



OBS.551: Youth and Society's Statement to the African Commission on Human and Peoples' Rights on the Human Rights Situation in Africa at the 77th Ordinary Session.

Honourable Chairperson of the African Commission on Human and Peoples' Rights (the Commission),

Youth and Society (YAS) commends the Commission for granting us Observer Status during the 75th Ordinary Session, offering us a valuable platform to amplify the voices of African youth and marginalised groups.

We draw your attention to the following critical human rights concerns in Malawi.

The Dire Refugee Situation in Malawi

YAS expresses deep concern about the dire human rights situation faced by refugees and asylum seekers in Malawi. In May 2023, the Malawian government implemented its directive to relocate all refugees and asylum seekers (approximately 8,000 individuals) from both urban and rural areas to the Dzaleka Refugee Camp. As of October 9, 2023, 765 families, totaling 2,296 refugees and asylum seekers, were forcibly moved to Dzaleka camp. This relocation has added strain to the already overcrowded Dzaleka camp, which currently accommodates 52,272 refugees despite its initial capacity of 12,000 refugees when established in 1994.

The government's implementation of the refugee encampment policy and the ongoing relocation exercise have been marred by systematic violations, including the rape of women, loss of property, unlawful detention of children and women, forced and unlawful deportations, extortions, xenophobic attacks by authorities, corruption, and robberies targeting refugees and asylum seekers.

Notably, on May 17th and 18th, 2023, 505 individuals suspected to be refugees, asylum seekers, and illegal immigrants were detained at Maula Prison, including 202 males, 89 females, and 117 children. Refugees endured overcrowded conditions, physical abuse, lack of access to legal representation and family, detention without trial, and limited access to basic amenities such as food and menstrual pads. We are also concerned about reports of sexual exploitation and corruption [implicating](#) some United Nations and Malawi government officials in the refugee resettlement program.

Food Crisis in Prisons

YAS is deeply concerned about the food shortages in various prisons across Malawi due to funding challenges of the Malawi Prisons Service. In some prisons, food portions are unreasonably rationed; in others, inmates go without food for days. Mzuzu, Ntcheu, Mulanje, and Zomba prisons, for instance, ran without food for days. The food shortage has significant health implications for inmates, with cases of malnutrition [reported](#), some leading to fatalities.

For instance, on March 16, 2023, a 20-year-old inmate from Bvumbwe Reformatory Centre, Mr. Madalitso Ganizani, succumbed to a malnutrition-related condition at Thyolo District Hospital. In March 2023 alone, the same hospital admitted six inmates from Bvumbwe Reformatory Centre for severe and moderate malnutrition. At least 16 malnutrition cases have been registered across all prisons between January and September 2023. The food crisis compounds the issue of excessive overcrowding, with inmate numbers fluctuating between 11,000 and 13,000, well beyond the holding capacity of 8,000.

Shrinking Civic Space - Clampdown on Fundamental Freedoms

YAS is also deeply concerned about the systematic suppression of civic space in Malawi, including disruptions of freedom of expression, assembly, and association. In 2022, the government enacted the [NGO Amendment Act, 2022](#), which contains provisions interfering with the free operation of NGOs and human rights defenders.

Arbitrary arrests of government critics, violent disruptions of lawful citizen protests, and criminalisation of online expression remain significant areas of concern. For instance, on September 7, 2023, the Malawi Police dispersed a peaceful civil society protest with teargas. A group allegedly linked to the ruling Malawi Congress Party hurled stones at protesters marching to the State House in Lilongwe. Similarly, political activist Mr Bon Kalindo has repeatedly faced arbitrary arrests for criticising authorities.

Towards the Abolition of the Death Penalty:

While we commend the Malawian government for taking steps towards abolishing the death penalty, it's worth noting that it still exists as a competent sentence in line with section 26 of the [Penal Code](#), as read with section 16 of the Constitution of Malawi. We are concerned that despite the Minister of Justice commitment and public declarations on 16th November, 2022 that the Government will draft a Bill and present it to Parliament, no Bill has been drafted thereby unnecessarily protracting the death penalty abolition.

In light of the aforementioned concerns, we urge the Commission to take the following actions:

1. The Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons, and Migrants in Africa to conduct a fact-finding mission to Malawi, and investigate the refugee human rights situation.
2. Encourage Malawi to revoke the refugee relocation exercise and adhere to its human rights obligations under its Constitution and international human rights law.
3. Call on Malawi to promptly and independently investigate the violations against refugees and asylum seekers, holding alleged perpetrators accountable and providing adequate remedies to the victims.
4. Urge Malawi to expedite the review of the country's Refugees Act of 1989 to align it with international human rights standards and ensure the implementation of Malawi's commitments to the Comprehensive Refugee Response Framework (CRRF) pledged at the Global Refugee Forum in December 2019.
5. Call on Malawi to urgently address the food crisis in prisons.
6. Urge Malawi to expedite the adoption of the Correctional Services Bill (Prison Bill), which provides a more robust framework for protecting prisoners' rights.
7. Call on Malawi to repeal the NGO Amendment Act 2022 and ensure the respect and protection of the freedoms of assembly, association, and expression, creating a conducive civic space.
8. To prompt the Government of Malawi to expedite legal reforms aimed at abolishing the death penalty.

Honorable Chairperson and Commissioners, thank you for the audience.

Charles Kajoloweka
Executive Director
Youth and Society (YAS)
E: info@yasmw.org
T: +265999088836

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