



Malawi

Country Reports on Human Rights Practices - [2000](#)

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On June 15, 1999 the Republic of Malawi held its second democratic presidential and parliamentary elections since independence in 1964. Independent observers concluded that the elections were "free and substantially fair;" however, there was limited opposition access to media and problems in registration, and the opposition appealed the result to the courts. The six parliamentary by-elections held since June 1999 have been marred by violence, allegations of vote fraud, and contested results. Constitutional power is shared between a popularly elected president and the 193-member National Assembly. In the 1999 elections, President Bakili Muluzi of the United Democratic Front (UDF) party was reelected to serve a second 5-year term, defeating Gwanda Chakuamba, the joint presidential candidate of the two leading opposition parties, the Malawi Congress Party (MCP) and the Alliance for Democracy (AFORD). The UDF has 96 seats in the National Assembly; the MCP has 61 seats; AFORD has 30 seats; and there are 5 independent members in the National Assembly. There is no clear-cut ideological difference among the three political parties. The first local government elections to select councilors and mayors, as mandated under the 1998 Local Government Act, were held on November 21. The ruling UDF won over 70 percent of the seats in the elections, which were marked by low voter turnout and opposition complaints of voter intimidation and lack of media access. The Government respects the constitutional provisions for an independent judiciary; however, the judicial system is inefficient and lacks resources.

The National Police, headed by the Inspector General of Police under the Ministry of Home Affairs, are responsible for internal security. The police occasionally called on the army for support. There continued to be credible allegations that the police committed human rights abuses.

The country is very poor, with a narrow economic base characterized by a small and highly concentrated industrial sector, low levels of foreign and domestic investment, and few mineral resources. Agriculture dominates the economy, contributing nearly half of its gross national product (GNP), and employing over 80 percent of the labor force. Tobacco, tea, and sugar crops together generate over 70 percent of export earnings, with tobacco providing the largest share (about 60 percent). There is little industry and mining, and no known economically viable deposits of gemstones, precious metals, or oil. The country is landlocked, but improved rail service to the Mozambican deepwater port of Nacala, subsequent to the December 1999 privatization of Malawi Railways, is expected to lower significantly the share of transport costs in the country's import bill. The Government continues to move forward with its multisector privatization program, and endorses private sector participation in infrastructure. Wealth remains concentrated in the hands of a small elite. Annual per capita income is approximately \$200. Average annual inflation was 44.9 percent in 1999, up from 29.7 percent in 1998.

The Government generally respected the human rights of its citizens in many areas; however, its record in other areas was poor, and serious problems remained. There were extrajudicial killings, including deaths of detainees while in, or shortly after release from, police custody. The police are known to beat and otherwise abuse detainees and to use excessive force in handling criminal suspects. Prison conditions remained harsh and life-threatening and resulted in a large number of deaths. Arbitrary arrest and detention are common, and lengthy pretrial detention is a serious problem. An inefficient and understaffed judicial system and limited resources called into question the ability of defendants to receive a timely, and in many cases, fair trial. Security forces at times infringed on citizens' privacy rights. The print media are able to report freely; however, there were a few exceptions, and there was some self-censorship. The seven private radio stations experienced relative freedom in broadcasting international news and entertainment programming; however, the Government continued to control news coverage and editorial content at the Malawi Broadcasting Corporation's two radio stations. At times police used force against demonstrators. Violence against women is common. Women continued to experience severe societal discrimination. The Government took steps in its

economic development programs to assist disadvantaged women. Abuse of children remained a problem. Child labor, including instances of forced child labor, also is a problem. Mob violence triggered by anger over high levels of common crime resulted in mob executions of alleged criminals.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political killings; however there were extrajudicial killings, including deaths of detainees while in, or shortly after release from, police custody. These deaths involved possible use of excessive force or possible negligence. There was at least one credible report that prison officials beat a prisoner to death. Both the Inspectorate of Prisons and the Office of the Commissioner of Prisons carried out investigations into the killing, though results of the investigations were not released by year's end. Seven prison guards were charged in the killing and are currently in custody. Inquests into deaths while in custody are not held routinely.

In August 1999, police shot and killed one former Eritrean detainee and wounded six others in a confrontation in Lilongwe. No action was taken against the police (see Section 2.d.).

A large number of prisoners died largely due to harsh prison conditions (see Section 1.c.).

Frustrated by inadequate law enforcement and rising crime, angry mobs sometimes resorted to vigilante justice in beating, stoning, or burning suspected criminals to death. Serial killings during a 3-month period during the year brought international attention to the country. During the course of the investigations in February and March, police detained and held approximately 25 suspects. One of the suspects died while in police custody, allegedly due to police abuse. On May 31, the Director of Public Prosecutions eventually charged 4 suspects with the killings and scheduled 19 suspects for release. Realizing the potential for mob justice or independent acts of violence against the released suspects, police and prosecutors mounted a public information campaign, including town meetings. The 19 suspects were released on June 8 and were able to return to their communities without incident. On September 16, the Director of Public Prosecutions dropped the charges against one of the four charged suspects; on October 6, two of the suspects were sentenced to death and one was acquitted.

b. Disappearance

There were no reports of disappearances.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and other cruel, inhuman, or degrading treatment; however, police continued to beat and otherwise abuse detainees and to use excessive force in handling criminal suspects. The Inspectorate of Prisons is an investigative body mandated by the Constitution, and the findings of its May report--the most recent document of its kind--are considered indicative of prison conditions by domestic and international nongovernmental organizations (NGO's). The report notes that techniques used by police included beatings, physical assault, and the use of wire instead of handcuffs to restrain prisoners and to force confessions. Police sometimes hide these abuses by keeping prisoners in police custody until wounds heal before turning them over to the prison system for remand. The mistreatment is partly due to the mistaken belief of many police officers that the law requires them to present a case (not just charges) to the court within 48 hours of arrest. Lack of financial resources for appropriate equipment, facilities, and training also contributed to mistreatment.

At Freedom Day celebrations on July 6, police reportedly beat demonstrators outside the official venue (see Section 2.a.).

In May police used force, including tear gas, to disperse demonstrations (see Section 2.b.).

Police continued efforts to improve investigative skills and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse and domestic violence (see Section 5). While higher ranking officials demonstrated familiarity with new standards for the humane treatment of prisoners, their subordinates commonly employed unacceptable techniques. The Government

continued to seek community involvement in its comprehensive reform of the police. In 1999 Parliament created a community service alternative for some offenders. Four cities have begun pilot community service programs.

Prison conditions remained harsh and life threatening. Overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems. There was at least one credible report of prison officials beating a prisoner to death (see Section 1.a.).

According to the 2000 Inspectorate of Prisons report, 140 persons died in prison between January and December 1998. Most of the deaths resulted from disease, including tuberculosis and AIDS. Between January and December 1999, a total of 213 prisoners died at Zomba central prison alone. Although women are not kept in separate facilities, they are segregated within the prison compound and tended by female guards. Although four prisons are supposed to have separate facilities for juveniles, in practice the separation is inadequate. In the other prisons, juveniles are incarcerated with adults.

The Inspectorate of Prisons, domestic NGO's, and international NGO's are permitted to make visits to monitor prison conditions without government interference. NGO's report good collaboration with prison authorities.

d. Arbitrary Arrest, Detention, or Exile

The Constitution grants the accused the rights 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 of law within 48 hours; however, these rights seldom are respected in practice. The use of temporary remand warrants is widespread and used to circumvent the 48-hour rule. Police often resort to beatings to obtain information deemed necessary to their cases. In cases where the court determines that a defendant cannot afford to supply his own counsel, legal services are provided by the Government. With few persons able to afford legal counsel, the country's five public defenders were not sufficient to represent all indigent detainees in a timely manner. Bail frequently is granted to reduce prison overcrowding. Its use often bears only a tenuous relationship to the merits of an individual's situation. There are now over 8,000 inmates, over half of which are awaiting trial. Police are accused of arbitrary arrests due to political motives.

In February and March, police detained approximately 25 suspects in connection with a series of murders (see Section 1.a.).

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice; however, the judicial system is inefficient and is handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and trained personnel, a heavy caseload, and a lack of resources. The Constitution provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. The Chief Justice is appointed by the President and confirmed by the National Assembly. The President appoints other justices, following a recommendation by the Judicial Service Commission. All justices are appointed until the age of 65 and may be removed only for reasons of incompetence or misbehavior, as determined by the President and a majority of the Parliament.

By law defendants have the right to a public trial but not to a trial by jury. In murder cases, the High Court nevertheless used juries of 12 persons from the defendant's home district. Defendants also are entitled to an attorney, the right to present and challenge evidence and witnesses, and the right of appeal. However, the judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants. On July 14, the Department of Public Prosecutions, under the Ministry of Justice, hired 12 paralegals to help reduce the case backlog and assist the very small staff of 9 prosecuting attorneys. The paralegals are to serve as lay prosecutors and to prosecute minor cases in the magistrate courts.

In July 1999, the High Court concluded a training program for 48 lay magistrates and conducted training for 61 lay magistrates from September 1999 through January. Traditional court judges, absorbed into the magistrate court system, also receive some training in court procedure and the body of law that they administer. In August 1999, the High Court began a 2-month refresher-training program for traditional court judges.

In March Parliament passed the Courts Amendment Bill, which was aimed at increasing the civil jurisdiction of magistrates, simplifying small claims procedures, and giving magistrate courts jurisdiction over customary marriages. Although the law was implemented during the year, there were no documented effects of the law by

year's end.

Juvenile offenders have special rights under the Constitution, including the right to be separated in custody from adults, to be treated in a manner that recognizes their age and the possibility for rehabilitation, and to be exempt from the punishment of life imprisonment without the possibility of release. However, the protection they are accorded in principle is often denied in practice, and many juvenile offenders are incarcerated with adults (see Section 1.c.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Government authorities generally respected constitutional provisions that protect these rights; however, army and police forces, in carrying out sweeps for illegal weapons, did not always obtain search warrants as required by law.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some exceptions. Limited self-censorship still exists, in part due to habits that evolved during the country's 30-year single party political system, which ended in 1994. A broad spectrum of political and ideological opinion is presented in the country's two dozen newspapers, usually without government interference. However, the Government still threatened and harassed members of the media. At Freedom Day celebrations on July 6, police confiscated the camera of a photographer with an independent weekly and destroyed her film, allegedly for taking pictures of police beating demonstrators outside the official venue (see Section 1.c.).

At the beginning of August, the DPP dropped a 1999 case involving the arrest and 3-day detention of an editor and senior reporter of the opposition weekly Malawi News for "inciting to mutiny" and "publishing an article prejudicial to public safety." On August 3, the High Court ruled that the arrest was contrary to constitutional press protections.

The editor of the main opposition newspaper, The Daily Times, was suspended in August by the editor-in-chief and subsequently replaced by an acting editor more inclined to refrain from publishing articles critical of the Government.

The state-owned Malawi Broadcasting Corporation (MBC) dominates the radio market with its two stations, transmitting in major population centers throughout the country. News coverage and editorial content are clearly progovernment. In June four employees of MBC allegedly were suspended due to insufficient loyalty to the ruling party (see Section 4). The Office of the Ombudsman began an investigation of the incident, which was ongoing at year's end. The MBC consistently denied opposition candidates equal access to the media during the presidential and parliamentary election campaigns in violation of the law. In contrast, slogans and songs of the ruling UDF party are broadcast throughout the year. The Government began limited television broadcasting in March with editorial control similar to that on MBC radio.

There are five private radio stations. One commercial station began broadcasting in Blantyre in August 1998. A second commercial station began broadcasting in Blantyre in March. There is a rural community radio station run by local women with the help of the Malawi Media Women's Association (MAMWA). A religious station broadcasts in the capital and its environs.

In May 1999, the Government established the Malawi Communication Regulatory Authority (MACRA), an independent regulatory body, to issue broadcasting licenses for radio, television, and Internet service providers. The Government split the state-owned Malawi Posts and Telecommunication Corporation (MPTC) into the Malawi Posts Corporation (MPC) and the Malawi Telecommunications Limited (MTL) in preparation for the privatization of MTL. There are two cellular telephone service providers and seven Internet service providers. Between February and October, MACRA issued licenses to an additional nine providers that had not yet begun operations by year's end.

There were no restrictions on academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respects this right in practice; however, there were instances in which police limited this right.

Authorities routinely granted official permits, which are required by law for large meetings. However, in May, police used force to disperse a peaceful demonstration, firing tear gas into an unarmed crowd that had gathered to protest the World Bank sponsored consultative group meetings in Lilongwe. At Freedom Day celebrations on July 6, police reportedly beat demonstrators outside the official venue (see Section 2.a.).

The Constitution provides for freedom of association, and the Government respects this right in practice. The Government requires organizations, including political parties, to register with the Registrar General in the Ministry of Justice. There were no reports of groups being denied registration during the year.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. Religious groups must register with the Government. There were no reports that the Government refused to register any religious group.

Some opposition politicians and clerics have raised Islam as a political issue. Citing the President's adherence to Islam, his contact with Islamic countries such as Libya and Sudan, and the building of new mosques, some opposition politicians and clerics have accused the ruling party of attempting to "Islamicize" the country. An attempt by the Government early in the year to replace "bible knowledge" in the school curriculum with the more universal "moral and religious education" course has met with widespread criticism from Christian leaders. When the President suspended the introduction of the new curriculum and returned "bible knowledge" to the curriculum, Muslim leaders rebuked him.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

Citizens have freedom of movement and residence within the country, and the right to leave and return.

The law provides for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1961 Protocol; however, there are long delays in the process. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) in providing protection and assistance to refugees. According to the UNHCR, the country hosted over 3,600 refugees, primarily from the Democratic Republic of the Congo and the Great Lakes region, at the country's refugee center in Dowa. The majority of refugees reside at the Dzaleka camp, and the UNHCR estimates that between 300 and 400 new refugees arrived each month. Although the Government grants refugee status, the law does not accept refugees for permanent resettlement and does not permit them to work or study. While no legal framework exists, the Government has allowed refugees to seek both employment and educational opportunities. UNHCR, NGO's, and the Government collaborated to provide children in refugee camps with access to education. A new school was being constructed at the Dowa refugee camp at year's end.

Asylum applicants are granted hearings to make their case for asylum status. The Government denied asylum to many of the Rwandans and Congolese who either had requested asylum in another country or had the opportunity to do so.

In August 1999, the Government denied the UNHCR access to a group of 25 Eritrean detainees with fraudulent visas. Police killed one detainee and forcibly returned the remaining detainees to Ethiopia (see Section 1.a.).

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens are able to exercise their constitutional right to vote in periodic elections. There is universal suffrage for citizens 18 years of age and older. International election observers found the June 1999 presidential and parliamentary elections to be free and substantially fair; however, the electoral process was flawed, as opposition access to the broadcast media was limited; there were registration problems in some areas of the country; and the Electoral Commission at times displayed bias in favor of the ruling party. The opposition appealed the outcome of the presidential vote, and on May 19, the High Court ruled in favor of the President. In October the Supreme Court of Appeal upheld the High Court ruling in favor of the President (see Section 2.a.).

President Muluzi, First Vice President Justin Malewezi, and a 34-member cabinet exercise executive authority. The second vice-presidency remains vacant. The executive exerts considerable influence over the legislature; the legislature follows the parliamentary system, and consequently a number of cabinet ministers also sit as Members of Parliament (M.P.'s). Although the Government and opposition have never reached agreement on the applicability of the 1997 High Court ruling that cabinet ministers cannot simultaneously sit as M.P.'s, the issue currently is not a topic of debate.

Local government elections were held on November 21 and were conducted in an open and transparent manner according to local and international observers; however, they were marked by low voter turnout, allegations of voter and candidate intimidation, and unequal access to the media. The ruling UDF won over 70 percent of the seats; opposition parties and some NGO's criticized the Government for manipulating the process.

Although the Government does not prevent the operation of opposition political parties, the parties continue to allege that the Government uses bribery and other inducements to encourage opposition party divisions and defections of key personnel to the ruling party.

There are no laws that restrict the participation of women or minorities in the political process; however, there are very few women in prominent government positions, and women are underrepresented in politics and in positions of authority in general. Four of the 34 cabinet members are women; women hold 17 of the 193 seats in the National Assembly. A citizen of European origin and several of Asian descent are sitting members of the National Assembly.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups 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 generally are cooperative and responsive to their views.

The Ombudsman is mandated by the Constitution to investigate and take legal action against government officials responsible for human rights violations and other abuses. The Ombudsman's freedom of action is circumscribed by legislation that requires a warrant and a 3-day waiting period to gain access to certain government records. The activities of the Ombudsman are subject to judicial review, and in a June case involving MBC employees allegedly dismissed on political grounds (see Section 2.a.), the Supreme Court upheld a constitutional provision that granted the Ombudsman discretionary authority to investigate any and all cases where it is alleged that a person has suffered injustices, except when there is a judicial remedy available (see Section 2.a.).

The Constitution provides for a National Compensation Tribunal (NCT) to adjudicate claims of criminal and civil liability against the former government. As of September, the NCT had registered over 13,000 claims, of which 4,200 have been awarded interim compensation payments. The NCT's lack of funds limits its ability to settle claims. The constitutionally mandated Human Rights Commission (HRC) is charged to monitor, audit, and promote human rights provided for under the Constitution, and to carry out investigations regarding violations of any human rights. The Human Rights Commissioners have met more than 10 times since February 1999. Despite limited resources, in February the HRC produced and published its first annual report; the report focused primarily on institution-building concerns and the 1999 elections but did not address human rights problems. The HRC also has demonstrated its independence from the Government. For example, in August the HRC released a statement criticizing a presidential decree to round up commercial sex workers, describing the decree as unconstitutional and gender biased in its targeting of women.

In December the international human rights organization, Article 19, released a report that claimed that President Muluzi, senior government officials, and UDF leaders refused to support investigations or the creation of a proposed independent commission of inquiry into human rights abuses during the Banda regime because they feared that they would be implicated.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution specifically provides for equal rights for women; forbids discrimination based on language, culture, or religion; and generally provides for equality and recognition before the law for every citizen; however, in practice the capacity of government institutions to assure equal rights for all citizens is limited.

Women

Spousal abuse, especially wife beating, is common. Society has begun to take the problem of violence against women seriously. The press published frequent accounts of rape and abuse, and the judiciary continued to impose heavier penalties on those convicted of rape. However, domestic violence seldom is discussed openly by women, reportedly even among themselves, and in part due to the lack of resources. There are no confidential shelters or facilities for treatment of women who suffer physical or sexual abuse. Police do not normally intervene in domestic disputes.

Under the Constitution, women have the right to full and equal protection by law and may not be discriminated against on the basis of sex or marital status; however, in practice discrimination against women is pervasive, and women do not have opportunities equal to those available to men. Women have significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity.

Women, especially in rural areas, historically have been unable to complete even a primary education, and are therefore at a serious disadvantage in finding employment. Accepted economic and social practice hampers the ability of women and girls to gain an education. The literacy rate among women between the ages of 15 and 45 is less than 37 percent. Male literacy in the same age group is about 45 percent.

Women often have less access to legal and financial assistance, and wives are often victims of discriminatory inheritance practices in which the majority of the estate is taken unlawfully by the deceased husband's family. Women are usually at a disadvantage in marriage, family, and property rights, but they have begun to speak out against abuse and discrimination. Households headed by women are represented disproportionately in the lowest quarter of income distribution. In a country where 85 percent of the population is rural, the majority of farmers are women; 70 percent of the rural female population farm full time. Typically, women work more hours than men to complete the same farm tasks because they rarely have comparable tools and equipment and remain responsible for all household tasks. Women have limited access to agricultural extension services, training, and credit. Some progress has been made in all of these areas with gender training for agricultural extension workers and the gradual introduction of rural credit programs for women. The participation of women in the limited formal labor market is particularly constrained; they constitute less than 5 percent of managerial and administrative staff.

The Law Commission has undertaken a review of legislation that discriminates against women and has proposed legislation to bring the law into compliance with new constitutional standards. Based on the Law Commission's recommendations, in 1997 Parliament passed an affiliation bill that raised the minimum level of child support. In 1998 Parliament passed a wills and inheritance bill that increased widows' rights, and in June Parliament debated and passed the Employment Act, which includes a provision granting women the right to maternity leave. These laws were in effect during the year; however, only individuals who utilized the formal legal system benefited from these legal protections.

On May 5, women joined the army for the first time in noncombat positions as a result of a 1994 revision in the government directive that previously had prohibited women from military service. The Law Commission conducted a review and proposed changes in the Army Act to the Cabinet during the year that allow for the recruitment and deployment of women in the armed services. The Government is studying the possibility of allowing women to serve in combat roles.

The Government addresses women's concerns through the Ministry of Gender, Youth, and Community Services.

Children

The Constitution provides for equal treatment of children under the law, and the Government greatly increased spending on children's health and welfare. The Government established free primary education for all children in 1994, although education is not compulsory. Girls drop out of school more frequently than boys do, and in the final year of primary school, only about 25 percent of students are girls. Despite recent significant gains in girls' access to education, large gaps remain between girls' and boys' achievement levels. However, there have been signs of improvement in education for girls. In 1999, the last year for which data is available, girls entered primary school in the same proportion as boys, although only 39 percent of secondary school entrants were female.

Well over half of the country's children live in poverty, mostly in rural areas. Children in rural households headed by women are among the poorest. A few charitable organizations attempted to reduce the number of child beggars in urban areas and find alternative care for them. The problem of street children worsened as

the number of orphans whose parents died from HIV/AIDS increased. A total of 9.2 percent of children under age 15 were estimated to be orphans (426,421) and 61.4 percent of those (251,822) were orphaned due to AIDS. AIDS is expected to result in an estimated 364,450 orphans, or 72.9 percent of all orphans in the country by 2005. Such children and other orphans normally are cared for by extended family members. Only a third of children have easy access to safe drinking water. Infant mortality is high. Child malnutrition is a serious problem.

Child labor, including instances of forced child labor, is a problem (see Sections 6.c. and 6.d.).

There are societal patterns of abuse of children. There is anecdotal evidence that a few small ethnic groups practice female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health. The Government took no action against FGM during the year. The media also have begun to report on the sexual abuse of children, especially in relation to traditional practices of initiation. While rites to initiate girls into their future adult roles are still secret, information suggests that abusive practices are widespread and quite damaging. Although the age of sexual consent is 14, there is no age specified for the protection of minors from sexual exploitation, child prostitution or child pornography. The belief that children are unlikely to be HIV positive and the widespread belief that sexual intercourse with virgins can cleanse an individual of sexually-transmitted diseases, including HIV/AIDS contributes to the sexual abuse of minors.

People with Disabilities

The Government has not mandated accessibility to buildings and services for the disabled, but one of the national goals in the Constitution is to support the disabled through greater access to public places, fair opportunities in employment, and full participation in all spheres of society. There are both public and privately supported schools and training centers, which assist individuals with disabilities. There are also several self-supporting businesses run by and for persons with disabilities. In December 1998, President Muluzi established a new cabinet-level position, the Minister of State Responsible for Persons with Disabilities, which currently is held by a disabled person.

Religious Minorities

There are generally amicable relations between the various religious communities; however, in an isolated incident in April, Muslims and Christians clashed over the efforts of an evangelical preacher to promote an audiotape comparing the Bible and the Koran. Muslims find the tape provocative and blasphemous, and the issue remains an open point of contention between followers of the two religions.

National/Racial/Ethnic Minorities

Citizens of African heritage are members of indigenous tribes and are not discriminated against by the Government or society. There is no legal discrimination against citizens of Asian heritage, although societal tensions exist between the communities of African and Asian origin.

Section 6 Worker Rights

a. The Right of Association

The 1996 Labor Relations Act (LRA) governs labor-management relations. Workers have the legal right to form and join trade unions; however, union membership is low due to the small percentage of the work force in the formal sector (about 12 percent), the lack of awareness of worker rights and benefits, and a resistance on the part of many employees to joining unions. Only 13 percent of persons employed in the formal sector belong to unions. Accurate statistics on the numbers of union members are not available. Trade union rights have existed for only 7 years, and labor relations are still evolving. Employers, labor unions, and the Government lack sufficient knowledge of their legitimate roles in labor relations/disputes.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor and Vocational Training (MOLVT). As of September, 22 unions were registered. Army personnel and police may not belong to trade unions, but other civil servants are allowed to form unions. There are no unusually difficult registration procedures. Unions are independent of the Government, parties, and other political forces.

There are no restrictions on the number of union federations. There are two federations in the country: the

Malawi Congress of Trade Unions (MCTU), with 19 affiliates, and the Congress of Malawi Trade Unions (COMATU), with 3 affiliates.

The LRA allows members of a registered union to strike only after all dispute settlement procedures established in a collective agreement and conciliation procedures have failed. The law requires a notice in writing to the employer and the MOLVT at least 7 days before a strike. The law also forbids the temporary replacement of labor, and allows peaceful picketing during strikes. However, members of a registered union in "essential services" do not have the right to strike. Essential services are specified as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population; they are determined by the Industrial Relations Court upon application by the Minister of Labor. The law provides similar procedures for lockouts. Laws do not specifically prohibit retaliation against strikers. There is no prohibition on actions against unions that are not registered legally. Arbitration rulings are legally enforceable.

Unions may form or join federations and have the right to affiliate with and participate in international workers' organizations, with the permission of the Government.

b. The Right to Organize and Bargain Collectively

Unions have the right to organize and bargain collectively. The LRA requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before such a union can engage in collective bargaining at the enterprise level. The LRA requires at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions include wage negotiation, dispute resolution, and industry-specific labor policy development. Collective agreements are binding legally, and both parties must deposit them with the Registrar of Trade Unions.

The law prohibits antiunion discrimination by employers and requires that employers reinstate workers dismissed because of union activities.

Parliament approved legislation to establish export-processing zones (EPZ's) in 1995. At year's end, 25 firms held licenses to operate under EPZ status, and all were operational. The full range of labor regulations applies to the EPZ's.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced labor, and such labor generally is not used; however, there are allegations that some large agricultural estates engage in the practice.

The law does not prohibit specifically forced and bonded labor by children; however, at least one local NGO has reported that in urban areas it is not uncommon to find young girls working as domestic servants, receiving little or no wages, and existing in a state of indentured servitude.

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution defines children as persons under 16 years of age. It prohibits the employment of children in work that is hazardous, harmful, or interferes with their education. Significant child labor in agricultural work and domestic service occurs largely as a result of extreme poverty and long-standing cultural traditions. Primary education is free and universal, but not compulsory. Budgetary constraints largely preclude minimum work age and child labor law enforcement by police and MOLVT inspectors. There is significant child labor on tobacco and tea farms, subsistence farms, and in domestic service. There is no special legal restriction on children's work hours.

In October the Ministry of Labor began a 12-month International Labor Organization (ILO) funded study to establish the magnitude of child labor and to use the results as a basis for drafting an action plan to implement ILO Convention 182 on the worst forms of child labor.

The law does not prohibit forced and bonded labor by children specifically, and there was at least one report that it occurs (see Section 6.c.).

e. Acceptable Conditions of Work

The MOLVT sets separate urban and rural minimum wage rates based on recommendations of the Tripartite

Wage Advisory Board (TWAB) composed of representatives of labor, government, and the private sector. However, the TWAB has encountered problems due to inefficient organizational structure and inadequate funding, which hindered timely and accurate revision of the wage rate recommendations. The urban minimum wage amounts to about \$0.69 (MK 55) per day; in all other areas it is roughly \$0.51 (MK40.70) per day. Although minimum wage rates were raised on December 1, they remain insufficient to provide a worker and family with a decent standard of living. Wage earners tend to supplement their incomes through farming activities. The MOLVT lacks the resources to enforce the minimum wage effectively. However, the minimum wage largely is irrelevant for the great majority of citizens, who earn their livelihood outside the formal wage sector.

The maximum legal workweek is 48 hours, with a mandatory weekly 24-hour rest period. The laws require payment for overtime work and prohibit compulsory overtime. In practice employers frequently violate statutory time restrictions.

The law protects foreign workers in correct legal status. Illegal foreign workers are subject to deportation.

In 1998 the Government issued a revised "policy statement and new guidelines" for the issuance and renewal of employment permits (the temporary employment permit or "TEP") for foreigners that underscored its desire to make such permits readily available to foreigners. The guidelines state that investors may employ foreign personnel in areas where there is a shortage of "suitable and qualified" citizens. The guidelines also mandated that processing times for TEP applications shall not exceed 40 working days. There were no reports of complaints concerning TEP's during the year.

Mechanisms for protecting internationally recognized worker rights are weak. There are serious manpower shortages at the Ministry of Labor; as a result, there are almost no labor standards inspections.

The Workers' Compensation Act includes extensive occupational health and safety standards. Enforcement of these standards by the MOLVT is erratic. Workers--particularly in industrial jobs -- often work without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, given the low level of education of most workers and the high level of unemployment, they are unlikely to exercise this right.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, and there were no reports that persons were trafficked to, from, within, or through the country during the year.

[End.]