



# MALAWI

## COUNTRY OF ORIGIN INFORMATION (COI) REPORT

COI Service

26 August 2011

**SECURING OUR BORDER CONTROLLING MIGRATION**

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- Annex C – Prominent people
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## Preface

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- i This Country of Origin Information (COI) Report has been produced by the COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 31 July 2011. The 'Latest News' section contains further brief information on events and reports accessed from 1 August 2011 to 25 August 2011. The report was issued on 26 August 2011.
- ii The Report is compiled wholly from material produced by a wide range of external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- iii The Report aims to provide a compilation of extracts from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links may be provided. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- iv The structure and format of the Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- v The information included in this Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.
- vi As noted above, the Report is a compilation of extracts produced by a number of information sources. In compiling the Report no attempt has been made to resolve discrepancies between information provided in different source documents though COI Service will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. Reports do not aim to bring consistency of spelling but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

- vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.
- viii This Report and the accompanying source material are public documents. All Reports are published on the UKBA website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified are available in electronic form, the relevant weblink has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from COI Service upon request.
- ix Reports are published regularly on the top 20 asylum intake countries. Reports on countries outside the top 20 countries may also be produced if there is a particular operational need. UKBA officials also have constant access to an information request service for specific enquiries.
- x In producing this Report, COI Service has sought to provide an accurate, up to date, balanced and impartial compilation of extracts of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

#### **Country of Origin Information Service**

UK Border Agency

St Anne House

20-26 Wellesley Road

Croydon, CR0 9XB

United Kingdom

**Email:** [cois@homeoffice.gsi.gov.uk](mailto:cois@homeoffice.gsi.gov.uk)

**Website:** <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

#### **INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION**

- xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's COI material. The IAGCI welcomes feedback on UKBA's COI Reports and other COI material. Information about the IAGCI's work can be found on the Independent Chief Inspector's website at <http://icinspector.independent.gov.uk/country-information-reviews/>
- xii In the course of its work the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at <http://icinspector.independent.gov.uk/country-information-reviews/>
- xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the

decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

**Independent Advisory Group on Country Information**

Independent Chief Inspector of the UK Border Agency

5th Floor, Globe House

89 Eccleston Square

London, SW1V 1PN

**Email:** [chiefinspectorukba@icinspector.gsi.gov.uk](mailto:chiefinspectorukba@icinspector.gsi.gov.uk)

**Website:** <http://icinspector.independent.gov.uk/country-information-reviews/>

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## Latest News

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### EVENTS IN MALAWI FROM 1 AUGUST TO 25 AUGUST 2011

*The Latest News provides a non-exhaustive selection of significant events since 1 August 2011. Further information may also be available from the list of useful sources below.*

*The Home Office is not responsible for the content of external websites.*

- 17 August 2011 “According to media reports, organizers cancelled plans to resume anti-Government protests today after businessmen close to the governing party obtained a court injunction and because of UN mediation efforts, but they said they would continue protests next month unless the Government addresses economic problems and ends public threats against those with dissenting views.”
- UN News Centre**  
Ban welcomes ‘step towards dialogue’ following deadly violence in Malawi, 17 August 2011  
<http://www.un.org/apps/news/story.asp?NewsID=39323&Cr=Malawi&Cr1=>  
Date accessed 22 August 2011
- 8 August 2011 HIV-positive civil servants in Malawi are unhappy with the government's announcement that it will stop providing a cash grant to help improve their diet. In June, the government said the scheme would be stopped and replaced with food packages.
- IRIN Plus News**  
HIV-positive civil servants angry at switch from cash to food parcels, 8 August 2011  
<http://www.irinnews.org/report.aspx?reportid=93452>  
Date accessed 12 August 2011
- 6 August 2011 NGOs working report that the sentencing and public humiliation of Tiwonge Chimbalanga and Steven Monjeza, the only two people to have ever come out publicly as gay, has driven many lesbian, gay, bisexual and transgender people underground.
- Agence France Presse (via 7 News)**  
Gays in Malawi stay underground amid persecution, 6 August 2011  
<http://au.news.yahoo.com/a/-/business/9977287/malawi-gays-stay-underground/>  
Date accessed 12 August 2011
- 5 August 2011 The effect of a donor pullout has started having an impact as 80 per cent of government employees are yet to receive their July salaries. The government denied that the loss of donor payments was the reason for civil service salaries not having been paid, and attributed the delays to an upgrading of the government's IT network. Key donors have recently pulled out of Malawi over what they termed “governance concerns”.

**Daily Nation**

Malawi civil servants fail to receive salaries after donor pullout, 5 August 2011

<http://www.nation.co.ke/News/africa/-/1066/1214224/-/132dl95/-/index.html>

Date accessed 12 August 2011



## USEFUL NEWS SOURCES FOR FURTHER INFORMATION

A list of news sources with weblinks is provided below, which may be useful if additional up to date information is required to supplement that provided in this report. The full list of sources used in this report can be found in [Annex E – References to source material](#).

Afrol News <http://www.afrol.com/countries/malawi>

AllAfrica <http://allafrica.com/malawi/>

AlertNet (Thomson Reuters) <http://www.alertnet.org/thenews/newsdesk/index.htm?news=all>

British Broadcasting Corporation (BBC) <http://news.bbc.co.uk>

Cable News Network (CNN) <http://edition.cnn.com/WORLD/?fbid=i0gUtrVnUAY>

Integrated Regional Information Networks (IRIN) <http://www.irinnews.org/>

Inter Press Service News Agency (IPS) [http://ipsnews.net/africa/s\\_africa.asp](http://ipsnews.net/africa/s_africa.asp)

Malawi News <http://www.mw/>

Voice of America News (VOA) <http://www.voanews.com/english/news/africa/southern/>

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## BACKGROUND INFORMATION

### 1. GEOGRAPHY

- 1.01 The Foreign and Commonwealth Office *Malawi Country Profile*, last reviewed 18 October 2010, noted that: “Malawi is a landlocked country in south central Africa bordered by Tanzania to the north, Zambia to the west and Mozambique to the east and south. Over a fifth of the total land area of 118,000 sq km comprises of Lake Malawi.” [2a]
- 1.02 The Permanent Committee on Geographical Names (last modified in July 2009) recorded the official name of the country as the “Republic of Malawi.” [9] The Central Intelligence Agency (CIA) *World Factbook Country Profile* (last updated 5 July 2011) numbered the population at 15,879,252 (2011 estimate). [3] The United States State Department (USSD) *Background Note* (last updated 11 January 2011) referred to the capital city of the country as Lilongwe, and the other main cities are Blantyre, Zomba and Mzuzu. Blantyre remains Malawi's commercial centre. [1b]
- 1.03 The Government of Malawi's *2008 Population and Housing Census* noted that: “Lilongwe rural has the highest population of 1,228,146, Likoma district has the lowest population of only 10,445. The results show that cities of Lilongwe, Blantyre, Zomba and Mzuzu have high population figures. Lilongwe City has the highest population of 669,021; Blantyre City, 661,444; Mzuzu City, 128,432; and, Zomba City 87,366.” [74a] (p2)

A copy of the report can be accessed via the following link and it provides a breakdown of population centres across Malawi, including population densities in each town.

[http://unstats.un.org/unsd/demographic/sources/census/2010\\_PHC/Malawi/Malawi\\_Report.pdf](http://unstats.un.org/unsd/demographic/sources/census/2010_PHC/Malawi/Malawi_Report.pdf)

- 1.04 Ethnologue's *Languages of the World, Malawi* (accessed 10 June 2011), stated that the national or official languages of the country are Nyanja (Chewa), Tumbuka and English. The USSD *Background Note* referred to the ethnic groups of the country as: Chewa, Nyanja, Tumbuka, Yao, Lomwe, Sena, Tonga, Ngoni, Ngonde, Asian, European; and the split of religions in the country as: Protestant 55%, Roman Catholic 20%, Muslim 20%, indigenous beliefs 3%, other 2%. [18]

**MAP**

1.05 Link to map at website <http://www.un.org/Depts/Cartographic/map/profile/malawi.pdf>

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## 2. ECONOMY

- 2.01 The Foreign and Commonwealth Office *Malawi Country Profile*, last reviewed 18 October 2010, noted:

“Malawi has few exploitable resources apart from land, which is at serious risk of degradation as a result of population pressure and poor farming methods. Agriculture remains the backbone of the economy, employing 85% of the working population.

However, about 90% of these workers are engaged in subsistence farming. Tobacco is responsible for some 60% of export earnings, with sugar, tea and coffee contributing about 5% each. Exports of uranium deposits in the north of Malawi started in mid-2009 and will run at 1,500 tonnes a year for at least ten years, generating an annual income of some \$100 million, about 5% of Malawi’s GDP and 20% of foreign exchange earnings.” [2a]

- 2.02 The CIA *World Factbook*, last updated 5 July 2011, stated:

“The economy depends on substantial inflows of economic assistance from the IMF, the World Bank, and individual donor nations...Malawi has experienced some setbacks, including a general shortage of foreign exchange, which has damaged its ability to pay for imports, and fuel shortages that hinder transportation and productivity. Investment fell 23% in 2009, and continued to decline in 2010. The government has failed to address barriers to investment such as unreliable power, water shortages, poor telecommunications infrastructure, and the high costs of services.” [3]

- 2.03 African Economic Outlook, in the overview of its *Country Profile 2011*, last updated 22 June 2011, observed:

“Malawi’s real gross domestic product (GDP) is estimated to fall to 6.7% in 2010 from 7.6% in 2009. The slight reduction in real GDP growth is largely attributed to reduced agriculture output for maize and tobacco due to the drought experienced in some parts of the country at the beginning of the 2009/10 growing season. The main driving force for economic growth in 2010 has been strong performance in mining and quarrying, construction, financial and insurance services and information and technology.” [15a]

- 2.04 Regarding per capita income, *The BNL Times* reported on the 24 May 2011 that:

“The Malawi Confederation of Chambers of Commerce and Industry (MCCCI) said the country’s individual per capita income has increased to US\$328 from US\$142 five years ago. Per capita can best be described as an income per person in a population and is often used to measure a country’s standard of living. MCCCI president Mathews Chikankheni said the average income per capita is now at about US\$328 (about K50,000).” [75a]

- 2.05 An article in the *Nyasa Times* of 8 February 2011, *Economy grinds to a halt – CAMA*, noted that: “The populist supporter of consumer rights in Malawi, John Kapito, has said the county’s economy has grinded (sic) to a halt due to persistent fuel shortage and power outage. ‘Shortage of fuel is not a simple issue, shortage of electricity is not a simple issue, these are main drivers of this economy,’ said Kapito, executive director of Consumer Association of Malawi (Cama).” [16a]

- 2.06 A British Broadcasting Corporation (BBC) News online article of 14 July 2011, *UK cuts aid to Malawi government*, stated:

“The UK has cut direct aid to Malawi following a diplomatic spat earlier this year in which each country expelled the other's envoy. Last year, the UK gave £19m (\$30m) in budgetary support to Malawi. Fearing aid cuts, Malawi recently passed an austerity budget which did not include any foreign assistance...Malawi is one of the poorest countries in the world, with an estimated 75% of the population living on less than \$1 (60p) a day... However, the UK is continuing to give Malawi other aid - which does not go through the government - worth about £90m (\$145m) over the next year. The International Monetary Fund (IMF) has also cut aid to Malawi, which used to rely on donors for 40% of its budget. The austerity budget raised taxes and severely cut back on foreign travel for civil servants... the effects of the suspension of donor aid are already being felt... Malawi is failing to import adequate fuel resulting in long queues at service stations. It also hard to get foreign currency in banks.” [7c]

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### 3. HISTORY (19<sup>TH</sup> CENTURY TO 2010)

The following section provides a brief history of Malawi with a focus on recent events.

- 3.01 The Foreign and Commonwealth Office *Country Profile*, last reviewed 18 October 2010, stated:

“Malawi takes its name from the Maravi (which means 'rays of light') empire which developed on the shore of Lake Malawi in the 16th and 17th centuries. In the 19th century Maravi was devastated by the arrival of Nguni invaders from the south, and Muslim slavers from the east, leading to the establishment of a British Protectorate of Nyasaland at the end of the 19th century. Christian missions, inspired by Livingstone's appeal to end the slave-trade, played a key role in promoting British intervention. Apart from local initiatives - most notably by John Chilembwe, an evangelical Christian minister (and national hero), in 1914 - there was little resistance to colonial rule until the 1950s when there were widespread protests against the unpopular Federation of Rhodesia and Nyasaland.

”Nyasaland achieved independence as Malawi in 1964. Hastings Banda, who had returned from a successful medical practice in London to lead African protest against the Federation, became the first prime minister. He quickly adopted an autocratic style, leading to ministerial rebellions in the 1960s, which in turn led to further repression. He also adopted a policy of détente with the remaining white-ruled states in southern Africa and, in contrast with the governments of Tanzania, Zambia and (after 1975) Mozambique, took a staunchly capitalist and pro-Western line. In the climate of the Cold War donors were prepared to tolerate his domestic idiosyncrasies, especially since - again in contrast to his neighbours - he managed an effective economy in one of the poorest countries in the world. But with the collapse of communism the props, both domestic and international, were kicked away. Under donor and popular pressure, as well as feeling the effects of age (he was at least 90), he conceded multi-party democracy in 1993. Bakili Muluzi and his United Democratic Front [UDF] (whose popular support was in the densely-populated south of the country) won the ensuing presidential and parliamentary elections in 1994.” [2a]

3.02 The United States State Department (USSD) *Background Note*, last updated 11 January 2011, noted that:

“[In the 1994 elections] The UDF won 82 of the 177 seats in the National Assembly and formed a coalition government with the Alliance for Democracy (AFORD). That coalition disbanded in June 1996, but some of its members remained in the government. ... Malawi's newly written constitution (1995) eliminated special powers previously reserved for the Malawi Congress Party. Accelerated economic liberalization and structural reform accompanied the political transition. When Malawi held its second democratic elections on June 15, 1999, Dr. Muluzi was re-elected to serve a second 5-year term as President, despite an MCP-AFORD alliance that ran a joint slate against the UDF.

“Malawi underwent its first transition between democratically elected presidents in May 2004, when the UDF's presidential candidate Bingu wa Mutharika defeated MCP candidate John Tembo and Gwanda Chakuamba, who was backed by a grouping of opposition parties. European Union and Commonwealth observers said although the election passed peacefully, they were concerned about ‘serious inadequacies’ in the poll. The UDF did not win a majority of seats in parliament, as it had done in 1994 and 1999 elections. Through the successful manoeuvring of party chairperson and former President Bakili Muluzi, the party secured a majority by forming a ‘government of national unity’ with several opposition parties. President Bingu wa Mutharika left the UDF on February 5, 2005, citing differences with the party leadership, particularly over his anti-corruption campaign. He formed the Democratic Progressive Party (DPP) shortly thereafter, attracting a number of UDF and independent members of parliament (MPs) to his new party.” [1b]

3.03 The same USSD *Background Note* added:

“On May 19, 2009, President Mutharika was reelected to a second 5-year term, defeating MCP candidate John Tembo. Ex-President Muluzi attempted to run as a candidate as well, but was barred by constitutional term limits. Mutharika's DPP won a majority in parliament, and the number of women in parliament increased from 27 to 41. The May 19 elections were marked by high voter turnout, and international and domestic observers agreed that the elections were generally free and fair.” [1b]

3.04 *An Afrique en Ligne* article of 14 August 2010, *Malawians warned against possessing old national flag*, noted:

“The Malawi government has warned citizens who still possess the old national flag that they risk arrest and prosecution. The new flag was launched last Saturday by President Bingu wa Mutharika after the national assembly passed the amended 'Flags, Emblem and Names Act'. The new flag, with red at the top, black in the middle and green at the bottom complete with a full sun in the middle, replaces the old one (black, red and green with a rising sun super-imposed on the top black colour). In the old flag, the black stripe represents the people of Africa while the colour red stands for the blood spilled as the southern African country struggled for independence. The colour green symbolizes the country's vegetation and the rising sun represents the dawn of freedom and hope on the African continent. Launching the new flag in the capital, Lilongwe, amid resistance from a cross section of individuals and interest groups, President Mutharika argued that Malawi had developed tremendously since independence from British colonialists in 1964. He said it did not make sense to still describe Malawi as 'a nation at dawn' 46

years after independence. But opponents described the reasons behind the change as unconvincing and unrealistic and the cost of changing the flag as unnecessary.” [67b]

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#### 4. RECENT DEVELOPMENTS (JANUARY TO JULY 2011)

##### SAME-SEX PHYSICAL RELATIONS BETWEEN WOMEN CRIMINALISED

4.01 A press release from the International Commission of Jurists of 8 February 2011, *Sex Between Women Now a Crime in Malawi: New Law Violates Human Rights of Malawi*, noted:

“In December 2010, the Parliament passed a bill amending the Penal Code of Malawi. In late January 2011, President Bingu Wa Mutharika assented to the bill, thus completing its enactment into law. The new Section 137A, captioned ‘Indecent practices between females’, provides that any female person who, whether in public or private, commits ‘any act of gross indecency with another female’ shall be guilty of an offence and liable to a prison term of five years... Speaking in Geneva last September, the UN Secretary-General Ban Ki-moon stated, ‘Laws criminalizing people on grounds of sexual orientation and gender identity violate the principle of non-discrimination. They also fuel violence, help to legitimize homophobia and contribute to a climate of hate.’ The Republic of Malawi has turned a deaf ear to the calls of UN Secretary-General Ban Kimoon, High Commissioner for Human Rights Navanethem Pillay, and Archbishop Desmond Tutu and many others. Indecent practices between males are already criminalized in Malawi. Last May Tionge Chimalanga and Steven Monjeza were convicted of this offense and were sentenced to 14 years in prison before receiving a presidential pardon.” [14]

See section on [LGBT persons](#)

##### LOCAL GOVERNMENT ELECTIONS

4.02 An article of 25 May 2011 in *Face of Malawi*, *Malawi Postpones Much-Awaited Local Gov’t to 2014*, recorded:

“The Malawi Electoral Commission (MEC) has announced the postponement of the long-awaited Local Government Elections to 2014, the elections body said in a statement Tuesday evening. In a brief statement, the electoral body statement ‘the decision by government to postpone the elections has been arrived at following consultations with President Bingu wa Mutharika’. No reasons were given for the postponement of the much-anticipated elections. This development comes in the wake of cries for the local polls from religious and civil society leaders as well as opposition leaders. Malawians have only gone to the polls for the local polls only once – in 2000 – since the southern African country re-introduced multiparty elections in 1994. This has left Malawian cities in the...state of having no mayors or councillors since 2005 to date. After the 2000 elections the next polls were scheduled to be held in 2005, a year after Mutharika assumed office.” [68]

4.03 The same *Face of Malawi* article continued:

“...despite the Constitution stating that local polls must be held a year after the presidential and parliamentary elections. Mutharika’s ruling Democratic Progressive Party (DPP) got around that ‘small matter about the law’ by amending the Local Government Act to empower the president to set the date for the holding of the local government elections. Then Electoral Commission earlier announced that the polls would be held on April 20, 2011, but as the preparations were underway Mutharika suspended the Commission on December 3, 2010 reportedly to pave way for an investigation into the misappropriation of millions of dollars at the electoral body. The Commission was only re-instated on April 1, 2011, only 19 days to the scheduled polls, when the much-hyped probe found that no such colossal sum of money was missing. But it was too late for the polls since ground was already lost but, before Tuesday’s dramatic announcement the electoral body was consulting political parties when it would be feasible the elections. This latest development is set to anger the opposition and civil society leaders. The Malawi Elections Support Network (MESN), a grouping of civil society groups fighting for the polls, has demanded that the polls be held in six months or it will go to court to demand them.” [68]

#### FOREIGN DONOR AID TO MALAWI SUSPENDED

4.04 A BBC News online article of 27 April 2011, *UK and Malawi in tit-for-tat diplomatic expulsions*, noted:

“The UK has ordered Malawi's high commissioner to leave the country over the ‘unacceptable’ expulsion of Britain's envoy to Lilongwe. Fergus Cochrane-Dyett was told to leave Malawi after he was quoted in a leaked cable as saying the president does not tolerate criticism... According to the diplomatic cable published by the local Weekend Nation newspaper last week, Mr Cochrane-Dyett described Malawi's President Bingu wa Mutharika as ‘becoming ever more autocratic and intolerant of criticism’ ...[the] British Foreign Secretary... said acting High Commissioner of Malawi Flossie Gomile-Chidyaonga and her dependants must leave the UK at ‘the earliest opportunity’ and hinted that the UK's aid to its former colony could be cut.” [7d]

4.05 A Department for International Development report of 14 July 2011, *UK suspends financial support for Malawi government*, stated:

“Malawi will no longer receive general budget support from the UK Government... This has now been suspended indefinitely. The Development Secretary took the decision after the Government of Malawi repeatedly failed to address UK concerns over economic management and governance. On governance, demonstrations have been suppressed, civil society organisations intimidated, and an Injunctions Bill passed that would make it easier for the Government to place restrictions on opponents without legal challenge. On the economy, the UK is concerned that Malawi’s overvalued exchange rate has created chronic foreign exchange shortages which are having a serious impact on the Malawian private sector’s ability to drive future growth. There are now daily fuel queues, tobacco exports have deteriorated and Malawi is off-track with its International Monetary Fund (IMF) programme. The decision is in line with international concern over Malawi’s current position. The World Bank, the European Union, the African Development Bank, Germany and Norway have all suspended or ended general budget support to Malawi.” [41]

4.06 An article of 26 July 2011 in the Voice of America News, *US Agency Puts Aid to Malawi ‘On Hold’*, noted:

16 The main text of this COI Report contains the most up to date publicly available information as at 31 July 2011. Further brief information on recent events and reports has been provided in the Latest News section to 25 August 2011.



“The United States has put a \$350 million aid package to Malawi on hold, following deadly clashes between police and protesters in the southern African country. The Millennium Challenge Corporation, a U.S. government agency that assists developing countries, said Tuesday that it will review its partnership with Malawi. The agency has expressed concern about the government's use of force and restrictions on media reporting on the demonstrations. It said the developments call into question Malawi's commitment to good governance.” [29c]

## ANTI-GOVERNMENT PROTESTS: JULY 2011

4.07 *The Guardian*, in an article of 21 July 2011, *Malawi protesters killed during anti-regime riots*, observed:

“At least 18 people have been killed, officials say, in two days of public unrest in Malawi, an unlikely stage for one of the biggest anti-government protests in sub-Saharan Africa this year. The protests, sparked by worsening fuel shortages, rising prices and high unemployment in the southern African country, have seen calls for president Bingu wa Mutharika to step down.

“Malawi's health ministry spokesman Henry Chimbali confirmed 10 deaths in the northern cities of Karonga and Mzuzu, where protesters ransacked the offices of Mutharika's Democratic Progressive party (DPP) on Wednesday. The others died in the capital, Lilongwe, and the southern commercial hub of Blantyre after police and troops fired teargas to disperse crowds demanding that Mutharika quit. These figures are based on those casualties that are coming through to the hospitals,’ Chimbali told Reuters. ‘Some died in hospital, while some were brought by police already dead.’ A further 41 people were injured, six critically, he added.

“The fierce crackdown in the normally peaceful nation is likely to intensify public anger against Mutharika. The campaign against him is led by a coalition of 80 groups which claim that Malawi is facing its worst shortages in 47 years of independence and is turning into an ‘autocratic kleptocracy’” [22a]

4.08 An IRIN article of 25 July 2011, *Malawi's ‘Arab Spring’?*, noted:

“Two days of protests in Malawi last week which saw at least 18 people killed were sparked by fears the fledgling democratic state was sliding back into one-party state rule, analysts told IRIN. The security forces’ heavy-handed response to demonstrations, which reportedly saw the use of live ammunition, in the capital Lilongwe, its second city Blantyre and the main northern city of Mzuzu may have echoes of the 2011 ‘Arab Spring’ but ‘the context is entirely different,’ Judy Smith-Höhn, a senior southern Africa researcher at South Africa’s Pretoria-based think-tank the Institute for Security Studies (ISS), told IRIN... In many ways southern Africa experienced the tumultuous events being seen in North Africa and the Middle East in the 1990s ‘and yet people are constantly trying to use protests as southern Africa’s ‘Arab Spring’.

“Among the grievances of Malawi’s protesters were repressive media legislation and poor economic management. Lilongwe-based political analyst Augustine Magolowondo told IRIN there was a ‘sense of betrayal’ by the electorate after the 2009 elections saw President Bingu wa Mutharika overwhelmingly backed for a second term of office. ‘A majority of Malawians relate what is happening now to the time of one-party authoritarianism and what is unfolding is people's resistance against such a

development... [with Wa Mutharika] restricting civil and political rights in addition to increasingly undermining, if not suffocating, democratic accountability institutions,' he said." [58c]

4.09 An article of 26 July 2011 in *Aljazeera, Malawi president given ultimatum*, stated:

"The main organisers of anti-government protests in Malawi have announced an ultimatum for the African country's president to address their grievances or face more protests. Rafiq Hajat, director of the think-tank Institute for Policy Interaction, said on Tuesday that Bingu wa Mutharika has until August 16 to resolve persistent fuel and foreign exchange shortages in the country. He said if these demands were not addressed, protests would begin again on August 17. A petition presented to the government demands an audit on Mutharika's finances as well as those of cabinet ministers. It also asks that state media not be used to threaten those with dissenting views." [66]

4.10 A BBC News article of 25 July 2011, *Malawi activists 'in hiding after Mutharika threat'*, noted:

"Key organisers of last week's anti-government protests in Malawi have gone into hiding amidst fears that they will be arrested. 'I will smoke you out,' President Bingu wa Mutharika warned six organisers on Friday. One of them, Rafiq Hajat, told the BBC he had gone into hiding and was leading a 'solitary existence'... The president accused the protesters of committing treason. 'If you go back to the streets, I will smoke you out. Enough is enough,' Mr Mutharika said, after naming six of the organisers in a speech to policemen. They include Mr Hajat, the director of the Institute for Policy Interaction advocacy group, who told the BBC from an unknown location that he feared for his safety... Mr Hajat said the Acting Executive Director of the Malawi Human Rights Consultative Committee, McDonald Sembereka, was also in hiding while he understood that the group's chairman, Undule Mwakasungula, had fled Malawi. He said that the activists would not be intimidated and would organise further protests if their demands were not met." [7e]

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## 5. CONSTITUTION

5.01 Jane's Sentinel *Country Risk Assessment*, section on Internal Affairs, last updated 4 September 2009, observed:

"In its democratisation process, Malawi adopted a constitution that was slightly modified after a Constitutional Conference in January 1995. This constitution is long and complicated and many issues have to be clarified. Constitutional amendments are still regularly made. The constitution guarantees freedom of speech, religion and assembly and provides for a presidential system with important parliamentary checks, notably on appointments, although not on ministerial appointments. Ministers can also be appointed from outside parliament." [11a]

5.02 The Electoral Institute for the Sustainability of a Democratic Africa noted that the "Constitution [for the Republic of Malawi] came into effect May 18, 1995 after serving as a transitional constitution for a year. Amended 1994, 1995, 1997, 1998, 2001." [10a]

18 The main text of this COI Report contains the most up to date publicly available information as at 31 July 2011. Further brief information on recent events and reports has been provided in the Latest News section to 25 August 2011.

A copy of the Malawian constitution can be found at the following link:  
<http://www.sdnw.org.mw/constitut/brfindx.html> [10a]

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## 6. POLITICAL SYSTEM

6.01 Europa World online, undated, accessed 23 June 2011, in its section on *Constitution and Government* within the *Country Profile*, stated:

“Under the provisions of the Constitution promulgated on 18 May 1995, the Head of State is the President, who is elected by universal adult suffrage, in the context of a multi-party political system, for a term of five years. Executive power is vested in the President, and legislative power in the National Assembly, which has 193 elective seats. Members of the Assembly are elected for five years, by universal adult suffrage, in the context of a multi-party system. Cabinet ministers are appointed by the President. The country is divided into three administrative regions (Northern, Central and Southern), sub-divided into 24 districts.” [5]

See [Political affiliation](#) for information about political rights in practice.

Also see CIA *World Factbook* for information on political parties and leaders and political pressure groups and leaders <https://www.cia.gov/library/publications/the-world-factbook/geos/mi.html>

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## Human Rights

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### 7. INTRODUCTION

- 7.01 The US State Department *2010 report on Human Rights Practices in Malawi*, published 8 April 2011, stated:

“The following human rights problems were reported: police use of excessive force, which resulted in deaths and injuries; security force impunity, although the government made some efforts to prosecute abusers; occasional mob violence; harsh and life-threatening prison conditions; arbitrary arrest and detention; lengthy pretrial detention; limits on freedom of speech and the press; official corruption; societal violence against women; trafficking in persons; and child labor.” [1a] (introduction)

- 7.02 The Amnesty International *Annual Report on the State of the World’s Human Rights 2011 (Malawi)*, published 13 May 2011, noted:

“A same-sex couple were sentenced to 14 years' imprisonment and then pardoned. Prisons were overcrowded and lacked adequate facilities. Malawi's human rights record was assessed under the UN Universal Periodic Review, during which officials stated that an independent police complaints commission had been established to investigate police brutality. Up to 1.1 million Malawians were in need of food aid despite five consecutive years of maize production surpluses.” [4a]

- 7.03 The Freedom House *Freedom in the World 2011 (Malawi)* report, published 12 May 2011, observed:

“While President Bingu wa Mutharika and the Democratic Progressive Party enjoyed a commanding position in the political system, concerns emerged in 2010 about the subservience of the legislature to the executive branch. The government continued its heavy-handed approach toward critics, and threats to media independence, nongovernment organizations, and freedom of assembly remained major concerns throughout the year. Following considerable international outcry, a gay couple sentenced to fourteen years in prison received a pardon from President Mutharika in May.” [6a]

- 7.04 Freedom House, *Worst of the Worst 2011: The World’s Most Repressive Societies*, published 1 June 2011, noted that Malawi was only partly free with political rights scoring three and civil liberties scoring four (based on a scale of one being free and seven not free). [6d] (p30)

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### 8. SECURITY FORCES

- 8.01 Jane’s Sentinel *Country Risk Assessment*, in its section on *Security and Foreign Forces*, last updated 25 January 2011, noted that the combined strength of security forces in the country amounted to 7,225 - 1500 persons in the police and associated bodies and 5,725 in the armed forces. [11c]

- 8.02 The same section of the Jane’s *Assessment*, stated:

“Malawi has participated in a number of exercises involving African forces and is a member of the SADC's [Southern Africa Defence Community] Standby Brigade, one of the regional brigades being established by the African Union (AU) as an African Standby Force (ASF). Malawi also contributes to UN peacekeeping missions. As of end September 2010, Malawi had 117 personnel (police, troops and experts on mission) seconded to UN peacekeeping missions in the Democratic Republic of Congo (MONUSCO) and Darfur, Sudan (UNAMID)... The border guard role is undertaken by the Mobile Police Force supported by the military...The Mobile Police Force has formed part of the operational and ministerial responsibility of the minister of home affairs and internal security. It has police law enforcement, riot control, counter-terrorism and border patrol duties and has been relatively well equipped with its own paramilitary air wing.” [11c]

8.03 In terms of foreign forces organisation the same Jane's document observed:

“Malawian forces have not only trained with British, US and South African forces in Malawi but have increasingly undergone training abroad, such as in the UK. Malawi continues to receive support from the US under the International Military Education and Training (IMET) programme. The Memorandum of Understanding (MOU) on defence co-operation signed by Malawi and South Africa in February 2008 is expected to cover the exchange of military trainees, instructors, observers, and exercises. There is also considerable attention to peacekeeping training in line with African commitments to regional conflict management.” [11c]

8.04 Jane's *Sentinel Country Risk Assessment*, in its section on *Armed Forces*, last updated 25 July 2011, stated:

“The government of Malawi has retained the old British doctrine and strategy of national defence, although modified by the influence of South African liaison and training teams present in-country during the 1980s. The government has been reviewing its options and the armed forces are understood to have been in a state of some flux. The armed forces have been reduced in size since 1992, but only by about 250 personnel. While a wider regional role for the army is thought to be envisioned, with senior officers being sent to attend advanced courses at military academies and peacekeeping training colleges regionally and abroad, this looks untenable on the armed forces' meagre resources. China has said it would like to increase personnel exchanges and expand co-operation areas with the Malawian armed forces.” [11d]

8.05 In terms of defence structure the same Jane's document observed that:

“Malawi's armed forces are all organisationally part of the army, which includes a small air wing and marine unit on Lake Malawi (Nyasa), and are responsible for Malawi's external security. In capabilities and equipment, the army is not much different from the smaller paramilitary Mobile Police Force, which also has an air wing and a few armoured vehicles but reports through the Ministry of Home Affairs. The Mobile Police Force is responsible for internal security, counter-terrorism and border patrol.” [11d]

## POLICE

8.06 The US State Department *2010 report on Human Rights Practices in Malawi* (USSD 2010 report), published 8 April 2011, stated:

“The Malawi Police Service (MPS), controlled by the Ministry of Internal Affairs and Public Security, has responsibility for law enforcement and maintenance of order. Police occasionally called on the army for support to help operate roadblocks and to assist in manhunts. The police force was inefficient, poorly trained, and corrupt... Impunity was a problem. Inadequate resources and a lack of qualified candidates from which to recruit hampered efforts to improve MPS quality. The police service maintained a disciplinary committee chaired by the inspector general of police to investigate abuses; however, resources were limited, and it met only sporadically. Officers were disciplined, but punishments often consisted of reassignment to another post or dismissal rather than more stringent sanctions. Police continued efforts to improve their investigative skills, including training in internal investigations, victims' rights, sexual abuse, domestic violence, and trafficking in persons. Police continued to receive foreign assistance for training officials and procuring equipment.” [1a] (section 1d)

8.07 Jane’s *Sentinel Country Risk Assessment*, in its section on *Security and Foreign Forces*, last updated 25 January 2011, stated:

“Few details are available on the strength of Malawi’s civilian police force, which has been transformed into a police service. Its paramilitary component forms a separate security force, the Mobile Police Force (listed below). The UK, for example, has assisted with reform efforts. Newer initiatives of the Malawi Police Service (MPS) include the introduction of community policing and a victim support unit. As elsewhere in the Southern African Development Community (SADC), the Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO) provides a forum for international co-operation.” [11c]

## ARMED FORCES

8.08 Jane’s *Sentinel Country Risk Assessment*, in its section on *Armed Forces*, last updated 25 July 2011, stated:

“Since Malawi has never been involved in, or been threatened by, a major domestic or international conflict, its armed forces are among the smallest and lowest-funded in the region. Money is not available for procurement and the military have few obvious requirements beyond the most basic kit. Nearly all defence spending goes towards wages and other non-capital necessities. Malawi has no formally independent air force or navy, although the army does have small air and marine wings, tasked largely with support roles.” [11d]

8.09 The same Jane’s *Sentinel Country Risk Assessment* indicated there were 5,725 persons in the armed forces, 5,000 of which were in the army, with 500 and 225 in the air force and navy wings respectively. [11d]

## HUMAN RIGHTS VIOLATIONS BY GOVERNMENT FORCES

### Arbitrary arrest and detention

8.10 The USSD 2010 Report noted that “... the constitution and law prohibit arbitrary arrest and detention; however, the government did not always observe these prohibitions in practice...The government arbitrarily arrested persons, sometimes using colonial-era anti-sedition and treason laws to stifle criticism... During the year the MHRC (Malawi

Human Rights Commission) received six complaints of arbitrary detention related to overstay of remand, denial of bail, and unheard appeals.” [1a] (section 1d)

## Torture

8.11 The Freedom House *Countries at the Crossroads 2010* report, Malawi, published April 2010, stated:

“Malawi's constitution protects against torture and other forms of physical violence. Nonetheless, police are known to use excessive force against prisoners and suspects in custody, as international and local human rights monitors have documented in multiple cases. In 2006, the governmental Malawi Human Rights Commission (MHRC) issued a report indicating that police frequently subjected suspects to torture and other forms of abuse in the course of investigations. While some police officers accused of torture have been investigated and arrested, few have ultimately been convicted. Several officers have also been held responsible for the deaths of individuals who died either in custody or due to other police actions.” [6b] (civil liberties)

8.12 The Stakeholder Summary prepared by the Office of the High Commissioner for Human Rights to the United Nations Working Group on the *Universal Periodic Review* for Malawi, dated 10 August 2010, stated: “CHRR [The Centre for Human Rights and Rehabilitation] indicated that cases of torture and other forms of ill - treatment and use of excessive force against alleged criminals, especially in places of detention, were reportedly common and were widely reported in the media. However, the Constitution guaranteed the inviolability of human dignity and prohibited torture, cruel, inhuman or degrading treatment or punishment.” [21e] (p3, paragraph 15)

## Extra-judicial killings

8.13 The USSD 2010 Report noted that: “The government or its agents did not commit any politically motivated killings; however, security forces killed three persons during the year. Perpetrators of past abuses were occasionally punished, but investigations often were abandoned or remained inconclusive.” [1a] (section 1a)

## AVENUES OF COMPLAINT

8.14 The Freedom House *2010 Countries at the Crossroads* report, published 7 April 2010, noted:

“Section 41 of the constitution maintains that citizens have the right to effective remedy by a court of law or tribunal for acts violating their rights and freedoms. Several institutions, most notably the ombudsman and the [Malawi Human Rights Commission] MHRC, are tasked with facilitating citizens' access to justice and ability to seek redress for rights violations committed by state authorities. At a time of political stalemate, the ombudsman has remained one of the strongest and best functioning accountability institutions in Malawi, especially with respect to addressing the rights of civil servants. According to a 2007 report, the Office of the Ombudsman opens on average 500–600 cases a year, though limited resources have contributed to a substantial backlog of cases. The MHRC has been the most active institution in examining abuses by police. In recent years, it has undertaken investigations of alleged abuses of power by the administration and state institutions, issuing reports and statements condemnatory of both. However, its impact has been limited because its mandate only includes

investigatory powers, without the authority to punish officials. Moreover, it lacks a widespread presence throughout the country. Therefore, access to redress generally remains a serious problem in Malawi.” [6b] (civil liberties)

- 8.15 *The National Report submitted by the Malawi government to the United Nations Working Group on the Universal Periodic Review of Malawi*, dated 21 October 2010, stated:

“The Police Act passed in 2009 establishes a new legal framework for the operations of the Malawi Police Service. The Act establishes the Office of an Independent Complaints Commission to investigate complaints of brutality, deaths or misconduct at the hands of the police. It also creates a Lay Visitors Scheme which is a team of local people at every police station mandated to inspect conditions of detention at police stations... In its efforts to fight corruption, the Government has set up the Anti-Corruption Bureau in 1998 which is an independent organ of the state. It has the mandate to investigate and prosecute corruption, abuse of office and other criminal cases related to corruption. There have been several cases where prominent personalities have been prosecuted for corruption.” [21d] (p7, paragraph 39)

- 8.16 *The Stakeholder Summary prepared by the Office of the High Commissioner for Human Rights to the United Nations Working Group on the Universal Periodic Review for Malawi*, dated 10 August 2010, stated that

“CHRR [The Centre for Human Rights and Rehabilitation] expressed concerns at impunity enjoyed by police officers accused of committing these crimes [torture, ill-treatment and excessive force – see paragraph 9.02 above]. It added that, while some officers had faced administrative sanctions, very few, had been brought to justice. CHRR recommended that Malawi develop and adopt measures to prevent, prosecute and punish acts of torture and ill treatment by law enforcement agencies and promptly establish the Police Complaint Commission as provided in the Malawi Police Act.” [21e] (p3, paragraph 15)

Further information about the Ombudsman and the Malawi Human Rights Commission can be found at the Electoral Institute for the Sustainability of Democracy in Africa’s report published in 2009 - <http://www.eisa.org.za/PDF/rr46.pdf>

The Malawi Human Rights Commission also has its own website: <http://www.malawihumanrightscommission.org/>

For more information about legal remedy see [Judiciary](#) and information on the MHRC and Ombudsman see [Human rights institutions, organisations and activists](#)

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## 9. MILITARY SERVICE

- 9.01 *The Coalition to Stop the Use of Child Soldiers Global Report 2008*, covering the period, April 2004 to October 2007, stated:

“There was no conscription, but the National Service Act provided that in case of a public emergency every citizen between the ages of 18 and 60 could be called for national service. In a letter to the Child Soldiers Coalition, the Malawi High Commission



stated that the National Service Act did not exist; other sources stated that the Act remained in force as it had been neither declared unconstitutional nor repealed by an act of parliament. In June 2004 the government reported to the UN Committee on the Elimination of Discrimination against Women that since 1999 the policy of the Ministry of Defence had been to recruit women in the armed forces. By 2004, 130 women had been trained.” [12]

- 9.02 The UN Office of the Special Representative of the Secretary General for Children and Armed Conflict noted in a press release of 21 September 2010, that Malawi signed and ratified the Optional Protocol on Children and Armed Conflict. The protocol aims to ensure that children are not forced to fight in war or are pressed into military service. [43]

See sections on [Children](#) and [Women](#)

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## 10. JUDICIARY

- 10.01 The US State Department *2010 report on Human Rights Practices in Malawi* (USSD 2010 report), published 8 April 2011, stated that: “The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice. However, the judicial system was inefficient and handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and other trained personnel, heavy caseloads, and lack of resources.” [1a] (section 1e)

### ORGANISATION

- 10.02 The Freedom House *Countries at the Crossroads 2010* report, published 7 April 2010, noted that: “The Supreme Court of Appeal represents the apex of Malawi’s court system. Beneath it is the High Court, which stands above lower courts dispersed throughout the country. The president appoints the chief justice on the approval of two-thirds of the National Assembly and other High and Supreme Court justices on the recommendation of the Judicial Service Commission. The latter body includes the chief justice and four other members.” [6b] (rule of law)
- 10.03 Jane’s Sentinel *Country Risk Assessment*, in its section on *Internal Affairs*, last updated 27 July 2011, stated: “Before the introduction of political pluralism, Malawi had a two-tier judicial system, but the traditional courts at area, district and national levels have since been scrapped. The unitary court system now comprises magisterial lower courts, a High Court and a Supreme Court in Blantyre acting as the ultimate court of appeal. Malawi has not accepted compulsory International Court of Justice jurisdiction.” [11f] (Judiciary)

### INDEPENDENCE

- 10.04 The Freedom House *Freedom in the World 2011* report, published 2011, observed that:
- “During Mutharika’s first term, the generally independent judiciary became involved in political disputes and faced government hostility. There were no recorded instances of harassment of judges for political reasons in 2010, and the courts rendered several significant decisions against the government, including a supreme court decision that reversed government efforts to change rules for selecting the leader of the opposition in

parliament, and a high court decision that halted the government from banning a newspaper. However, due process is not always respected by the overburdened court system, which lacks resources, personnel, and training.” [6a]

- 10.05 The United States State Department *2010 report on Human Rights Practices* (USSD 2010 report), *Malawi*, published 8 April 2011, noted:

“There is an independent and impartial judiciary in civil matters, and citizens have access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. The law provides for administrative and judicial remedies for alleged wrongs; however, a lack of resources and legal professionals restricted the number of cases pursued and resulted in a large backlog. During the year the MHRC received 83 complaints of limited access to justice and 20 complaints of unfair administrative procedures.” [1a] (section 1e)

- 10.06 In early 2010 lecturers at Chancellor College, a constituent college of the University of Malawi, had begun a boycott despite an order by President Bingu wa Mutharika to return to the classroom. The lecturers had said their academic freedom was infringed when Inspector General of Police Peter Mukhito summoned an associate political science professor for a lecture which drew parallels between Malawi's current fuel crisis and the uprisings that toppled governments in Tunisia and Egypt. The lecturers went to court to challenge the constitutionality of Mutharika's order for them to return to the classroom. [29b]

- 10.07 In this connection, in an article of 14 June 2011 in the Times Group, *Judiciary unmoved by Bingu's remarks*, it was stated:

“The Judiciary has rejected President Bingu wa Mutharika's accusations that it has been granting unnecessary injunctions to lecturers of the University of Malawi. In a national address on June 5, Mutharika accused the courts of running the university through granting injunctions most of which overruled decisions made by the university's council. 'I am greatly concerned that we are setting a difficult precedence whereby the management of universities in our country is done through injunctions. Therefore, I appeal to the Judiciary not to run universities and institutions of higher learning from their court chambers through injunctions,' Mutharika said... In an earlier statement, the Malawi Law Society had condemned the president's remarks which it said undermined the independence of the Judiciary. 'We find the president's remarks very unfortunate because they are capable of undermining the independence of the Judiciary and it is unfortunate for the president of a country to be saying the Judiciary is running the university through its chambers. It is not the Judiciary that moves on its own to grant the orders government is complaining about. So those remarks are out of context and inappropriate from the head of the executive branch of the government against the Judiciary which ought to be independent,' said John Gift Mwakhwawa, president of MLS. Meanwhile, the government is proposing a Bill in Parliament which, if enacted, would bar the courts from granting injunctions against it.” [69]

## FAIR TRIAL

- 10.08 The Freedom House *2010 Countries at the Crossroads report*, published 7 April 2010, noted:

“By law, those accused of crimes have the right to a public trial and are assumed innocent until proven guilty. The law further specifies that defendants have the right to present and challenge evidence and witnesses, the right to appeal, and the right to be represented by an attorney of their choice. If indigent, they are entitled to counsel at the state's expense. The court system, however, faces severe capacity problems that lead to effective denial of timely trials for the accused.” [6b] (rule of law)

- 10.09 The Stakeholder Summary prepared by the Office of the High Commissioner for Human Rights to the United Nations Working Group on the *Universal Periodic Review* for Malawi, dated 10 August 2010, stated that: “... inadequate access to quality legal assistance is a chronic and pervasive problem for criminal defendants notably due to a lack of lawyers and the overuse and frequent arbitrariness of pretrial detention. Pretrial detainees comprised almost a quarter (22 percent) of the prison population in Malawi in March 2010.” [21e] (p5, paragraph 23)

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## 11. ARREST AND DETENTION – LEGAL RIGHTS

- 11.01 The United States State Department *2010 report on Human Rights Practices* (USSD 2010 report), *Malawi*, published 8 April 2011, noted:

“The law provides the accused the right to challenge the legality of detention, to have access to legal counsel, and to be released on bail or informed of charges by a court within 48 hours; however, these rights were often ignored in practice. Most suspects were apprehended without a warrant if police had probable cause. While arrest warrants were normally issued by a duly authorized official based on presented evidence in cases involving corruption or white-collar crime, poorer citizens were often arrested without warrants. The use of temporary remand warrants to circumvent the 48-hour rule was widespread. Police frequently demanded bribes to authorize police bail, which was frequently granted to reduce prison overcrowding rather than on the merits of the case (see section 4). The government provided legal services to indigent detainees; however, access was often delayed, since there were only 15 lawyers and seven paralegals working as public defenders in the country. Relatives were regularly denied access to detainees. The government arbitrarily arrested persons, sometimes using colonial-era antiseditious and treason laws to stifle criticism.” [1a] (section 1d)

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## 12. PRISON CONDITIONS

- 12.01 Amnesty International in its *State of the World's Human Rights 2011 report*, published 13 May 2011, noted:

“Prisons were overcrowded: the prison system, with a capacity of 6,000, was holding around 13,000 prisoners. Prison congestion was exacerbated by prolonged pre-trial detention, with pre-trial detainees forming up to 20 per cent of the prison population. Overcrowding, poor nutrition, poor sanitation and inadequate health facilities contributed to the spread of infections including tuberculosis and measles. Many prisoners relied on families and charities for supplementary food.

“In Chichiri prison in June, prisoners were locked in overcrowded communal cells with poor ventilation and had to sleep sitting up. Up to 200 prisoners shared one toilet. One inmate, Alex Mkula, had been held for nine years without trial: he was later released on bail. The female section of Chichiri prison was similarly congested. Eight of the 55 female prisoners were mothers with babies.

“In its Universal Periodic Review, Malawi stated it had ended mandatory pre-trial detention to prevent prison overcrowding.” [4a]

12.02 The US State Department *2010 Report on Human Rights Practices in Malawi* (USSD 2010 report), published 8 April 2011, stated that:

“Prison conditions remained harsh and potentially life threatening. Overcrowding, inadequate nutrition, substandard sanitation, poor health facilities, and inadequate infrastructure remained serious problems. Prisons and detention centers, while generally well ventilated, had no provisions for temperature control other than wood fires. Basic emergency medical care was generally available during daytime, but unavailable after regular working hours. Referrals were made to district medical clinics for more involved cases. Potable water was available.

“The prison system's 30 facilities, built to accommodate approximately 5,500 inmates, routinely held at least double that number. According to Chief Prison Commissioner MacDonald Chaona, there were 11,672 inmates in the prison system at year's end. Prison staffing remained inadequate despite efforts to recruit more staff. Daily prison rations were meager. Family members were allowed to bring other food items and inmates were encouraged to grow vegetables and raise livestock; however, malnutrition in the prison population remained a problem.” [1a] (section 1c)

12.03 The same USSD 2010 Report added:

“While the exact number was not known, numerous inmates died in prison each month, largely due to HIV/AIDS, diarrhea, pneumonia, tuberculosis, and inadequate diet. The 156 female prisoners were segregated within 16 prison compounds and monitored by female guards. Pretrial detainees often were not held separately from convicted prisoners. At year's end, according to the Malawi Prison Service, there were 490 children in prison, either serving sentence or awaiting trial.

“Prisoners were allowed to have visitors, to observe their individual religions, and to submit complaints to prison authorities. Community service programs were available as alternatives to prison terms for first-time offenders with permanent addresses who were convicted of less serious crimes. During the year the government permitted domestic and international NGOs, such as Amnesty International, and the media to visit and monitor prison conditions and to donate basic supplies. The International Committee of the Red Cross (ICRC) did not visit any prisons during the year. During the year the government doubled the budget allocation for the Malawi Prison Service from 558.7 million Malawi kwacha (MWK) to 1.2 billion MWK (\$3.7 million to \$7.9 million). However, the bulk of the increase is slated for the construction of a new prison in Lilongwe, rather than improving current conditions.” [1a] (section 1c)

12.04 The Stakeholder Summary prepared by the Office of the High Commissioner for Human Rights to the United Nations Working Group on the *Universal Periodic Review* for Malawi, dated 10 August 2010, stated:

“CHRR [The Centre for Human Rights and Rehabilitation] expressed concern at the living conditions in prisons which remained poor despite the perennial calls by the Inspectorate of Prisons requesting the government to take immediate action. Joint submission 2 (JS2) indicated that the country’s largest prison, Zomba Central Prison, had an official capacity of 800 prisoners but was holding almost 2,300 inmates in April 2010. CHRR indicated that the Prisons Authorities explained that this situation was the result of an increase in the number of inmates due to rising crime rates and delays in prosecuting criminal cases in courts, lack of human and financial capacity, shortage of prisons and deteriorating infrastructure and equipment. CHRR added that the Prisons Bill and Legal Aid Bill could lead to the improvement of these conditions if passed by the National Assembly.” [21e] (p3, paragraph 17)

- 12.05 In the same source document another stakeholder, World Vision International, observed that: “... the positive shift in focus of the reformatory institutions from punishment to reform and rehabilitation was undermined by sporadic funding, inadequately trained staff, and insufficient training materials.” [21e] (p4, paragraph 22)
- 12.06 The current International Centre of Prison Studies *Prison Brief for Malawi*, last modified on 17 June 2011, is reproduced below:

Country	<b>MALAWI</b>
Ministry responsible	<b>Ministry of Home Affairs and Internal Security</b>
Prison administration	<b>Malawi Prison Service</b>
Contact address	<b>National Prison Headquarters, PO Box 28, Zomba, Malawi</b>
Telephone/fax/website	tel: <b>+265 (1) 770 141 or 524 722 or 525 755</b> fax: <b>+265 (1) 523 122 or 523 123 or 525 123</b> Web: <a href="http://www.mps.gov.mw">www.mps.gov.mw</a>
Head of prison administration (and title)	<b>MacDonald L. Chaona</b> Chief Commissioner of Prisons
Prison population total (including pre-trial detainees / remand prisoners)	<b>11,672</b> at 31.12.2010 (U.S. State Department human rights report)
Prison population rate (per 100,000 of national population)	<b>73</b> based on an estimated national population of 15.91 million at end of 2010 (from United Nations figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	<b>18.5%</b> (20.10.2009)
Female prisoners (percentage of prison population)	<b>1.3%</b> (31.12.2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	<b>4.2%</b> (31.12.2010 - under 18)

Foreign prisoners (percentage of prison population)	<b>1.0%</b> (20.10.2009)		
Number of establishments / institutions	<b>30</b> (2010)		
Official capacity of prison system	<b>6,070</b> (20.10.2009)		
Occupancy level (based on official capacity)	<b>197.6%</b> (20.10.2009)		
Recent prison population trend (year, prison population total, prison population rate)	1993	<b>4,685</b>	<b>(47)</b>
	1996	<b>4,886</b>	<b>(46)</b>
	1998	<b>6,505</b>	<b>(58)</b>
	2001	<b>7,920</b>	<b>(64)</b>
	2004	<b>9,220</b>	<b>(69)</b>
	2007	<b>10,830</b>	<b>(74)</b>

[47]

See sections on [Women](#) and [Children](#)

12.07 An article in the *Nyasa Times* of 11 May 2011, *Bingu ignores Macholowe, ill prisoners on pardon*, stated:

“Malawi’s President Bingu wa Mutharika, who almost every cerebation (sic) orders a release of inmates from the country’s congested and disease-infested prisons since ascending to power, has been disregarding medical doctors’ appeals and advice to pardon scores of terminally ill prisoners, *Nyasa Times* can reveal. But Mutharika, using powers vested in him, has pardoned thousands of prisoners only on ‘good behaviour’ basis leaving those with medical conditions to die despite doctors recommendations to release them raising fears that government is grossly denying inmates’ right to life and access to medical treatment. ‘President Mutharika by ignoring doctors recommendation is as good as signing ‘death warrants’,’ said a senior prison official from Chichiri Prison in Blantyre, speaking on anonymity for fear of reprisals.” [16b]

12.08 The same article continued:

“*Nyasa Times* investigations indicate that a team of government medical doctors and prison medical personnel has on several occasions asked for the President’s discretion to release a group of seriously ill prisoners but such pleas have been ignored and that has resulted in more death in prison due to lack of medical care and facilities. Last week President Mutharika ordered a release of 237 prisoners as part of this year’s Easter Celebrations but none of them are with terminal ailments or medical conditions. The Ministry of Internal Affairs and Public Security in a statement said Mutharika had pardoned ‘prisoners who had served half of their sentences and those with good behaviour and were not convicted of serious offences.’ The president normally grants pardons around public celebrations like Easter, Christmas and Independence Day... Malawi prisons are ‘death traps’ for inmates plagued by overcrowding, malnutrition and proliferating diseases. The conditions are largely poor; in some cases these amount to

deliberate cruel, inhuman or degrading treatment, according to various human rights reports.” [16b]

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### 13. DEATH PENALTY

- 13.01 The Death Penalty Project *Malawi Country Profile*, undated but accessed 28 June 2011, stated:

“Whilst Malawi retains the death penalty for murder, rape, treason, armed robbery and burglary with aggravated circumstances *de jure*, Malawi has not carried out an execution since 1992, and is therefore believed to have a policy or established practice of *de facto* abolition. In, 2009, no reported death sentences were handed down. Malawi abstained from voting in both the 2007 and 2008 UN General Assembly Resolutions on the adoption of a moratorium on the use of the death penalty. Although Malawi has been a party to the International Convention on Civil and Political Rights (ICCPR) since 1993, it has neither signed nor ratified the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty (1989).” [13]

- 13.02 Amnesty International, in its *Death Sentences and Executions 2010*, published 28 March 2011, noted that there were two reported death sentences in the country in 2010. The same report noted that: “Malawi was reviewed under the Universal Periodic Review on 1 November 2010. Recommendations to establish an official moratorium on executions and to abolish the death penalty did not enjoy the support of Malawi.” [4c]

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### 14. POLITICAL AFFILIATION

This section should be read in conjunction with [Freedom of speech and media](#), and [Human rights institutions, organisations and activists](#)

#### FREEDOM OF POLITICAL EXPRESSION

- 14.01 The US State Department *2010 report on Human Rights Practices 2010, Malawi*, (USSD 2010 report) published 8 April 2011, stated that: “The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice periodically through largely free and fair elections based on universal suffrage.” [1a] (section 3)

#### FREEDOM OF ASSOCIATION AND ASSEMBLY

- 14.02 The Freedom House *Freedom in the World 2011* report, published 12 May 2011, stated:

“While the government has generally upheld freedoms of assembly and association, these rights have come under pressure in recent years. In August 2010, three members of the clergy were charged with treason for criticizing the government during a funeral; their trial remained ongoing at year's end. Leaders of a nongovernmental organization (NGO) were arrested in February for inciting violence after they criticized the distribution

of government development funds. Many NGOs and the constitutionally-mandated Malawi Human Rights Commission operate, though with some government interference. The right to organize labor unions and to strike is legally protected, with notice and mediation requirements for workers in essential services. Unions are active, and collective bargaining is practiced, but workers face harassment and occasional violence during strikes. Since only a small percentage of the workforce is formally employed, union membership is low.” [6a] (Political Rights and Civil Liberties)

- 14.03 The USSD 2010 noted that: “The constitution and law provide for freedom of association, and the government generally respected this right. The government required all organizations, including political parties, to register with the Ministry of Justice. Registrations for new political parties were routinely delayed.” [1a] (section 2b)

See also [Recent Events](#) for information about the [July riots](#).

## OPPOSITION GROUPS AND POLITICAL ACTIVISTS

- 14.04 The Freedom House *Freedom in the World 2011 report*, published 12 May 2011, stated:

“The main political parties are the ruling DPP [Democratic Progressive Party], the opposition MCP [Malawi Congress Party] and the UDF[United Democratic Front]. The opposition was able to organize and campaign freely during the 2009 elections. In 2010, the efficacy of these parties was undermined by infighting, largely over leadership issues. While President Bingu wa Mutharika has pledged to fight corruption, opposition and civil society groups have charged that the effort has been directed primarily at Mutharika's political opponents. The new National Anti-Corruption Strategy launched in 2009 includes a plan to establish ‘integrity committees’ in public institutions. However, a February 2010 report by Global Integrity indicated that the Anti-Corruption Bureau has largely focused on low-level civil servants while avoiding high-ranking officials under political pressure. After years of investigation and two prior arrests, former president Bakili Muluzi was arrested in 2009 and charged with 86 counts related to his alleged theft of public resources during his time in office. His trial remained ongoing at the end of 2010. Other figures investigated or questioned during the year included former cabinet ministers (who lost positions in a cabinet shuffle in August 2010) and the highly regarded former ombudsman. In January, Malawi's former postmaster general was convicted on corruption charges.” [6a] (Political Rights and Civil Liberties)

- 14.05 The Stakeholder Summary prepared by the Office of the High Commissioner for Human Rights to the United Nations Working Group on the *Universal Periodic Review* for Malawi, dated 10 August 2010, stated that “CHRR [The Centre for Human Rights and Rehabilitation] expressed concern about the increasing restrictions on the rights to freedom of expression, association and assembly in an attempt to stifle voices critical of the Head of State and the government. Over the past three years, this led to the arrest, ill-treatment and harassment of supporters of the opposition and human rights defenders.” [21e] (p6, paragraph 33)

See section on [Corruption](#)

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## 15. FREEDOM OF SPEECH AND MEDIA

- 32 The main text of this COI Report contains the most up to date publicly available information as at 31 July 2011. Further brief information on recent events and reports has been provided in the Latest News section to 25 August 2011.



This section should be read in conjunction with [Political affiliation](#) and [Human rights institutions, organisations and activists](#).

- 15.01 The Freedom House *2010 Freedom of the Press report*, published 30 September 2010, noted that:

“Freedoms of speech and the press are constitutionally guaranteed but sometimes restricted in practice. The government has occasionally used libel and other laws to put pressure on journalists... The government does not exercise overt censorship, but more subtle threats to freedom of expression often result in self-censorship, especially in government-controlled media... There are no government restrictions on the internet, although only around 4.6 percent of the population is able to access the medium.” [6c]

- 15.02 The Freedom House *Freedom in the World 2011 report*, published 12 May 2011, stated:

“Despite occasional restrictions, Malawi's dozen or so newspapers present a diversity of opinion. There are approximately 20 radio stations and 2 television stations in the country. However, the government-controlled Malawi Broadcasting Corporation and TV Malawi—the historically dominant outlets in the country—display a significant bias in favor of the government. In the lead-up to the 2009 elections, broadcasts from these outlets took a strongly pro-government position, garnering criticism from election observers. Independent broadcast outlets are playing an increasingly important role, though broadcast and print media have been the target of government harassment. In January 2010, the government placed a ban on advertising at the largest independent daily in response to unflattering articles about the president's family; the ban continued through year's end. In June, the government directed private media to stop providing live coverage of certain VIP functions. In August, Mutharika threatened to close down newspapers that had reported on potential food insecurity in the country, an act which led to instances of media self-censorship. Meanwhile, the courts halted a government attempt to ban a weekly publication in November.” [6a] (Political Rights and Civil Liberties)

- 15.03 The Committee to Protect Journalists in a report of 1 February 2011, *Malawi amendment bans news 'not in public interest'*, observed:

“An amendment to Malawi's penal code, which became law last week, allows the government to ban any publication deemed contrary to public interest for an unspecified period of time, institutionalizing political censorship of the press. ... On January 26 [2011], President Bingu wa Mutharika signed into law an amendment to Section 46 of the penal code that gives the information minister unchecked discretion to block a publication he or she deems against the ‘public interest’, according to news reports and the Media Institute of Southern Africa (MISA). Previously, Section 46 only prohibited importation of publications considered seditious.” [51]

- 15.04 The Amnesty International *State of the World's Human Rights 2011* report, covering events in 2010, published 13 May 2011, noted that: “In February the Journalists Union of Malawi expressed concern about a government directive advising officials that they should not advertise in newspapers published by Nation Publications Limited, including *The Nation*, *Weekend Nation* and *Nation on Sunday*, after they had published articles considered critical of the government.” [4a]

- 15.05 An article in *Malawi Voice* of 5 May 2011, *Malawi Performing Fairly on Press Freedom Globally*, reported that: “Malawi is said to be performing fairly on global scale, in as far as promotion of press freedom is concerned. This is according to a report on Capital Radio filed by its reporter... who is attending World Press Freedom Day in Washington DC, United States of America. This however contradicts many local commentators who have been accusing authorities of muzzling the press following the enactment of Section 46 of the Penal Code.” [52]
- 15.06 The Office of the United Nations High Commissioner for Human Rights (OHCHR) *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: Summary of cases transmitted to Governments and replies received* (Malawi excerpt), dated 27 May 2011, noted that “The Special Rapporteur would also like to express his concern regarding reports of an increasing climate of intolerance of critical views and expression, particularly those that are critical of the Government.” [21f]

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## 16. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

This section should be read in conjunction with [Political affiliation](#) and [Freedom of speech and media](#)

- 16.01 A website about United Nations Human Rights Treaties listed those Malawi had signed up to/ratified as of 25 July 2011 <http://www.bayefsky.com/docs.php/area/ratif/state/104> Malawi has ratified the major treaties:- the Convention on the Elimination of all forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the Convention on the Elimination of all forms of Discrimination Against Women; the Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Rights of the Child.
- 16.02 The United States State Department *2010 report on Human Rights Practices, Malawi* (USSD 2010 report), published 8 April 2011, stated:
- “A variety of domestic and international human rights groups generally operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The MHRC [Malawi Human Rights Commission], an independent government agency, is charged with monitoring, auditing, promoting, and investigating violations of human rights. Continued resource shortfalls resulted in a backlog of cases, delayed production of reports, and hindered human rights monitoring. The MHRC reported that it received 460 complaints of human rights violations during the year. UN agencies and international NGOs had offices in the country and had access to investigate human rights abuses. The ICRC delegation for southern Africa based in Harare, Zimbabwe, also covered the country.” [1a] (section 5)
- 16.03 The Freedom House *Countries at the Crossroads 2010* report, published 7 April 2010, noted:
- “NGOs are required to register with the government. The 2002 Non-Governmental Organization Act established a 10-member NGO board to register and regulate NGO
- 34 The main text of this COI Report contains the most up to date publicly available information as at 31 July 2011. Further brief information on recent events and reports has been provided in the Latest News section to 25 August 2011.

activities. The board is appointed by the government in consultation with the autonomous Council for Non-Governmental Organizations in Malawi. To register as an NGO, an organization must have at least two Malawian citizens serving as directors or trustees, provide a plan of activities and sources of funding, and pledge not to engage in partisan politics. ... Thus far, this body has not been used to control or restrict NGO activities. However, the registration fee, at approximately US\$300 in 2007, can be potentially prohibitive, as can the cost of complying with government reporting regulations. Donors and funders of NGOs and other civic organizations have remained free from state interference.” [6b] (accountability and public voice)

16.04 The same USSD 2010 report continued:

“The Office of the Ombudsman is mandated to investigate and take legal action against government officials responsible for human rights violations and other abuses. Between August 2009 and October 2010, when the ombudsman position was unoccupied, the office continued investigations of existing cases, but no new investigations were authorized. The office continued to lack adequate resources and had difficulty retaining staff. As a result, the office had only six staff members to handle the investigations process for the country. Some recommendations from the ombudsman were referred to parliament after they were ignored or challenged by government departments and agencies.” [1a] (section 5)

16.05 A joint programme of The World Organisation Against Torture and International Federation of Human Rights, known as the Observatory for the Protection of Human Rights Defenders noted in an appeal of 4 May 2011, *Malawi: Death threats against Mr. Benedicto Kondowe*:

“The Observatory has been informed by reliable sources about the death threats against Mr. Benedicto Kondowe, Executive Director of the Civil Society Coalition on Quality Basic Education (CSCQBE) - a network of 78 local and international non-governmental organisations advocating for the right to education in Malawi... The Observatory expresses its deepest concern regarding the death threats against Mr. Benedicto Kondowe, as they seem to merely aim at hindering his human rights activities. The Observatory recalls that the work of human rights organisations is highly stigmatised in Malawi and that human rights defenders face reprisals from the authorities for their legitimate and peaceful activities.” [53]

16.06 The National Report submitted to the United Nations Working Group on the *Universal Periodic Review* (UPR Report 2010) of Malawi, dated 21 October 2010, stated:

“The Human Rights Commission is an independent body established under section 129 of the Constitution, mandated to investigate and make recommendations reasonably necessary for the effective promotion of human rights. The Commission has the power to study legislation, judicial decisions, administrative provisions, Bills and administrative proposals, to ensure that they are in conformity with fundamental principles of human rights. In exercising this mandate, the Commission receives complaints and conducts investigations and hearings in cases of human rights abuses.” [21d]

16.07 The same UPR Report 2010 stated:

“The Office of the Ombudsman is established under section 120 of the Constitution. It is independent of the interference or direction of any person and is answerable to

Parliament. It has the powers to investigate any case where it is alleged that a person suffered injustice and it does not appear that there is any remedy available by way of proceedings in court, by way of appeal from a court or where there is no other practicable remedy. The powers of the Ombudsman do not oust the jurisdiction of the court and his decisions are subject to review by the High court. For the first time in the history of the country, a female Ombudsman has just been appointed into Office.” [21d]

- 16.08 The Electoral Institute for the Sustainability of Democracy in Africa’s report, *Promoting the effectiveness of democracy protection institutions in Southern Africa: The Malawi Human Rights Commission and the Office of the Ombudsman*, published in 2009, noted that:

“... the Office of the Ombudsman is established to protect the people against violations of human rights, the abuse of power by public institutions, error, negligence, unfair decisions and maladministration, in order to improve public administration with a view to making governments responsive to people’s needs and public servants more accountable to members of the public. This office has emerged as an important avenue for individual complaints against the actions of public authorities.” [10b] (ix)

Further information about the Ombudsman can be found at the Electoral Institute for the Sustainability of Democracy in Africa’s report - <http://www.eisa.org.za/PDF/rr46.pdf>

The following weblinks provide additional information about NGOs and development/international organisations working in Malawi:

<http://www.devdir.org/files/Malawi.PDF>

<http://www.wango.org/resources.aspx?section=ngodir&sub=list&newsearch=1&regionID=14&col=ABC875>

<http://www.sdn.org.mw/ngo/ngo-mw-list.html>

<http://www.un.org/africa/osaa/ngodirectory/index.htm>

The Malawi Human Rights Commission published the following Directory of Human Rights Institutions in Malawi (August 2005) that list a wide range of NGO organisations. While the directory was published some time ago, it is still listed on the commission’s website. Link to directory here:

[http://www.malawihumanrightscommission.org/docs/malawi\\_hr\\_directory.pdf](http://www.malawihumanrightscommission.org/docs/malawi_hr_directory.pdf)

See sections on [Security Forces](#) and [Avenues of Complaint](#)

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## 17. CORRUPTION

- 17.01 The US State Department 2010 report on *Human Rights Practices 2010* (USSD 2010 report), *Malawi*, published 8 April 2011, stated:

“The law provides criminal penalties for official corruption, and the government had some success prosecuting cases; however, officials frequently engaged in corrupt

practices with impunity. The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a serious problem. President Mutharika spoke publicly against corruption and cautioned government officials to refrain from questionable activities. Efforts to combat corruption and promote transparency continued. Police corruption continued to be a problem. On February 10, police subinspector Charles Ngoleka, officer-in-charge of the Mkanda Police Unit in Mchinji, was arrested for allegedly soliciting and receiving a bribe to release an individual on police bail. The case was pending at year's end. Casper Chalera, the head of the Malawi Police Service Fiscal and Fraud Section, who was charged for failing to account for 589,436 MWK (\$4,040) in September 2009, was acquitted by the Blantyre Magistrate Court on March 31." [1a] (section 4)

17.02 The same USSD 2010 report continued:

"The Malawi Anti-Corruption Bureau (ACB) investigated, indicted, and prosecuted low-level corruption cases during the year; however, critics charged that the bureau generally avoided indictments of high-level government officials. The ACB was considered generally competent in its handling of low-level cases. Indictments of former high-level government officials proceeded slowly, often due to legal challenges filed in court by the accused. Surveys indicated that while a majority of citizens had been exposed to government anticorruption messages, only 15 percent knew how to report corruption to the ACB. The ACB reported that it completed 634 investigations during the year, which resulted in 152 referrals to prosecutors. A total of 25 corruption cases were prosecuted during the year, resulting in 10 convictions, 12 acquittals, and three withdrawals." [1a] (section 4)

17.03 The Freedom House *Countries at the Crossroads 2010* report, published 7 April 2010, stated:

"Corruption has been and remains a serious problem in Malawi. According to one estimate, corruption and related inefficiencies drained an annual 30 percent of government revenue during Muluzi's administration from 1994 to 2004. Social norms are generally accepting of petty corruption, while weak oversight of the bureaucracy and executive branch enable some officials to engage in larger-scale graft. President Mutharika has acknowledged that corruption is widespread in all three branches of government. Despite improvements relative to the previous administration, mechanisms to combat corruption remain weak." [6b] (Anticorruption and transparency)

17.04 The same Freedom House report continued:

"The state remains substantially involved in the economy, with parastatal corporations engaged in sectors such as energy, agriculture, finance, media, and transportation. Several such enterprises have been implicated in corruption-related allegations in recent years. By law, government officials and appointees to senior positions in the public sector are required to declare their assets and disclose financial interests. However, enabling legislation to effectively enforce these rules has yet to be enacted... The opposition has charged that corruption-related investigations and prosecution efforts have been selective and used to intimidate and harass Mutharika's opponents... Both the incidence of corruption in society and allegations against officials are widely discussed in the media. The print media, in particular, has helped promote awareness of the problem and exposed corruption scandals, in several cases leading to investigations and prosecutions." [6b] (Anticorruption and transparency)

- 17.05 The Amnesty International *State of the World's Human Rights 2011* report, covering events in 2010, published 13 May 2011, noted that: "The long-running trial of Malawi's former President Bakili Muluzi continued at the High Court in Blantyre but was delayed by his health problems. He was arrested in 2005 on corruption charges, but alleged the charges were politically motivated." [4a]
- 17.06 The 2010 Transparency International *Corruption Perception Index (CPI)*, published in October 2010, ranked Malawi in 85<sup>th</sup> place with a score of 3.4 out of 10 points. An index score of zero indicates high levels of corruption and 10 reflects low levels. The index ranks the 180 participating countries according to the degree to which corruption is perceived to exist among public officials and politicians. The CPI draws on 13 different polls and surveys from 10 independent institutions, and includes surveys of business people and country analysts from organizations like the World Bank, the Economist Intelligence Unit and Freedom House. [54]

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## 18. FREEDOM OF RELIGION

- 18.01 The US State Department's (USSD IRF report) *International Religious Freedom Report 2010* (covering the period from 1 July 2009 to 30 June 2010), published 17 November 2010, stated:

"The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion. The government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the government during the reporting period. There were no documented cases of societal abuses or discrimination based on religious affiliation, belief, or practice; however, there were anecdotal complaints from religious minorities regarding limited employment and educational opportunities." [1c]

- 18.02 The same USSD *International Religious Freedom Report* noted in terms of religious demography that: "Eighty percent of the population is Christian. Among the Christian groups, the largest are the Roman Catholic Church and the Church of Central Africa Presbyterian (CCAP), with smaller numbers of Anglicans, Baptists, evangelicals, and Seventh-day Adventists. Muslims constitute approximately 13 percent of the population and the vast majority of Muslims are Sunni. There are also Hindus and Baha'is, as well as small numbers of Rastafarians and Jews." [1c]

- 18.03 The same USSD IRF report continued:

"Religious groups must register with the government by submitting documentation to the Ministry of Justice detailing the structure and mission of their organization along with a nominal fee. Once approved, a religious group registers formally with the Registrar General's Office. During the reporting period, there were no reports that the government refused to register any religious groups.

"Foreign missionaries are required to have employment permits. Missionaries and charitable workers pay lower fees for employment permits than do other professionals.

"Public schools offer religious education. Christian-oriented "Bible Knowledge" courses and 'Moral and Religious Education' courses (that include Muslim, Hindu, Baha'i, and

Christian material) are available for schools. The Ministry of Education requires all schools to observe the right of students or their parents to choose their religious instruction; however, individual parent-teacher associations or school committees decide which religion courses to offer. Although the courses are voluntary, some Muslims continued to request that the Ministry of Education discontinue use of the 'Bible Knowledge' course and use only the broader-based 'Moral and Religious Education' course in primary schools." [1c]

18.04 The same USSD IRF report added:

"There was no change in the status of respect for religious freedom by the government during the reporting period. Rastafarian leaders continued to complain of an unofficial ban on long hair in some public schools. Although there is no law relating to hair length, some schools prohibit long hair as part of their dress code. Some Zionist (African Independent) Church members complained that government policies forcing them to seek medical care for their children are an infringement of their right to practice their religion freely. This was highlighted when an outbreak of measles led to compulsory immunization for minors in some parts of the country." [1c]

18.05 The same USSD IRF report noted that:

"There were no reports of religious prisoners or detainees in the country. There were no reports of forced religious conversion. There were no documented cases of societal abuses or discrimination based on religious affiliation, belief, or practice; however, there were anecdotal complaints from religious minorities regarding limited employment and educational opportunities. Christians, Muslims, and Hindus often participated in business or civil society organizations together." [1c]

18.06 The Association of Religious Data Archives (ARDA) published an undated profile (accessed 4 July 2011) of Malawi wherein indexes on such issues as government regulation of religion, government favouritism of religion, social regulation of religion and religious persecution were marked from zero to 10. The most recent profile gave Malawi low scores on each of these issues. A zero equates to no religious regulation, favouritism or persecution in the country. [49]

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## 19. ETHNIC GROUPS

19.01 The Africa Guide to Malawi, undated, accessed 4 July 2011, stated that:

"The Malawi people are of Bantu origin with the ethnic groups including Chewa, Nyanja, Yao, Tumbuka, Lomwe, Sena, Tonga, Ngoni, Ngonde, Asian and European. The Chichewa (Chewa) people forming the largest part of population group and are largely in the central and southern parts of the country. The Yao people are predominately found around the southern area of Lake Malawi. Tumbuka are found mainly in the north of the country. There are very small populations of Asian and European people living mainly in the cities." [17]

19.02 Jane's Sentinel *Country Risk Assessment*, section on Demography, last updated 15 December 2009, observed: "There are between 20,000 and 40,000 Europeans (largely of British descent but also Portuguese, Greek and Afrikaner) and South Asians (mostly

of Kachchi and Gujarati descent) in Malawi. Many Muslim Asians are involved in the retail trade. In a recent announcement, the Malawian government endorsed plans to repeal a 26-year-old law prohibiting Asians from running rural businesses.” [11e]

- 19.03 The government’s *National Report submitted to the Working Group on the Universal Periodic Review*, 21 October 2010, stated:

“The Constitution in section 26 provides that every person has the right to use language and to participate in the cultural choice of his or her choice. Malawi is a country with rich and diverse culture and values which makes each tribe distinct from the others. Although there are several tribes, these coexist in harmony and the country has not experienced tribal wars so far which is an indication of the citizen’s respect for the rights to culture of others Government realizes that culture has a significant bearing on development of the country. The Constitution, in Section 26, provides that every person has the right to use the language and to participate in the cultural life of his choice. The country promotes the enjoyment of culture by its citizens. This is witnessed by the formation of numerous associations that promote their Heritage and there are several cultural and traditional dance troupes.”[21d]

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## 20. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

### LEGAL RIGHTS

In considering the situation of lesbian and bisexual women, users are advised to also read the section on [Women](#) to gain an understanding of the position of women in Malawian society

- 20.01 The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) report, *State sponsored Homophobia: A world survey of laws prohibiting same sex activity among consenting adults*, published May 2011, noted that in Malawi male with male sexual intercourse was illegal and that female with female sexual intercourse became illegal in early 2011). The same ILGA survey quoted from the country’s penal code:

“Penal Code Cap. 7:01 Laws of Malawi

Section 153 ‘Unnatural offences’

Anyone who –

(a)has carnal knowledge of any person against the order of nature; or” (b)has carnal knowledge of any animal; or

(c)permits a male person to have carnal knowledge of him or her against the order of nature.

Shall be guilty of a felony and shall be liable to imprisonment for fourteen years, with or without corporal punishment.”

Section 156 ‘Indecent practices between males’



‘Any male who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony and shall be liable to imprisonment for five years, with or without corporal punishment.’

“In December 2010, the Parliament passed a bill amending the Penal Code of Malawi. In late January 2011, President Bingu Wa Mutharika assented to the bill, thus completing its enactment into law. The new Section 137A, captioned ‘Indecent practices between females,’ provides that any female person who, whether in public or private, commits ‘any act of gross indecency with another female’ shall be guilty of an offence and liable to a prison term of five years.” [19a]

20.02 A Human Rights Watch report of 12 January 2010, *Malawi: Drop Charges Against Same-Sex Couple*, noted that: “Malawi's law criminalizing consensual homosexual conduct is a legacy of the country's colonial past... British colonial rulers imposed laws regulating sexual and social conduct in dozens of countries in Africa, Asia and the Pacific. These laws are now often defended by Asian and African governments in the name of native culture and tradition.” [20]

20.03 However, while male on male sexual activity was proscribed in law, the human rights activist, Peter Tachell, quoted in the Voice of America, dated 7 January 2010, noted that the Malawian constitution “... guarantees equal treatment and non-discrimination to all citizens.” He also stated that the recent events surrounding the prosecution of the Steven Monjeza and Tiwonge Chimbalanga violated “... the African Charter on human and people’s rights, which Malawi has signed and pledged to uphold.” [29b]

20.04 The Stakeholder Summary prepared by the Office of the High Commissioner for Human Rights to the United Nations Working Group on the *Universal Periodic Review* for Malawi, dated 10 August 2010, stated:

“CDP [The Centre for the Development of People] underlined that provisions of the Criminal Code criminalizing same-sex activities violated the Constitution, which guaranteed the right to liberty, dignity, and security, prohibited discrimination on all grounds and protected the right to privacy, as well as provision of the African Charter on Human Rights and People’s Rights. JS3 [Joint Submission 3] added that ‘sex against the order of nature’, as enshrined in section 153 of the Penal Code, was interpreted to cover homosexual activity and some heterosexual activities. JS3 recommended that Malawi repeal provisions of the penal code which criminalize same sex relationships / homosexuality. CHRR [The Centre for Human Rights and Rehabilitation] also recommended that Malawi review its legislation, which results in the discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity and immediately and unconditionally release all prisoners who are held solely on these grounds.” [2a]

20.05 An International Commission of Jurists press release of 8 February 2011, observed:

“The Republic of Malawi has turned a deaf ear to the calls of UN Secretary-General Ban Ki-moon, High Commissioner for Human Rights Navanethem Pillay, and Archbishop Desmond Tutu and many others. ‘Indecent practices between males’ are already criminalized in Malawi. Last May Tiwonge Chimbalanga and Steven Monjeza were

convicted of this offense and were sentenced to 14 years in prison before receiving a presidential pardon. By adding 'indecent practices between females' to the Penal Code, the Republic of Malawi has not only acted contrary to its own human rights obligations, it has contributed to the severe stigmatization and discrimination experienced by gay and lesbian Malawians." [14]

- 20.06 An Amnesty International report, *Sexual Minorities and the Law: A World Survey*, updated July 2006, observed in connection with transgender persons that there was: "No data or legal situation unclear." [76a]

A copy of the Charter [The African Charter on Human and People's Rights] can be found here: [http://www.achpr.org/english/info/charter\\_en.html](http://www.achpr.org/english/info/charter_en.html)

## TREATMENT BY, AND ATTITUDE OF, STATE AUTHORITIES

- 20.07 The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), in an article of 19 May 2011, *Malawi: president says homosexuals worse than dogs*, noted the leader's comments:

"[President] Mutharika addressing a Democratic Progressive Party (DPP) rally in Malawi's capital, Lilongwe sharply objected to rights activists calls to respect minority rights including that of gays and lesbians in the fight for HIV/Aids. He adopted Zimbabwean President Robert Mugabe's stance against homosexuals saying they are (sic) worse than dogs. 'You will never see dogs marry each other,' Mutharika told thousands of his supporters in remarks broadcast like on state radio MBC. 'These people want us to behave worse than dogs. I cannot allow it,' he said. Mutharika (sic) said the sanctity of a family revolved around a father, a mother and children. Government has been accusing human rights groups campaigning for minority rights of being funded by foreign interests. Last year, the Malawi's first openly gay couple was convicted of practicing homosexuality and sentenced to the maximum 14 years in jail. The president pardoned the couple following international pressure." [19b]

- 20.08 The UN Report of the Working Group on the Universal Periodic Review for Malawi of 4 January 2011 noted that: "In response to advance questions raised by Denmark, the Czech Republic, the United Kingdom, Norway and the Netherlands regarding homophobia, Malawi stated that it had no plans to legalize homosexuality. The wishes of the people of Malawi in this regard should be respected." [21g] (paragraph 39, page 6)

- 20.09 An article in the *Nyasa Times* of 26 April 2011, *Malawi NGOs dispel govt's gay propaganda*, stated:

"Three NGO's have criticised the approach by the Malawi Government to respond to concerns about the current state of human rights, good governance and also reacted to government's 'propaganda' on homosexuality. The NGOs -Centre for Human Rights and Rehabilitation (CHRR), Centre for Development of People (CEDEP) and Malawi Religious Leaders Living and Affected by HIV and Aids (MANERELA+) - said they were concerned with government's 'derogatory language, threatening remarks, deliberate propaganda to mislead the general public, and twisting of facts about concerns being presented by civil society and other stakeholders.'" [16c]

- 20.10 The same *Nyasa Times* article continued:

“They [the NGOs] noted with concerns that government spokesman Symon Vuwa Kaunda and presidential spokesperson Hetherwick Ntaba and other government officials, have appeared in the media castigating and threatening stakeholders that speak against discrimination against sexual minorities in Malawi. ‘In these media outbursts, they have twisted concerns and issues, telling the nation that some organisations are being ‘bribed’ to bring unacceptable alien practices into Malawi.’ For example, CEDEP and CHRR have been accused promoting self interests in order to try to bring same sex marriage into Malawi. Further, the two organisations have also been accused of receiving MK99 Million from the Norwegian and Dutch government on a deal to promote same sex marriages in Malawi.” [16c]

- 20.11 An article of 25 May 2011 in *African Activist*, *Former Presidents of Botswana and Zambia Condemn Malawi’s Gay Rights Stance*, stated:

“Festus Mugae and Kenneth Kaunda, former Presidents of Botswana and Zambia, are on their HIV Free Generation tour in some African countries. At a news conference in Lilongwe they condemned Malawi’s criminalisation of homosexuality as harmful to LGBTI persons and the fight against HIV/AIDS. ‘We can preach about behavioral change, but as long as we confine gays and lesbians into dark corners because of our inflexibility to accommodate them, the battle on HIV and AIDS can never be won,’ said Mugae, who is the chairperson of the Champions of HIV Free Generation. On his part, Kaunda urged all African leaders to start recognizing same sex marriage. Said Kaunda: ‘We are not only condemning African leaders who are criminalizing same sex marriage, but we are urging them to start recognising these people, for the sake of HIV and AIDS.’” [55]

- 20.12 An earlier report in *Afrique en Ligne*, *Malawi: Another ‘gay’ arrest as police intensify hunt for homosexuals*, of February 2010, stated:

“A 60-year-old man in the Malawi commercial capital, Blantyre, has been arrested for sodomising a 23-year-old man, the latest in a growing campaign to round up homosexuals in this highly (sic)-homophobic southern African country, police have disclosed... [A police source] that police investigations had uncovered a network of high-profile people who are involved homosexual acts... [The police source] said homosexuality was illegal in Malawi and it was the duty of the police to enforce the laws. [A police source] said the network of homosexuals was procuring ‘unnatural sex’ from mainly street kids and other vulnerable Malawians who are lured with promises of money or employment as house boys... The issue of homosexuality, largely frowned upon in Malawi whose laws are against same-sex liaisons, came to the fore following the arrest over Christmas of the southern African country’s first openly gay couple... The continued hunt, arrest and prosecution of homosexuals comes amid a growing local and international campaign for Malawi to ‘go easy’ on gays and lesbians... Police are also hunting for a group of underground gay rights activists, operating under the name Broad Coalition, who are distributing pro-gay rights leaflets.” [67]

## SOCIETAL TREATMENT AND ATTITUDES

- 20.13 The US State Department *2010 Report on Human Rights Practices in Malawi*, published 8 April 2011, noted that: “Societal violence and discrimination based on sexual orientation occurred. The Center for Development of the People (CEDEP) reported that several cases of violence resulting in serious injury were perpetrated against gay men during the year. These attacks were not reported to police.” [1a] (section 6)

- 20.14 An article in the *Huffington Post* of 3 June 2010, *Picking Up the Pieces in Malawi*, stated that:
- “... public attitudes remain firmly opposed to same-sex relationships...Christian women representing a number of churches likewise recently joined hands to pray against ‘outbreaks of measles [and] homosexuality’... lesbian women in Malawi may face issues specific to women - like so-called ‘corrective rape’ - that are not yet being addressed. ‘Although we cannot yet ascertain the scale of the problem,’ says [Monica] Mbaru [the Africa regional coordinator for the International Gay and Lesbian Human Rights Commission], ‘we know from some lesbian women in Malawi that they are subjected to corrective rape or other violence within their families. Their families believe that they have simply not found a proper man to induct them into having sex, so they start making advances, and these women close up and end up dying in their own spaces.’” [23]
- 20.15 An article in *Weekend Nation* of 29 April 2011, *Homosexuals deserve to die-Apostle*, noted:
- “Debate on legalising same sex has taken a new twist with one founder and leader of a Pentecostal church saying those who practise and promote same sex rights should be put to death ‘as the bible says’. Delivering his Easter message on Saturday in Malawi’s capital, Lilongwe, founder of Jesus Pentecostal Church Apostle Samuel Chilenje said minority rights do not exist because homosexuality and lesbianism are against God ‘and everything against God is not right’...’ God punished Sodom and Gomorrah because of gays and lesbianism. Do we want God to punish Malawi because of same sex rights? The Bible says that everybody indulging in same sex acts must be put to death by stoning. Even those promoting it deserve the same’, said Chilenje... But Reverend MacDonald Kadawati said while Malawi Council of Churches and his Blantyre CCAP Synod in particular condemn same sex, it is going too far to call for the death of gays and lesbians.”[56a]
- 20.16 GayPolitics.com noted in an article dated 21 May 2010 that the conviction of the gay male couple that was reported heavily in the world’s media during 2010 was actually factually incorrect as Tiwonge Chimbalanga “... identifies as a ... transgender woman.” The article noted the “... South African transgender rights group ... Gender Dynamix said in a statement, ‘Today activists the world over protested the conviction of two gay men in Malawi. Even though activists from many different political persuasions joined hands in a protest in Cape Town today, local transgender activists are highlighting the fact that Tiwonge Chimbalanga clearly expresses a female identity.’” [71a]
- 20.17 Writing for *The Guardian* (UK) on 22 May 2010, Natacha Kennedy, a female transgender activist, noted that “... in many parts of Africa people do not actually have clear vocabulary to express ...” transgenderism. [22b]
- 20.18 Continuing, Natacha Kennedy, stated that the fact that the Malawian media neglected to report that Tiwonge Chimbalanga “... clearly expresses a female identity ...” demonstrates “... just how silent the T [Transgender] has been rendered ...” and shows that issues to do with transgenderism remain under reported because “... too many people still have problems with transgender people including, unbelievably, some gay people.” The writer suggested that “... story’s transgender angle appears to have been systematically suppressed – some might even say censored.” [22b]

- 20.19 The International Gay and Lesbian Human Rights Commission (IGLHRC) report of 15 February 2011, *Nowhere to Turn: Blackmail and Extortion of LGBT People in Sub-Saharan Africa*, noted:

“...the gay community in Malawi keeps on growing as more and more people come out of their small closets to interact with others. Unfortunately, this growing community must often stay in a bigger, collective closet to avoid backlash from the wider society. Those who come out into the gay community find that, instead of simply being discreet about their own behaviors and identity, they have to be careful to safeguard the behaviors and identities of others in the gay community as well. As it grows, however, the community has started mobilizing itself in a bid to offer support to its members in whatever way necessary. The mobilization of gay people and efforts to improve their status accelerated with the help of CEDEP (the Centre for the Development of People), a non-governmental organization working to promote and uplift the lives of minority groups in Malawi by advocating for human rights and tackling HIV/AIDS. The organization provides a safe space for the gay community where they can interact and discuss topical issues affecting them, but also engages in advocacy on inclusiveness and human rights, offers HIV/AIDS prevention services, and provides referrals for AIDS treatment.” [57]

- 20.20 An article in African Veil of 20 August 2008, *Malawian homosexuals form association*, noted the existence of the Malawi Gay Rights Movement (MAGRIM). The article noted that MAGRIM appeared to have been formed around 2002 and has its own centre in Blantyre city centre. A spokesman for the organisation stated that at the time of the article (20 August 2008) it had nearly 4,000 members. [45]

- 20.21 An article in IRIN PlusNews of 11 May 2011, *Queer Malawi lifts the gay curtain*, noted:

“In a bold move, Malawi’s Centre for the Development of People (CEDEP) and South Africa’s Gay and Lesbian Memory in Action (GALA) have collected the stories of 12 lesbian, gay, bisexual, and transgender (LGBT) women and men and published them in a book, *Queer Malawi*... Fear is a theme that runs through the stories in *Queer Malawi* - fear of not being accepted by family and community, of violence and arrest. Human rights activists noted that the trial heightened anxiety in Malawi’s underground LGBT community and compromised HIV prevention efforts among men who have sex with men (MSM)... The book is not without unsettling aspects. Multiple concurrent partnerships - a driver of HIV infection in southern Africa - and cross-generational sex feature in almost half the stories. Two of the 12 writers recall that their first sexual experience was with a family member.

“At the book’s launch in December 2010 in Johannesburg, South Africa, GALA and CEDEP indicated their intention to release the book in Malawi, but IRIN/PlusNews was unable to ascertain from GALA whether this had occurred.” [58]

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## 21. DISABILITY

- 21.01 The Freedom House Report, *Countries at the Crossroads, 2010*, published 7 April 2010, stated:

“Section 13 of the constitution requires the government to provide the disabled with access to public spaces, fair employment opportunities, and full participation in all spheres of society. The Ministry of Social Development and Persons with Disabilities was established in 1998 to take charge of all government matters pertaining to persons with disabilities. The Employment Act of 2000 prohibits discrimination against the disabled in matters of employment. However, Malawi lacks a comprehensive law governing discrimination against persons with disabilities in other spheres. Furthermore, a lack of resources has prevented government from effectively implementing the legal rights granted to the disabled, including access to educational opportunities. Societal attitudes toward the disabled remain problematic.” [6b] (civil liberties)

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## 22. WOMEN

### OVERVIEW

22.01 The Freedom House Report, *Countries at the Crossroads 2010*, published 7 April 2010, stated:

“Despite constitutional and other legal protections, women remain unequal citizens in Malawi, and are subject to discrimination and violence. In particular, Malawian society is plagued by severe inequalities in the distribution of educational and economic resources, high levels of domestic abuse, sexual assault and harassment in schools and professional settings, customary practices and laws that allow the dispossession of property when husbands die, and underrepresentation in positions of power at the state. Abusive practices against girls, including forced marriages, the selling of girls to pay off debts, and the secret initiation of girls into their future adult roles through forced sex with older men remain widespread.” [6b] (civil liberties)

22.02 The *Concluding Observations of the Committee on the Elimination of Discrimination against Women for Malawi*, dated 5 February 2010, stated:

“The Committee remains concerned that, despite the ratification of the Convention [CEDAW – Convention on the Elimination of Discrimination against Women] by the State party in 1987, it has yet to be incorporated into Malawian domestic law. The Committee underlines that, irrespective of the system through which international Conventions are incorporated into the domestic legal order (monism or dualism), the State party is under a legal obligation to comply with an international Convention which it has ratified or acceded to and to give it full effect in its domestic legal order.” [21c] (p2, paragraph 10)

See CEDAW Concluding Observations of the Committee on the Elimination of Discrimination against Women  
<http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-MWI-CO-6.pdf>

### LEGAL RIGHTS

22.03 The US State Department *2010 Report on Human Rights Practices* (USSD 2010 report), published 8 April 2011, stated:

“Under the law, women have the right to full and equal protection and may not be discriminated against on the basis of gender or marital status, including in the workplace; however, discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity... The law provides for a minimum level of child support, widows' rights, and maternity leave; however, only individuals who could use the formal legal system benefited from these legal protections.” [1a](section 6)

- 22.04 The Social Institutions and Gender Index (SIGI) undated *Country Profile for Malawi*, accessed 14 July 2011, stated:

“The Constitution of Malawi upholds the principle of equal rights for men and women and prohibits any discrimination based on gender or marital status. After the Constitution was adopted in 1994, the government established a Law Commission to assess whether existing legislation was compatible with the aims of the Constitution. The Commission has since reviewed several laws that discriminated against women.

“Malawi has been profoundly modernised since it embraced democracy in 1994, yet it remains a very traditional society; establishing real gender equality will take time. Existing inequalities between men and women are largely due to customary laws and traditions. There is a wide discrepancy between the declarations in the Constitution and the actual relationship between men and women; customary law acts as a norm in the socialisation process. The country’s media contributes to the wide-ranging debate on these questions.” [24]

## POLITICAL RIGHTS

- 22.05 The USSD 2010 report observed that:

“The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice periodically through largely free and fair elections based on universal suffrage... There were 43 women in the 193-seat national assembly and 10 women in the 42-member cabinet, including the country's first female vice president. Women constituted approximately 25 percent of the civil service. There were three female justices among the 27 Supreme and High Court justices.” [1a](section 3)

- 22.06 The Freedom House *Freedom in the World 2011* report, published 13 May 2011, noted that: “Malawian women recorded significant gains in the 2009 elections. A large number of women ran as parliamentary candidates, and Joyce Banda became the first female vice president in the country's history. Women hold 22 percent of the seats in parliament and 26 percent in the cabinet.” [6a]

- 22.07 An article in the Inter Press Service News Agency of 17 November 2010, *Malawi's Women Pushing for a Place at the Table*, stated:

“The percentage of women in Malawi's parliament rose from 15 to 22 percent in the May 2009 elections, but Pan African Civic Education Network Executive Director Steve Duwa says there's more work to be done. ‘It’s an attitude problem, regarding women as inferior to men,’ Duwa said. ‘On paper, the political situation is friendly, but in practice

very few women are given the potential to pursue their dreams.’  
Duwa said this may have an impact on the government’s effort to achieve 50:50 representation of women in political and decision-making bodies in line with the Southern African Development Community’s Gender Protocol.” [8h]

## SOCIAL AND ECONOMIC RIGHTS

22.08 The USSD 2010 report stated:

“Women often had less access to legal and financial assistance, and widows often were victims of discriminatory and illegal inheritance practices in which most of an estate was taken by the deceased husband’s family. Women usually were at a disadvantage in marriage, family, and property rights; however, awareness of women’s legal rights continued to increase, and women began to protest abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution. A total of 52 percent of full-time farmers were women; however, they had limited access to agricultural extension services, training, and credit. Gender training for agricultural extension workers and the gradual introduction of rural credit programs for women increased; however, few women participated in the limited formal labor market, where they constituted less than 5 percent of managerial and administrative staff. The law provides for a minimum level of child support, widows’ rights, and maternity leave; however, only individuals who could use the formal legal system benefited from these legal protections.” [1a] (section 6)

22.09 The Social Institutions and Gender Index (SIGI) undated *Country Profile for Malawi*, accessed 14 July 2011, stated:

“Depending on the customs practised, provisions in the Malawian Family Code can be discriminatory against women. This is particularly true in the case of early marriage, the incidence of which is very high throughout the country. A 2004 United Nations report estimated that 37 per cent of girls between 15 and 19 years of age were married, divorced or widowed. Several factors contribute to this relatively high prevalence of early marriage. Many poor families in rural areas choose to marry their daughters off very young to acquire financial support from the husband’s family. In addition, most forms of customary marriage do not specify a minimum age but rather use puberty as the determining criterion. The Law Commission produced a bill that would increase the minimum legal age of marriage to 18 years. The law on the rape of minors prohibits sexual relations with girls under the age of 13, whatever the form of marriage. The existing law on civil marriage provides for annulment only in the case that one spouse is under the age of 15 years. In reality, very few marriages are contracted under this law.” [24]

22.10 The same SIGI profile continued:

“Polygamy is prohibited by the Malawian Penal Code, yet is estimated to affect one-fifth of married women. The law on civil marriage is based on the former British legal system, in which marriage is monogamous, but the predominant form of marriage in Malawi is based on African customary law, which allows polygamy. Other forms of union exist in Malawi, based on Asian and African marriage laws that also permit polygamy.

“In Malawi, husbands and wives share parental authority and have joint child custody rights. In the event of divorce, custody is generally awarded to the mother, particularly if



the children are young. When couples are not married, the mother has parental authority and custody rights. Women in Malawi regularly encounter discrimination in the matter of inheritance, even though a law passed in 1998 sought to strengthen widows' rights, particularly in relation to the deceased husband's family. The 1998 law awards half the deceased's assets to his wife if the couple were married under the matrilineal system, but only two-fifths if they married under the patrilineal system. No information is available regarding the inheritance rights of daughters." [24]

22.11 Africa Economic Outlook, in its *Country Profile 2011*, last updated 22 June 2011, noted:

"Malawi has achieved some progress in the MDG [Millennium Development Goal] of promoting gender equality and empowering women, but is below the MDG target and is seemingly moving backwards according to other international indices. For example, the HDR-Gender Inequality Index increased between 2009 and 2010 from 0.490 to 0.708 (with a measure of zero indicating full equality between men and women). Although more women were appointed into the public service sector, including a female vice president for the first time in Malawi's history, and the number of women in parliament has moved up from 13% in 2008 to 22% in 2010, these successes do not mirror Malawian society as a whole. Malawi is 28 percentage points short of the 50% MDG target goal of proportion of seats held by women in the parliament and 35 percentage points short of reaching the 50% goal of the share of women in wage employment in the non-agriculture sector." [15b] (page 16)

## VIOLENCE AGAINST WOMEN

### Gender-based and domestic violence

22.12 The USSD 2010 report noted:

"Domestic violence, especially wife beating, was common, although women seldom discussed the problem openly, and victims rarely sought legal recourse. Legal experts and human rights workers attributed victims' reluctance to report their abusers to economic dependence on the abuser, lack of awareness of their legal rights, and fear of retribution and ostracism. The law provides a maximum penalty of life imprisonment for domestic violence. The law also recognizes that both men and women can be perpetrators as well as victims of domestic violence. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes. Police support units provided shelter to some abuse survivors and dealt with human rights and gender-based violence, but officers' capacity to assist and document cases was limited." [1a] (section 6)

22.13 The Social Institutions and Gender Index *Country Profile*, accessed 19 July 2011, stated:

"The physical integrity of women in Malawi is not sufficiently protected. Violence against women, particularly domestic violence, is common and appears to have increased in recent years. Domestic violence is considered acceptable according to customary law, which allows men to exercise their authority within the household. The courts are now punishing the perpetrators of such crimes more severely and a law against domestic violence is being discussed which would improve the situation for victims by introducing protection orders and fines. Spousal rape is not explicitly recognised in Malawi's legislation. There is a national strategy in place to combat violence against women and

society is starting to become aware of the problem. The press plays a role by frequently publishing articles on rape and other forms of abuse.

“As many as one woman in five in Malawi has been subjected to female genital mutilation. To date, the government has taken no action against the practice. There is no evidence to suggest that Malawi is a country of concern in relation to missing women.” [24]

- 22.14 *The Concluding Observations of the Committee on the Elimination of Discrimination against Women for Malawi*, dated 5 February 2010, stated that:

“The Committee reiterates its deep concern at the high prevalence of violence against women in the State party. Notwithstanding the adoption of the Prevention of Domestic Violence Act, the Committee remains concerned about the lack of adequate services and protection for victims of violence, including the lack of reporting mechanisms available to victims as well as the absence of awareness campaigns to educate women about their rights.” [21c] (p4, paragraph 22)

- 22.15 An article in *ThinkAfricaPress* of 28 January 2011, *Peace in Africa Begins at Home*, observed:

“Malawian men have long been accused of ignoring women's rights and enforcing a male dominated gender-power balance, largely due to traditional patriarchal beliefs, which place men as superior to women. A new study, currently unpublished, by Men for Gender Equality Now, demonstrates the scale of gender-based violence that women suffer in this southern African country... Studies conducted by Men for Gender Equality Now show that men are responsible for 90 percent of cases of gender-based violence... men take advantage of their superiority in the society by victimizing women. The norms of Malawian society perpetuate this behavior... traditional Malawian cultural practices also aggravate violence against women... a traditional practice in the southern district of Nsanje known as Kulowa Kufa (widow cleansing). To cleanse bad spirits from the village, a widow is forced to sleep with another man soon after the death of her husband. The situation makes women more vulnerable to HIV/AIDS because, by tradition, condoms should not be used.” [59]

- 22.16 The Freedom House *Countries at the Crossroads 2010* report, published April 2010, stated:

“The government has taken several steps to address these problems [discrimination and domestic violence]. Notably, under the Mutharika administration, the government has more actively documented progress toward implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women, to which Malawi is a signatory. In addition, in April 2006, the parliament enacted legislation providing a maximum penalty of life imprisonment for perpetrators of domestic violence. Women's rights advocates have since criticized the weak implementation of the law. An official commission on gender-related laws has put forward several other legislative proposals dealing with gender inequities, but actual legislation on these matters has stalled. Among the commission's proposals were a deceased estates bill seeking to repeal discriminatory laws regarding inheritance and a marriage, as well as a divorce and family relations bill seeking to provide equal rights to marriage partners. Women also suffer from limited access to legal resources, a situation exacerbated by the weakness of the Legal Aid Department.” [6a] (Civil liberties)

22.17 A paper produced by MCI Social Sector, dated March 2010, *Gender Needs Assessment for Blantyre City, Malawi*, commented:

“... structural gender-based violence in Malawi is exacerbated by unresponsive legal systems, discrimination and unequal opportunities in education, land ownership, inheritance rights, lending policies and politics. Women also face gender-based violence in the form of emotional, physical and sexual abuse. The causes of gender-based violence in Malawi are complex. A contributing factor is the patriarchal nature of Malawian society, which considers women to be inferior and subordinate. In 2001, the Malawi Human Rights Commission found that incidents of domestic violence were on the rise, and the most common forms of violence perpetrated against Malawian women were wife-battering, forced sexual acts, property grabbing, verbal threats, coercion and economic exploitation. In their situational analysis report, the Commission found that cultural beliefs and practices, combined with poverty and economic factors, were the main contributors to the increase in gender-based violence across Malawi.” [44]

22.18 The same MCI paper added:

“In urban Malawi, many young girls experience gender-based violence, and married women experience emotional, physical or sexual violence at the hands of their husbands. Among women who reported experiencing physical or sexual violence, only 41.9 percent sought help... Moreover, only 2.8 percent sought help from medical personnel, and less than five percent sought help from an official, a family member or friend... these numbers likely underestimate the true nature and extent of gender-based violence, both in Malawi in general and in urban Malawi. Reliable data, particularly at the local level are lacking; much gender-based violence occurs in the home at the hands of husbands, and cases often go unreported or are routinely dismissed by police as ‘family issues’. Day-to-day verbal and psychological harassment and discrimination, while exceedingly common, are also difficult to document. The lack of operative indicators to measure levels of structural violence of course impedes opportunities for any significant legal redress for violence and human rights violations.” [44]

## Rape and sexual harassment

22.19 The USSD 2010 report noted:

“The law criminalizes rape with a maximum penalty of life imprisonment. Spousal rape is not explicitly mentioned but could be prosecuted under the same rape laws. The government generally enforced the law effectively, and convicted rapists routinely received prison sentences. Data on the prevalence of rape or spousal rape and conviction figures were unavailable; however, press reports of rape arrests and convictions were an almost daily occurrence. The judiciary continued to impose penalties on persons convicted of rape. Although the maximum penalty for rape is death, the courts generally imposed the maximum assault penalty of 14 years in prison for child rape and assault. The 2009 case against law professor Kandako Mhone for allegedly raping a minor repeatedly since 2006 was pending at year's end.” [1a] (section 6)

22.20 The same USSD 2010 report added that “Sexual harassment is not specifically prohibited by law, but it can be prosecuted under existing sections of the penal code, such as indecent assault on a woman or girl, which carries up to a 14-year prison sentence, or insulting the modesty of a woman, which is a misdemeanor punishable by

one year in jail. There was no available data on the extent of sexual harassment or effectiveness of government enforcement.” [1a] (section 6)

- 22.21 On the issue of spousal rape, an article in *Weekend Nation* of 1 April 2011, *Malawi lacks law to punish marital rape*, reported:

“Malawi Human Rights Commission (MHRC) has said the country is failing to make significant progress in the fight against gender-based violence (GBV) because the laws lack provisions that specifically punish marital rape. [The] MHRC director of legal services... said court cases of women who are raped by their husbands fail to succeed because the laws regard the consent of marriage as superseding instances of forced sexual intercourse in marriages... women continue to suffer sexual violence because of lack of post violence support initiatives in the country.” [56b]

## HEALTH AND WELFARE

- 22.22 An Afrol News article of 26 March 2001, *Shelter for battered women opened in Malawi*, noted:

“Realising the need for having open dialogue with the victims of Gender-based violence like rape and wife battering among others, the Society for the Advancement of Women (SAW) in Malawi's capital Lilongwe last week opened a shelter that will house, counsel and provide legal assistance to the victims of gender based violence. The shelter, the first of its kind in Malawi, located at SAW's premises in Area 9, will provide an avenue through which the victims of violence can openly express their problems so as to find appropriate and long lasting solutions.” [35]

- 22.23 Hot Peach Pages offered a directory of agencies providing help with domestic violence in the country. <http://www.hotpeachpages.net/africa/africa1.html#Malawi> [46]

- 22.24 An article published by Journalists for Human Rights, dated 15 March 2011, noted that a support centre for abused women, the Centre for Alternatives for Victimized Women and Children, was based in Blantyre. [72a] The Human Rights Commission (Malawi) published a *Directory of Human Rights Institutions in Malawi*, dated August 2005, that provided the following details about the centre:

### **“Centre for Alternatives for Victimized Women and Children (CAVWOC)**

**Year of establishment:** 1998

**Address:** Kasungu Crescent Road, Opp Civic Offices, MPC Building, P.O. Box 2793, Blantyre

**Tel:** (265) 01 676 190/ 01 672 245      08 832 814/ 08 338 655

**Fax:** 01 672 245    **E-mail:** [alternative@sdp.org.mw](mailto:alternative@sdp.org.mw)

**Mission Statement:** To protect women and children who have been victims of abuse.

### **Objectives:**

- (i) To provide Counseling to victims of abuse

- (ii) To conduct research into issues of violence against women and children
- (iii) To advocate for women's and Children's rights

**Activities:** Public education, research both from media and public counseling victims of abuse

**Administrative Structure:** Board of trustees. Executive Director and staff

**Legislation Details:** Trustees Incorporation Act, 1998." [73a]

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## 23. CHILDREN

### OVERVIEW

23.01 UNICEF, in an undated section on *The Situation of Women and Children* on the country website for Malawi, undated, accessed 20 July 2011, stated:

"Malawi, home to 6.8 million children (51 percent of the total population), presents a number of opportunities and challenges for its youngest citizens and their families. The prospects for child survival have improved over the past few years: prudent economic management, stable macroeconomic conditions and increasing agricultural production are helping to reduce poverty and hunger, and Malawi's HIV prevalence rate seems to have stabilised at 12 percent.

"On the down side, poverty continues to be chronic and widespread and the country's development is thwarted by a fast growing population, limited arable land, cyclical natural disasters, food insecurity, malnutrition, HIV and AIDS, and a high incidence of malaria, one of the leading killers of children under the age of five. Children and women are becoming more vulnerable as their ability to recover from these unrelenting risks and shocks weakens." [25]

23.02 *The National Report submitted to the United Nations Working Group on the Universal Periodic Review* (UPR) of Malawi, dated 21 October 2010, stated that: "Malawi is a party to the Convention on the Rights of the Child and has also ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and child Pornography." [21d] (p8, paragraph 57)

### Basic legal information

23.03 A Family Health International (FHI) report, *Evaluation of Community-Based Distribution of DMPA by Health Surveillance Assistants in Malawi* (of September 2010), referred to the age of majority in Malawi as 16 years, i.e. the age at which a child is considered an adult. [42] (page 4)

23.04 The Right to Education Project, in an undated section on *The national law and policies on minimum ages in Malawi* (accessed 20 July 2011), noted that:

“The age of criminal responsibility for the child in Malawi is seven years. The Penal Code stipulates that any person under this age cannot be criminally liable for any act or omission. Although this is the legal age of criminal responsibility, it is felt that it is too low and that there is need to put the age up to between 10 and 12 years. In practice, however, there is no record of a child of such a young age being taken to court.

“The Constitution, under section 22, provides that the minimum legal age for marriage is 18 years for all persons. The Constitution further requires that persons between the age of 15 and 18 years should only marry with the consent of parents or guardians. The constitutional provision differs from the provisions of the 1903 Marriage Act, which governs statutory marriages. Section 19 of the Marriage Act stipulates that a person under 21 years is a minor and can only enter into marriage with the written consent of his parents or guardians. In practice, it is common in the rural areas of Southern and Central Regions for girls of age 15 years and below to enter into marriage. This is mainly due to the cultural practices prevailing in these two regions. For example, during initiation rites girls as young as 10 years are prepared for possible marriages. It is difficult to stop this practice, partly because the law does not expressly prohibit marriages of children below 15 years old. The Constitution merely states that the State should discourage such marriages.

“The minimum age of employment for children is specified in the Employment of Women, Young Persons and Children Act. This Act distinguishes between a child and a young person. It describes a child as a person under the age of 12 years and prohibits employment of such child at night or in any public or private industrial undertaking. By implication the law permits employment of children below 12 years in other areas, like domestic work.

“Section 25 of the Constitution grants every person the right to education and stipulates that primary education shall consist of at least five years. This provision which establishes education as a right, falls short of the requirement in section 13 (f) of the Constitution which requires primary education to be both compulsory and free. There is therefore no maximum age stipulated for compulsory education.” [26]

- 23.05 The CIA *World Factbook*, last updated 5 July 2011, reported that Malawi has universal suffrage from the age of 18 years. [3]

## LEGAL RIGHTS

- 23.06 The Office of the United Nations High Commissioner for Human Rights (OHCHR) report on *the Concluding Observations of the Committee on the Rights of the Child, Malawi*, of 27 March 2009, noted:

“The Committee notes with appreciation the adoption of legislation, national policies and plans aimed at promoting and protecting the rights of the child, including:

- (a) Prevention of Domestic Violence Act (2006);
- (b) National Plan of Action for Orphans and Other Vulnerable Children (2005-2009);
- (c) National Early Childhood Development Policy (2004).

The Committee also welcomes the ratification or accession to the following:

54 The main text of this COI Report contains the most up to date publicly available information as at 31 July 2011. Further brief information on recent events and reports has been provided in the Latest News section to 25 August 2011.

(a) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 17 March 2005;

(b) Rome Statute of the International Criminal Court, on 19 September 2002;

(c) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, on 20 May 2005." [21b]

23.07 An EveryChild report of 20 August 2010 stated:

"The new Child Care, Protection and Justice Law covers a wide range of issues that affect children. The law outlines parents' responsibilities to protect and nurture their children as well as the responsibility of local authorities to protect children growing up without a mum or dad. One in five children in Malawi live without the care and protection of a parent so it is essential that the new Law outlines local authorities' responsibilities to care for children growing up with extended families, in foster care and in children's homes. The law also outlines the duties and responsibilities of local authorities to protect children from harmful, exploitative or undesirable practices...The new Law will encourage local authorities to support children and families before they are employed in hazardous labour, and to prosecute employers who exploit children.

"In addition, the Child Care, Protection and Justice Law provides principles and procedures for dealing with children suspected of having committed criminal offences. Provisions include child-friendly court cases and legal representation for children suspected of committing an offence. The Law aims to modernise the child justice system in Malawi by putting emphasis on the rehabilitation of the child offenders and their reintegration into society." [27]

23.08 An article in the South African publication, *Gender Links*, of 10 September 2010, *Malawi: African Children Stuck in Legislation Limbo*, stated that: "The Malawi government ratified the UN conventions on the rights of the child in 1991, and recently enacted the Child Care, Protection and Justice Bill, which increases the minimum working age to 18. Previously, Malawi legislation only protected children between the ages of 14 and 18 from hazardous work." [28]

## VIOLENCE AGAINST CHILDREN

23.09 The Office of the United Nations High Commissioner for Human Rights (OHCHR) report on *the Concluding Observations of the Committee on the Rights of the Child, Malawi*, of 27 March 2009, noted that: "The Committee welcomes the adoption of the Prevention of Domestic Violence Act in May 2006. The Committee also notes with appreciation the adoption of the National Strategy to Combat Gender Based Violence and the successful implementation of the 'Stop Child Abuse Campaign'. Nevertheless, the Committee notes with regret that violence against children continues to take place in the home, in schools, in children's shelters and in the streets." [21b] (p10, paragraph 47)

23.10 The US State Department *2010 report on Human Rights Practices* (USSD 2010 report), published 8 April 2011, noted:

"Child abuse remained a serious problem. The press regularly reported cases of sexual abuse of children, including arrests for rape, incest, sodomy, and defilement. A 2008

study by the safe schools program in Machinga found that 90 percent of girls and 47 percent of boys in primary schools experienced some form of violence, including sexual touching by other students, sexual abuse by teachers, corporal punishment, and verbal and psychological abuse.” [1a] (section 6)

23.11 The same USSD 2010 report added:

“During the year parliament passed the Child Care, Protection, and Justice Act, which prohibits subjecting a child to any social or customary practice that is harmful to the health or general development of a child. Targeted practices included child trafficking, forced labor, forced marriage or betrothal, and use of children as security for debts or loans. Despite the new law, many abusive practices, including the secret initiation of girls into their future adult roles, continued. In a few traditional communities, girls averaging 12 years of age were forced to have sexual relations with older men as part of such initiation rites. "Kupimbira," a practice that allows a poor family to receive a loan or livestock in exchange for daughters of any age, existed in some areas. The MHRC [Malawi Human Rights Commission] expressed concern over reports of parents forcing their daughters into marriages for food.

“The new law does not specifically prohibit female genital mutilation (FGM), and it was practiced by a few small ethnic groups. In most cases, FGM was performed on girls between 10 and 15 years of age.” [1a] (section 6)

### Early or forced marriage

23.12 A Plan UK report of July 2011, *Breaking Vows: Early and Forced Marriage and Girls' Education*, observed:

“In countries such as Malawi... most girls will be married before the age at which they can legally do so, and yet prosecutions are seldom brought, contributing to a belief that such marriages are acceptable and penalties are unlikely. Equally, marriage brokers and others who actively perpetuate the problem are seldom prosecuted, meaning that the financial rewards from brokering a marriage continue to outweigh the legal risks.” [62] The same report noted that Malawi was one of the countries with the highest prevalence of early marriage, noting that 50 per cent of women between 20 to 24 were married by the age of 18.” [62]

23.13 The same Plan UK report, in a Malawi case study, noted:

“Brenda, from Kasungu in central Malawi, was kidnapped on her way to school and was held against her will for three months. She was just 15 years old. Brenda was a victim of a form of bride kidnapping called Mpenjele Kuno. Across the region, when families cannot attract the wives and daughters-in-law they want, either because they lack sufficient social standing or are unable to afford the bride-price, they resort to abducting them. Once a girl has been kidnapped, even if returned to her family she will be less desirable to other potential husbands and will often have no choice but to marry the man who has kidnapped, abused and often raped her. Often, in areas where kidnapping is prevalent, families will marry off their daughters early because they fear that if they wait, their daughters are more likely to be kidnapped.

“In regions where bride kidnapping is accepted as customary, families often fail to report it, further adding to the problem. Plan Malawi was instrumental in the fight to bring



Brenda home and she is now back with her family and has returned to school. Plan Malawi partnered with local Government and the communications company Celtel Malawi to introduce a toll-free community helpline for youngsters in need of help and advice. The helpline gives young people at risk of abduction or other violence access to professional child counsellors and paralegals able to give anonymous support and advice. Referrals can also be made to police Victim Support Unit officers.” [62]

See sections on [Rape](#) and [Trafficking](#)

## CHILDCARE AND PROTECTION

23.14 The USSD 2010 report noted:

“The Ministry of Gender, Child Development, and Community Development undertook activities to enhance protection and support of child victims. The ministry trained and paid small stipends to more than 800 community child protection personnel, who worked nationally to identify victims of child abuse, underage labor, and trafficking, and referred cases to district social welfare offices or the police. The trafficking of children for sexual purposes was a problem, and child prostitution for survival without third-party involvement also occurred. The new Child Care, Protection, and Justice Act stipulates punishment up to and including life imprisonment for child traffickers. The penal code outlaws carnal knowledge of females under the age of 16 years old and stipulates penalties up to and including the penalty of death for offenders. A few charitable organizations attempted to reduce the number of child beggars in urban areas; however, the problem of street children remained serious, as the number of orphans whose parents died from HIV/AIDS increased. Extended family members normally cared for such children and other orphans.” [1a] (section 6)

23.15 A Voice of America (VOA) news report of 26 August 2010, *Malawi Launches Campaign to Get Children off Streets*, recorded:

“Studies have cited grinding poverty and hunger as the main reason that drives children onto the street for begging. Statistics show that over half of Malawians live below poverty line of \$2 a day, while 22 percent of them are ultra poor, living below 10 cents a day, or 22 [Malawian] Kwacha. Maxwell Matewere is the executive of the Eye of the Child, one of the NGOs taking part in the campaign. He says these children are a threat to peace, order and good governance. ‘Most of the street children have gone into crime. They have been found stealing women’s handbags. Most of them have been taken into prison because they have been involved in crime. Some of the have been defiled on the streets and sodomized,’ Matewere explains. Matewere says taking them off the streets is the only way to provide a protective environment. The initiative, Matewere says, seeks to put some of the poor children into reform centers and return others to their homes. It’s hoped that then they will attend school and become model citizens. He says in reformatories, some will learn skills like carpentry, brick laying and tailoring.” [29]

23.16 The same VOA article stated:

“But critics scoff at the plan, saying rehabilitation is useless unless one addresses the underlying reasons children are on the streets, namely grinding poverty, broken families and HIV/AIDS. Matewere says those who resort to begging will be treated as criminals and parents will be punished in line with the new Child Care, Protection and Justice

Law. It penalizes parents who send children into the streets to beg. But he did say the main challenge is that some children go into hiding once they learn they may be picked up. Statistics from the Social Welfare Department show that the campaign has helped reduce the number of street children. For example, in Blantyre the number of street children has dropped by a third, from 3,000 to 1000. The same is the case with the cities of Lilongwe and Mzuzu.” [29]

23.17 A number of NGOs, charities and civil society organisations exist for the benefit of children in the country. See weblinks to some of the organisations below:

- The African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) is a pan African network that promotes child rights and child protection in Africa. <http://www.anppcan.org/>
- Active Youth Initiative for Social Enhancement (AYISE) is a Malawian NGO based in the city of Blantyre, involved in community development work. <http://www.ayisemw.org/>
- Counselling of the Adolescent and Youth Organization (CAYO) seeks to contribute to the development of children and youth in Malawi through education, training, advocacy and support provision through working with and for the children and youth of Malawi. <http://cayomw.org/>
- Chisomo Children’s Club aims to bring about long term change in the lives of girls and boys aged 14 and under who are living or begging on the streets. <http://www.chisomo.org/>
- The Civil Society Coalition for Quality Basic Education unites Civil Society Organisations (CSOs) in the common pursuit of the right to quality basic education in Malawi through supporting, influencing and monitoring of government policies, strategies, plans and acts. <http://www.cscqbe.org/>
- The Elizabeth Glaser Pediatric AIDS Foundation works to provide HIV prevention, care, and treatment services for women, children, and families— with a mission to eliminate paediatric AIDS. <http://www.pedaids.org/>
- EveryChild helps to keep children safe and keep families together <http://www.everychild.org.uk/>
- Family Health International (FHI) is a global health and development organisation <http://www.fhi.org/en/index.htm>
- Feed The Children is a Christian relief organization that delivers food, medicine, clothing and other necessities to individuals, children and families who lack these essentials due to famine, war, poverty, or natural disaster. [http://www.feedthechildren.org/site/PageServer?pagename=dotorg\\_homepage](http://www.feedthechildren.org/site/PageServer?pagename=dotorg_homepage)
- The Hope for African Children Initiative (HACI) is a pan-African effort created to address the enormous challenges faced by millions of African children who have either been orphaned by AIDS or live with parents who are sick or dying from AIDS-related illnesses. <http://www.hopeforafricanchildren.org/>
- SOS Children's Villages is a non-governmental social development organisation that has been active in the field of children's rights and committed to children's needs and concerns <http://www.sos-childrensvillages.org/pages/default.aspx>
- YouthNet and Counselling (YONECO) is a non-governmental organisation established to address the social injustice and reproductive health issues affecting the youth, women and children. <http://www.yoneco.org.mw/>

## EDUCATION

- 23.18 An Open Society Initiative for Southern Africa (OSISA) report of August 2010, *Malawi: Effective Delivery of Public Education Services*, noted:

“The introduction of free primary education (FPE) in 1994 has expanded access to primary education significantly. Access to secondary education has also increased. But while these developments have created educational opportunities for many children, they have also placed additional stress on an education system that was already weak in terms of human and financial resources. There is severe shortage of qualified teachers and instructional materials, and physical facilities are very inadequate. Consequently, the quality of education provided is very poor and pupil attainment levels are very low. The internal efficiency of the system is a serious problem as the level of drop-out and repetition rates are very high.” [60]

- 23.19 The SACMEQ (The Southern and Eastern Africa Consortium for Monitoring Education Quality) undated *profile of Malawi* (accessed 25 July 2011) stated:

“The primary level, which is an eight-year cycle, runs from Standard 1 through Standard 8. This level is divided into three sections; infant section which comprises Standards 1 and 2; junior section comprising Standards 3, 4 and 5 and senior section comprising Standards 6, 7 and 8. Secondary level education lasts four years and consists of two cycles- junior (Forms one and two) and senior (Forms 3 and 4) with national examinations after each cycle. The last level is tertiary education, which includes university, technical and vocational and teacher education. The number of years for this level varies depending on the course being pursued and ranges from one year to five years.

“The official entry age into primary level education is 6 years but there are wide variations in the ages of pupils, ranging between 4 years in Standard 1 to 18 years in Standard 8. The wide variations are mainly due to late and multiple entries into schools and multiple grade repetitions. The Malawi government maintained a policy of open access (but not compulsory) to primary education for a long time. Until the introduction of the FPE [free primary education] policy, this access had been severely hampered by the charging of user fees, the requirement to wear school uniform and the many other contributions parents were expected to make towards the education of their children.

“Secondary education is offered by three categories of institutions: the conventional secondary schools, the Community Day Secondary Schools (CDSS) and the Private Schools. The last two categories mainly cater for those primary school leavers who are not selected into the formal secondary schools by the government on the basis of the nation-wide Primary School Leaving Certificate Examinations (PSLCE).” [61]

- 23.20 The OSISA report observed:

“... the gains of increased primary school access have been somewhat diminished by the fact that a significant number of those enrolled in primary education repeat or drop out of the system. It is estimated that out of every 100 children entering primary school, only 46 complete standard 8; overall repetition at the primary level is 25%, making difficult the attainment of the Millennium Development Goal (MDG) of universal primary completion. ...

“The ratio of girls to boys in primary school increased since 1980 from 41% to 50.2% in 2009... The main challenge for Malawian education, a high drop-out rate, is worse among girls in particular due to the impacts of HIV and AIDS that turn them into care-givers and at times bread-winners. Other problems are poverty and poor school environment, e.g. poor sanitary facilities. Females form the majority of the country’s illiterates: 47% of women are illiterate, compared to 24% of their male counterparts, and a national average illiteracy rate of 36%.” [60]

23.21 The same OSISA report added:

“Despite the fact that the Constitution provides the right to education and that the MoEST [Ministry of Education, Science and Technology] has many programmes to motivate pupils and students to go to school, there are no legal mechanisms to enforce the right. In other words, education for the five years provided in the Constitution is not compulsory, and nobody, including parents or guardians, could be held responsible for not sending their children to school.

“...[The] situation is made worse by the fact that many Malawians do not realise that they have the right to demand education from the government... Generally people perceived their rights more in term of food and health than education.” [60]

## HEALTH AND WELFARE

23.22 The Office of the United Nations High Commissioner for Human Rights (OHCHR) report on *the Concluding Observations of the Committee on the Rights of the Child, Malawi*, of 27 March 2009, noted that:

“While welcoming the progress made by the State party in reducing infant and child mortality rates and the significant progress in increasing access to safe water and sanitation, the Committee remains concerned at the state of health of children in Malawi, including the very high level of malnutrition. The Committee is also deeply concerned at the limited access, poor quality of health care facilities and critical shortage of health care personnel.” [21b] (p11, paragraph 51)

23.23 UNICEF, in an undated section on *The situation of women and children* in the country, undated, accessed 26 July 2011, stated:

“Despite progress in child mortality reduction, one in eight children are still dying, mostly of preventable causes such as neonatal conditions, pneumonia, diarrhoea, malaria and HIV-related diseases. Malnutrition levels remain high and account for about half of all child deaths. Malawi faces many challenges in order to achieve the MDGs, including widespread poverty, weak institutional and human capacity, limited resources because of competing needs and deep-rooted harmful traditional practices... around four million children [are] living in poverty. Moreover, one in every five Malawians lives in ultra poverty or on less than USD \$0.20 US cents a day and cannot afford to feed themselves. Poverty hits children the hardest and threatens their most basic rights to survival, health and nutrition, education, participation and protection from harm and exploitation.” [25a]

23.24 The same UNICEF document stated:

“Malnutrition is devastating and the single biggest contributor to child death. In Malawi, there has unfortunately been no change in children's nutritional status since 1992 and malnutrition rates remain unacceptably high. Around 46 percent of children under five are stunted, 21 percent are underweight, and four percent are wasted. Micronutrient deficiencies are common. The Ministry of Health's Micronutrient Survey (2001) revealed that 60 percent of children under five and 57 percent of non-pregnant women had sub-clinical Vitamin A deficiency. Vitamin A deficiency lowers children's immunity and reduces their chances of surviving a serious illness. The causes of malnutrition in children include poor childcare practices, diets lacking in calories and nutrients, frequent bouts of disease and chronically under-nourished pregnant and breastfeeding women... Young children are not spared from HIV infection. An estimated 89,000 children under the age of 15 are living with the disease. Most were infected through mother-to-child transmission, which accounts for close to 30,000 of infections among newborns every year. Only 24 percent of HIV positive pregnant women attending antenatal clinics are receiving anti-retroviral prophylaxis to prevent transmission of the virus to their baby.” [25a]

23.25 The same UNICEF document added:

“Poverty, hunger, HIV and AIDS and inadequate social services combine to create circumstances where child abuse, exploitation and violence are tragically common, especially for the growing numbers of orphaned and vulnerable children... the child labour market is dominated by domestic workers who toil from morning till late at night and that many children under the age of ten work with their parents as full time workers in tobacco cultivation. Sexual exploitation, abuse and child trafficking are thought to be increasing... Certain traditional practices such as early marriage or 'fisi' - a type of formalised rape - are harmful to the wellbeing and health of children. There is no birth registration system in the country, making children that do not have an official identity vulnerable to neglect, abuse and trafficking.” [25a]

See section on [Women](#)

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## 24. TRAFFICKING

24.01 The US State Department (USSD) *Trafficking in Persons report 2011*, published 27 June 2011, stated:

“Malawi is primarily a source country for men, women, and children subjected to forced labor and sex trafficking. Most Malawian trafficking victims are exploited within the country, though Malawian victims of sex and labor trafficking have also been identified in South Africa, Zambia, Mozambique, Tanzania, and parts of Europe. To a lesser extent, Malawi is a transit point for foreign victims and a destination country for men, women, and children from Zambia, Mozambique, Tanzania, and Zimbabwe. Within the country, children are subjected to domestic servitude and other forms of forced labor, including in cattle herding, agricultural labor, and menial work in small businesses. At local bars and rest houses, owners coerce girls and women, who work at the establishments, to have sex with customers in exchange for room and board. Forced labor is often found on tobacco plantations. Labor traffickers are often individuals who have moved to urban areas and subsequently recruit children from their home villages with offers of good jobs, and later withhold pay and subject children to sexual and

physical abuse. Brothel owners or other facilitators lure girls from rural areas with promises of nice clothing and lodging. Upon arrival, the girls are charged high fees for these items and coerced into prostitution in order to pay off these debts. South African and Tanzanian long-distance truck drivers and mini-bus operators transport victims across porous borders by avoiding immigration checkpoints. Some local businesswomen who travel regularly to neighboring countries to buy clothing for import have been identified as traffickers. Reports of European tourists paying for sex with teenage boys and girls continue.” [1d]

24.02 The same USSD report on Trafficking in Persons, on the subject of government efforts, noted:

“The Government of Malawi does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government maintained its efforts to ensure forced labor victims' access to protective services and it prosecuted and convicted labor trafficking offenders; however, adults in forced prostitution or forced labor and children exploited in domestic service and prostitution still did not receive adequate attention and the government prosecuted no such offenses during the reporting period. While one trafficking offender received a short prison sentence, most convictions resulted in sentences of fines or out-of-court settlements with compensation to victims, both of which failed to provide an adequate deterrent. The government continued to depend heavily on international organizations and multi-national NGOs for funding most anti-trafficking programs and took no action to prevent trafficking during the reporting period.” [1d]

24.03 The same USSD report noted on the matter of prosecution:

“The Government of Malawi increased its anti-trafficking law enforcement efforts during the last year by enacting legislation that specifically prohibits child trafficking. Malawi prohibits all forms of trafficking through various laws, including the Employment Act and Articles 135 through 147 and 257 through 269 of the penal code, though the country lacks specific anti-trafficking laws. The penalties prescribed under these various statutes range from small fines to 14 years' imprisonment; these penalties are sufficiently stringent and commensurate with punishments prescribed for other serious crimes, such as rape. In June 2010, the national assembly passed the Child Care, Protection and Justice Bill, which was immediately signed into law by the president; this is the first legislation to define child trafficking in Malawi, imposing a penalty of life imprisonment for convicted traffickers. During the reporting period, the Malawi Law Commission completed draft comprehensive anti-trafficking legislation, which specifically prohibits all forms of human trafficking; this legislation is expected to be introduced to the parliament in 2011. In December 2010, the government amended penal code Section 147 to specifically prohibit sex trafficking. The government did not make available comprehensive anti-trafficking law enforcement statistics, though some individual districts provided data on their actions, totaling 18 prosecutions, 11 of which have concluded with convictions, and the remaining seven prosecutions remain pending. Districts also reported the arrest of alleged trafficking offenders, including that of one Malawian and two Mozambican nationals, in Phalombe District, for the alleged labor trafficking of five boys, from 12 to 15 years old. Although the government prosecuted and convicted offenders using existing legislation, only one of nine convicted offenders served jail time and sentences varied widely across district courts. Additionally, labor inspectors and child protection officers were trained to seek remuneration for workers in labor dispute cases – including forced labor – rather than to

refer to law enforcement for prosecution; the government's continued failure to seek criminal prosecution of forced labor offenses, with significant prison sentences, hinders an effective response to Malawi's trafficking problem. Police, child protection, social welfare, and other officials received training in how to recognize, investigate, and prosecute instances of trafficking either directly from the government or in partnership with NGOs during the year. For example, in March 2011, the government trained 20 officers from the Ministry of Local Government and Rural Development, the Ministry of Gender, Children and Community Development, and several NGOs in a trainer-of-trainers program on child protection and human trafficking. The government continued to train police recruits at the Malawi Police Training School in identifying and combating human trafficking, as part of their standard training curriculum; at least 525 recruits were trained during the reporting period through this program. The Ministry of Labor continued to train labor inspectors in child protection. Requests for law enforcement cooperation with neighboring governments continued to be made on an ad hoc, informal basis. The government did not prosecute or convict officials for trafficking-related complicity during the reporting period; the Anti-Corruption Bureau's investigation, begun in 2007, into two complaints of trafficking-related corruption remained ongoing at the end of the reporting period." [1d]

24.04 The USSD report, on the issue of protection, observed:

"The government maintained its efforts to ensure victims' access to appropriate services during the reporting period. The government has not yet established systematic procedures for proactively identifying victims of trafficking among vulnerable populations, especially women and girls in prostitution. The government funded one rehabilitation drop-in center in Lilongwe for victims of trafficking and gender-based violence; it is unknown how many trafficking victims the center assisted during the reporting period. Over 100 police stations throughout the country housed victim support units to respond to gender-based violence, including trafficking crimes; these units continued to provide limited counseling and, in some places, temporary shelter to victims. Government-run hospitals provided trafficking victims with limited access to medical and psychological services. The government, at the district level, also referred victims to various NGO-run shelters, which catered largely to vulnerable children and youth, with some providing specialized care for women, though not for men. These shelters offer rehabilitation and skills training. The government supported NGOs by assigning labor inspectors, child protection officers, district social welfare officers, and police to assist in their anti-trafficking projects; national and district budgets allocated resources for these government officials, though they were not itemized for anti-trafficking efforts specifically. There were no aggregate data available for the number of victims identified, referred, or assisted by the government and NGOs during the reporting period; from the two districts that reported protection data, 253 male trafficking victims and 52 female victims were identified. In Kasungu District, police and labor officers referred 38 child labor trafficking victims to care facilities before they were reunited with their families. In Mchinji District, an NGO transit center cared for 266 child trafficking victims; the District Social Welfare Office partnered with the center to assist in the reintegration of 254 victims into schools. The government continued to provide child trafficking victims with school supplies and funding to assist in their reintegration, and provided training to trafficking victims' families on income-generating activities to reduce the likelihood of victims' re-trafficking. The government did not provide foreign victims with temporary residency or legal alternatives to their removal to countries where they would face hardship or retribution; in some cases the Immigration Department

suspended deportation for short periods. The government provided limited assistance to repatriated Malawian trafficking victims; during the reporting period four Malawian nationals were repatriated from Zambia and the Social Welfare Office provided transportation to Zambia. Overall, the government encouraged victims' participation in the investigation and prosecution of trafficking crimes and did not penalize identified victims for unlawful acts committed as a direct result of being trafficked; however, trafficking victims may have been detained for a short period during the initial investigation of their cases.” [1d]

- 24.05 A report of 7 April 2011 on the Salvation Army International Development website noted the existence of the Mchinji Anti Child Trafficking Centre in the country. The report stated:

“The Salvation Army's Anti Child Trafficking Centre is the only residential care centre for trafficked children in Malawi. It is also the only social service program within the Malawi Salvation Army... Currently there are 30 children aged 8 to 17 years old and this will be increased to full capacity of 40 children. In most cases, children come to the centre, their family is located, visited, giving information about child trafficking and the situation their child has been in and over a 3-4 month period, they are then returned to their family. While they are with The Salvation Army they attend school.” [63]

- 24.06 The USSD report *Trafficking in Persons* stated on the subject of prevention:

“The government made minimal efforts to prevent human trafficking and did not coordinate anti-trafficking public awareness campaigns during the reporting period. It did not complete a national plan of action, the drafting of which started during the previous reporting period. Three inter-agency groups have responsibility – and possible overlapping jurisdiction – for trafficking issues: the Inter-Ministerial Task Force on Human Trafficking, led by the Ministry of Gender, Child Development and Community Development; the National Steering Committee on Orphans and Vulnerable Children; and the National Steering Committee on Child Labor. These committees did not organize any awareness campaigns or training activities, though they reportedly met during the year. In November 2010, in partnership with IOM and INTERPOL, the government hosted an anti-trafficking training session for senior police officers from other African nations, with a focus on building communication strategies between law enforcement entities in each country. The government did not make efforts to reduce the demand for commercial sex acts during the year. Military officers and enlisted soldiers received training on human rights, child protection, and sexual exploitation from a foreign donor before their deployment abroad as part of peacekeeping missions.” [1d]

- 24.07 The Office of the United Nations High Commissioner for Human Rights (OHCHR) report on *the Concluding Observations of the Committee on the Rights of the Child, Malawi*, of 27 March 2009, noted that: “The Committee expresses concern at reports that children have been trafficked abroad. The Committee expresses further concern at the lack of data or statistics on internal and cross border trafficking cases and the fact that perpetrators of trafficking of children are not brought to justice.” [21b]

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## 25. MEDICAL ISSUES

### OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

25.01 An undated report of Friends of Malawi (FoM) on *Healthcare* in the country (accessed 6 July 2011) stated:

“Malawi uses a socialized system of health care, with the goal of providing access and basic health services to all Malawians. This is a daunting task, considering that 80% of Malawians live in rural areas and that the poverty of Malawi limits social infrastructure. However, the Ministry of Health and Population has set up specific systems that attempt to reach even the most remote areas. In some areas of health care, Malawi has model programs and successes that are enviable in other parts of Africa. Because treatment at district health centers is free, and because most families cannot afford even basic health care items, even the most basic needs are obtained at health centers and hospitals. Ailments like headaches and small burns, which Americans are accustomed to self treating with aspirin and bandages, are usually treated at health centers in Malawi. A large patient base, limited staffing, and limited availability of medicine means that a visit to the health centre can take all day. Compounding this is the limited treatment that is available in Malawi — everything from diagnostic procedures to treatment regimens are unavailable to most people.

“In their efforts to provide health services to all Malawians, the Ministry of Health and Population has set up a three-tiered system. At the local level are rural health centers and rural hospitals. They usually serve an area of about 50 villages and 30,000 people. These facilities do not have doctors, but they do have clinicians and nurses. They provide the basic services, including pre-natal and post-natal care, birthing, early childhood care, malaria and parasitic treatments, and treatment for minor abrasions and simple fractures. Health centers also promote prevention and civic education through the use of Health Surveillance Assistants. These people are responsible for teaching better hygiene and health practices in the villages, as well as outreach clinics which provide pre-natal and early childhood care away from the health centers.” [30]

25.02 The same FoM report continued:

“For illnesses or injuries that cannot be treated at the rural health centers, patients are referred to district hospitals. There is one hospital in each district in Malawi. These hospitals have more advanced diagnostic equipment, including x-ray machines and blood laboratories. They also have a doctor, and they can provide surgical treatment if necessary. The staff at a district hospital usually has better training, more qualification, and more experience. However, some illnesses are not treatable even at district hospitals. These patients are referred to one of three central hospitals. The central hospitals have the most advanced diagnostic equipment and the best trained health care workers. This is where the highest level of care is provided.

“In addition to the social medicine facilities, there are some fee-for-service health clinics in Malawi. The most expensive of these clinics, found almost exclusively in larger towns and cities, are unobtainable to the average Malawian, but many missions offer fee-for-service clinics in medically underserved areas at more affordable rates.” [30]

25.03 The same FoM report continued:

“For illnesses or injuries that cannot be treated at the rural health centers, patients are referred to district hospitals. There is one hospital in each district in Malawi. These hospitals have more advanced diagnostic equipment, including x-ray machines and blood laboratories. They also have a doctor, and they can provide surgical treatment if necessary. The staff at a district hospital usually has better training, more qualification, and more experience. However, some illnesses are not treatable even at district hospitals. These patients are referred to one of three central hospitals. The central hospitals have the most advanced diagnostic equipment and the best trained health care workers. This is where the highest level of care is provided.

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25.04 The Foreign and Commonwealth Office *Travel Advice* for the country, updated 6 May 2011, noted that: “Healthcare standards, particularly in the rural areas of Malawi, are generally poor.” [2b]

25.05 An IRIN article of 6 June 2011, Malawi: UK aid cuts hit health care, noted a recent development:

“After several years of fragile gains, Malawi’s healthcare sector is running into trouble, with the latest challenge an aid freeze by its largest international donor, the UK’s Department for International Development (DFID).

“The UK provided about US\$122 million annually to Malawi, of which \$49 million went to funding Malawi’s public health sector, but DFID made its final aid disbursement in March and has decided not to renew a six-year funding commitment which ends in June.

“‘We have already started feeling the pinch,’ said Martha Kwataine, a policy analyst with the Malawi Health Equity Network. ‘There is going to be a regression in the progress we have made with DFID in improving health services in the country.’

“The UK’s decision not to renew its aid to Malawi followed the expulsion of its top envoy Fergus Cochrane-Dyett by the Malawian government for allegedly writing in a leaked memo that Malawian President Bingu wa Mutharika was ‘ever more autocratic and intolerant of criticism’.

“Malawi’s health sector is nearly entirely donor-funded with foreign aid covering about 90 percent of the costs of all medicines. ‘[The cuts] will really make a difference because we don’t have the means to buy most drugs ourselves,’ Kwataine told IRIN. However, drug shortages and stock-outs were a problem even before DFID’s funding freeze ... The problem of low morale has contributed to a critical shortage of health workers in Malawi, with many migrating to South Africa and elsewhere in search of better pay and working conditions. A DFID-sponsored programme was making huge strides in improving working conditions for doctors and had helped increase the doctor to patient ratio from 1 to 60,000 in 2004, to the current ratio of 1 to 46,000. These gains are now at risk as health workers become increasingly frustrated by a lack of resources.” [58b]

25.06 The Pharmacy, Medicines and Poisons Board of Malawi (PMPB), on its website (<http://www.pmpb.mw/index.php>), lists the registered drugs that should be available in the country. The website notes: "The legal mandate of the PMPB is to ensure that only those medicines that are certified safe, efficacious with acceptable quality are produced, procured, stored, administered or dispensed by qualified personnel and taken by the citizens." [39]

## HIV/AIDS – ANTI-RETROVIRAL TREATMENT

25.07 The charity Avert, in its report on *Treatment for HIV and AIDS in Malawi* (undated but accessed 6 July 2011), noted:

"Antiretroviral drugs (ARVs), which delay the onset of AIDS in people living with HIV, were first made available through the public sector at three sites in Malawi in 2003. In 2004, following a grant from the Global Fund to Fight AIDS, TB and Malaria, the government announced a five-year plan to make ARVs widely available in the public sector and began to distribute them to hospitals and clinics around the country. The government has maintained a strong commitment to providing HIV treatment, and substantial progress has been made in recent years. In 2004 only 13,000 Malawians infected with HIV were receiving antiretroviral therapy. This rose dramatically to 198,846 in 2009. However the government estimates that around 300,000 are eligible so there are still many people in need of treatment who are not receiving it. Malawi's principle secretary for HIV and AIDS." [31]

25.08 The same AVERT report added:

"Reaching the targets for universal access is high on the government agenda due to a concerted effort by civil society organisations. However, there are practical concerns. Malawi has begun to implement a new treatment regimen based upon the latest WHO guidance. This involves switching from a regime comprising d4t, 3tc and nevirapine, which costs US\$33 per month, to a new regime costing US\$100 per month. Whilst the new regime reduces the side effects associated with ARVs and enables people to live longer, less people will be able to access these essential medicines due to the increased costs. Malawi has also moved to adopt the earlier initiation of treatment recommended by WHO which advises starting treatment at a CD4 count of <350 instead of <200. This is estimated to have doubled the number of people in need of treatment. Alongside financial constraints, the distribution of ARVs in Malawi is hindered by the low number of health care workers available to administer the drugs.

"Access to treatment is particularly limited in rural areas, as problems such as a lack of transportation prevent many people from reaching health services. Even in areas where treatment is available, severe food shortages have meant that the issue of HIV and nutrition is of particular concern. Another challenge is the common shortages of medicines to treat the opportunistic infections that arise at later stages of HIV infection." [31]

25.09 An article of 11 June 2011 in the Inter Press Service News Agency, *Malawi: Fears of Sustainability of New ART Regime*, noted:

"As government prepares to roll out the expensive new antiretroviral treatment regime recommended by the World Health Organisation (WHO) this month, there are fears about the programme's sustainability after two recent proposals for funding were

rejected by the Global Fund. In November 2009, the WHO recommended new antiretroviral treatment (ART) guidelines aimed at reducing HIV-related deaths. The global health body directed the replacement of the ARV stavudine because of established negative side effects. But the new regime costs almost five times as much as the current one... government currently spends about 34 million dollars annually on ARVs. The new regime will cost up to 105 million dollars a year... despite the fact that the Global Fund has rejected two proposals from Malawi worth a total of 564 million dollars, government will go ahead using its own resources to meet the cost of the new treatment regime... But the Global Fund, United Nations and Department for International Development (Dfid) support 80 percent of Malawi's health budget...the last time Malawi reviewed its AIDS treatment protocol was in 2008 when it adopted the current first-line combination of stavudine, lamivudine and nevirapine.” [81]

25.10 Information obtained from the director of Lighthouse in March 2009, an HIV/AIDS clinic in Lilongwe, noted the main drug regimens available in the national programme for the country:

“Malawi has a standardised approach to ART.

1. First Line Regimen: Lamivudine + Stavudine + Nevirapine
2. Alternative first line: Zidovudine + Lamivudine + Nevirapine
3. Alternative first line: Stavudine + Lamivudine + Efavirenz
4. Second line regimen: Zidovudine + Lamivudine + Tenofovir + Lopinavir/Ritonavir (adults)
5. Second line regimen: Abacavir + Didanosine+ Lopinavir/Ritonavir (children).” [64]

## CANCER TREATMENT

25.11 A report published on 21 August 2008 by the Palliative Care Association of Malawi stated:

“Many people in Malawi with incurable illness are discharged from hospital to the care of their families. Little is known about the care they receive or how they die. The first dedicated palliative care team in Malawi started in the department of paediatrics in 2001 at the country’s only teaching hospital, Queen Elizabeth Central Hospital in Blantyre. Children admitted to the oncology ward were recognised as needing holistic support (including adequate pain relief) alongside their chemotherapy. This paediatric oncology service is the only dedicated cancer service in the country. There are no radiotherapy services, and adult chemotherapy, when available, is prohibitively expensive.” [32]

25.12 An ASCO News and Forum article of January 2009, *Palliative care in Malawi*, noted:

“... the most common cancers in Malawi include Kaposi’s sarcoma (KS), esophageal cancer, hepatoma, cervical cancer, and HIV-related lymphoma... a very active pediatric oncology unit provides treatment to many young patients with cancer. However, the situation in adult oncology is different, and there is very little oncology service available to adults with cancer in the public sector. Treatment for KS focuses on anti-retroviral therapy, which has become available to many Malawians since the anti-retroviral rollout began in 2004. Patients often require chemotherapy in addition to antiviral to control disease. Major centers in have access to single-agent vincristine for patients with progressive or non-resolving disease. Although it clearly has some activity in KS,

vincristine is not likely to produce response rates anything like those of liposomal doxorubicin and paclitaxel used in high-income countries. Currently, there is no second-line option available for KS in Malawi... With limited access to radiotherapy (the closest centers are in Tanzania and South Africa), adequate palliative care is often difficult.” [33]

25.13 An article of 16 November 2009 in health-e.org (via AllAfrica.com), *Dying in pain is a reality for most Africans*, stated: “Malawi currently has 18 palliative care centres, but not a single oncologist, no cancer centre which means no radio- or chemotherapy treatment for adults... In Malawi, an AIDS-related cancer - Kaposi Sarcoma is common with 165 000 people currently in need of palliative care... African countries that had introduced palliative care with access to morphine possible include... Malawi.” [41]

25.14 A more recent article in the *Nyasa Times* of 25 January 2011, *Cancer victim support lacking in Malawi*, noted the current generic situation in the country:

“Chances of surviving cancer in Malawi are almost nonexistent following shocking revelations that the 16 million plus nation has no radiotherapy machine and has only one trained cancer specialist... According to the specialist also known as an oncologist, Dr Leo Masamba, globally cancer is responsible for more deaths than those caused by TB, HIV/AIDS and Malaria combined. He said in Malawi ‘most cancer patients die without having any formal cancer treatment due to lack of radiotherapy, lack of enough drugs for cancer treatment, or properly supported chemotherapy unit and human resources trained to treat cancer.’” [16d]

## KIDNEY DIALYSIS

25.15 An article of 11 June 2011 in the *Nyasa Times*, *Malawi source 10 dialysis machines*, noted:

“Malawi government has announced that it has sourced 10 dialysis machines from Japan to help treat people with kidney complications. Malawi had only one dialysis machine at the Kamuzu Central Hospital (KCH) in Lilongwe and mostly it lacked resources. The other one at Queen Elizabeth Central Hospital (QECH) in Blantyre which was secured by United States based Malawi Biomedical Resources was taken to KCH after its machine had broken down... Recently, a multi-million Kwacha Haemo-Dialysis Centre opened at Mwaiwathu Private Hospital in Blantyre. Medical director of Mwaiwathu Hospital, Professor Jack Wirima said aid the facility treat people on government scheme. ‘There is an arrangement between government and Mwaiwathu hospital whereby we manage patients on behalf of government and the government settles the bill,’ said Prof Wirima.” [16e]

## MENTAL HEALTH

25.16 The World Health Organisation (WHO) *2005 Mental Health Atlas* stated:

“The following therapeutic drugs are generally available at the primary health care level of the country: carbamazepine, phenobarbital, phenytoin sodium, amitriptyline, chlorpromazine, diazepam, fluphenazine, haloperidol, lithium. Procyclidine is available.” [34]

25.17 The Scotland Malawi Mental Health Education Project website (dated 2010) noted that:

“... international epidemiological studies would suggest that the rates of mental illness in Malawi are at least as high as those in western and other developing countries. Mental Health Service provision is extremely sparse and there is only one state psychiatrist, Dr Felix Kauye ... The project provides support to Dr Kauye in delivering the undergraduate medical student teaching course at the College of Medicine (CoM) in Blantyre... Dr Kauye guides the projects interface with contributions from Dutch and Norwegian projects, and Mental Health nursing training support from the Harrogate-Zomba Link and Voluntary Service Overseas.” [70]

25.18 The source continued, noting that:

“The Scotland Malawi Mental Health Education Project (SMMHEP) aims to provide sustainable support for psychiatric teaching and training for health care professionals in Malawi. The project has enjoyed close links with individuals and institutions in Malawi since 2006 and became a registered Scottish Charity in 2008. Currently the principal activities of the project are delivery of undergraduate medical student teaching, and ECT equipment and training.

“The project has received support from the Royal College of Psychiatrists (London and Scotland), the Scottish Government, National Health Service Education Scotland (NES), the Tropical Health Education Trust (THET) and local postgraduate Deaneries and tutors.” [70]

25.19 The source further noted that there were psychiatric hospitals in Blantyre and Zomba. [70]

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## 26. FREEDOM OF MOVEMENT

26.01 The US State Department *2010 Report on Human Rights Practices*, published 8 April 2011 (USSD 2010), noted that:

“The constitution and laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern. The law prohibits forced exile, and the government did not use it.” [1a] (section 2d)

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## 27. FOREIGN REFUGEES

27.01 The US State Department *2010 Report on Human Rights Practices* (USSD 2010 report), published 8 April 2011, stated that:

“The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government generally provided protection against the expulsion or return of refugees to countries where their

70 The main text of this COI Report contains the most up to date publicly available information as at 31 July 2011. Further brief information on recent events and reports has been provided in the Latest News section to 25 August 2011.

lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion. However, in 2009 the government deported a recognized refugee from the Democratic Republic of the Congo and an Ethiopian national with a pending asylum application. UNHCR was unable to verify if the two individuals were under threat in their respective countries of origin. No such deportations occurred during the year. By law the government does not accept refugees for permanent settlement. The government cooperated with UNHCR in assisting refugees and asylum seekers but restricted refugees' ability to move freely and work outside of refugee camps. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees or the 1967 Protocol; however, no reliable statistics were available.” [1a] (section 7)

27.02 The same USSD 2010 report continued:

“While no legal framework existed, the government allowed refugees to seek both employment and educational opportunities, although it restricted these activities outside the refugee camps. Refugees with professional degrees, especially those with medical training, were given work permits to pursue employment outside the camps. UNHCR, NGOs, and the government collaborated to provide basic assistance, including education to children, in refugee camps. Security forces sometimes intimidated refugees and asylum seekers. Police routinely performed detained refugees found illegally outside of camps and returned them to camps. Local citizens often accused refugees of theft and demanded their deportation. There were no developments or arrests in the July 2009 case of a mob that reportedly killed an Ethiopian refugee accused of stealing maize.” [1a] (section 7)

27.03 The Malawi section of the 2011 UNHCR *Regional Operations Profile for Southern Africa* noted that:

“The 11,700 refugees and asylum-seekers in Malawi originate mainly from the Great Lakes region, in particular, Burundi, the DRC and Rwanda... Malawi is a significant transit country for mixed movements from the Horn of Africa and the Great Lakes region. A number of asylum applications submitted by Somalis and Ethiopians are abandoned soon after being submitted, suggesting that these individuals have continued their onward movement to South Africa and raising concerns with the authorities.” [65]

27.04 An Inter Press Service News Agency (IPS) report of 21 September 2010, *Gender-Based Violence Wrecks Malawi Refugee Camp*, referred to a family from the Democratic Republic of Congo who

“... live together with about 11,000 other refugees from all over the continent in Malawi's only and crammed refugee camp, Dzaleka. Conditions here are tough, and rape and domestic violence triggered by alcohol abuse, stress and hopelessness are widespread problems. ‘Every day, we have conflict here in the camp,’ admits Martin Mphundukwa, Dzaleka compound manager and an official of the Malawian Department of Refugees. ‘The funding for the camp is inadequate, so life is very tough for refugees. Many resort to violence.’ Since Malawian law prohibits refugees from living outside of the camp or seeking employment, they are forced to live in the Dzaleka compound, which lies 42 kilometres outside of Malawi's capital Lilongwe. The camp used to be a detention centre for political prisoners during the time of President Hastings Kamuzu Banda. Here,

refugees live in rows of simple mud houses on an arid stretch of land. The basic food and toiletry rations they receive every month are barely enough to survive on... a gender-based violence project run by the Malawi Red Cross inside the camp. The project educates refugees about their rights, raises awareness about violence and offers a safe house for abused women, counselling, access to medical care and HIV testing. The Red Cross also cooperates with police and the refugee department to hold perpetrators accountable.” [8g]

27.05 The same IPS report continued:

“Every month, between seven and ten cases of gender-based violence are reported in the camp, says Red Cross social worker Cecilia Banda. They range from wife beating and abuse to rape, abduction and child rape... Still, very few perpetrators are sentenced. Currently, only one case has made it into court, and only two perpetrators have been sentenced this year -- one for rape, the other for rape of a minor. Reasons for the low conviction rate vary, says Mzembe [a police officer]. Some women withdraw their cases out of fear, while other investigations come to a halt because the perpetrator has fled the camp. But most cases seem to fall by the wayside due to bureaucratic inefficiency. ‘Our main problem is that the police officers on duty in the camp rotate every month. Every time you follow up, you deal with someone new. That makes it difficult to keep track and lots of cases get lost,’ explains Banda. Nonetheless, Banda believes that, within those limits, the police are doing their best to reduce crime in Dzaleka. They recently set up a team of 18 officers who patrol the camp day and night. And in cooperation with the Red Cross, they have launched a door-to-door crime prevention campaign to educate households about security and human rights.” [8g]

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## 28. CITIZENSHIP AND NATIONALITY

28.01 The United States Office of Personnel Management Investigations Service *Citizenship Laws of the World* report, published in March 2001, stated the following about Malawian citizenship:

“**CITIZENSHIP:** Citizenship is based upon the Malawi Citizenship Act, dated July 6, 1966. Every person who was a citizen of Malawi before July 6, 1966, continues to be a citizen of Malawi. (UK Commonwealth Nation)

“**BY BIRTH:** Birth within the territory of Malawi does not automatically confer citizenship. The exception is a child born of unknown parents.

“**BY DESCENT:** Child born in Malawi, on or after July 6, 1966, whose father or mother is a citizen of Malawi and is of African race.

“Child born abroad, on or after July 6, 1966, one of whose parents is a native-born citizen of Malawi of African race.

“**BY NATURALIZATION:** Malawian citizenship may be acquired upon fulfillment of the following conditions:



“Person is of an African race or has Commonwealth or Malawian ties, has resided five years in the country, has adequate knowledge of the English language, intends to reside permanently in Malawi, and will renounce previous citizenship. (Aliens without the national ties must have resided for seven years.)

“**DUAL CITIZENSHIP:** NOT RECOGNIZED.

“**Exception:** Child born abroad, who obtains citizenship of country of birth, may maintain dual citizenship until age 21, when the person must renounce the other citizenship within one year or Malawian citizenship will be revoked.

“A citizen of Malawi, age 22 or older, who obtains new citizenship through other than voluntary means (for example, marriage) has one year to declare a desire to retain Malawian citizenship or it will be revoked.

“**LOSS OF CITIZENSHIP:**

“**VOLUNTARY:** Voluntary renunciation of Malawian citizenship is permitted by law.

“**INVOLUNTARY:** The following are grounds for involuntary loss of naturalized or registered Malawian citizenship:

“Person exercises rights or privileges of another country.

“Citizenship was obtained through fraud or false statements.

“Person has been arrested and imprisoned within seven years of citizenship.

“Person has shown disloyalty or treason against Malawian government.

“Person has been resident outside Malawi for seven years or more without proper registration with Consulate.” [36]

28.02 The main provisions of *the Citizenship Act* are contained in the UNHCR website (accessed 29 July 2011):

“An Act to repeal and replace the Malawi Citizenship Act, 1964, so as to make provision, consequent upon the enactment of a Republican form of Constitution in Malawi, for the acquisition of citizenship of Malawi by birth or descent, or by registration in certain cases; to regulate the manner and circumstances in which aliens may be naturalized as citizens of Malawi and in which citizens of Malawi may renounce or be deprived of their citizenship; and to make provision for certain other matters relating to citizenship of Malawi and for matters incidental thereto and connected therewith.”

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3ae6b5b110&skip=0&query=acquisition%20of%20citizenship%20rights%20africa> ) [37]

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## 29. EMPLOYMENT RIGHTS

- 29.01 The US State Department *2010 Report on Human Rights Practices* (USSD 2010 report), Malawi, published 8 April 2011, noted:

“The law allows workers, except for army personnel and police, to form and join trade unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice; however, union membership was low due to the small percentage of the workforce in the formal sector, the lack of awareness of worker rights, and resistance on the part of many employees to joining unions due to fear of reprisals. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions. There is no reliable data on employment in the formal or informal sector. It is estimated that there are 1.1 million persons actively working in the formal sector. An estimated 650,000 are employed in the civil service. In 2008 the Malawi Congress of Trade Unions (MCTU) calculated that approximately 18 percent of workers in the formal sector were union members. Employers, labor unions, and the government lacked sufficient knowledge of their legitimate roles in labor relations and disputes, which limited their effectiveness in implementation and enforcement of the law. The law provides for unions to conduct their activities without government interference; however, in reality the law does not apply to the vast majority of workers in the informal sectors.

“Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor, and registration was granted routinely.” [1a] (section 7)

- 29.02 The same USSD 2010 report added:

“The law allows members of a registered union to strike or go through a formal mediation process overseen by the Ministry of Labor, and workers exercised this right. A strike can take place only after all complex and time-consuming settlement procedures established in a collective agreement and conciliation efforts have failed. Ambiguities in the law regarding what services are considered to be "essential" could lead to unions having difficulties striking legally. There were, however, no instances of strikes being declared illegal during the year. Laws do not specifically prohibit retaliation against strikers. There is no prohibition on actions against unions that are not registered. Members of a registered union in "essential services" have a limited right to strike. Essential services are defined as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population, as determined by the Industrial Relations Court (IRC). While there is a definition of 'essential services,' there is no defined list.

“Arbitration rulings were legally enforceable; however, in practice, due to lack of funding and a heavy case backlog, the IRC could not monitor cases or adequately enforce the laws.” [1a] (section 7)

- 29.03 The International Trade Union Confederation's (ITUC) *Annual Survey of Violations of Trade Union Rights 2011*, Malawi, published 8 June 2011, recorded the principal events of the previous year: “The Malawi Congress of Trade Unions (MCTU) complained that points tabled by the unions and agreed to in tripartite negotiations were missing from the final draft of the amended Employment Act. A MCTU march was stopped by police due to a technicality. Collective bargaining is strenuous, and striking workers are not protected against reprisals.” [38]

29.04 The same ITUC report noted, on the subject of child labour on Malawi's tobacco farms, that:

“A documentary made for Britain's Channel 4 programme ‘Unreported World’ aired in June 2010, highlighting the ongoing use of child labour in tobacco harvesting. A group of women and children, some just toddlers, were filmed sorting tobacco leaves at the side of the road. One woman with three children helping her said that she would earn around one euro for the day's work. Many tenant farmers also suffer from very low wages and have to borrow money from the farm owners. They end up in debt, becoming bonded labourers. Child labour is illegal in Malawi, but is tolerated by the authorities. There are no trade union rights for child or bonded labourers.” [38]

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## Annex A

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### CHRONOLOGY OF RECENT MAJOR EVENTS

- 1958** Dr Hastings Kamuzu Banda, "the black messiah" returns from the US and the UK, where he has been studying, to lead the Nyasaland African Congress. (BBC Timeline, last updated 20 July 2011) [7b]
- 1959** Violent clashes between the Congress supporters and the colonial authorities lead to the banning of the organisation. Many leaders, including Banda, are arrested and a state of emergency is declared. (BBC Timeline, last updated 20 July 2011) [7b]
- Malawi Congress Party is founded as a successor to the Nyasaland African Congress. (BBC Timeline, last updated 20 July 2011) [7b]
- 1960** Banda is released from Gwelo prison and attends talks in London with the British government on constitutional reform. (BBC Timeline, last updated 20 July 2011) [7b]
- 1961** Elections held for a new Legislative Assembly. Banda's Malawi Congress Party wins 94% of the vote. (BBC Timeline, last updated 20 July 2011) [7b]
- 1963** Territory is granted self-government as Nyasaland and Banda is appointed prime minister. (BBC Timeline, last updated 20 July 2011) [7b]
- 1964**
- July Nyasaland declares independence as Malawi. (BBC Timeline, last updated 20 July 2011) [7b]
- 1966**
- July Banda becomes president of the Republic of Malawi. The constitution establishes a one-party state. Opposition movements are suppressed and their leaders are detained. Foreign governments and organisations raise concerns about human rights. (BBC Timeline, last updated 20 July 2011) [7b]
- 1971** Banda is voted president-for- 1978 - First elections since independence. All potential candidates must belong to the Malawi Congress Party and be approved by Banda. He excludes many of them by submitting them to an English test. (BBC Timeline, last updated 20 July 2011) [7b]
- 1980s** Several ministers and politicians are killed or charged with treason. Banda reshuffles his ministers regularly, preventing the emergence of a political rival. (BBC Timeline, last updated 20 July 2011) [7b]
- 1992** Catholic bishops publicly condemn Banda, sparking demonstrations. Many donor countries suspend aid over Malawi's human rights record. (BBC Timeline, last updated 20 July 2011) [7b]

- 1993** President Banda becomes seriously ill. Voters in a referendum reject the one-party state, paving the way for members of parties other than the Malawi Congress Party to hold office. Muluzi elected. (BBC Timeline, last updated 20 July 2011) [7b]
- 1994** Presidential and municipal elections: Bakili Muluzi, leader of the United Democratic Front, is elected president. He immediately frees political prisoners and re-establishes freedom of speech. (BBC Timeline, last updated 20 July 2011) [7b]
- Banda announces his retirement from politics. (BBC Timeline, last updated 20 July 2011) [7b]
- 1997** Banda dies in hospital in South Africa where he is being treated for pneumonia. (BBC Timeline, last updated 20 July 2011) [7b]
- 1999** President Muluzi is re-elected for a second and final five-year term. (BBC Timeline, last updated 20 July 2011) [7b]
- 2000** World Bank says it will cancel 50% of Malawi's foreign debt. (BBC Timeline, last updated 20 July 2011) [7b]
- 2002** Drought causes crops to fail across southern Africa. Government is accused of worsening crisis through mismanagement and corruption, including selling off national grain reserves before drought struck. (BBC Timeline, last updated 20 July 2011) [7b]
- September Railway line linking central Malawi and Mozambican port of Nacala reopens after almost 20 years, giving access to Indian Ocean. (BBC Timeline, last updated 20 July 2011) [7b]
- 2004**
- May Bingu wa Mutharika wins presidency. Government says it will provide free anti-viral drugs to Aids sufferers. (BBC Timeline, last updated 20 July 2011) [7b]
- 2005**
- January Three UDF officials are charged with treason after carrying guns to a meeting with President Mutharika. The president later pardons the trio. (BBC Timeline, last updated 20 July 2011) [7b]
- February President Mutharika resigns from the UDF over what he says is its hostility to his anti-corruption campaign. He forms the Democratic Progressive Party (DPP). (BBC Timeline, last updated 20 July 2011) [7b]
- June President Mutharika survives an impeachment motion backed by the UDF. The speaker of parliament dies after collapsing during angry exchanges over the motion. (BBC Timeline, last updated 20 July 2011) [7b]
- November Agriculture minister says five million people need food aid as Malawi bears the brunt of failed crops and a regional drought. (BBC Timeline, last updated 20 July 2011) [7b]

**2006**

- April Vice-President Cassim Chilumpha is arrested and charged with treason.  
July Ex-president Bakili Muluzi is arrested on corruption charges. (BBC Timeline, last updated 20 July 2011) [7b]
- October Controversy as American singer Madonna is given temporary rights to adopt a Malawian baby. (BBC Timeline, last updated 20 July 2011) [7b]

**2007**

- May Malawi begins exporting 400,000 tonnes of maize to Zimbabwe, after producing a surplus in 2006. (BBC Timeline, last updated 20 July 2011) [7b]

**2008**

- January Malawi ends diplomatic relations with Taiwan, switching allegiance to China. (BBC Timeline, last updated 17 August 2010) [7b]
- May Several opposition figures and ex-security chiefs are arrested after President Mutharika accuses his predecessor, Bakili Muluzi, of plotting to depose him. (BBC Timeline, last updated 20 July 2011) [7b]

**2009**

- May President Mutharika wins second term in election. (BBC Timeline, last updated 20 July 2011) [7b]

**2010**

- May A gay couple is convicted and jailed for breaching anti-homosexuality laws, sparking international condemnation. The two men are given a presidential pardon and released. (BBC Timeline, last updated 20 July 2011) [7b]

**2010**

- August New national flag introduced amid controversy.  
First local elections in a decade postponed again. (BBC Timeline, last updated 20 July 2011) [7b]
- October Diplomatic row with Mozambique over a new waterway connecting Malawi with the Mozambique coast. Mozambique impounds first barge to use new route. (BBC Timeline, last updated 20 July 2011) [7b]
- November Protests against a bill setting the retirement age at between 55 and 60, higher than average life expectancy. (BBC Timeline, last updated 20 July 2011) [7b]

**2011**

- March President Mutharika angers opposition parties by calling on members of his Democratic Progressive Party at a rally to beat up those who have insulted him. (BBC Timeline, last updated 20 July 2011) [7b]

- May Malawi expels British High Commissioner Fergus Cochrane-Dyet over a leaked diplomatic cable released in which Mr Cochrane-Dyet describes President Mutharika as increasingly autocratic. (BBC Timeline, last updated 20 July 2011) [7b]
- July Britain halts all aid to Malawi, accusing the government of mishandling the economy and failing to uphold human rights. (BBC Timeline, last updated 20 July 2011) [7b]
- Riots broke out in cities in Malawi as opposition groups protest against President Bingu wa Mutharika's government. (BBC News – Malawi riots erupt in Lilongwe and Mzuzu, 20 July 2011) [7f]

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## Annex B

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### POLITICAL ORGANISATIONS

Taken from Europa World Online, undated, accessed 22 July 2011. [5]

#### **Alliance for Democracy (AFORD)**

Lilongwe

Founded 1992; in March 1993 absorbed membership of fmr Malawi Freedom Movement.  
Pres. Dindi Gowa Nyasulu.

#### **Congress of Democrats (CODE)**

Mzuzu

Pres. Ralph Kasambara.

#### **Congress for National Unity (CONU)**

Lilongwe

Founded 1999;

Pres. Bishop Daniel Kamfosi Nkhumbwa.

#### **Democratic Progressive Party (DPP)**

Lilongwe

Internet: [dppmw.org](http://dppmw.org)

Founded 2005 following Bingu wa Mutharika's resignation from the UDF;

Leader Dr Bingu wa Mutharika.

Sec.-Gen. Binton Kutsaira.

#### **Malawi Congress Party (MCP)**

Lilongwe

Tel: 999223228

Internet: [www.malawicongressparty.org](http://www.malawicongressparty.org)

Founded 1959; sole legal party 1966–93.

Pres. John Tembo.

#### **Malawi Democratic Party (MDP)**

Lilongwe

Pres. (vacant)

#### **Malawi Forum for Unity and Development (MAFUNDE)**

Founded 2002; aims to combat corruption and food shortages.

Pres. George Mnesa.

#### **Maravi People's Party (MPP)**

Lilongwe

Pres. Uladi Mussa.

Sec.-Gen. Dr Yusuf Haudi (acting).

#### **Movement for Genuine Democratic Change (MGODE)**

Mzuzu

Founded 2003 by fmr mems of AFORD;

Chair. Sam Kandodo Banda (acting).



Dir Greene Lulilo Mwamondwe.  
Sec.-Gen. Rodger Nkwazi.

**National Democratic Alliance (NDA)**

Blantyre

Tel: 1842593

Founded 2001 by fmr mems of the UDF; officially merged with the UDF in June 2004 but maintained independent structure.

Pres. Brown James Mpinganjira.

Nat. Chair. James Makhumula Nkhoma.

**National Rainbow Coalition (NARC)**

Lilongwe

Tel: 1774007

Internet: [www.narcparty.com](http://www.narcparty.com)

Founded 2008;

Pres. Loveness Gondwe.

**National Solidarity Movement**

Leader Ngwazi Kazuni Kumwenda

**National Unity Party (NUP)**

Blantyre

Pres. Harry Chiume.

Sec.-Gen. Harry Muyenza.

**New Dawn for Africa (NDA)**

Blantyre, POB 76, Liwonde

Founded 2003; associated with the UDF.

Pres. Thom Chiumia.

Sec.-Gen. Chikumbutso Mtumodzi.

**New Republican Party (NRP)**

Founded 2005;

Pres. Gwandaguluwe Chakuamba.

Vice-Pres. Ken Zikhale Ng'oma.

**People's Progressive Movement (PPM)**

Founded 2003 by fmr mems of the UDF;

Pres. Aleke Kadonaphani Banda.

Sec.-Gen. Knox Varela.

**People's Transformation Party (PETRA)**

POB 31964, Chichiri, Blantyre

Tel: 1871577

Email: [umunthu@sdpn.org.mw](mailto:umunthu@sdpn.org.mw)

Internet: [www.petra.mw](http://www.petra.mw)

Founded 2002;

Pres. Kamuzu Chibambo.

Sec.-Gen. Derek Lakudzala.

**Republican Party (RP)**

Lilongwe

Pres. Stanley Masauli.

**United Democratic Front (UDF)**

POB 5446, Limbe

Internet: [www.udf.malawi.net](http://www.udf.malawi.net)

Founded 1992; officially merged with the NDA in June 2004 but maintained independent structure; rival faction led by Cassim Chilumpha and Friday Jumbe.

Chair. Dr George Nga Ntafu

Sec.-Gen. Kennedy Makwangwala

The Movement for the Restoration of Democracy in Malawi (f. 1996) is based in Mozambique and consists of fmr Malawi Young Pioneers; it conducts occasional acts of insurgency. (Europa World, accessed 22 July 2011)

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## Annex C

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### PROMINENT PEOPLE

<b>President</b>	Bingu wa Mutharika
<b>Vice President</b>	Joyce Banda
<b>Min. of Agriculture &amp; Food Security</b>	Peter Mwanza
<b>Min. of Development Planning &amp; Cooperation</b>	Abi Marambika Shawa
<b>Min. of Education, Science and Technology</b>	Arthur Peter Mutharika
<b>Min. of Finance</b>	Ken Kandodo
<b>Min. of Foreign Affairs</b>	Etta Elizabeth Banda
<b>Min. of Gender, Children &amp; Community Development</b>	Tereza Gloria Mwale
<b>Min. of Health</b>	David Kapenyelera Mphande
<b>Min. of Home Affairs</b>	Aaron Sangala
<b>Min. of Industry &amp; Trade</b>	Eunice Kazembe
<b>Min. of Information &amp; Civil Education</b>	Symon Vuwa Kaunda
<b>Min. of Internal Affairs &amp; Public Security</b>	Aaron Sangala
<b>Min. of Irrigation &amp; Water Development</b>	Ritchie Bizwick Muyewa
<b>Min. of Justice &amp; Constitutional Affairs</b>	George Chaponda
<b>Min. of Labour</b>	Yunus Mussa
<b>Min. of Lands, Housing &amp; Urban Development</b>	John Bande
<b>Min. of Local Govt.</b>	Anna Namathanga Kachikho
<b>Min. of National Defense</b>	Bingu wa Mutharika
<b>Min. of National Resources, Energy &amp; Environment</b>	Grain Wyson Malunga
<b>Min. of Persons With Disabilities &amp; The Elderly</b>	Reene Bessie Kachere
<b>Min. of Tourism, Wildlife &amp; Culture</b>	Ken Lipenga
<b>Min. of Transport &amp; Public Infrastructure</b>	Mohamed Sidik Mia
<b>Min. of Youth Development &amp; Sports</b>	Lucius Kanyumba
<b>Attorney Gen.</b>	Maxon Mbendera
<b>Governor, Reserve Bank</b>	Perks Ligoya

(CIA *World Factbook*, World Leaders, last updated 17 June 2011) [3]

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## Annex D

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### LIST OF ABBREVIATIONS

<b>AI</b>	Amnesty International
<b>CEDAW</b>	Committee on the Elimination of All Forms of Discrimination Against Women
<b>CPJ</b>	Committee to Protect Journalists
<b>EU</b>	European Union
<b>EBRD</b>	European Bank for Reconstruction and Development
<b>FCO</b>	Foreign and Commonwealth Office (UK)
<b>FGM</b>	Female Genital Mutilation
<b>FH</b>	Freedom House
<b>GDP</b>	Gross Domestic Product
<b>HIV/AIDS</b>	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
<b>HRW</b>	Human Rights Watch
<b>ICG</b>	International Crisis Group
<b>ICRC</b>	International Committee for Red Cross
<b>IDP</b>	Internally Displaced Person
<b>IFRC</b>	International Federation of Red Cross and Red Crescent Societies
<b>IMF</b>	International Monetary Fund
<b>IOM</b>	International Organisation for Migration
<b>MSF</b>	Médecins sans Frontières
<b>NATO</b>	North Atlantic Treaty Organisation
<b>NGO</b>	Non Governmental Organisation
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>ODIHR</b>	Office for Democratic Institutions and Human Rights
<b>ODPR</b>	Office for Displaced Persons and Refugees
<b>OECD</b>	Organisation of Economic Cooperation and Development
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OSCE</b>	Organisation for Security and Cooperation in Europe
<b>RSF</b>	Reporters sans Frontières
<b>STD</b>	Sexually Transmitted Disease
<b>STC</b>	Save The Children
<b>TB</b>	Tuberculosis
<b>TI</b>	Transparency International
<b>UN</b>	United Nations
<b>UNAIDS</b>	Joint United Nations Programme on HIV/AIDS
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>UNHCHR</b>	United Nations High Commissioner for Human Rights
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>USAID</b>	United States Agency for International Development
<b>USSD</b>	United States State Department
<b>WFP</b>	World Food Programme
<b>WHO</b>	World Health Organization

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## Annex E

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### REFERENCES TO SOURCE MATERIAL

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