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FREEDOM OF THE PRESS

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Malawi

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The transfer of power to Vice President Joyce Banda after the sudden death of President Bingu wa Mutharika in April 2012 resulted in the reversal of setbacks for media freedom that had occurred in the preceding year. However, the full impact of the Banda administration's agenda on the media environment remained to be seen as of the end of 2012.

Malawi has strong constitutional guarantees for freedom of the press, but there are several laws that restrict this freedom in practice, such as the 1967 Protected Flag, Emblems, and Names Act and the 1947 Printed Publications Act. In May 2012, the National Assembly voted almost unanimously to repeal an amended version of Section 46 of the penal code that had allowed the information minister to ban publications deemed "contrary to the public interest." The amendment had been signed into law by Mutharika in January 2011. Although no publications were banned while the measure was in effect, self-censorship reportedly increased, and the repeal was widely praised by journalists and press freedom groups.

In October 2012, the Banda government introduced a bill setting out a legal framework for regulating information and communication technologies (ICTs) that was criticized for potentially limiting online freedom of expression. Among other provisions, the "E-Bill" would compel editors of online public communication services to make available their names, addresses, and telephone and registration numbers. It would also allow the government to appoint so-called cyberinspectors to "monitor and inspect" websites and report "unlawful activity" to the regulator.

The constitution guarantees access to information, but a draft bill to implement this right has been stalled in the parliament since 2003. Access to government information remains a considerable challenge for reporters. Powerful individuals have also used court injunctions to prevent newspapers from publishing damaging articles about them. Libel is considered both a criminal and a civil offense. If prosecuted as a criminal violation, it is punishable with up to two years' imprisonment. However, many libel cases are processed as civil matters or settled out of court. In October 2012, Justice Mponda, a correspondent for the online publication *Malawi Voice*, was arrested in the southern city of Blantyre for allegedly insulting the president, publishing false information, and criminal libel. During his arrest, the authorities seized computers and other equipment said to belong to the publication. He was released on bail a day after his arrest, having been formally charged with "publishing false news likely to cause public fear." Separately, *Sunday Times* journalist Clement Chinoko was arrested in May for writing a story about two women who had become engaged; same-sex relationships are illegal in Malawi. Chinoko was held without a court hearing for more than the lawful 48-hour period. Police said that he was arrested for "conduct likely to cause breach of peace," and that the two women had actually been shooting a film, not participating in an engagement ceremony. The case remained pending at year's end.

The broadcast media are licensed by the Malawi Communications Regulatory Authority (MACRA), which is funded by the government and led by a presidential appointee. In August 2012, Banda made new appointments to the board, including a chair who was a health rights activist with little experience in broadcasting.

Under Mutharika, MACRA faced accusations of political bias in its operations. In July 2011, it ordered two stations to halt coverage of widespread antigovernment protests. In November 2011, MACRA issued eight new broadcast licenses after an extended period of accepting applications; two of these went to Mutharika allies. Other applicants, most notably a religious group seen as hostile to the president, had their applications denied without explanation. However, in July 2012, MACRA issued 15 new licenses to private and community radio and television stations, drawing praise from the Malawi chapter of the Media Institute for Southern Africa (MISA).

In 2011, MACRA had attempted to implement a new "Consolidated ICT Regulatory Management System," ostensibly to more effectively monitor the performance of mobile-telephone companies. The move generated privacy concerns given the capacity of the system to access the call records of users, and media professionals warned that their ability to keep sources confidential could be compromised. Implementation of the system was temporarily suspended by the courts in mid-2011, and in September 2012 the High Court issued a ruling that halted implementation.

2013 SCORES

PRESS STATUS

Partly Free

PRESS FREEDOM SCORE

53

LEGAL ENVIRONMENT

17

POLITICAL ENVIRONMENT

19

ECONOMIC ENVIRONMENT

17

The Media Council of Malawi, a self-regulatory body, has been relatively dormant for about two years due to funding problems.

Violence and harassment of journalists had increased markedly in 2011, bringing condemnation from international rights groups and foreign donors. By conservative estimates, at least seven journalists were assaulted during antigovernment protests in July 2011, while several others were detained. The Mutharika government's campaign of harassment continued into early 2012. In March, the president's office released a harshly worded statement that accused the media and civil society of "inciting anarchy in the country." The statement said journalists had deliberately insulted the president, and warned that the government was monitoring social-networking websites for "hostile" and "demeaning" comments about him. Days after the statement was released, the head of MISA's Malawi chapter, which had issued a strong condemnation of the remarks, began receiving threatening text messages.

After Banda took office in April 2012, these types of threats were significantly reduced, and the climate of fear lifted. The new president took steps to engage with MISA and other groups on press freedom issues, including the establishment of a commission of inquiry to investigate the mysterious September 2011 death of Robert Chasowa, a political activist and blogger who had criticized Mutharika. In October 2012, the commission found that Chasowa had not committed suicide, as the authorities had originally claimed, but had been murdered. Two weeks after the commission released its report, six suspects were arrested, including a police officer and a former aide to Mutharika. Malawi's print sector consists mainly of eight independent newspapers, including two dailies and six weeklies. However, print readership is quite low. Most newspapers and magazines remain inaccessible due to their relatively high costs and their publication in English, which is read by only around 1 percent of the population. The majority of the population speaks Chichewa, the official language. The biweekly *Fuko Nation* is published in Chichewa and Tumbuka and targets rural readers. While there are numerous private and community radio stations that air a diverse array of opinions, government-controlled outlets continue to dominate the broadcast market. Radio remains the primary source of information for most people, and the state-controlled Malawi Broadcast Corporation (MBC) is the only station with national reach. Most privately owned stations are located in large urban centers in the south and do not broadcast to more rural sections of the country, while the 14 active community radio stations—which broadcast in local languages—lack financial security. Although there are four television stations, only MBC broadcasts nationally. State-run outlets are strongly biased in favor of the government and have been accused of serving as little more than propaganda tools.

Advertising revenue, including government advertising, is critical to the survival of Malawi's press, which operates under tenuous economic conditions. A ban on advertising in one of the most reputable dailies, the *Nation*, was lifted by Banda soon after she took office in April. In June, the Banda government also removed the 16.5 percent value-added tax on newsprint and newspapers that had been imposed by Mutharika the previous year.

There are no government restrictions on the internet, although only 4 percent of the population used the medium in 2012 due to lack of access to computers and high subscription costs. The majority of Malawians who access the internet do so through their mobile phones; about a quarter of the population had a mobile-phone subscription in 2012.

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