



## **Urgent appeal to President Lazarus Chakwera not to assent to the Labour Relations Act Amendment Bill**

The Centre for Human Rights and Rehabilitation (CHRR) urges President Lazarus Chakwera not to assent to the Labour Relations Act Amendment Bill 2021, which was passed yesterday in Parliament, because the amendments made are in conflict with various Constitutional provisions relating to workers' rights. CHRR cautions President Chakwera that assenting to the bill would be a retrogressive step, which will have the undesirable effect of denting the human rights image of his government.

CHRR observes that by withholding the assent to the bill, the President will not be in conflict with the law, as he has the right to assent to any bill or not. Section 73 of the Constitution reads: "Where a Bill is presented to the President for assent, the President shall either assent or withhold assent and shall do so within twenty-one days from the date the Bill is presented to him or her. Where the President withholds assent to a Bill, the Bill shall be returned to the Speaker of the National Assembly by the President with a notification that the President's assent has been withheld, including reasons therefore, and the Bill shall not be again debated by the National Assembly until after the expiry of twenty-one days from the date of the notification of that withholding."

CHRR is hugely disappointed to note that Parliament yesterday went ahead to pass the bill, ignoring the concerns of various stakeholders who have spoken out against the retrogressive amendments included in the bill. However, CHRR observes that President Chakwera has the opportunity to correct the injustice occasioned by his members of Parliament by withholding assent to this highly repressive bill. 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 President Chakwera to respect the dictates of the Constitution, 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 amendments will be open to abuse and will empower employees to mistreat their workers.

Those who have supported the bill argue that the bill aims to strike a balance between the rights of the employee as well as the need for the economy to progress. However, CHRR observes that the bill is far from achieving that purpose. CHRR observes 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, therefore, calls upon President Lazarus Chakwera to:

1. Listen to trade unions and the millions of voices of Malawians which they represent and withhold assent to the Labour Relations Act Amendment Bill;
2. Seek removal of all unconstitutional provisions, including 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. Such an amendment is dangerous as it will give employers an unbridled hand to withhold employees' wages with impunity.
3. Be a champion of workers' rights by supporting legislation that promotes the interests of employers without violating workers' rights.

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