

Malawi

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Freedom of the Press

The media environment in Malawi has improved since Joyce Banda took office as president in April 2012, though a number of problems remain. The constitution includes strong guarantees for freedom of the press, but several laws 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 former president Bingu wa 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. In October 2013, the government completed drafting of a new Electronic Transactions and Management Bill, which seeks to fill gaps left by existing laws and regulations and sets out the legal responsibilities of internet service providers and online editors. The main objective of the bill, according to the preamble, is to allow businesses to exploit new ICT platforms to develop their economic activities and foster growth. It was unclear, however, whether the bill was intended to replace or supplement the 2012 E-Bill.

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 May 2013, Banda rejected calls from regional press freedom activists to become the third African head of state to endorse the Declaration of Table Mountain, which urges African governments to abolish criminal defamation laws. Days earlier, Banda had expressed her displeasure with criticism of her administration in Malawi’s press.

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 belonging to the publication. Mponda was released on bail a day later, having been formally charged with “publishing false news likely to cause public fear.” He was cleared of this charge in February 2013 after the government failed to pursue its complaint, but was arrested again in November for allegedly trying to extort money from officials of Banda’s People’s Party (PP). According to the chairperson of the Media Institute for Southern Africa (MISA) Malawi chapter, Mponda was accused of meeting with the officials to receive a 500,000 kwacha (\$1,300) “thank you” payment for taking down a story from the website that criticized PP officials and members of Banda’s family, and for helping to create a website for the PP officials. The case remained pending at the end of 2013.

In October, journalist Sylvester Namiwa of Galaxy FM Radio was arrested and detained for two hours after he broadcast the names of individuals and companies alleged to have profited from a long-running 20

billion kwacha (\$49 million) government corruption scheme that came to light earlier in the year (the so-called “Cashgate” scandal). He faced a charge of publishing content likely to incite violence. Namiwa was later freed on bail, but no trial date had been set by the end of the year. MISA-Malawi condemned the arrest but also cautioned against the dangers of “professional misconduct” and urged media outlets to “conduct thorough research before publishing stories.”

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.

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 MACRA’s 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, but this has lessened somewhat under Banda. In July 2012, MACRA issued 15 new licenses to private and community radio and television stations, drawing praise from MISA-Malawi. In November 2013, during a workshop for broadcast media managers, MACRA’s chair urged all broadcasters to provide balanced coverage of the May 2014 presidential, legislative, and local elections.

In 2011, MACRA 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. In mid-2011, the courts temporarily suspended implementation of the system—known in Malawi as the “spy machine”—and in September 2012 the High Court issued a ruling that halted implementation. Nevertheless, in June 2013 the parliament gave MACRA permission to proceed. The Supreme Court was considering the issue at year’s end.

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

In the past, state-run outlets were strongly biased in favor of the government and were accused of serving as little more than propaganda tools. The Banda government has pledged to reform these outlets, and in September 2013 MISA praised the Malawi Broadcasting Corporation (MBC) for featuring more diverse views and opposition members on its programs. However, there were reports that some programs continued to have a progovernment bias. Meanwhile, private broadcasters such as Zodiak Broadcasting Station have been gaining listeners and providing balanced coverage of major news topics.

Journalists and media monitoring groups such as MISA-Malawi expressed concern over the conduct of government officials at an October 2013 press conference held by Banda—her first since returning from a long trip abroad, during which the Cashgate scandal first emerged. Journalists described a climate of intimidation, with a large number of PP officials and supporters present who cheered loudly when the president was answering and disrupted the questioning period. Banda answered very few questions about the scandal and often interrupted journalists while they were asking questions to engage them in one-on-one debate, according to MISA-Malawi.

Violence and harassment of journalists has declined since Banda took office. However, there were a number of incidents during 2013 in which government operatives harassed or assaulted journalists. In January, journalist Anthony Masamba of Malawi Institute of Journalism FM was assaulted while interviewing Chancellor Kaferapanjira, the head of the Malawi Confederation of Chamber of Commerce and Industry. Masamba, who said Kaferapanjira punched him in the face and broke his recorder, had been

questioning the official about reports that the president's office had already used up its 2012–13 national budget just five months into the fiscal year. In June, the parliament's chief security officer, Youngson Chilinda, was arrested for assaulting journalist Thoko Chikondi while she was photographing well-known consumer rights advocate John Kapito in the parliament building. Chilinda, who struck Chikondi several times, said he believed that he was the one being photographed. In August, a cabinet minister's bodyguards assaulted Zodiak journalist Raphael Mlozoa, after Mlozoa was accused of publishing false news about the minister.

Malawi's print sector consists mainly of eight independent newspapers, including two dailies, the *Times* and the *Nation*; several weeklies; and a few magazines. 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 Malawians speak Chichewa, the official language. The biweekly *Fuko Nation* is published in Chichewa and Tumbuka and targets rural readers.

Radio remains the primary source of information for most people, and, alongside the government-controlled outlets, there are a growing number of private and community radio stations that air a diverse array of opinions. Previously, the MBC had been the only station with national reach. However, results of a MACRA survey released in September 2013 show that Zodiak now has a presence in nearly the entire country, drawing 76 percent of Malawi's audience, compared with 43 percent for MBC's Radio 1 and 40 percent for Radio 2. The survey also found that 75 percent of Zodiak's broadcasts were in Chichewa. Most other 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 the state-run TV Malawi broadcasts nationally.

There are no government restrictions on the internet, although only 5 percent of the population used the medium in 2013 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; there were about 32 mobile subscriptions per 100 inhabitants in 2013.

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 June 2012, 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.

2014 Scores

Press Status

Partly Free

Press Freedom Score

(0 = best, 100 = worst)

51

(0 = best, 30 = worst)

17

(0 = best, 40 = worst)

18

(0 = best, 30 = worst)

16