

## **Malawi**

Malawi is located in what has been historically known as Central Africa, although it is indeed part of Southern Africa. It was declared a British Protectorate in May 1891. Unlike in other countries where colonial masters came to settle, the primary aim of the British occupiers in Malawi was to protect the interests of the Scottish Missionaries and traders who were under constant threats of encroachment from the Portuguese in the neighbouring Mozambique. They also wanted to stamp out the flourishing slave trade under Arabs who were using Lake Malawi as a conduit for slave trade through the Indian Ocean.

Malawi was named Nyasaland, a name that was derived from the lake that forms the eastern border with Mozambique. Later the lake was renamed Lake Malawi and the country itself also changed to Malawi. It is interesting that up to now Mozambicans and Tanzanians still refer to the same lake as Lake Nyasa. The name Malawi is usually associated with one of the dominant tribes called Maravi who occupied most of the present central region. There are also references to flames of fire which is another literal translation for the name Malawi (*Malawi a Moto* - Flames of fire)

Malawi shares its northern border with Tanzania while Mozambique and Zambia share its eastern and western borders respectively. The land size is about 118 500 sq. km with a population density of about 93 people per sq. km. Of its 11 Million people, 52 % are women and 48 % men. The southern region is the most densely populated.

Malawi gained its independence from Britain on 6<sup>th</sup> July 1964, initially under the British Monarchy, with the Queen as Head of State. In 1966 that Malawi proclaimed itself a Republic.

Independence followed years of struggle that had started in the early 20<sup>th</sup> century when John Chilembwe led an unsuccessful uprising against British rule in 1915. That year saw the beginning of nationalist activity which led to Malawian resistance to colonial rule. The return home to Malawi of Dr Hastings Kamuzu Banda in 1958 was the turning point for the struggle. It culminated in the declaration of a State of Emergency in 1959 when most political activists were arrested and put in detention. Most of them were released by 1962. Political parties were banned but new ones came into play, with almost the same players but different party names and structures.

Eventually the British gave in to the nationalist pressures. Internal self-government was granted in 1963 when Dr Banda became the Prime Minister. On 6<sup>th</sup> July 1964, he became the first Malawian President.

Things did not go smoothly for long. Serious divisions rocked the first Malawian cabinet for reasons that have not been clearly explained up to now. There are indications that the cabinet was divided over the speed of Malawianisation of the civil service<sup>1</sup>. It is said the President favoured a gradual process while some of the ministers wanted immediate overhaul of the whole structure. There have also been references to divisions

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<sup>1</sup> A process of replacing British (white) officers with Malawians in the civil service

over foreign policy in terms of whether Malawi should have aligned itself with Communist China or the Republic of China (Taiwan). The result of these divisions was that a good number of cabinet ministers resigned from their posts and most went into exile. Most of these would live a life of constant fear of being tracked and killed by operatives of Kamuzu Banda. Some survived but many more were killed in exile.

During the 1964 General Elections the Malawi Congress Party won all seats and it was generally understood that Malawians wanted a single party state. This gave an opportunity to the party leaders at that time, who quickly enacted a law in 1966 making Malawi a one party state under the Malawi Congress Party. Six years later, Dr Hastings Kamuzu Banda was declared the Life President.

These developments, and the Cabinet Crisis of 1964 when more than half the cabinet ministers resigned from their positions, saw the beginning of authoritarian rule that would oppress Malawians for the next thirty years up to 1994. The Bill of Rights was scrapped from the Constitution on the pretext that it was meant to protect the property rights of the colonial masters. In practice, the development opened the way for the government to deal with all its critics without regard to their rights. When Dr Banda saw that the courts were not eager to pass judgments in his favour he introduced traditional courts and gave them powers equivalent to the High Court and Supreme Court. Almost all politically motivated crimes were subsequently tried in these courts and in all instances the accused were found guilty, much to the satisfaction of the President and the ruling party.

In 1994 democratic elections swept the ruling party out of power, and a new constitution – seen as one of the most liberal in the world – was adopted in 1995.

Malawi is an agro-based economy with tobacco as the main cash crop. Maize is the main food crop although the climate favours the growth of many other food crops such as cassava, rice and sweet potatoes. Agriculture accounts for 40 % of all employment and 80 % of all exports. Apart from tobacco, the other exports include tea, sugar, cotton and coffee. Malawi has no viable mineral deposits although some coal reserves have been located in a number of areas. Some mining takes place in Rumphi district in the north. There are bauxite deposits in Mulanje but no mining has started yet. There are also prospects of oil deposits in Lake Malawi.

Poverty levels are high in both the urban and rural areas. This has largely been attributed to low agricultural production, low farm income, low education levels, poor health, rapid population growth and weak institutional structures<sup>2</sup>. It has been estimated that 60 % of smallholder farmers live below the poverty line.

Malawi's present constitution combines features from the British Parliamentary system and the US Presidential system, with some separation of powers. The President is directly elected by the electorate and serves a maximum of two consecutive terms of five years each. The National Assembly operates almost like the British House of Commons. A second chamber, the Senate, was initially established in the Constitution but it was abolished even before it became operational.

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<sup>2</sup> UNDP Human Development Report, 1993

the English common law, Malawi has also allowed customary law to run almost parallel to general law. With the adoption of the new democratic constitution in 1995,

accommodate expectations of people with diverse cultural backgrounds. Malawi has more than 15 major tribes who practice different cultural beliefs and hence make it

Since 1994 Malawi has generally enjoyed an improvement in the respect for human rights. The Bill of Rights has been re-incorporated in the Constitution and Malawians organisations.

Paralegals have been working in Malawi since 1996. They have mostly been operating legal structure. For this reason they are not yet recognised by the Law Society of Malawi or the Legal Education and Legal Practitioners Act. Nevertheless their services practitioner.

Although it was an initiative that started with few NGOs, it is a growing profession that through the Ministry of Justice. The introduction of a Diploma Course in Legal Studies at the University of Malawi will also see an increase in the number of people that can