

FREEDOM IN THE WORLD 2021

Malawi

66

PARTLY FREE

/100

<u>Political Rights</u>	29/40
<u>Civil Liberties</u>	37/60

LAST YEAR'S SCORE & STATUS

62/100 **Partly Free**

Global freedom statuses are calculated on a weighted scale. See the methodology.



Overview

Malawi holds regular elections and has undergone multiple transfers of power between political parties, most recently in June 2020. Political rights and civil liberties are for the most part respected by the state. However, corruption is endemic, police brutality and arbitrary arrests are common, and discrimination and violence toward women, members of minority groups, and people with albinism remain problems.

Key Developments in 2020

- By the end of the year, over 6,500 people had tested positive for COVID-19 and 189 people had died. Despite the pandemic, the electoral commission was able to successfully administer the year’s repeat presidential election.
- In February, the Constitutional Court annulled the May 2019 presidential election due to widespread, systematic irregularities. The court ordered a new presidential election and determined the threshold for victory to be 50 percent and one vote, instead of the simple plurality that had been used in previous elections.
- In June, Lazarus Chakwera of the Malawi Congress Party (MCP), who led the “Tonse” coalition of nine opposition parties, won the presidential election with 59 percent of the vote. The elections were well-administered, competitive, and credible, and the results were accepted by all stakeholders.
- In September, President Chakwera operationalized the long-stalled 2017 Access to Information Act. Further, the executive office instituted weekly news conferences, opening the space for journalists to report on government activity.

Political Rights

A. Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections?

3/4

The president is directly elected for five-year terms and exercises considerable executive authority. Following the Constitutional Court’s annulment of the 2019 presidential election, a

new poll was held in June 2020, which Lazarus Chakwera of the Malawi Congress Party (MCP) won with 58.6 percent of the vote. The incumbent, Peter Mutharika, of the ruling Democratic Progressive Party (DPP), came second with 39.4 percent. Although election observers were not present due to travel restrictions as a result of the COVID-19 pandemic, the elections were well-administered, competitive, and credible, and reflected the will of Malawian voters.

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections?

3/4

The unicameral National Assembly is composed of 193 members elected by popular vote to serve five-year terms. Legislative elections were held concurrently with the annulled presidential election in May 2019 and experienced some of the same irregularities and logistical problems that marred the presidential poll. As many as 29 legislative candidates challenged the results in court, three of whom were successful. Six of the cases remained undecided by the end of 2020. In the 2019 legislative poll, the DPP won 62 seats, followed by the MCP with 55, the United Democratic Front (UDF) with 10, the People's Party (PP) with 5, the United Transformation Movement (UTM) with 4, and the Alliance for Democracy with 1. Independent candidates won 55 seats. Six legislative by-elections were held during 2020, and the MCP and the UDF each won two seats, and independent candidates won the remaining two seats.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?

3/4

Several 2020 legislative changes improved the quality of the year's repeat presidential elections. The Constitutional Court determined presidential elections must be won with a majority of the vote, not just a plurality, which Parliament operationalized by legislative amendment. Other ancillary changes extended the mandate of the current parliament from five to six years, so that the next legislative elections would be held concomitantly with the 2025 presidential poll. Malawi Electoral Commission (MEC) officers who presided over the 2019 elections appeared before Parliament in February 2020, who recommended their dismissal. However, President Mutharika declined to fire them, letting their terms expired in early June 2020.

To minimize COVID-19 transmission during polling, the MEC provided masks to polling staff and handwashing facilities to voters while promoting social distancing guidelines at polling stations. Despite the COVID-19 pandemic, funding shortfalls, and a short time frame, the June 2020 presidential election was competently managed.

Score Change: The score improved from 2 to 3 because electoral laws were updated in keeping with Constitutional Court rulings following the annulment of the 2019 presidential election, and observers regarded the new electoral commission's management of the 2020 presidential election as competent.

B. Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings?

3/4

There are few significant obstacles to the formation of political parties, though the government has at times held up the registration of new groups. While several parties compete in practice, they are loosely organized, with politicians frequently moving between parties or forming their own breakaway groups. Many candidates choose to run as independents. Following the Constitutional Court's interpretation of majority to mean over half of the vote, political parties created coalitions for the 2020 presidential election. These included an electoral alliance between the then-ruling DPP and opposition UDF supporting incumbent Mutharika, with UDF leader Atupele Muluzi as the vice president candidate. The second major coalition, dubbed the Tonse Alliance, brought together nine opposition political parties, led by MCP's Chakwera, with Saulos Chilima of the UTM party as the candidate for vice president.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections?

3/4

Malawi has experienced peaceful transfers of power between rival groups. Opposition parties hold seats in Parliament and, ahead of the June 2020 elections, were able to mobilize and pass several laws to facilitate the fairness of the polls, despite resistance from the ruling party. Opposition parties are generally able to campaign freely throughout the country. The 2020 elections were the first time an opposition party defeated an incumbent since the transition to democracy in 1994.

However, the governing party generally has a campaigning advantage. Before the June 2020 election, opposition parties faced violence and intimidation from the police and ruling party agents. The state-owned broadcaster, the Malawi Broadcasting Corporation (MBC), was again accused of favoring the ruling party in its coverage, compelling the opposition to rely on private media to convey its message to the public.

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?

3/4

Traditional chiefs, who wield some authority and receive government honoraria, are supposed to be nonpartisan figures under the law, but they frequently seek to influence voter choices in practice. Some chiefs publicly endorsed the incumbent president ahead of the June 2020 election and even threatened opposition candidates seeking to campaign in their regions.

The Political Parties Act, which came into force in 2018, bans politicians from using cash handouts and other incentives to garner votes. Despite this, a 2020 study by Afrobarometer found that around 16 percent of Malawians had reported being offered food, a gift, or money in return for their vote by a candidate or someone from a political party in the 2019 elections.

B4 0-4 pts

Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities?

3/4

All ethnic, religious, and gender groups have full political rights under the law. However, women remain underrepresented in politics despite gradual gains, and according to Afrobarometer, they are less likely than men to become politically involved. The 2020 presidential candidates

did not include any women. The number of women in the legislature remained unchanged at 44, and Catherine Gotani Hara continued to serve as the speaker of parliament. In the 31-member cabinet appointed by Chakwera, there were 11 women, although only 4 were full ministers, the rest being deputies.

Political parties generally do not advocate for the rights of LGBT+ people, who are subject to legal and societal discrimination.

C. Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government?

3/4

Executive and legislative representatives are typically able to determine the policies of government without hindrance. However, patronage and clientelism are common, and wealthy business leaders often influence policymaking.

C2 0-4 pts

Are safeguards against official corruption strong and effective?

2/4

Corruption is endemic in Malawi, though the Chakwera government has taken steps to address the issue. Civil society leaders have accused the Anti-Corruption Bureau (ACB), which is responsible for investigating corruption, of being ineffective and politically compromised. In 2020, the new Chakwera government fulfilled its pledge to fully fund the ACB's budget requests. In June, the Human Rights Defenders Coalition (HRDC) began implementing a whistleblower campaign that has resulted in the reporting of multiple cases of corruption to the ACB. During the second half of the year, several high-profile public officials were arrested on corruption charges and a former cabinet minister in the DPP government was convicted and sentenced for abuse of office.

Score Change: The score improved from 1 to 2 because the government fully funded the country's anticorruption bureau, and authorities carried out a series of arrests and successful

prosecutions in high-profile corruption cases during the year.

C3 0-4 pts

Does the government operate with openness and transparency?

3/4

Malawi lacks budgetary transparency and the government does not make year-end budget audit reports public, though President Chakwera's policy changes have improved government openness. The long-stalled Access to Information Act, which was enacted in 2017, was made operational in September 2020. President Chakwera provided regular updates on his government in weekly radio addresses throughout the year. Chakwera has also appeared twice before Parliament to answer questions from legislators, a tradition required by law but previously not honored. The new administration further instituted weekly press conferences, where reporters ask questions about government affairs.

High-level officials are legally required to declare their assets and other financial interests while in public service, which Chakwera did in August 2020.

Score Change: The score improved from 2 to 3 because a long-stalled law on access to information was finally implemented in September, and the Chakwera government stepped up its public engagement with the media, increased compliance with parliamentary oversight, and abided by asset declaration rules.

Civil Liberties

D. Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media?

2/4

Freedom of the press is legally guaranteed and historically respected in practice. However, news outlets have experienced intimidation and undue regulatory interference in recent years. The public Malawi Broadcasting Corporation (MBC) has historically been biased in favor of the

former ruling party, the DPP. Most private media houses are owned by political families and often take partisan positions. Journalists sometimes face physical violence while reporting on demonstrations or police activity. In May 2020, journalists were attacked by suspected ruling-party loyalists while traveling to cover an opposition campaign rally.

A vaguely worded 2016 cybersecurity law criminalizes the posting of “offensive” content online, which could place journalists at risk of prosecution.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private?

4/4

The constitution upholds freedom of religion, and this right is generally respected in practice. Squabbles between Christians and Muslims occasionally flare up but are often peacefully resolved.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination?

4/4

Malawi’s education system is largely free from political indoctrination. University students and professors are able to engage in research and political activities without interference.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?

3/4

Citizens are typically free to express their personal views without fear of surveillance or retribution. According to a 2020 Afrobarometer survey, 62 percent of Malawians said that they are free to say what they think. However, according to the survey, many Malawians do not feel comfortable criticizing the government and engage in self-censorship. In addition to the 2016 cybercrime law’s ban on posting “offensive” content, a law against insulting the leader of Malawi remains in the legal code, though it is rarely enforced. Civil society leaders have

expressed suspicions that the government monitors their electronic communications with technology introduced in 2017.

E. Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly?	3/4
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Freedom of assembly is guaranteed in the constitution. Prior to the February 2020 Constitutional Court ruling on the disputed 2019 presidential election, the HRDC continued to organize a series of street protests against the 2019 election's irregularities. In March, the outgoing government arrested and charged HRDC leaders after they called for nationwide antigovernment protests, though these charges were dropped by the new government. Many other postelection demonstrations have occurred peacefully, without violence from security agents. Prominent among the year's protests were demonstrations in October and November, criticizing the government's failure to implement the Gender Equality Act (GEA) and speaking out against the increasing rate of gender-based violence.

Score Change: The score improved from 2 to 3 because there was no repetition of the protest-related violence and intimidation reported during 2019, with major protests largely proceeding peacefully in 2020.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work?	2/4
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Nongovernmental organizations (NGOs) are active in Malawi, but leading civil society figures have been subject to intimidation, and NGO operations are somewhat constrained by onerous regulations. Under the NGO Act, an organization's registration can be suspended if it is deemed to have departed from its original purpose, engaged in partisan politics, or violated any

provisions of the law, among other grounds. The NGO Board has threatened to deregister NGOs, though this had not yet occurred as of 2020.

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations?

3/4

The rights to organize labor unions and to strike are legally protected, though workers in poorly defined essential services have only a limited right to strike. Unions are active and collective bargaining is practiced, but retaliation against unregistered unions and strikers is not illegal.

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?

3/4

Judicial independence is generally respected, particularly in the higher courts. The decision of the Constitutional Court to annul the 2019 elections and its upholding by the Malawi Supreme Court underscored the high levels of judicial independence in Malawi. However, judges sometimes face political pressure and are offered bribes to sway their decisions. The appointment process for judges lacks transparency, and the judiciary is underfunded, which can also undercut judicial autonomy. In October 2020, President Chakwera allocated funds for and appointed four new Supreme Court justices and 12 Constitutional Court judges, appointments that may help ease the financial pressures on the judiciary.

F2 0-4 pts

Does due process prevail in civil and criminal matters?

2/4

Arbitrary arrests and detentions are common. Defendants are entitled to legal representation, but in practice they are frequently forced to represent themselves in court. Although the law

requires that suspects be released or charged with a crime within 48 hours of arrest, these rights are often denied. Case backlogs contribute to lengthy pretrial detention; those awaiting trial make up about 18 percent of the prison population.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?

2/4

Police are poorly trained and often ineffective. Police brutality and extrajudicial killings are not uncommon. Prison conditions are dire, characterized by overcrowding and extremely poor health care; many inmates die from disease.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population?

2/4

The constitution explicitly guarantees the rights of all humans. A 2020 Afrobarometer survey found that 76 percent of Malawians said they have never experienced unfair treatment based on their ethnic identity. However, same-sex relations remains a crime punishable by up to 14 years in prison. LGBT+ people are subject to arbitrary arrest and detention and are sometimes physically assaulted while in custody.

Despite constitutional guarantees of equal protection, women experience discrimination in education, politics, employment, business, and other aspects of life.

People with albinism experience discrimination and have been attacked, abducted, killed, and mutilated. In the 2020–21 national budget, the government provided resources to create an action plan to protect people living with albinism.

G. Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?

2/4

The constitution establishes freedom of internal movement and foreign travel, which are generally respected in practice for Malawians. However, during the election campaigns, militant opposition party and ruling party supporters sometimes set up no-go zones for political opponents. Police roadblocks are ubiquitous in Malawi and bribes are common at these checkpoints. According to the United Nations, the government's policy of confining refugees to designated camps restricts their freedom of movement and impairs their ability to earn a living. Police frequently round up those found outside of the camps and return them.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors?

2/4

Property rights are inadequately protected. Most land is held under customary tenure, and the process of creating titles that would allow legal ownership of land has moved slowly. Women are at a disadvantage regarding property ownership and inheritance. Starting a business can be a cumbersome process that is worsened by corruption in key government agencies.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?

1/4

Domestic violence is common, but victims rarely come forward, and police generally do not intervene in domestic violence cases. Child sexual abuse is prevalent. Approximately 42 percent of women marry before they turn 18, in violation of the law. Traditional chiefs have spoken out against, and in some cases forced the annulment of underage marriages. Police have taken more action against perpetrators of sexual abuse in recent years.

In August 2020, the High Court ruled that security forces must compensate women who were raped, defiled, and sexually assaulted by police officers, and ordered the arrest of law enforcers who were implicated. However, at the end of the year, the police had yet to execute the order.

G4 0-4 pts**Do individuals enjoy equality of opportunity and freedom from economic exploitation?****2/4**

Revenues from large, state-run industries tend to benefit the political elite. Income inequality remains a problem and inhibits economic mobility.

The enforcement of labor laws is weak, and employees are often paid extremely low wages, despite minimum-wage laws. Child labor is a persistent problem, particularly on tobacco estates.

**On Malawi**

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Country Facts

Global Freedom Score

66/100 Partly Free

Internet Freedom Score

60/100 Partly Free

Other Years

2020

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