sustainable weapon against corruption than institutions that work alone or individuals who can make costly mistakes. So no matter what anybody says, my Administration has no interest in supporting a losing Anti-Corruption strategy that promotes interagency discord. When I promised and when you elected me to end corruption, this collaborative approach between institutions was always the goal, and nothing will deter me from it.**

**This issue of institutional collaboration brings me to my fifth and most pressing point. Chapters 3 and 5 of the Commission's report reveal a series of meetings attended by high ranking members of the Malawi Police Service in which the critical decisions to arrest Ms. Chizuma were made, two meetings chaired by Mr. Happy Mkandawire, Deputy Inspector General for Administration, and a third chaired by Mr. Casper Chalera, Deputy Inspector General for Operations. Additionally, the Commission's report states on page 32 that when the Deputy Inspector General for Administration, who was Acting Inspector General at the time, was informed by the Minister of Justice of my directive to release Ms. Chizuma unconditionally, he regarded my directive as unlawful. I assume that he considered it unlawful because according to section 78 of the Constitution of Malawi, the President is Commander-in-Chief of the Malawi Defence Force, not the Malawi Police Service, and so it is true that the President has no power to order the arrest or release of anyone by the Police, which is independent.**

**However, what the Acting Inspector General should have remembered is that while the Malawi Police Service is independent, it is not autonomous. No one is. In fact, Section 88 of the Constitution says the President is ultimately responsible for the observance of the Constitution by all agencies of the State in the Executive branch, which includes the Police, the Anti-Corruption Bureau, the Malawi Electoral Commission, the Malawi Human Rights Commission, the Ombudsman, and many others. Additionally, Section 89 empowers me as President to “exercise all other powers reasonably necessary and incidental” to this responsibility. So my directive for Ms. Chizuma to be released was not an act of interference into the lawful functions of the Police, but an intervention to prevent the unlawful use of Police powers. In view of this, I consider the failure to comply with that directive an act of insubordination.**

**I have therefore recommended to the Inspector General of the Malawi Police Service to refer the conduct of her two deputies to the Malawi Police Service Commission, which has the legal mandate to determine the extent of their insubordination and the**

**appropriate consequences to be meted out. I have also directed the Minister of Homeland Security to design a program for retraining officers at all levels of the Malawi Police Service and all other law-enforcement agencies in the procedures and protocols they are required to follow in the course of enforcing the law and exercising their powers of arrest. It is clear that within the police service and other law enforcement agencies, there is a culture of selective observance of law enforcement procedures and of subjecting suspects to humiliation, and we must fix that.**

**Lastly, allow me to make an appeal to all of you as Malawians. One major lesson to draw from the Commission's report is how much we are a nation at war with itself. We view each other with suspicion and are quick to believe and spread the worst things we read or hear about each other, even when there is no shred of evidence to substantiate those claims. And when two Malawians holding public office have a conflict between them, instead of working with them to resolve it, we adopt the conflict as our own by taking a side, criminalizing the other side, and using public institutions as weapons to deal with them. As a**

**result, we are destroying our national unity by replacing our culture of Umunthu with a culture of Kuthana, which is getting us nowhere as a country.**

**So my appeal to you all is this: Let us begin to see the best in each other; let us support all our justice fighters; and let us find ways to resolve our conflicts peacefully and lawfully without resorting to mob justice or social media witch hunts. That way, no conflict, no matter how heated, will stop us from working together to achieve the best for our country.**

**God bless you and God bless Malawi.**