



Malawi

Country Reports on Human Rights Practices - [2007](#)

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Malawi is a multiparty democracy with a population of approximately 13 million. In 2004 citizens elected Bingu wa Mutharika of the ruling United Democratic Front (UDF) as president; in 2005 Mutharika resigned from the UDF to form the Democratic Progressive Party (DPP). Constitutional power is shared between the president and the 193 National Assembly members, of whom 187 were elected in 2004. International observers noted substantial shortcomings in the elections, including inequitable access to the state-owned media, the ruling party's use of state resources to campaign, and poor planning and administration by the Malawi Electoral Commission (MEC). While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Unlawful killing by security forces, police use of excessive force including torture, occasional mob violence, and harsh and life-threatening prison conditions continued. Arbitrary arrest and detention, including politically motivated arrests, lengthy pretrial detention, and official impunity and corruption were problems. The government restricted freedoms of speech, press, and assembly. Societal violence against women, child abuse, trafficking in persons, restricted worker rights, and forced child labor were also problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, security forces killed persons during the year. Perpetrators were not generally punished and investigations often were abandoned or inconclusive.

In January a postmortem examination revealed that Robert Phiri, whom authorities originally claimed to have been killed that month by a mob in Lilongwe while attempting to escape from the Kanengo police station, was actually shot in the chest, leg, and possibly the head. Police stated there would be an investigation but revealed no further information by year's end.

Police use of excessive force to disperse demonstrators resulted in one death. In January park rangers at Lengwe National Park fired into the air to disperse an angry crowd protesting the arrest of some villagers who were illegally planting crops in the park. Thomas Chizenga was killed by the shots. No arrests were reported in conjunction with the shooting.

In October Henry Msinkhu, a Blantyre police officer, was released on bail to await trial. In June Msinkhu, while answering an emergency call, had confiscated the keys to a truck carrying six persons and then attempted to drive the vehicle which overturned, killing the six individuals. Msinkhu was charged with manslaughter, which can carry a penalty of life imprisonment.

On October 5, Grant Chilimba died in police custody in Mangochi after he was arrested for allegedly assaulting his wife. Mangochi police arrested Mary Chilimba, the wife of the deceased, and blamed her for the death, alleging the wounds were caused by her earlier during an argument. An autopsy confirmed Chilimba died of strangulation, internal bleeding, and had suffered trauma to the head. Police gave contradictory information, stating Chilimba had simply been released but also stating he went to the hospital with diarrhea. Police later claimed diarrhea was the cause of death until the autopsy confirmed otherwise. No further investigation was done by year's end.

On December 27, an armed guard for government-owned company Admarc shot and killed Wilson Master after a group gathered at an Admarc fertilizer depot in Matapira to try to get fertilizer subsidy coupons. After government officials turned

back the crowd three times due to an inadequate supply of coupons, the crowd became irate. The guard, named MacNever, tried to control the crowd by firing three shots, two of which hit Master, killing him. The guard was arrested and awaiting trial for murder at year's end.

On December 29, a second incident involving an armed guard for Admarc occurred when guard Levi Chamasowa shot and killed Dinnis Mashalubu in Mulanje after Mashalubu and others gathered at a fertilizer depot to look for work as laborers. The guard and the group got into an argument after the guard told them there was no work available. After firing once into the air, the guard fired at the men, killing Mashalubu. The guard was arrested and was awaiting trial for murder. The government previously stated it would disarm Admarc guards due to irresponsible handling of firearms that had left several people dead but had not done so by year's end.

There was no further information on the case of a policeman in Thyolo who shot and killed a man in January 2006.

There were no developments in the 2005 case in which police shot and killed a 16-year-old boy at a demonstration in Ngabu. The government promised to conduct an investigation of the incident but had taken no action by year's end.

There was no new information in the case of the 2005 killing of a man in Machingi while he was cutting firewood.

Mobs sometimes resorted to vigilante justice, and beat, stoned, or burned suspected criminals. For example, in April a mob beat to death a man in Karonga after he was found naked in the bedroom of a girl. The man, who had a history of attempting rape, had been rescued from mobs twice previously and had been arrested previously but released on bail. Authorities arrested six persons for the killing. There was no further information available on the case at year's end.

In April a police public relations officer for Chiradzulu District appealed to the public to desist from killing persons suspected of criminal activity after a man suspected of theft was beaten to death.

On September 6, a mob in Dowa stoned an herbalist to death. The man had been accused of cheating his clients. Police were investigating his death at year's end.

In December 2006 a mob beat to death two foreigners who reportedly had robbed a man at gunpoint. No further information was available at year's end.

Police closed the investigation in the 2005 case in which a mob beat to death a mentally ill man in Chitipa after he reportedly killed another man with a pounding stick; police had been unable to find the culprits.

There was no further information available in the 2005 case in which villagers protesting the appointment of a village headman beat a man to death in Kasungu; 11 persons were arrested.

Police took no further action in most of the 2005 and 2006 cases of mob killings.

b. Disappearance

There were no reports of politically motivated disappearances.

On February 4, Christopher Chimbalanga and Hassan Twaliki were among 10 people arrested in Lilongwe for roguish and vagabond behavior. Family members went to visit Chimbalanga on February 5, and were told he would be released the next day. When he did not return home, on February 7, the family went to inquire of the police; however, police claimed they could neither find Chimbalanga nor any record of his release. Some of his clothing was still at the police station. Neither Chimbalanga nor Twaliki were seen again after that time.

During the year police referred the investigation into the 2004 disappearance of Peter Mulamba, a key witness in a high-level corruption case, to the International Criminal Police Organization (INTERPOL); conflicting reports indicated he had committed suicide, was out of the country in exile, or had been killed. No new information was available by year's end.

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

The constitution and law prohibit such practices; however, police used excessive force, including torture and other unlawful techniques, in handling criminal suspects. While higher-ranking officials publicly condemned prisoner mistreatment, their subordinates continued to employ unacceptable techniques. A study released in 2006 by the Malawi Human Rights Commission (MHRC) found that police frequently subjected suspects to torture and other serious abuse when conducting investigations. The May 2007 MHRC *Executive Report on Human Rights Accountability in Malawi by the Three Arms of Government* stated that cases of torture involving the police appeared to have persisted even as the police continued to

implement reforms. The nongovernmental organization (NGO) Amnesty International (AI), in its 2007 country report on Malawi, also stated that torture and mistreatment were reported.

Heavy police workloads due to high crime rates and a lack of officers--only 9,700 for the entire country--led some officers to try to get confessions quickly, sometimes through beatings or other coercion. A lack of financial resources for salaries, housing, appropriate equipment, facilities, and training also contributed to mistreatment. In 2005 the MHRC called for the introduction of a compensation fund to assist victims of police abuse, including persons who died in police custody and their relatives; however, no such fund had been established by year's end. On October 10, the Malawi Police Service established an internal affairs unit to investigate allegations of misconduct by the police.

Security forces forcibly dispersed demonstrators, which resulted in injuries and deaths.

On September 20, two policemen using a machete hacked a man on the back of the head after an altercation occurred in Lilongwe when the officers tried to confiscate charcoal from him. No information was available on whether charges were filed against the officers. A local authority said it was common for officers in the district to confiscate charcoal and demand payment in return.

Police use of excessive force to disperse demonstrators resulted in several injuries. In January park rangers at Lengwe National Park fired into the air to disperse an angry crowd protesting the arrest of some villagers who were illegally planting crops in the park. Three persons were injured by the shots. No arrests were reported in conjunction with the shooting.

The policeman named Kasinja was awaiting trial at year's end in the June 2006 case in which he allegedly assaulted a pregnant woman in her home and later at the police station for frustrating his attempts to make advances on her friend.

No further information was available at year's end on the September 2006 case of four policemen who allegedly entered the house of a man suspected of selling fuel illegally, beat his wife, and then shot the man six times, seriously injuring him, as he fled.

In 2006 the MHRC reported several instances of police torture, including a case in which two policemen in Lilongwe broke a suspect's leg and tortured several other persons with a machete, club, and hammer to obtain confessions during interrogations.

There were no developments in the 2005 case in which the mother of a 12-year-old boy who died in police custody after ingesting a pesticide alleged that police beat her and two of her children during interrogation. James Kachala, the police inspector who was charged with assaulting and wounding the mother, remained in police custody at year's end.

On August 30, police officer Charles Nowa was found guilty of causing grievous bodily harm and negligence for shooting South African Gareth Killian. This was the first conviction in the country of an officer for actions arising out of official duties. Nowa fled after the conviction when the senior resident magistrate failed to vacate his bail. Nowa was to be sentenced on September 7 and could receive up to 15 years in prison but had not been found by year's end. Nowa shot Killian in April 2004 in Lilongwe after mistaking his car for a robbery getaway vehicle. By year's end Killian had required 21 operations due to the injuries sustained in the shooting.

Unlike in the previous year, there were no reports that police beat refugees.

Prison and Detention Center Conditions

Prison conditions remained harsh and life threatening; overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems. The prison system, which was meant to accommodate approximately 5,000 inmates, routinely held at least double that number. According to the prison commissioner, there were 10,830 inmates in the prison system at year's end, of whom 1,969 were pretrial detainees. Staffing in prisons was inadequate, and more than 60 percent of positions were unfilled. Budget allocations for the prison system were less than half of the stated need, and the warden to inmate ratio was 1:17 rather than the recommended 1:5.

Inmates were encouraged to grow vegetables and raise livestock and often did so; however, they complained that they did not receive enough food, and that prison officials sold food that was intended for the inmates. Community service programs were available as alternatives to prison terms for first-time offenders convicted of less serious crimes and who had permanent addresses.

Numerous inmates died in prison each month, largely due to HIV/AIDS, diarrhea, pneumonia, tuberculosis, and inadequate diet. More than 280 deaths in prison were recorded in 2006, according to AI. During the year there were 171 reported deaths in the prison system, including 72 attributed to HIV/AIDS, 36 to tuberculosis, 22 to pneumonia, and 18 to malaria.

On August 11, Elson Kachere, a prisoner at Mwanza Prison, suffered an electric shock, which caused him to fall and suffer partial paralysis, while performing work outside the prison. Kachere and eight other inmates were asked to plaster a shop in Mwanza, and Kachere was shocked by two loose electric wires despite telling prison wardens about their presence before beginning work. Kachere stated that neither he nor the other prisoners were ever paid for work performed outside the prisons. Malawi Prison Service public relations officer Tobias Nowa claimed that prisoners were not allowed to work outside prison premises, and it was unacceptable for wardens to use prisoners for personal profit.

On September 19, inmates at Zomba Central Prison wrote a letter to the Malawi Human Rights Resource Center complaining of poor diet, inadequate medical care, and poor sanitation. The prisoners stated that HIV-infected inmates had no access to proper treatment or nutritious food. A Department of Prison spokesperson admitted that the department did not have adequate funding to buy nutritious food and that funding for HIV/AIDS affected prisoners was inadequate.

On December 3, prison warders at Maula Prison fired shots into the air to control rioting inmates. One prisoner was injured by a bullet and was taken to Kamuzu Central Hospital in Lilongwe for treatment. The inmates were rioting over a reduction in the number of meals given per day, but prison officials claimed meals had not been reduced and prisoners "had misunderstood the situation."

Although women were not kept in separate facilities, they were segregated within the prison compound and monitored by female guards. In the four maximum-security prisons, there were separate facilities for juveniles; however, the separation was inadequate, and there were reports of sexual and physical abuse of juvenile prisoners. In the other prisons, juveniles were routinely incarcerated with adults, although during the year the prison at Bvumbwe was designated a juvenile prison. The law requires pretrial detainees to be held separately from convicted prisoners; however, many prisons did not comply due to inadequate facilities.

During the year the government permitted domestic and international NGOs and the media to visit and monitor prison conditions and to donate basic supplies. The International Committee of the Red Cross (ICRC) continued to visit prisons during the year.

In November the Southern African Litigation Center (SALC) requested that the African Commission on Human and Peoples' Rights send its Special Rapporteur for Prisons and Conditions of Detention in Africa to the country to investigate prison conditions due to major human rights violations in the prisons. Chief Commissioner for Malawi Prison Services MacDonald Chawona admitted that conditions in the prisons were appalling and attributed most of the problems to overcrowding caused by poor coordination between police, courts, and the prisons.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, the government did not always observe these prohibitions in practice. There was a decline in politically motivated arrests from the previous year.

Role of the Police and Security Apparatus

The National Police, controlled by the Ministry of Home Affairs and Internal Security, has responsibility for law enforcement and maintenance of order. Police occasionally called on the army for support.

The police force was inefficient and poorly trained due to inadequate funding. Corruption was widespread and impunity was a problem. Police continued efforts to improve investigative skills, including training on internal affairs investigations, and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse, domestic violence, and trafficking in persons.

During the year the police created public relations officer positions at the district level to expedite information distribution to the public. In 2006 the police established Victim Support Units to handle human rights and gender-based violence cases, but a 2006 survey by the Pan African Civic Educators Network found that officers in the units still lacked the professional capacity to assist victims and properly document cases. The government continued to seek community involvement in its comprehensive reform of the police, and civil society groups conducted workshops for the police on crowd control. The country also received foreign assistance to train officials and procure equipment.

Arrest and Detention

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 seldom respected in practice. Most suspects can be apprehended without a warrant if a police officer has probable cause. Arrest warrants are usually issued in cases involving corruption or white-collar crime; the warrants are issued by a duly authorized official based on presented evidence. The use of temporary remand warrants to circumvent the 48-hour rule was widespread. The government provided legal services to indigent detainees; however, access was often delayed since there were only 16

lawyers and five paralegals working as public defenders. Detainees were allowed access to relatives. Bail frequently was granted to reduce prison overcrowding rather than on the merits of an individual case. During the year the MHRC received 20 complaints of arbitrary detention; most related to overstay of remand, denial of bail, and unheard appeals.

Unlike in the previous year, there were no reports that police arrested journalists, demonstrators, or Muslim leaders.

Arbitrary arrests remained a problem but were not focused on any particular group. Police arrested relatives of suspects when a suspect could not be found, in an attempt to draw the wanted individual out of hiding.

Security forces arrested a number of opposition politicians, primarily from the UDF, on a range of charges, but arrests of opposition politicians were fewer than in the previous year. While government actions generally were legal in the strictest sense, courts dismissed or suspended by injunction the majority of these cases. Many of those arrested were charged under antiquated dictator-era laws such as criminal libel and the Protected Names, Flags and Emblems Act, which local legal scholars viewed as unconstitutional.

In April 2006 three senior UDF leaders were arrested for insulting the president during a rally. The men were held on remand for eight days and then released on bail. The men were awaiting a court date at year's end.

Eighteen percent of the prison population was pretrial detainees. Pretrial homicide suspects were typically held in detention for two to three years. Other suspects were held an average of two to three months pending trial.

The Center for Legal Assistance, an NGO that assists prisoners with legal matters, continued to provide free legal assistance to expedite the trials of detainees, with priority given to the sick and young and those subjected to very long trial delays.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected this provision. 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. The May 2007 MHRC *Executive Report on Human Rights Accountability in Malawi by the Three Arms of Government* cited understaffing, poor record keeping, inundation of the courts with political disputes, and a lack of financial resources as the biggest problems for the judiciary preventing speedy dispensation of justice.

The law provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. A Constitutional Court (a panel consisting of three high court judges with jurisdiction over constitutional matters) also existed. The chief justice is appointed by the president and confirmed by the National Assembly. The president appoints other justices, following recommendations by the Judicial Service Commission. All justices are appointed to serve until the age of 65 and may be removed only for incompetence or misbehavior, as determined by the president and a majority of the National Assembly. There are no military or security tribunals.

Trial Procedures

By law defendants have the right to a public trial but not to a trial by jury; however, in murder cases, the High Court uses a jury of 12 persons from the defendant's home district. Defendants have the right to be present. Defendants also are entitled to an attorney, and if indigent, to an attorney provided at state expense. Defendants have the right to present and challenge evidence and witnesses, the right of appeal, and the presumption of innocence. The law extends the above rights to all persons.

The judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants but improvements were made due to increased staffing. The Department of Public Prosecutions had 29 prosecuting attorneys, an increase of 21 over 2006 levels, and nine paralegals, an increase of five. The paralegals served as lay prosecutors and prosecuted minor cases in the magistrate courts. Lack of funding and a shortage of attorneys created a backlog, mainly in murder cases, that was being reduced. Retention of government attorneys was a problem due to poor salaries in comparison with the private sector.

Political Prisoners and Detainees

The April 2006 detention of Vice President Chilumpha for allegedly plotting to assassinate President Mutharika continued. At year's end Chilumpha was still charged with treason and held under relaxed house arrest in Blantyre, allowing him to travel within the country (provided he informed authorities) and abroad (with High Court permission). In late October the government released all evidence and witnesses it claimed to have against Chilumpha. A government request to force media to listen outside the courtroom via a public address system and bar photography during the trial to protect witness identities delayed the case at the end of December. Businessman Yusuf Matumula was also accused of treason in the

same case. Rashid Nembo, who was also arrested and charged with Chilumpha and Matumula, had charges against him dropped due to lack of evidence.

There were no other reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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 remedies as well as judicial remedies for alleged wrongs; however, a paucity of resources and legal professionals restricted the number of cases pursued and resulted in a large backlog. During the year the MHRC received 155 complaints of limited access to justice and 50 complaints of unfair administrative justice.

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

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, at times the government attempted to limit these rights, although there were fewer such incidents than in the previous year.

Private individuals were generally free to criticize the government without fear of reprisal.

The BBC's 2007 country profile stated that the government has used libel and other laws to put pressure on newspaper journalists. These actions prompted journalists to practice self-censorship, especially at government-owned media outlets such as the Malawi Broadcast Corporation (MBC) and Television Malawi (TVM). International media operated freely.

There was no further action in the 2005 case of former DPP vice president Gwanda Chakuamba, whom the government arrested and charged with insulting the president. Chakuamba was released on bail and at year's end was awaiting a court date to determine the constitutionality of the charges.

The independent media was active and expressed a wide variety of views. A broad spectrum of political opinion was available in the country's newspapers. Ten independent newspapers were available, including two dailies, four weeklies, and four biweeklies.

There were 14 private radio stations with limited coverage and which broadcast only in urban areas. MBC dominated the radio market with its two stations, transmitting in major population centers. TVM was the sole television broadcaster. News coverage and editorial content of MBC and TVM clearly favored the president and his party; coverage of other political parties was more critical, and they received less airtime.

During the year the government attempted to restrict press freedoms. The government sought to stop Capital Radio from broadcasting a recording of a conversation between the president and the former Anticorruption Bureau (ACB) director, Gustav Kaliwo. On the recording the president allegedly told the director to take the "Muluzi case" to court to "shake him up." At the time the ACB was investigating former president Bakili Muluzi for corruption, theft, and abuse of office for allegedly pocketing 10 million dollars (1.43 billion MWK) in public money. Capital Radio, however, obtained a court ruling authorizing it to use the recording, which the station broadcast in March.

By year's end there had been no court action against former *Nation* journalists Raphael Tenthani and Mabvuto Banda, who in 2005 were arrested and detained for 24 hours after they published articles alleging that the president had moved out of his residence for fear that ghosts were haunting the building. By year's end neither journalist had complied with the president's demand that they apologize and retract the story. Although the case against Tenthani and Banda was not officially closed, the president reportedly had "made peace" with the two journalists.

The Communications Act provides for the president to appoint board directors and chief executives for the Malawi Communications Regulatory Authority (MACRA), MBC, and TVM. In August opposition legislators blocked financial support to MBC and TVM to punish the two stations for their biased reporting. Commentators condemned this short-term solution and urged parliamentarians to change the law and free the two broadcasters from government control.

Journalists from Joy Radio, owned by former president Muluzi, were allegedly barred from covering parliamentary

proceedings. In October Joy Television, also owned by Muluzi, started broadcasting in Blantyre. MACRA tried to stop the television station's launch, alleging that its operating license, obtained when Muluzi was in power, had expired. Joy Television challenged the legality of MACRA's directives, arguing that the MACRA board was wrongfully constituted. In September Joy Television obtained an injunction through October 31 allowing it to operate pending an interpretation of the law on the legality of the MACRA board and the validity of their broadcasting licenses. On November 26, despite a pending review, MACRA confiscated the broadcasting equipment of Joy Television and held it at year's end.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Less than 15 percent of the population had access to the Internet, via a few Internet cafes and offices in the major cities; few individuals could afford Internet access in their homes.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, there were instances in which authorities limited this right. Authorities at times interfered with opposition party political functions or used violence to disperse crowds. Police were routinely criticized for failing to act impartially with regard to political demonstrations.

Police use of excessive force to disperse demonstrators resulted in one death and several injuries. In January park rangers at Lengwe National Park fired into the air to disperse an angry crowd protesting the arrest of some villagers who were illegally planting crops in the park. Thomas Chizenga was killed and three others were injured by the shots. No arrests were reported in conjunction with the shootings.

In February police in Blantyre blocked former president and UDF leader Muluzi from using the VIP lounge at Chileka Airport. Police also prevented UDF supporters from congregating at the airport to meet the former president, despite a court order prohibiting police from mounting roadblocks. In September the High Court convicted Southern Region Deputy Police Commissioner Matthews Chimaliezeni for failing to comply with the court order and sentenced him to 14 day's imprisonment, which was later suspended for 24 months.

On March 25, the Malawi Defense Force deployed troops at a Muluzi rally near Blantyre to disperse UDF supporters. Troops also set up roadblocks to stop Muluzi and his supporters from getting to the rally. The police had previously told Muluzi he could not have a rally that day since President Mutharika was having a rally 45 miles away at the same time and cited a lack of officers for crowd control and fear of altercations between the two rallies' supporters. Muluzi obtained a court order preventing the police from blocking the rally, at which point the government called in the military to block it, the first time the military was used by the government to stop a political rally.

There were no developments in the 2006 and 2005 cases in which police used excessive force to disperse demonstrators.

Freedom of Association

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, and registration was routinely granted.

c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right. A 2007 Supreme Court ruling declared that religious freedom is a right that cannot be restricted. Churches continued to exert significant political influence, particularly in rural areas.

There are no separate requirements for the recognition of religious groups, but they must register with the government. Foreign Christian missionaries experienced occasional delays in renewing employment permits; however, this appeared to be the result of bureaucratic inefficiency rather than policy. Missionaries and charitable workers paid lower fees for employment permits than did other professionals.

Unlike in the previous year, no Muslim leaders were arrested.

Societal Abuses and Discrimination

There were no reports of societal religious discrimination or of anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The law prohibits the use of forced exile, and the government did not use it.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against "refoulement," the return of persons to a country where there is reason to believe they feared persecution. The government granted refugee status or asylum; however, there were long delays in the process. By law the government does not accept refugees for permanent resettlement. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in assisting refugees and asylum seekers, but restricted refugees' ability to move freely and work outside of refugee camps.

The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 1,288 persons during the year.

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. The UNHCR, NGOs, and the government collaborated to provide education to children in refugee camps.

In May the government announced the closing of the Karonga Transit Shelter and the Luwani Refugee Camp, citing a breakdown in law and order among refugees. By the end of November approximately 3,000 refugees were transferred to the lone remaining refugee camp, in Dzaleka. Although largely peaceful, there were some reports of ethnic clashes among asylum seekers within the camps.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right through periodic and free, although not always fair, elections held on the basis of universal adult suffrage.

Elections and Political Participation

International election observers found the 2004 presidential and parliamentary elections to have substantial shortcomings, including inequitable access to the state-owned media and poor planning by the MEC. The ruling party frequently monopolized resources and used public funds for campaign purposes. Voter turnout was low compared with the two previous presidential elections. With approximately 36 percent of the popular vote, President Mutharika, chosen by former president Muluzi as the UDF candidate, was elected to serve a five-year term. Election discrepancies prevented parliamentary candidates from taking seats in six constituencies. By-elections for these vacancies took place in 2005. Observers declared them free and fair and better organized than the national elections. The president and vice president can run for parliamentary seats but are constitutionally barred from simultaneously holding more than one public office.

The executive branch exerted considerable influence over the unicameral National Assembly, which followed a hybrid parliamentary system loosely based on the British model but which operated in the context of a presidential-parliamentary model; all cabinet ministers are currently also members of the National Assembly but are not required to be.

Although the government did not prevent the activities of opposition political parties, the parties alleged that the government used bribery, other inducements, and violence to encourage opposition party divisions. Sporadic minor violence was common between supporters of rival political parties.

On September 14, President Mutharika adjourned the National Assembly just days after a four-month battle to secure approval of the national budget. The government cited the high costs of keeping parliament in session for the budget process and opposition unwillingness to debate key bills and fill vacant appointments; however, opposition and civic leaders charged the move prevented the speaker of the National Assembly from enforcing Section 65 of the constitution as the government had agreed to in budget negotiations; section 65 requires members of parliament who change political parties after being elected to vacate their seats. At least 40 members of the ruling (but minority) DPP would have been affected by enforcement of the law. The constitution requires the president to consult with the speaker before adjourning the assembly, but the speaker claimed that he was not consulted before the president took action.

In May 2005 President Mutharika dissolved district and municipal assemblies in anticipation of constitutionally mandated local government elections that were scheduled for that same month; however, the government failed to hold elections, citing a budgetary shortfall related to the food crisis. Civil society and the donor community criticized the government for delaying the staging of these elections, which still had not been held by year's end.

There were 25 women in the 193-seat National Assembly and six women in the 42-member cabinet. Women comprised approximately 25 percent of the civil service. There were three female justices among the 22 supreme and high court justices.

There were three members of minorities in the National Assembly.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. The World Bank's 2007 report on Worldwide Governance Indicators reflected that there was a serious corruption problem. The public also perceived corruption as a problem, although some informed observers, including leaders in the business and banking community, have claimed a significant reduction in corruption under the current government. A financial disclosure law existed but only applied to members of parliament and was voluntary.

President Mutharika continued his reform program, which included the opening in August of a financial intelligence unit to investigate money laundering; however, these initiatives were overshadowed by opposition party efforts to block appointments to key positions including chief justice of the Supreme Court of Appeal, auditor general, and Anti-Corruption Bureau (ACB) director.

The ACB continued to launch investigations, but indictments of former high-level government officials slowed from the previous year. Further, surveys indicated that while a majority of citizens have been exposed to government anticorruption messages, only 15 percent knew how to report corruption to the ACB. In September acting ACB Director Tumalisye Ndovi was placed under investigation for drawing two government salaries at the same time, undermining the bureau's investigative authority.

During the year Minister of Information Patricia Kaliati was accused of accepting vehicles from a foreign company in return for a concession at a national park (her ministry previously included the Department of Tourism). Kaliati was under investigation at year's end.

There was little progress during the year in the corruption case against former president Muluzi. In December 2006 the press reported that acting ACB Director Ndovi had resumed the investigation and traveled to London and Washington, D.C. to investigate whether embassy accounts had been abused under Muluzi.

At year's end the government was challenging the acquittal of national assembly member Lucius Banda, who was convicted of forgery in August 2006 and sentenced to 21 months' imprisonment. Banda was released and his status as a member of parliament restored following a high court acquittal on the basis that the original verdict was harsh and excessive for a first-time offender. In May Banda, Maxwell Milanzi, and Yusuf Mwawa, also members of parliament who were arrested and convicted of crimes in 2006, lost their seats in the National Assembly as a result of their convictions.

In April Sam Safuli, the former principal secretary for education, was released after the Supreme Court of Appeal overturned his conviction.

In September 2006 a court acquitted Chief Immigration Officer David Kambilonje of corruption and abuse of office, charges which the ACB had brought against him in 2005, stating that the government had failed to provide sufficient evidence. The ACB appealed the acquittal. There were no reported developments by year's end.

Trial was still pending for Secretary of the Treasury Milton Kutengule, who was arrested by the ACB in 2005 on corruption charges.

The law provides for public access to government information, and the government granted access to citizens and noncitizens, including foreign media.

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

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, an independent government agency, is charged with monitoring, auditing, and promoting human rights and conducting investigations regarding violations of human rights; however, a shortage of resources resulted in a backlog of cases, delayed production of reports, and failure to expand human rights monitoring. The MHRC reported that it had received 719 complaints of human rights violations during the year; most were related to labor issues, inadequate access to the judiciary, violations of children's rights, restrictions on property rights and economic activity, and rights of prisoners. The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations.

UN agencies, the ICRC, and international NGOs are resident in the country and have access to investigate human rights abuses.

The ombudsman was mandated by law to investigate and take legal action against government officials responsible for human rights violations and other abuses. However, his freedom of action was circumscribed by legislation that requires a warrant and a three-day waiting period to gain access to certain government records. The activities of the ombudsman were subject to judicial review, but he enjoyed government cooperation and operated without government or party interference. During the year the ombudsman received 1,147 complaints and resolved 793 of them. The ombudsman lacked adequate resources, having only eight investigators for the entire country, and some recommendations were referred to parliament after being ignored or challenged by government departments and agencies, since the ombudsman does not have the authority to enforce its determinations.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law specifically provides for equal rights for women, forbids discrimination based on language or culture, race, disability, or social status and provides for equality and recognition before the law for every citizen. However, the capacity of government institutions to assure equal rights for all citizens was limited.

Women

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.

On January 23, a community police officer in Chitipa was sentenced to four year's imprisonment with hard labor for raping a woman who had been accused of stealing corn while he walked her back to their village. On May 21, a dermatologist in Zomba was sentenced to 14 year's imprisonment with hard labor for raping a patient who had sought treatment at his office. The judiciary continued to impose heavier penalties on those convicted of rape--including up to 14-year prison sentences for child rape--and assault.

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 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.

During the year the government announced plans to establish shelters to support abuse victims, and the police service began a sensitization campaign on the dangers of domestic violence. During the year the police established Victim Support Units to specifically deal with human rights and gender-based violence, but officers' capacity to assist and document cases was limited.

Prostitution is legal and prevalent around hotels and bars in urban and tourist areas; however, the law prohibits living off wages earned through prostitution, owning a brothel, or forcing another person into prostitution. Loitering is the main charge under which prostitutes were arrested, resulting usually in small fines.

Sexual harassment is not specifically prohibited by law, but can be prosecuted under existing sections of the penal code such as indecent assault on a female, 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 is no available data on the extent of sexual harassment or effectiveness of government enforcement.

State House Press Officer Chikumbotsu Mtumodzi was charged with sexual harassment after being accused of indecently assaulting a journalist at her workplace in December 2006. Mtumodzi pleaded not guilty and was free on bail awaiting trial at year's end.

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; 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.

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 speak out against abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution. Fifty-two 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 have 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 the right to maternity leave; however, only individuals who could utilize the formal legal system benefited from these legal protections. In a few isolated areas, a widow was sometimes forced to have sex with in-laws as part of a culturally mandated "sexual cleansing" ritual following the death of her husband. In some cases, she was "inherited" by a brother-in-law or other male relative. Although there were no laws specifically prohibiting these practices, the government and civil society continued efforts to abolish them by raising awareness concerning the inherent dangers of such behavior, including the risk of HIV/AIDS transmission.

The government addressed women's concerns through the Ministry of Women and Child Development.

Children

The constitution prohibits treatment of children that is harmful to their physical or mental development or that may interfere with their education. Government spending levels have not kept up with increasing needs. Funding levels for the Ministry of Women and Child Development, which oversees many children's welfare programs, decreased from \$2.88 million (412 million MWK) in 2002-3 to \$566,000 (81 million MWK) in 2006-7.

In August the government launched the pilot phase of the National Registration and Identification System, the first step in the creation of a national identification system to provide for mandatory registration of births. There is no requirement for registration of births; however, there were no reports of discrimination or denial of services due to lack of birth registration. Other documents such as health pass books could alternatively be used to identify children.

The government provided free primary education for all children, although education was not compulsory. There is no legal maximum age to which public schooling is provided; however, government policy is to allow only young and unmarried persons to attend public schools. A 2005 government study found that 80 percent of children attended primary school, although only 12 percent attended secondary school. Families were responsible for paying book fees and purchasing uniforms. Students from very poor families had access to a public book fund. Girls, especially in rural areas, have historically been unable to complete even a primary education and therefore were at a serious disadvantage in finding employment.

In 2004 the University of Malawi released a report on free primary education since its inception in 1994. The report noted that, over the preceding decade, annual budgetary increases for education had not kept pace with increasing student enrollment. Student dropout rates marginally decreased each year since free education was introduced. The 2006 Malawi Multiple Indicator Cluster Survey indicated there was no difference in attendance rates of girls and boys in primary school. However, the 2002 Malawi Demographic Household and Education Data Survey stated that boys were much more likely to attend secondary school than girls. There also were large gaps in achievement levels between girls and boys; boys, for example, were much more likely to graduate from secondary school than girls.

The government took steps to respond to a 2004 UN Children's Fund (UNICEF) study that showed a number of girls entered into sexual relationships with teachers for money, became pregnant, and subsequently left school. The study also found that many girls left school because of violent behavior by some teachers. In response the government expanded legal protection of students subjected to exploitation and inappropriate relationships at school. In January the headmaster of Kadete Junior Primary school was sentenced to 12 years' imprisonment for defiling an 11-year-old pupil.

Boys and girls had equal access to state-provided medical care.

More than half of children lived in poverty, mostly in rural areas. Orphans and children in rural households headed by women were among the poorest. Only one-third of children had ready access to safe drinking water, infant mortality was high, and child malnutrition was a serious problem. In 2005 the government launched a National Plan of Action for Orphans and Vulnerable Children to mitigate the impact of poverty and HIV/AIDS on the country's estimated one million orphans.

Child abuse was a problem. The press reported many cases of sexual abuse of children, including arrests for rape, incest, sodomy, and defilement. For example, on February 4, a man in Ntcheu was sentenced to 13 years' imprisonment for defiling a nine-year-old girl. On August 19, a Lilongwe man was sentenced to 11 years in prison for defiling a six-year-old girl. On September 20, a Nigerian man living in Lilongwe was convicted of incest and sentenced to 13 years' imprisonment for defiling his four-year-old daughter.

Abusive practices, including the secret initiation of girls into their future adult roles, were widespread. In a few traditional communities, girls averaging 12 years old were forced to have sex with older men as part of such initiation rites. "Kupimbira," a practice that allows a poor family to receive a loan in exchange for daughters of any age still existed in some areas.

A local NGO reported an increase in fathers marrying their own daughters in Mangochi District, and the organization urged women to report husbands who slept with their daughters. The MHRC expressed concern over reports of parents forcing their daughters into marriages for food.

The law does not specifically prohibit female genital mutilation (FGM). It is practiced by a few small ethnic groups. In most cases FGM is perpetrated on girls between 10 and 15 years of age, less often on 16- to 20-year-olds. A government/UNICEF awareness campaign against harmful cultural practices affecting children included the subject.

The Ministry of Women and Child Development undertook various activities to enhance protection and support of victims. In November 2005 the ministry announced a plan to introduce a child abuse hotline; however, the hotline had not been established by the end of the reporting period. The ministry continued its efforts to convert its former regional offices into rehabilitation centers and opened the first in Lilongwe to serve the central region; however, centers had not been opened in the southern or northern regions.

On March 27, five men found guilty of cutting off a boy's genitals and offering them for sale were each sentenced to 14 years' imprisonment.

In September five males were arrested for forcibly circumcising two boys in what appeared to be a gang initiation. Charges were awaiting final medical evaluation of the victims' condition.

The trafficking of children for sexual purposes was a problem, and child prostitution also occurred. The widespread belief that children were unlikely to be HIV positive and that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributed to the sexual exploitation of minors.

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.

Trafficking in Persons

The law does not prohibit trafficking in persons specifically, and women, children, and men were trafficked from and within the country. Although the extent of human trafficking was undocumented, the government made efforts to combat trafficking and used existing laws to prosecute cases of child trafficking for agricultural labor exploitation. Although the age of sexual consent is 14, there was no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography.

The country is a source and transit point for women and children trafficked for sexual purposes locally and to brothels abroad, particularly in South Africa. Victims trafficked to South Africa were typically between 14 and 24 years old, and were recruited with phony offers of marriage, study, or employment. According to the International Organization for Migration, sex tourists, primarily from Germany, the Netherlands, and the United Kingdom, lured children into sexual relationships while in the country.

Poverty and low educational levels contributed to such exploitation. Traffickers involved in land border trafficking to South Africa were typically long-distance truck drivers and local businesswomen. Children are primarily trafficked internally for agricultural labor, but also for cattle herding, domestic servitude, commercial sexual exploitation, and to perform menial

tasks for small businesses.

The penal code contains several provisions relating to prostitution and indecency that the government has used to prosecute traffickers. During the year the government prosecuted child traffickers; most of the cases involved trafficking of children for agricultural labor exploitation and cattle herding. For example, during the year a number of child traffickers, especially Zambian farmers near the border district of Mchinji, attempted to smuggle children for agricultural labor exploitation, and were reportedly caught and prosecuted. On August 29, police arrested two men in Dedza for attempting to traffic six children to work on tobacco farms; the case was pending at year's end. Child domestic labor also existed in urban areas; cases were reported to authorities by community labor committees and labor inspectors. International trafficking was done on valid travel documents obtained through unlawful means. It occurred at both unmonitored crossing points and official points of entry. Some convicted child traffickers were sentenced to prison or required to pay fines; however, some who claimed ignorance of the law were merely warned and released.

Police and the Ministry of Women and Child Development handled cases brought to their attention and provided services for victims, including counseling and reintegration assistance. The ministry repatriated victims to their home villages. Children were resettled with their families and most offenders were fined.

The government continued to implement a multiyear strategy to protect vulnerable children from exploitation but there was no reportable progress on the development of a nationwide, interministerial plan to identify the extent of the problem and possible solutions.

There were no reports of requests for assistance with international trafficking investigations or extraditions; however, during the year the government met with neighboring states on child trafficking to discuss joint responses to the problem.

Persons with Disabilities

The law provides for the support of persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society; however, extremely limited resources prevented the government from protecting these rights in practice. Reported violations were taken seriously, and the president publicly declared that students with disabilities should have equal access to education and other government services. The government has not mandated accessibility to buildings and services for persons with disabilities.

A study by the Federation of Disability Organizations in Malawi found that 35 percent of children with disabilities had never attended school. The organization cited poor physical access to schools, lack of special needs teachers, and negative attitudes of parents and fellow pupils as causes. The 2007-8 budget for special needs education was cut 60.4 percent from 2006 levels.

There were both public and privately supported schools and training centers that assisted persons with disabilities. There also were several self-supporting businesses run by and for persons with disabilities. The Malawi Rural Development Fund provided loans to persons with disabilities to support these activities.

Other Societal Abuses and Discrimination

Societal violence and discrimination based on sexual orientation and against persons with HIV/AIDS occurred but there were no government statistics on the extent of the problem. The National AIDS Commission stated that discrimination was a problem in both the public and private sector but believed the problem was decreasing due to HIV awareness campaigns.

Homosexuality is illegal, although there were no prosecutions for homosexuality during the year.

Societal discrimination against persons living with HIV/AIDS was widespread and inhibited access to treatment; many individuals preferred to keep silent about their health rather than seek help and risk being ostracized, but campaigns by the government and NGOs to combat the stigma were having some success. During July the Ministry of Health sent 2,177 counselors to 1,367 sites to conduct HIV Testing and Counseling Week; 186,631 persons voluntarily came for testing, exceeding the ministry target by over 50,000 persons.

Section 6 Worker Rights

a. The Right of Association

The law allows workers, except for army personnel and the 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. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions; however, accurate statistics were not available. 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.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor, and registration was routinely granted.

b. The Right to Organize and Bargain Collectively

Unions have the right to organize and bargain collectively, and the government protected this right. The law 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, and 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 included wage negotiation, dispute resolution, and industry-specific labor policy development. The law was not effectively implemented due to lack of human and financial resources.

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 only occur after all settlement procedures established in a collective agreement (an understanding, not necessarily signed, reached by both parties to attempt mediation) and conciliation efforts have failed. Laws do not specifically prohibit retaliation against strikers. There was no prohibition on actions against unions that were not registered legally. Members of a registered union in "essential services" have a limited right to strike. Essential services were specified 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).

On September 27, the University of Malawi obtained an injunction preventing lecturers and other academic staff at the university from striking. However, union lawyers successfully countered and lecturers began a strike on October 16, demanding a 200 percent increase in pay. On November 15, the government approved a 20 percent salary increase, and the lecturers returned to work.

Arbitration rulings were legally enforceable; however, in practice, due to the lack of funding and heavy case backlog, the IRC could not monitor cases or adequately enforce the laws.

Seventeen firms held licenses to operate under export processing zone (EPZ) status, and all were operational. The full range of labor regulations applied to the EPZs; however, many companies in the EPZs resisted union activity and union organizers stated they had little access to workers in the EPZs.

c. Prohibition of Forced or Compulsory Labor

The government prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Forced labor is punishable by a maximum fine of \$70 (10,000 MWK) or two years' imprisonment. However, in practice punishments were almost always limited to fines, and the modest fines imposed were not effective in discouraging labor violations.

Forced and bonded labor involving entire families was widespread on tobacco plantations. Tobacco plantation tenants have exclusive arrangements, often unwritten, with the estate owners to sell their crop and to buy inputs such as fertilizer, seed, and often food. These costs, in addition to rent charges, often were greater than the amount of money received from tobacco sales, leading to a situation of debt and bonded labor to repay the input and other costs.

d. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum age for employment at 14 years of age, and children ages 14 to 18 may not work in jobs that are considered hazardous or that interfere with their education; nevertheless, child labor was a problem. According to a 2002 Labor Ministry study on child labor released in 2004, 80 percent of children were working either in or outside of their homes. In addition 28.8 percent of children ages 5 to 14 were involved in child labor and 38 percent of them worked more than seven hours per week.

Child labor was common on tobacco farms, subsistence farms, and in domestic service. Many boys worked as vendors and young girls in urban areas often worked outside of their families as domestic servants, receiving very small or no wages. Child trafficking for agricultural work took place both internally and across porous borders with Zambia and Mozambique.

Police and the Ministry of Labor were responsible for enforcing child labor laws and policies; however, labor inspectors do not have law enforcement capabilities and must cooperate with the police to pursue violators. The law specifies a

maximum fine of \$140 (20,000 MWK) or five years' imprisonment for violations.

In April the ministry conducted three child labor law enforcement courses for district labor officers, district social welfare officers, police, and district magistrate court officers. Participants were drawn from 18 of the country's 28 districts. During the year the ministry increased inspections, particularly on agricultural estates, and hired and trained six additional labor inspectors. There were 29 district labor officers and an estimated 150 labor inspectors at year's end. The government continued to participate in several social programs to address child labor, including a three-year International Labor Organization project begun in 2005 to withdraw children and keep them from engaging in hazardous work on tobacco and tea farms and in domestic service. To date over 2,800 youths have been removed and rehabilitated under the program. The labor ministry youth committees in rural areas continued to monitor and report on child labor. Despite these efforts, enforcement by police and ministry inspectors of child labor laws was hindered by lack of funding.

e. Acceptable Conditions of Work

The Ministry of Labor 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, poor functioning of the TWAB resulted in delayed and inadequate wage rate revisions. The urban minimum was \$0.71 (97 MWK) per day; in all other areas, it was \$0.54 (74 MWK) per day. Minimum wage rates, which were last revised in 2005, did not provide a decent standard of living for a worker and family. Official minimum wages only apply to the formal sector. Wage earners often supplemented their incomes through farming activities. The Ministry of Labor lacked the resources to effectively enforce the minimum wage. However, the minimum wage was irrelevant for most citizens, who earned their livelihood outside the formal wage sector.

The maximum legal workweek was 48 hours, with a mandatory weekly 24-hour rest period. The law requires payment for overtime work and prohibits compulsory overtime. In practice employers frequently violated statutory time restrictions.

The law includes extensive occupational health and safety standards; however, ministry enforcement of these standards was erratic. For example, media reported a bakery in Lilongwe in 2006 locked up employees each night until the next morning rather than pay for building security; authorities took no action against the employer, although officials claimed to have issued a general warning against such practices.

Workers, particularly in industrial jobs, often worked 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, workers were unlikely to exercise this right.

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

