



Malawi - Researched and compiled by the Refugee Documentation Centre of Ireland on Monday 18 July 2016

Information on physical and sexual abuse of women (both married and in relationships outside marriage); What is the role of the police/courts in such relationships including available protection

In November 2015 the *United Nations Committee on the Elimination of Discrimination against Women* points out that

“The Committee expresses deep concern that violence against women, including domestic violence, remains widespread in the State party. It is particularly concerned about the non-criminalization of marital rape, the “corroboration rule” practised by courts, according to which the testimony of a witness is required for convictions in cases of sexual offences, and the insufficient protection, support and rehabilitation services available to women who are victims of violence” (United Nations Committee on the Elimination of Discrimination against Women (24 November 2015) *Concluding observations on the seventh periodic report of Malawi*, p.6).

A document issued by *Irish Aid* in November 2015 notes:

“Gender-based violence is a widespread but silent epidemic in Malawi today: an estimated 1 in 5 girls have experienced sexual violence. Most violence occurs in the home, is viewed as a private family affair and is seldom reported” (Irish Aid (30 November 2015) *16 Days of Activism against Gender-Based Violence in Malawi*).

A paper released in February 2016 by the *Overseas Development Institute* notes that:

“Malawian women and girls are also subject to various forms of gender-based violence (GBV): 16% experience physical violence only, 13% experience sexual violence only and 12% experience both physical and sexual violence...And yet only 30% of such cases are prosecuted...” (Overseas Development Institute (February 2016) *Women and power: representation and influence in Malawi's parliament*, p.17).

A publication issued in March 2016 by the *World Bank* notes an increase in incidence of domestic violence (World Bank (March 2016) *Poverty in a Rising Africa*, p.99).

An article published by the *Nyasa Times* in March 2016 states:

“Judiciary officials have expressed concern at the speed women assaulted by their husbands are withdrawing cases. Spokesman of the judiciary Mlenga Mvula said it was a matter of concern that the women withdraw the cases at the end of the trial just before sentence is pronounced...He said most women ask for the withdrawal of the cases because they fear if the husband, the bread winner is jailed then the family will be in grinding poverty” (Nyasa Times (9 March 2016) *Malawi: Domestic Violence Case Withdrawals Worry Judiciary*).

A document issued in April 2016 by the *United States Department of State* commenting on events of the preceding notes that:

“The penal code criminalizes rape with a maximum penalty of death. The Marriage, Divorce, and Family Relations Act enacted in April explicitly introduced the concept of spousal rape, but the act does not prescribe specific penalties and only applies 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 and conviction figures were unavailable; however, press reports of rape and defilement arrests and convictions were an almost daily occurrence. Although the maximum penalty for rape is death or life imprisonment, the courts generally imposed fixed prison sentences. For cases of indecent assault on women and girls, the maximum penalty is 14 years in prison” (United States Department of State (13 April 2016) *2015 Country Reports on Human Rights Practices – Malawi*).

This report also states:

“The law provides a maximum penalty of life imprisonment for domestic violence and recognizes that both men and women can be perpetrators as well as victims. According to the 2012 Gender Based Violence Baseline Survey, 40 percent of women had experienced sexual violence and 30 percent experienced other physical violence. Domestic violence, especially wife beating, was common, although women seldom discussed the problem openly, and victims rarely sought legal recourse. Legal experts and human rights workers attributed victims' reluctance to report their abusers to economic dependence on the abuser, lack of awareness of their legal rights, and fear of retribution and ostracism. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes. Police support units provided shelter to some abuse victims and dealt with human rights and gender-based violence, but officers' capacity to assist and document cases was limited” (ibid).

No further information on these issues could be found among sources available to the RDC

References

Irish Aid (30 November 2015) *16 Days of Activism against Gender-Based Violence in Malawi*

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre 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.

Sources Consulted

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Freedom House
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