

Malawi (Tier 2)

The Government of Malawi does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period; therefore Malawi was upgraded to Tier 2. These efforts included increased prosecutions and convictions of traffickers. The government identified more trafficking victims and referred them to protective services, launched standard operating procedures (SOPs) and a national referral mechanism (NRM) for victim identification and assistance, and allocated money to the anti-trafficking fund. It coordinated with a foreign government and used the anti-trafficking fund to repatriate victims, and it also used the fund to support training for frontline officials and awareness campaigns. The government launched the second district-level anti-trafficking coordination structure in Phalombe, a district bordering Mozambique where trafficking risks are high. In coordination with an international organization, the government launched an awareness campaign at the national level, increased funding and hired more labor inspectors, and approved new labor recruitment regulations in alignment with the Trafficking in Persons Act. However, the government did not meet the minimum standards in several key areas. The government did not collect adequate prosecution and victim referral and protection data for trafficking cases. Credible reports of official complicity continued to impede the government's efforts to combat trafficking, including allegations some police and immigrations officers were complicit in aiding traffickers that exploited Nepali women in Malawi. The government transferred a whistleblower police officer to a remote part of the country, allegedly to prevent the officer from further investigating and reporting on official involvement in the case. In two sensitive cases, judges granted traffickers bail, and, in one case, there were credible reports the trafficker continued to recruit women for labor trafficking in the Middle East while awaiting trial. Furthermore, several of his victims who were repatriated from Kuwait were retraumatized by seeing him in town. The government did not investigate or hold any complicit officials criminally accountable despite these credible allegations. The U.S. Department of State suspended the A-3 visa sponsorship privileges afforded to Malawi bilateral mission members as a result of an unpaid default judgement rendered against a former Malawian diplomat by a federal district court in 2016 for trafficking. During the reporting period, the

diplomat continued to fail to pay the outstanding judgement, and the government had yet to report taking any further action to hold the diplomat accountable.

PRIORITIZED RECOMMENDATIONS:

Vigorously prosecute sex and labor traffickers and appropriately sentence convicted traffickers under the 2015 law, including government officials complicit in such crimes. • Improve and expand the collection of prosecution and victim protection data for trafficking cases, specifically the number of victims referred and provided protective services. • Ensure victims are protected from further exploitation, and refer them to available services. • Increase the availability of shelters and protection services for victims, including through in-kind or material support to NGOs for expansion of direct service provisions. • Support training and increase funding for judges, prosecutors, labor inspectors, and police to identify, investigate, and prosecute trafficking crimes. • Enter lists of shelters for trafficking victims in the official gazette in order for the law to be fully operational. • Increase awareness and monitoring of trafficking crimes, as well as efforts to identify traffickers and victims at border crossings and internal police checkpoints.

PROSECUTION

The government demonstrated mixed law enforcement efforts. The 2015 Trafficking in Persons Act criminalized sex trafficking and labor trafficking, and prescribed punishments of up to 14 years' imprisonment for offenses involving an adult victim and up to 21 years' imprisonment for those involving a child victim. These penalties were sufficiently stringent and, with regard to sex trafficking, commensurate with punishments prescribed for other serious crimes, such as kidnapping. In 2019, the Malawi Police Service (MPS) reported anti-trafficking law enforcement data from 11 of Malawi's 34 district-level police stations, compared with data from seven district-level police stations during the previous reporting period. MPS reported it arrested 48 suspects, prosecuted 30 alleged traffickers, and convicted 30, compared with 32 suspects arrested, 16 traffickers prosecuted, and 16 convicted during the previous reporting period. Among those arrested, one trafficker was later released on bail, and his alleged co-conspirator, who was known to law enforcement, remained at large at the close of the reporting period. The government reported the sentences of two traffickers under the anti-trafficking law, the first to five years' imprisonment and the second to seven years and six months' imprisonment for unknown types of exploitation. The government

did not report sentencing data or what type of exploitation occurred in the other cases. Widespread corruption coupled with a lack of capacity and resources led to minimal documentation and poor data collection on trafficking cases. Some police and immigration officers were complicit in aiding traffickers that exploited Nepali women in Malawi. An observer reported that the government transferred an effective police investigator to a remote part of the country, allegedly to prevent the officer from further investigating and reporting on official involvement in the case. During the previous reporting period, experts reported that several police, health, and immigration officials were complicit in cases where Malawians were exploited in Kuwait and Iraq. The government arrested the alleged trafficker that facilitated the exploitation of women in the Middle East through a fraudulent recruitment scheme; however, the judge granted him bail, and observers reported that he continued to advertise for his fraudulent recruitment scheme while awaiting his trial. Some trafficking survivors who were repatriated from Kuwait were retraumatized when they saw the man in their local community. Law enforcement officers regularly failed to screen individuals engaged in commercial sex for trafficking indicators and were allegedly complicit in sex trafficking crimes by arresting and charging girls and women in commercial sex if they did not provide free sexual services to the arresting officer. Furthermore, officers often made little effort to discern the age of individuals in commercial sex or investigate such cases as child sex trafficking crimes, despite indications children were exploited. The Ministry of Homeland Security, which includes MPS and immigration officials, maintained primary responsibility for the prosecution of trafficking crimes and enforcement of trafficking laws. In September 2018, the Minister of Homeland Security designated by Gazette Notice all police, immigration, and labor officers as enforcement officers of the 2015 anti-trafficking act.

The Ministry of Homeland Security, in partnership with an international organization, trained 82 judicial officers in a colloquium on trafficking and conducted consultations for law enforcement agencies on a coordinated approach in data management and reporting. In coordination with an international organization, the government also trained 81 trafficking data collection officers from the Ministry of Labor, the Department of Immigration, the Ministry of Gender, the Ministry of Homeland Security, the Malawi Police Service, and the judiciary. It also trained 153 law enforcement officers on the new SOPs on victim identification and the NRM and held a workshop to review a new police recruit training manual on trafficking in persons, which included 36 police and

immigration officers. The MPS retained anti-trafficking training in its curricula for the Limbe, Mtakata, and Mlangeni Police Training Schools and Zomba Police College, and human trafficking was a topic of continuing education lectures. The government, in coordination with an international organization, conducted a training of trainers on the anti-trafficking act for 40 officials from the police service, Department of Immigration, Ministry of Foreign Affairs, Ministry of Labor, Ministry of Gender, Ministry of Homeland Security, the Human Rights Commission, media, and civil society. With support from an international organization, the government coordinated the third cross-border collaboration forum meeting on migration and trafficking in persons and held a cross-border forum with the Government of Zambia in Mchinji, and it participated in a tripartite meeting on migration with Zambia and Mozambique, which included trafficking in persons.

In April 2019, the U.S. Department of State suspended the A-3 visa sponsorship privileges afforded to Malawi bilateral mission members as a result of an unpaid final default judgment for approximately \$1.1 million rendered in November 2016 by a federal district court in a civil human trafficking case involving a domestic worker who sued her former employer, a former Malawian diplomat, for trafficking. The former diplomat left the United States in 2012. During the reporting period, the diplomat continued to fail to pay the outstanding default judgment, and the government has yet to report taking any further action to hold the diplomat accountable. The government partnered with neighboring governments and an international law enforcement organization to increase investigative capacity of law enforcement through an intelligence-driven operation.

PROTECTION

The government increased protection efforts. The government identified 140 trafficking victims, a slight increase from 132 identified during the previous reporting period; of these victims, 65 were children and 75 were adults. The government referred all child victims to an NGO in Lilongwe and three adult victims to another NGO shelter, where they received counseling, medical care, food, and livelihood training, where appropriate. Local law enforcement outside of Lilongwe worked closely with NGOs to improve coordination and ensure victims were safely referred and received care. The Ministry of Homeland Security launched SOPs and an NRM for victim identification and assistance. In 2017, the government launched an anti-trafficking fund and allocated 150 million Malawian

kwacha (\$197,370) to the fund in 2019, compared with allocating the same amount in 2018. The Ministry of Homeland Security collaborated with an international organization to host an event to raise funding for the construction of a trafficking shelter, during which they raised 11 million Malawian kwacha (\$14,470). For the first time, monies from the anti-trafficking fund were used to repatriate victims in coordination with the Government of Nepal. The government did not provide in-kind or financial support for most NGO services, including those offered at the only dedicated shelter for trafficking victims in the country, which was operated by an international NGO. The government ran one social rehabilitation center in Lilongwe for vulnerable children, orphans, and child trafficking and gender-based violence victims, providing counseling and rehabilitation services; however, it is unclear if any trafficking victims used these services during the reporting period.

Some of the approximately 300 police sub-stations at the village level housed victim support units (VSUs) to respond to gender-based violence and trafficking crimes; however, the VSUs lacked capacity to respond adequately, and the quality of services varied throughout the country. In the previous reporting period, observers reported concerns about the failure of the VSUs to adequately provide for the needs of sex trafficking victims, and that some foreign victims avoided these centers due to fear of deportation. Malawian law did not allow for foreign victims to receive temporary residency or other legal alternatives to removal to their countries of origin; foreign victims faced deportation unless they challenged their immigration status in court. The Ministry of Homeland Security approved witness protection regulations in accordance with the Trafficking in Persons Act. During the trial of two traffickers, one High Court Justice determined the courtroom in Lilongwe did not provide the victim witnesses adequate protection from intimidation; the Justice therefore ordered that the victims' testimony be taken in private and allowed them to be repatriated before the conclusion of the case.

PREVENTION

The government increased efforts to prevent trafficking. During the reporting period, the government used monies from the anti-trafficking fund to support training for front-line responders, awareness campaigns, and to support the meeting of the national and the two district coordination committees against trafficking. In coordination with an international organization, the Ministry of Homeland Security launched an awareness campaign at the national level and

conducted a trafficking awareness roadshow in the bordering districts of Phalombe and Mchinji. The National Coordination Committee against trafficking conducted a training session for the corporate sector on the implementation of the anti-trafficking law, compliance with the anti-trafficking law, and the trafficking in persons fund. The Malawi Police Service carried out public awareness campaigns; however, observers reported that law enforcement officers continued to conflate trafficking and smuggling. The government continued to implement its 2017-2022 anti-trafficking national action plan, including by launching an anti-trafficking communications strategy, drafting shelter guidelines, launching the SOPs and NRM, and providing specialized training for police, immigration officers, and social workers. The National Coordination Committee, established under the anti-trafficking act that came into force in November 2015, met quarterly. Members of the informal Malawi Network Against Child Trafficking, comprising government officials, NGOs, and international stakeholders, also met during the reporting period. The government expanded the number of district coordination committees against trafficking in persons to two; the first committee was established in 2018 in Mchinji, a border area with Zambia featuring a high risk of trafficking among significant numbers of Zambian and Mozambican nationals entering the country, and the second was in Phalombe, which borders Mozambique. The National Coordination Committee Against Trafficking in Persons (NCCATIP) trained the members of the new coordination committee during the reporting period. It also trained 40 media practitioners, editors, and journalists on reporting on trafficking in persons. The government continued to participate in the South African Development Community (SADC) regional data collection tool by uploading information about trafficking cases, victim and trafficker profiles, and sharing information with neighboring countries.

The government increased funding for the Ministry of Labor's inspection division, added 20 more labor inspectors for a total of 85, and carried out an unknown number of inspections after four years of conducting no labor inspections. The Minister of Homeland Security approved the prevention of exploitative labor recruitment regulations for the Trafficking in Persons Act. The regulations eliminated recruitment fees for migrant workers and stipulated that contracts must be transparent, workers must retain possession of their identify documents, and employers must provide safe and decent working and living conditions. The government did not demonstrate efforts to reduce the demand for commercial sex acts.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Malawi, and traffickers exploit victims from Malawi abroad. Traffickers exploit men, women, and children from Zambia, Mozambique, the Great Lakes region, and the Horn of Africa in labor and sex trafficking. Traffickers exploit most Malawian victims within the country, generally transported from the southern part of the country to the central and northern regions for forced labor in agriculture (predominantly the tobacco industry), goat and cattle herding, and brickmaking. Many cases of child labor external to the family involve fraudulent recruitment and physical or sexual abuse, indicative of forced labor. Traffickers—primarily facilitators, family members, or brothel owners—typically lure children in rural areas by offering employment opportunities, clothing, or lodging for which they are sometimes charged exorbitant fees, resulting in sex trafficking coerced through debts. Traffickers exploit teenage boys in forced labor on farms and young girls in sexual exploitation in nightclubs or bars. Traffickers exploit children in forced labor in begging, small businesses, and potentially in the fishing industry; in past years, some were coerced to commit crimes. Adult tenant farmers are vulnerable to exploitation, as they incur debts to landowners and may not receive payment during poor harvests. Malawian victims of sex and labor trafficking have been identified in Mozambique, South Africa, Zambia, Kenya, and Tanzania, as well as in Iraq, Kuwait, and Saudi Arabia. Some young girls are drugged, gang-raped, and exploited in commercial sex. Some girls recruited for domestic service are instead forced to marry and are subsequently exploited in sex trafficking by their “husbands.” Fraudulent employment agencies lure women and girls to Gulf states, where traffickers exploit them in sex and labor trafficking.

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Read the full 2020 TIP report at: <https://www.state.gov/trafficking-in-persons-report/>