

A FULL CIRCLE OF PUBLIC PROTESTS IN MALAWI

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INTRODUCTION

Public protests in Malawi have gone a full circle since 1992. While the Constitution clearly spells out the right to assemble and freedom of expression, it was only in 2010 when a complete overhaul of the Police Act resulted into proper guidelines on crowd control and regulations of assemblies and protests.

INTRODUCTION

The paper discusses public protests during the four post independence administrations of Kamuzu Banda, Bakili Muluzi, Bingu Mutharika and Joyce Banda. During Kamuzu's one party reign from 1964 to 1994 public protests were unheard of. The public protests that happened in 1992 leading to violence and loss of life were therefore unprecedented and in the long run accelerated Banda's loss of power in 1994.

INTRODUCTION

Muluzi's democratic credentials were tested in 2002 when he sought to stand for a third term and banned all public protests for or against his third term bid. A High Court decision on the matter laid the law emphatically on the constitutional freedom of assembly and expression as well as the limit of Presidential powers.

INTRODUCTION

A major dent on the Mutharika presidency came in July 2011 when protests organized by the civil society degenerated into chaos. A Commission of Inquiry largely blamed the Police and made recommendations to various actors on future conduct of public protests.

INTRODUCTION

Post July 2011, Malawi has witnessed two major public protests which have passed on peacefully. The events of July 2011 served as a lesson to the Joyce Banda administration and all key actors in managing public protests.



1964-1992 MUTED PROTESTS

Kamuzu Banda had a grip on Malawi such that dissent of any sort was ruthlessly dealt with. As such any public display of dissatisfaction of Banda's rule was unheard of. Key state organs such as the Police, the media, were firmly controlled by the government

1992-OLD AGE, A FEW OTHER MATTERS AND THE TURNING POINT

In 1992 Kamuzu's grip started loosening and the year was a major turning point in terms of public protests. Kamuzu was not getting any younger.

Globally the Berlin wall was down, regionally apartheid was on its knees, Mandela was free and the region was not spared winds of change. For a regime largely propped up by western interests, these changes meant bad news for Kamuzu.

1992-OLD AGE, A FEW OTHER MATTERS AND THE TURNING POINT

1992 witnessed first signs of public and open defiance of the one party rule

- ✓ Men of the Cloth- Pastoral Letter, March
- ✓ A loud and defiant trade unionist- April
- ✓ A tiny labour dispute that became a large scale protest -38 dead- May
- ✓ University students join the fray- and the age of public protests was properly born



1994-2004 –DEMOCRACY’ S STUTTERING STEPS

Malawians ended the Kamuzu reign in 1994 with a completely new Constitution high and mighty on human rights including freedom of assembly and the right to demonstrate. The period was largely about consolidating the just attained democracy with key institutions/

1994-2004 –DEMOCRACY’ S STUTTERING STEPS

The test in terms of public protests came in 2002 when President Muluzi banned all forms of demonstrations in relation to his bid for a third term in office. The Army and the Police were instructed to deal with anyone demonstrating either in favor or against the third term bid. A High Court decision declared the ban unconstitutional...and unreasonable

1994-2004 –DEMOCRACY’ S STUTTERING STEPS

Malawi Law Society and Others v The President and others 2002- A sharp judicial rebuke-

Every Malawian who is mature enough will remember that for 30 years, eight years ago, this country ❖enjoyed❖ peace and quiet, law and order that was devoid of the rights and freedoms and the social justice now enshrined in our Constitution.❖ Taking judicial notice of the cases brought before this Court and the events in our National Assembly, very few Malawians want that kind of peace and quiet, law and order.

1994-2004 –DEMOCRACY’ S STUTTERING STEPS

There is need to strike a balance between the needs of society as a whole and those of individuals.❖ If the needs of society in terms of peace, law and order, and national security, are stressed at the expense of the rights and freedoms of the individual, then the Bill of Rights contained in our Constitution will be meaningless and the people of this country will have struggled for freedom and democracy in vain.❖ In a democratic society, the Police must sharpen their skills and competence. They must be able to perform their main function of preserving peace, law and order without violating the rights and freedoms of the individuals.❖ That is the only way they can contribute to the development of a free State.❖ Matters of national security should not be used as an excuse for frustrating the will of the people expressed in their Constitution.❖



2004-2012- A DARK DAY IN JULY 2011

The first Mutharika term, 2004 to 2009 was a minority government and this period is more known for pro-government protests in favor of passing of the National Budget by an opposition controlled Parliament.

In 2010 an overhaul of the Police Act established a very strong legal framework on how to regulate assemblies and demonstrations with specific requirements for organizers, police and civic authorities

2004-2012- A DARK DAY IN JULY 2011

2011 was an eventful year. Firstly the Mutharika administration was viewed as acquiring dictatorial tendencies.

- ✓ Passing of legislation that stifled media freedom, and limited the granting of injunctive reliefs against government.
- ✓ Malawi went through economic woes such as fuel and forex shortages
- ✓ Diplomatic rows with practically everyone from western countries to neighbours
- ✓ Arab Spring and fears of regime change

2004-2012- A DARK JULY 2011

This toxic atmosphere was the prelude to civil society organized public protests on 20 and 21 July 2011

- ✓ On the eve of the demonstrations the High Court granted an injunction to a businessman putting a stop to the planned demos, thereby inflaming the situation further
 - ✓ A chance to put to test the 2010 Police Act
 - ✓ Injunction was lifted on 20th July and demonstrations went ahead
 - ✓ Largest and most violent since attainment of democracy in 1994
 - ✓ 20 people killed, shops looted
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2004-2012- A DARK JULY 2011

- A Commission of inquiry was set up to investigate the deaths and violence. The Malawi Human Rights Commission also conducted its own independent investigation
- ✓ The police used excessive force and such 20 people lost their lives
 - ✓ To this day no-one has been prosecuted
 - ✓ The Police Act requirements on public protests were largely not used.

POST JULY 2011

The Joyce Banda administration had the benefit of the July 2011 lessons

- ✓ Two nationwide demonstrations held peacefully
- ✓ Numerous minor demonstrations
- ✓ The Police were more proactive and worked together with the organizers
- ✓ There was better understanding of the law on public protests by the organizers
- ✓ Showed it is possible to have normal protests without violence or disruption of lives



TWENTY TWO YEARS AND FIFTY EIGHT DEATHS LATER

The right to assemble and demonstrate is certainly firmly established in practice and has been critical during Malawi's watershed moments in the last twenty years or so. Successive governments while recognizing the essence of people to express themselves in a democracy have tended to be wary of public protests. As such attempts have always been made to prevent such protests at all costs.

TWENTY TWO YEARS AND FIFTY EIGHT DEATHS LATER

The Executive must develop rapid response capability to issues that concern the public. The Executive should put in place effective dialogue and communication channels through its existing structures

THANK YOU

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