
At the Crossroads

Freedom of Expression

in Malawi

**The Final Report of the 1999 ARTICLE 19
Malawi Election Media Monitoring Project**

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**ARTICLE 19
International Centre Against Censorship**

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1 MEDIA FREEDOM IN THE NEW MALAWI

“The UDF have had no censorship anywhere; it is a real friend of the press”.

*Sam Mpasu,
Minister of Information, 1999*

Until the end of the single-party era in 1994 Dr Hastings Kamuzu Banda and his Malawi Congress Party (MCP) maintained control partly by imposing on the nation and its people a culture of silence.¹ People were afraid to speak against the government and censored themselves in word and deed. A single government-owned radio station pumped out only what the President wanted people to hear. A monolithic newspaper publishing house was run by and for the party’s leadership. Censorship laws were used to protect the nation from subversive ideas (such as those found in George Orwell’s *Animal Farm* or Simon and Garfunkel’s song *Cecilia*). Poets and other free thinkers who dared to write and speak aloud were imprisoned or murdered.

The transition to multi-party democracy in Malawi was relatively short and peaceful, pushed as it was by the larger transformation under way in South Africa, the end of the Cold War and the aid donors’ determination to implement economic reforms. The underlying and deepening impoverishment of the country, brought on by high birth rates and land pressure, lack of capital, low levels of technology, illiteracy and ill-health, ecological distress, as well as state-sanctioned resource transfers to the urban elite, certainly created disaffection that in some areas was channelled and used by others. These forces, in concert with the churches and a middle-class multi-party movement, spearheaded what Wiseman Chirwa has called “a transition without transformation”, leaving much of the reform agenda undone.

For instance, although a new Constitution was written, many of its progressive human rights provisions have not even been legislated let alone enforced. Also, it is widely recognized that local government elections are essential to complete the transformation, yet for years they have been postponed. Although the paramilitary Malawi Young Pioneers (MYP) were disbanded, they were not replaced by a well-equipped or trained force that can guarantee law and order for villagers who now feel more vulnerable and insecure than before.² But of particular interest to

¹ Africa Watch, *Where Silence Rules: The Suppression of Dissent in Malawi* (New York: Africa Watch, Oct. 1990).

² International Organization for Development (UK), *Primary Safety, Security and Access to Justice Systems in Rural Malawi: Draft Report of Research Findings* (International Organization for Development, 29 April 1999).

ARTICLE 19 has been the progress, and lack of it, made in the fields of free expression and media reform since the transition to democracy.³

1.1 New Media

For years the MCP government had resisted the introduction of television. The United Democratic Front (UDF) came into power promising television by early 1996, and it turned the nation's resources to the task – initially the Malawi Post and Telecommunications Corporation (MPTC) in partnership with TV3 Malaysia and later the Malawi Development Corporation (MDC).⁴ The idea of Television Malawi (TVM) was born, though it did not reach fruition until April 1999, at the height of the election campaign, when it began beaming signals to Blantyre and Lilongwe. Also soon after the 1994 elections, the Malawi Broadcasting Corporation (MBC) decided to establish Radio 2 – an FM service that will initially cover the main urban centres.

These two projects were dependent to a large extent on donor funding, but this was slow in coming because the government dragged its feet on passing a new MBC Act. Such an Act was widely recognized as essential to freedom of expression; indeed, it had been championed by multi-party advocates, including the UDF, before they came to power and gained control of the relatively powerful government-controlled media. A new Act was needed to stop any Minister of Information (and through him any President) from interfering in editorial policy and programming at Malawi Broadcasting Corporation and TV Malawi. The old MBC Act gave the Minister direct access to all government media, and the donors were reluctant to give funds to either MBC or TVM without its repeal.

Therefore the belated passage (gazetted on 31 December 1998) of the Communications Act, which encompassed reform of MBC, was a milestone. This act created the Malawi Communications Regulatory Authority (MACRA), which will, when fully operational, oversee the regulation of the postal service, telecommunications (fixed and mobile), broadcasting, frequency allocation, internet service provision, communications policy and licensing. And although Part IX of the Act (on MBC) was changed by politicians after the draft left the Law Commissioner's office, it still emerged from Cabinet and Parliament with sufficient provisions to ensure MBC's and TVM's editorial independence – balanced programming, fair and equal news coverage, access by all parties, diverse ideas and opinions, critical analysis and investigative reporting.

Since 1994 the MPTC (as a regulator) has granted only two licences for private commercial radio broadcasting – one to the President's press officer

³ For background information on media reform and communications see ARTICLE 19, *Malawi: Communications Reform and Freedom of Expression* (London: ARTICLE 19, Oct. 1998).

⁴ For financial aspects of the MPTC-TV3 partnership, see the *Independent*, 19 July 1996 and the *Weekend Nation*, 16–17 May 1998.

(Alauddin Osman) and the other to Oscar Thomson, son of Minister Harry Thomson. None of the many other applicants has been granted permission to operate, except for a local women's group, which gained UNESCO's support to start a community radio station at Mangochi. Even so the women have had to fight turf wars (against the Ministry of Education through the local UNESCO office) to retain control of their station and its resources.⁵

The UDF government also decided in 1994 to start a government newspaper, the *Weekly News*, in order to present positive news about its activities to counter what it saw as negative stories by the opposition press, and according to the then Information Minister, Brown Mpinganjira, "to present news in a non-partisan manner".⁶ The newspaper has struggled ever since, now printing about 2,000 copies per issue but selling far fewer than that. When not disseminating news about President Muluzi and various UDF politicians and functionaries, it prints local stories written by reporters based in the districts who work for MANA (the government's news agency) and foreign stories disseminated free of charge by the Chinese news agency, Xinhua. The *Weekly News*' distribution system is poor, and the paper is often unavailable even in Lilongwe, the capital city, and rarely reaches the rural areas where 85 per cent of the population lives. It is in a precarious financial state, hiring only part-time reporters and owing millions of Kwacha in back payments to its printer. Nonetheless, it is not forced to close down because, unlike the private media, it is kept afloat by taxpayers.

There have been at least 50 newspapers started since the early 1990s, although most only published a few issues and closed. The reasons are not hard to find: many were poorly written and printed and did not sell, some were sued for defamation and closed when they lost their lawsuits, some could not find sufficient advertising, and many were short of capital and could not manage as the cost of wages and inputs rose.⁷

Currently there are two dailies (the *Nation* and the *Daily Times*), three weekend papers (*Weekend Nation*, *Weekend Mirror*, and *Malawi News*) and a handful of other papers that appear periodically. Most of the regular newspapers as well as those that emerged before the 1999 elections are owned by politicians or their

⁵ Interviews with Janet Karim and Stella Mhura, 10 and 11 March 1999. In March 1999 the regional UNESCO office assured the women that they would be able to continue running the project, and threatened to withdraw all funding if the government insisted on taking over the project, and to give it to another broadcaster in southern Africa.

⁶ *Weekly Chronicle*, 24–30 June 1994 and *Independent*, 23–29 Aug. 1994, in which one senior editor at MANA explained that "the government has the right to be heard". For a discussion of the paper see ARTICLE 19, "Malawi: Freedom of Expression and the Government Newspaper", *Censorship News*, Issue 46 (London: ARTICLE 19, Dec. 1996).

⁷ For a discussion of the financial constraints on publishing see M Hall with M Ham, "Economics of Press Freedom and Media Development in Malawi", *Media for Democracy in Malawi: Report of a conference convened by the International Federation of Journalists*, Blantyre, 17–19 Aug. 1994.

families.⁸ For instance *Your Market* was started by Minister Harry Thomson's son (now owner of FM 101) though he sold the paper to his partner, Peter Chinthuli, on 23 March 1998. The *Mirror* is owned (through Moto Publications) by Brown Mpinganjira and Patrick Mbewe, both UDF Ministers. The *Nation* is owned by Minister Aleke Banda, his wife and daughter, while the *Enquirer* is owned by Lucius and Irene Chikuni (through Midas Publications), both of whom are officials in the UDF government. *Malawi Today* is owned by Akwete Sande, currently an ardent UDF supporter, while the *Daily Times* and *Malawi News* are owned by Blantyre Print and Publishing, a company linked historically to John Tembo and the MCP.

The *Business Telegraph* is owned by Jerry Jana, Chairman of Press Corporation, while the editor of the government's *Weekly News*, George Tukhuwa, is the registered owner of the *Saturday Post*. The party press, the *UDF News*, was started by the President, Aleke Banda, Harry Thomson and Edward Bwanali. The *Sunday Citizen* is not registered with the Registrar General, although it is managed and reportedly owned by Willie Zingani, a presidential speech-writer and press officer. Nor is the *National Agenda* registered under a real name, though it is believed to be owned by a senior MCP politician. The *New Vision* is owned by senior members of AFORD. The *Weekly Time* is registered, but the Registrar General's office has had trouble tracing its owner – a man purportedly closely linked to a senior UDF Minister.⁹ A few newspapers are owned by media workers, such as Rob Jamieson (*Chronicle*), a printer and media activist and Peter Kumwenda (*Champion*), a journalist.

The ownership structure of the private print media – and increasingly of private radio stations – has been a worrying development for several reasons. Foremost it means that editorial policy is easily influenced by party politics, and that stories (or programmes, in the case of radio) are added or dropped according to political criteria instead of newsworthiness.¹⁰ Also the life and death of a newspaper owned by a politician is not determined by its value to the community nor even by

⁸ In late 1995 Parliament amended the Printed Publications Bill, which required publishers, printers, editors and reporters to be named in their publications. The bill was unpopular with editors and publishers. The bill was not signed into law by President Muluzi as he and media workers saw it as retrogressive. ARTICLE 19 would promote any regulation that ensured readers know who owns the papers they are buying. For discussions of this issue, see *Nation*, 21 Nov. 1995 and *Weekly Chronicle*, 24–30 June 1996; *Malawi News*, 22–28 June 1996.

⁹ In an interview with the Deputy Registrar General, Mr Zamara, on 26 May 1999, ARTICLE 19 found that the office is fixated on finding the owner(s) of the MCP-friendly *National Agenda* and closing it down because it has violated the law by not registering their real name(s). On the other hand, it demonstrated negligible concern for the pro-UDF newspapers that are not registered (such as the *Sunday Citizen*) or whose owners are not traceable (variously spelled Noah or Nowa Chimpeni, Mumm Publications. See documents in File no. 43934, showing three failed attempts to find him in September 1998).

¹⁰ Mpinganjira was more poetic: “people want to be accurately informed instead of being harassed with propaganda material for a few self-important politicians and would-be newspaper barons who believe they have a monopoly of wisdom.” *Nation*, 22 Aug. 1994.

the money it earns, but by the political service it provides its owner and his political colleagues. Through such newspapers the views of politicians are disseminated as fact and as real news, which may do a disservice to any reader in search of objectivity, in-depth analysis, or facts. Moreover, when articles are written and published in one paper and picked up, cited or re-run in a paper owned by a fellow-party member, the views they carry become more credible and the stories they tell more compelling. When these are reiterated by MBC (for example, on its *Press Review* programme) they become regarded as fact. In such a situation robust debate, diversity of opinion and democracy suffer.

It is not surprising that the country is awash with UDF-linked newspapers at the moment, for the Muluzi administration has deliberately and perhaps illegally used government resources in the form of advertising to promote papers owned by UDF party supporters. This policy was initiated not by the government per se, but by the party, with a pronouncement by the UDF Governor for the South, Davis Kapito in late 1997. His policy, which was supported by the President and Ministers, stated that government departments should not advertise in papers that insult the President or his administration.¹¹ There are two sides to this policy: denying advertising revenue for papers that are critical of the administration, and promoting friendly papers by sending them a lot of government advertising. Monitoring the press for one month (March 1999) ARTICLE 19 demonstrated that this policy is being implemented and that through the use of public monies the administration has financed newspapers owned by party members while ignoring those owned by the opposition. It also means that the cover price of pro-UDF papers can be lower than those with less advertising revenue, which may encourage readers to buy them.

1.2 Print Media: Suppression and Support

The 1999 elections were characterized by serious abuses of freedom of expression on the part of the UDF government. But the attempt, for instance, to close down the opposition's *National Agenda* before the election and the arrest of a *Daily Times* editor and journalist just after it were not isolated acts of harassment. They were the culmination of a trend starting several years earlier.

In 1994 the UDF had come to power championing press freedom, which had been denied by Dr Banda and the MCP. This dichotomy between multi-party and press-freedom advocates on the one hand and the MCP on the other was evident for some time after the 1994 election. It was reinforced when members of the National Assembly formed the Committee on Mass Media, a committee that was highly politicized when Dr Hetherwick Ntaba of the MCP (which then dominated

¹¹ *Daily Times*, 19 Feb. 1998 and *Weekly Chronicle*, 16–22 Feb. 1998.

Parliament) was elected its first chairman. Nominally its aim was to monitor government media policy and the impact of that policy on the media, to promote a free press, and to ensure that media workers were responsible and acted within a code of ethics. But it was primarily formed by the opposition in parliament “to check against possible abuse ... of the MBC by the ruling party”.

Soon it proposed to write a code of conduct for journalists. The Journalists Association of Malawi (JAMA) and media workers responded by declaring that they did not recognize the committee and that journalists should instead create a “press complaints commission ... and press council” to formulate their own code of conduct.

Considering that the country had just emerged from 30 years of MCP media manipulation and censorship and that the UDF were believed to be democrats, it is not surprising that most journalists ignored Dr Ntaba’s warning that “there is an ever present temptation by those in power to direct the flow of information ... [which] ensures that information is biased in favour of the ruling party”. Nor did they accept the assurances of leading MCP member Gwanda Chakuamba that “journalists should not fear the Media Committee; we are not after muzzling their press freedom but to ensure that no one in authority should tamper with it”. The warning from another MCP leader, Louis Chimango, about any government’s “tendency to tamper with the newly won freedom of the press” also went unheeded. Instead, the journalists’ first inclination was to fear the MCP and to put their faith in the new government and Constitution. The fact that reporters were roughed up by MCP supporters when Dr Banda moved from Sanjika Palace to Mudi House in June 1994 did little to instil confidence in the MCP either. The “same [MCP] politicians now posing as sentries for the press, will sooner rather than later, turn against it”. The *Independent* reminded the country that the “Committee [will] take us back to the MCP era where politicians and the government controlled and stifled the press We ... smell a rat. And we demand its termination ...”¹²

The furore over the Committee on Mass Media came at about the same time that the *Democrat* decided to publish a picture of President Muluzi taken many years before when he had been imprisoned for theft. The administration reacted by banning the *Democrat*’s 20 July issue, using the Protected Flag, Symbol and Names Act; pulling the paper off the street and hunting the editor. No further use of the picture was to be permitted (though this ruling did not stand). The Journalists Association complained that while

the use of the picture reflects poor judgement [by the *Democrat*], the newspaper ... has the right to public information ... JAMA finds it

¹² *Nation*, 17 June 1994; *Daily Times*, 20 July 1994; *Weekly Chronicle*, 15 and 25 July 1994; *Malawi News*, 16–22 July 1994; *Weekly Mail* (Malawi), 28 July 1994 and *Monitor*, 20 June and 14 July 1994; *New Standard*, 5–11 Aug. 1994.

hypocritical that the ... government, whose newspaper ... used to publish cartoons and other graphics ridiculing the then-State President, should turn round and start prohibitions that infringe upon the freedom of the press.¹³

It was then, only weeks after the election, that journalists began to realize that press freedom could be threatened by politicians of any party. With some prescience, Willie Zingani wrote before the *Democrat* was banned, “the same multiparty advocates who used to instruct writers to hit hard are saying the press is today to blame for this and that. I can see trouble coming our way. It will [only] take parliament to agree that journalists should be taught a lesson and they will suffer”.¹⁴

Sure enough, two years later the parliamentary Committee on the Mass Media – by then under the leadership of the UDF and Joseph Kubwalo – called for the “censoring” of the *Daily Times* and the *Malawi News* by the National Assembly because it had “misreported the proceedings of the House”. The Committee went on to write a “Media Policy Document”, which was to establish parameters for the operation of journalists but which media workers felt “smack[ed] of suppression and control”.

In these first couple of years after the transition, journalists and the UDF government were both trying to find their feet. Because press freedom was new and because many media workers were inexperienced and knew nothing of journalistic ethics, they went overboard in reporting about politicians’ personal lives. At the same time they began reporting on corruption, sometimes accusing individuals and companies of a wide range of corrupt and criminal practices without sufficient investigation or evidence.¹⁵ Morgan Mayani, Chief Information Officer, told reporters in September 1994 that “what now appears in print is nothing but insults to the Head of State and others in authority If we are not careful, we will invite the wrath of outsiders like politicians to police our work”. “We need a code of ethics”, he concluded.¹⁶ It was not long until an “interim media complaints commission” was established by media workers, and the first *Code of Ethics and Professional Conduct* drafted by the Media Council, a body created by journalists at Mangochi in January 1994.

While the press experimented with its new-found freedom, the government sent mixed signals as UDF officials vacillated between encouraging the press to be

¹³ *Malawi News*, 23–29 July 1994.

¹⁴ *The Express*, 15–21 July 1994.

¹⁵ For instance, “Chihana bribed by MCP” (*Daily Times*, 29 June 1994); “PS absconds” (*Chronicle*, 9–11 July 1994); “Import and Export Company” (*Enquirer*, 24–27 June 1994); “Teba” (*UDF News*, 11–15 June 1995); “Chinkwita Phiri drug dealing” (*Nation*, 7 April 1997); “Mpasu and Field York” (*Daily Times*, 11 April 1997 and *Weekly Chronicle*, 25–31 Jan. 1999).

¹⁶ *Daily Monitor*, 15 Sept. 1994; *Saturday Nation*, 13–16 April 1996 and *Weekly Chronicle*, v.

vigilant and critical of the administration, and alternatively castigating journalists for infringing people's rights. For instance, Minister Mpinganjira repeatedly spoke about the difference between a "free" and an "irresponsible" press: "it is not possible to maintain Africa's budding democracy without freedom of the press", he said. Journalists should write about "hidden issues that are relevant to society and not those which are personal". They should act as watchdogs of government. Not long afterwards, however, a young journalist with MANA was transferred to Chitipa after the UDF Governor in the Centre reported to authorities that she had said that the Information Minister was corrupt. And the same month "independent" journalists (from the *Monitor* and the *New Voice*) were barred from a state banquet after their papers had criticized the President. In other words, neither politicians nor journalists were clear about what was legitimate news and what was not, and as reporters continued to conflate the two the government lashed out.

In March 1995 the President took Blantyre Print and Publishing and its sister company, Blantyre Newspapers Ltd, to court for reporting that the IMF and World Bank had warned the government about Muluzi building a house in Blantyre. He also expressed his disappointment about the quality of reporting in the country and warned JAMA's members that he was not going to sit idly and let them discredit him or his government. In November 1995 journalists were warned not to write about the murder trial of three prominent MCP leaders, including Dr Banda, because the articles in question were "all one-sided against the state ... [they are] quite clearly ... calculated to influence the outcome of the case". Two weeks later the owner of the *Tribute*, Akwete Sande, was picked up by police and held for several hours for writing that one of Vice-President Justin Malewezi's bodyguards volunteered to assassinate President Muluzi. After refusing to disclose his sources, he was charged with "publication of false information likely to cause public fear and alarm". Much later, in May 1997, General Simwaka threatened "drastic action" for reporting rumours that he was about to be sacked.¹⁷

News about the private life of the President was clearly meant to be sacrosanct and criticism of his administration gentle.¹⁸ For instance, he filed injunctions against the *Statesman* to halt its publication of a column entitled "Dear Anne" (Anne is the name of the President's first wife), and against the *Tribute* and United Printers for any article that says "bad things about the President". Within weeks he sued the *Tribute* for accusing him of land-grabbing, amongst other things. Where Mpinganjira had told journalists soon after the election that sedition laws

4, no. 105.

¹⁷ *Nation*, 13 and 17 Nov. 1995; *Monitor*, 26 Oct. 1994 and 14 Sept. 1995; *Weekly Chronicle*, 3–9 Oct. 1994 and 10–15 Oct. 1995; *Daily Times*, 20 Aug. 1996; *Tribute*, 29–30 Nov. 1995; and *New Vision*, 9 May 1997.

¹⁸ *Malawi Democrat*, 6 July 1994, reporting that a man was fined K40 for making reference to the President's sex life.

were used in oppressive countries to muzzle the press and that “the government is not ready to pass any legislation that will curtail your freedom”, two years later the President warned opposition politicians that they should not force him into using Banda’s old sedition laws: “Don’t provoke me ... I have been informed that [Chakuamba] spent all his time [in Mzuzu] castigating me.”

Allegations of corruption became more widespread after the transition and it was only natural that the local press investigated and publicized the many stories. Increasingly, journalists accused senior civil servants and ministers of being involved. In response the President told the press that he would ignore their allegations and would be forced to ask the police to arrest people who made unsubstantiated statements. At the same time he castigated the Anti-Corruption Bureau for not doing its job.¹⁹ In spite of such threats, journalists continued to write about government and party officials involved in fraudulent business deals. One of the longest running battles was between Sam Mpasu, the then Minister of Education, and the *Democrat*, which accused him of profiting from the purchase of school notebooks from Fieldyork in the United Kingdom. The *Democrat* was unable to prove its case in court and Mpasu was awarded K200,000 in damages. This effectively resulted in bankruptcy and soon afterwards the closure of a pioneering opposition newspaper. Many other cases of fraud were exposed by the press, which involved government funds earmarked for roads, land, housing, petrol supplies and computer equipment.

In the second half of Muluzi’s term of office the relationship between the press and government continued to deteriorate. In response, the government started the *Weekly News* in 1996 to produce “positive” stories about its work, and the following March the UDF was reported to have formed a group specifically to pump out “vigorous propaganda which would include the destruction or manipulation of newspapers seen to be against the UDF or its government”. Whether the group existed or not, what followed seemed to be a concerted attack on the MCP’s newspapers.

It began in January 1998, when the army acted supposedly in response to an article in the *Daily Times* that stated that the military’s HIV/AIDS rate was especially high. On MBC the Minister of Defence, Joseph Kubwalo, threatened that the *Daily Times* would bear the consequences of publishing the article and soon afterwards soldiers raided the newspaper’s Blantyre office, destroying equipment and terrorizing journalists.²⁰

¹⁹ *NewsDay*, 24–28 Aug. 1996; *Daily Times*, 17 June 1994, 20 Aug. and 18 Sept. 1996; and the *Nation*, 17 June 1996.

²⁰ *Daily Times*, 20 March 1997, 29 Jan. 1998. *Malawi News*, 14–20 Feb. 1998. Later the Army Commander disclaimed any prior knowledge of, or responsibility for the attack, saying the raid came after an anonymous caller told the army that arms were stored at the *Times* offices. *Nation*, 30 July 1998.

The same month two plain-clothes policemen entered the *Daily Times* newsroom and demanded that two journalists follow them to Fiscal Police headquarters. There they were questioned about a statement made the previous December by Dr Ntaba, who was quoted as saying that “it is silly for the President to keep on saying that the opposition is involved in armed robberies”. Ntaba was charged the following May under the “Protected Flag, Emblems and Names Act”, but not before he warned Muluzi (in late March) that he should stop “saying silly remarks on the radio [or] we are going to expose a scandal he did with Leyland Motors”. He undoubtedly made matters worse when he said the following month that “we are ruled by a silly and brainless man who has run out of ideas”. In May the two journalists were compelled to testify against Ntaba, but the case against Ntaba for calling the President “silly” was eventually dropped by the Director of Public Prosecutions.

Somewhat naively it seems the government expected the independent press to halt their investigations and write only positive stories about the administration. At the beginning of 1998 Muluzi accused the newspapers of waging war on him. Arguing that he too had been targeted, UDF Governor Kapito, speaking at Phalombe on 1 February, suggested that the President ban government advertising in the two MCP papers. Soon afterwards the then Minister of Information, Sam Mpasu, justified the action by stating that advertisers, including government, were having qualms about identifying their products and services with newspapers that are sinking low into indecency. Justifying the move, Mpasu noted that “it is a ban, but it is not permanent We will be able to give advertisements if the papers change. It is happening all over the world: papers have been banned.” More threatening still, he concluded, “in fact, your colleagues are languishing all over because of insulting governments”.

Working in tandem the then Minister of Education, Brown Mpinganjira, ordered the university colleges to stop placing advertisements in the two MCP newspapers. In the midst of this crackdown the President’s press secretary, Alauddin Osman, an early champion of the free press, defended the ban: the President “has warned the press against ... intrusion into private lives and personal insults, and that he, like any other citizen, is entitled to defend himself”. The attack against the MCP’s press widened when vendors from the Lilongwe market attacked newspaper sellers and destroyed copies of the *Daily Times* being sold on the streets.²¹

The aid donors equivocated about these attacks on the press, perhaps because they did not see a longer-term trend. Some spoke out against the detention of the two reporters who were questioned about Ntaba’s use of the word “silly”, but others said they thought the government was free to choose where it advertises. Likewise, the

²¹ *Daily Times*, 20 March 1997 and 29 Jan., 19 and 26 Feb., 6 March, 7 May and 1 April 1998; *Malawi News*, 14–20 Feb. 1998, and *Weekly Chronicle*, 16–22 Feb. 1998.

banning by Sam Mpasu in June of *Take Part*, a German-sponsored newspaper promoting human rights and democracy, because it was a foreign-owned publication, caused barely a stir in the donor camp.

Locals, who have a longer memory than donors and who lived through the Banda years, were more outspoken. For instance, the Roman Catholic Bishops' Lenten letter lamented the "ever-increasing hostility towards the press from some quarters". It explained that "exposing injustices can often be misconstrued by those concerned as backing one or the other camp; revealing some evils in our society is something seen as slandering the Government, to the Opposition or their leadership". In May the directors of JAMA and the local Media Institute of Southern Africa (MISA–Malawi) as well as the course manager for the Malawi Institute of Journalism (MIJ) complained that "there is no press freedom in Malawi, that the situation has gotten worse in the last 6 months, and that there is aggression and harassment of the media, which is increasing". The arrest of the editor of the *New Vision* (a pro-AFORD publication) for "publishing false views" – he had written a story entitled "Nine bombs found in Lilongwe" – and his beating by police, which landed him in hospital, led to condemnations by the Media Council and others.²²

The struggle between the UDF and the print media became acute in early 1998 (about the same time the government started to withhold advertising from the opposition press) with the appearance of the *National Agenda*, a scurrilous tabloid published by MCP supporters, Chikonzero Publications. (Typical of its stories was one in its 13–20 July edition: the son of Information Minister Mpasu has been arrested in South Africa for peddling drugs and selling counterfeit US currency.) In an attempt to match the depredations of the *Agenda* the pro-UDF *Weekly Time* was started in July 1998 by Mumm Investments.²³

At the same time Minister of Justice/Attorney-General Peter Fatchi began to hunt for the real owners of the *Agenda*, threatening to "act tough on any newspaper ... defaming people, but whose owners could not be traced when libel actions were taken to court or judgements were to be enforced". In September the government ordered that the paper be closed because the real owners were not registered with the Registrar General's Office and had not presented themselves as requested.²⁴ The Civil Liberties Committee (CILIC) acted quickly. It obtained an injunction to halt the

²² *Malawi News*, 14–20 Feb. 1998; *Daily Times*, 19 Feb, 22 May and 19 June 1998; and *Nation*, 2 April 1998.

²³ Later ARTICLE 19 was asked: "what is the difference between the two publications? Both are obscene, castigate politicians in opposing parties, and write fictitious stories". While ARTICLE 19 agrees with this description, the difference is that the *Weekly Time* receives taxpayers' money, at least in the form of government advertising and aid from government media workers, while the *Agenda* does not.

²⁴ As noted above, the owners of Mumm Investments could not be tracked down by the Registrar General's office either, but no action was taken against it. See File no. 43934 (*Weekly Time*), registered letter and envelope sent on 16 Sept. 1998.

government's "administrative action" against the *Agenda* and the High Court ordered a judicial review. Back on the street within days, it came under attack from UDF thugs who broke into the *Daily Times* offices in Lilongwe, looking for copies of the *Agenda*, threatening to burn the office, and sending newspaper vendors scurrying. In October 1998 the supposed owners of the paper were arrested. The case came to court in March 1999, at which time the High Court dismissed CILIC's injunction (that had allowed the paper to continue publishing) and decreed that CILIC did not have sufficient interest (*locus standi*) in the case to act on behalf of the newspaper, even though the case had enormous constitutional implications. The case has since been appealed. At election time the paper was still on the streets.²⁵

To summarize, during President Muluzi's first term of office disagreements between the print media and the UDF government emerged as reporters and publishers periodically stretched the bounds of ethical journalism and as they began to investigate stories of corruption and abuse of office. In response the UDF has used public resources to support friendly papers and those belonging to UDF officials, and to start the *Weekly News*, which publishes pro-UDF stories. The army, police, party thugs, as well as old legislation and the courts have been used to intimidate journalists and editors, and to close publications critical of the President and his colleagues. Meanwhile calls for ethical standards prompted the emergence of several (relatively weak) media organizations and numerous media courses, and the adoption of a code of ethics that is often abused.

1.3 Broadcast Media: Monopoly Maintained

The broadcast media have a different ancestry from the print media, for most newspapers in Malawi are new and privately owned (albeit by public figures) while MBC and TVM have since their inception belonged to government. Moreover, it has been relatively easy since 1994 to set up a newspaper, while in order to operate any broadcaster has had to get a licence from the regulator – until recently the MPTC (under the control of the Minister of Information). More expertise and technology are needed by broadcasters than by publishers, which in turn require a higher investment. Still, a number of entrepreneurs applied for licences during Muluzi's first term (already a dozen by September 1994), but only three – Alauddin Osman, Oscar Thomson, and the Media Women of Malawi – received them.

Applicants were told that "to get a frequency, you have to get your systems configured to world standards ... you need to have your equipment approved". Not all felt such explanations were valid reasons for rejecting their applications. For

²⁵ *Daily Times*, 21 Sept. and 22 Dec. 1998; *Nation*, 17 Sept. 1998; *New Vision*, 25 Sept. 1998; and *National Agenda*, 23–26 Sept. 1998. Registrar General's Office, File no. 41160 (*National Agenda*)

instance, Edward Manda, an experienced broadcaster, accused the Minister and engineers of trying to “dazzle” him with technicalities when they refused his licence. “They are a bunch of liars”, who hide behind vague legislation while playing politics. He was not the only one to accuse the MPTC of “trickery”, nor to see the political implications of limiting the development of private radio. Neither was the link ignored between the UDF retaining control of MBC and it refusing private broadcasters to operate. For instance, the *Nation* editorialized: “The more the government clings to its control of MBC the less confidence thinking Malawians will have in the national radio station, thus increasing the demand for alternatives”.²⁶

That such alternatives were going to be slow in coming was made clear initially by the then Tourism Minister, Patrick Mbewe, who explained that private radio licences would not be granted because Muluzi’s government did not want a “flourishment [*sic*] of casual sex on radio in the country”. No government in the world wantonly authorizes “any person to open a radio station because we have to protect the citizens from immorality”. Information Minister Mpinganjira provided a second reason in September 1996: “Malawi should not be stampeded into liberalizing broadcasting before we are ready ... We must be allowed to learn how others have done it.” True to his word when the next election took place in 1999 control of broadcasting in Malawi still remained firmly in the hands of the ruling party.²⁷

Right from the beginning of Muluzi’s first term MBC staff learned that in spite of the transition, they were not to undertake investigative reporting and were to shift their political allegiance to the new ruling party. Soon after the election they were warned by Information Minister Mpinganjira that he would not protect any reporter who “deliberately engages politicians”. A month later came threats of dismissal against staff seen to be opposition party supporters.²⁸

Two years later a BBC trainer spoke about the atmosphere at MBC. Staff, she said, had become “unsure of themselves. She said she had heard the Minister ... state that workers in MBC could exercise their right to freedom of expression, but still there was a lot of hesitation. People appear to fear that they might lose their jobs if they put their foot in the wrong place”. In August 1996, Hastings Maloya, a reporter who covered an MCP rally, was dismissed and his editor suspended following the broadcast of an item about the meeting. Not surprisingly, MISA protested and “denounced the political interference in the MBC newsroom”.²⁹ In this same period

and File no. 43934 (*Weekly Time*).

²⁶ *Nation*, 8 Sept. and 4, 7 and 14 Nov. 1994. *Weekly Chronicle*, 3–9 April 1995. Thomson installed his radio station illegally; the equipment was seized in Blantyre by police in October 1994. *Daily Times*, 3 Nov. 1994. The furor about private radio licensing died down considerably after 1994, when it became clear that the MPTC was not going to budge.

²⁷ *Daily Times*, 11 March 1996 and *Nation*, 17 Sept. 1996.

²⁸ For instance, Chief Reporter, Franklin Titani (*Malawian*, 14 July 1994); Henry Chirwa, Tennis Sineta, and Charles Bweya (*Daily Times*, 15 July 1994). *Express*, 17–23 June 1994.

²⁹ *Enquirer*, 1–7 March 1996; *Daily Times*, 17 Aug. 1996.

ARTICLE 19 did interviews with senior staff at MBC news, who reported that employees were seen as troublemakers if they objected when the Information Minister telephoned the Director-General to add or pull items off the newscasts.

By mid-1998, workers at MBC were said to be afraid to talk freely, as their words were being reported to someone – a claim that might once have been disregarded but is now believable (see below). A long-running dispute over wages resulted in 300 people going on strike for three days in November. In the aftermath of the strike 13 people were dismissed. MBC took this opportunity to rid itself of strikers and several others who had not gone on strike, but who were not sufficiently loyal to the UDF.³⁰

While some government media staff were being punished, those who were loyal were rewarded by being selected to accompany the President on his foreign trips. It was also noted that after a news conference at Chileka airport where an MBC reporter asked the President upon his arrival from China about an attempted coup in his absence, certain people were selected to attend press conferences held by ministers and the President “so that embarrassing questions from the young vibrant reporters are not given the way through”.³¹ Thereafter, those who were in management’s good books continued to gain power and position, and some came to be regarded by their colleagues as spies. In 1998 several of these were singled out for special duties, an assignment discussed in some detail below.

In addition to ensuring that government radio had the right personnel, the UDF began to take advantage of the old MBC act to establish editorial policy. Naturally, the MCP expressed its displeasure from the beginning. “I was surprised by the tone and language of the commentary [aired 1 July 1994]” said one *Daily Times* reader, while another listener complained about MBC “removing the important part of the messages [about reconciliation]” for political reasons. In October 1994 Ntaba reported that Mpinganjira was telling the newsroom what to report, and not permitting the opposition its right to reply to President Muluzi’s criticism of the MCP.³² The opposition also complained about political censorship from early on. “There was an important meeting in Nsanje recently which was attended by over 30,000 people ... addressed by ... Chihana and Chakuamba, but nothing was aired. The same happened in Mulanje and Kawale ... [and] nothing was heard on MBC.” Soon afterwards MBC declined to broadcast an MCP/AFORD press conference about the dispute over whether Dr Banda should be allowed to remain in the Mudi

³⁰ *Daily Times*, 22 April 1998 and 21 Jan. 1999; *Weekly Chronicle*, 1–6 June 1998 and 18–24 Jan. 1999; *Nation*, 25 and 26 Nov. 1998. Clement Stambuli, then member of the MBC Board and now Minister of Information, claimed that MBC was “down-sizing. ... to ensure efficiency ... [and it was a] coincidence that it [the dismissals] has come at the time of the on-going strike”. Also, ARTICLE 19 anonymous interview No. 1, 1 March 1999.

³¹ *Independent*, 28 April–4 May 1995.

³² *Daily Times*, 12 July 1994; *Standard*, 30 July 1994; *Monitor*, 17 Oct. 1994; and *Nation*, 17 Oct. 1994.

and Mtunthama residences, though the MCP noted that it had given two days' coverage to a press conference held by Ministers Mpinganjira and Itimu.³³

Stenographic reporting, which results from lack of analysis or contextual linkages and which characterized MBC under Dr Banda, continued to be a problem. In September 1994 the European Union Delegate advised MBC reporters to stop "aping government leaders" and become "inquisitive and analytical" in their reporting.

It is boring to listen to a minister or ... other politician ... drone for one or two hours without interruption on radio Tackle critically topical issues, such as the ownership of state residences, the handling of the economy ... the introduction of free education ... and crime.³⁴

Looking back now it is easier to see that the staff to whom he was speaking were not about to take his advice, for they were afraid of losing their jobs and had been expressly told not to cross politicians by doing investigative journalism.

Censorship continued. In November 1994 President Muluzi used MBC to castigate the MCP for fomenting a civil service strike, a charge that Chakuamba tried to counter on radio. Ntaba was told by a journalist at the station that they had been instructed by the Minister not to air the speech, a charge that Mpinganjira denied. The same month the playwright Du Chisiza Jr complained that MBC wanted to dictate the phraseology of the advertisement for one of his productions. MBC wanted the words about high sugar prices struck out, but Chisiza refused: "if the President himself cannot tell the people openly that sugar prices are extremely up, and not only sugar but every essential commodity, why then shouldn't [I] mention it?" In December when Ntaba was picked up by police for arson, complaints were raised about the "hushed response" of MBC, which was allegedly done in an effort "to keep the largest part of the country in the dark about the government's intentions and hidden agenda". JAMA made formal statements about the news blackout, as people had called it, complaining that they had to tune into BBC to get news about their own country.³⁵

As time passed other reports of censorship were heard. As crime worsened, journalists reported that their colleagues at MBC had all been told to "play down stories that attack the government on its "'failure' to maintain security in the country". And when, a year after the election, AFORD rebels challenged Chihana's

³³ *Malawi News*, 23–29 July 1994 and *Daily Times*, 22 Aug. 1994.

³⁴ *Monitor*, 13 Sept. 1994 and *Nation*, 14 Sept. 1994. A returning Malawi journalist offered them more advice: "save us from the boring and unnecessary details about the President's programme". *Nation*, 29 June 1995.

³⁵ *Malawian*, 7 Nov. 1994; *Independent*, 2–8 Dec. 1994; and *Malawi News*, 19–25 Nov. and 3–9 Dec. 1994.

leadership, even the *Nation's* editor cried out to the UDF “leave the MBC alone”. “In keeping it controlled, the government does not only lose the moral right to call itself democratic but it also violates the same constitution it pledged to defend”. Others raised questions about why during the strike the “civil servants’ [statements] went unmentioned whereas abusive statements and threats by some government official freely flooded the airways?” The Foundation for the Integrity of Creation, Justice and Peace also complained that MBC was abusing airtime through live coverage of the national trips by the president and rebroadcasting them later in the evening. “This being the only radio station ... It should not be monopolized by one person”. The following year when a split developed in the UDF, politicians on the wrong side of the divide accused MBC of denying them access to radio. Criticisms continued – in fact, Dr Ntaba aired them at a regional meeting in Botswana in March 1997, though his words were not rebroadcast at home on MBC.³⁶

In late 1995 the MCP petitioned MBC, complaining of its “resistance to change, ... [its] biased and partisan coverage, ... disregard for dissenting political views, ... failure to report to the nation balanced current political events ... and deliberate distortion of messages between English and Chichewa”. A number of solutions were suggested. AFORD politician Marango Banda – who accused the government of “exerting strong control over MBC [as] news appears to be heavily vetted and even suppressed in some cases” – thought MBC should observe the code of conduct drawn up and used during the run-up to the multi-party election. And at a media workshop in 1995 the Civil Liberties Committee suggested that an Independent Broadcasting Authority be created which would license independent broadcasters and ensure that MBC was free from political bias. ARTICLE 19 agreed. In the end this was the tack taken by the Law Commissioner as well, who began drafting a new MBC Bill, which later was incorporated in the Communications Bill, which finally went to Parliament in 1998. The Information Minister, on the other hand, was delighted with MBC, stating that he would not allow “the confusion now rife in the print media to creep into the radio”³⁷

There have always been defenders of MBC. For instance, early on Molland Nkhata (then Head of News and Current Affairs) dismissed opposition charges that MBC was biased in favour of the ruling party in its coverage of news. Eighteen months later Henry Chirwa, then General Manager, reported that there was no censorship at the station and that all parties and individuals are given balanced

³⁶ *Nation*, 30 Aug. 1995; *Chronicle*, 28 Sept. 1995; *Daily Times*, 28 Aug. 1996 and *Enquirer*, 4–11 April 1996. *Malawi News*, 1–7 March 1997. Opposition parties also claimed that Mpinganjira’s decision in late 1995 to charge all parties, including government, for press conferences, was meant to cripple the opposition because the UDF would use taxpayers’ money to pay its bills. *Monitor*, 20 Nov. 1995.

³⁷ He continued that he had thus far resisted the temptation to “introduce legislation to limit the media”. *Independent*, 7–13 April 1995 and *Weekly Mail*, 12 April 1994. Also see *Daily Times*, 21 Nov. 1995 and the *Democrat*, 21 Nov. 1994.

coverage. (Both were to be dismissed later). A couple of months later Gospel Kazako, publicity secretary of the Electronic Media Workers Union, said that it was not correct to say MBC is partisan. “MBC has to support the government of the day”. Moreover, he said, no radio journalist or producer has suffered at the hands of government for putting on air something out of tune with their interests.³⁸

Of importance to the 1999 campaign was the issue of election coverage and special treatment for the President, which first arose during a by-election campaign in 1996 when the UDF candidate Chakakala Chaziya received support from the President and others who campaigned for him on MBC. Critics charged that the Electoral Commission was partisan, favouring the UDF.³⁹ But later in the year at a meeting at Mangochi the Electoral Commission and opposition parties agreed that all candidates and parties should be given equal coverage on MBC during any campaign period and that no single party should be covered more than another.

In spite of this agreement and in a statement that would reverberate through to 1999, Sam Gunde, then Acting Director-General at MBC, said that President Muluzi would be given live coverage of his meeting in Nsanje, scheduled as part of a by-election campaign then under way, because “the President ought to enjoy special privileges. The President [is] being covered as State President and not as UDF President”. When asked if this was part of the law, he said no, “it is an MBC Convention ... a principle that has been there on the time [*sic*]”. When asked why UDF politicians had more coverage than others, he explained that “most of them come here ... to ask for reporters to accompany them to their meetings I have not seen some other political parties come here to ask for reporters ...” Overnight his ruling about live coverage was changed, when the Electoral Commission and MBC discussed by-election coverage. The President’s rallies would not be aired live, although edited versions of the President’s speeches, after all reference to the by-election was removed, could be aired in the evenings.⁴⁰ The importance of an independent Electoral Commission was clear.

Three years into Muluzi’s term of office, complaints about MBC increasingly focused on its use during by-election campaigns. In 1997 he began “touring development projects” at the time of by-elections, during which MBC was to cover him. Naturally the MCP opposed this practice and complained that their candidates did not have equal access to radio. Moreover, the MCP said that while MBC aired campaign news in the mornings, it was without substance and ignored the main issues. The following year President Muluzi used his tour of Mikuyu prison to castigate the opposition, after which AFORD, the MCP and People’s Democratic Party sought an injunction to stop the UDF from using the radio to campaign.

³⁸ *Monitor*, 15 Sept. 1994; *Nation*, 13 June 1996; *Enquirer*, 4–11 April 1996.

³⁹ *Malawi News*, 10–16 Feb. 1996.

⁴⁰ *Daily Times*, 25 July 1996 and *Nation*, 26 July 1996.

Moreover, they asked that the “President ... apologize for the atrocities he himself committed during his reign in the MCP ...” The court ordered that party functionaries should not be given live coverage, a ruling ignored by Sam Gunde. Furthermore, the President stated that he would continue to be covered, and defended MBC, saying that no instruction had been given to stop MBC covering opposition rallies, but that it was not possible for all the political parties to have access to radio due to limited airtime. Nine months later lack of transport at MBC was used to explain why its reporters had failed to cover some politicians and their rallies.⁴¹

By the time the 1999 campaign started, complaints about MBC had been widely reported for some time but rarely addressed. The Communications Bill, which was meant (among other things) to limit the ruling party’s control of MBC and to open up broadcasting, was constantly delayed because the UDF, like the MCP before it, well understood the value of its control over radio and television. The Bill did not become law until late 1998, and was not implemented until well into the 1999 campaign. Even then the Minister of Information ignored its provisions when he illegally appointed his personal assistant as Acting Director-General at MBC.⁴² To conclude, throughout Muluzi’s first term MBC’s editorial policy was established and enforced by the Minister, staff were expected to support the UDF or face dismissal, censorship of opposition views and politicians was common, refusal to deal with certain topics was practised, and the President and UDF candidates received preferential treatment. Only the Electoral Commission under the independent-minded Justice Msosa had been able to exert any countervailing influence on the party, government or MBC. Not surprisingly she and her Commission were dismissed in 1998 before the election campaign began.

1.4 New Institutions and Old

The oft-repeated call for a journalistic code of ethics reflects a well-recognized need for more training of journalists and editors, and for the creation of strong media organizations that will set standards, discipline media workers and owners, and arbitrate disputes. Contributing to the lack of professionalism in the sector is the youthfulness of many of Malawi’s journalists, who are well intentioned and eager, but are relatively untrained and inexperienced. Non-existent before the transition, since the 1994 election the local media organizations have remained weak. They have, for instance, been in conflict with one another, poorly staffed at times, with

⁴¹ *Daily Times* 20 and 22 May 1997, 5 and 26 March 1998; *Nation*, 23 May 1997; *Malawi News*, 18–24 April 1998; and *Weekly Chronicle*, 18–24 Jan. 1999.

⁴² *Daily Times*, 20 April 1999. Within a week there were reports that the new Acting Director-General had begun to censor campaign speeches by opposition parties, a practice he admitted to ARTICLE 19. *Daily Times*, 29 April 1999. ARTICLE 19 interview with Wilson Pankuku, 29 April

little management expertise, and continually short of funds. These organizations include MISA, the Media Council, JAMA, the Women Media Workers Association, the Publishers Association, the Media Workers Union, and the Press Clubs in various towns. For example, MISA closed its doors temporarily in 1998 when its executive director was accused of mismanagement; the Media Council currently has few paid-up members and is run by an Acting Director; the Publishers Association is small and non-representative; the Media Workers Union no longer functions, and competition between journalists and their press groups is rife. There are several private schools of journalism, but none provides much more than rudimentary training. The journalism degree course at the Polytechnic is only just being established, although classes in media studies of variable quality have been taught there for some years. Meanwhile different agencies have imported consultants to provide many short training courses (gender in the media, human rights and the media, the media and HIV/AIDS, etc.) but there has been no supervising body to ensure that they were coordinated or harmonized. Some reporters and editors have benefited from short training sessions in Africa, North America and Europe, while specialized aid has been received by some publishing houses, including computers and printers, software and scanners.

The only institution in full swing seems to be the Censorship Board, which after a hiatus of several years has had a resurgence under the chairmanship of the Reverend Chande Mhone. Currently the Censorship and Control of Entertainments Act, which many observers and locals hoped would be scrapped altogether, is being redrafted. In 1998 the Board toured the country, discussing the Act and showing “blue movies” to chiefs and others to “appreciate the depth of moral decay in Malawi”. They were duly disgusted. In the rhetoric surrounding this issue, this goal to halt the slide into the abyss is linked with the need to uphold Malawi’s culture, as it “establishes the identity of a people, and by that becomes the source of national strength, pride and unity” and forms the basis of social, economic and political progress. The Board has also drawn a link between the introduction of pornography into Malawi and the advent of democracy.

Many prominent Malawians have spoken in favour of the act being amended rather than repealed, and of the Censorship Board “play[ing] the role of a public morality watchdog”. For instance, Brown Mpinganjira said the act should reflect Vision 2020, which sees Malawi as a “God-fearing nation”. “At this pace of moral decay we cannot talk of vibrant culture in the year 2020.” Others – such as Emmie Chanika of CILIC, Bentry Mndhluli of MISA, Shyley Kondowe of MIDEA and the leaders of the Centre for Human Rights and Rehabilitation – have stated publicly that some form of control is needed to get pornographic movies out of the hands of children. Recently Reverend Mhone has expressed his desire to rebuild the “alliance” between the Customs Office and the Censorship Board to halt the importation of

corrupting materials, such as literature and films, at the borders. Moreover, he expressed his distaste for *Tinkanena* (an MBC programme informing youth in a very open fashion about the dangers of HIV/AIDS), saying it is “bad ... [and] promot[es] immorality among the youths”.

Recently, too, the Reverend Mhone has extended his argument: some papers promote hate, immorality and violence and “report negatively on issues and people” because reporters are forced by newspaper owners to do so. He also blamed such reporting on a “lack of proper and consistent accreditation” of journalists and their disregard for any code of conduct. He said that the “language shaping the morality of our society” in the newspapers is “basically immoral” and encourages children to rise against their parents, and fosters hatred and the breakup of marriages. These and other social ills are “a result of irresponsible reporting” and “distorted facts”.

While not expressly political, the Reverend Mhone’s words bring to mind a statement in August 1997 by the MCP’s then Shadow Minister of Information, James Chimera, who said that when he came to power he would take action against any newspaper publishing obscene cartoons defaming politicians (such as the then topical one of Chakuamba without clothes), and any paper publishing stories to confuse members and supporters of opposition parties: “When I become Minister of Information I will not condone such type of reporting regardless [of] what newspaper ...”

While ARTICLE 19 is alive to the possible dangers of pornography to children, it sees a reversion to censorship under the guise of “morality and culture” as more dangerous to Malawian society and freedoms now, only five years after a dictatorship. Moreover, the fact that an MCP politician is promoting censorship should be a warning to all: regardless of which party is in power, freedom of expression needs to be guaranteed by laws and effective institutions.⁴³

The Muluzi administration has claimed repeatedly that it is the champion of freedom of expression and a free press.⁴⁴ But the history of the interaction between

⁴³ *Daily Times*, 28 Aug. 1997; *Nation*, 2 Sept. 1998; *TVM News*, 3 June 1999; *Malawi Today*, 5–7 March 1999; *Weekly News*, 8–10 June 1999; and MBC 2, 10 June: 6.00 p.m., *Meet the Press*. The Censorship Board seems to be aware of the danger, too, as it explained to ARTICLE 19 that “we need to build some safeguards or checks and balances within the Act which can check on the Executive Arm of Government because it is the Executive which can be prone or be tempted to use the Act for its benefit at any particular time”. Chief Censoring Officer, to ARTICLE 19 Malawi Project Coordinator, 31 Aug. 1999. For a discussion of the law on obscenity in Malawi, see *Obscenity Laws and Freedom of Expression: A Southern African Perspective* (ARTICLE 19 and the Media Institute of Southern Africa: Media Law and Practice in Southern Africa Series, No. 12. London, February 2000).

⁴⁴ “Freedom of expression, which is the fundamental principle of democracy, has been greatly promoted by the UDF. Privately owned Radio stations are on the scene, emphasising the fact that the UDF honours this hard earned democracy and respects the people’s freedom of speech, which is their birthright. The UDF also realises that the basis of any democratic government is the opinion of the people and it has therefore given unlimited press freedom to Malawians. Malawi has become one of the very few African countries that respect freedom of the press, a vital aspect of freedom of expression. Freedom of worship is also highly respected by the UDF, unlike the former dictatorial regime. The

the government and private media and of events in the government-owned media establishments since 1994 does not bear this out.

2 THE 1999 PRESIDENTIAL AND PARLIAMENTARY ELECTIONS

“The conditions existed for a free expression of the will of the people ... and the results ... reflect their wishes. Consequently ... the elections were substantially free and fair and acceptable”.

The International Observers, 1999

A year before the election it was clear that the 1999 polls were going to be quite different from those held five years earlier. First, in June 1998 the President dismissed the existing Electoral Commission chaired by Justice Msosa, a dismissal that some commentators thought was unconstitutional and that the Commission itself rejected.⁴⁵ This dismissal and the appointment of a completely new Electoral Commission (EC) – with members who were selected by the three parties in parliament, but who had no experience in this field – set the stage for much of the confusion that was to follow.⁴⁶ Secondly, the Commission decided that there would be few, if any, international observers at the election, because Malawians wanted to monitor and comment upon the process themselves.⁴⁷ This meant that, unlike in 1994, when there was an extraordinary amount of technical assistance, there were relatively few technical advisers or long-term observers from outside the country.

Jehovah’s Witnesses for example, who were banned by the MCP on political grounds, were legalised as soon as the UDF came into power’. *Our Achievements: www.UDF.malawi.net*, 1999.

⁴⁵ *The Lamp*, July–Sept. 1998, with a Press Release from the Electoral Commission. *Daily Times*, 1 July 1998: “Law Society”. The real reason for the Commission’s dismissal has never publicly emerged, though it may have had to do with disagreements surrounding the Commission’s handling of the contentious Ndirande by-election. Moreover, the report produced by the Commission after its June 1998 planning workshop, which contained extracts of a study by German and local researchers, cannot have helped. The researchers were cited by the Commission as stating that “the newly-formed political parties made many promises ... [but] in the view of the people ... the promises never materialized. This has led to great dissatisfaction and a lack of interest in politics Although the political system and leadership has changed, the actual practice of politics remains as it was under the previous government. People feel that political leaders still behave as if they were above everybody Politics is still used as a tool for intimidating others ...” See Electoral Commission, *Planning of the Presidential and Parliamentary Elections in 1999*, and R Poeschke and W Chirwa, *The Challenge of Democracy in Malawi: Socio-Anthropological Conditions*, (May 1998). Their findings on rural apathy and alienation were similar to those presented earlier by the Centre for Research and Education on Rights (CARER) and the National Democratic Institute (NDI).

⁴⁶ Members of the new Commission were Justice W M Hanjahanja (UDF) Chairman; Ms F C Chirwa (UDF) who was appointed to chair the Media and Public Relations Committee; M F Kanjo (UDF); N W Mbekeani (MCP); A G N Mtendere (UDF); A V Nanthuru (UDF); Ms M E Ngwembe (MCP); K C Tembo (AFORD); and G N T Kamwambe (AFORD). Justice Hanjahanja was replaced by Justice James Kalaile on 13 May 1999.

⁴⁷ *Daily Times*, 17 April 1998.

In 1998 the UN sent two missions to make recommendations about timing and operations, both led by Horacio Boneo.⁴⁸ A UN-supplied logistics and communications expert and a Commonwealth adviser were attached to the Commission. The International Foundation for Electoral Systems (IFES) sent several technical advisers who, for several months, helped the EC design procedures and forms, establish offices and committees, work out logistical and other operational systems, establish a media centre, and so on. Much of their advice was ignored.

In the end, there was also a team of five International Observers funded by the donors, who visited the country twice, once during registration and again during polling, and wrote an interim report that diplomatically expressed the reservations widely felt by donors and stakeholders and was instrumental in getting the leadership of the EC changed. The team's final report was a mastery of understatement.⁴⁹ There was also a group of 190 or so foreign observers sponsored by various organizations (for example, churches, embassies and inter-governmental bodies) which arrived a few days before the election, visited polling centres, and wrote reports about the voting and counting process. Their findings were similar to those of the International Observers cited above.⁵⁰

A handful of local NGOs, along with ARTICLE 19, were supported by international and local funding to carry out a variety of "civic education" functions during the campaign. There was some confusion surrounding the accreditation of non-governmental organizations by the Commission, for some were rejected for unstated reasons. In fact the Civil Liberties Committee (CILIC) threatened to take the Commission to court if it did not register it, which in the end the EC did.⁵¹ The National Consultative Group (NCG) was formed in mid-1998.⁵² It brought together the various non-governmental organizations – for example, the Church/NGO Consortium⁵³ and others including the ARTICLE 19 Malawi Election Media

⁴⁸ "Mission to Malawi: 28 February–7 March 1998" and "Malawi: Alternatives for Holding Local Government Elections", Dec. 1998.

⁴⁹ "International Observers' Interim Statement", 4 May 1999. International Observers Report, "Republic of Malawi's Parliamentary and Presidential Elections, 1999", not dated (circa 22 June 1999).

⁵⁰ T Sneed, Coordinator of International Observers, "Malawi's Presidential and Parliamentary Elections of 1999", which notes that "the donor community is satisfied that the election is a credible one and that the electoral process – notwithstanding the deficiencies of the registration phase – has attained an overall level of acceptability in light of [1] the total numbers registered – 5 million out of a projected 5.5 million; [2] the percentage that actually voted – 4.75m out of 5m; [3] the substantially free and fair conduct of the polls".

⁵¹ These local non-governmental organizations along with ARTICLE 19 were also accredited at the same time as the foreigners to act as observers during polling and counting.

⁵² "Goals and Objectives of National Consultative Group (NCG)", not dated.

⁵³ Members include the Centre for Research and Education on Rights (CARER), the Roman Catholic Justice and Peace Commission, the Malawi Institute for Democratic and Economic Affairs (MIDEA) and the Centre for Human Rights and Rehabilitation (CHRR), the Law Society, the Public Affairs Committee–National Initiative on Civic Education (PAC/NICE), the Civil Liberties Committee (CILIC), the Blantyre Synod of the Church of Central Africa Presbyterian and the Society for the Advancement of Women (SAW).

Monitoring Project – along with other stakeholders and political parties. The NCG met on a number of occasions during the campaign/registration period and again after the inauguration. These meetings coordinated the stakeholders' work and statements, analysed and commented upon the EC's operations and personnel, made recommendations on procedures and policy, and generally expressed the views of civil society. The NCG also formed a Task Force to investigate and report on problems during registration.⁵⁴ Some members of the Commission sometimes attended NCG meetings, but when the leadership of the EC changed in mid-May this stopped, as the new Chairman of the Commission (Justice Kalaile) ordered that only he and the Chief Elections Officer (Roosevelt Gondwe) could speak for the group. Similarly, the UDF rarely attended the meetings, as its views were out of line with those of most of the NCG's members. Yet the NCG provided the MCP, AFORD and the smaller parties with a platform to be heard. Its meetings were often attended by the press, broadcasters and representatives of embassies and international non-governmental organizations as observers.

Throughout the end of 1998 and into early 1999 little progress was made on the elections by the Electoral Commission. Some time later (in mid-March 1999) close observers explained why:

to date no publicity concerning dates or venues of Voter Registration has been released to the public, and a minimal campaign of Voter Education has been mounted to sensitize the public to the need to register in order to vote, or how Voter Registration will be conducted. People in both the urban and rural communities of Malawi remain largely uninformed, and this with only four days to the projected start of registration. ... The Commission made only one appointment between July [when it began] and December 1998. Since the staff of the Secretariat began to take up their posts in January 1999 no clear lines of responsibility, management control or direction have been imposed. Internally the Secretariat remains disorganized, reflecting the lack of leadership from both the Commissioners and the Chief Elections Officer. ... The Commission is demonstrably controlled by the ruling party and adjusts its programme to the requirements of the politicians – any claims to independence now lack credibility. The results of this situation include repeated failure to achieve important deadlines which the Commission itself has set, and which impact negatively upon later stages in the process. Already the calendar discussed with donors on 10 March 1999 is slipping as action continues to

⁵⁴ The National Consultative Group (NCG), "NCG Task Force Report: Registration Centres that Should be Reopened", 1 June 1999 and "NCG Task Force Report No. 2: Status Report", 4 June 1999.

lag behind intention and delays are not followed up with any sense of urgency. There is also a reluctance on the part of Commissioners to face up to the need to tell the parties unpalatable truths, despite the impact these may have at a later date. Important aspects of the process remain unfunded, particularly with regard to the computerization of the Voter Registration, without which Local Government elections cannot proceed. The Commission consistently confuses movement with action, travelling en masse to Lilongwe for purely ceremonial purposes whilst day-to-day matters are neglected and policy consideration delayed pending their return.⁵⁵

Part of the cause of the delay in registration, scheduled initially to start on 1 February, and later voting, was the demarcation of new constituencies, which is part of the Electoral Commission's job before any general election. It had been recognized for some time that this would be a time-consuming and contentious process. Horacio Boneo of the UN wrote in March 1998:

the run-up to the 1999 elections has started in a political context where the main apprehensions of the opposition parties are related to abuse by the incumbent party of broadcasting and other government resources. In that context, a modification of the weight attributed to demarcation criteria – no matter how justified it might be – that results in practice from transferring seats from opposition areas of strength to government ones, is likely to result in serious strife. Furthermore, the National Assembly is required to confirm all determination ... with regard to ... constituency boundaries ... If the confirmation is not obtained, the Electoral Commission has to present new proposals.⁵⁶

In fact his fears were realized, for in the event the Electoral Commission recommended to Parliament that 70 new constituencies be added to the existing 177. At that point local critics and donors expressed their concern for several reasons: first, the rationale for the increase was not clear, as the justifications in the EC's report were deemed to be "very scanty and concern mainly the wishes of people expressed to you in district meetings. The outcome of the exercise is not justified on the basis of constituency size but on district size, and ... show wide variations across regions". Moreover, the report was internally inconsistent to the point that some

⁵⁵ V Butler, F Vassallo, and D Gadjar, "Malawi Electoral Commission – Election Calendar as Discussed with Donors – 10 March 1999", 12 March 1999.

⁵⁶ Horacio Boneo, "Mission to Malawi", note 48 above, at 4.

numbers did not “tally”. Donors also believed that “over-representation” of the Southern Region would result and that the “stacking” in favour of the UDF put the Commission’s neutrality and impartiality into question. Secondly, there had been a “lack of consultation with the political parties and other interested stakeholders”. Thirdly, the proposal was made “very late... and [is] likely to delay registration, confuse voters and test the capacity of political parties to adjust to the new arrangements in time. Correction of errors ... is hardly feasible” in the limited time period. Donors argued that the “fiscal implications of such a large increase” must be thoroughly reviewed, while Dr Ntaba noted that the existing parliamentary committees were having financial problems already.

The fact that more seats were to be added to the Southern Region, the UDF’s stronghold (42 for the South, 17 in the Centre, and 11 in the North), did not escape the notice of opposition MPs. But Sam Mpasu (UDF Secretary-General as well as Minister of Information) said that critics had to differentiate between the EC and government, as the Commission was an independent body and had come up with the 70 new seats on its own. While parliament debated the issue, the donors said that the release of funds to pay for registration forms and kits as well as films (necessary for snapshots of all people when registering) was pending.⁵⁷

Parliament sent the constituency report back to the EC and in a couple of weeks a revised report was sent back to the House proposing 17 additional seats, a figure that was reduced to 16 during debate (5 in the Centre and 11 in the South) and approved at the end of February. The second start-up date for registration (in the second week of February) had by now come and gone, and reports circulated that suggested that the technical experts believed that in light of the various requirements set out in law, the most feasible polling date was around 23 July, a proposal that was not acceptable to the Commission. Nor was the “very earliest” compromise date of 15 June acceptable to the UDF, and so in spite of serious reservations expressed by the opposition political parties, technical advisers, stakeholders and donors, the EC selected the date of 25 May, with registration set for a period of three weeks, beginning on 16 March. Nominations were to close a month later. Also at the end of February party leaders met with the Electoral Commission and established a set of ground rules, including equal coverage for all candidates on MBC.

The reasons given by the technical advisers for believing that the election could not be successfully held in late May were three: the need to satisfy legal requirements regarding nominations (which, if ignored, would set “a dangerous and worrying precedent”), the uncertainty over likely low levels of registration in the absence of any effective voter education campaign (because no date or venues for

⁵⁷ *Daily Times*, 3 Feb. 1999; *Weekly Chronicle*, 1–7 Feb. 1999; *Malawi News*, 6–12 Feb. 1999; *Nation*, 5 Feb. 1999. Also, UN to William Hanjahanja, 27 Jan. 1999 and Justice W Hanjahanja to UN

registration had been released to the public), and “the inability of the Electoral Commission, demonstrated on a daily basis since early December 1998, to achieve target dates set, or even to appreciate that these have not been achieved, and the corresponding failure of suppliers to deliver commodities and materials in a timely fashion”.⁵⁸

Meanwhile politicians were consumed by other concerns – such as the “running mate” issue, where the MCP’s Gwanda Chakuamba and AFORD’s Chafukwa Chihana decided to run for President and Vice-President on one ticket, a move that the UDF found threatening and the EC said was unconstitutional.⁵⁹ The court disagreed, but Justice Hanjahanja appealed against the ruling. The appeal was finally withdrawn by the new chairman, Justice Kalaile, after Justice Hanjahanja was forced to resign on 13 May. The decision to bypass John Tembo as the MCP’s running mate also caused a political furore, which consumed great energy on all sides. Vitally important too, was the court order in March forcing the government to release party funds (some K6 million to MCP alone), which the opposition desperately needed for campaigning. The acknowledgement by various “rebel” (ex-AFORD) MPs that they were moving to different political parties to run for office attracted attention, as did the nomination processes and the primary elections that were held by the parties. The subsequent emergence of several “independent” candidates, the final form that the MCP–AFORD Alliance took, and how it manifested itself in individual constituencies were all of interest to political observers in these months.

2.1 Voter Registration

By the first day of registration on 16 March, all the elements needed to create mass confusion and discontent were in place. Moreover, the EC had been warned repeatedly by advisers, donors, and politicians that both were likely to emerge. These elements were: disregard for the requirements laid down in the law and constitution regarding registration and nominations, delays in the delivery, and shortages, of materials, incomplete information to the public about the dates different centres were to be open, lack of timely voter education because of the EC’s delay in establishing the election calendar, management failures, improperly printed registration materials and suspicion that the Electoral Commission was neither independent nor competent, particularly its Chairman and Chief Elections Officer.⁶⁰ Many observers recognized

Resident Coordinator, 28 Jan. 1999.

⁵⁸ Butler, Vassallo and Gadjar, note 55 above.

⁵⁹ *Nation*, 30 March 1999.

⁶⁰ Stuart Winga, the Chief Elections Officer, was dismissed on 2 May, while Justice Hanjahanja was encouraged to resign on 13 May. Both were accused of mismanagement and bias.

even then that these problems, when taken together, meant that it was likely that registration would have to be extended and the polling date postponed.⁶¹

Registration turned out to be “a mess” (an unscientific word that was widely heard). Initially set for 16 March for three weeks, its closure was extended to 3 May and then to 14 May, mostly because short supplies (of cameras, films and forms especially) kept registration centres from functioning, though they were nominally “open”. By 7 April just over a third of the estimated 5 million voters had registered.

ARTICLE 19 visited approximately 45 registration centres during two research trips to the North, Centre and South of the country in April and May, and investigated freedom of expression issues and problems that had a bearing on the final election results.⁶² Briefly, our findings on the registration process may be summarized as follows:

2.1.1 Apathy and Anger

Although various studies in recent years have shown that Malawians have become disillusioned with the political process, ARTICLE 19 found that during the registration period people throughout the country were keen to register to vote. According to registration centre supervisors, people who had been turned away from centres because of shortages of materials had returned time and again to register. Repeatedly we heard that people had returned to centres five, six, or even seven times to try to register to vote. At one centre in Chikwawa we arrived at the same time as the District Commissioner (DC), who was delivering supplies to quell a disturbance caused by people who had returned once too often and were demanding to register. Only in two or three places did we hear that people were not interested in voting, and in those PAC/NICE civic educators were encouraging people to become involved in the process. Many expressed their anger with the staff of registration centres for not having supplies or cameras, sometimes accusing them of conspiring to deprive people of their vote.

On the other hand on more than one occasion we were told that while people were not apathetic to begin with, they became disillusioned as a result of being turned away repeatedly without being able to register. Both potential voters and centre-level staff were frustrated by senior election officials who closed centres

⁶¹ Six months before the election Horacio Boneo wrote: “the schedule is extremely tight, and it does not provide room for slippage If there are slippages and registration cannot start by the beginning of February, it might be necessary to start discussing a postponement of the elections”. See “Bottlenecks in the Electoral Process”, note 48 above.

⁶² Visits were made to the Northern Region between 5 and 8 April, to the Centre between 9 and 27 April, and to the South between 23 and 27 April 1999. A second trip was made to all regions during the last week of May.

without warning, sometimes in an effort to move cameras and photographers or supplies to centres they said were under-registered.

ARTICLE 19 heard reports, too, of people not participating in the process because they were afraid: they said they had heard that the Malawi Young Pioneers (MYP) and Dr Ntaba were bringing in weapons and so they did not want to get involved in politics. The District Commissioner in Lilongwe confirmed that some chiefs had reported the same problem to him. The people's fear was generated by the story appearing in several papers during the campaign, and by allusions made to it in speeches, which stated that Dr Ntaba had visited Mozambique, and others had approached the Vietnamese and Angolans to obtain arms in the event that the MCP lost the elections.

2.1.2 Registering Children and Non-residents

There were reports of children trying to register at most centres in the North, but supervisors there said that after they conferred with the party monitors they would send them away. At one centre in Mzimba ARTICLE 19 saw young teenage girls in the queue and at another, an adolescent girl was seen to have a registration card, though when asked her age she (and her supposed father) said she was 18. Supervisors reported that children, like adults, were eager to register and vote.

There were many rumours of people coming into constituencies from across district boundaries or from neighbouring countries, but these stories could not be confirmed. In one instance ARTICLE 19 tried to determine why 38 people from one Mzimba district constituency had registered in another. We managed to trace the Mzimba village where they came from and spoke with a woman who said that she came to the different village to register, not because she was told to do so by a party official (as was reported to us) but because she and her women friends could not reach their own registration centre because of a swollen river. (This was contradicted by officials who said the river was not that full).

Children were also being registered in the South. For instance, at one village centre in south-west Chikwawa, five of the eight youths we spoke with said that they had registered. It *appeared* to us that most or all of these boys were under 18, though we had no mandate to check their identification. We also had reported to us (Blantyre, 23 April), by a member of a centre's election team, a case where a party official "instructed" the centre staff to register children from a nearby school, thereby using the few forms that arrived to keep older voters (who were thought to support other parties) from registering. He reported that some 200 children had thus been registered, though this was never confirmed.

As would be expected, along the border there were reports of foreigners being registered, but these were difficult to investigate. In Mchinji it appeared that

Zambians were presenting themselves at centres, and though supervisors claimed they were turned away, residents in the area stated that they had seen Zambians registering and that they, themselves, were not asked for identification when they registered even though they were not known by anyone at the centre. In the South, Mozambicans who have settled and now work and have families in Malawi were being registered.

Interestingly, all over the country supervisors had different ways of dealing with what they thought of as “outsiders” – people who came from outside their villages and constituencies to register at their centres. In the North we saw people turned away from registration centres because they did not reside in that particular constituency. We heard the same in the South and Centre, but not consistently. In some centres, especially urban ones where people are more mobile, supervisors were registering people who came to their centres from anywhere, just so long as they had lived in Malawi for seven years or were Malawians, had not registered before and were 18 years old. This inconsistency points to insufficient training on this issue, because the law is clear that a person can register anywhere (s)he intends to vote.

2.1.3 Code Numbers

There were many reports of erroneous code (constituency and centre) numbers being distributed by election officers. ARTICLE 19 encountered a case at three centres in Mzimba where two of the centres used one constituency number, and one (in the same constituency) used a different number. At the end of the day we were told by the Assistant District Commissioner that neither number was correct. Typical too, was the situation in Mchinji where the DC explained (20 April) that the “Electoral Commission didn’t tell us properly about codes until later.” He explained that the Commission asked the DCs to propose centres/locations and the DCs took the distance between proposed centres, population density, and other factors into account when recommending numbers and locations. But these were not used by the Commission, which instead gave numbers to the district without verifying them with the DC or looking at the implications of their distribution. At Kochilira in Mchinji district the supervisor told us that he had never been given village code numbers. Therefore, from the beginning and all over the country constituency and centre codes were wrong.

The way this problem was solved by supervisors differed: in one place staff would send people home with their cards and tell them then, or later, to return to have the correct number inserted. In one centre we saw cards that were being withheld from the people, stacked by a clerk, to be given back to the people at a later date when the code number was precisely known. Some centres did not tell the public about the problem, but expected that when they came to vote later the

erroneous code numbers would be corrected. They explained that people's photographs would be on the cards held at the centres, so these would serve on election day as identity cards to allow them to vote.

2.1.4 Registration and Parliamentary Nominations

Parliamentary candidates needed signatures of 10 registered voters to support their applications. In some places, such as in Lilongwe district, this was difficult to achieve because there were insufficient materials to open centres in every constituency. There the District Election Officer and District Commissioner decided to open 107 (of the 430) centres on 16 March, and assigned a camera and photographer to each. They were meant to close by 30 March, but some centres were left open until 4 April because "people were still coming in large numbers". As in the north, the short supply of materials was "very acute" and, according to the Assistant District Commissioner, on average each centre had been closed about one day in seven. As of 9 April (a week before parliamentary registration papers were due) 11 constituencies had not yet had a chance to register because of shortages. The DC then decided to open at least five centres in each of these constituencies, so that all parliamentary candidates and their supporters could register before the deadline.

Parliamentary nominations were filed on 16 April, at which time some 300 centres around the country were still closed. The date to prove that signatories and candidates were registered was therefore extended until 3 May. Even so, without being able to prove the validity of the candidates, the Electoral Commission began the process of ordering parliamentary ballot papers from the UK.

2.1.5 Party Monitors and NGO Observers

In only a very few instances did ARTICLE 19 find party monitors and NGO observers who were clearly aware of the various irregularities occurring at the centres where they worked. They seemed to feel that their primary job was to identify and turn away "outsiders" (or strangers in the village). For instance, when centres opened late or closed early in the day, depriving people of the right to register, they did not complain. Nor did they report on the insecure storage of materials, the over-supply of another party's monitors, the absence of registration staff, an excess of spoiled forms, the paucity of materials, missing code numbers, etc. These people needed additional training that focused on *all* the roles of a monitor and observer. When interviewed by ARTICLE 19 very few of these people reported having been paid even allowances, let alone their wages, and no doubt this affected their morale and capacity.

2.1.6 Security of Materials

Ironically, great effort was made to ensure that registration was properly done and monitored during the daytime, yet materials – both completed and blank registration cards, as well as films and cameras – were often not safely stored at night. We came across centres where there was no security guard (and a couple of places where there had *never* been one), where materials were stored in the homes of supervisors or in clerks' rented rooms. Sometimes cameramen kept their cameras, and in other locations these were given to the supervisors, or perhaps the police.

After receiving a report of deliberate registration fraud, we began asking security people (for example, the police) at centres and in District Commissioner's offices what they thought their job consisted of. Overwhelmingly they said that they were at centres to ensure that there was no violence or theft. They did not see their role as guardians of electoral law, nor to ensure that no electoral fraud took place. Additional training of security staff was therefore required.

2.1.7 Jehovah's Witnesses

Worryingly in light of Malawi's history, throughout the morning of 7 April the Electoral Commission warned people on MBC radio that "according to law people who discourage others will be punished if found doing so [The Commission] is urging people to report to the police, the District Commissioner or the Commission if they see people discouraging people from registering in the voter registration".⁶³ This message was heard throughout the country, and in Chikwawa we spoke to a supervisor and chief who intended to enforce the rule. The only reason they had not "forced the Jehovah's Witnesses to register" and when they refused "to report them to the police" was because there were no forms at the centre and no one was in a position to register.⁶⁴

2.1.8 Intimidation

There were reports in the south that some UDF officials were moving around taking names of their members. We ran into one man (a local chairman) in Chikwawa who told us he had been instructed by his constituency chairman to give his branch chairmen the names of all UDF supporters in the area. There was a report that he was

⁶³ Jehovah's Witnesses were banned throughout the period of MCP rule because of their refusal to carry the party card. Members of the group were imprisoned and driven out of the country in their tens of thousands and hundreds of them were killed by Young Pioneers and party thugs.

⁶⁴ Nthowe centre, interview with Chief Mponya, 25 April 1999.

also taking their certificate numbers, but this he denied. When ARTICLE 19 met the man he had turned over 90 or so names as instructed. People in the area wondered why the list was being made and how it would be used, and complained about the practice. We reported the events and names to the DC. In one centre in Nkhata Bay and another in Balaka we found four UDF monitors, which other party monitors found intimidating. They had all heard on the radio that there should only be two, but at the Nkhata Bay centre they had been told to remain by the local UDF official, and in the south they stayed at the centre because they wanted payment from the party.

2.1.9 Lack of Materials

The most serious problem encountered was the short supply of materials needed for registration: cameras, film, batteries, staples, pens, pencils, glue, voter registration forms, daily account forms, and plastic folders for voter cards. ARTICLE 19 found this problem widespread in all parts of the country, though it may have been worse in parts of the northern region (for example, Chintheche) for longer periods of time and for later in the registration period than in other parts of the country.

None of the ten centres visited in the North in early April was untouched by shortages. For example, at Doroba School in Mzuzu District (visited 6 April), the supervisor told us that they opened on 16 March and by 2 April they had registered 1,178 people (compared to the Electoral Commission's estimated 1,500). They were given 500 forms initially, then 250, and then they broke off for five days because they had no forms, until 500 more were received. At one point they borrowed 150 forms from another centre when they ran out. No extra registration days were given to compensate for the days closed.

In Chitipa District, according to the PAC/NICE district officer, between 16 March and 1 April, only some sixteen thousand people had registered (projected: 56,867) because the 114 centres started with 25 cameras, and had (according to the Electoral Commission) only 75 by April 1. Similarly, the PAC/NICE district officer for Karonga told us that in that district, of 99 centres, 24 were opened on 16 March, but all their forms had gone by the third day. They waited, he said, for a week before getting more forms. According to the Electoral Commission, Karonga had 75 cameras on 1 April, and some 22,000 people had registered (projected: 92,124).

According to the Human Resources officer at the District Commissioner's office in Nkhata Bay, all 98 centres in the district opened on 16 May, even though they had only 35 cameras. Their cameramen and cameras moved from one centre to another every two days. They distributed their 88,000 forms to all centres, including isolated ones and were, in the second week of April, having to retrieve some forms from smaller centres to take them to larger ones. By the beginning of April they had registered about 42,000 people (projected: 84,600).

At Chintheche the situation was particularly bad: on 7 April we were told that this centre should have 6,008 people registered, but thus far had only 2,080. This is “because we are always running out of materials”. “Forty people came today, compared to about 200 per day last week. We have no films or no forms sometimes”, the supervisor explained. The supervisor notified the *boma* on almost a daily basis of his requirements, but was often without supplies. His centre’s registration schedule looked like this:

- 16 March – start work
- 17 March – not open
- 18 March – not open
- 19 March – open
- 20 March – open
- 21–24 March – not open
- 25–26 March – open
- 27–28 March – not open
- 29–30 March – open
- 31 March–7 April – open.

At Mkombezi Centre in Rumphi the situation was even worse. The schedule according to the supervisor was as follows:

- 27–28 March – supposed to open but no materials
- 29–30 March – photographer, whom they shared with other centre, was at other centre. No registration
- 31 March and 1 April – open and register 650 people. They were given 1,000 forms
- 2–3 April – photographer at other centre; no registration here
- 4 April – registration here, but run out of plastic folders to hold registration cards, and close at 4.00 p.m. Also, camera was not functioning
- 5 April – they are told they can register people without having plastic folders for their cards, but now the cameraman is short of batteries. Register 25 people with perhaps 150 people waiting in the queue, who leave unregistered
- 6–7 April – cameraman at other centre. No registration
- 8 April – shortage of batteries. People waiting to register.

He concluded that “people are angry” because they want to register. They use “strong words” against us and “almost beat us. We explain that it is not our fault, but the people are frustrated”. We “fear people will get discouraged and will not return” when materials and a cameraman are available.

Registration forms were in short supply earlier in the exercise (during the period when we were in the North), but by the middle of April it was mostly films that were missing. In some districts in the South (such as Chikwawa, Thyolo, Blantyre, and Zomba) most centres had closed (at least for a few days) as a result.

For instance, in Thyolo we visited Ntamanyama centre on 24 April. That far into the registration exercise it had this record of closures:

- 16 March – centre opens
- 7 March–11 April – closed due to shortage of films and forms
- 12 April – get 25 new films and 500 forms and 16 batteries
- 19–20 April – close for lack of films
- 20 April – get 50 more films and 500 more forms (had 106 already)
- 24 April – again running short of films (1 box only) and low on forms.

In Chikwawa, a typical late-opening centre was Nampota School (visited on 25 April):

- 11 April – open centre
- 18 April – run out of films
- 22 April – given 4 films, which were used within hours. No films since then. Also, no files and no envelopes. Only 33 forms remained.

In Balaka at the Liwonde Ferry Road Block Centre, the situation was more complex (27 April):

- 22 March – open centre with one carton (50 boxes) of films and 1,000 forms
- 3 April – run out of forms, and camera moved to different centre. Also no films remain
- 23 April – resume work with new camera
- 27 April – run out of films and forms and request more, which brought in late afternoon.

District Commissioners (DCs) and election teams had to decide how best to work with the limited number of cameras. The District Commission at Zomba explained

that, before registration started, the DCs got together at Mangochi and talked about the process. There were two schools of thought: move registration from one constituency to another in phases and eventually open up more constituencies as more cameras arrive; alternatively, open a few centres in all constituencies, and expand the number of centres as more cameras arrive. The Electoral Commission was to decide which system it preferred, but because it never told the DCs which method to use, they did as they saw fit. As a result there were a variety of systems used country-wide to deal with the ongoing shortage of cameras. In some areas cameras and photographers were moved between two centres every other day or so, or weekly. In others one constituency was covered, and as its was closed another was opened as cameramen (and security personnel in some areas) were moved.

In an effort to deal with the various shortages, District Election Officers (DEOs) doled out materials in small quantities. This gave rise to complaints by centre supervisors, who claimed that DEOs and DCs were depriving certain areas of materials, purportedly for party-political reasons. Alternatively, DEOs were accused of putting a numerical limit on some centres – say 350 people – and when they reached that number the camera and cameraman were moved away. Again this was seen locally to be motivated by party-politics but was, in fact, more likely the result of attempts by district officials, who had an overview of the situation, to deal with the scarcity of materials.

2.1.10 Staff Discontent

In mid-April, Chief Elections Officer, Stuart Winga, told reporters “that problem [of clerks being unpaid] is no longer there and as I am talking all these clerks have been paid and we are now paying them on a weekly basis, so there is no problem.... and we are even paying them back pay.”⁶⁵

In spite of this announcement, ARTICLE 19 found clerks, photographers, security staff and supervisors all over the country who had not been paid their allowances for weeks and/or had been (by their account) underpaid. Nor had they received their training allowance.⁶⁶ This problem continued for months, even after the election.

The problem with allowances was twofold: they did not know the amount to be paid and there was a delay in paying them. The intention, according to one DC, was for the district election officers to hire local clerks, but because the recruitment time was short and there are too few qualified people in some areas, they had to hire

⁶⁵ MBC 1, 13 April 1999.

⁶⁶ On election day ARTICLE 19 was told by some staff who had worked on registration that they had still not been paid. In July there were still disturbances at some DC’s offices led by registration staff demanding their back pay.

people to work outside their home areas. Therefore, a clerk's allowance (K150/day) was not sufficient to cover room and board and travel.

For instance, at the Ferry Road Block Centre at Liwonde staff told us on 27 April that clerks had been paid daily subsistence allowances for the first phase of registration on 21 April. But they said they had worked 14 days and had only been paid for 10. Moreover, they were told they would not be paid their allowances for the days they did not work, though they were ordered by their supervisor to remain at the centre when the camera was moved to a different centre: "you have to be there" to get your salary. As for their wages, they neither knew the amount – "it is just a rumour that we will get K1200 for each month" – nor when they would be paid. But, they said, they feared lodging a complaint as "they are too few, and might get sacked. They do not come from this area and are desperate for a job. Negotiation is impossible."

Staff discontent was acute in Lilongwe district. Here ARTICLE 19 found clerks at the *boma* registration centre on strike. There were a number of grievances listed by staff in the district: for example, they had worked for 12–15 days but had received only seven days allowances and no wage. Nor did they know how much their allowances or salaries were supposed to be. Some in the rural areas had received no allowances and complained that they did not have enough money to buy food to eat.

At Kapichira centre in Chikwawa the supervisor said that the staff had not received allowances for the 10 days the centre was closed. They were told if they were sent home they would not be paid (for instance, when the camera was moved away) yet some staff at the centre were instructed to remain there even though they were not working. They did not get paid their allowances either. Moreover, the supervisor who was sent home when the camera was removed had to take all the registration materials home with her. Not only did this have implications for the security of the materials, but she had no choice but to pay the bus fare for her and the materials herself.

Very few clerks could tell ARTICLE 19 what their salaries were. We found one clerk who had been told by an Electoral Commission accountant that he would not receive any salary. Throughout all of our discussions none said (s)he had signed a contract where the conditions of service and salary were outlined clearly. Supervisors, most of whom were civil servants (headmasters) were not to be paid, though there were a few supervisors who were not civil servants yet no provision had been made to pay them a salary.

The problem of late payment was apparently caused by the Electoral Commission's centralized financial system that even District Commissioners felt was cumbersome and slow. Electoral Commission accountants brought wages from Blantyre to various parts of the country, and paid the centres' staffs directly. DCs

suggested that the districts' regular financial channels and cashiers be used to facilitate payment, but this was only done on an informal basis in a handful of districts. In any event, people's opportunities to register were further limited by closure of centres because of strikes and because staff waited in DCs' offices to complain about payments. Remembering the events surrounding the non-payment of census-takers a few months before (when some burnt census materials as they demanded their wages), ARTICLE 19 and others urged full payment in a timely and transparent manner.

ARTICLE 19 toured the country a second time in late May after registration had closed, visiting DCs, election officials and NGO staff in the North, Centre and South of the country in an effort to evaluate whether the ineffectiveness of the voter registration process would ultimately affect Malawians' ability to express themselves at the polls. ARTICLE 19 found a number of areas where registration centres had not been open the full 14 days *and* where the numbers who registered were particularly low (in comparison with projected figures). These included centres in Mzimba North constituency, Nkhata Bay South and Kasungu West. In these districts people had been turned away on the last day of registration.

The shortage of materials had been dealt with differently by various election officials. For instance, in Mangochi the DEO said on 25 May that he had instructed staff to register people throughout the period without taking their photographs and, when film arrived, their pictures were taken and their registration forms completed. This innovative approach to solving the problem was not used widely. In Nkhata Bay South, for instance, when there were no films (which was much of the time) supervisors did not allow people to register.

There, instead, the centre staff registered people after materials finally arrived at 5.00 p.m. on the last day of registration. During the night of 14 May and into the late morning of 15 May they processed people who forcefully demanded to be given the chance to register. Late that morning, after a passer-by complained to police about late registration, some of these forms were seized by the police. It was unclear whether they would be allowed to vote, though in the end they were, because the centres had issued people with registration certificates showing 14 May rather than 15 May. Nonetheless in many areas of the Northern and Central Regions especially, there were reports of disgruntled people who had not been given the opportunity to register and who threatened to force their way to the polls to vote on election day.

With the second extension of registration (from 3 to 14 May) a constitutional crisis arose as the Electoral Commission ignored the legally required 21-day gap between the close of registration and polling day (set for 25 May), during which time challenges could be arbitrated. On 16 May, in response to a suit by Chakuamba and others, the court stated that the 21-day rule must be upheld, and ordered that the date of the election be changed in the Constitution, or the law requiring the 21-day gap be

amended. At that point stakeholders once again urged the Electoral Commission to halt the process, obtain sufficient materials, reopen registration centres and proceed with the elections only after the registration process was (and was seen to be) complete. To do otherwise, they warned, would cause great discontent.

Chief Elections Officer Gondwe told reporters that the Commission would only consider reopening individual centres where specific details of the dates they functioned and the number of people registered and turned away were provided.⁶⁷ But in the end no centres were reopened though the NCG provided the EC with data from a number of centres that fulfilled Gondwe's criteria: they had not been functional for a full fourteen days *and* the number of people registered was below the Commission's projected figure. On 21 May Parliament met and changed the date of the 1999 election to 15 June.

2.2 Polling Day

ARTICLE 19 fielded five observers on election day – two in the North at Nkhata Bay and Mzuzu, one at Ntchisi in the Centre, and two in Blantyre, Nsanje and Chikwawa. Their findings support the view of most International Observers that *polling* was “substantially free and fair”.

Generally, voters began queuing before dawn and there were long queues of people when most centres opened at 6.00 a.m. or soon after. Each polling station that ARTICLE 19 visited had a security person (mostly to keep the queues orderly) who voted first on 15 June rather than on 12 June as originally scheduled. Where ballot papers were in short supply, supervisors were aware of the problem and took precautions to reduce the number of people spoiling their papers. There was some tension, as movement of the queues was slow, but no violence was noted at any station during ARTICLE 19's visits.⁶⁸

ARTICLE 19 observed a number of problems, some of which were also addressed by other international observers.⁶⁹ Specifically, logistics, amenities and communication in the districts were often poor; ballot papers were insufficient in a number of centres and so some people did not vote; vote-counting was not always done as instructed by the Commission and was careless and perhaps inaccurate; the voting process was sometimes disorganized; under-age youths were permitted to vote at some stations; the number of security personnel was generally insufficient; party monitors were passive and not vigilant; election day staff were unpaid and

⁶⁷ Ministry of Information press conference, Blantyre, 26 May 1999.

⁶⁸ At Chintcheche in Nkhata Bay South violence broke out at the end of the day after ARTICLE 19 left the centre, purportedly because the queues were slow as the registration books had been misplaced.

⁶⁹ Debriefing of International Observers, Lilongwe, 17 June 1999.

disgruntled; and voter education was inadequate. Some of the specific problems encountered include:

2.2.1 Communications

The distribution of ballot papers was directly from the Electoral Commission to the District Commissioners' offices, bypassing the Regional Elections Officers (REO). When questions were raised the night before the election about the number of ballot papers available in the north, the REO at Mzuzu was unable to compile a list and satisfy worried stakeholders.⁷⁰ Left out of the "loop" between the DCs, DEOs, and the Commission in Blantyre, he was unable to get in touch with the DCs in the Northern Region to check the number of ballots they had received. Similarly, when reports emerged of ballot papers being "soaked" when crossing to Likoma Island, he was unable to determine how many and how wet they were.

2.2.2 Insufficient Ballot Papers

This problem was noted in three of the five districts monitored: Nkhata Bay, Mzimba and Chikwawa. For instance at Bodza in Chikwawa East, the centre ran out of materials by 10.00 a.m., as the Commission seemed to have used the number of people registered before the second extension to calculate the number of ballot papers needed. Many people left the polling station without voting as they got tired of waiting. At Katoto in Mzuzu Centre shortages of ballot papers were experienced in the late afternoon, at which time people left the station because they thought no more papers were coming (though some arrived near to closing time). There were almost exactly the right number of ballot papers in all Nkhata Bay District's polling centres, and supervisors were worried all day that they would run out because of ballot spoiling and voter transfers. In the end it turned out that Chadongo and Kantete in Nkhata Bay Northwest ran out of ballot papers.

On the day of the election the problem of ballot shortages resulted from the ballots being sent in books of 100, so if one station had, say, 350 registered voters, it would receive four books, thus depriving another station, which needed the excess half-book of 50 ballots.⁷¹ All day long electoral officials and DCs drove between centres with partial books of ballots to make the supply stretch to meet the need.

⁷⁰ AFORD, 14 June 1999, letter to Chief Elections Officer and see Northern REO Mkandawire, *Ballot Paper Distribution*.

⁷¹ Advisers warned of a shortage of ballots all along, and there was some discussion by NCG members of asking for a delay of elections for this reason. For instance in late May about 20 per cent of constituencies had insufficient ballot papers.

While efforts were made to ensure that no ballots went missing, this improvised distribution system was both chaotic and open to deceit.

2.2.3 Voting Process

At some stations security officials were able to maintain order, while at others they were not. At one (Chintheche) the registration book was lost, meaning people had to wait in the queue many hours while individual registration forms were searched. That centre being outside in full view of the public undoubtedly fuelled the tension, which erupted into violence late in the day.

2.2.4 Youth

People who were clearly under-age were seen to be voting at various centres monitored. Neither the party nor the NGO monitors challenged them.

2.2.5 Voter Education

In centres in Chikwawa it was clear that some voters did not understand the process, and sometimes needed help.

2.2.6 Staff Wages

Some staff who had worked during registration had still not been paid by polling day, and were unhappy. Moreover, some had not been paid the daily rate promised for registration staff. An audit is needed to determine if fraud was possible or likely.

2.2.7 Vote Counting

At Kayoyo B station in Ntchisi Northeast, the Presiding Officer got his officials to pour the boxes of ballot papers together and five people sorted them according to candidate as others watched; they did this hurriedly and in a joking manner. When problematic ballots were spotted, decisions were reached without consensus or thorough investigation. The ARTICLE 19 observer felt that some were accepted that should have been rejected as invalid. At the end of the sorting process, the observer expected each of the candidate's ballots to be verified individually by all present, but this was not done. Instead, the Presiding Officer instructed each official to start counting the number in his possession, without attempting to cross-check each ballot paper by holding it in his hands for everyone to see. Officials could have picked ballot papers belonging to another candidate and claimed they were for a different candidate since there was no verification of ballot papers. The party agents at the station watched the process without questioning it.

2.2.8 Second Day of Polling

Because polling could not be completed on 15 June because of ballot paper shortages and related problems, it was continued in some centres the following day. ARTICLE 19 observed voting in some of these places. In Mzimba Luwerezi, Milenje Centre and Kankholikoli Centre opened from 2.00–6.00 p.m. on 16 June. In Ntchisi South two centres (Ngombe and Chorwe) were opened on 16 June from 6.00–11.00 a.m. In Chikwawa in the Nkombezi Constituency one centre (Jombo) had to open throughout 16 June because nearly 2,000 potential voters did not have an opportunity to vote on 15 June since ballot papers had not been delivered on time.

2.3 Free and Fair Elections?

As far as ARTICLE 19 is concerned there are three key questions that must be answered before determining whether the *whole* electoral process was even “substantially” free and fair. The first: how many people were left unregistered, disenfranchised and voiceless?

The answer is no one knows how many more people would have registered had they been given a chance. Certainly the figures used for estimating the number who should register in each constituency were faulty.⁷² (Even in places where officials agreed that many people had not registered, over 100 per cent of the projected number were on their voter registration lists.) One estimate of the number left unregistered was 168,000, but it was derived only by adding up figures in the NCG sub-committee's two reports⁷³ and was neither scientific nor comprehensive. Indeed, ARTICLE 19 was told during its tour at the end of May that hundreds or perhaps thousands more in Nkhata Bay South were not allowed to register, but these figures were not included in the NCG reports. The point remains: President Muluzi won the presidential race by 300,000 votes (2.4 million against 2.1 million): were this many people left unregistered? We will probably never know, though when registration reopens for the local government elections we will have a better idea.

The second question is: were proportionately more people left unregistered in particular parts of the country – say, in the North – than elsewhere? The NCG concluded that the Centre and North had more problems with registration, and that the South was better covered with materials but, again, the NCG sub-committee's findings cannot be said to be complete, as a small team worked in the field for a few days only.⁷⁴ On the other hand, ARTICLE 19 is aware of places that seemed to be deliberately passed over during registration – such as Chintheche, while centres further from the *boma* reportedly received a more regular supply of materials. Certainly many local observers feel that the North and Centre were harder hit by shortages of materials than the South, and consequently proportionally fewer registration centres were *functional* in the Northern and Southern Regions for the required 14 days. This can only be proved by analysing a full set of reports from

⁷² Ted Sneed calculated that the Commission projected (and therefore prepared for) a 35 per cent increase of registered people (compared to 1994 registration figures) for the Centre and South and only an 8 per cent increase in the North. In the end 25 per cent more registered in the North than in 1994, and there were still complaints that some people were not permitted to register because of the shortage of materials.

⁷³ Note 54 above.

⁷⁴ *Ibid.* It would have been impossible for ARTICLE 19 to make a direct comparison of the status of the registration process in the three regions and 15 districts it visited. Not only were the visits spread over too long a period of time, but there was no way to determine how representative were the 45 or so centres that we visited. A better study for that purpose was the one conducted by NGO/Church Consortium (*First Interim Report on Registration, 24 April 1999*): "Overall [the Consortium] monitors visited 2,631 centers – 73% of the 3,622 registration centres 86% of the centres in the Southern Region, 71% ... in the Central Region, and 52% ... in the Northern region. ... [Of those visited] 1,709 (65%) were open at some point during the survey period [between 4 and 21 April].... Of the centres visited that were open at some point during the survey period.... 32% had been forced to close after it [*sic*] had initially opened because of lack of registration forms and/or problems with film and/or cameras.... In the Northern Region, 52% of the centres open at some point during the survey period had previously been forced to close because of problems with forms and/or photography. In the Central and Southern Regions, 27% and 30%, respectively, had previously been forced to close for one or both of these reasons. ... Overall, 21% of the centres open during the survey period had previously run out of

registration centres, which is unavailable to any organization outside the Commission.⁷⁵ Nor has the EC released a complete set of data with which the NGOs, the NCG or any independent observer could answer these questions.

Finally, the third question: were the problems during registration a result of infrastructural, financial and other technical problems; were they caused by incompetence on the part of the EC and its staff in the districts, or were they deliberately created by people with a party-political agenda? Various groups of saboteurs have been accused: registration/polling centre staff, local and district Election Officers; District Commissioners; Permanent Secretaries seconded to the Commission; and the Electoral Commission itself. The first chair of the Commission, Justice Hanjahanja, was accused by a number of groups (including technical advisers and some of his own Commissioners) of taking orders from the UDF. Some people (such as Dr Ntaba) accused the DCs of bias – many of whom were appointed by the government just a few months before the election and most of whom acted as Returning Officers during polling.⁷⁶ The Permanent Secretaries who were appointed by the President after Justice Hanjahanja was replaced, to help the Commission get the electoral process back on track, were also accused of being too close to government and the UDF – especially those working for the Ministers of Information (Mpasu) and Defence (Kubwalo) – as the Ministers were also UDF Secretary-General and UDF Campaign Director, respectively.

Similar questions can be asked about the polling and counting process. Were the ballot papers in equally short supply throughout the country, or was the shortage acute in parts of the country known to support the opposition? Was the shortage of ballot papers premeditated and politically motivated or the result of normal constraints and inefficiencies? Without sufficient data, which only the Electoral Commission holds, it is difficult to judge the extent of the problems on polling day or their impact on the final result.

ARTICLE 19 knows of no evidence to prove that there was a deliberate, politically motivated manipulation of the electoral process – except with regard to the government-owned media – that was clearly and demonstrably meant to favour one party over another. This is the basis of the court case that was brought by opposition leaders following the election (see below). We await that judgement.

At the same time ARTICLE 19 is not convinced that all of the problems in establishing and implementing policy at registration and polling centres between February and June arose because of poor administration, incompetence, and communication and logistical difficulties.

forms and 24% had previously run out of film and/or had problems with cameras.”

⁷⁵ In the court case following the election, the opposition parties are asking to see such data, but the Electoral Commission refuses to hand it over.

⁷⁶ Reportedly in 1994 the MCP government replaced a number of DCs just before the elections, who were similarly accused of bias. Personal communication from Ted Sneed.

In character with a democratic society, if the Electoral Commission and government are to satisfy their critics, and in order to dispel the distrust found throughout the country, the Commission needs to be more transparent about the just-completed election. Specifically, the Commission should publish the minutes of all its meetings, including those with various actors such as MBC, the parties, and government officials. It should hold a press conference to answer some of the difficult questions surrounding the process and results, instead of avoiding reporters who ask such questions. Full figures should be released, along with details of irregularities during registration, campaigning and polling, and any attempts to correct them.⁷⁷ It should interact in a positive way with stakeholders, such as the NCG and the various NGOs, rather than refuse to meet them.

In other words, the whole electoral process must be opened to public scrutiny if people are to be convinced that the elections were free and fair and that the results express the will of the people. Because the electoral process was fraught with so many difficulties, without such information-sharing suspicion will continue to fuel doubt and unrest. More disturbingly, the belief that half the nation was “cheated” will plague Malawi for at least the next five years.

Events have confirmed ARTICLE 19’s fear that the electoral process would generate and multiply distrust and discord in the post-election period. Briefly, in light of the serious problems encountered throughout the electoral period, the opposition leadership first tried, unsuccessfully, to get the Electoral Commission to postpone its announcement of the election results. The leaders then tried to file an injunction to get the court to halt the inauguration of President Muluzi, but to no avail as they could not locate a judge. Finally, they took the matter to court, arguing that the election was invalid and should be re-run. They based their case on two grounds: the election was marred by “gross irregularities” and secondly, less than half of the “electorate” voted for President Muluzi. (The contentious issue is the definition of electorate, with the opposition arguing that it means the number of registered voters, while the government argues that it is defined as the number of people voting. Muluzi won 49 per cent of the registered voters and 54 per cent of the number who actually voted.) As of late September the case was stalled by a discovery motion, as the opposition argues that it wants to see files kept by the Electoral Commission, which neither the government nor the Commission wish to open to scrutiny.

Since the election the split within the Electoral Commission, based on party affiliation that was evident as accusations of incompetence and bias mounted, has become more public and acrimonious, resulting in the suspension of two (opposition-

⁷⁷ In early July 1999 there was a break-in at the Commission’s headquarters, though little detail emerged about what was stolen or tampered with. Naturally stakeholders fear that original documents and data will have disappeared – or alternatively, that the break-in will support any future claim that such materials have disappeared.

party nominated) Commissioners by Chairman Kalaile. Both were suspended for “differing with its [the Commission’s] decision and their conduct of the June 15 general elections”. Countering those accusations, one of the suspended Commissioners (Mr Kamwambe) accused the Chairman of being “a dictator”, being influenced by the UDF, and being involved in the “dubious printing of ballot papers”.⁷⁸

3 DISINFORMATION AND THE 1999 ELECTION

“Nobody should be allowed to turn the pen and conduct themselves as politicians.”

*Brown Mpinganjira,
Minister of Information, 1994*

3.1 The Voter Action poll

ARTICLE 19 stumbled upon the UDF’s Media Task Force by accident. In the course of monitoring MBC and the government-owned press and reading all the newspapers published in the country, the monitors spotted the Voter Action poll. It was not hard to do because it appeared in all the UDF-supported press, as well as in the government’s *Weekly News* and *This is Malawi* magazine during the month of February 1999. The headline read, “Local NGO launches Political Opinion Poll”. The article went on to state that an anonymous spokesman for the NGO said that the results would provide “a guideline for campaign direction to all the political parties”. The spokesman said, ““We have joined hands with the District of Columbia Office on Africa in the US to lend credibility to the poll. The pooling together of resources obviously means we have a wider reach than any survey previously done by other organizations””. The newspapers then carried the questionnaire to be filled out by readers, but “Voter Action will also carry out personal interviews with people from all over Malawi. Poll takers have already been deployed to several districts in the south, north and centre ‘to get a representative view of the population’s attitude to the general elections, the state of government and all the existing political parties’”. At the bottom of the survey, which was amateurish to say the least, were a P.O. Box number, and telephone and fax numbers.⁷⁹

⁷⁸ *The Nation*, 6 Sept. 1999 and the *Daily Times*, 10 Sept. 1999.

⁷⁹ *Weekly News*, 12–15 Feb. 1999. For instance, the survey has a number of leading questions: “A.1. Are you happy with President Bakili Muluzi’s personal leadership style? yes, poor, undecided;

A.16. If elections were held now, which of the following presidential candidates would you vote for? Bakili Muluzi, Chakufwa Chihana, Gwanda Chakuamba, Kamlepo Kalua, Pemba [*sic*], Bingu wa Mutharika.”

ARTICLE 19 was unable to discover any official record of the non-governmental organization, Voter Action. It was not on the list of NGOs accredited by the Electoral Commission. Ted Nandolo, the director of CONGOMA – the Malawian NGO umbrella group – has more than 20 years’ experience in the local NGO sector. He had not heard of it.⁸⁰

Calling the telephone number, ARTICLE 19 discovered that it belonged not to an NGO, but to Antony Livuza, a civil servant working in the Department of Information as editor of *This is Malawi*.⁸¹ He spoke to ARTICLE 19, but said he was not part of the NGO, the number was a typographical error, and that he would try to track down the right number and get back to us. He never did. Next ARTICLE 19 was told by journalists that the fax belonged to Akwete Sande, owner-editor of the pro-UDF tabloid, *Malawi Today*. Only later (when ARTICLE 19 was given his business card) did we discover that Voter Action’s address – P.O. Box 1961, Blantyre – belongs to Kwesi Addae, a Ghanaian political scientist-cum-development-worker, who was known to be working for Sam Mpasu, the Minister of Information. Finally, ARTICLE 19 attempted to locate the District of Columbia Office on Africa.

The Washington Office on Africa (WOA), which is based in Washington DC, is a well-known and reputable liberal organization that produces insightful reports on the political economy of Africa. ARTICLE 19 contacted WOA to see if it was that group, rather than the District of Columbia Office on Africa, that had worked with Voter Action on the poll. The Executive Director of the Washington Office on Africa responded that WOA, which “is a long-standing Africa advocacy organization born out of the anti-apartheid movement” is “not involved in this Voter Action initiative in any way”. Furthermore “I am not aware of any such District of Columbia Office on Africa. There may be one, but neither I nor my colleagues know about it, and are dubious.”⁸² When ARTICLE 19 asked the National Democratic Institute and the US Information Agency to track down the District of Columbia Office on Africa, neither had heard of it. Nor had the District of Columbia Mayor’s Office.⁸³ Within a few days ARTICLE 19 was approached by a person working with the Department of Information who said that Livuza and the Personal Assistant to the Minister of

It also demonstrates bias:

“A.17. Some people view the Aford/MCP alliance as the centre ganging up with the north against the south. In your view, would the alliance do more good or harm to Malawi’s national unity? Good, harm, no difference; B.1. How constructive would you rate the opposition to have been inside Parliament for the last four years? Good, poor, undecided.”

⁸⁰ Telephone interview, 2 March 1999; *Nation*, 18 Feb. 1999.

⁸¹ Telephone interview, 1 March 1999.

⁸² Email, Washington Office on Africa to ARTICLE 19 Malawi Election Media Monitoring Project, 24 Feb. 1999.

⁸³ Email, National Democratic Institute, 20 Feb. 1999. NDI Washington DC consulted Interaction, a non-governmental organization umbrella group in Washington DC. The US (government) Information Agency stated, in an email dated 24 Feb. 1999, that the District of Columbia Mayor’s office said flatly that “there is no such office – period”.

Information, Wilson Pankuku (who was later appointed by the Minister to serve as Acting Director-General of MBC), were seen opening letters from the public containing completed Voter Action surveys.

As expected, the results of the Voter Action poll were soon ready and widely disseminated in the government and UDF press and, more worryingly because it reaches a much wider audience, on MBC radio. Not surprisingly, the results indicated that President Muluzi “will be re-elected almost without challenge” as he reportedly received 82 per cent of the votes cast in the poll. The lead story on MBC 2’s *Press Review* was also about the Voter Action poll results.⁸⁴

3.2 Evidence of the Disinformation Campaign

Suspecting that a disinformation campaign was under way, ARTICLE 19 began to look more carefully at the political stories appearing in the government press, on MBC radio and in the various UDF newspapers, and to investigate the groups and individuals behind the campaign. ARTICLE 19 Malawi kept its London office fully apprised of its findings, as well as its local lawyer, its funders and local human rights and election-related NGOs. ARTICLE 19 came under attack as a result of these investigations and the findings it presented in its weekly monitoring reports. It was also accused of political bias because it focused on the government and pro-UDF papers carrying the same stories, and did not report on the privately owned opposition press.

ARTICLE 19 continued to focus on the government media for two reasons: the private media were to be monitored by the Media Council of Malawi, whose reports began to appear in May 1999,⁸⁵ and because those media financed out of public funds have different obligations from the media owned by private individuals and groups, including political parties, especially in transitional democracies and during campaign periods.

In Dr Banda’s Malawi the party and government were one and the same, and the separation between the ruling party and government is still not fully recognized in Malawi. Many working for the current administration, for instance, confuse the two, believing that they owe their allegiance to the government of the day rather than to the state.⁸⁶ This view has been fostered by UDF politicians since 1994, who tell civil

⁸⁴ *Weekly News*, 10–11 March 1999; *Malawi Today*, 8–10 March and 11–14 March 1999; *The Weekend Mirror*, 12–18 March; *Enquirer*, 17–24 March 1999. For radio coverage, e.g., MBC 1, 8 March 1999: 1.10 p.m., English; 7.00 p.m., Chichewa; MBC 2, 8 March 1999: 1.30 p.m., English. MBC 2, 8 March 1999: 8.43 p.m., *Press Review*.

⁸⁵ See the seven reports produced by the Media Council of Malawi, Malawi Election Media Monitoring Project 1999, in May and July 1999.

⁸⁶ A blatant example after the election was the statement by the Secretary to the President and Cabinet, Alfred Upindi, who said that all new statutory board appointments went to UDF members

servants they must be loyal to them (not the state, Constitution or law) or face dismissal. Hence it was not surprising for ARTICLE 19 to hear from government media workers that they must take their orders from government ministers and politicians, seemingly even if it means ignoring the law and working outside recognized channels if ordered to do so.

This blending of party and state helped give rise to the confusion apparent during the election that MBC is somehow owned by and answerable to the party in power, currently the UDF, and that it should serve its interests. But this is not so. The government media is owned by taxpayers, and as such MBC, TVM and the public print media should present the views of the larger audience, not those of any single interest group or party. The media are the spokesmen of the people, not of the administration.

Moreover, during elections government media have a duty to inform the public about all political parties, platforms and candidates equitably; to be balanced and impartial in their campaign and election reporting; and to present full and accurate information about the campaign issues, voting process and other relevant matters. This is particularly the case where the government media continue to predominate, as is the case in Malawi where the UDF inherited the largest part of the broadcasting sector.⁸⁷

Still concentrating on the government media, ARTICLE 19 raised similar questions about other stories that appeared about the same time as the Voter Action survey. One that was published during the period when the UDF and Electoral Commission tried to break up the electoral alliance between the MCP and AFORD was from “The Northern Region Solidarity Movement”. Its press release “vehemently reject[ed] the dubious electoral alliance” and “question[ed] Chakufwa [Chihana]’s mental sanity” and called the readers’ attention to the fact that “the MCP is just bent on using and exploiting Gwanda and through him the entire Northern Region ...”.⁸⁸ ARTICLE 19 found the chairman of the organization, Belsom Banda, to be untraceable, more especially because of the organization’s lack of contact information.

Another organization that was as difficult to trace was that run by the Reverend Horace Patrick Ndhlovu, the Harare-based “African Conflict Resolution and Peace Council”. In a letter published in the *Weekly Time* and elsewhere, the Reverend Ndhlovu warned the Chief Information Officer of the government’s

because “the boards must implement government policy according to the manifesto of the ruling party”. *Weekend Nation*, 28–29 Aug. 1999. About the same time emerged reports of the dismissal, demotion or transfer of high officials in mainline ministries, who are not known UDF supporters.

⁸⁷ ARTICLE 19, *Guidelines for Election Broadcasting in Transitional Democracies* (London: ARTICLE 19, Aug. 1994).

⁸⁸ *Weekly Time*, 10 Feb. 1999. It also appeared in the government media, e.g., *Weekly News*, 12–16 Feb. 1999.

Malawi News Agency (MANA) that ZANU–PF women were going to smuggle arms into Malawi to help the MCP and John Tembo “seize political power under the pretext that Malawi is in danger of becoming an Islamic Nation ...”.⁸⁹ The Reverend Ndhlovu called upon the “security agencies in Malawi ... [to] take this matter very seriously” and urged the security forces in Malawi and Zambia to search the buses carrying ZANU–PF women for weapons.

This story about weapons and the MCP would have caught the attention of readers because the Malawi Young Pioneers and the MCP had been accused repeatedly of preparing for war in case the MCP lost the election in 1999. About the credibility of the threat to Malawi from the MYP, the Mozambique government news agency (AIM) informed ARTICLE 19 Malawi that

as soon as it became clear that [the MYP] were not going to suffer reprisals, most of the MYP filtered back into Malawi. The issue was on the agenda of several meetings of the Mozambique–Malawi Joint Defence and Security Commission. In July 1995, the Commission decided to send joint teams to Zambezia to look for the MYP, and ... none were found. Mozambique’s then Minister of the Interior ... said in March 1996 that most of the Young Pioneers had gone back to Malawi The Malawians’ attitude suddenly changed in 1998. At the Joint Defence and Security Commission held in February 1998, Malawian Defence Minister Joseph Kubwalo demanded that the Mozambican authorities explain where the Pioneers were! ... There had either been a significant shift of position inside the Malawian government, or Kubwalo had not been properly briefed by his officials – for prior to this meeting it was the Malawians who thought the Mozambicans were making too big an issue of the MYP, and not the other way round! ... The Mozambican government doesn’t seem to think there are any relevant Renamo/MCP ties nowadays.⁹⁰

When ARTICLE 19 tried to find the Reverend Ndhlovu and his Peace Council, SARDC, an independent Harare-based research centre wrote to ARTICLE 19:

the organization ... does not seem to exist. They are not in the phone book. Nor does [the] PTC [the Zimbabwe telephone company] have any record of the organization as well as the Rev[erend]. Our ... office does

⁸⁹ *Weekly Time*, 27 Jan. 1999.

⁹⁰ Email, 7 March 1999.

not know of any such org[anization]. A rough physical check on offices along Downie [St] has also yielded negative results.⁹¹

A few weeks earlier another story about the MYP had been produced in the government's *Weekly News* (which ARTICLE 19 did not take note of at the time). Then it reprinted a letter purportedly to John Tembo from Patson Wilberforce Banda and Bongani Zulu of the Malawi and Mozambique Chapters of the "MYP Veterans Association" respectively. In it they remind John Tembo of the

promises which the [Malawi Congress] Party and you made ... in 1993 ... to provide us with regular upkeeping money. Now the situation ... is that we have been forced to live like beggars Two years ago ... you stressed that our situation would completely change when the MCP comes into power in 1999 As for the question of the MCP ever coming to power in 1999, it is obviously becoming now a daydream because Dr Bakili Muluzi is becoming more and more popular every day The situation is made even worse by the conflict in the Party between you and the Party President Under the circumstances we are compelled to write this letter, which should be seen as an ultimatum. We have regrettably decided to blow up the pre- and post-election Master Plan ...⁹²

In this period too, there was a set of "Letter[s] from Friends of Malawi Abroad", which fitted into the pattern that ARTICLE 19 was beginning to recognize: statements endorsing the UDF or denigrating the MCP and/or AFORD or the Alliance, which were supposedly written by groups or individuals based outside Malawi and/or difficult to trace.

In this case it was surely intentional that the letters were purportedly written by a group whose title was very much like that of the well-known American organization, "Friends of Malawi", comprised mostly of ex-Peace Corps volunteers who served in Malawi and who continue to support Malawi from overseas. Under the banner, National or Local News, these "letters" were produced periodically by *Malawi Today*.⁹³ The first that came to ARTICLE 19's attention (10–16 December

⁹¹ Email, 2 March 1999.

⁹² *Weekly News*, 5–7 Jan. 1999. Chakuamba of the MCP told ARTICLE 19 on 26 May 1999 that when this letter was printed in the paper he went back to the list of the MYP and found no men with those names. He also denies that MYP forces are camped across the border, saying "An association like this never existed."

⁹³ For instance, 10–16 Dec. and 17–23 Dec. 1998, 28–31 Jan., 1–3 Feb. and 22–24 March 1999. *Malawi Today* is privately owned by Akwete Sande. The paper frequently reprints or cites articles critical of the MCP, AFORD and the Alliance, as well as of the Media Council of Malawi and ARTICLE 19 after its election monitoring reports began to appear.

1998) was critical of the MBC journalists who went on strike – trying to “hold the government to ransom”, the newspaper called it. Citing “a commentator on the Johannesburg-based 702 radio”, the “friends of Malawi abroad” noted that “the decision by the staff of the Malawi Broadcasting Company to go on strike just a couple of days before such an important events [*sic*] as the opening of the Reserve Bank in Blantyre was *too coincidental to be incidental*”. The action, the letter continued,

was probably politically motivated with the ultimate objective of occasioning a blackout of such an important event and thereby causing embarrassment to the government and the State President. Really it is like biting the finger that feeds you, and much as we sympathise with the thirteen persons who lost their jobs as a result of this action, we only hope that some lessons have been learned both by the strikers as well as the government. It is actually politically healthy even for a very liberal government such as yours to flex its muscles once in a while.

The next issue (17–23 December) said the “friends of Malawi abroad” had noted that the donors’ International Consultative Group had “endorsed” the government: “It [extending the Malawi Social Action Fund (MASAF)] was the World Bank’s own way of saying this is a government we can do business with. They made the decision mindful of the fact that the country is going to elections next year. They would normally have done their groundwork and assessed the mood of the country and concluded that this government is here to stay”.

The 28–31 January 1999 edition of the “letter” took up the issue of the African Conflict Resolution and Peace Council mentioned previously. “We were shocked to learn that a minister from a friendly nation [Zimbabwe] could go to another country without the knowledge of the authorities of the government she is visiting”. (A female cabinet minister from Zimbabwe and ZANU–PF women were on a goodwill mission to the MCP).

Worse still she was leading 150 women ... to an opposition party in a country which is about to hold elections. This is very undiplomatic and it speaks volumes on Mugabe’s search for regional hegemony. This is provocation of the worst type We believe Tembo and his colleagues must be asked to explain why they hosted such a group of people especially when it is alleged they were carrying weapons We have also noted with horror, the disclose [*sic*] of Simba Reta, the sinister propaganda campaign by the MCP. The Ex-MYPs are Malawians who realise the importance of peace ...

The following month (1–3 February 1999 edition) the “friends of Malawi abroad” took up the issue of the elections and the MCP. “We are ... impressed that you [Malawians] have endured one of the most repressive regimes in history and have emerged out of it with honour ... Malawi was ruled by a tyrant and his followers have had the audacity to tell lies about the new government MCP does not deserve to exist”.

At this point ARTICLE 19 drew the attention of the representative of the real “Friends of Malawi” to the ongoing articles in *Malawi Today*, and soon after that the organization complained to the editor about the “letters” and they were no longer seen.

In March ARTICLE 19 noticed the banner headlines on *Malawi Today* (8–10 March 1999): “Muluzi’s victory certain says ... The Economist”.⁹⁴ The *Enquirer* (17–24 March 1999) carried a similar piece, entitled “Muluzi gets election clean bill” while the *Mirror* (12–18 March 1999) entitled their story – which was very similar but included the Voter Action poll results – “Aluta continua!” (The struggle continues)⁹⁵. The story also appeared in the *Saturday Post*, (“Victory Certain”, issue dated 6–12 March 1999) which is owned by the editor of the government’s *Weekly News*. In the latter newspaper it was published in the 10–11 March 1999 issue: “President Muluzi’s victory is certain”. Supposedly quoting the “Intelligence Unit of the authorities [*sic*] ‘Economist’ magazine”, the government’s *Weekly News* wrote:

A top international magazine has predicted President Bakili Muluzi will be re-elected for a second five-year term almost without any challenge The Intelligence Unit of the “Economist” magazine says there is no credible political figure around to challenge President Muluzi[’s] “general popularity and authority as the incumbent”. “There is little doubt of that [*sic*] Mr Muluzi will secure re-election on a silver platter. It is not even clear as yet who will stand against him. But even then, there is no one with the stature and charisma to challenge him”, says the Economist in its country report for the first quarter of 1999. A stamp of approval by the widely respected Economist should be a big boost for Muluzi who does not need to exert himself with vigorous campaigning at a time [when]

⁹⁴ “Campbell Phiri”, a journalist writing in *Malawi Today* also wrote in a second column entitled, “My Perspective”: “The prediction of President Bakili Muluzi’s victory by the authoritative Economist Magazine and his high score in the [Voter Action] opinion poll ... have justified an already confirmed victory of the incumbent president by the country’s populace ...”

⁹⁵ *Enquirer*, 17–24 March 1999, stated in a second article, “Donor Confidence”, that “prudent management of financial resources has earned the UDF government donor confidence and backing for a second term of office A report by the New York [*sic*] based Intelligence Unit of the authoritative Economist magazine says aid donors totally support Malawi’s economic reform programme and strongly back the re-election of President Bakili Muluzi and his UDF government ...”

even the majority of Malawian population agrees the president does not have a match. Several factors have endeared Muluzi to the nation and the world. President Muluzi's fighting spirit, his personal, political and national achievements, his peace loving and humanitarian nature, his tolerance, his democratic ideas as well as his development initiative are legendary and won him praise throughout the world The Economist report which guarantees President Muluzi's victory looked at several factors underpinning the government's success, including the economy, political situation and social services, concludes [*sic*] that the government's achievement in these years have directly translated into President Muluzi's undoubted popularity as a first choice for presidency for the entire nation. It also predict[s] the UDF will more than likely break the regional deadlock that has characterised Malawi's politics since the last general elections, EIC [*sic*], the Economist Intelligence Unit says the UDF will extend its support beyond the southern and central regions into the north, which has traditionally been viewed as a stronghold for the opposition AFORD ... But, the report says, the attempts of the alliance to divide the country will not work because the two parties would [*sic*] to garner the necessary support. In the report the EIU rightly notes that the AFORD remains a regional party, with limited following, while the MCP will be hindered by the on-going leadership rivalry between ... Tembo ... and Chakuamba Analysts say the report vindicate [*sic*] the results of an opinion poll released mid-last year by a South African based election monitoring body which gave Muluzi an unprecedented popularity rating ... "The (EIU) report reflects the situation on the ground. Its factual and well balanced" says Kondwani Jere in Bty, who has been supporting AFORD but has now switched allegiance to the UDF. A report by the New York based [*sic*] Intelligence Unit of the authoritative Economist magazine says aid donors totally support Malawi's economic reform programme and strongly back the re-election of President Bakili Muluzi and his United Democratic Front government. The Economist's country report for the first quarter of 1999 says the recent success of the Consultative Group meeting with the Paris Club ... indicates the country's donors are satisfied with the government's handling of the economy. ...⁹⁶

On 8 March MBC 1 carried the story several times:

⁹⁶ *Weekly News*, 10–11 March 1999. Compare with *Economist's* first quarter 1999 "Country Report: Mozambique/Malawi".

Two opinion polls have shown that President Muluzi will be re-elected for a second five year term, almost without any challenge. The opinion polls were conducted by Voter Action, a local NGO concerned with civic education and local election monitoring, and a top international magazine, *The Economist*. The poll conducted by Voter Action in the months of January and February this year indicates that if elections were held now, 82 per cent of the electorate would vote for President Muluzi, nine per cent would vote for MCP president Gwanda Chakuamba. The poll also showed that Kamlepo Kalua of the MDP would get five per cent and Binga wa Mutharika of the United Party would get four per cent. Voter Action, whose survey was sponsored by the District of Columbia Office on Africa, said President Muluzi's popularity was attributed to the fact that he is largely seen as sincere, hardworking, a true humanitarian and tolerant person. *The Economist* on the other hand, said President Muluzi will be re-elected because of, among other things, his fighting spirit, his democratic ideals, peace loving nature and his development initiatives.⁹⁷

The Chichewa bulletin (7.00 p.m., 8 March) was slightly different, ending instead without explaining the EIU's views in detail but saying at the beginning that the *Economist* had conducted research. Nonetheless, the point was made repeatedly *nation-wide* on government radio that a highly respected foreign magazine which had done thorough research on the ground said that President Muluzi would win the election, and deserved to do so.

When notified of the stories, the deputy editor of the *Economist* wrote to Bright Msaka, High Commissioner to the UK, with copies of the letter to Sam Mpasu, Minister of Information; Sam Gunde, director-general, Malawi Broadcasting Corporation; Akwete Sande, editor, *Malawi Today*; George Tukhuwa, editor, *Weekly News*; as well as to the editors of the *Mirror* and the *Enquirer*. Dated 24 March 1999 it said:

Dear High Commissioner Msaka:

It has come to my attention that several media outlets in Malawi – including MBC radio, the *Mirror*, the *Enquirer*, the *Weekly News* and *Malawi Today* – have been misinterpreting reports from the Economist Intelligence Unit (EIU).

⁹⁷ The list of presidential attributes cited here and in the *Weekly News* article noted above, found their way into a full page campaign advertisement in *Malawi Today* about the same time: "Vote for Dr Bakili Muluzi: A Fighter, Achiever, Development Facilitator, Peace Lover, Democrat, Humanitarian, Forgiving and Tolerant Person." *Malawi Today*, 1–3 March 1999.

Much of the analysis attributed to the EIU is either taken out of context or factually incorrect. I am particularly concerned about several direct mis-quotes, which are cited as ours, but simply do not appear in our reports. The examples of such errors are too numerous to fully list here, but to cite just a few, please note that, contrary to the media reports:

The EIU does not endorse any candidates or parties, nor give a “stamp of approval” for any political leaders in Malawi or elsewhere.

The EIU did not conduct an opinion poll of any kind in Malawi

The EIU did not claim that the UDF would gain new seats in the north. In fact, our report states that “Aford is expected to maintain its grip on the northern region” (1st quarter 1999, page 23).

I have attached the relevant pages from our report for your reference. I hope that you will bring this matter to the attention of the appropriate people in Malawi, and that EIU reports will no longer be mistakenly quoted. If you require any further clarification, please feel free to contact me by telephone or email.⁹⁸

At the end of March there also appeared another letter in UDF papers from a Reverend Edna Mphahlele, National President of the “ANC-Church Coalition against Injustice”. Billed as a “message of solidarity”, it urged

our brothers and sisters in Malawi to see to it that the Malawi Congress Party and whoever collaborates with them should be shunned and rejected outright at the coming elections We in South Africa have played our part by getting rid of the National Party with its PW Bothas and FW de Klerks. You in Malawi must also do the same by getting rid forever, through the ballot box, of the Malawi Congress Party with its Gwanda Chakuambas and John Tembos.⁹⁹

When contacted by ARTICLE 19, the ANC – through the South African High Commission in Lilongwe – denied that such an organization or person existed.

ARTICLE 19 viewed the disinformation campaign in a more serious light when it became clear that it was starting to affect the willingness of people to register to vote. In three separate instances during registration – including in discussions in late April with the Lilongwe District Commission – ARTICLE 19 was told that some

⁹⁸ Email, 24 March 1999.

⁹⁹ *Malawi Today*, 25–28 March 1999.

people were not going to register to vote because they were afraid of the violence that would be caused on polling day by Dr Ntaba of the MCP, “who is bringing guns from Vietnam”, and by the MYP.

This story has historical roots, for in December 1993 the MYP (which had been empowered by the MCP) were forcibly disbanded by the army, after which some MYP fled to Mozambique. As cited above, AIM recently told ARTICLE 19 the matter had more or less been settled until 1998. Apparently at that point it served the purpose of some in the UDF to begin raising the issue of the MCP’s past and the threat which the MYP still purportedly posed to the country.

The concocted story began with the ZANU–PF women – when *Malawi Today* said it had

details of the strange visit made by 150 Zimbabwean women [It is] a front for the beginning of a destabilisation process by a group within the Malawi Congress Party ... led by ... Tembo A senior police official ... hinted that the Police had made a thorough search of the buses Recently Ex-MYP Veterans Association disclosed MCP’s masterplan code named Simba Reta [“share power” in Shona].

A visit by Dr Ntaba to Afonso Dhlakama, leader of the former Mozambican insurgent party Renamo, provided further opportunities for disinformation.¹⁰⁰ In the 2–4 February 1999 issue of the *Weekly News* appeared a “letter leaked to the press” on Malawi Congress Party letter-headed paper from Chimwemwe Mputhahelo,¹⁰¹ purportedly of the “MCP Johannesburg Wing” to Afonso Dhlakama of Renamo, dated 11 November 1998. It stated that he had been to Angola and to Vietnam, where the “government is one hundred percent behind us”. The front page was taken up with a photograph of Dr Ntaba and Mputhahelo meeting with Dhlakama in Maputo, under the caption “Dhlakama confirms armed plot”.¹⁰² The report using “information

¹⁰⁰ Dr Ntaba soon admitted in parliament that he had visited Dhlakama in Mozambique, and criticized Muluzi for visiting Libya, “where there is an international embargo”. The Mozambican High Commission in Lilongwe (interview, 30 July 1999) said that Ntaba told them he was not involved in any military escapades in Mozambique. Also see the *Malawi News*, 6–12 Feb. 1999 and *Malawi Today*, 25–27 Jan. 1999.

¹⁰¹ A controversial figure, Mputhahelo has worked both as an editor of an MCP tabloid (*The Malawian*, reportedly owned by Dr Ntaba) and apparently for Brown Mpinganjira of the UDF as a political agent of sorts. He fled to South Africa to avoid arrest and was picked up when he returned in February 1999, but not before he had sent a long letter to parliament outlining his role in UDF plots to kill various opposition leaders. While he knows a lot, little of what he says can any longer be believed. *Malawi Today*, 11–14 Feb. 1999 records his arrest. On 26 May 1999 Chakuamba told ARTICLE 19 that he did not write this letter to Chihana. Moreover, he asserted that there was a break-in at Ntaba’s office last year, and that MCP stationery was taken.

¹⁰² The legitimacy of the photograph became an issue when the *Daily Times*, 5 Feb. 1999, published a computer-generated photograph of Muluzi standing with Dhlakama. It became more confused when Ntaba claimed that while he posed for a photograph with Dhlakama, Mputhahelo was

leaked ... from Dhlakama's [anonymous] aides", stated that Tembo had sent Ntaba and Mputhahelo to see Dhlakama to "work out a strategy on [sic] destabilising Malawi ... which would involve deploying Malawi Young Pioneer cadres from their Mozambique hideout to unleash a reign of terror through armed robbery and outright terrorist attacks on government installations and civilians".¹⁰³

The *Weekly Time* of 3–9 February picked up the story, including a quote from Defence Minister Kubwalo, who was asked whether the Muluzi government would act in response to the story: "We have our own sources of information. We do not depend on newspaper reports, although what *Weekly News* has published is so much closer to some of the information we have." When asked about Ntaba, he said the government would not "rush into arresting Ntaba 'because each time we try to do that, we are misunderstood by some people'". The *UDF News* of 5–8 February also cited Kubwalo, who added there that "it is surprising that MCP harbours such plans. But it is not very surprising as the party leaders have been saying about war all along [sic]. There should be some truth in the allegation."

Meanwhile the February edition of the government's glossy publication for foreign consumption, *This is Malawi* carried the *Weekly News* photograph of Dr Ntaba in Mozambique and the story as well, and an editorial entitled, "Coups Plot Cowardly", in which it was claimed that the MCP is

plotting to topple the ... government ... using arms Ntaba and Dhlakama have been meeting secretly over the past couple of months to strategise the acquisition of guns, ammunition and logistical support from their sympathisers. We do not take these allegations lightly, knowing the unimaginable atrocities that the MCP perpetrated against the Malawi nation during its 31 years in power.

A sub-plot emerged when the MCP's *Malawi News* countered the story by claiming that "Libyan, Sudanese Train UDF Cadres in Military Combat", a charge denied by a police spokesman. This came about the time Muluzi made a second trip to hold "closed door discussions" with Colonel Gaddafi, the Libyan head of state, which raised some eyebrows amongst locals and donors since Libya was then under sanctions for the Lockerbie affair. The *Weekly Time* took up the challenge and argued, "so what if Dr Muluzi goes to Libya?" The editor acknowledged that

not present. *Binoculars*, 1–7 March 1999. The credibility of the letter-headed paper continues to be in question, as it appears with various letters on it regularly in the pro-UDF press (e.g., *Malawi Today*, 18–21 Feb. 1999: "Tembo's letter to Ntaba"; *Weekly Time*, 14 April 1999, letter from Chakuamba to Chihana).

¹⁰³ The purported letter ended, "May the Almighty continue to bless you [Dhlakama] as the fight to annihilate Marxist elements in our region continues." Why communist Vietnam would support such a struggle is left unstated and points to the level of political sophistication of the story's author(s).

“Malawi is not going to ignore an offer of a lucrative friendship just because America and UK have their own problems with particular countries The UDF will source funds from organizations and countries that are willing to assist”. (President Muluzi also brought home a pledge of 20,000 tonnes of fertilizer for the second phase of the Starter Pack programme.) *Malawi Today* went on to report that “through mediation efforts by many leaders like Mandela and President Muluzi as well as the King of Saudi Arabia, Libya has complied with the United Nations demand to have its [Lockerbie] suspects tried in a neutral country”. MBC carried this news to the nation.¹⁰⁴

Soon Dhlakama, who had after all been accused of plotting a coup in Malawi, was exonerated. In a piece supposedly written by another elusive foreigner (who is unknown to seasoned journalists in Mozambique¹⁰⁵), João Mario Fernandes from Maputo, Dhlakama “expressed regret that he misled and deceived the world on the political situation in Malawi [but] his party had previously had a very negative impression and picture of the government... from the many allegations he received from the Malawi Congress Party”.¹⁰⁶

Akwete Sande began to bring the parts of the story into a whole in *Malawi Today* (8-10 February) when he mixed together Operation Bwezani (which disarmed the MYP in 1993), the so-called MYP Veterans Association, which “were being trained to cause civil strife in the country”, and the meeting between Dhlakama and Ntaba “to solicit arms”. “The story [the paper said] was backed by an authentic picture of Ntaba and the RENAMO leader The MCP is a party of ‘death and dankness’ and it is stupid to think that such allegations are unfounded just because it is a pro-government paper which has published them.”

The government’s *Weekly News* completed the job when, in its 12–15 February issue it wrote about the “MCP-Renamo Dirty Tricks” campaign. “Leaked intelligence reports in Mozambique have revealed details of information that have been gathered. ... The report outlines details of a Plan of Action ... including John Tembo, Hetherwick Ntaba and a retired [Malawi] Army officer”. The plan, which

¹⁰⁴ MBC 1, 19 Feb. 1999: Muluzi had gone to speak to Gaddafi about the Lockerbie bombers. The previous mediators had lacked charisma and respectability and it was for that reason that Presidents Muluzi and Mandela should be given credit. Also see *Binoculars*, 8–14 Feb. 1999; *Weekly Times*, 3 Feb. 1999; *Malawi News*, 6–12 Feb. 1999; *Malawi Today*, 15–17 Feb. 1999. The following day *Malawi Today* (18–21 Feb. 1999) went further: the hand-over “... is [a] victory to ... Muluzi as much as it is to all other world leaders” and the UN, who “mediated in the issue ...” The *UDF News* (16–18 Feb. 1999) belaboured the point: “Dr Muluzi has played a crucial role together with ... Mandela ... and ... Saudi Arabia in negotiating with the Libyan leader ... to hand-over the suspects for trial. The opposition media was rhetoric [*sic*] The opposition even tried to incite hatred between Malawi and foreign countries over Dr Muluzi’s peace mission He disclosed that he had successful talks with the Libyan leader ...”

¹⁰⁵ Email from AIM, 7 March 1999, and interviews in Blantyre (20 May 1998) and Maputo (13 June 1999) with private and public media workers from Mozambique.

¹⁰⁶ *UDF News*, 9–11 Feb. 1999. This story also appeared in *Malawi Today*, 11–14 Feb. 1999 and the government’s *Weekly News*, 10–11 Feb. 1999.

“Mozambique authorities are currently investigating”, was to have Dhlakama raise issues of human rights abuse in an international forum, get ex-MYP cadres to engage in criminal activities in Malawi, to use the Malawi Trade Unions and Consumer Association of Malawi to “create public disorder”, get donors to halt aid, promote violence at public meetings, jam MBC radio during Presidential coverage, use the retired army officer¹⁰⁷ to promote an army coup if the MCP loses the elections, use Malawi as a launching pad for similar activities by Renamo in Mozambique.

In March the story was modified again, in keeping with the division within the MCP over the electoral alliance then being touted by Chakuamba and Chihana. “John Tembo has stopped funding the guerrillas who are being trained [for Operation Simba Reta]... because he feels that he will be fighting for a cause whose fruits will be enjoyed by others [Chakuamba and Chihana] not himself.” Reportedly, an anonymous MYP source told the *Weekly Time* that “we signed a contract ... to unleash terror” but the plan has been abandoned now that Tembo will not benefit from it.

Nevertheless, by the end of March the well-publicized “MCP plot to overthrow the government if it lost the election” – and Tembo, Ntaba and Mputhahelo’s role in it – had been driven into the public psyche. This in spite of the fact that none of the papers had cited an attributable source of the information. Nor was the one author named – João Fernandes – known in Malawi or Mozambique. Neither the Mozambican government nor the Malawi security forces had confirmed the plot or acted on it. But through cross-citing each other’s papers the Disinformation Task Force had created a report that appeared credible. Reference to the MCP-inspired violence by politicians at rallies therefore found fertile ground.¹⁰⁸

A number of people, mainly diplomats, have approached ARTICLE 19 to explain that the type of disinformation uncovered in our monitoring is “normal” and to be “found everywhere” during a campaign. ARTICLE 19 disagrees.

First, many of the stories were fabrications, with no basis in reality. This is important in a climate where the Minister and others have continually complained about the low ethical standards of the media. Secondly, many of these false stories were knowingly disseminated through the government media by civil servants working for the Ministry of Information. Moreover, taxpayers’ money – in the form of wages, offices, computers, printers, vehicles, faxes and telephones, and other

¹⁰⁷ At the end of February a retired senior army officer with historical ties to the MCP came to visit ARTICLE 19, worried for his life as he thought that through these articles he was being set up for an arrest or worse. “What is written there is not true”, he said. “I am not doing what they say. But I am a citizen, alone, my family, and no one will listen to me.” ARTICLE 19 recommended that he see a lawyer, consider a defamation suit, and call a press conference.

¹⁰⁸ *Enquirer*, 15–21 April 1999: “Gwanda threatens military action” citing a memo on MCP letter-headed stationery, dated 11 April, stating that Chakuamba would “start looking at the only option for us to get to power – civil disorder followed by a military campaign” if the running mate case went against them. See *Weekly Time*, 14 April 1999, “Alliance opts for civil disorder” for a copy of the letter.

resources – was used to write and spread these lies. This was done to promote the interests of the UDF and to win a national election. Thirdly, these were not simple stories but were reported in several papers, cited in others, and finally picked up by MBC and spread to the whole electorate as truth. At no time were the subjects of the stories, who were generally opposition politicians, given an opportunity to refute the lies in the public media. Finally, the people writing and disseminating these stories did not stop there, but went on to manipulate the news in other more frightening ways.

3.3 The Disinformers ¹⁰⁹

From at least mid-1998 to the end of the election campaign, two UDF media disinformation task forces were operational, both of which used the publicly and privately owned media to carry out their plans. Both were said to be ultimately answerable to the President. One informant who had been a member of one of the groups reported that there was “little collaboration” between them,¹¹⁰ though their work was so similar that many observers (including, initially, ARTICLE 19) thought they were a single group. There was also a third group working for the UDF campaign that used the output of the members of the two task forces, but this was little researched by ARTICLE 19.

This first group, which ARTICLE 19 calls the “Disinformation Task Force”, was reportedly coordinated by the then UDF Secretary-General/Minister of Information (now Speaker of the House) Sam Mpasu. It was formed in mid-1998 in the Minister’s Conference Room. At the first meetings were people from the Polytechnic, MBC, *Weekly News*, *Boma Latu*, and TV Malawi, as well as Wilson Pankuku, then the Minister’s personal assistant, and Kwesi Addae, the Ghanaian technical adviser brought in to help with their project. The group eventually included:

- Kwesi Addae, Technical Adviser
- Chinyeka Tembo, Editor, *Mirror*
- Akwete (sp) Sande, Editor/owner of *Malawi Today*
- Antony Livuza, Editor, *This is Malawi*, owned by the government
- Wilson Pankuku, Personal Assistant to the Minister; now Acting Director-General

¹⁰⁹ This section is based on more than a dozen interviews with media workers and others in Blantyre and Lilongwe with first-hand knowledge of the two UDF media disinformation task forces. For their own protection, most sources have asked to remain anonymous. Interviews were conducted by Diana Cammack, Project Coordinator, and Robert Jamieson, Project Manager. Richard Carver, a director of ARTICLE 19’s East and Southern Africa Office, participated in the research when in Malawi. The names of interviewees are held on file at ARTICLE 19’s headquarters in London.

¹¹⁰ Interview, No. 6, Blantyre, 26 April 1999.

of MBC

- George Tukhuwa, Editor, *Weekly News* and editor/owner of *Saturday Post*.

One source claimed that the timing of the initiative had to do with a visit by President Chiluba and his entourage to Malawi. Apparently, a similar media disinformation project was (and continues to be) implemented in Zambia, and information about its methodologies and results were shared with the leadership in Malawi during a state visit.¹¹¹

The aim of the first meetings was reportedly to strategize about ways to use the media, including MANA's reporters, to portray the UDF's achievements in a positive light. It was decided that stories about development projects in the rural areas were to be written that would promote the party and enhance the "positive side of the government". Very soon, though, the group began, as one close observer put it, to write "propaganda" in an "inflammatory style" so as to "put the opposition in a negative light".¹¹²

The Disinformation Task Force set about its work by establishing pro-UDF newspapers, including the *Sunday Citizen* and the *Saturday Post* – the latter known as "the newspaper of the Task Force".¹¹³ *Malawi Today*'s owner-editor was brought on board too. At this point, the group members were reportedly voluntary although later they were apparently paid.¹¹⁴ The group began to write articles, which were placed in the government's *Weekly News*, as well as in the *UDF News* and pro-UDF papers like the *Enquirer* and *Mirror*. At that point some stories carried the by-line, Meni (perhaps the Media Network Initiative), but this was rarely seen later.¹¹⁵ The use of Capital Radio's *Sunday Debates* during the campaign was described by one senior journalist (with links to the group) as an example of its attempt to "project a good image of the UDF".¹¹⁶ Apparently the group tried to get stories into the *Nation*, but with little success because the editor refused. The opprobrious *Weekly Time* was

¹¹¹ Interviews No. 8, 19 May 1999; No. 6, 26 April 1999; and Alfred Zulu, Zambia Independent Monitoring Team, Lilongwe, 17 June 1999.

¹¹² No. 6 and No. 14: interviews, 26 April 1999 and 23 March 1999.

¹¹³ No. 7, interview, 26 April 1999.

¹¹⁴ No. 6, interview, 26 April 1999 and 11 May 1999. By the campaign period members of the task force were said by informants to be seen "driving where before they walked" and "to have money where before they had none".

¹¹⁵ For a "MENI" story, see for instance, "Chakuamba rejects MCP/AFORD alliance" in the *Mirror*, 17 Dec. 1998: "People in the Northern Region who out of blind emotion [felt] that Chihana was the Messiah to free them from the shackles of poverty and degradation, have now released [*sic*] that the man is totally incapable of any meaningful thing and in their mass they (the people) are moving to the ruling United Democratic Front (UDF) which for the first term in government has shown its seriousness in developing the region."

¹¹⁶ No. 6, interview, 26 April 1999.

initiated latterly by the group in response to the appearance of the MCP's scurrilous *National Agenda*.¹¹⁷

The second group, which ARTICLE 19 calls the "UDF Media Task Force" started later in 1998 when Eunice Chipangula of MBC went to see President Muluzi to tell him that she was going to take time off for study in the UK (as she had been given a fellowship by the British). At that time the President reportedly asked her to defer her studies and to continue to work for the year. More especially, he wanted her to stay in Malawi and help provide the government and UDF with a positive image, and to work on the campaign. She was instructed to prepare a proposal to suggest how people working in the media could promote the UDF and help it win the election. She did as ordered, also listing the resources needed to undertake the work. This second group reportedly answered to the President through the political secretary of the UDF, Dumbo Lemani.¹¹⁸

In October 1998 Chipangula began to recruit members, who in turn recruited others. Some were provided with a synopsis of her proposal. One informant said he was asked by Ngaunje, "which party do you support?" After giving the appropriate answer, he was told a "task force is being set up, a high level task force". He agreed to join as long as it was not going to write "propaganda".

Initially this second group was comprised of junior staff (as opposed to the first group, which consisted of more senior people). The UDF Media Task Force initially consisted of:

- Eunice Chipangula, Senior Reporter, MBC – "national coordinator" and representative in Blantyre
- Moffat Kondowe, Chief Editor, MBC – second representative in Blantyre
- Maxwell Kasina, Controller of News and Current Affairs, MBC
- Stanley Kachipeya, Chief Editor, MBC
- Tailos Bakili, Reporter, MBC
- George Ngaunje, Senior Reporter, MBC – representative in Lilongwe
- Gracian Lemani, MBC, Mzuzu.

ARTICLE 19 is aware of two others who were asked to participate but declined. Some on the original list of possible members (most notably Bakili) were said to have been dropped. Others did join, such as:

- Lloyd Zawanda of MANA in Lilongwe

¹¹⁷ No. 14, interview, 23 June 1999.

¹¹⁸ Interviews, No.14, 23 June 1999; No. 9, 26 May 1999; No.7, 26 April 1999 and No. 8, 19 May 1999.

- Agnes Mizer, TV Malawi
- Martha Chikuni TV Malawi
- Rob Nyangwa, TV Malawi
- Wellington Kuntaja, TV Malawi
- Jane Hanya-Bauti, MBC
- Kassim Seremani, MBC
- Chinduti Chirwa, *Nation*
- Stuart Ntchiswe, MBC
- Noah Chimpeni, MPTC, owner of *Weekly Time*, ex-editor of *Mirror*.

Some withdrew after participating for a few weeks or months, while others known to be “unhappy writing lies” remained in the group until at least the time of the election.¹¹⁹

The expressed aim of the UDF Media Task Force was initially twofold: to offset the negative publicity about the party, written by the opposition press, and to write positive stories about the UDF and the government¹²⁰, and secondly, at the time of the election to place news in the print and broadcast media that would help the UDF win, and to “twist” stories about the opposition. As one very close observer put it, they were to “cook up stories for Dumbo Lemani”.¹²¹ In other words, the aims of the two disinformation groups were very much the same. And like the first group, this task force also used the government-owned and the pro-UDF press, such as *Dziwani* and the *Weekly Time*, to disseminate their stories.

Chipangula and her team identified certain resources as necessary to do their work, such as vehicles, office space, fax machines, cassette recorders, computers and cell phones. Before the end of the year cell phones were given to executive members of the task force – which drew the attention of fellow journalists to the group – and fax machines were made available to some members.¹²² The bills for these were reportedly paid by the party. The group’s members were provided with cash to cover travel expenses, though the leaders were given more money than the others, which reportedly caused some tension within the group at the beginning. Reports suggest that these people also received wages (one source thought about K15,000/month¹²³),

¹¹⁹ Interviews, No. 1, 1 March 1999; No. 6, 26 April 1999; No. 7, 26 April 1999; and No. 8, 19 May 1999.

¹²⁰ Apparently at one of the first meetings of the Task Force, in December 1998, members were told that the “President had stressed that he doesn’t want propaganda, but they should write on real development issues” [No. 7]. Another informant [No.8] said that when asked to join, he was told they were going “to write good things about government”.

¹²¹ No. 14, interview, 23 June 1999.

¹²² Interview No. 1, 1 March 1999.

¹²³ No. 6, interview, 26 April 1999.

as some of these reporters who were long known to “be broke are now okay”. As another said, now “each has a cell phone and they all have money to spend”.¹²⁴

Three twin cab trucks were purchased for the three regional heads of the project: Ngaunje in Lilongwe, Chipangula in Blantyre, and Lemani in Mzuzu. These trucks were bought in January 1999 from Malawi Motors Ltd (owned by African Lakes Corporation) by “Trust in God Investments”, P.O. Box 165, Mpemba.¹²⁵ (ARTICLE 19 noticed that the name and address were also painted on the side of Chipangula’s vehicle for some time). Each truck cost in the order of K1.5 million–K1.8 million (duty paid) and these trucks were reportedly part of a larger order of vehicles purchased for other UDF helpers at about the same time. Payments were made by cheques drawn on the Comfort General Dealers account at the National Bank, Zomba. The vehicles were insured by Citizen Insurance Company.¹²⁶

The fact that these junior civil servants who worked for the UDF Media Task Force were following this separate party-political agenda (which was detectable in their work from early on, and commented on by critics¹²⁷) was known to their civil service bosses, who were aware from the beginning, or soon became aware, of their membership of the Task Force.

Interestingly, some of the other supervisors within the civil service, who must surely have known about the group and its work, managed to remain outside or above it all. For instance, MANA reporters state that their managing editor, Phyllis Kubwalo, consistently gave instructions to her staff during the campaign to report in an unbiased manner; “you are professionals, go out and do your job, cover everyone”. Yet in December 1998 reporters in all three districts were supposedly told by Wilson Pankuku (then the Minister’s personal assistant) to write stories favourable to the government and UDF.¹²⁸

When ARTICLE 19 discussed the disinformation campaign and the existence of the two task forces with Anthony Chamveka, the Deputy Chief Information Officer at the Ministry of Information,¹²⁹ he said that “many things go on without our

¹²⁴ No.14, interview, 23 June 1999.

¹²⁵ Repeatedly ARTICLE 19 asked the Registrar General’s office about “Trust in God Investments”, but it has not been registered as a business name or company. A clerk explained that it takes special permission to use the word “God” in a business name and referred ARTICLE 19 to the Deputy Registrar General, B J Zumara. On 26 May 1999 he told us that it is illegal for any group to do business without registering its name, yet his department is not proactive, except when an issue (like the *National Agenda* case) is brought to its attention. “We don’t ... actually dig to find out if someone [doesn’t register]. If someone wants to register he comes here”. One informant said that this was only one of the groups started by the UDF, and named two others: “Advancement for Youth Organization” and the “Organization for Democratic Processes”. No.6, interview, 26 April 1999.

¹²⁶ Interview No. 12, 25 June 1999.

¹²⁷ For instance, Brian Mungomo (MCP Eastern Region Chair and later the purported owner of the *National Agenda*) accused Chipangula of being “biased” at a press conference convened by the Electoral Commission. See *Malawi Today*, 25–27 Jan. 1999.

¹²⁸ No. 8, interview, 19 May 1999; and No. 7, interview, 26 April 1999.

¹²⁹ Interview, 23 June 1999.

knowledge”. Like other professionals in the Ministry, when he was told in detail about some of the disinformation plots, he claimed ignorance. About Voter Action, “I definitely did not know”. About Tukhuwa owning the *Saturday Post* and producing it upstairs, he again pleaded ignorance. “He ran a paper once before and he was told to resign or stop it.” As for the other stories he said, it was not “reported”, “perhaps [it was] done behind our backs”, or “outside normal working hours I did not know about most of these stories ... There were things we did not know about until after they appeared.”

As the discussion progressed, though, the dilemma facing media professionals within civil service became more apparent. Chamveka explained that the journalists within the Ministry are in a “very difficult situation”, having to answer to the government of the day and doing what they are told to keep their jobs. There are “big pressures coming on, and you have to make a choice,” he said. “What comes from next door [the Minister’s office] are directives. We give our ‘professional advice’. They have the power to hire or fire, that is the problem ...” It is necessary, he continued, “to change the mind-set of politicians” if the media are to be protected. “On the ground are other forces ... We really walk a tightrope. He is the boss ... and all we can do is advise to the contrary.” When a journalist writes a story that a politician does not like, he is told “you are in the other camp”. The Communications Act, he concluded, did not make changes “on the ground. I have given up Democracy is not for us If we are not careful the few freedoms we have will go away.”

ARTICLE 19 finds it difficult to believe that senior civil servants in the Ministry such as Phyllis Kubwalo, Anthony Chamveka or Raphael Kamlomo, were unaware of the two groups and their work. Colleagues of those active in the groups were well aware of their activities.

One of our informants, who knows the Department of Information well, stated that the “*Saturday Post* is typeset at the Information [the *Weekly News*] office. [By the] same staff, [on] the same computer. Chabwera does the *Saturday Post* typesetting, and the *Weekly News*, *This is Malawi*, and the *Sunday Citizen*. The same rooms, the same machine.” This claim was supported by another person working in the Department.¹³⁰

The funds for the printing of the private and public newspapers also seem to have become entangled. For a long time the government press has had what Chamveka calls “cash flow problems”. Indeed, the Department owes millions of Kwacha to its printers and at least one of them (Fattani) has stopped producing the government papers except on a cash basis. This means that the appearance of the papers has been “erratic”.¹³¹ It was not surprising to learn, therefore, that at least in

¹³⁰ Interviews, No. 4, 23 April 1999 and No. 9, 26 May 1999.

¹³¹ Interview with Chamveka, 23 June 1999.

the early months of the campaign, printing of the *Weekly News* was paid for by the same source that paid the printing bills for the *UDF News* and the *Weekly Time*. The cheques were drawn on the “Commission Task Force” account at the National Bank, Zomba, in February and March.¹³²

There is no doubt that during this crucial campaign period -- and in light of the Ministry’s financial problems -- the use of party funds was deemed essential to keep the output of the two task forces in front of the public. As the campaign period was extended this changed and the *UDF News*, the *Weekly News* and the *Weekly Time* started paying their own printing bills again.¹³³

ARTICLE 19 was told by an MBC employee that the UDF Media Task Force was preparing for election night coverage on MBC too. Apparently MBC’s own Election Task Force had arranged to report the results as they arrived. It initially consisted of three persons, but others were added, some of who reportedly answered to the UDF Media Task Force. Apparently their plan was to “hijack” the voting results on election night, and to announce only the results that suited them. Their scheme mostly failed, though, when the MBC Election Task Force outflanked them by reporting information coming from the EC rather than from the reporters set up by the UDF Media Task Force.¹³⁴ That the MBC news desk tended to inflate the figures in favour of President Muluzi during counting¹³⁵ is interesting in light of this claim by an MBC insider.

A third group, the Presidential Committee on the Campaign, was reportedly managed by Irene Chikuni assisted by Osman Khembo and Humphrey Mvula, and was based in the Privatization Commission’s offices. It was reportedly very well funded though not closely audited. The group was of interest to ARTICLE 19 because journalists in this Committee were to produce leaflets and pamphlets for distribution to the public, and because the group was to benefit from the propaganda produced by the two task forces.¹³⁶

3.4 Intimidation

¹³² Interviews, 25 May and 22 June 1999

¹³³ Interviews, No.9, 26 May 1999, and No. 6 b, 26 May 1999.

¹³⁴ Interviews, No. 5, 21 May, 9 June and 25 June 1999.

¹³⁵ For instance, 17 June, MBC 1, 7.00 a.m. “As of last night, four results in the Presidential race have been received from seven district ... from all the three regions, in which the incumbent was ahead ...”. 1.00 p.m. “MBC correspondents ... indicate that the main contesting parties have made gains in their traditional bases. Of the full results obtained from 11 districts so far, UDF President Muluzi has already received over a million votes The MCP/AFORD Alliance has secured over half-a-million”. In the end Muluzi won in 14 of the 26 districts and had only one third of a million more votes, so it is difficult to believe these figures if accurate, were randomly selected.

¹³⁶ No. 14, interview, 22 March 1999.

Another disturbing aspect of this story is the fear that the people in the two task forces engendered in their fellow media workers. People claimed to be particularly frightened of Eunice Chipengula and her “fault finding group”, as she has easy access to the President and can “just show up at MBC and expect to be heard”.¹³⁷

The UDF Media Task Force had two jobs at MBC, said one informant, “spying and manipulating the news”. These went hand in hand, he explained. If, for example, a news-reader ran out of time and dropped a story that the Task Force thought was crucial (about a “defection” to the UDF, for instance) it would be reported to the Task Force and the name of the news-reader would be put on a list of disloyal people. Such a list was said to have existed before the strike in November 1998, and some who had not gone on strike but were fired afterwards were said to have been on it. Similarly, an informant reported to ARTICLE 19 in March 1999 that his name had been added by Stanley Kachipeta to the list being prepared by Moffat Kondowe. Not surprisingly he was amongst the four people fired from MBC without reason after the elections.¹³⁸

This sense of being watched and of being judged not by the quality of one’s work but according to how loyal one is to the UDF has permeated MBC since the transition. During the course of its investigations, ARTICLE 19 was repeatedly told by people who had worked at MBC for years that “it is worse now than in 1994”. Sadly, this atmosphere already prevails at TVM. People there reported that their work was being watched by members of the UDF Media Task Force and their attitudes and behaviour reported.

It was not a total surprise therefore, that a week after the election four senior MBC journalists were fired. Ironically, they had all received commendations praising their work the day before they were dismissed without explanation. They all believed that their dismissals were politically motivated and approached the Ombudsman for assistance. The Ombudsman, Enoch Chibwana, called a hearing, asking that Pankuku, the Acting Director-General, attend. He refused and faced contempt of court charges. But this gave MBC time to go to court, where it argued that the four ex-employees should have gone to court before approaching the Ombudsman. Chibwana opposed this line of reasoning and argued that his rights under the Constitution were being undermined by MBC. Justice Hanjahanja, formerly of the Electoral Commission, ruled against the Ombudsman. The Ombudsman appealed against the ruling and by the end of September no decision had yet been reached.¹³⁹

¹³⁷ No. 10, interview, 8 June 1999.

¹³⁸ No. 1, interview 1 March 1999.

¹³⁹ For the Hanjahanja judgment, see *Malawi News*, 28 Aug.–3 Sept. and 4–10 Sept. 1999. The newly created “Environmental and Social Development Centre” run by George Goliati, argued for MBC, stating that the Ombudsman’s “attack” on Pankuku was too personalized, that Chibwana should have “targeted” the MBC Board instead (though it is not clear they had any role in the dismissals), and that Chibwana has denied the men a fair hearing by “involving the press prematurely”. See *Weekly News*, 20–23 Aug. 1999. Also the *Nation*, 22 Sept. 1999 for the arguments before the Supreme Court.

ARTICLE 19 itself was the target of the Disinformation Task Force when it began to report on its activities. When the ARTICLE 19 Malawi Election Media Monitoring Project produced a weekly report including the Economist Intelligence Unit story, including the letter from the EIU to the High Commissioner cited above. The Disinformation Task Force struck back. First, a letter entitled “Hands off the Weekly News” from “Concerned Malawians, Blantyre” appeared in the government’s *Weekly News*. Whoever wrote it collaborated with the author of the letter that appeared soon afterwards.

The next letter was supposedly written to ARTICLE 19’s Malawi project coordinator (and copied to all project funders) by someone called “Paxton Bernard Ntengwa, Chairman, Media Watch Malawi Executive Committee”. No one received the letter in the post. It was apparently meant for public consumption and its dissemination was confined to the pro-UDF press.¹⁴⁰ Nor had any journalist or media activist in Malawi ever heard of “Media Watch Malawi” or Paxton Ntengwa. Neither had the international “Media Watch” or Malawi’s CONGOMA (the Malawian NGO umbrella group) heard of them.¹⁴¹ At about the same time Stuart Winga at the Electoral Commission informed us that someone had been asking about ARTICLE 19’s accreditation.

Other attacks followed – for example, *Weekly Time*, 28 April 1999: “ARTICLE 19 kapolo wa zipani zotsutsa boma” (ARTICLE 19 is a slave to the opposition parties); *Malawi Today*, 24–26 May 1999, “German Agency Swindled: Fumulani [of the Media Council], Jamieson [of ARTICLE 19’s project] reaping-off [sic] GTZ”.

In order to highlight the arguments used to condemn ARTICLE 19’s work, a summary of the articles follows: “Hands off the Weekly News” wrote:

I view this body [ARTICLE 19] with a lot of suspicion and some kind of contempt because ... it twists facts to suit its own agenda ... its workers have been going around literacy [sic] interrogating people in the official media... [but] they only targeted newspapers and media houses deemed by them to be pro-government ... glaringly missing ... is the much needed balance of coverage. They are endlessly questioning the official media and there is no effort ... to go to the opposition or so-called independent press. Let me put it in [sic] record that the *Weekly News* ... is a

This case has enormous implications for the Ombudsman’s office and those other human rights bodies created by the Constitution after the transition.

¹⁴⁰ “‘What really is the role of Article XIX in Malawi?’, asks Media Watch Malawi” in the *Weekly News*, 7–8 April 1999; “Article XIX questioned” in *Malawi Today*, 1–4 April 1999.

¹⁴¹ Telephone interview with Ted Nandolo, 15 April 1999. Email, 7 April 1999 from Media Watch (USA): “We know nothing of Mr Ntengwa We wrote nothing to ... any newspaper condemning you or your project.”

government newspaper and it is only fair that it, in the main, reflects government thinking or the establishment's perspective of issues. The paper has no obligation to cover views The mandate ... is to cover news of a national development nature, among other items There has been claims [by ARTICLE 19] that the paper is using taxpayers money to fund its operations. To this accusation I say so what? The paper is serving the communities who are the purported exchequer and I see no evil in that. In any case why does ARTICLE 19 complain for the people who did not even elect them in the first place to be their spokespersons. What they are doing is simple interference in the running of the affairs of Malawi. Malawians are not daft and they know confusionists when they see some such as those busybodying themselves like A. 19 Let the organization know that the establishment of the *Weekly News* was because there was a gap which had to be filled [because] ... the existing newspapers did not do adequate justice to the efforts made by stakeholders in the development of dear Malawi. In conclusion, I would say Malawi is a sovereign state and as such there are some things that its elected leadership can do without resorting to donor organizations for finances or advice. This is one of the many, and ARTICLE 19 would do well to stop the tendency to be patronizing when dealing with Malawians. ... hands off the *Weekly News* for we know what is best for us and not any foreign pressure group or a combination of forces [knows] that. Stop colonizing our brains once again we are tired of that.

These sentiments echoed those of the Minister. During an interview on MBC he was asked:

to explain the complaints against the MBC. [Mpasu actuality:] I don't agree with these people because anybody with a mature mind can see that the Electoral Commission has agreed with MBC that all participating political parties in the forthcoming general elections have to air their messages and every Malawian is hearing these messages in different programmes. Some small parties whose existence was not known to many people in the country are now being heard on the radio ... What we are doing in Malawi is not done in Zambia, Zimbabwe, Mozambique, ... England, ... [or] Germany. It is not done in America that any party, even if it doesn't have supporters, should be heard on the radio, to campaign on the radio when they are failing to campaign in the villages. That is unacceptable. These people should be appreciative that we, in our belief, are giving freedom of speech even to parties that are almost non-

existent... There is a so-called organization from England known as ARTICLE 19 which is poking its nose everywhere. We don't know why it is here. It is making noise about MBC that the radio is doing nothing. It says, MBC! MBC! MBC! If MBC was making a party to win, do you think MCP would be in opposition today? It is not because parties have air time on MBC that they win. MBC is a national radio. It is not there for political campaigns alone. It is there to discuss many issues even more important than politics.¹⁴²

At the National Consultative Group meeting in Blantyre, the Minister slipped ARTICLE 19 the following note, apparently a continuation of his MBC interview that same day. It resonated with the "letter" in the paper weeks before:

Incidentally [*sic*], I do not like the ARROGANCE of your ARTICLE 19. Why are you so prescriptive? Why do you think you are entitled to dictate to an "elected" institution such as a government to do what you want? And who do you represent or who has asked you to represent them in Malawi? Hasn't the press in Malawi got its own abilities to monitor press freedom rather than rely on an institution from London? Or is this an IMPERIAL hang-over to dictate to a former colony? I think that a change of attitude will be helpful.

The second letter ("What really is the role of Article XIX in Malawi?") also expressed "very serious misgivings and suspicions" about ARTICLE 19's role, and "very serious doubts about your impartiality and integrity". It accused ARTICLE 19 of "serving some vested political interest in this country".

You have never at any stage found it necessary to comment on and much less condemn the newspapers which have for the past four years and a half resorted to insulting and vilifying the office and person ... of the Head of State Your reports read very much like MCP propaganda news sheets In any case, why are you picking so much on Malawi? ... President Muluzi has proved to be a most tolerant and magnanimous person Some of the things newspapers like the *Daily Times* have written about the President ... can easily be described as seditious and treasonable ... [yet] Mr Muluzi has kept his calm as always. ...¹⁴³

¹⁴² MBC 1, 11 May 1999, 12.50 p.m., Chichewa.

¹⁴³ The rest of the article was directed personally at the two ARTICLE 19 staff who had been investigating and writing about the Disinformation Task Force: "From your actions those of you representing the organization in Malawi have left nobody in any doubt that you are pursuing your own

The disinformation campaign run by the UDF in 1998–99 was unlike the legitimate political propaganda efforts managed by parties in many countries during elections. It was, first of all, illegal. Surveying the human rights guarantees and legislation outlined in Appendix 3, it is evident that these two task forces and their technical advisers and bosses, broke several laws. Moreover, the journalists amongst them acted wholly unprofessionally.

Firstly, the two groups were staffed by civil servants who, by law, should be impartial and unbiased in the performance of their duties. That this is the case for government media workers during election campaigns has been especially highlighted in Malawi law. Further, they colluded with one another, and gave orders to junior staff to promote the interests of one party over another.

Secondly, they used government resources – offices, staff, materials and equipment – to promote their party and candidates. Thirdly, they accepted benefits in the form of cars, cell phones and other goods (probably including wages) to undertake this work. Ironically, at a time when MBC and MANA claimed they could not field reporters because they had no vehicles these people were seen running around the country on government time in their specially purchased trucks, promoting their party. Having transport permitted them the opportunity to cover their candidates fully while MBC ignored the opposition parties and rallies.

Finally, they illegally undermined the right of other parties and individuals to be heard during the election campaign, and in so doing undermined Malawi's constitutional guarantees of free and fair elections, a free press, freedom of information and freedom of expression.

At the same time as MBC was fighting the case against the Ombudsman news spread that senior members of the UDF Media Task Force – Eunice Chipangula, George Ngaunje and Moffat Kondowe of MBC – who undoubtedly had a hand in the dismissal of the four MBC journalists, had been promoted “on instructions from the top ruling party officials”. The *Daily Times* cited anonymous sources at MBC, saying that Sam Mpasu had instructed the new Information Minister, Clement Stambuli, to promote the three as a “token of thanks for a job well done during the campaign”.¹⁴⁴

politically and financially motivated interest in this country The people of this country are getting tired of charlatans, quack specialists and persons with dubious qualifications and credentials who think that liberated Malawi now is the place for them. ... We would like to request Article XIX's head office ... and organizations which provide funding to Article XIX to probe into the activities of Diana Cammack and Rob Jamieson to establish if the two are doing what they are supposed to be doing here in Malawi.” Some weeks later Jamieson and Anderson Fumulani of the Media Council were accused on the front page of *Malawi Today* (24–26 May 1999) of stealing K10,000 monthly from GTZ and the Media Council, and keeping a “concubine ... who is close to the opposition MCP/AFORD alliance through her uncle ... and her former boss.” The article also accused Jamieson of stealing money from the British government, adding that “social security officials in London confirmed that they are tracking him and will soon extradite him to face fraud and theft charges.”

¹⁴⁴ *Daily Times*, 29 July 1999 and *Nation*, 29 July 1999.

4 CAMPAIGN BROADCASTING AND PUBLICATIONS

“In order for democracy to be known and ... appreciated, people have to be informed. This is the role of the media, this is the role of MBC”.

*Wilson Pankuku,
Acting Director-General of MBC, 1999*

4.1 Broadcasting

One of the most contentious issues of the campaign was the way MBC was used to promote the UDF and especially the President. Not only did ARTICLE 19 press for change, but so did the opposition parties (who were denied equal access and coverage), the independent media, NGOs and the National Consultative Group, aid donors and the UN, various international observers and the judiciary.

As noted in Section 2, MBC’s campaign coverage had been a problem for the last few years as President Muluzi increasingly used the radio to support his party’s parliamentary candidates during by-elections. His live broadcasts were also an issue when they took place during campaign periods and focused on politics rather than development. Justice Msosa’s Electoral Commission had a hard time trying to rein in the President and his campaign advisers, but at least it tried. No doubt the insight it gained during the 1994 election provided the Commission with the experience needed to manage the media, for during that time it adopted and implemented a set of media guidelines written by media specialist Tim Neale. While this is not to say that there were no problems with equal access to and coverage by MBC during the 1994 election, it is true to say that the Electoral Commission did attempt to control the then ruling MCP and Dr Banda, and to keep coverage by MBC and MANA free and equal to all parties. In other words, Justice Msosa’s Commission understood what the media ought to do, and knew how to ensure that it happened.

This was not the case with the new Electoral Commission, for no one on it was experienced, nor was any of them a media worker. Neither was there a handover period during which the old Commissioners could teach the new ones their jobs; the transition was, instead, brief and relatively uncommunicative. Moreover, close observers state that the new Commissioners rarely sought the advice of technical specialists who might have provided them with assistance. While Tim Neale did some training and wrote a new set of guidelines for MBC and TVM, he did not arrive until very late in the campaign, and the new guidelines were not adopted by the Commission until the first week in June, less than two weeks before the election. The Commission negotiated their adoption with the Minister of Information, rather than

MACRA or MBC's Board of Directors, as would have been in keeping with the Communications Act. More importantly, however, the guidelines were never implemented by MBC or TVM.

When ARTICLE 19 met Flora Chirwa, the Electoral Commissioner in charge of media issues, she appeared unaware of the 1994 election media guidelines or ARTICLE 19's past and current monitoring work and reports.¹⁴⁵ She told us that she and Commissioner Mtendere had not seen anyone at MBC (whose director-general was ill and unavailable) until the campaign period had nearly begun. MBC had told them then that during the 1994 campaign only one party (the MCP) had been heard – which ARTICLE 19 knew not to be true as it had been monitoring that election too. MBC also promised to “open up” radio during the 60-day campaign period, but told her it could not field reporters to cover all the parties equally because the corporation lacked transport. “MBC has financial problems,” Commissioner Chirwa explained to ARTICLE 19.¹⁴⁶ The solution to this problem, she said, was to have donors provide transport and she held out hope that GTZ would provide vehicles to MBC reporters. As it turned out, this solution was not viable.¹⁴⁷ In the meantime she said that MBC had suggested that all the parties pick up their reporters and carry them to any of the rallies they wanted covered – a suggestion that ignored ethical considerations.

As for party political advertising on radio, she said it was “up to them [at MBC] to examine that [issue]”. She felt that the Electoral Commission could not ask MBC to provide airtime free so that the parties' rallies and their platforms could be advertised equally. She hoped instead that the donors and international agencies would buy airtime on MBC to air such campaign programmes as well as debates. Finally, she said that while the Commission felt that all parties' presidents ought to be covered, President Muluzi's meetings were given special coverage because he is State President. In other words, she adopted the reasoning provided her by the MBC directors she met, rather than the arguments that had been developed between 1996 and 1998 by the opposition parties, human rights NGOs and the old Electoral

¹⁴⁵ Interview, 26 March 1999. She was accompanied by A G N Mtendere, also an Electoral Commissioner. See *Nation*, 7 June 1999 for adoption of the guidelines.

¹⁴⁶ Between 1994 and 1999, in that period when government refused to pass a new MBC Act to ensure that editorial policy at MBC and TVM was independent, most donors withheld funding from government media projects. Therefore, both MBC and MANA are in dire financial shape, and in need of transport, tape recorders, computers and other equipment. Over the past five years assistance has come from a few sources, such as Malaysia, UNESCO and China. The Controller of Programmes at MBC faxed the EC a one-page, “Justification for Adequate Means of Transport”, 29 March 1999, which noted that its 18 reporters were “not able to cover all the political parties adequately. As a result the news bulletins as well as campaign news tended to feature news of one party. The reason is that this particular party has actually offered transport to our ... reporters. This arrangement has not augured well with our professionalism as well as the need for multi-party coverage of news by MBC.” It therefore requested 13 vehicles.

¹⁴⁷ Because the donors provided election funds to the Commission instead of individual government bodies, they were keen to see the Commission provide transport from its budget. Later GTZ provided three vehicles to MBC on a one-week trial basis, but these were sent back unused.

Commission. She concluded by saying that MBC, when pressed about equal coverage, suggested taking *all* political news off the air. While she did not favour this idea, she did not appear to have any understanding of the legal or ethical obligations to inform the public, obligations that are placed on the government media during a campaign period.

The Commissioners did announce, however, that an MBC Task Force had been created in March, which was to coordinate all election-related programming. It had “brainstormed” and had come up with a number of programmes, whose cost when totalled amounted to three-quarters of a million Kwacha, which MBC expected the EC to pay.¹⁴⁸ Commissioner Chirwa explained that the advent of the MBC Task Force meant that campaign coverage would improve: she promised that it would be expanded and become more balanced than it had been thus far.

In the event, while there were more election-related programmes in the ensuing weeks, MBC coverage did not become more balanced. ARTICLE 19 considers that the primary reason for the continued abuse of the state media by the UDF was because the political will to “open up” MBC, TVM and the print media was absent. Moreover, this refusal to do so undoubtedly came from the top.

For instance, as already indicated, the Minister of Information maintained that the media were already as open as any in the world.¹⁴⁹ The Director-General of MBC, Sam Gunde, was asked whether he agreed with the view that MBC was partisan. He defended the institution, saying that MBC was

a carbon copy of the BBC ... and even the Voice of America. Wherever you go, the national broadcasting station is always the mouthpiece of the ruling party. Above all, it is the government that funds the radios, including paying of salaries. The problem is that with change of government people expect too much from MBC ...¹⁵⁰

The line taken by his successor, Wilson Pankuku, was the same. Within a week of his (illegal) appointment by the Minister, he had begun to censor the campaign speeches of opposition politicians. For instance, the president of the Sapitwa National Party stated that her taped message was edited by MBC: in a recorded political advertisement she asked her supporters to vote for Sapitwa’s parliamentary candidates but to vote for the MCP’s Gwanda Chakuamba for president. The latter part of the statement (about Chakuamba) was not aired. This issue was raised at a

¹⁴⁸ “MBC’s Task Force Proposal ...”, not dated, provided to ARTICLE 19 by Commissioner Mtendere, 30 March 1999.

¹⁴⁹ On 27 May 1999 ARTICLE 19 met Minister Mpasu. He told us that “the [Electoral] Commission at no time has complained that ... its programmes are tampered with.” The “MBC has faithfully done everything the EC has told them to do.”

¹⁵⁰ *MONI*, March 1999.

meeting of MBC directors, the Media Sub-committee of the National Consultative Group and members of the Electoral Commission on 29 April. There a Commissioner explained that she had received a complaint from Sapitwa. In response, Pankuku explained that MBC would continue to edit messages from any party, as it is mandated to do so according to the law. He did this, he said, because he did not know of any alliance between Sapitwa and MCP and added that he would take out such remarks as they could be misleading to the people. “The MBC will continue to edit all political messages if we believe them to be wrong.”¹⁵¹

Subordinate to Gunde and Pankuku at MBC were members of the UDF Media Task Force, who ensured that the staff at the radio remained loyal and that radio coverage promoted the party and its candidates. Mpasu and Benson Tembo guaranteed the same at TVM, while Antony Livuza promoted the UDF in the government’s glossy publication, *This is Malawi*, and George Tukhuwa did the same in the (bi-weekly) *Weekly News*.

Evidence of partiality and bias, uncritical news coverage, lack of analysis and context, and deceit was not hard to find. In fourteen reports covering more than four months (15 February–28 June 1999) ARTICLE 19 reported what it heard on MBC 1 and 2, read in MANA, *This is Malawi*, and the *Weekly News*, and saw on TVM. The findings outlined in these reports are summarized briefly below.

4.1.1 Live Coverage

One of the most contentious issues was the live coverage given to the President on MBC and TVM. None of the other presidential candidates was covered live, and rarely were any recorded for actuality news coverage. While these campaign rallies were billed as “development tours”, accompanying the President were various UDF functionaries, local UDF candidates and Ministers, all of whom made overtly political speeches. Moreover, the venue and time of his meetings were advertised for at least a full day, and sometimes two days, before they took place. These advertisements were generally the first item on the hourly newscasts.

A sampling of extracts of the President’s statements, which inevitably were rebroadcast in their entirety the same evening, provides evidence of both the nature of his highly party-politicized speeches and the reason why the opposition continually complained to the Electoral Commission and the courts about this practice. Nonetheless, throughout the whole campaign period the EC did nothing to ensure equal, live coverage for other presidential contenders.

¹⁵¹ *Daily Times*, 29 April 1999 and NCG Sub-committee on Media meeting with Pankuku, 29 April 1999, which ARTICLE 19 attended.

Initially, after the campaign period opened on 21 March, the President's speeches were covered as news. For instance, President Muluzi gave a speech to a "development" meeting in Thyolo (MBC 1: 18 March, 2.08–4.35 p.m., 5.00 p.m., Chichewa) but it included his statement that "things have changed, people have stopped buying party cards, there is free primary education, people have stopped presenting gifts to the President. UDF is a party of democracy and development Do not vote for an MP from the opposition: what is he going to give you?" This was only one of the first of many campaign speeches wrapped in the guise of development. He used his visit to Nchalo (MBC 1, 25 March: 7.00 a.m., English) to "inspect projects" to tell people to "be united and urged them to vote for UDF in order for democracy to be sustained and development to continue ... He further appealed to MCP and AFORD to find out ways of sorting out their Alliance since the constitution does not allow it."

President Muluzi's "opening" of Capital Radio FM was also the focus of newscasts for several days (e.g., 28 March, MBC 2: 1.40 p.m., Chichewa; 8.30 p.m., English), with his schedule outlined and the location of the station given. No mention was made that his press secretary owned the station, nor that it was only the third station (after the women's station in Mangochi and FM 101) in the country to receive a private radio licence in five years. The opening was the first item on the news consistently on the day the station was launched (29 March, MBC 1, 7.00 a.m. onward and MBC 2, 6.30 a.m. onward). A report of the President's speech was then broadcast as news in Chichewa – e.g., 29 March, 5.00 p.m., for one minute: [1] the opening of the private radio station is testimony that democracy has taken root in the country, [2] in the last five years five stations have been established, [3] which shows that journalists are free to write as they like, and [4] that no country in Africa matched Malawi in terms of press freedom. [5] This showed that things had changed because during the 31 years of MCP rule there was only one radio station. The news item as broadcast in English provided evidence of another characteristic of MBC during these months: reporting for the local population was often very different from that meant to be heard by donors in English. At 6.00 p.m. the news (3 minutes) in English reported the same story differently: [1] opening of radio stations is a manifestation of democracy working in Malawi, [2] the existence of many radio stations allows people to have wider access to information, [3] listening to various stations people are able to make a free and informed choice on political or religious issues, [4] radio stations have a duty to enrich people's daily existence, [5] they should be professional and report accurately, [6] and they have a moral obligation to consolidate democracy. [7] The government is committed to upholding freedom of expression and opening Capital Radio underscores the resolve to uphold the free flow of information. [8] Private radio stations are also creating jobs for people. [9] The government and private sector can work together to create job opportunities. [10] The

government will always encourage entrepreneurs who have the capital to open radio stations in Malawi.

On 6 April the President opened a school in Ntcheu, although the occasion also served as a UDF rally. It was broadcast on MBC from 3.00 p.m. until 5.20 p.m. and rebroadcast from 8.10 p.m. until 8.38 p.m. Both chiefs and party people were present when Muluzi spoke about the MCP, maize Starter Packs and future development projects. The newscasts that afternoon (e.g., 2.20 p.m., Tumbuka) announced the future venue in President Muluzi's "countryside tour of development activities", including Msipe Health Centre, Kapalamula Distance Education Centre, Mazanje school and Bangala school. In the evening the Alliance's rally at Mulanje was reported as the sixth item of news (after: President Muluzi urges people at Ntcheu to register, Muluzi to meet Algerian ambassador, Muluzi to visit Kasungu, chiefs told subjects should register, UDF MP candidate speaks at Mchinga (7.00 p.m., Chichewa). News of the Alliance rally was not broadcast the following day.

The link between development and the election was made explicit when President Muluzi began to tell the public at rallies that they should support his candidates if they expected assistance in the future. For instance, at Karonga on 19 April, the President held a rally at which he stated: "*Tonse tikudziwa kuti chipani cha UDF chilamulanso mu dziko muno. Konstituwense imene isankha MP otsutsa boma – zake zimenezzo! Ndanenanso poyera – Ndidza yenda mokha-mokha m'mene muli ana anga. Ndi mau amene ndimafuna ndinene osabisa ayi*" (We all know UDF is going to rule again in this land. Any constituency therefore that elects an opposition MP, well, it's their own fault! Let me say this openly – I will only attend to areas that are mine and have my own people installed. This is the message I want to give openly!)

One of the most thought-provoking programmes was his rally at Chingale at Zomba, where the Zanzibar President, Salmin Amour, also spoke. President Muluzi made reference to the struggles in Mozambique, South Africa and Zimbabwe, drawing attention to Dr Banda's support for the Portuguese, apartheid, and Smith regimes, and to the need now to be good neighbours. Dr Amour stated that the UDF party was the only one that could continue to bring development. He went on: "I appeal to you my brothers and sisters to consider your future, by thinking of the party that has given you everything and is going to continue doing so, and that I want to confirm that President Muluzi is the president of the people ..." Amour's support was fully expressed again as news (e.g., 4 May, MBC 1: 6.00 p.m., English; 5 May, MBC 2, 6.30 a.m., English; MBC 1: 7.00 a.m., English) when he stated, *inter alia*, that people ought to support the UDF so that the country should continue to prosper.

The involvement of chiefs in party politics was evident during the live broadcast of President Muluzi's rally at Phalombe (MBC 1: 3.19–5.02 p.m. and 8.11–10.14 p.m.), where T A Nkumba thanked Muluzi for development projects, Starter Packs and fertilizer, and asked God to give Muluzi another term in office.

Chiefs were often addressed by Vice-President Malewezi as well, as mixed messages were given that they ought to stand above politics but, at the same time, they were told they should support the government.

Questions were raised at the NCG meetings in Blantyre about whether President Muluzi was receiving special treatment from MBC because he was head of state or the UDF presidential candidate. The first item on the morning news of 17 May (MBC 2: 6.30 a.m., English) was typical in that it clearly demonstrated that he was using his incumbency to give him access to the radio to campaign: (paraphrased) President Muluzi says his government believes in economic empowerment for all Malawians as a way of reducing poverty. He said this at a rally in Mulanje yesterday after visiting some development projects. He said policies being pursued by his government are acclaimed by the donor community. He commended the people for supporting his government despite some problems it encountered in the past five years. The opposition did not wish the UDF administration well when it was voted into office. He urged people to support his government and vote for its leaders. He said the UDF government has established a firm foundation on which to build, and warned people not to be deceived by the opposition, and reminded them of the atrocities of the one-party MCP regime, such as the Forfeiture Act. President Muluzi said the UDF administration will ensure sustainability of democracy and the observance of human rights in the country.

President Muluzi's rallies continued to be broadcast live on Radio 1 throughout the entire campaign period. For instance, on 16 May his rally at Mulanje ran from 2.45p.m. to 4.39 p.m. and was rebroadcast from 8.10 p.m. until 9.54 p.m. In his speech he criticized the MCP by noting that people used to be tortured because of party cards and presidential gifts. He also criticized other candidates, especially Bingu wa Mutharika of the United Party ("*Kodi ngati ine ndinalimbana ndi Malemu Dr Banda enawa ndi ndani?*" – "If I managed to face Dr Banda, who are these other people?") His Chiradzulu rally was broadcast on MBC 1 (19 May, 3.12–5.00 p.m. and rebroadcast 8.10–10.05 p.m.). There he told the nation that the UDF was a party driven by God, that the people should not listen to other parties, and that the delayed polling date was because "the parties are afraid of me I am very much ready and accept the extension because I have already won the elections". (This latter point – that leaders calling for a delay are afraid of him – was reiterated as news, e.g., 19 May, MBC 1: 6.00 p.m.). He also said that "the MCP was using the defunct MYP to go and terrorize people and in return the MCP would say the UDF is failing in security" and repeated a message heard originally in the North that "whoever does not vote for him will not see any development in their areas should he be returned to government." His Zomba rally (MBC 1, 20 May: 2.55–5.00 p.m.) began with a speech by the UDF Regional Governor for the South, and praise songs, while the President talked of his gift-giving, promises of farm implements in the future and

MCP atrocities. On 22 May the President visited Mangochi (MBC 1: 1.50–4.20 p.m. and 8.10–10.10 p.m.) where he spoke about Starter Packs,¹⁵² irrigation, new schools, the Bakili Muluzi Health-for-All Initiative, new roads, business loans for youth and freedom of worship.

After the National Service of Worship that was held at the beginning of the campaign, the newscasts largely ignored the participation of the presidential candidates other than President Muluzi, noting that he called for peace, love and tolerance, and that “lack of tolerance” had resulted in tension in “some circles” (e.g., MBC 1, 15 May: 6.00 a.m., English). On 16 May the vernacular newscasts were almost exclusively about President Muluzi’s campaign speeches – for example, 7.22 p.m., Tumbuka and 7.34 p.m., Tonga: Muluzi on women’s empowerment, Muluzi to visit Lilongwe, Muluzi to visit Chiradzulu, High Court ruling. The Presidential Prayer Breakfast (MBC 1, 18 May: 10.25 a.m.–1.35 p.m. and repeated 8.10–9.35 p.m.) was broadcast live, and again afterwards President Muluzi’s participation was highlighted in the newscasts (e.g., 18 May, MBC 1: 6.00 p.m., English). The President’s departure for Kenya at Chileka airport was covered live (23 May, MBC 1: 2.10–2.40 p.m.), which included party supporters singing praise songs. His return was also covered live (25 May, MBC 1: 12.35–1.15 p.m.).

After numerous delays, TV Malawi finally opened on 1 April, just in time for the campaign. ARTICLE 19 only monitored a single week’s TV news, but in that period (22–27 and 30 May, and 3 June 1999) President Muluzi’s rallies were extensively covered – at Mangochi, at Chileka airport before and after his COMESA trip, at Thyolo and Mulanje, and at Sanjika and on his “whistle-stop tour” of towns and villages along the Blantyre–Lilongwe highway. No other politician’s rallies were broadcast. During the news bulletins Muluzi’s speeches were also covered (e.g., 22 minutes on 25 May, 2 minutes on 3 June) but full reports of his day’s activities were then broadcast after the news bulletin (e.g., 29 minutes at Mangochi on 22 May, 21 minutes at Mulanje on 30 May, 17 minutes at Chileka on 25 May). Sometimes “praise singers” were used to emphasize the point (for example, 30 May, 8.26–8.30 p.m.). On 22 May immediately after Muluzi’s speech (8.45–8.50 p.m.) Gides Chalamanda, a veteran musician and praise singer from the Banda era, performed in TVM studios a new song of praise:

Amalawi ife (x 3) ndi UDF

Tikufuna Bakili (x2)

Amalawi ife ndi UDF

We Malawians (x3) are UDF

We want Bakili (x 2)

We Malawians are UDF

¹⁵² The President repeatedly told people that if they had their registration cards stamped on the back when voting on polling day, they would be eligible for Starter Packs, a claim which the government and Ministry of Agriculture had to retract after the election, when again it was declared that one Starter Pack would be given to each family.

Of special interest to ARTICLE 19 was the news conference held at Chileka upon President Muluzi's return from Kenya (25 May, 17 minutes), during which time questions were asked by six reporters – all but one of whom were representatives of the government-owned or UDF-run media. The independent (PANA) journalist's question about President Muluzi's historical reluctance to hold press conferences was brushed aside, while the government reporters' questions provided the President with an opportunity to make statements about his foreign policy and Malawian trade as well as the UDF campaign. In this latter category was a question asked by a MANA reporter about the latest (and controversial) opinion poll, showing the UDF winning more than 60 per cent of the vote – a poll about which President Muluzi then expressed ignorance, though he went on to “congratulate ourselves [the UDF]” and to list his government's achievements.

The broadcasts of President Muluzi's rallies varied little over the week. Sometimes his arrival or departure at a venue was shown, but most of the airtime was taken up by his speaking (in the vernacular). For instance, on 22 May he spoke for 29 minutes at Mangochi, and the camera angle (from the side and below the platform) changed only twice, when the cameraman pulled back to show other politicians on the platform as they were introduced. Interspersed were shots of women sitting on the ground wearing yellow, the party colour, ululating and cheering and holding up pictures of the President. At Chileka the President inspected the guard of honour, with added colour from the singing and dancing women dressed in yellow. On the roadside during his quick trip up the Blantyre–Lilongwe highway, his words were again recorded by a cameraman, and the tape edited to cut periodically to people applauding and cheering the President. His charm, sense of humour, earnestness and authority were portrayed by TVM's cameramen and editors.

On 31 May (MBC 1: 7.00 a.m.) the ostensible reason for President Muluzi's visits was made clear during a radio newscast: “... to continue his meeting with traditional leaders and their subjects ... to encourage them to participate in self-help development projects”. In the same bulletin the purpose of Vice-President Malewezi's tour was also explained by MBC: to encourage chiefs “to work together with government in enhancing development in their areas”.

President Muluzi's rallies continued to be broadcast live: 28 May, MBC 1: 2.58–4.53 p.m., at Thyolo, and rebroadcast from 8.10–10.00 p.m. On 30 May (e.g., MBC 1: 6.00 p.m., English and 7.00 p.m., Chichewa) the first item on the news was the announcement that Muluzi would visit Nsanje the following day. This is the home district of Gwanda Chakuamba. President Muluzi's visit to Nsanje was broadcast live (MBC 1, 31 May: 2.55–4.55 p.m.), during which time Chief Mlolo listed the problems facing the area and the UDF District and Regional Governors spoke about Gwanda Chakuamba and the MCP (“people have dumped Chakuamba.

... if Nsanje is not developed people should blame Chakuamba because he deliberately left things in that way”). President Muluzi picked up the theme: “Chakuamba is a failure ... any sane person cannot follow the MCP”. He also spoke about the voter poll, which he said indicated his victory. He also introduced the UDF candidate, saying that “for the past five years Nsanje North had no MP; only an MP from the ruling party can bring development.”

On 1 June President Muluzi “donated” ten million Kwacha to Cobbe Barracks at Zomba for drugs and food, and his meeting with the soldiers was broadcast (MBC 1: 8.10–8.32 p.m.). His trip up the Blantyre–Lilongwe road on 2 June was advertised as news from 12.30 p.m. on 31 May (MBC 1). His message at Sanjika included a statement that the MCP confiscated property in the past, and noted that the last rally would be held on 12 June. At Lunzu, Zalewa, Mdeka, Phalula, Ntcheu, Njolomole, Lizulu, Dedza, Linthipe, and Nkhoma turn-off he thanked people for gathering to meet him, and asked them to vote for the local UDF MP candidate. He sometimes spoke about the new voter poll, which he said shows that he is the one chosen to keep on leading the country: the UDF is the winner, so “why elect the opposition into power?” At Dedza he also picked up the theme he had advanced nationwide at his rallies: “if you want politics, choose [an opposition MP], but if you want development, elect my MP. Take these words seriously.”

On 7 June the Electoral Commission notified stakeholders that it had issued new guidelines to MBC, TVM and the print media for immediate implementation – guidelines that were approved by the Minister of Information, Sam Mpasu on 3 June, the same day he denied that MBC was biased in its reporting. There was no question about MBC providing live coverage to any other candidates, though that weekday Viva Nyimba, a lawyer representing the Association of Progressive Women, had argued in court that the Constitution and Presidential and Parliamentary Elections Act do not restrict live coverage to the President, and asked the Electoral Commission to provide live coverage to any newsworthy politician, saying the “Constitution does not discriminate on the grounds of status” and that such discrimination promotes one-party dictatorship.¹⁵³

On 10 June – three days before all campaigning was to cease – the High Court in Blantyre ruled that MBC had “failed to give equal treatment to all political parties” and ordered the radio to change its coverage. The judge cited the Communications Act (section 45(1)), the Electoral Commissions Act (section 19), the Presidential and Parliamentary Elections Act (sections 58 and 59), and the Malawi Constitution (section 20). Three citizens (Messrs Kafumba, Banda and Kamulete) had earlier filed complaints, which had been dismissed by the High Court and referred back to the Electoral Commission on 18 May. In this, their second

¹⁵³ MBC 1: 7.00 p.m., Chichewa and 8.00 p.m., English. *Daily Times*, 9 June 1999.

hearing, Justice Mackson Mkandawire ruled that *inter alia*, to give live coverage to one party is a breach of the law and discriminatory.¹⁵⁴

As campaigning drew to a close the President's rallies continued to be broadcast live. For instance, at Kasungu (4 June, MBC 1: 3.15–5.00 p.m. and rebroadcast 8.10–10.00 p.m.) "after visiting development projects" he talked about the restoration of human dignity after the Banda years, though the President was careful to say (to his Kasungu audience) that he did not have anything personal against Dr Banda but deplored his system of government, that he was his first visitor in the hospital, that he ordered that Banda be given a state funeral, and that he planned to put the final touches on Dr Banda's tomb. His meeting with the army was broadcast on MBC 1 (6 June, 8.10–8.30 p.m.), as was his rally in Lilongwe (7 June: 3.30–4.12 p.m. and rebroadcast 8.10–9.22 p.m.). When the live broadcast on 7 June was disrupted by technical difficulties, rather than have a minister speak on development – the ostensible purpose of President Muluzi's tour of the country – the UDF Central Region governor, Mr Kachimbwinda, took over to castigate Gwanda Chakuamba, and to promote the ruling party. He added that Chakuamba selected a running mate from the north, ignoring John Tembo. If the Alliance wins, he continued, Tembo will be assassinated. Therefore, "if you want to have John Tembo alive, vote for UDF and President Muluzi".

President Muluzi also visited the police in Lilongwe on 9 June (MBC 1: rebroadcast 8.11–10.40 p.m.), where he told them that his government would ensure that the police service had adequate resources. He explained that he had already provided it with 94 vehicles, was donating K5 million to maintain buildings and K150,000 to the Police Women's Club, and that he had instructed the Ministry of Finance to release K15 million to pay the police their overdue allowances.

Although the court ordered live coverage to be balanced, only President Muluzi's rally (in Blantyre) was covered on the last day of campaigning (12 June, MBC 1: 2.28–5.25 p.m. and rebroadcast 8.10–9.28 p.m.). While Chakufwa Chihana was quoted on the news (MBC 1.10 p.m.), no Alliance rally was broadcast live. Moreover, MBC's coverage of the UDF rally was neither objective nor critically analytical: it was hosted by Verson Idi and Eunice Chipangula, who said that no crowd in Malawi had ever been so large, that UDF support in all regions had increased tremendously and that the UDF now had a greater chance of winning the elections. Muluzi noted that "whether one likes it or not UDF is winning on 15 June. The BBC has also reported that Muluzi will win 70 per cent of the vote." He went on, "only a mad person would vote for the MCP/AFORD presidential candidate, Mr Gwanda Chakuamba Please vote for UDF. Soon, in July, we will start

¹⁵⁴ However, he ruled the Electoral Commission had "done everything to ensure free and fair elections", and its going any further would have been "tantamount to [its] taking over management of the radio". *Nation*, 11 June 1999.

distributing free fertilizer and seeds.” Without giving details he accused Dr Ntaba of inciting violence on election day. “I have instructed the army commander and Inspector General of Police to deploy policemen and soldiers to patrol the streets and polling centres.”

4.1.2 Campaign News

During the first weeks of monitoring, ARTICLE 19 found that political news was intermixed with the regular newscasts on the hour. At the end of March a special “campaign news” programme was established on MBC. It featured special party-political items, which would previously have been aired with the regular news. Throughout the whole period, though, party-political newscasts were heavily biased in favour of the UDF. This is true both quantitatively – there were many more UDF items – and qualitatively. While UDF news was always positive, when there was news of another party it was almost always negative – about someone “defecting” from an opposition party, for instance, or about the division in MCP because of Chakuamba forming an electoral alliance with Chihana.

Also characteristic of campaign news was the fact that a wide variety of UDF officials were given airtime to present their views, while only periodically were even the topmost people in the opposition parties heard on radio.

For instance, the Yao news bulletin early in the monitoring period (26 February, 2.00 p.m.) consisted of Chenda Mkandawire (UDF) discussing cholera in Rumphi, Vice-President Malewezi thanking the Jaycees, MP Kachingwe on the benefits of multi-partyism to freedom of expression, MP Sakwata urging people to register to vote, Independent MP Kalolo joining UDF “because it’s the only party well known for development works”, Independent MP Vazhi and Independent MP Chamaye Phiri joining the UDF, Police Inspector General advising his people to exercise their duties faithfully, Malawi Bureau of Standards looking at medicine, Assistant DC of Chitipa discussing development, World Vision helping Malawi and President Nelson Mandela on reconciliation. 2 March, 12.50 a.m.–1.10 p.m., IMF praised Malawi, Malewezi commends UNHCR, Muluzi visits Nkhata Bay, Sam Mpasu in Taipei, new road at Chitipa, outgoing China ambassador, UDF Governor in Chitipa asks people to be committed to development and says the country has developed tremendously under UDF rule.)

The first daytime non-UDF political story that week on Radio 1 was at 6.00 p.m. on 26 February, when in the midst of stories about the UDF a report was run about MCP supporters demonstrating against Chakuamba in Blantyre (... UDF MP on development, MCP supporters demonstrate, Independent MPs join UDF ...). The next non-UDF party-political story highlighted the division between Tembo and Chakuamba (1 March, 12.30 p.m. English, 3.00 p.m., Sena, and “News that Sticks”,

7.34 p.m., about a youth petition concerning the MCP split; 8.10–8.30 p.m., English, “Voices in the News”). Throughout the rest of the week stories about UDF members, organizers and meetings were run as news (e.g., 25 February, 12.30 p.m., English; 2 March, 3.11 p.m., Tonga, UDF Chairperson for Women in Chitipa tells people to work together with UDF-led government).

The following week most political stories were about UDF officials and functionaries: for instance, 4 March, 7.30 p.m., Tonga: UDF National Youth Director, Henry Moyo, said ruling UDF party has fulfilled all of its promises and asked people of Thyolo to vote for UDF...”; 5 March, 6.00 a.m., Chichewa: UDF District Governor Namwaza Banda asked UDF leaders in Down “to be dedicated in supporting the ruling UDF party in order to strength the party in their area”; 6 March, 7.00 a.m., Chichewa: Muluzi is to open Bvumbwe exchange, Vice-President Malewezi at Ntchisi asked people to support UDF, and said UDF will continue to develop country, UDF Campaign Director Kubwalo told people from Karonga South to work hard in developing the UDF, the only party with sound leadership; 7 March, 7.00 p.m., Chichewa: UDF Women’s Director for the North advised women to register, and UDF Governor for Rumphu district praised people from Livingstonia for supporting UDF; 9 March, 12.30 p.m., English and 12.50 p.m., Chichewa, whole Mass Movement Youth Party joins UDF; 6.10 p.m., UDF Young Democrat’s Chairman dies; National Director of Mass Movement for Youth joins UDF.

The first non-UDF news report of the week (5 March, 6.00 a.m., Chichewa) was a 41-second item citing Tembo on the split between him and Chakuamba. On 8 March (6.00 a.m., Chichewa and 7.00 a.m., English) Tembo’s angry words about not being chosen as Chakuamba’s running mate were again broadcast. A more balanced report of the MCP–AFORD Alliance was broadcast later (2.20 p.m., Tumbuka) when Chakuamba’s speech at Nkhotakota was reported, highlighting the fact that the two parties would continue to follow their own policies.

A five-minute commentary was broadcast in English and Chichewa (4 March, 6.00 p.m. and 7.00 p.m.) to commemorate Martyrs’ Day. The occasion was used to castigate the Malawi Young Pioneers and, as one ARTICLE 19 local monitor put it, to take a “swipe at the previous government’s disrespect for human rights and dignity on this day” and the “cruel one party state”.

For ARTICLE 19 the question of the newsworthiness of some of these news stories had to be questioned, especially when we were aware that some important speeches of opposition political figures were not being reported. For instance, On 2 April (6.00 p.m., English) the news carried the following items in order: Muluzi talks about TV, Muluzi to launch UDF in Centre, Electoral Commission on nominations, Bundaunda Phiri urges people to support UDF, UDF candidate Ousmane seeks support, UDF candidate H Mkandawire donates K50,000 to school, M Phiri of UDF Central Regional Committee dies, Iraq.

After special campaign news programmes were initiated in the third week of April, the hourly newscasts began to focus on international news and President Muluzi's schedule. On 22 April, for instance, news at 9.00 a.m. and 10.00 a.m. consisted of: Muluzi opens new university, the Food and Agriculture Organization in Somalia, fighting in Sierra Leone, Cameroon talks and Liberia attack. At 1.29 p.m. it consisted of Muluzi at Mzuzu, Muluzi at Mzimba, DC in Ntchisi, CILIC and Association of Progressive Women, Electoral Commission on the registration process, and chiefs at Ntchisi, and the remaining eight stories were foreign news. As in 1994, rather than bring opposition news into the regular newscasts to balance the political news, MBC preferred to remove as much local political news as possible and fill the hourly newscasts with stories about foreign events.

At the same time the new nightly campaign news programmes were started. These were no more balanced than the regular newscasts had been previously. For instance, on MBC 1 on 26 April, (7.50–7.59 p.m.) the following items were reported on the campaign news: Malewezi urges people to vote UDF, UDF MP candidate Chinkwita Phiri, UDF Campaign Director Kubwalo and the UDF Treasurer speak, UDF candidates in Lilongwe, UP President speaks, Minister Chipeta speaks in Mzimba, Mrs Maimba urges people to vote for UDF, UDF MP candidate for Nkhotakota says MCP is lying, MCP/AFORD shadow MP Kamala speaks on agriculture, UDF MP candidate Kachingwe speaks on unity, Chitipa people urged to vote for MCP/AFORD, Ndirande people urged to support UDF, Ndirande people urged to vote for MCP, Minister Lemani advises Zomba people to vote for UDF, Mrs Fletcher asks people to vote for UDF, MCP candidate Kambiya urges people to vote MCP, Independent MP candidate Lifa has made promises, UDF candidate Maluwa opposes Independent MPs, MCP candidate Pemba urges people to vote Alliance, MCP candidate Khofi urges people to vote MCP for peace and prosperity. In other words, half the 20 items were in support of the ruling party.

This is not to say that politics disappeared from the news totally, for incumbents undertaking their official duties continued to be covered without reference to their re-election campaigns. To balance such coverage MBC would have had to make a special effort to report on opposition candidates equally. This it did not do. For instance, 18 May, MBC 1, 7.00 a.m., English: Muluzi to reconvene parliament, Muluzi donates K350,000 to church to promote freedom of religion, Malewezi says there will be free farm inputs if UDF wins election, Mpinganjira says government will promote sports, Muluzi will attend prayer breakfast, Israeli elections.

MBC also carried district news, which wholly ignored the election, thereby wasting a great opportunity to make the campaign relevant to the rural voter. For instance, on 16 May, 7.30 p.m., Chichewa: thief arrested, thief captured, man arrested for drugs, police hunt suspect, thief arrested, sentencing for incest,

sentencing for rape, *Nyau* refuse to dance, armed robberies, teacher attacked, crocodile attacks woman.

Furthermore, the “defection” of opposition candidates to the UDF continued to be covered as news – for example, 19 May, MBC 1: 12.30 p.m.: “As elections day draws close, more people defect to the ruling UDF. The latest to do so is Mr Gerald Mwale, who was the UP’s parliamentary candidate ...” Also 21 May, MBC 1: 12.50 p.m., Chichewa: UP candidate Chipembere has “defected to UDF”.

Also, newscasts were used to respond to articles about UDF officials which appeared in the opposition press (for example, Malewezi and the *National Agenda*: MBC 2, 18 May: 8.30 p.m., English) though opposition leaders were not provided with airtime to counter accusations made in the pro-government press (e.g., “Gwanda wanted by INTERPOL”, *Malawi Today*, 20–23 May). Similarly MBC provided the most senior civil servant, the Secretary to the President and Cabinet, the opportunity to “dismiss rumours that the UDF-led government will lay off civil servants once voted into power again” (MBC 1, 26 May: 12.50 p.m., Chichewa) while unsubstantiated stories appearing in the pro-UDF press were unaddressed by MBC.

In the last ten days of the campaign (3–12 June) political coverage changed little on MBC in spite of the new guidelines and the High Court ruling. For instance, the 7.00 a.m. news (10 June, MBC 1, English) carried the following stories: Muluzi calls for peace, Malewezi seeks support, Harry Thomson on development, Denmark assists Malawi, DRC, Burundi, ANC, Nigeria, Sierra Leone, Burkina Faso, Niger, malaria, Egypt. In the first news item not only did the President ask for calm and peaceful elections, but reminded people that they ought to vote for the UDF and himself, that it is only the UDF that is development-conscious and can ensure harmony and democracy, and that the MCP perpetrated atrocities. Later in the day (e.g., MBC 1, 4.00 p.m., English) his campaign schedule (to visit Kasungu, Nkhhotakota, and Salima) was broadcast as news.

Some newscasts were almost wholly about UDF candidates: e.g., 4 June, MBC 1: 7.32 p.m., Tumbuka: Muluzi visits Kasungu, Muluzi to visit Salima, Muluzi to visit Lilongwe, Malewezi speaks about government commitment, Nyandovi-Kerr discusses education, SADC agreement. Also, 6 June, 7.00 p.m., Chichewa: Muluzi donates to army, Muluzi to visit Lilongwe, Muluzi to visit Dedza, Malewezi commends chiefs, Muluzi congratulates Mbeki, E Chitalo talks to women, orphans, election staff, Zanzibar, West Africa. Vice-President Malewezi also made the news again when praising chiefs for their support, and sought the support of voters (MBC 2, 6 June: 8.30 p.m.). Kaphuka Investments’ donation of K5,000 to a church in Blantyre was reported as news (MBC 1, 6 June: 1.00 p.m., English, 1.10 p.m., Chichewa, 1.20 p.m., Yao, 1.30 p.m., Lomwe, 1.40 p.m., Tumbuka); Mr Kaphuka is the UDF’s parliamentary candidate in Blantyre City West (MBC 2, 10 June: 3.40 p.m., Chichewa: Malewezi, Mpinganjira, drama, Muluzi, Muluzi, SEDOM, paprika,

Independent candidate urges people to vote UDF, Rwanda, Mandela, Angola, Nigeria, Togo, Niger).

The day after the court ordered MBC to balance its coverage, UDF candidates continued to receive preferential treatment: e.g., 11 June, Radio 2: 3.40 p.m., Chichewa: Muluzi dissolves parliament, Muluzi to visit Rumphu and Nkhata Bay, soldiers voting, Japanese donation, Nyandovi-Kerr (UDF) donates medicines, Farmers Union chairman joins UDF, Norway, aid to third world, Zimbabwe, Denmark, Angola, DRC; MBC 1, 12 June: 1.10 p.m., Tonga: Muluzi in Blantyre, Malewezi on the UDF, security forces, voting, irrigation, Zambia, Zambia, Libya, Kenya, Ethiopia, Nigeria.

After the court ordered MBC to balance campaign news, its *Campaign News* programme (11 June, MBC 1: 10.23–10.35 p.m.) still promoted the UDF: campaign to close, Malewezi, UDF on development, Alliance on development, Aleke Banda, women vote UDF, MCP's Kamala, vote UDF, Mpasu on UDF, Mponela to vote UDF, UDF's Mphande. That is, of the 12 political stories, 8 favoured the UDF.

4.1.3 Campaign Advertising

There were two types of direct access campaigning on MBC – first, a campaign statement of 5–15 minutes duration in which the platform and policies of a party were laid out. Secondly, there were advertisements for a campaign meeting or rally, generally two to three minutes long, where the venue, date, speakers and time were broadcast. In 1994 the second type were gathered together into a short programme in the morning in which all parties' and candidates' rallies were advertised at once. Programmes of this sort were not aired by MBC in 1999. Instead, parties with funds continued to buy short bits of airtime to advertise their rallies, and these were scattered throughout the day and night. Each two-minute advertisement cost K425 (about US\$10) plus 20 per cent tax. In light of the fact that the Presidential and Parliamentary Elections Act (section 63) bars paid advertising during a campaign period, it has all along appeared to ARTICLE 19 that these advertisements were illegal. In any event, they were aired continually throughout the campaign period. And no doubt because the UDF had enough campaign funds the party had many more advertisements and announcements than all the other parties combined.

While ARTICLE 19 kept track of the advertisements on MBC 1 during the first weeks of its project, it only began to quantify them on 1 April. According to our weekly report no. 8, during the week ending 7 April, 81 per cent of the 124 campaign advertisements on MBC 1 were for the UDF. The following week (report 9, 8–14 April) the figure jumped to 89 per cent of 157 advertisements. Between 29 April and 12 May (report no. 11) 68 per cent of the 257 advertisements on MBC 1 were for the UDF. From 13 to 26 May the figure stood at 78 per cent of 295 advertisements, while

in the last ten days of campaigning MBC 1 had 209 advertisements, of which 80 per cent were for the UDF (report no. 14).

The other type of direct access programming provided political parties with an opportunity to announce their policies on regular campaign programmes set aside by the Electoral Commission for this purpose. For example, the parties stated on MBC 1 on 28 May (10.15–10.50 p.m., Chichewa) that if they were voted into power they would pursue the following policies:

- *Malawi Democratic Party*: give MHC houses to tenants of more than 10 years' standing, no tax between June and December 1999 for those earning less than K3,000 a month, affordable electricity and water rates, no customs duty for small businesses, only 16 cabinet ministers who are to be selected by a committee of wise men, transparency and accountability in government spending, any land taken through corrupt means to be given back to its owners
- *Malawi Democratic Union*: improve food security, distribute free seed and inputs, no increase in maize prices, build more clinics and hospitals, provide educational materials, foster community policing, promote freedom of speech and expression and human rights
- *Congress of National Unity*: create government of national unity, improve law and order, reduce price of inputs and improve food security, build teachers' houses, provide allowances to teachers and health workers, give clinics ambulances and medicines, increase salaries of civil servants
- *MCP/AFORD Alliance*: respect human rights, improve education, give allowances to teachers, provide health facilities and medicines, review salaries of civil servants, promote law and order, punish offenders, work together with trade unions, halt dismissal of trade unionists from government service
- *Sapitwa National Democratic Party*: consult with traditional leaders on development projects, improve health facilities
- *Social Democratic Party*: promote rights of and support for handicapped people, create youth vocational institutions, promote agriculture, discourage import of goods
- *United Party*: promote food security, reduce prices of farm inputs, build silos for storage, build more schools, clinics, roads, police posts, POs and banks, extend retirement to 65 from 55 years and give civil servants more benefits, loans to business women, form "Women of Bingu" group, introduce Chichewa as parliamentary language, form Malawi National Development Service for youth training
- *Mass Movement for the Young Generation*: support the Alliance, promote

national unity, fight for development and a fair share of the economy

- *United Democratic Front*: improve women's status, promote health facilities, unite Malawians, promote human rights and freedom of expression and speech.

In addition to these programmes debates between candidates were held on radio about domestic concerns such as insecurity and agriculture. Programmes in which reporters questioned various party representatives or candidates about similar topics were also aired. These were rarely analytical or critical; that is, the politicians were not grilled by the journalists or commentators, but were provided the opportunity to present their views unchallenged. There was no debate between the presidential contenders.

4.1.4 Voter Education

Much criticism has been laid on the non-governmental organizations for failing to undertake sufficient voter education. This appears to be politically motivated to some extent, for the largest organizations within the highly critical National Consultative Group – the Church/NGO Consortium, the Blantyre Synod and PAC/NICE – were responsible for many of the civic education programmes. In April and May as the NCG pressed the Electoral Commission and government to extend the registration period and postpone the election because of shortages of materials, they responded by accusing the non-governmental organizations of not doing their work and not preparing the electorate to vote. It was only a short step from there to accusing them of taking donor money and wasting it.

Civic education had been divided into two – motivational (telling people why to vote) and procedural (telling them how to vote). The former was to be done by the NGOs and the latter by the Electoral Commission itself. While it is true that some people were reluctant to register or vote, ARTICLE 19 was surprised at the eagerness shown by most people. This was evidenced by their return time and time again to register, and by their willingness to stand in the queues on election day to vote. At the same time, ARTICLE 19 found that people were not sure how to register or vote, and had to be instructed by electoral staff on the day.

Civic education was slow in coming to radio. In late March, ARTICLE 19 found that civic education about registration was rarely aired, though some related stories were broadcast as news. For instance, MBC 2 aired a story (MBC 2, 25 March: 6.10 p.m., English) about shortages of registration forms in the North, and accusations that the shortage was deliberate – a charge that was denied by the regional Elections Officer, Herbert Mkandawire.

On Sunday 18 March the Electoral Commission explained on *Straight Talk* (MBC 1: 5.30 p.m.) why it was important to vote. This theme was picked up by a Catholic priest during prayers (7.35 p.m.). Also that evening (7.10 p.m.) the Electoral Commission notified all parties that they were to have only two monitors each at the registration centres.

Generally, however, once civil education began to appear on radio it took predictable forms. For instance, newscasts were used to keep people informed about events relating to the election. People heard on MBC 1 (27 May, 6.00 p.m.) that Justice Kalaile had withdrawn the appeal against the decision in the “running mate” case because, he said, it will “wipe out fears that it has an interest in the outcome of the appeal case”, to foster “predictability and certainty in the electoral process”, because it is “cost-effective to the process by ensuring that the ... elections take place on 15 June” and because the Commission is independent of all political parties. Part of his Department of Information Press Conference was broadcast on MBC 2, *Meet the Press* (29 May: 5.30–6.00 p.m.), during which time he provided partial statistics on registration (675,639 registered in 789 centres in the North, 1,965,249 registered in the Centre and 2,418,848 registered in 1,397 centres in the South). Kalaile also responded to questions about reopening registration centres, correction of other irregularities, marking of ballot papers, voter education, voting by police and army, no voting by prisoners, building of polling booths, and “dispell[ing] the fear of some individuals that there will be inadequate ballot papers in some centres – that will not happen”.

Voter education programmes on the procedures for voting were broadcast during the same week. For instance, during *Morning Basket* (MBC 1, 28 May: 6.10 a.m.) there were two such messages, each two minutes long, in Sena and Yao. That morning on the news Ms Ali speaking for PAC/NICE, Mangochi, advised people to keep their voter certificates safely (MBC 1: 6.00 a.m., Chichewa). MIDEA had an advertisement about voting that day as well (MBC 1: 7.19 p.m.), while there were short advertisements (4 minutes and 1 minute) in the evening (5.21 p.m. and 7.52 p.m.) to explain how to vote (Chichewa) and not to sell voter certificates (Lomwe). People were encouraged to attend rallies of all parties, and not to sell their voting cards (MBC 1, 29 May: 5.23 p.m., English). On 29 May (MBC 1, 6.00 p.m., English) people learned that some 25,000 audiotapes, each with the manifesto of one of five parties (UDF, MDP, MCP, UP, AFORD) were being distributed by the International Foundation for General Civic Education as “the emergency part of the civic education drive”. *Zimachitika* (MBC 1, 29 May: 7.35–8.00 p.m.) sensitized people about voting procedures, explained why people should vote and discussed the choice the people can make about which party to support. The news carried the PAC/NICE coordinator for Mzimba, Mr Chikuntha, when he advised youth of their rights and responsibilities in a democracy, and warned them about being used by political

parties to incite or disrupt rallies. (30 May, MBC 1: 1.10 p.m., Chichewa). That afternoon on MBC 2 (3.00 p.m.) tips on how to vote, step by step, were aired. The following morning voting procedures were reiterated (31 May, MBC 1: 6.23–6.27 a.m.).

For 50 minutes on Sunday, 30 May (MBC 1: 10.05 a.m.) *Let's Talk about Elections* presented listeners with information from NGO officials about voting procedures and polling-day behaviour. *Women in Parliament* followed at 12.40–12.45 p.m., during which time CILIC appealed to voters: “Even if its an independent parliamentary candidate, whatever party she belongs to, as long as she is a woman, vote for her!”. In the background played a Chewa song, “Mother look after me, nurse me, though I am grown up” and an English song, “Sweet Mother, oooh sweet mother, I will never forget you!” On 1 June, *Let's Talk About Elections* (MBC 1: 4.15–4.30 p.m.) again presented information about how people were to cast their ballots. Gondwe also explained to listeners and politicians that no one should tamper with voter education materials (MBC 2, 1 June: 8.20 p.m., English).

4.1.5 Malawi News Agency (MANA)

ARTICLE 19 also monitored the output of the Malawi News Agency (MANA) because it is often used by MBC radio, TVM and the print media. Any bias found there is likely to be transferred to the other news outlets. Buying a subscription (K12,000) for three months, ARTICLE 19 expected to receive copy regularly. Amazingly we learned that it was impossible to obtain MANA hard copy in Lilongwe, as it is finalized and collated in Blantyre, and transport to the capital is unreliable. This is an important fact to learn, for it points to the inefficiencies of the Ministry and its near total waste of money.

There is at least one MANA reporter in each district capital, in addition to a few technical staff. At regional level there are more staff – editors, administrators and more reporters. MANA's district-level journalists file stories periodically, which are screened by regional editors and sent to Blantyre for publication. Perhaps 20 stories a day are completed and disseminated from there. MANA, like MBC, complains that it needs transport for its people to cover stories in the hinterland, as well as new equipment and training.

In theory the nation relies on MANA, for its staff are the only journalists living and collecting material from the countryside and district centres.¹⁵⁵ But if

¹⁵⁵ Sam Mpasu stated on several occasions during the campaign that MBC was not tasked with collecting the news, but presenting it. For instance, on 27 May 1999 he told ARTICLE 19 that “MBC is not a news gatherer”. It gets news from other sources, such as MANA and Reuters, and it uses its “editorial discretion” to produce its news programmes. “There is no requirement forcing MBC to gather news at political party meetings”, it is not a newsgatherer. It is “not to run around” to collect news.

MANA can no longer produce news that is used by the private media – most of which no longer subscribe to it – is (by all accounts) largely ignored by TVM and MBC, and cannot reach the capital in its purest form, it is not clear why MANA should continue to receive a government subsidy.

When in Blantyre ARTICLE 19 collected MANA hard copy from its office. Using these data it quantified MANA's coverage of political parties during the campaign. Not surprisingly, in light of reports that Pankuku had instructed MANA staff to report on the UDF and that editors working for MANA were members of the UDF Media Task Force, the MANA output was heavily biased.

The first batch received by ARTICLE 19 covered 6, 8, 12, 15, 19 and 22–28 February. There were 168 stories produced during those 12 days, and of these 31 were party-political. Twenty seven (87 per cent) dealt (positively) with UDF personalities and events. ARTICLE 19 collected 17 days' output for March 1999, with the following results: there were 338 stories, which is an average of just under 20 stories a day. Of this total, 61 (18 per cent) were of a party-political nature. Of these 61 stories, 51 (84 per cent) were about UDF activities, politicians or officials. Six (10 per cent) were about the MCP, and the rest were about AFORD and the United Party. While stories covered minor UDF officials, rarely did MANA publish stories about any opposition politician other than a party president.

For the sake of comparison, during the 1994 election campaign MANA produced 63 party-political stories during the week ending 23 April. Of these, 31 concerned the MCP (49 per cent), 18 the UDF (29 per cent), 8 AFORD (13 per cent), 4 MDP (6 per cent), and 1 each for CSR and an independent. Two weeks earlier (week ending 9 April 1994) MANA produced 53 party-political stories, of which 32 were about the MCP (60 per cent), 9 on the UDF (17 per cent), 6 on AFORD (11 per cent), 3 MNDP (6 per cent), and 1 each for MDP, CSR and an independent. Five speeches by MCP ministers/candidates were also reported.¹⁵⁶ Hard copies for 2, 5, 7, 8, 9, 10, 11, 14, 19, 26 and 29 April (total 11 days) were retrieved from the MANA office. In these there were a total of 225 stories, of which 83 were political stories. Seventy eight, or 94 per cent, were about the UDF. An analysis of 28 days of MANA hard copy (28 April–25 May 1999) revealed that of the 212 stories, 103 were about politics, of which 66 were about partisan politics. There were 37 non-partisan, election-related political stories. Of the 66 party-political stories, 56 (85 per cent) favoured the UDF. Ten stories (15 per cent) were about the Alliance, MCP, AFORD, independents, or minor parties' candidates. Because MANA provides MBC with stories, the bias evident in its newsgathering undoubtedly affects the balance of MBC's political reporting.

“Why read into the law things that are not there?”

¹⁵⁶ ARTICLE 19: *Media Monitoring in Malawi*, 1994, weekly reports.

Finally, ARTICLE 19 analysed the 411 MANA stories produced between 23 May and 24 June, of which 71 (17 per cent) were party-political stories. Of these stories about the candidates, and the policies and activities of the parties, 70 per cent (50) were about the UDF and 20 per cent (14) were about the Alliance, the MCP or AFORD. The remaining 7 stories were about the UP (2) and independents (5).

4.1.6 TV Malawi

As noted previously ARTICLE 19 only monitored a week of TVM. It was not prioritized because it reaches only a few thousand viewers in Lilongwe and Blantyre, though, reportedly, it will have transmitters countrywide soon and may reach 40,000 TV sets and a couple of hundred thousand viewers. TVM came on air on 1 April 1999. As a public broadcaster it has benefited from its use of the government's refurbished Kwacha Conference Centre and from government resources (some supplied by donors) for construction of infrastructure, salaries, offices, broadcasting equipment and staff training.¹⁵⁷ Apparently TVM and MBC will eventually be united to function separately under a single board.

As a public broadcaster TVM falls under the new Communications Act as well as the Presidential and Parliamentary Elections Act. As such TVM, like MBC radio, should by now be de-linked from all political parties and from government, including the Ministry of Information. That it is not reflects a lack of political will to liberate it. In fact in February 1999 the then Minister of Defence/UDF Campaign Director Joseph Kubwalo clearly laid out the administration's policy towards TVM during the presidential campaign in a statement which no one at the ministry or TVM disputed.

It was him [President Muluzi] who started [it] and he has all the right to make use of the television. The opposition has never wished our government good and they should never complain when we refuse them to make use of the radio and television stations as these are controlled by the ruling party elsewhere.¹⁵⁸

That TVM would be used to broadcast live coverage of presidential rallies was also made explicit by the head of TVM, Benson Tembo, though the lack of an outdoor broadcasting van could limit TVM's capacity for some time.¹⁵⁹

The technical quality of TVM is comparable to any in the SADC region, which is a reflection of the hard work put into the project by Tembo and his staff and the training provided by neighbouring states and donors. This is not to say it was perfect, but after only two months in operation that might be expected. For instance,

¹⁵⁷ *Malawi News*, 9–15 Jan. 1999; *Daily Times*, 24 Feb. 1998; *Nation*, 20 Dec. 1996 and 4 June 1999, and *Weekend Nation*, 16–17 May 1998; *Business Telegraph*, 6 April 1999.

¹⁵⁸ *Daily Times*, 22 Feb. 1999.

¹⁵⁹ *Nation*, 4 June 1999.

during the days under review sound and picture quality varied (for example, 22 May, parliamentary debates; 23 May, Chileka departure). Of more concern was the poorly written (and capitalized) announcement that crossed the screen several times under President Muluzi's picture during his press conference (25 May): "President Dr. Bakili Muluzi addressing [*sic*] a press Conference upon return from COMESA Summit in Kenya Ealier [*sic*] Today". TVM's relatively high technical standard was not matched in the content of its programming.

During the week it monitored TVM, ARTICLE 19 concentrated on the form and content of the news and special affairs programmes, particularly those concerned with the elections and national politics. The majority of foreign news was downloaded from the English service of the European broadcasters Deutsche Welle and RFI. In the period monitored 5–10 minute foreign nightly news broadcasts covered such issues as the South African elections, Kurdish protests, the Kashmiri conflict, the Yugoslav war and peace negotiations, floods in Europe and the contamination of Belgian food. Non-political local stories in the same period included items about malaria research, a labour relations seminar, training of journalists and scholarships for Polytechnic students. A short weather forecast generally closed the news bulletin.

As noted, President Muluzi's rallies were given exclusive live coverage. This, and TVM's reporting of local politics generally, reflects its close links to the ruling party. For example, the station's coverage of the special sitting of Parliament (to postpone the date of the election) lacked thoroughness, analysis and context. The announcer of this seven-minute report (22 May) briefly laid out the constitutional need for the extension, but did not explain why it was important whether MPs who had "crossed the floor" were allowed to vote or not, nor what the implications of the Speaker's ruling (permitting them to vote) were for previous and past parliamentary sittings and decisions. There was no analysis of why the proposal for the extension "received unanimous support" from all parties. Nor was there any explanation of the MCP's condition of acceptance of the new date – namely that voter registration centres be reopened during the extension (which was not done). The agreements reached during the adjournment in mid-morning were not investigated or discussed by TVM, though it is clear that those private deliberations were central to the subsequent display of unanimity. Nor did TVM provide any reason why the constitutional amendment was changed so that the polling date was delayed from the originally proposed 8 June to 15 June. All the viewers saw was Fatchi standing for a third time to give the election date of 15 June. When Gwanda Chakuamba – a leading presidential contender – was shown agreeing to the proposal he was not introduced by name although other MPs (Tembo, Ntaba, Fatchi, et al.) were.

It would not be too much to say that TVM's purpose during the campaign appeared to be the promotion of the UDF, especially the President. Any semblance of

impartiality in the selection of programmes, their content, or the depth of their analysis was absent in the week that ARTICLE 19 monitored it. The only saving grace was the fact that it had little impact because it reached comparatively few people.

4.2 Publications

4.2.1 This is Malawi

This is Malawi is an attractive, glossy 24-page magazine published by the Department of Information. It is produced periodically and sold (currently at K10) in shops and on the streets of Malawi. It is also used overseas by the Malawi Embassies and the Department of Tourism, the latter of which has advertisements at the front and back of the magazine (“It’s all here Malawi the warm heart of Africa”). Its editor is Antony Livuza, one of the founding members of the “Disinformation Task Force”.

ARTICLE 19 analysed only one issue of the magazine, which appeared in February 1999 (Vol. 29, no. 2). It had 11 articles as well as an editorial comment, a press statement by the Ministry of Information, a Press Release from the Northern Region Solidarity Movement, the Voter Action poll, a Press Release from the Commissioner for Census and Statistics, and Malawi in Pictures. In this centre spread there were 11 photographs: nine of President Muluzi, one of the Minister of Information Sam Mpasu and one of a street magician. There were eight other pictures of the President (several of Dr Muluzi in his academic robes) in the magazine (and on its cover) and one each of Chakuamba, Tembo and Ntaba (all of the MCP), as well as the ubiquitous photograph of Dhlakama and Ntaba in Maputo. The titles of the eleven articles were:

- Dying MCP Resorts to Lies
- Dhlakama Confirms Armed Plot
- Sound Agricultural Policies B Engine for Growth
- Malawi Music Comes of Age
- Unprotected Sex B Silent Youth Killer
- Abortion? Don’t Try it
- Youth Have a Right to Information
- Hell Hath No Fury Like a Scorned Woman
- The Art of Imbibing
- UDF Manifesto Achievements

- Bullets, Wanderers [football teams] Sail Through

Thirteen of this issue's 24 pages were expressly party-political – all favouring the UDF and antagonistic to the opposition parties, especially the MCP. As the titles indicate, the first two articles related to the unsubstantiated story of the MYP–MCP–Renamo Plan to overthrow the UDF, as did the editorial (“Coups Plot Cowardly”), and the (tenuously related) story of the split in the MCP over the MCP–AFORD Alliance. The “Dying MCP Resorts to Lies” outlined the work of the MCP's paid lobbyist (Martin Minns) in London (also the topic of the Ministry of Information Press Release). The piece entitled “Hell Hath No Fury” was a derisive article about John Tembo and the division within the MCP.

The UDF Manifesto was clearly a pro ruling party document, that outlined the various “achievements” of the Muluzi administration since 1994 – including those of interest to ARTICLE 19: “The President's rejection of the Printed Publication Bill. No journalist has ever been arrested of [*sic*] his or her writing or publication so far [UDF] Party Finances are independent of government [The] UDF Party does not use government infrastructure ... vehicles and ... personnel [The UDF has granted] licences to private radio stations ...”

The article on agriculture strongly supported UDF policies and criticized the MCP's past efforts in support of estate agriculture. While coverage of issues was refreshing, the one-sided nature of the debate – which ignored current MCP agricultural policy and did not give the shadow Minister of Agriculture an opportunity to respond – was not.

It was not clear how a magazine that goes out of its way to publicize the fact that Malawi is politically unstable and that a coup plot is being planned when there is no evidence provided actually benefits tourism and foreign investment or improves the country's image abroad. Such party-political reporting does an injustice to the nation as a whole.

4.2.2 *Weekly News*

In May 1996 the Department of Information started its own newspaper, the *Weekly News*, in order (it said) “to report the news in a fair and balanced manner”. In its second issue the managing editor of MANA encouraged the reporters at the *Weekly News* to write “clean journalism ..., getting it right”, and to use a “mature approach”, for “this is not a scandal sheet”. Early analysis of the paper by ARTICLE 19 demonstrated its pro-UDF bias, as the party in power felt under fire from the opposition papers and wanted an outlet for stories about the good it was doing to develop the country and what fellow citizens were doing to alleviate their own

poverty.¹⁶⁰ But more indicative was the placement of photographs: in the first 11 issues there were some two dozen photographs of the President, a half-dozen of Vice President Malewezi, three of the then Minister of Information Mpinganjira, one each of four AFORD “rebels” (then in President Muluzi’s cabinet), three of Chihana, and one each of former President Banda and Gwanda Chakuamba.

More than a dozen issues of the now bi-weekly *Weekly News* were analysed by ARTICLE 19 during the campaign period. It found the paper highly partisan in favour of the UDF, and a vehicle for disinformation supplied by the “Disinformation Task Force” and the UDF Media Task Force. Its editor is George Tukhuwa, owner of the *Saturday Post* and a member of the “Disinformation Task Force”, discussed above.

The reproduction of photographs in the paper tells the whole story: in the three issues produced between 2 and 11 March 1999 there were nine pictures of local politicians, three of which were of Muluzi, one of Mpinganjira, and four of UDF MPs who were not re-elected during the primaries. In the five issues published between 11 and 27 May 1999 there were 17 photographs of the President, 4 of Vice-President Malewezi, 15 of UDF candidates, and 5 of opposition candidates (4 of them of opposition leaders standing with President Muluzi). Four issues produced just before the election were reviewed (28–31 May; 1–3, 4–7, and 8–10 June). In these there were nine photographs of the President, and several of his cabinet and party colleagues: Kaliyoma Phumisa, Lizzie Lossa Mpinganjira, Edda Chitalo (2), Brown Mpinganjira, Justin Malewezi (4), Bundaunda Phiri (2), Cassim Chilumpha, Frank Kunje (2), Kapwiti Banda, Wilson Pankuku, Harry Thomson, Kamangadazi Chambalo, Sam Mpasu, Lilian Patel, Dumbo Lemani and Aleke Banda. There were no photographs of any of the opposition candidates, including Chakuamba or Chihana. Presumably this bias in selecting the topics and persons to be covered (and therefore the photographs) results from MANA’s and the *Weekly News*’ policy to promote UDF politicians and party officials. Therefore, to offset this bias and to achieve balance during a campaign period it is necessary for the government media to make a special effort to cover *all* politicians.

The column “Malawi in Brief” appeared regularly and typically used MANA stories written in the districts. It fulfilled the paper’s stated purpose of informing the public about national events. For example, the following stories appeared in February. As is the case in many of MANA’s (and MBC’s) reports these short items were often no more than stenographic reporting of speeches to locals given by various officials when visiting the districts.

2–4 February

¹⁶⁰ *Malawi: Freedom of Expression and the Government Newspaper* (London: ARTICLE 19, Censorship News No. 46, Dec. 1996).

- EU hands over a new Distance Education Centre in Mulanje
- MP for Zomba calls on people in T A Chikowi to help government with development efforts
- Zomba flood victims warned against selling relief items
- The Muslim Association of Malawi gives food to patients at Lilongwe Central Hospital
- The District Development Officer in Lilongwe tells extension workers to work as a team
- The UDF Regional Governor for the Centre (Kachimbwinda) advises leaders to work together in Ntchisi.

5–8 February

- Bridges have been washed away in Phalombe
- The MP/Minister of Labour asks people in Ntcheu Northeast to register to vote and to send their children to school
- MP for Lilongwe City West tells UDF supporters to register to vote and not to be violent
- President Muluzi donates K120,000 to CCAP church in Ntchisi
- Man sentence to five year in prison for theft in Kasungu
- Minister of State in President Office (Bundaunda Phiri) is unhurt in car accident in Kasungu.

10–11 February

- Roofs of 25 houses were blown off in Karonga
- The Malawi Institute of Management in Lilongwe has trained district officers
- A man is sentenced to prison in Mzimba for theft
- The UDF governor for Mangochi (Kanyerere) asks people to support the “government’s efforts at sustaining the country’s young democracy” and the UDF Mangochi District Chairlady (Jana) urges women to become involved in development projects.

12–15 February

- A Blantyre man is arrested for assaulting a policeman
- Traditional Authorities in Salima are advised by Deputy Minister of Agriculture/MP (Mussa) to help with development and UDF District Governor in Salima (Kadango) and the UDF Constituency Governor advise people to vote. “They also thanked government for providing people of the area with Starter Pack farm inputs ...”

- PAC trainers urge people in Dowa to vote
- AFORD in Mzuzu urges Christians and Muslims to avoid violence, and the District Chairman (Ngoma) urges people to register to vote
- The son of the chief of Chitipa was fined for wounding his brother.

Community news is found on several other pages as well. Long and short (and sometimes good investigative) stories written by district-based MANA reporters on various aspects of health, the environment, gender, population, policing, education and other community issues are reproduced in the paper. The 5–8 February issue was particularly strong in this regard, as it covered the floods in Phalombe, a dispute on family planning and pre-marital sex, MASAF projects, non-iodized salt, the national debt, and community-based natural resource management amongst other stories.

In May ARTICLE 19 reviewed five issues of the *Weekly News* (11–13, 14–17, 18–20, 21–24, and 24–27 May 1999). The story lines included: HIV in the prisons, MASAF, land redistribution, tourism, the drug revolving fund, road accidents, a minibus organization, chicken farming, family planning, illiteracy, food production and so on.

There were also several important articles about the election, though their accuracy was sometimes in question. For example, the *Weekly News* (11–13 May) reported that “Winga not replaced”, yet by then Roosevelt Gondwe was being introduced to the National Consultative Group as the new Chief Elections Officer. It also uncritically accepted (14–17 May) the Electoral Commission’s assurances that it has ordered enough ballot papers and hired enough staff for every polling centre. More accurate were articles about the stakeholders’ meeting (21–24 May), PAC’s warning about chiefs confiscating voter certificates (18–20 May), and the need to pay allowances and wages to the staff of registration centres (26–27 May).

Yet even some of the community-related stories have political overtones and/or implications. For instance, the story (2–4 February) about the “Bakili Muluzi Foundation for the poor” (page 3) clearly presents the President in a positive light, so much so that the paper went on to editorialize (“Bakili Muluzi foundation welcome”) about the President’s “rare leadership qualities” and the requirement for “all Malawians ... to support him, and by doing so ... encourage him to do more to develop the country”. In the same issue (page 2) we read in English that President Muluzi “once again showed his compassionate mettle when he humbly accepted an hour’s delay in his journey” to help a car accident victim on the Zomba–Blantyre road. The paper and MANA went on to report that “Muluzi’s gesture is just one of the thousands of instances where he has stooped so low from his elevated position to help ordinary people in trouble including general assistance during funerals and attending to actual burial ceremonies among other things”. Later (page 14) the story is translated (*Muluzi ndi ntsogoleri wa chifundo zedi: Mtsogoleri wotereyu*

tingampedzenso kuti? B Muluzi is the leader with compassion: Where else can we find such a leader?) and an additional paragraph (in Chichewa, for the local reader almost exclusively) ties the two stories and the editorial together: “And where can we find this person who is helpful, fellow Malawians. When someone’s son does something good, it is better to praise him. When you praise him it encourages him to do more good work for others”.

In another edition (5–8 February) President Muluzi is praised (in Chichewa only) for helping to build the Ntchisi CCAP church (*A Muluzi athandiza ntchito yomangha chalichi cha ku Ntchisi CCAP*). He is credited with giving a K120,000 cheque to the UDF district governor for the church and with providing K300,000 and cement to St Columba’s church in Blantyre the previous month. Without restating the views of the President’s critics, who claim that his foreign travels show that he is trying to Islamise the country, the article concludes: “Muluzi, who is a Muslim, helps many churches, even going to their services. This shows his aim is for the country to be peaceful and calm, where people can worship freely and where government and the churches work together to help people worship God and develop the country”.

Naturally the paper was used to directly promote the president and party. For instance, in the five papers published between 11 and 27 May, several of the President’s campaign speeches were reported – on the train from Blantyre to Balaka (“Donors promise support for UDF government”), his “Broadcast to the Nation”, and his rallies at Phalombe, Mulanje, Chiradzulu, Mangochi, Mwanza, and Ngabu.

In the 10–11 February edition of the paper, an article appeared about the MDU President, Amunandife Mkumba, who “has expressed great shock and concern over the loss of life” in road accidents. It is not clear why Mkumba’s concern was noteworthy enough to claim 27 column centimetres of space. (The extremely high number of road accidents is worthy of coverage, as is the appeal by the Passengers Welfare Association – which received only one-and-three-quarter column centimetres of coverage – for new government regulations.) In any event, the reporter added that President Muluzi had also expressed sadness about the accidents, and had wished the injured a quick recovery (3.75 cm).

In March, ARTICLE 19 analysed three issues of the *Weekly News* (2–4, 5–8 and 10–11 March 1999). The only story on the Chichewa page (*Pulezidenti Muluzi atsegulira sukulu ya sekondale ya Mtakataka*) reported the speeches given by the President, the Vice President, the Minister of Education, the UDF Governor for the Centre, the UDF Governor for Mtaktaka and Chief Kachindamoto at a Mtakataka school. Focusing on educational developments, the speeches became increasingly party-political, especially when the minor officials praised the work of the UDF during the last five years, compared to the neglect characterizing the previous thirty.

The single page of foreign news is almost exclusively drawn from Xinhua, the Chinese news service. Xinhua news, as well as the software and hardware to

receive it, is supplied free of charge to both MANA and the *Weekly News* by the Chinese News Agency.

On the other hand, the private media, such as *The Nation* and the *Daily Times*, rely upon Reuters for foreign news, for which they pay (according to the editor of *The Nation*) a subscription of £1,170 – or more than K80,000 – for six months' service. Of course, for local news, the *Weekly News* makes use of MANA news and of MANA reporters free of charge, where a monthly subscription to the MANA news service otherwise costs K3,000/month plus postage. Printing and distribution costs are also paid from the public purse, while private papers must pay their reporters. These financial advantages undoubtedly contribute to the *Weekly News*' low price (K10 rather than the normal K15) and its low advertising rates (about half the private newspaper rate). This ongoing subsidization undoubtedly contributes to the relatively relaxed attitude about successfully marketing the paper in either the capital or the rural areas.

The headlines of the *Weekly News* reflect its political tone, and the role the paper played in the disinformation campaign discussed previously:

- Dhlakama confirms Armed Plot: MCP to use Angola, Vietnam to Distabilise [*sic*] Malawi – Mphtahelo (2–4 February)
- Phalombe floods: One dead and 200 families homeless (5–8 February)
- “I have been misled,” says Dhlakama (10–11 February)
- MCP–Renamo Dirty Tricks (12–15 February).

Moreover, the stories displayed a low standard of professionalism at the paper. For instance (2–4 February) Tembo is repeatedly called a “warlord”. Information is “leaked” from unnamed sources in Mozambique and seemingly no effort is made to check with or cite reliable sources – the Mozambican government, for instance. Scaremongering prevails: the original MYP plan was to “launch the attack” in the first week of voter registration (then scheduled for mid-February). Instead the plan “is on hold, ready for launch anytime soon”. The plot is also linked to the division within the MCP, which is well-documented, and this lends credibility to the tale: “wrecked by a damaging power struggle ... the MCP is fighting ... to derail the general elections and take over power by hook or crook as the party loses support on a daily basis to the UDF, currently riding on an enviable wave of party popularity”. By mid-month (12–15 February) the Mozambican authorities were reported to be investigating the MCP's “Plan of Action” and details about the Plan were given, though no evidence was presented – with the exception of a copy of the letter (with no provenance) purportedly written to Dhlakama by Mputhahelo.

The *Weekly News* also carried the Voter Action poll for some weeks, and published (10–11 March) the results of the fake survey. These indicated that of the

reported 10,300 votes cast, 82 per cent favoured Muluzi, who “will be re-elected almost without challenge”. Page 6 of the government newspaper carried the article entitled “President Muluzi’s victory is certain”, outlining in detail the “stamp of approval by the widely respected *Economist*”.

Looking beyond the MYP, Voter Action and *Economist* stories at the other reports of a political nature in the *Weekly News*, ARTICLE 19 noted that most reports showed UDF officials in a positive light (2–4 February: Mpinganjira warns pupils against malpractices; Minister of Land Sembereka visited Malembo health centre, Minister of Women discusses government loan; 9–11 February: Presidential aide Kandiero cites his allegiance to the UDF, Minister of State Bundaunda Phiri introduces new senior chiefs bill). The exception was the coverage in several issues of the debates in Parliament about the constituency demarcation issue, for these displayed relatively thorough and balanced reporting.

Rarely were there articles about the activities or views of opposition politicians, and when they did appear, they were usually presented in a negative light (10–11 February: Dr Ntaba’s visit to Mozambique). The 5–8 March issue had opposition politicians – Chakuamba and Tembo – on its front page, which is unusual. But their photographs accompanied the story, “Tembo may force Chakuamba Out”, highlighting the division within the MCP on account of the Chakuamba–Chihana alliance. The editor also printed a letter which expressed negative views about the opposition – in this case, about Chakuamba and Chihana rarely attending national functions because “the two are selfish leaders whose doctrine of faith is to discredit the present Government and divide us in the process”. On the other hand, the editor gave over a whole page to a report on the UDF primaries, summarizing who won and what the various candidates had said.

As the election drew nearer, a number of stories appeared that were related to the campaign. Between 28 May and 7 June: UDF poised to win, says Muluzi at Liwonde; people should not sell certificates and should vote for UDF says Mrs Mpinganjira, Gondwe clarifies his and Permanent Secretaries’ roles, prisoners cannot vote says Kalaile, UDF women make donation, Muluzi and David Kapito say UDF will win; UDF is not helping Independents says Mpinganjira, UDF Governor for Centre unhappy that preachers and teachers are “on the forefront of political issues”; Bundaunda Phiri urges peace and UDF vote; Malewezi urges peaceful election and a vote for the UDF; Muluzi leads development; UDF not to fire civil servants; government commends army; give UDF another term of office; Muluzi visits army; UDF to increase food security, Kaphwiti says UDF will develop country, MCP tampers with registration certificates, Muluzi for peace and UDF rule, Independent joins UDF, new roads by UDF government says Muluzi, and MDU supports Muluzi. There were no stories about the opposition parties that were favourable. And while some of the stories might be seen as “presenting the government in a positive light”

(the ostensible purpose of the *Weekly News*) the news published during the campaign has to be seen as party-political and reminiscent of the single-party era where “government” and “party” merged.

Of interest to ARTICLE 19 was the front-page story (8–10 June) “NGOs Bashed”. Criticizing the NGOs and NCG was George Goliati, reportedly an “independent observer and analyst ... and an eminent citizen”. He was quoted as having said that the NGOs had failed to implement civic education, were not independent, were politically partisan, and had behaved in a non-participatory way (“there is no evidence that the Church/NGO Consortium consulted the voters to have the polling date shifted”). On 9 June at 6.20 p.m. this story was picked up and spread widely by MBC 2’s *Press Review*.

Two post-election issues (19–21 and 25–28 June) of the *Weekly News* were also reviewed. The first issue after the election congratulated the President and ran his photograph on the front page. The inside pages were used to show photographs of people voting, celebrating and welcoming President Muluzi. There were also photographs of two UDF MPs who ran close races in hard-fought constituencies (Chikwawa NE and Nkhata Bay East).

The later issue had more election coverage, with a story about the foreign dignitaries who came for the inauguration. Highlighted was the announcement by the AFORD Publicity Secretary Dan Msowoya, who condemned the political violence in the Northern region, although the story questioned the opposition’s delay in castigating the rioters. The paper also stated that it was not people from the south or Yaos who were targets, but “any UDF supporter”. The editor in his *Comment* warned that such ethnic violence could disrupt the economic and social life of the nation, and could escalate into war. The results of the presidential election – with figures – were provided in this later issue, as were the names of the parliamentary winners, though no numbers or percentages accompanied them.

The ostensible purpose of the *Weekly News* – to present the government in a positive light – in itself conflates the party and government. This was certainly the case during the 1999 campaign when the paper presented only positive news about members of the UDF administration and ignored or castigated opposition politicians. It remains a convenient outlet for news produced by any disinformation group working through the Ministry. Moreover, the inability of the department to distribute the paper much beyond Blantyre (it is difficult to buy in Lilongwe, for instance, and unavailable in the rural areas) means that much money goes into it for no apparent purpose. The fact that (even at two-thirds the price of other papers) so few copies are sold (one insider reported that they were lucky to sell 50 of the 2,000 printed) must also reflect upon its quality.¹⁶¹ It is being subsidized by government funds (which are certainly needed elsewhere) in its use of free MANA copy, staff, offices, and

equipment, and in so far as it sells papers it competes unfairly with the public media. It also receives advertising revenue from government and private companies. It is for these reasons that ARTICLE 19 opposes the continued use of public funds to support what has become a party newspaper.

¹⁶¹ No. 9, interview, 26 May 1999.

5 THE FUTURE OF FREEDOM OF EXPRESSION IN MALAWI

“The next UDF government will continue to consolidate this country’s democracy and remain ever vigilant in enhancing transparency and accountability in all affairs of the government”.

WWW.UDF.Malawi.Net, 1999

Malawi enters President Muluzi’s second term facing a constitutional crisis, as the opposition parties have filed a challenge to his victory in the High Court.¹⁶² Almost daily in June and July there were reports of more evidence of electoral fraud being found, which will be presented in due course in court to support the opposition’s case. Contributing to the tension were demonstrations held by opposition supporters, who tried to march to the Electoral Commission’s offices in Blantyre because the start of the election case was repeatedly postponed. Police broke these up using teargas. Making matters worse, President Muluzi continued to claim (as during the campaign) that the opposition was holding secret meetings and preparing “to go into the bush”, a claim denied again by AFORD and the MCP and one that seemed less credible because it was never followed up by arrests.¹⁶³ Meanwhile the Electoral Commission and Attorney-General maintained that the election results were final, and would not be overturned regardless of the court’s ruling. Politicians supporting the UDF, including foreigners such as Chiluba of Zambia, dismissed the case as “normal”. “Opposition [parties in Africa] never accepts results when the ruling party wins”.¹⁶⁴ Meanwhile the NCG and more prescient observers felt that “Malawi is on the brink of civil strife” and that the “controversial election results” would bring

¹⁶² As noted previously, the case is based on two arguments: first, that there were massive irregularities which, if corrected, could mean a reversal in a number of races, including the President’s. Secondly, it is argued that President Muluzi did not win “the majority of the electorate” (as required in the Constitution) when he obtained 51 per cent of the vote. The electorate, as defined by the Law Commissioner and Parliament in 1998, is the number of registered voters, not the number who voted, the opposition forces argue. President Muluzi won only 48 per cent of the registered voters, they assert, meaning there should be a re-run of the presidential contest. Justice Elton M Singini, “Report of the Law Commissioner on the Technical Review of the Constitution”, 29 Sept. 1998. Eunice Chipangula interviewed (MBC 1, 25 June: 12.30 p.m. and 6.00 p.m.) a member of the Law Society, Khuze Kapeta, who argued that the Electoral Commission, the “institution that was in power”, declared the election free and fair and “any institution to comment on that will have a very difficult task ...”. He concluded that “electorate” is defined as those people “who were present and voted” on polling day, not those who are registered or eligible to vote. No opposing viewpoint was presented on MBC about this vital constitutional issue. But on 1 July a dissenting legal opinion was disseminated by email (“Controversy over Presidential election”) which *inter alia*, presented evidence from the Malawi Parliamentary debates on the issue.

¹⁶³ *Daily Times*, 6 Sept. 1999 and the *Champion*, 16 Sept. 1999.

¹⁶⁴ MBC 1, 21 June 1999, 11.00 a.m., interview with Eunice Chipangula. Brown Mpinganjira, Foreign Minister in the new Muluzi government, reiterated the message during his speech at the US Ambassador’s residence on 3 July, when celebrating American Independence.

further unrest unless a lasting solution were found. Attempts at mediation between the parties failed.

Half the country did not vote for President Muluzi, and many people, especially in the north and central parts of the country, believe that the UDF won the election through trickery, and that President Muluzi does not represent them. This was evidenced by the mass unrest which broke out soon after the election. While tension was noted in the north before 18 June, unrest emerged there about the same time as it did in Blantyre. In Mzuzu it was reportedly sparked when UDF supporters, led by Chenda Mkandawire (the unsuccessful UDF parliamentary candidate), marched for victory in the town on 18 June (as Muluzi claimed victory in Blantyre) and stoned the AFORD office. Opposition sympathizers retaliated, and looters took advantage of the chaos to attack Mkandawire's properties. Police restored order with teargas and civilians were swept out of the town centre. That evening four mosques were burnt.¹⁶⁵ Meanwhile in Blantyre supporters of the opposition gathered at the High Court on 18 June to support the injunction to halt the announcement of results (which was, in fact, withdrawn). UDF supporters "tried to make their way to the court" and the crowd began chanting "stone the thieves". One UDF leader fled in his Mercedes-Benz as it was stoned, as did the driver of a government vehicle that was attacked. The paramilitary police, who had been observing the chanting, called for reinforcements, believing that the UDF were on their way. Seven army vehicles, five tanks, and three anti-riot police patrolled the streets. When the army arrived at the court, the crowd chanted "we want you to take over; we cannot endure another five years of this Muluzi nonsense."¹⁶⁶ When a *Malawi News* journalist reported that the crowd chanted "take over, take over", he and his editor were arrested and ultimately charged with incitement to mutiny. The case was withdrawn from the docket at the end of July, while decisions were being made whether to prosecute them after all. No trial had been held by the end of September.

News of the unrest in the north and of the opposition's challenge was not broadcast. For instance, the evening's news stories on 18 June (7.00 p.m., Chichewa) were: Muluzi declared winner, Muluzi calls for unity, SA cabinet, Congo, WHO, Sierra Leone, Congo, Sudan, Pakistan. The President's victory speech was cited in the second item, where he "deplored violence", blamed opposition leaders for dividing the people, and asked for "harmony". The news bulletin the following morning (MBC 1, 19 June: 7.00 a.m.) consisted of the following: Electoral Commission declares Muluzi the winner, industrial leaders meet, Sudan rebels, Libya, Russia. The longer *News Summary* (1.00 p.m.) carried three political stories: Muluzi's inauguration on Monday, Malawi Army rejects articles in *Malawi News*, and MIDEA and Women's Voice condemn violence. The first item did not mention

¹⁶⁵ PACE/NICE Mzuzu, "Violence after the announcement of results", 19 June 1999 fax.

¹⁶⁶ Raphael Tenthani, Panafrikan News Agency, 18 June 1999.

the mass protests throughout the country, but said instead that international observers had stated that the elections were free and fair. The second noted that the Army had said that it “does not share the notions of the *Malawi News* articles”, particularly, an “article alleging mass protests and that people disputing the results of the general elections were urging the army to take over. The other article states that Blantyre residents besieged the High Court”. No news of the extent, form, cause or consequences of the unrest was provided to listeners.

At the inauguration the President stated, *inter alia*:

(English) I am filled with joy with the abundant trust that the people have placed in me today I now make this solemn promise to all Malawians wherever you are: As your President I will do everything in my power to ensure that, whatever faith or religion that you belong to, whether you are a man or a woman, young or old, rich or poor you will receive my full attention and protection. ... I believe opposition parties must re-define their roles. It is also the responsibility of an effective opposition to offer positive alternative views to government.

In Chichewa he continued:

If others are not happy with this day then they really have a problem. ... I want to thank all Malawians for choosing me to lead them for another 26 years. [laughter] Don't you know that 31, take away 5 is 26? [more laughter] The EC have declared the elections to be “free and fair”, so have the NGOs, the international observers, the OAU, the Commonwealth, except those others [laughter] say the elections were not free and fair. I have been saying that Malawians are one people. I will not allow anybody to bring division and discord in this country. We are one. The warning therefore that I am giving is this: I will not allow anybody, because they have lost in the elections to start civil strife in this country. I have heard that some have threatened to go into the bush! Honestly, just let them try it. I will blow them up, try it and see. You will see aeroplanes without engines come against you! We want peace in Malawi.

The Organization for Democratic Process was given airtime (MBC 1, 23 June: 6.00 p.m.) to tell the opposition to “accept defeat and learn to work together with the present government”. The spokesman, Alfred Banda, went on to explain to Eunice Chipangula that “it is a very unfortunate situation. Some NGOs of course after getting a lot of money from donors, instead of using that money for civic education, voter education on electoral programmes, instead [are] fostering their political

ambitions by instigating people ... by [encouraging them] not to succumb to democratic principles of our society. Some churches equally ... have got a role ... in this. They are quite disappointing because just prior to the election they were preaching against people voting for Dr Muluzi simply because he is a Moslem. That same development is what now, what they sowed that time is what we are reaping now. I mean, people are breaking mosques The very people who started this should now learn that they have lost [the election].”

In other words MBC after the election is still being used to manipulate the news about the election and its aftermath. It is clear that mass unrest is not the way forward, especially in Malawi where poverty and disaffection are extensive; where thugs are in ample supply; and where ethnic divisions, regionalism, religion, and party differences have recently been reinforced and brought to the surface by politicians seeking votes. On the other hand, the problems now evident were caused when people were denied their right to register and vote, and when irregularities were allowed to affect the electoral process and results. These were compounded by the behaviour of the public media, especially MBC, when it refused to “open up” radio to all the parties and points of view. People were therefore denied their voice. Moreover, the Electoral Commission largely ignored the advice and warnings of its advisers, and of civil society in the form of NGOs, the NCG and the churches. Many people still feel that decisions are being made in a non-transparent manner and that their views are being ignored. While ARTICLE 19 abhors the discord found in Malawi now, it understands its roots and sympathizes with people who feel sidelined and disenfranchised. The only way forward is by allowing the opposition to voice their concerns and by reviewing the election process and results in an open and fair manner.

It has been difficult to assess the impact that the government media, especially MBC, had on the elections. No one knows for sure how many functioning radios there are in the country, or how many people listen to them. Nor do we know how politically influential radio is. We can only guess what other sources of information are as important, such as rallies and speeches, the press and other domestic and foreign radio broadcasts. We know, however, that lack of transport makes it difficult for people to travel far from their villages (for example to attend clinics in normal times or during a campaign to go to rallies). Also, lack of funds meant that the small parties and the cash-strapped Alliance were unable to buy transport to disperse speakers widely during the campaign. It is likely, therefore, that because relatively few Malawians read and very few newspapers make it to the rural areas, MBC 1 was an important source of news and opinion during the campaign. Certainly the aim of the two task forces and the government media bosses was to sway the election in favour of the UDF, and our monitoring demonstrated that their policy was fully implemented whenever possible. We can conclude therefore, that

public campaign media were neither free nor fair and that the bias evident on MBC certainly had some impact on the election results.

ARTICLE 19 must leave it to the courts to determine the extent of the unfairness, and whether it was incompetence, deliberate policy or circumstances that created an atmosphere where the electoral processes, such as registration and balloting, could be tampered with.

ARTICLE 19 can state, however, that we were not impressed with the capacity or willingness of Commissioner Chirwa (in charge of media affairs), or indeed, the Electoral Commission as a whole under Justice Hanjahanja or Justice Kalaila to force MBC to be thorough and balanced in its coverage or to give equal access to all parties. Mrs Chirwa told the NCG on 11 May 1999 for instance, that the EC “cannot force the MBC to open up”, and provided excuses (transport, funding, lack of party schedules) why MBC could not do so. (Maxon Mbendera of the Law Society therefore explained the law to her, and spoke about the obligation placed upon the Commission to enforce it.) Moreover, ARTICLE 19 was told by a member of the MBC Media Task Force that after Mpasu debated on radio with the small parties, he heard from Chirwa that such small parties ought not to be given equal time to the UDF, a sentiment very nearly the same as the Minister expressed to ARTICLE 19 at our meeting in May.

In other words, ARTICLE 19 feels that the Minister’s ideas and MBC’s excuses were expressed through Flora Chirwa, too often uncritically considering that the EC was supposed to be independent. Moreover, we fear that she did not take a strong stand against MBC because she was a UDF appointee, and that she permitted her political views to affect her performance. She cannot be singled out though, for she worked with a Commission and had two successive chairmen who should have set the tone and been more vigorous in ensuring that the electoral process (including the MBC operation) was more fair and transparent. Guidelines for the government media were not adopted by the Commission until the end of May (a date after the election was originally scheduled) and were never implemented. This cannot have been an accident; it had to have been deliberate policy.

To understand what needed to be done one only has to remember how Justice Msosa’s media committee organized MBC’s campaign and election coverage in 1994, and how she stood up to Dr Banda and the MCP a few days before the election in 1994, when the President insisted on making an unscheduled speech on radio: in the face of severe pressure from the ruling party she insisted that MBC offer the same opportunity to all other parties’ presidential candidates. That level of independence and competence was missing during this election.

5.1 Recommendations

Thirty years of dictatorship under Dr Banda were maintained by censorship and control of the media (along with other oppressive measures such as detention and the manipulation of tradition). ARTICLE 19 wishes to help those Malawians who want to ensure that the country does not revert by resurrecting old repressive practices and institutions or creating new ones.

The past five years have amply illustrated that most of the politicians currently in power learned how to “do politics” while in the MCP and that now, when they are put under pressure, their instincts urge them to lambast or suppress their critics rather than open up to them. Secondly, the institutions which are needed to ensure freedom of expression, freedom of information and a free press are still either non-existent or new and weak. These include MACRA, the independent press, the Human Rights Commission and media-related NGOs. Some of the old institutions that were used to manipulate and control news are still influential, such as the Censorship Board, the Ministry of Information and MBC. Similarly, civil society is not well organized generally, partly as a result of the 30 years of repression where initiative from below was crushed, not rewarded. But poor communications, high rates of illiteracy and lack of experience and capacity in forming and running civic institutions reinforce this historical weakness. None of this bodes well for freedom of expression in Malawi.

Real efforts are going to have to be made to ensure that Malawi does not lose the fragile freedoms it gained following the end of the Banda era. The best way to defend these freedoms is continued steps to entrench democracy and respect for human rights in Malawi. The recommendations below outline some important steps that should be taken urgently.

5.1.1 Freedom of Information

In January 1999 ARTICLE 19 and CILIC presented a report to Justice Elton Singini, the Law Commissioner, promoting the adoption of legislation to ensure freedom of information as guaranteed in the Malawi Constitution.¹⁶⁷ The report outlined ARTICLE 19’s arguments for freedom of information.

¹⁶⁷ “Malawi: Submission to the Law Commissioner on Implementing the Constitutional Guarantee of Freedom of Information”, *Media Law and Practice in Southern Africa* series, No. 10 (London: ARTICLE 19/Media Institute of Southern Africa, January 1999). This document is available to the public. Typically, the new Minister of Water and Development, Yusufu Mwawa, was reported to have told his staff that he would fire anyone found to “leak” information to the press. “We are aware that what the press writes about malpractices in government is totally true, but this brings embarrassment to the government. So we refute what we already know ... to recover the ministry’s damaged reputation”. *Daily Times*, 29 July 1999.

Freedom of information implies both that public bodies publish and disseminate information on their own initiative and that individuals have a right to obtain publicly held information upon request. Members of the public should have a broad right to access information held by public bodies relating to a wide variety of government functions, whether it is personal data or relates to a matter of general public interest. The range of public bodies obliged to disclose information should be broad ... [and the] public [should be] sufficiently informed about their right to access information and how to exercise that right. Protection must also be accorded to whistleblowers who reveal corruption or malpractice in government ... The key to implementation of these rights in practice is the adoption of strong freedom of information legislation. Such legislation should clarify general obligations in this area, establish practical mechanisms for implementing those obligations, promote greater openness generally in government and serve as a vehicle for informing the public about their right to information. ... One of the most important roles of freedom of information legislation is precisely to help replace [the culture of secrecy that governments often develop] with a culture of openness and accountability.

Whether the government has the political will to adopt freedom of information legislation remains to be seen, given its apparent preference for “disinformation” during the 1999 election campaign.

5.1.2 Diversification of Media Ownership

Truly independent papers are needed to provide readers with a wide range of opinions and critical analyses of events and public figures. But much of Malawi’s print media and both of its non-religious private radio stations are owned by politicians. There are several reasons for this, including history (leaving John Tembo with two newspapers, for instance), the economics of publishing, the use of public funds (in the form of government advertising) to promote UDF-friendly papers, and the allocation by the MPTC of radio licences to UDF supporters. A number of explicit policy changes are needed if Malawi is to diversify media ownership. These include:

- Prosecuting those who use government resources (such as advertising) to support special interests

- Removing sales tax on advertising sales, as that would reduce the price of advertising and extend the advertising base of newspapers
- Eliminating duty on importation of newsprint, as this cost is passed directly to the newspaper owner and reader, as well as the advertiser
- Reducing or removing taxes and import duties on printing equipment, radio equipment, computers and other technology needed to produce newspapers and radio programmes
- Private radio licensing should be speeded up and depoliticized by MACRA (see below)
- Training of journalists in financial management and other skills needed to run their own newspapers
- Provision of packages (cheap loans, technical assistance, equipment, etc.) to help media workers start up and run their own newspapers or radio stations
- Eliminating unfair competition for private newspapers through the closure of the *Weekly News*.

5.1.3 Media Watchdog Organization

More than one local observer has told ARTICLE 19 that, had it continued its monitoring after the 1994 election, the public media would not be so biased now. ARTICLE 19 agrees that a regular media watchdog organization is needed, one that is driven not by politicians wanting journalists to be “responsible” but one organized by journalists to ensure that Malawi’s constitutional guarantees of freedom of expression, opinion and information are extended and maintained against assaults by government. This may have to wait until the indigenous media institutions are strengthened and can set up their own organization, but the support of donors and outside media institutions will be vital and can perhaps quicken the process. At the very least this watchdog organization should monitor the public and private media, including TVM and MANA; report its findings to the public regularly, perhaps through its own newsletter; liaise with other human rights NGOs and present its findings at national and international fora; hire a lawyer to take on cases related to freedom of expression, such as the detention of journalists or the destruction of newspaper offices; organize training of media workers on freedom of expression issues; and work with the various newspaper and broadcast houses to improve the quality of their reporting, including their ethical and professional standards. If one watchdog organization cannot be formed, these various tasks should be taken on by other local NGOs. Certainly, too, the job of monitoring the media during elections should be institutionalized and undertaken by Malawians.

5.1.4 MACRA and the Communications Act

In an interview with the head of MACRA, ARTICLE 19 was disappointed to learn that it might be a full two years before it is sufficiently organized, equipped and staffed to assume its full range of duties. It is starting work by licensing cell phone and internet service providers, and only latterly will it turn to broadcasting. As noted previously, the Communications Act is not being applied to public broadcasting because MACRA has not assumed power over MBC and TVM from the Minister, as it is mandated to do by law. Therefore, the old MBC board stays in place and Sam Mpasu was allowed by it (with relatively little fuss) to appoint his personal assistant, Wilson Pankuku, to head the station during the most crucial campaign and election period. All stakeholders, including media workers, donors, and civil rights campaigners should try to ensure that the Communication Act is *fully implemented* now that it has finally been passed. This may require a public awareness campaign, conditionality of loans and grants and legal challenges. Support should be given to MACRA to ease its formation, and to help it gain control of the wayward government media.

5.1.5 Legal and Institutional Reforms

Thought should be given to the validity of retaining a Ministry of Information in democratic Malawi. Other neighbouring countries (such as South Africa and Mozambique) have abolished theirs and handed over informational duties to individual ministries and residual administration functions to small offices under the executive.¹⁶⁸ Information-sharing could be served with the creation of press offices to provide the media and the public with details of individual Ministries' operations. MANA and the Ministry of Information's editorial staff are institutions that can easily be subverted, and their abolition or restructuring is needed. As they are now, they generate propaganda for the ruling party at a high price to the taxpayer.

The Law Commissioner should review the Communications Act to explicitly include TV Malawi in it, and the Presidential and Parliamentary Elections Act to take account of the introduction of public television and of the changes in MBC resulting from the formation of MACRA.

¹⁶⁸ In Mozambique the office registers the press, a purely administrative process, accredits foreign correspondents and disseminates information on government activities. See *Mozambique* (ARTICLE 19 and the Media Institute of Southern Africa: Media Law and Practice in Southern Africa Series, No. 11. London, July 1999).

5.1.6 The Public Media during Campaigns and Elections

Major changes are needed to ensure that the Electoral Commission fully and fairly implements the law concerning public media coverage during an election period. This may mean that the selection of Electoral Commissioners be depoliticized so that technocrats with special expertise are appointed to run elections, not representatives of political parties whose agendas are suspect. Whatever the case, the Electoral Commissioners should be fully informed about the law – and their *obligation* to implement it – and the vital role that the media are to play during a campaign if democracy is to flourish. ARTICLE 19 would particularly like to see:

- full implementation of the guidelines for the public media developed during the 1999 campaign
- the end of exclusive live coverage of the State President and the provision of fair and equitable coverage of all presidential candidates by all public media
- a halt to paid campaign advertising on MBC, and enforcement of the law barring paid political advertising during an election period
- transparency at the Electoral Commission, with records of *inter alia*, its meetings, decisions, policy debates, and spending open to the public
- closer cooperation, information-sharing, and mutual aid between the Electoral Commission, its accredited organizations and stakeholder organizations
- the coverage of *issues* of interest to the electorate in the public media, such as details of spending during the previous term of office, the voting record of individual parliamentarians, the financial status of candidates, improvements at district level initiated by incumbent politicians, policy prescriptions (not promises) to address local problems and the candidates' characters
- before an election, training in human rights and ethical reporting especially for government media workers.

5.1.7 Censorship

On 3 June there appeared a story on TVM news about the need for censorship in Malawi to “ensure that Malawi’s cultural and moral values are protected”. Speaking to journalists the Reverend Chande Mhone, chair of the Censorship Board, said that

some papers promote hate, immorality and violence and “report negatively on issues and people” because reporters are forced by newspaper owners to do so. He also blamed such reporting on a “lack of proper and consistent accreditation” of journalists and their disregard for any code of conduct. He said that the “language shaping the morality of our society” in the newspapers is “basically immoral” and encourages children to rise against their parents, and fosters hatred and the breakup of marriages. These and other social ills are “a result of irresponsible reporting” and “distorted facts”. The Reverend Mhone also complained about pornographic videotapes and literature that causes people who are continually exposed to these to commit “offences without remorse”. He closed by looking back to the old days before the transition, when the border was secure, and expressed his desire to rebuild the “alliance” between Customs and the Censorship Board to halt the importation of such corrupting materials. The *Weekly News* (8–10 June) picked up the story, adding that Reverend Mhone thought that the highly acclaimed MBC youth programme *Tinkanena* (which amongst other things, promotes safe sex), “is bad The programme is promoting immorality among the youths. Whoever is funding this programme should know that it is teaching bad manners to the youths.”

ARTICLE 19 appreciates Malawians’ concerns about their culture and their children’s welfare. Nonetheless ARTICLE 19 is more worried about the re-emergence of censorship in a nation still scarred by its experience under Dr Banda and the MCP, who were renowned for their use of censorship to retain control. Moreover, who in Malawian society is to judge for the rest of us what is “immoral”? Equally dangerous, what set of officials is to tell us what is “negative” reporting? Will stories that uncover corruption be deemed “irresponsible”? Moreover, “tradition” in every country is constantly changing; indeed, which man or woman wants to keep their customs wholly intact? ARTICLE 19 feels that it is a slippery road that Malawians are about to follow. Where will it end, this new censorship?

Malawi enters the new millennium at a crossroads. After five years of multi-partyism, the government has still not implemented the laws or created the institutions needed to guarantee the freedoms outlined in the Constitution. The attack on the powers of the Ombudsman is a step backwards. The country has just emerged from an election fraught with irregularities, many of them in the public media. There is discontent in all parts of the country. Malawians discuss censorship with little concern about the danger it brings. The activities of some politicians demonstrate their disregard for the law and for people’s rights as well as an abuse of their office. Accountability and transparency are largely a matter of lip-service only. Corruption is widespread and is largely unpunished. In such a context, it will take a concerted effort by all Malawians of good faith to put their country back on the road to genuine democracy.

Appendix 1: Papers Printed in Malawi and Owners¹⁶⁹

The papers marked with an asterisk (*) appeared on the streets during the 1999 campaign and elections

<i>TITLE</i>	<i>YEAR</i>	<i>PUBLISHER</i>
* Al Muslim	1995	Islamic Publications
*The Alliance	1999	MCP/AFORD
* Binoculars	1998	Jones Vincent Chingola
* Boma Lathu	1970	Government of Malawi
Business Monthly	1995	The Business Monthly
Business Week	1994	Business Week
* Business Telegraph	1998	Proserve Publications Ltd (Jerry Jana)
Care Magazine	1993	Catholic Church
The Challenger	1999	Moto Publications
* The Champion	1996	Champion Publications (Peter Kumwenda)
* The Chronicle	1993	Jamieson Promotions (Rob Jamieson)
The City Star	1996	G. E. Publications
Classified Mail	1995	The Classified Mail
* Daily Times	1993	Blantyre Newspapers (John Tembo)
Dawn	1996	The Dawn Publications
The Democrat	1993	M D Publishers
* Dziwani	1998	Ramsey Khumbanyiwa
* The Enquirer	1993	Lucene Publications
Financial Mail	1995	Patrick Kalongho
The Fin. Observer	1995	Henry Wandale
The Financial Post	1993	Osman Communications
The Focus	1994	The Focus Newspaper
The Free Ads	1996	Daphin Publications
Freedom	1996	Freedom Publications
Guardian Today	1995	Malawi Congress Party
The Herald	1994	Midas Printing
Independent	1993	Now Publications
Kommando	1996	Kommando Newspapers

¹⁶⁹ This list was originally produced by Robert Jamieson, and updated by ARTICLE 19. Owners' names were originally taken from the newspapers themselves, and only a handful were cross-checked with the Registrar General's files by ARTICLE 19 during the 1999 campaign.

At the Crossroads: Freedom of Expression in Malawi

The Lamp	1994	Catholic Church (magazine)
The Light	1996	The Light Newspapers
The Listener	1996	KTZ Media Services
*Malawi News	1959	Blantyre Newspapers
The Malawi Times	1995	Malawi Times
*Malawi Today	1998	Financial Digest Ltd (Akwete Sande)
The Malawian	1994	Malawian Publication
Mbiri Yathu	1996	Jamieson Promotions
Michiru Sun	1992	G. E. Publications
*The Mirror	1992	Moto Publications (B. Mpinganjira & P. Mbewe)
Mlendo	1995	Livingstonia Synod
Musical Exposition	1994	M E Exposition
*The Nation	1993	Nation Publications (Aleke Banda)
*This is Malawi 1970		Government of Malawi (magazine)
*National Agenda	1998	Chikonzero Communications
The New Age	1998	(Not registered)
The New Citizen	1995	Osman Communications
The New City Star	1995	G.E. publications
The New Express	1993	New Express Newspapers
New Standard	1994	Malawi Congress Party
The New Vision	1997	New Vision Publications
The New Voice	1994	New Voice Publications
The NewsDay	1996	NewsDay Publishers
News Today	1994	News Today Limited
Odini	1960	Catholic Church
PDP News	1997	Rolf Ramesh Patel
Public Eye	1994	Public Eye
*The Public Guardian	1999	Jones Vincent Chingola
The Republican	1994	Republican Publishers
The Revealer	1995	Akano Media Services
The Review	1994	Quest Publications
*The Saturday Post	1999	George Takhuwa
*The Sunday Citizen	1999	(Not registered, Willie Zingani)
Sports Digest	1996	Fattani Publications
The Standard	1996	Standard Publishers
Sports Mirror	1995	Wada Publications
The Star	1996	Star Publishers

The Statesman	1996	Benfin Publishers
The Telegraph	1997	Akwete Sande
The Tribute	1995	DinAkwete Publications
The Tempest	1997	Tempest Publications
Together	1996	Catholic Church
Truth & Reconc.	1997	Truth & Reconc Publ.
*U D F News	1993	Muluzi, Thomson, A. Banda
The Unity	1996	Unity Publications
*The Vision	1994	Vision Publications (C. Chihana)
The Watchers	1996	Julius Kaliya
The Weekly Mail	1996	Weekly Mail Publications
*The Weekly News	1996	Government of Malawi
*Weekly Time	1998	Noah Chimpeni
*Your Market	1998	Peter Joseph Chithuli

Appendix 2: Government Advertising in Local Newspapers, March 1999

Name	Owner(s)	No. of issues in March 1999 analyzed	No. of quarter, half and full page govt. advertisements	Total govt. advertising revenue in the issues	Average govt. revenue per issue
<i>Your Market</i>	Peter Chinthuli	2	5 q/p 8 h/p 4 f/p	K22,500 K72,000 K72,000	83,250
<i>Malawi Today</i>	Finance Times Digest: Akwete Sande	8	30 q/p 21 h/p 18 f/p	K135,000 K189,000 K327,600	81,450
<i>Mirror & Weekend Mirror</i>	Moto Publications: Brown Mpinganjira, Patrick Mbewe	4	21 q/p 25 h/p 0 f/p	K94,500 K225,000 0	79,875
<i>Nation & Weekend Nation</i>	Aleke, and Mbumba Banda and Mbumba Achutan	25	92 q/p 36 h/p 43 f/p	K534,400 K373,500 K812,700	68,424
<i>Weekly News</i>	Malawi Govt Department of Information	8	8 q/p 9 h/p 33 f/p	K27,000 K60,300 K385,875	55,772
<i>Enquirer</i>	Lucene Publications: Lucius and Irene Chikuni	4	8 q/p 4 h/p 8 f/p	K 36,000 K 36,000 K 145,000	54,400

At the Crossroads: Freedom of Expression in Malawi

Weekly Time	Mumm Publications: Noah Chimpeni, Austin Kalimanjira, Jack Kamwendo	4	13 q/p 13 h/p 0 f/p	K58,000 K117,000 K0	43,875
Daily Times	Blantyre Print: John Tembo	25	32 q/p 11 h/p 33 f/p	K182,400 K114,125 K623,700	36,809
Business Telegraph	Proserve Publica-tions: Jerry, Shirley and Carol Jana	4	7 q/p 6 h/p 3 f/p	K31,500 K54,000 K54,000	35,025
Saturday Post	George Thukhuwa	4	8 q/p 5 h/p 2 f/p	K36,000 K45,000 K36,000	29,350
UDF News	Bakili Muluzi, Harry Thomson, Aleke Banda and Edward Bwanali	8	32 q/p 8 h/p 0 f/p	K144,000 K72,000 K 0	27,000
Chronicle	Robert, Pushpa and Quinton Jamieson	4	4 q/p 3 h/p 0 f/p	K18,00 K27,000 K 0	11,250
Binoculars	Jones Chigola	4	8 q/p 0 h/p 0 f/p	K36,000 K0 K0	9,000

At the Crossroads: Freedom of Expression in Malawi

<i>Malawi News</i>	Blantyre Print: John Tembo	4	5 q/p 0 h/p 0 f/p	K22,500	5,625
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Appendix 3: International and Malawian Standards on Freedom of Expression

ARTICLE 19's monitoring work in Malawi in 1999 and its analysis and criticism have been rooted *not* in a preference for one party or another, but in the set of instruments and laws outlined below.

Universal Declaration of Human Rights

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

International Covenant on Civil and Political Rights

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of these articles carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (*ordre public*), or of

public health or morals.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

African Charter on Human and People's Rights

Article 9

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

Article 10

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity.... not one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Malawi Constitution, 1995

Section 32

1. Every person shall have the right to freedom of association, which shall include the freedom to form associations.
2. No person shall be compelled to belong to an association.

Section 34

Every person shall have the right to freedom of opinion, including the right to hold opinions without interference [and] to hold, receive and impart opinions.

Section 35

Every person shall have the right to freedom of expression.

Section 36

The press shall have the right to report and publish freely, within Malawi and abroad, and to be accorded the fullest possible facilities for access to public information.

Section 37

Subject to any Act of Parliament, every person shall have the right of access to all information held by the State or any of its organs at any level of Government in so far as such information is required for the exercise of his right.

Section 38

Every person shall have the right to assemble and demonstration with others peacefully and unarmed.

Section 67

1. The National Assembly shall last for five years from the date of its swearing in and then shall stand dissolved. (Appended 25 May 1999: “and provided further that, in the case of the election to be held in 1999, the polling shall be held on a day not later than 15 June 1999, appointed by the Electoral Commission”).

Section 75

2. The duties and functions of the Electoral Commission shall include (d) to ensure compliance with the provisions of this Constitution and any other Act of Parliament

Section 193

1. Members of the Civil Service shall ensure that their exercise of participation in political activities does not compromise their independent exercise of their functions, power and duties as impartial servants of the general public.

3. No government or political party shall cause any civil servant, acting in that behalf, to exercise functions, powers or duties for the purposes of promoting or undermining the interest or affairs of any political party or individual member of that party, nor shall any civil servant acting in that behalf promote or undermine any political party or member of that party, save as is consistent with the provisions of this section.

4. No government or political party shall cause any civil servant, acting in that behalf, to deploy resources, whether they be financial, material or human resources, for the purposes of promoting or undermining any political party or member of a political party or interest group, nor shall any civil servant, acting in that behalf, cause such deployment, save as prescribed by this Constitution or an Act of Parliament consistent with the provisions of subsection (1).

Presidential and Parliamentary Elections Act, 1993 (as amended in 1997 and 1998)

Section 58

Every public office and public entity or authority shall give and be seen to give equal treatment to all political parties to enable each political party to conduct its campaign freely.

Section 59

Every political party and every representative, member or supporter thereof shall enjoy complete and unhindered freedom of expression and information in the exercise of the right to campaign under this Act...

Section 61

1. Notwithstanding guarantees of freedom of expression, information and assembly under this Act, no person shall in campaigning in an election use language which is inflammatory, defamatory or insulting or which constitutes incitement to public disorder, insurrection, hate, violence or war.

Section 63

1. Every political party shall have the right to have the substance of its campaign propaganda reported on radio news broadcasts of the Malawi Broadcasting Corporation and in any newspaper in circulation in Malawi:

Provided that in the case of news broadcasts by the Malawi Broadcasting Corporation

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(a) the content of the news shall be professionally determined by the Malawi Broadcasting Corporation;

(b) the Malawi Broadcasting Corporation shall maintain neutrality in the manner of reporting the news of the campaign propaganda of political parties and generally in its commentaries;

(c) the [Electoral] Commission shall monitor such news broadcasts and shall ensure equal news coverage of the campaigning by all political parties;

(d) no political party or candidate shall be entitled to make commercial advertisement for its campaign.

2. The Commission may, by arrangement with the Malawi Broadcasting Corporation, allocate time on the radio during which political parties may be allowed to speak in campaigning for an election and the Commission shall allocate equal time to every political party.

Corrupt Practices Act, 1995

Section 24

1. A public officer who by himself, or by or in conjunction with any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, anything in relation to any matter or transaction actual or propose, with which any public body is or may be concerned shall be guilty of an offence.

2. Any person who by himself, or by or in conjunction with any other person, corruptly gives, promises or offers any gratification to any public officer, whether for the benefit of that public officer or of any other public officer, as an inducement or reward for doing or forbearing to do anything in relation to any matter or transaction, actual or proposed, with which any public body is or may be concerned shall be guilty of an offence.

Section 25

1. Any public officer who, being concerned with any matter or transaction falling within, or connected with, his jurisdiction, powers, duties or functions, corruptly solicits, accepts or

obtains, or agrees to accept or attempts to receive or obtain for himself or for any other person any gratification in relation to such matter or transaction shall be guilty of an offence.

2. Any person who, being concerned with any matter or transaction falling within the scope of authority, or connected with the jurisdiction, powers, duties or functions of any public officer, by himself, or by or in conjunction with any other person, corruptly gives, promises or offers any gratification, whether directly or indirectly, to such public officer either for himself or for any other person shall be guilty of an offence.

Section 32

1. The Director, the Deputy Director or any officer of the Bureau authorized in writing by the Director may investigate any public officer where there are reasonable grounds to believe that such public officer

(a) maintains a standard of living above that which is commensurate with his present or past official emoluments or other known sources of income:

(b) is in control or possession of pecuniary resources or property disproportionate to his present or past official emoluments or other known sources of income.

Section 35

Any person who attempts to commit, or who aids, abets or counsels, or conspires with, any person to commit an offence under this Part shall be guilty of committing that offence.

Communications Act, 1998

Section 45

1. The [Malawi Communications Regulation] Authority shall regulate the provision of broadcasting in Malawi in the manner which it considers is best suited

(f) to ensure equitable treatment of political parties and election candidates by all broadcasting licencees during any election period.

Section 47

1. The Authority may issue broadcasting licencees for radio and television broadcasting services of the following kinds

(a) public broadcasting services;

(b) private broadcasting services; and

(c) community broadcasting services.

7. No broadcasting licence shall be issued to any association, party, government, organization, body or alliance which is of a party-political nature.

Section 52

1. All broadcasting licensees shall adhere to the code of conduct for broadcasting services set out in Third Schedule.

Section 87

1. MBC shall provide public broadcasting services in accordance with the following principles

- (a) the provision of programmes which educate, entertain and inform;
- (b) the encouragement of free and informed opinion on all matters of public interest;
- (c) the need to reflect the wide diversity of Malawi's cultural lives; and
- (d) respect for human rights, the rule of law and the Constitution of Malawi.

2. MBC shall, in the provision of its broadcasting services

(a) function without any political bias and independently of any person or body of persons;

- (b) support the democratic process;
- (c) refrain from broadcasting any matter expressing its opinion or the opinion of its Board or management on current affairs or on matters of public policy, other than broadcasting matters;
- (d) provide balanced coverage of any elections; and
- (e) have regard to the public interest.

Section 89

1. There shall be a Board of Directors of MBC which shall be the body solely responsible for directing the affairs of MBC.

Section 90

1. The President shall

- (a) appoint the Chairman of the Board of MBC;
- (b) appoint the other members of the Board of MBC in consultation with the Public Appointments Committee.

3. No person shall qualify to be appointed under this section whoB

- (c) is a member of Parliament;
- (d) is a Minister or Deputy Minister;
- (e) is a member of a committee of a political party at district, regional or national

level.

Section 92

1. The Board of MBC shall appoint a Director General, who shall be the chief executive

officer of MBC and, subject to the general supervision and control of the Board, shall be responsible for

- (a) the day to day operations of MBC;
- (b) the management of funds, property and affairs of MBC;
- (c) the administration, organization and control of the staff of MBC.

Third Schedule

Section 3

1. Broadcasting licensees shall report news truthfully, accurately and objectively.
2. News shall be presented in an appropriate context in a balanced manner without intentional or negligent departure from the facts.

Section 5

1. In presenting a programme in which controversial issues of public importance are discussed, a broadcasting licensee shall make reasonable efforts to present differing points of view in the same programme or in a subsequent programme within a reasonable period of time and in substantially the same time slot.

Section 6

During any election period, all broadcasting licensees shall ensure equitable treatment of political parties, election candidates and electoral issues.