



Concerns over proposed amendments to the Labour Relations Act

The Centre for Human Rights and Rehabilitation (CHRR) is deeply concerned about proposed changes to the Labour Relations Act contained in the Labour Relations Act Amendment Bill, 2021. CHRR is concerned that some of the amendments being proposed pose a serious threat to workers' rights, including the right to take industrial action, which is enshrined in Section 31 of the Republican Constitution of Malawi.

CHRR is particularly concerned about the proposed section 2 (4) of the Labour Relations Act amendment bill, which states that "An employee shall not be entitled to receive wages for the period he is absent from work due to participation in a strike." This amendment amounts to state sanctioning the victimisation of employees who participate in a strike.

The amendment also defeats the purpose of section 31(4) of the Constitution of Malawi, which was introduced specifically to provide for the right of employees to withdraw labour if they have grievances against the employer. CHRR urges the Tonse Government to respect the prescriptions of the Constitution, which is the supreme law of the land, and to not bow down to the self-serving interests of some employers. CHRR finds that there is no justification for removing the current protections for employees who participate in industrial action or strike. By giving employers vast powers to withhold employees' wages at will, CHRR fears that the proposed amendments will be open to abuse.

CHRR also notes that the proposed reforms are wholly pro-employer and are at the expense of the rights of employees. Employees have far less bargaining power than employers have and should, therefore, be given additional protections. The proposed amendments, however, further tip the balance of power in favour of employers, which is unacceptable. CHRR urges the Government to take necessary action to come up with legislation that promotes the interests of employers without violating workers' rights.

CHRR has also noted with deep concern that the bill has been introduced without consulting relevant stakeholders. CHRR urges government to uphold the country's international commitments and encourage engagement in effective social dialogue. Malawi is a signatory to the International Labour Organisation (ILO) convention 144, which calls for tripartite consultations among government, employers and workers.

The new ILO Declaration on fundamental principles and rights at work adopted by the International Labour Conference in 1998, declares that all “**Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights...**”, which include freedom of association.

Our call for action

In light of the foregoing, we recommend the following:

- That the Labour Relations Act (Amendment Bill), 2021 be immediately withdrawn pending consultations;
- That the proposed section 2(4) of the Labour Relations Act amendment bill, which allows an employer to withhold wages of an employee who participates in a strike, be scrapped off. Such an amendment is dangerous as it will give employers an unbridled hand to withhold employees' wages with impunity.
- That the Ministry of Labour conduct countrywide consultations to seek views of relevant stakeholders on the proposed amendments;

Issued on Friday, 2nd July 2021 and signed by:



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