

MALAWI
EMPLOYMENT ACT 2000
No. 6 of 2000

PART II--FUNDAMENTAL PRINCIPLES

4.

(1) No person shall be required to perform forced labour.

(2) Any person who exacts or imposes forced labour or causes or permits forced labour shall be guilty of an offence and liable to a fine of K 10,000 and to imprisonment for two years.

Penal Code [n.d.]

Chapter XV—Offences Against Morality

135. Definition of rape

Any person who, with intent to marry or carnally know a woman of any age, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will, shall be guilty of a felony and shall be liable to imprisonment for seven years.

136. Abduction of girls under sixteen

Any person who unlawfully takes an unmarried girl under the age of sixteen years out of the custody or protection of her father or mother or other person having the lawful care or charge of her, and against the will of such father or mother or other person, shall be guilty of a misdemeanor.

137. Indecent assaults on females

(1) Any person who unlawfully and indecently assaults any woman or girl shall be guilty of a felony and shall be liable to imprisonment for fourteen years, with or without corporal punishment.

(2) It shall be no defense to a charge for an indecent assault on a girl under the age of thirteen years to prove that she consented to the act of indecency.

(3) Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture or exhibits any object intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman or intrudes upon the privacy of such woman, shall be guilty of a misdemeanor and shall be liable to imprisonment for one year.

138. Defilement of girls under thirteen years of age

(1) Any person who unlawfully and carnally knows any girl under the age of thirteen years shall be guilty of a felony and shall be liable to imprisonment for life, with or without corporal punishment.

Attempt

(2) Any person who attempts to have unlawful carnal knowledge of any girl under the age of thirteen years shall be guilty of felony and shall be liable to imprisonment for fourteen years, with or without corporal punishment.

Provided that it shall be a sufficient defense to any charge under this section if it shall be made to appear to the court, jury or assessors before whom the charge shall be brought that the person so charged had reasonable cause to believe and did the fact believe that the girl was of or above the age of thirteen years.

139. Defilement of idiots of imbeciles

Any person who, knowing a woman or girl to be an idiot or imbecile, has or attempts to have unlawful carnal knowledge of her under circumstances not amounting to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile, shall be guilty of a felony and shall be liable to imprisonment for fourteen years, with or without corporal punishment.

140. Procuration

Any person who—

(a) procures or attempts to procure any girl or woman under the age of twenty-one years to have unlawful carnal connexion, either in Malawi or elsewhere, with any other person or persons; or

(b) procures or attempts to procure any woman or girl to become, either in Malawi or elsewhere, a common prostitute; or

(c) procures or attempts to procure any woman or girl to leave Malawi with intent that she may become an inmate of or frequent a brothel elsewhere; or

(d) procures or attempts to procure any woman or girl to leave her usual place of abode in Malawi with intent that she may, for the purpose of prostitution, become an inmate or frequent a brothel either in the Republic or elsewhere,

shall be guilty of a misdemeanor and, if a male person, may, at the discretion of the court, and in addition to any term of imprisonment awarded in respect of the said offence shall be sentenced to corporal punishment:

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

142. House-holder, etc., permitting defilement of girl under thirteen years of age on his premises

Any person who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl under the age of thirteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, shall be guilty of a felony, and shall be liable to imprisonment for five years:

Provided that it shall be a sufficient defense to any charge under this section if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

143. Detention with intent or in brothel

Any person who detains any woman or girl against her will—

(a) in or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man or generally; or

(b) in any brothel,

Shall be guilty of a misdemeanor

Constructive detention by withholding clothes

When a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connexion, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel, if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such persons withholds from such woman or girl any wearing apparel or other property belong to her, or where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the directions of such person, such person

threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

144. Power of search

If it appears to any magistrate, on information made before him on oath by any parent, relative or guardian of any woman or girl or other person who, in the opinion of the magistrate, is acting *bona fide* in the interests of any woman or girl that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such magistrate, such magistrate may issue a warrant authorizing the person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a magistrate; and the magistrate before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

A magistrate issuing such warrant may, by the same or any other warrant cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before a magistrate and proceedings to be taken for punishing such person according to law.

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally; and—

- (a) Either is under the age of thirteen years; or
- (b) If she is of or over the age of thirteen years and under the age of eighteen years, is so detained against her will or against the will of her father or mother or of any person having the lawful care or charge of her; or
- (c) If she is of or over the age eighteen years and is so detained against her will.

Any person authorized by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be by force) any house, building, or other place mentioned in the warrant and may remove such woman therefrom:

Provided always that every warrant issued under this section authorizing the search for any woman or girl in any house, building or other place occupied by a non-African shall be addressed to and executed by a Police Officer of or above the rank of Inspector.

145. Male person living on earnings of prostitution or persistently soliciting

- (1) Every male person who

(a) knowingly lives wholly or in part on the earnings of prostitution; or

(b) in any public place persistently solicits or importunes for immoral purposes,

Shall be guilty of a misdemeanor. In the case of a second or subsequent conviction under this section the court may, in addition to any term of imprisonment awarded, sentence the offender to corporal punishment.

(2) If it is made to appear to a magistrate by information on oath that there is reason to suspect that there is reason to suspect that any house or any part of a house is used by a woman or girl for purposes of prostitution, and that any person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, the magistrate may issue a warrant authorizing any police officer to enter and search the house and to arrest that person.

(3) Where a male person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person or generally, he shall unless he shall satisfy the court to the contrary be deemed to be knowingly living on the earnings of prostitution.

146. Woman aiding, etc., for gain prostitution of another woman

Every woman who knowingly lives wholly or in part of the earnings of prostitution, or who is proved to have, for the purpose of gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any person, or generally, shall be guilty of a misdemeanor.

147. Brothels

Any person who keeps a house, room, set of rooms, or place of any kind whatsoever for purposes of prostitution shall be guilty of a misdemeanor.

Chapter XXC—Offences Against Liberty

257. Definition of kidnapping from the Republic

Any person who conveys any person beyond the limits of the Republic without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from Malawi.

258. Definition of kidnapping from lawful guardianship

Any person who takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful

guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

259. Definition of abduction

Any person who by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

260. Punishment for kidnapping

Any person who kidnaps any person from Malawi or from lawful guardianship, shall be guilty of a felony, and shall be liable to imprisonment for seven years.

261. Kidnapping or abducting in order to murder

Any person who kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be guilty of a felony and shall be liable to imprisonment for ten years.

262. Kidnapping or abducting with intent to confine person

Any person who kidnaps or abducts any persons with intent to cause that person to be secretly and wrongfully confined, shall be guilty of a felony, and shall be liable to imprisonment for seven years.

263. Kidnapping or abducting in order to subject person to grievous harm, slavery, etc.

Any person who kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous harm, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of shall be guilty of a felony and shall be liable to imprisonment for ten years.

264. Wrongfully concealing or keeping in confinement kidnapped or abducted person

Any person who, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be guilty of a felony and shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

265. Kidnapping or abducting child under fourteen years with intent to steal from its person

Any person who kidnaps or abducts any child under the age of fourteen years with the intention of taking dishonestly any movable property from the person of such child, shall be guilty of a felony and shall be liable to imprisonment for seven years.

266. Punishment for wrongful confinement

Whoever wrongfully confines any person shall be guilty of a misdemeanor and shall be liable to a fine of £700 or to imprisonment for five years.

267. Buying or disposing of any person as a slave

Any person who imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be guilty of a felony, and shall be liable to imprisonment for seven years.

268. Habitual dealing in slaves

Any person who habitually imports, exports, removes, buys, sells traffics or deals in slaves shall be guilty of a felony, and shall be liable to imprisonment for ten years.

269. Unlawful compulsory labour

Any person who unlawfully compels any person to labour against the will of that person shall be guilty of a misdemeanor.