

# MALAWI 2021 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Malawi is a multiparty democracy. Constitutional power is shared between the president and the 193 National Assembly members. In 2019 elections were conducted for president, parliament, and local councils. In February 2020 the Constitutional Court ruled in favor of an opposition challenge, annulling the 2019 presidential election (leaving intact the parliamentary and local results). In June 2020 a new presidential election was conducted, and opposition leader Lazarus Chakwera won 58 percent of the vote, returning the opposition to power for the first time in 26 years. The international community and donors congratulated the country on the strength of its democratic institutions and peaceful transition of power.

The Malawi Police Service, under the Ministry of Homeland Security, has responsibility for law enforcement and maintenance of order. The executive branch sometimes instructed the Malawi Defense Force to carry out policing or other domestic activities, such as disaster relief. The Malawi Defense Force commander reports directly to the president as commander in chief. Civilian authorities maintained effective control over the security forces. There were credible reports that members of the Malawi Police Service committed some abuses.

Significant human rights issues included credible reports of: harsh and life-threatening prison and detention center conditions; arbitrary arrest or detention; serious government corruption; lack of investigation and accountability for gender-based violence; and criminalization of consensual same-sex sexual conduct between adults.

In some cases the government took steps to prosecute officials who committed human rights abuses or engaged in corrupt practices, but impunity remained a problem.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings.

In February 2019 Buleya Lule died while in police custody in Lilongwe, just hours after appearing in court as one of six suspects in the abduction of Goodson Makanjira, a boy age 14 with albinism (see section 6, Other Societal Violence or Discrimination). In a May 2019 report into Lule's death, the Malawi Human Rights Commission (MHRC) found the deceased was tortured, and his immediate cause of death was from torture using electricity. Earlier, police arranged an autopsy that attributed his death to intracranial bleeding and hypertension. The MHRC recommended that the police officers involved be prosecuted. In July 2020, 13 officers, including now-suspended police commissioner Evalista Chisale, were arrested for their alleged involvement in the death of Lule. Later that month the officers were released on bail. Although the trial against the 13 officers was ongoing as of October, the government through the Office of the Attorney General accepted liability and agreed to pay Lule's widow 331 million kwacha (\$386,000).

Perpetrators of past abuses were occasionally punished administratively, but investigations often were delayed, abandoned, or remained inconclusive.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution prohibits the use of torture or cruel, inhuman, and degrading treatment or punishment; however, police sometimes used excessive force and other unlawful practices, including torture, to extract confessions from suspects. The MHRC stated in its annual report that torture was widespread in prisons.

Reputable nongovernmental organizations (NGOs) working with sex workers reported police officers regularly extracted sexual favors from sex workers under the threat of arrest.

In December 2020 a university student age 17 reported being raped by a police officer while she was detained at the Limbe police station in Blantyre. The police officer was subsequently arrested, tried, and convicted in July of raping the girl two times while she was held in custody overnight in December 2020. In August the Limbe Magistrate Court in Blantyre requested that the High Court take up sentencing for the case, which was still pending as of December.

In 2019 the MHRC opened an independent inquiry into allegations police officers raped women and teenage girls in Msundwe, M'bwatalika, and Mpingu in Lilongwe. The alleged rapes were reportedly in retaliation for the killing of police officer Usuman Imedi by an irate mob in Msundwe. A 2019 MHRC report stated police officers raped and sexually assaulted 18 women and girls, at least four younger than age 18. In August 2020 High Court Judge Kenyatta Nyirenda ordered the government to compensate the women. The judge also ordered police authorities to release the report of the internal investigations within 30 days. On August 24, the Malawi Police Service issued a press release disavowing a leaked report titled *February 2020 Police Investigation Report* that claimed the rapes were staged by a lawyer and two politicians who cajoled the rape victims into making false claims. In the press release, the Malawi Police Service announced its support for a new investigation to be conducted by the Independent Police Complaints Commission (IPCC).

One allegation of sexual abuse involving a girl younger than 18 by one of the country's peacekeepers was reported in March. Another case of alleged sexual misconduct by one of the country's peacekeepers deployed to the UN Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) reported in 2016 remained pending at year's end. Two additional allegations of abuses by Malawian peacekeepers with MONUSCO – in 2016 and 2014 – were reported during 2019. According to the *Conduct in UN Field Missions* online portal, there were four open allegations of sexual exploitation and abuse by the country's peacekeepers deployed to UN peacekeeping missions, including one submitted during the year, two submitted in 2018 and one submitted in 2016. As of

November the government had not yet provided the accountability measures taken for all four open allegations. The 2016 case remained pending a government investigation. For one of the 2018 cases, the United Nations completed its investigation and was awaiting additional information from the government. The United Nations was still investigating the other 2018 case. The three cases reported in prior years allegedly involved exploitation of an adult, while the case reported during the year allegedly involved the exploitation of a child younger than 18.

Impunity was a problem in the security forces. Impunity was widespread largely due to corruption within the security forces. The IPCC was established to address allegations of police abuse. The functions of the IPCC include receiving and investigating complaints by the public against police officers and the Malawi Police Service, investigating deaths or injuries which are a result of police action, and investigating all deaths and injuries which occur in police custody. The IPCC had strong support from the chief of police but was hampered by limited staff and inadequate funding. Between July 1 and December 31, the IPCC received 99 complaints and commenced investigations on 35 cases. The main challenge to carrying out its mandate was lack of cooperation from police officers.

### **Prison and Detention Center Conditions**

Prison and detention center conditions remained harsh and potentially life threatening due to overcrowding and poor sanitation; inadequate food, potable water, heating, ventilation, lighting, and health care; and torture.

**Physical Conditions:** An Inspectorate of Prisons report released in December covering the period from February 2020 to February 2021 indicated the Malawi Prison Service was failing to execute its rehabilitative role, while the courts were failing to exercise their sentence review powers in time. The Inspectorate of Prisons monitoring tour of prisons and police cells across the country conducted most recently in February found recurrent problems of poor sanitation, poor diet, overcrowding, prisoner abuse, poor ventilation, understaffing, prison staff corruption, and insufficient prisoner rehabilitation such as education and vocational training.

Overcrowding and malnutrition remained problems. In December 2020 the Malawi Prison Service reported a total prison population of 14,500 in a space with a designed holding capacity of 7,000. Police held detainees in police stations for long periods beyond the legal limit of 48 hours, which contributed to pervasive cell overcrowding.

Authorities held women separately from men but often held pretrial detainees and convicted prisoners together. In police detention centers, children were not always held separately from adults. Although inadequate, conditions in detention facilities for women and children were generally better than men's facilities.

As of December 2020, according to the prison service, 15 inmates died in prison, all of natural causes. Authorities provided no information by the end of the year whether these deaths could be attributed to prison conditions.

Basic emergency medical care generally was available in the daytime but unavailable after regular working hours. Daily prison rations were meager. Officials allowed family members to provide food and encouraged inmates to grow vegetables and raise livestock in rural prisons. Malnutrition in the prison population remained a problem, however, particularly in urban prisons.

Inadequate infrastructure remained a serious problem. Prisons and detention centers had no provisions for temperature control other than wood fires.

The MHRC and NGOs working in prisons expressed concern regarding the human rights of detained persons. In 2020 the MHRC released a report that cited overcrowding, poor sanitation, and inadequate food and health care as major problems in prisons and detention centers. It stated torture was widespread and that most prisoners and detainees lived in degrading and inhuman conditions.

**Administration:** Each prison had a designated welfare officer, some of whom had received specialized training, to receive prisoner complaints regarding conditions. The complaints process, however, was primarily verbal and informal, allowed for censorship, and provided little follow-up. Prisoners sometimes had the opportunity to complain to NGOs that recorded cases for inclusion in government advocacy and reports, but this rarely resulted in follow-up on individual cases.

From January to September, the MHRC received one complaint regarding the rights of prisoners. NGOs attributed the low number of submitted complaints to fear of retaliation by authorities.

**Independent Monitoring:** The government permitted domestic and international NGOs and media to visit and monitor prison conditions and donate basic supplies. Domestic NGOs, the Malawi Red Cross Society, and diplomatic representatives had unrestricted access to prisons.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention; however, the government did not always observe these prohibitions. The law provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court but does not provide for compensation if the person is found to have been unlawfully detained. Lack of knowledge of statutes and of access to representation meant detainees did not challenge the legality of their detention.

#### **Arrest Procedures and Treatment of Detainees**

Police apprehended most suspects without a warrant if they had reasonable grounds to believe a crime was being or had been committed. Only in cases involving corruption or white-collar crime were arrest warrants normally issued by a duly authorized official based on evidence presented. The law provides detainees the right to have access to legal counsel and be released from detention or informed of charges by a court within 48 hours of arrest; however, authorities often ignored these rights. The use of temporary remand warrants to circumvent the 48-hour rule was widespread. Police frequently demanded bribes to authorize bail. Bail was often granted to reduce overcrowding in jails, rather than because of legal merit. Relatives were sometimes denied access to detainees. There were no reports detainees were held incommunicado or held under house arrest.

Detainees who could afford counsel were able to meet with counsel in a timely manner. While the law requires the government to provide legal services to indigent detainees, such aid was provided almost exclusively to suspects charged with homicide. The Legal Aid Bureau is mandated to provide legal assistance to indigent persons. As of the end of the year, the bureau had 41 lawyers and 47

paralegals in its four offices, located in the largest cities: Lilongwe, Blantyre, Mzuzu, and Zomba. The bureau opened district offices in 13 additional locations: Chitipa, Karonga, Mzimba, Nkhota Kota, Mchinji, Kasungu, Salima, Dedza, Mangochi, Machinga, Nsanje, Mulanje, and Mwanza.

During the year the Center for Human Rights Education, Advice, and Assistance assisted 1,109 persons detained at police stations and in prisons through several projects, camp courts, police cell visits, and a paralegal aid clinic to expedite their release. During the year the center succeeded in obtaining the release of 718 of the 1,109 detainees assisted with the help of its paralegals. The Paralegal Advisory Service Institute and the Center for Legal Assistance, both NGOs that assist prisoners with legal matters, provided limited free legal assistance to expedite trials of detainees. These organizations gave priority to the sick, the young, mothers with infants, persons with disabilities, and those in extended pretrial detention.

**Arbitrary Arrest:** The constitution and law prohibit arbitrary arrest, unlawful detention, or false arrest. Although sections of the law pertaining to rogues and vagabonds used in the past to make arbitrary arrests were struck down as unconstitutional, police made arrests based on other provisions, such as conduct likely to cause breach of peace and obstruction of police officers. Although prostitution is legal, living off the proceeds of prostitution is illegal. Police regularly harassed sex workers.

**Pretrial Detention:** Of the total prison population of approximately 14,000 inmates, World Prison Brief reported that as of December 2020 an estimated 2,550, or 18 percent, were in pretrial detention. Despite a statutory 90-day limit on pretrial detention, authorities held most homicide suspects in detention for two to three years before trial. There was evidence some homicide detainees remained in prison awaiting trial for much longer periods, but reliable information on the number and situation of these detainees was unavailable.

To reduce case backlog and excessive pretrial detention, certain cases were directed to local courts and camp courts organized by civil society groups to expedite cases by having magistrates visit prisons to adjudicate cases. Paralegals gathered cases of pretrial detainees awaiting trial for excessive periods, who were held unlawfully, or who had been granted bail but were unable to meet the bail

terms set by the court. Magistrates, along with the court clerk and police prosecutor, worked through the list, granting bail to some, reducing bail for others, dismissing cases, or setting trial dates.

### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence and impartiality. The judicial system, however, was inefficient and handicapped by serious weaknesses, including poor recordkeeping; a shortage of judges, attorneys, and other trained personnel; heavy caseloads; and corruption. The slow-moving judicial system, including extensive delays due to motion practice (a three-step court order request), a low bar for granting injunctions, judge shopping, prosecutorial delay tactics, recusals, and lawyers and witnesses not being present on trial dates, undermined the government's ability to dispense justice.

The Malawi Defense Force conducts courts-martial but not military or security tribunals. A nonjudicial procedure is used more frequently than courts-martial; in this procedure, cases are dealt with summarily by senior officers without a formal trial process. In both procedures military personnel are entitled to the same rights as persons accused in civilian courts.

### **Trial Procedures**

The constitution and law provide for the right to a fair public trial, and an independent judiciary generally enforced this right.

Defendants are presumed innocent. The constitution and law require a court to inform an accused of charges within 48 hours of arrest, with free assistance of an interpreter if necessary. Defendants have the right to be present at their trial, to have an attorney, and, if indigent, an attorney provided at state expense, but such assistance was usually limited to homicide cases. Defendants have the right to challenge prosecution or plaintiff evidence and witnesses and present their own witnesses and evidence. By law they may not be compelled to testify or confess guilt. The law does not specify a length of time for the accused to prepare a defense. The slow pace of trials afforded defendants adequate time to prepare, but not to adequate facilities due to insufficient prison system funding. All persons



have the right of appeal; however, appeals often were delayed for years and sometimes never addressed by a higher court.

The judiciary's administrative problems led to backlogs that effectively denied expeditious trials for most defendants and kept some defendants in pretrial detention for long periods. Recruitment and retention of government attorneys remained a problem. Police prosecutors with limited legal training prosecuted most criminal cases. The Directorate of Public Prosecutions in the Ministry of Justice customarily tried high-profile cases and those involving the most serious offenses. The directorate had 19 prosecuting attorneys supported by 17 paralegals, who also prosecuted certain lower court cases. COVID-19 pandemic restrictions caused trial delays.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters, and citizens have access to a court to submit lawsuits seeking damages for, or cessation of, human rights abuses. Individuals and organizations may appeal adverse domestic decisions to regional courts. The law provides for administrative and judicial remedies for alleged wrongs; however, a lack of legal professionals restricted the number of human rights cases pursued and resulted in a large backlog. As of October there were only 627 licensed legal practitioners in a country of more than 18 million inhabitants.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, but the government did not always respect these prohibitions.

The law permits police officers of the rank of sub-inspector or higher to conduct searches without a court warrant if they have reasonable grounds to believe they could not otherwise obtain something needed for an investigation without undue

delay. Before conducting a search without a warrant, the officer must write a reasonable-grounds justification and give a copy to the owner or occupant of the place to be searched.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution and law provide for freedom of expression, including for members of the press and other media, and the government generally respected this right.

**Freedom of Expression:** Freedom House reported that individuals were prosecuted for online statements.

In April Ignatius Kamwanje was arrested after posting on Facebook that employees at the National Bank of Malawi were stealing money. Bank employees filed a complaint with police. In June Kamwanje pleaded guilty to a spamming charge and was fined.

In May Irene Chisulo Majiga was arrested after she filed a WhatsApp voice note that a person accused of rape had been released under suspicious circumstances. She pleaded guilty to spreading false news and was fined.

**Freedom of Expression for Members of the Press and Other Media, Including Online Media:** On January 1, the Media Institute of Southern Africa (MISA) Malawi published a report on the status of media freedom during the first six months of President Chakwera's administration (July to December 2020). In the report, MISA documented cases where some cabinet members and supporters of the president's ruling Tonse Alliance coalition had called and threatened journalists who had published articles deemed to be critical of the alliance. On May 3, during a panel discussion at a function commemorating World Press Freedom Day, Presidential Director of Communications Sean Kampondeni responded to the report's allegations, reassuring journalists of their safety and stating, "cases of intimidation or threats against the media are not based on government policy. They are just cases of public officials abusing their offices.

Government policy is to regard the media as free.”

**Violence and Harassment:** On April 2, police detained reporter Enock Balakasi of Joy Radio for more than two hours after he photographed police who had responded to an attempted suicide in Kawale, a suburb of Lilongwe. Balakasi claimed police accused him of photographing them without permission and deleted photos from his cell phone. Balakasi told the Committee to Protect Journalists that police charged him with conduct likely to cause a breach of peace, obstructing police officers on duty, and working without permission from police, but then dropped the charges after interrogating him and released him unconditionally.

On June 30, police beat and briefly detained journalist Oliver Malibisa of Likoma Community Radio, after he tried to film a student demonstration at a local secondary school. One officer struck him with a gun, another pepper-sprayed him, and they took him to a police station before releasing him without charge two hours later.

**Libel/Slander Laws:** According to Freedom House, the law provides for criminal penalties of up to two years’ imprisonment for libel, although it noted most cases were prosecuted as civil matters or settled out of court. According to the NGO End Blasphemy Laws, the law makes insulting the religion of another person a misdemeanor, punishable by imprisonment of up to a year. The NGO found no indication that these provisions were enforced.

On April 6, police in Lilongwe interrogated reporter Watipaso Mzungu of the news website *Nyasa Times* concerning an article he published on April 2. Mzungu quoted a local activist in the article who referred to President Lazarus Chakwera as “a joker” and a “time waster” in relation to a proposed reshuffling of his cabinet. On April 6, police called Mzungu in for questioning and instructed him not to bring a lawyer. During questioning at the Lilongwe police headquarters, officers told Mzungu that the article constituted a criminal insult of the president and an attempt to undermine the authority of the head of state. The interrogation lasted approximately two hours, during which time Mzungu reported his requests to contact his lawyer or editor were denied. He was released unconditionally after giving a statement in which he stood by the article.

## **Internet Freedom**

The Electronic Transactions and Cyber Security Act criminalizes the act of “knowingly receiving and sharing unauthorized data” and stipulates that a person convicted of sharing or receiving such information is subject to a substantial monetary fine and up to five years’ imprisonment. The law also makes it a crime for any person, willfully and repeatedly, to use electronic communication to attempt to disturb the peace or right of privacy of any person. Civil society organizations decried passage of the law, arguing it was meant to silence persons on social media ahead of the 2019 national elections. In April Nick Chakwera, son of President Lazarus Chakwera, successfully sued a well-known social media commentator Joshua Chisa Mbele for defamation after the latter claimed on his Facebook page that the former had benefitted from a dubiously awarded COVID-19-related work contract by the government. In August the High Court ordered Mbele to delete the post, publish an apology to Chakwera in the newspapers, and pay three million kwacha (\$3,670).

## **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom during the year; however, the government sporadically censored films it deemed contained culturally sensitive or sexually explicit material.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for freedoms of peaceful assembly and association, and the government generally respected those rights.

### **Freedom of Peaceful Assembly**

The constitution and law provide for freedom of assembly, and the government generally respected this right.

### **Freedom of Association**

The constitution and law provide for the freedom of association, and the government respected this right. The government required registration of all NGOs and political parties. NGOs must register with three different government

entities and pay significant yearly registration fees.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

### **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern. As a result of COVID-19 border closures, UNHCR reported only 2,612 new arrivals from January to September.

**Access to Asylum:** The law provides for the granting of asylum or refugee status, and as of October the government provided protection to more than 51,000 individuals. Asylum seekers primarily came from the Democratic Republic of the Congo. Most of them remained designated as asylum seekers.

In 2019 the government published a gazette notice recognizing asylum seekers from the eastern Democratic Republic of the Congo, in North and South Kivu Provinces, and Katanga Region as refugees. By year's end the government had yet to follow through on implementation of automatic refugee status for Congolese asylum seekers pursuant to the 2019 notice. As of August the number of asylum seekers who had not received a determination of refugee status stood at 34,739.

The government continued to ban registration of perceived lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) asylum seekers on the basis that it

was against the law. UNHCR continued to advocate for the Ministry of Homeland Security to reverse its decision and consider registration and processing of all arrivals, including LGBTQI+ cases. UNHCR continued to register persons of concern in the database and conducted the mandatory refugee status determination.

**Abuse of Migrants and Refugees:** Security forces sometimes intimidated refugees and asylum seekers. Police routinely detained and returned to the Dzaleka Camp refugees found outside of the camp, including those with proper identity documents. During the year UNHCR received no cases of refugees facing forced return to their countries of origin.

There were multiple reports of refugees engaging in survival sex to obtain income to supplement food rations and other necessities in the Dzaleka Camp. UNHCR also reported gender-based violence at Dzaleka.

The MHRC received one complaint of mistreatment at the Dzaleka Camp.

**Freedom of Movement:** Refugees were subject to an encampment policy that restricted them to the Dzaleka Camp, the only official designated refugee camp. Dzaleka Camp, initially built for 10,000 individuals, held more than 51,000 persons of concern. Severe overcrowding increased a range of risks including the spread of COVID-19 and other communicable diseases. In addition, overcrowding burdened resources and facilities. Authorities periodically rounded up and returned to the Dzaleka Camp those who left it. On April 1, the Ministry of Homeland Security issued a letter ordering all refugees and asylum seekers living and conducting business in communities outside Dzaleka to return to the camp within 14 days, affecting more than 4,000 refugees and asylum seekers. UNHCR in the country stated the directive was in line with the country's encampment laws but advised the government to reconsider. One day before the deadline set by the government, Malawi's Supreme Court granted an injunction preventing the government from going ahead with the action. Judicial review of the policy remained pending as of the end of the year.

**Employment:** In general, the government did not allow refugees to seek employment or educational opportunities outside the camp. Most refugees were dependent on donor-funded humanitarian assistance. A small number of refugees

with professional degrees received permits to pursue employment and other opportunities outside the camp, but these refugees may be compelled to return to camps if the order to return to camps is implemented.

**Access to Basic Services:** UNHCR, NGOs, and the government collaborated to provide most basic services. Refugees had access to education and health-care services through camp schools and clinics. Overtaxed facilities served both refugees and local communities. For example, health services in the camp designed to serve 12,000 individuals served 80,000 refugees, asylum seekers, and host community residents. Dzaleka's water and sanitation facilities fell short of international standards. The inability of most refugees to grow food or earn money due to the encampment policy resulted in 96 percent of the refugees living below the poverty line. Donor-funded assistance did not keep pace with the increasing refugee population.

While local laws and the justice system applied to refugees, inefficiencies and inadequate resources limited access to the system. Law enforcement capacity was extremely limited at the Dzaleka Camp because it had only 13 police officers.

### **g. Stateless Persons**

The law does not prevent persons born in the country of unknown or stateless parents from becoming stateless.

## **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** In 2019 citizens voted in simultaneous presidential, parliamentary, and local elections. International observers characterized conduct of those elections as generally competent, professional, and successful. With 39 percent of the vote, incumbent President Arthur Peter Mutharika of the Democratic Progressive Party was re-elected to a second five-year term. Lazarus Chakwera of

the main opposition Malawi Congress Party received 35 percent of the vote, while Mutharika's former vice president Saulos Chilima of the United Transformation Movement received 20 percent of the vote. Chakwera and Chilima challenged the election results in court and sought an annulment of the election. In February 2020 the High Court nullified the election, and in May 2020 the Supreme Court of Appeal reaffirmed the nullification. Another presidential election was conducted in June 2020 that opposition leader Chakwera won as the torchbearer of the nine-party Tonse Alliance with 58 percent of the votes. Former president Peter Mutharika garnered 39 percent of the votes.

**Participation of Women and Members of Minority Groups:** No laws limit participation of women or members of minority groups in the political process, including persons with disabilities, and they did participate. Cultural and traditional gender bias and lower levels of literacy, education, and economic empowerment prevented women from participating in the political process to the same extent as men. More women contested parliament and local councilor seats in 2019 than ever before, but a majority ran as independents as the primary system often disadvantaged women from competing as party candidates. Women reported harassment and intimidation when campaigning. There were 45 women elected to the 193-seat National Assembly and 67 women among the 462 elected local councilors. In the 31-member cabinet, there were 12 women of whom four were ministers and eight were deputy ministers. These represented gains of 7 percent in parliament, a 1 percent increase in local councilors, and an 8 percent increase in cabinet positions.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for conviction of corruption by officials, but the government did not implement the law effectively. Officials sometimes engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year.

The government, in cooperation with donors, continued implementation of an action plan to pursue cases of corruption, reviewed how the "Cashgate" corruption



scandal occurred, and introduced internal controls and improved systems to prevent further occurrences. Progress on investigations and promised reforms was slow.

**Corruption:** On April 18, President Chakwera announced the results of an investigative audit into the use of COVID-19 relief funds, which revealed the misuse of 494 million kwacha (\$576,000). The investigation led to the arrests of more than 60 individuals across all levels of government and led Chakwera to dismiss the minister of labor for his role in the scheme. The Anti-Corruption Bureau (ACB) is the agency primarily responsible for investigating and prosecuting cases of official corruption. It also works to educate the civil service and public on anticorruption matters. As of 2020 the bureau reported it completed 35 investigations and completed prosecution of 19 cases of which 10 resulted in convictions, three were acquittals, three were dismissed, and one was discharged; two were civil cases where individuals unsuccessfully sued the ACB. In the 2020/21 national budget, the government increased the ACB budget by 39 percent to allow an increase in staff and resources to investigate and prosecute cases.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

**Government Human Rights Bodies:** The MHRC, an independent government-chartered institution, is mandated by the constitution to promote and protect human rights and investigate human rights abuses. Despite its independent leadership, resource shortfalls resulted in a backlog of cases, delayed production of reports, and limited investigation of human rights abuses. The ombudsman and the law commissioner are ex officio members of the MHRC.

The Office of the Ombudsman is mandated to investigate cases of

maladministration such as abuse of power, manifest injustice, oppressive conduct, and unfair treatment. Despite having a wider mandate under the constitution to investigate both public- and private-sector offenses, problems of limited capacity led the office to investigate only public officials and entities as the Ombudsman Act prescribes. According to the Office of the Ombudsman, it also prioritizes investigations relating to accountability of public resources. The office had 20 investigators, complemented by five full-time legal officers who handle the investigation of cases. During the year the Office conducted more than 50 public-awareness campaigns in seven of the country's 28 districts, 46 radio programs on community radio stations, and three television programs on national television stations reaching approximately 3.8 million persons.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape of women and girls with a maximum penalty of death for conviction. A 2015 law explicitly introduced the concept of spousal rape, but the act does not prescribe specific penalties for conviction and applies only to legally separated spouses. Spousal rape may be prosecuted under the rape provisions of the penal code. The government generally enforced the law effectively, and convicted rapists routinely received prison sentences.

Data on the prevalence of rape or spousal rape, prosecutions, and convictions were unavailable; however, press reporting of rape and defilement (statutory rape) arrests and convictions were an almost daily occurrence. Although the maximum penalty for conviction of rape is death or life imprisonment, the courts generally imposed lesser prison sentences. For cases of conviction of indecent assault on women and girls, the maximum penalty is 14 years' imprisonment. A person convicted of indecent assault on a boy younger than age 14 may be imprisoned for up to seven years.

The Ministry of Gender, Community Development, and Social Welfare and donor-funded NGOs conducted public-education campaigns to combat domestic sexual harassment, violence, and rape.

The law provides a maximum penalty of life imprisonment for conviction of domestic violence and recognizes that both men and women may be perpetrators as well as victims. Domestic violence, especially wife beating, was common, although victims rarely sought legal recourse. Police regularly investigated cases of rape, sexual assault, and gender-based violence but did not normally intervene in domestic disputes. Police support units provided limited shelter for some abuse survivors.

**Female Genital Mutilation/Cutting (FGM/C):** The law does not specifically prohibit FGM/C. There were no national statistics on FGM/C. The practice of labia elongation or pulling has been documented. It was performed on girls ages 11 to 15 during sexual initiation camps in rural areas of the Southern Region.

**Other Harmful Traditional Practices:** The law prohibits harmful social, cultural, or religious practices, including “widow cleansing” and “widow inheritance.” Nonetheless, in some areas widows were sometimes forced to have sex with male in-laws or a designee as part of a culturally mandated “sexual cleansing” ritual following the death of the husband. In some cases widows were “inherited” by a brother-in-law or other male relative. The government and NGOs sought to abolish such practices by raising awareness concerning the inherent dangers of such behavior, including the risk of HIV transmission.

*Kupimbira*, a practice that allows a poor family to receive a loan or livestock in exchange for pubescent daughters, existed in some areas.

Despite certain legal prohibitions, many abusive practices, including the secret initiation of girls into the socially prescribed roles of womanhood, continued. Such initiations were often aimed at preparing girls for marriage with emphasis on how to engage in sexual acts. In some traditional communities, girls as young as 10 undergo *kusasa fumbi*, a “cleansing ritual” in which the girls are raped by men. According to one UN-sponsored study in 2018, more than 20 percent of girls in secondary school underwent a form of initiation that involved rape by an older man.

**Sexual Harassment:** Although sexual harassment was believed to be widespread, there were no data on its prevalence or on the effectiveness of government

enforcement of the law. The law makes conviction of sexual harassment punishable by up to five years' imprisonment and places an obligation on government to have policies and procedures aimed at eliminating sexual harassment. Conviction of "insulting the modesty" of a woman is a misdemeanor punishable by one year's incarceration. Conviction in extreme cases, such as indecent assault on a woman or girl is punishable by sentences of up to 14 years' imprisonment.

On March 29, the MHRC released a report which alleged former director general of the state-owned broadcaster Malawi Broadcasting Corporation Aubrey Sumbuleta sexually harassed eight female employees. The report recommended compensation for victims and Sumbuleta's prosecution for indecent assault. The report resulted from an investigation initiated in response to a July 2020 petition calling for Sumbuleta's dismissal. On April 17, Sumbuleta was arrested and soon after was charged on six counts of indecent assault and abuse of office. He was released on bail on May 20.

In April the MHRC launched the country's first workplace sexual harassment policy. The policy aims to safeguard employees and persons seeking services at the MHRC from unwelcome sexual advances and provide them with reporting guidelines. The policy provides the mechanism for handling complaints, actions to be taken against perpetrators and strategies for assisting survivors, including accessing legal remedies.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. Couples and individuals have the right to decide the number, spacing, and timing of their children.

Health-care clinics and local NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health. Access to contraceptives was limited in rural areas. According to the 2016 *Malawi Demographic and Health Survey* (MDHS), 58 percent of girls and women of reproductive age had their need for family planning satisfied with modern methods. The government provided free childbirth services, but availability depended upon access to hospitals and other medical facilities in rural areas.

The MDHS estimated the maternal mortality rate was 439 deaths per 100,000 live births, and a woman's lifetime risk of maternal death was one in 41. HIV and AIDS and adolescent pregnancy were factors in these high rates. Nurses and midwives were a critical component of prenatal and postnatal care due to a shortage of doctors. According to the National Statistical Office, skilled health-care providers assisted in 90 percent of births in 2018. There was only limited access to emergency obstetric care, particularly in rural areas.

Cultural beliefs regarding menstruation and lack of access to menstruation hygiene resources impacted women's and girls' ability to participate equally in society, including limiting girls' access to education. Cultural practices in some regions traditionally excluded menstruating women and girls from participation in social activities, such as forbidding them from talking to male figures or being present where food is being cooked. UNICEF reported that increased availability of menstruation hygiene products such as reusable pads in recent years decreased absenteeism of women and girls in school and in the workplace but stated that lack of access to appropriate water, sanitation, and hygiene facilities continued to be a problem. Factors such as pregnancy, economic hardship, and marriage were the main reasons that girls drop out of school. The country has policies allowing reentry for adolescent mothers. Pregnant students are suspended for one year. They can apply for readmission after this period only by sending requests to the Ministry of Education as well as the school. Many teachers have not seen the policy and were unsure how to implement it.

**Discrimination:** By law women have the same legal status and rights as men and may not be discriminated against based on gender or marital status, including in the workplace. Nevertheless, women had significantly lower levels of literacy, education, and formal and nontraditional employment opportunities, as well as lower rates of access to resources for farming. Widows often were victims of discriminatory and illegal inheritance practices in which most of an estate was taken by the deceased husband's family. Although citizen men may sponsor their wives for naturalization, the law does not permit citizen women to sponsor their husbands for naturalization.

The government addressed women's concerns through the Ministry of Gender, Community Development, and Social Welfare. The law provides for a minimum

level of child support, widows' rights, and maternity leave; however, few knew their rights or had access to the legal system and thus did not benefit from these legal protections.

## **Systemic Racial or Ethnic Violence and Discrimination**

The constitution and law prohibit discrimination based on race or ethnic origin. The MHRC is constitutionally charged with the responsibility of protecting and investigating human rights abuses. The government generally enforced the law effectively.

Despite numerous tribal groups with diverse cultures, languages, and traditions, violence and discrimination due to tribal, ethnic, or racial differences were rare. The government investigated, prosecuted, and punished persons complicit in violence and abuses.

The government took various measures to ensure equal access to education and employment at all levels of society, including a deliberate policy for free primary education to ensure equal access to basic education for all citizens, irrespective of their tribal, ethnic, cultural, or geographical origin.

The government launched numerous programs to promote social stability, including preventing racial and ethnic violence and discrimination. The government's *Malawi 2063* economic development plan includes numerous initiatives to mitigate poverty and address unemployment. The MHRC conducted effective awareness campaigns to address societal racial or ethnic biases.

## **Children**

**Birth Registration:** Citizenship may be derived from birth within the country or abroad to at least one citizen parent "of African race." There were no reports of discrimination or denial of services due to lack of birth registration.

**Education:** The government provided tuition-free primary education for all children, although many families could not afford exercise book fees and uniforms, and limited space in secondary schools prevented many students from continuing beyond primary education. In a reversal of previous trends, girls outnumbered

boys in primary enrollment. Although initial secondary school enrollment rates for girls and boys were approximately the same, girls tended to drop out of secondary school at much higher rates. Girls accounted for approximately 63 percent of secondary school dropouts.

**Child Abuse:** Child abuse remained a serious problem. The press regularly reported cases of sexual abuse of children, including arrests for rape, incest, sodomy, and defilement.

The law prohibits subjecting a child to any social or customary practice that is harmful to health or general development. Prohibited practices include child trafficking, forced labor, early and forced marriage or betrothal, and use of children as security for loans or other debts.

The Ministry of Gender, Community Development, and Social Welfare activities to enhance protection and support of child victims included reuniting rescued victims of child labor with their parents and operating shelters for vulnerable children.

**Child, Early, and Forced Marriage:** The law sets the minimum age for marriage at 18. According to UNICEF, 46 percent of girls were married before 18, and 9 percent of girls were married before 15. Civic education on early marriage was carried out mainly by NGOs. Some traditional leaders annulled early marriages and returned the girls involved to school.

**Sexual Exploitation of Children:** The law forbids engaging in sexual activity with children younger than age 16, which is also the minimum age for sexual consent. The law further prohibits “indecent practice” in the presence of or with a child.

The law prohibits commercial sexual exploitation of children, including child pornography and using a child for public entertainment of an immoral or harmful nature. The law was not effectively enforced.

The widespread belief that children were unlikely to be HIV-positive and that sexual intercourse with virgins could cleanse an individual of sexually transmitted diseases, including HIV and AIDS, contributed to the widespread sexual

exploitation of minors. The trafficking of children for sexual purposes was a problem, and children engaged in commercial sex for survival at the behest of parents or without third-party involvement occurred. In urban areas bar and rest house owners recruited girls as young as 12 from rural areas to do household work such as cleaning and cooking. They then coerced them to engage in commercial sex with customers in exchange for room and board.

**Displaced Children:** According to the *2015 Demographic and Health Survey*, 20 percent of children younger than age 18 were not living with either biological parent, and 12 percent were orphaned or vulnerable due to extended parental illness or death. Extended family members normally cared for such children and other orphans.

**International Child Abductions:** The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

The Jewish community was very small, and there were no known reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report>.

## **Persons with Disabilities**

Persons with disabilities could not access education, health services, public buildings, and transportation on an equal basis with others. The law requires such access. Government information and communication was provided in accessible formats. Societal stigma related to disability and the lack of accessibility to public buildings and transportation negatively affected the ability of persons with disabilities to obtain services and obtain and maintain employment.



The law prohibits discrimination in education, health care, the judicial system, social services, the workplace, housing, political life, and cultural and sporting activities for persons with disabilities, defined as a long-term physical, mental, intellectual, or sensory impairment. The law prohibits discrimination against persons with disabilities in political and public life and calls for the government to take measures to provide access for them to transportation, information, and communication services. The law provides for the establishment of a disability trust fund to support persons with disabilities, including regarding access to public facilities, both governmental and private.

Accommodations for persons with disabilities were not among the government's priorities. Although the relevant law took effect in 2013, the government had yet to adopt standards and plans for its enforcement and implementation. The Ministry of Gender, Community Development, and Social Welfare is responsible for protecting the rights of persons with disabilities, but it was unable to do so.

There were public and privately supported schools and training centers that assisted persons with disabilities. As of September the MHRC reported that no complaints were received related to abuse of disability rights.

## **HIV and AIDS Social Stigma**

Societal discrimination against persons with HIV and AIDS remained a problem, especially in rural areas. Many individuals preferred to keep silent regarding their health conditions rather than seek help and risk being ostracized. Campaigns by the government and NGOs to combat the stigma had some success. The National AIDS Commission maintained that discrimination was a problem in both the public and private sectors.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

The Center for the Development of People documented 16 instances of abuse based on real or perceived sexual orientation and gender identity and expression. The nature of the abuses fell into three broad categories: stigma, harassment, and violence. Although victims were willing to report the abuses to the center, they did

not want their orientation to be revealed to their families or the public, so no investigations or prosecutions resulted.

The law criminalizes consensual same-sex sexual conduct, or “unnatural offenses,” and conviction is punishable by up to 14 years’ imprisonment, including hard labor. Conviction of attempting “unnatural offenses” is punishable by seven years’ imprisonment. The penal code also criminalizes “indecent practices” between men as well as between women and provides for punishment of five years’ imprisonment if convicted. The government did not actively enforce these laws.

Same-sex sexual conduct may also be prosecuted as “conduct likely to cause a breach of the peace.”

The law does not prohibit discrimination against LGBTQI+ persons. The revised *Malawi National Strategic Plan for HIV and AIDS (2020-25)* included transgender persons and men who have sex with men as part of the key populations to be targeted to reach its goals.

## **Other Societal Violence or Discrimination**

Mobs and local citizens sometimes engaged in vigilante attacks, at times killing persons suspected of crimes such as theft.

There were several attacks on persons with albinism driven by demand for body parts for witchcraft rituals. Religious, traditional, civil society, and political leaders, including the president, denounced the attacks. On August 13, the mutilated body of Ian Muhama, a 20-year-old man with albinism, was found in Kachere Township in Blantyre. Nine police officers from the nearby Limbe police station were later suspended in September for allegedly compromising the investigation by attempting to conceal the crime.

In March a baby with albinism, age 20 months, was abducted from its home in the southern city of Chikwawa. In a sign of increased vigilance against killings of persons with albinism, courts across the country handed down severe sentences to those convicted of killing persons with albinism.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law allows workers, except for military personnel and police, to form and join trade unions of their choice without previous authorization. Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor; registration requirements are not onerous, but failure to meet annual reporting requirements may result in cancellation of a union's registration. The law places some restrictions on the right to collectively bargain, including requirements of prior authorization by authorities, and bargaining status. The law provides for unions to conduct their activities without government interference. The law also prohibits antiunion discrimination and provides for remedial measures in cases of dismissal for union activity. The law does not specifically prohibit retaliation against strikers or actions against unions that are not registered.

The law requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before it may engage in collective bargaining at the enterprise (factory) level, and at least 15 percent of employees must be union members for collective bargaining at the sector (industry) level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions include wage negotiation, dispute resolution, and industry-specific labor policy development.

The law allows members of a registered union to strike after going through a mandatory mediation process overseen by the Ministry of Labor. A strike may take place only after failure of a lengthy settlement procedure, including seven days' notice of a strike and a 21-day conciliation process as set out in the Labor Relations Act. An amendment to the Employment Act and Labor Relations Act enacted in October allows employers to deduct wages from striking employees if they strike for more than three days per year. The law also requires the labor minister to apply to the Industrial Relations Court to determine whether a strike involves an "essential service," the interruption of which would endanger the life, health, or personal safety of part of the population. The law does not provide a specific list of essential services, but the amendment to the Labor Relations Act enacted during the year authorizes the minister of labor to designate categories of

workers deemed essential who are not allowed to strike. Before the amendment, members of a registered union in essential services had only a limited right to strike. There are no special laws or exemptions from regular labor laws in export-processing zones. The law does not apply to most workers who are in the informal sector without work contracts.

The government did not effectively enforce applicable laws. As was true of all cases entering the justice system, lack of capacity resulted in delays of some labor cases. Small fines for most violations were not commensurate with those for other laws involving denials of civil rights. Provisions exist for punishment of up to two years' imprisonment, but no convictions were reported.

Freedom of association and the right to collective bargaining were adequately respected for those in the formal sector. Union membership among workers was low due to the small percentage of the workforce in the formal sector.

Arbitration rulings were legally enforceable; however, the Industrial Relations Court (IRC) did not monitor cases or adequately enforce the laws. The amendment to the Labor Relations Act restructured the Industrial Relations Court to eliminate the requirement of employer and employee panelists. Furthermore, the IRC is required to have permanent staff only.

The Ministry of Labor launched the *Malawi Decent Country Programme II* in September, modeled on the International Labor Organization (ILO) Decent Work Agenda, to improve worker rights and protections through support from the ILO and other development partners.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but penalties for conviction were not commensurate with those for other analogous serious crimes. The amendment to the Employment Act during the year prohibits unlawful labor, including forced and tenancy labor. Violations of the act can incur a fine of up to five million kwacha (\$5,830) and five years' imprisonment for anyone convicted of exacting, imposing, causing, or permitting forced or tenancy labor.

The government did not effectively enforce applicable laws, and forced labor

occurred during the year, especially in agriculture (predominantly the tobacco industry), goat and cattle herding, and brickmaking. Child forced labor also occurred (see section 7.c.). Under the tenancy system, estate owners recruited farmers from distant districts to grow tobacco for them on their estates. The tenants were often promised such services as accommodation and food rations as well as a share of the earnings from sales. Tenant farmers included men and women, usually accompanied by their children and dependents. Most tenants were from the southern region of the country and worked in the central or northern region. Employers loaned tenant farmers money to buy agricultural inputs during the growing season, which could turn into situations of debt bondage if they were unable to repay the loans. An amendment to the Employment Act during the year outlawed tenancy labor.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits all the worst forms of child labor. The law sets the minimum age for employment at 14, and children between ages 14 and 18 may not work in hazardous jobs or jobs that interfere with their education. The prohibition of child labor does not apply to work done in homes, noncommercial farms, vocational technical schools, or other training institutions. The law provides a list of hazardous work for children and specifies a fine or imprisonment for conviction of violations. Penalties were not commensurate with those for other analogous serious crimes.

Police and Ministry of Labor officials were responsible for enforcing child labor laws and policies. The government did not effectively enforce the law, and child labor occurred.

Child labor, including the worst forms of child labor, remained a serious and widespread problem. In December the National Statistics Office released the *Malawi Multiple Indicator Cluster Survey* indicating that 14 percent of children between age five and 17 years engage in child labor, with 22 percent working in hazardous conditions. Child labor was most prevalent in agriculture, especially

tea, tobacco, and livestock herding, brickmaking and construction, and domestic service. Forced child labor also occurred, particularly in agriculture, construction, forced begging and street work, in illicit activities, and commercial sexual exploitation (see section 6, Children). Children often worked 12-hour days, frequently for little or no pay. Many boys worked as vendors, and young girls in urban areas often worked outside their families as domestic servants, receiving low or no wages. Children who worked in the tobacco industry risked working with hazardous chemicals and sometimes suffered from nicotine poisoning. The closure of schools due to the COVID-19 pandemic led more children into situations of child labor, especially in rural areas.

In 2019 the Tobacco Industry Act came into force, requiring tobacco growers to report on efforts to eliminate child labor in tobacco farming. As a result of the law, most major tobacco companies put in place systems to address child and forced labor in their supply chain, and the Tobacco Commission engaged in awareness-raising activities.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

#### **d. Discrimination with Respect to Employment and Occupation**

The employment law prohibits discrimination against any employee or prospective employee but does not cover sexual orientation or gender identity, and the government in general did not effectively enforce the law. Penalties were commensurate with those for laws related to civil rights.

Discrimination in employment and occupation occurred with respect to gender and disability (see section 6). Despite the law against discrimination based on gender or marital status, discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, and formal and informal employment opportunities. Few women participated in the limited formal labor market, and underrepresentation in the employment of women in managerial and administrative jobs was especially poor. Households headed by women were overrepresented in the lowest quarter of income distribution. In October 2020 protesters criticized the

government's failure to comply with the law's requirement to include no less than 40 percent of either men or women in public appointments.

LGBTQI+ individuals faced discrimination in hiring and harassment, and persons with disabilities faced discrimination in hiring and access to the workplace.

### **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The minister of labor sets the minimum wage rate based on recommendations of the Tripartite Wage Advisory Board composed of representatives of labor, government, and employers. The minimum wage was set below the World Bank's poverty income level. The government reported during the year that 51 percent of citizens lived below the poverty line.

Migrant workers are entitled to the same legal protections, wages, and working conditions as citizens if they comply with immigration laws. Those persons not in compliance, however, lacked these protections and were subject to deportation.

The legal workweek is 48 hours, with a mandatory weekly 24-hour rest period. The law requires premium payment for overtime work and prohibits compulsory overtime. The law provides for a period of annual leave of no less than 15 working days.

The Ministry of Labor is responsible for enforcement of wage and hour laws. Under the law labor inspectors have the authority to make unannounced inspections but lack the authority to initiate sanctions. The government did not provide information on the number of labor inspectors nor on government actions during the year to prevent violations, particularly for vulnerable groups.

**Occupational Safety and Health:** The law establishes occupational safety and health (OSH) standards that are appropriate for the main industries in the country. The Ministry of Labor houses a Directorate of Occupational Safety and Health responsible for minimum standards, but the number of labor inspectors was insufficient to enforce the law effectively. Inspectors had the authority to make unannounced inspections and initiate sanctions. Workers, particularly in industrial jobs, often worked without basic safety clothing and equipment. Workers harvesting tobacco leaves generally did not wear protective clothing and absorbed

up to 54 milligrams of dissolved nicotine daily through their skin, the equivalent of 50 cigarettes.

Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment. Workers dismissed for filing complaints regarding workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal; however, these processes were not widely publicized, and workers were unlikely to exercise these rights. Authorities did not effectively protect employees in this situation.

The government did not effectively enforce laws related to OSH, wages, or overtime. Workweek and annual leave standards were not effectively enforced, and employers frequently violated statutory time restrictions. Alleged violations of wage, hour, and overtime laws were believed to be widespread and, according to a 2017 Ministry of Labor report, were common across both the private and public sectors. The Ministry of Labor's enforcement of health and safety standards was also poor. The law specifies fines and imprisonment for violations, but these penalties were not commensurate with those for similar crimes, and no reports of jail terms were ever reported.

**Informal Sector:** More than 88 percent of Malawi's working population worked in the informal sector. Informal workers included street and market vendors, artisans, small veranda (khondes) businesses, cross-border traders, and smallholder tea farmers. A study by the Malawi Congress of Trade Unions found that informal workers endured unsafe and unhealthy working conditions; the law does not protect workers outside the formal sector.

Approximately 15,000 of two million informal workers were organized in the Malawi Union for the Informal Sector (MUFIS), which is affiliated with the Malawi Congress of Trade Unions. MUFIS worked with district councils to address matters affecting informal workers due in part to a Ministry of Labor decision that MUFIS did not have sufficient standing to bargain collectively with employers.