



**Malawi – Researched and compiled by the Refugee Documentation Centre of Ireland on 10 February 2016**

**Malawi: Reports on the Effectiveness of the Criminal Justice System and Investigations, and whether Police Corruption hampers effective investigations.**

The 2014 US Department of State country report for Malawi, in a section titled “Denial of Fair Public Trial”, states:

“The constitution and law provide for an independent judiciary, and the government generally respected judicial independence. 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 lack of resources. The slow-moving judicial system, including extensive motion practice, a low bar for granting injunctions, judge shopping, frequent recusals, and prosecution delays, undermined the government’s ability to dispense justice.” (US Department of State (25 June 2015) *2014 Country Reports on Human Rights Practices – Malawi*, pp.7-8)

The 2015 Freedom House report for Malawi, in a section headed “Rule of Law”, states:

“Judicial independence is generally respected. However, the overburdened and inefficient court system lacks resources, personnel, and training. A backlog of cases and commonly exorbitant bail terms mean that most defendants spend months or even years in pretrial detention. Poverty and a lack of state resources result in more than 90 percent of defendants navigating their cases without legal representation. The police force is likewise poorly trained and often ineffective. As a result, recent years have seen an increase in vigilantism that undermines the rule of law.” (Freedom House (24 August 2015) *Freedom in the World 2015 – Malawi*)

A report published by Human Rights Watch, in a section titled “Right to Redress for Child Marriage Victims”, states:

“Few Malawians have access to the formal legal system. Barriers include the high cost of legal fees, long distances to courts that are located mainly in urban areas, lack of awareness about court procedures, inadequate laws, and lack of legal aid. Broader systemic barriers in the criminal justice system such as lack of infrastructure, government resources, and personnel make it difficult for Malawians to seek and obtain justice.” (Human Rights Watch (6 March 2014) *“I’ve Never Experienced Happiness”: Child Marriage in Malawi*, p.42)

In an article by a Malawi-based freelance journalist published on the D+C Development and Cooperation website the author states:

“Phiri is not the only person to complain about the behaviour of police officers – many people in Malawi are unhappy with the police. Some have observed, for instance, that the way police prosecutors handle cases that involve rich people is notably different from the way they handle cases involving poor people. ‘Most people who rot in police cells are poor,’ says H. Mwafulirwa, an ex-convict who is now out of jail. ‘The rich are given bail. If you have money, you can bribe corrupt officers and get away with any crime.’ Police officers are not happy to hear such allegations, but they admit that the system has ‘some corrupt individuals’ who are tarnishing the image of the police. The public no longer trusts the police, however, and many Malawians think that the army would be more capable of protecting the people.” (D+C Development and Cooperation (23 March 2015) *Corruption has become the norm*)

A document published by the U4 Anti-Corruption Resource Centre, in a section titled “Sectors most affected by corruption” (paragraph headed “Police”), states:

“The TI Daily Lives and Corruption survey of 2011 found that the Police is perceived by Malawians to be the most corrupt sector. A 2008 Afrobarometer survey also found that 68% of the surveyed citizens believe that police officials are involved in corrupt practices. Similarly, according to the 2010-2011 Global Competitiveness Report, business executives give the reliability of the police services to enforce law and order a score of 4.6 on a 7-point scale (1 being ‘cannot be relied upon at all’ and 7 ‘can always be relied upon’). Inefficiency, poor training, and lack of funding are some crucial reasons cited for corruption in this sector. The levels of funding are almost always inadequate, and as a result, the police are often short of staff and resources to carry out the full range of their responsibilities.” (U4 Anti-Corruption Resource Centre (11 May 2012) *Overview of corruption and anti-corruption in Malawi*)

An article published by the online newspaper Malawi 24 states:

“Malawi police officers are the most corrupt in Africa, according to a study conducted by Afrobarometer. The research report which was released on Tuesday has singled out Malawi as having the most corrupt law enforcers on the continent. In the report, the Pan-African research network revealed that the Malawian law enforcers have held to the record for the fourth year running now. The report named ‘People and Corruption: Africa Survey 2016’ states that Malawi is one of the countries in which police officers receive bribes to ‘ignore crime’. ‘You can pay off police officers to ignore any crime, however horrific and devastating it’s just a matter of price,’ reads part of the report. Ironically, in Malawi, the report says, two thirds of those that took part in the research believe that corruption has gone up for the year just ending because police officers take a role in it.” (Malawi 24 (15 December 2015) *Malawi Police are Africa’s most corrupt*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

## References:

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Freedom House

Human Rights Watch

Immigration and Refugee Board of Canada

Refugee Documentation Centre Query Database

U4

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US Department of State