



MALAWI

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Introduction

Malawi is a landlocked country of 118 484 sq km which includes 24 208 sq km of inland water. It borders Tanzania to the north, Zambia to the west, and Mozambique to the south and east along the shores of Lake Malawi. It is densely populated with an estimated population of 11.6 million. The population is predominantly rural. Malawi's economy, mainly agriculture-based, has a growth rate of 3%.¹ From its independence from Britain in 1964 until 1994, Malawi was a one party state led by Dr HK Banda of the Malawi Congress Party (MCP). In 1994 Malawi held its first multi-party elections under a provisional constitution. Today, Malawi is one of the poorest countries in the world, and its economy relies heavily upon funding from donor nations, the International Monetary Fund (IMF) and the World Bank.²

Prior to 1994, the Banda regime employed repressive measures and structures to maintain control of the population of Malawi. One of the most repressive structures was the paramilitary youth movement called the Malawi Young Pioneers (MYP), which was comprised of approximately active 6 000 personnel, and about 45 000 "reservists". MYP members were trained in the use of firearms, martial arts and battle tactics, and were armed with automatic weapons, mainly sourced from South Africa, Israel and Taiwan.³ Although the MYP were known to commit human rights abuses, their repressive control contributed to the prevention of petty crime.⁴ In late 1993 the MYP was forcibly disbanded and partially

disarmed by the Malawi military. However, approximately 2 000 MYP members fled into Mozambique with their firearms.⁵ There was no audit undertaken to determine the extent to which firearms were recovered from those MYP members who remained in Malawi.⁶

Since the 1994 elections, the government of Malawi has struggled to consolidate and deepen democracy. Ironically over the past ten years, civilians in Malawi have held the perception that there has been a marked increase in the level of crime, particularly organised crime, fraud, armed robbery, drug trafficking, money laundering, motor vehicle theft and general corrupt practices. This is believed to be largely due to the state's lack of resources to improve policing and crime prevention.⁷

This state of affairs, combined with widespread speculation that large numbers of small arms from Mozambican weapons caches have been smuggled into Malawi, has reinforced the perception that small arms proliferation and crime is on the increase.⁸ However, very limited research has been undertaken on issues relating to small arms in Malawi, and as a result, accurate information about the dynamics of this phenomenon is unavailable. Consequently, this chapter has sought to provide previously unpublished data and analysis on the nature and extent of small arms issues in Malawi.

Methodology

The research for this study was undertaken by the Centre for Human Rights and Rehabilitation (CHRR), with the assistance of Eye of the Child, a youth-focused non-governmental organisation. There were four distinct research activities.

First, a research team led by the CHRR conducted a firearms opinion survey with members of the Malawi police, the military, the business community and the general public. This team was comprised of four undergraduate students from Chancellor College, University of Malawi. A total of 146 people were interviewed – 66 in the Southern Region, 43 in the Central Region and 37 in the North. The people interviewed were business people, traditional leaders, teachers, former soldiers, prison officials and ordinary citizens. The field survey was done over a period of three weeks.

Second, two members of staff from the Eye of the Child visited Chichiri Maximum Prison and Zomba Central Prison, where they administered a structured questionnaire to prisoners and prison officials on firearms-related issues. Over a period of a month, a total of 90 prisoners and 13 prison officials were interviewed. They also analysed court records, including judgments.

Third, interviews were conducted with representatives from the Office of the Director of Public Prosecutions, the military, the police, NGOs, community policing forums as well as with journalists and traditional leaders.

Fourth, on 24 November 2003, a national consultative workshop was held with 40 stakeholders, including the Malawi Police Service (MPS) and the departments of Defence, Justice, Foreign Affairs, National Parks and Wildlife, Immigration and Customs, and Prisons.

National Firearm Stockpiles

Firearms ownership in Malawi is governed by the Firearms Act of 1967, which regulates the following:

- import and export of firearms and ammunition;
- all sales of firearms and ammunition;
- the granting of permits to acquire or transfer firearms or ammunition;
- firearm manufacture; and
- transport and possession of firearms.

Civilian Firearm Ownership

It is estimated that there are a total of 30 000 licenced civilian firearm owners in Malawi,⁹ in other words a quarter of a percent of the total Malawi population are legal firearm owners. According to the Malawi Police Service, between 1996 and 2003, 2 061 licences were issued to civilians for shotguns and rifles. No figures were available for the year 2000 (see Table

3.1 below). There was no information available about the licensing of civilian-held handguns for this period.

Table 3.1: Types of firearms for which civilian licences were issued: 1996 - 2003

Year	Shotguns	Rifles	Air guns	Other
1996	234	30	7	0
1997	239	106	8	0
1998	311	27	1	0
1999	324	37	2	0
2000	No data	No data	No data	No data
2001	106	18	2	0
2002	198	17	2	6
2003	395	19	1	0
Total	1 807	254	23	6

The Registrar of Firearms is the only legal authority that can issue licences to civilians to acquire, possess, carry or transfer firearms or ammunition in Malawi. No firearms may be manufactured, sold, transferred, acquired, tested or possessed without a licence issued by the Registrar of Firearms with the approval of the Minister of Home Affairs and Internal Security. Contravention is punishable by a fine and imprisonment.

According to the Firearms Act, the Registrar of Firearms has to be satisfied that the applicant:

- a) is not a person of intemperate habits or unsound mind;
- b) will at all times keep such firearms or ammunition securely;
- c) will at all times take all reasonable precautions to ensure that such firearms or ammunition are not lost or stolen and are not at any time available to any person not lawfully entitled to them.

In practice (although this is not a legal requirement), applications for licences need the support and signature of two senior members of the applicant's community. The application also needs the recommendation of the District Commissioner and Police Officer in charge of the area. The police investigate whether the applicant has been involved in any form of criminality in the past, so applications must be accompanied by the applicant's fingerprints.

It is also the practice that a person other than the licenced owner may carry a firearm provided that he or she has obtained a letter from the licenced owner.¹⁰

The Registrar of Firearms was not able to provide researchers with detailed information about the number of reported cases of loss, theft or destruction of firearms, or the arrangements relating to the transfer of ownership of firearms between licence holders. While the police confirm that this information is available, it is not easily accessible, and its reliability cannot be determined, as all information is compiled and processed manually.

There have been reports that there is an illegal market for firearms in Malawi.¹¹ According to the Malawi Police, a total of 318 illegal firearms were seized between 1996 and 2001, the majority of which were AK-47 assault rifles and pistols. A small assortment of rifles, shotguns and muzzle loaders were also seized by the police (see Table 3.2 for more detailed information for the period 1999-2001). These firearms were mainly seized from organised crime syndicates, most of which held military weapons.¹² During the first quarter of 2002 (January to March) 105 illegal firearms were seized.¹³

Table 3.2: Types of firearms recovered by the Malawi Police Service 1999 - 2001¹⁴

Types of firearms	1999	2000	2001
AK-47	29	27	13
Pistol	25	16	0
Other	37	26	3
Total	91	69	16

Charman (2003) argues that “the market for illegal firearms is sustained, in part, by the obstacles confronting ordinary Malawians in obtaining a licence. The licensing procedure is weighted in favour of politicians, traditional authorities, expatriates, and local businessmen who have the necessary credentials and patron networks to ensure that their applications receive approval. Less influential men and women have less chance of success.”¹⁵

Firearms are not manufactured legally in Malawi, although, there are reports of an underground home-industry. Within Malawi, arms can be purchased by civilians from Dynamic Explosives, a firearms dealer in Lilongwe. Firearms are imported from South Africa (Denel/Armcor), Belgium (FN), the USA and Zimbabwe.¹⁶

State-owned Firearms

The personnel of the following state institutions are permitted to carry firearms:

- Malawi Police Service (although regular policing duties are conducted by unarmed police officers)
- Malawi Army
- National Parks and Wildlife
- Department of Customs and Immigration
- National Intelligence Bureau
- Malawi Prisons Service

According to a retired military major, the Malawi Army owns pistols, rifles, general-purpose machine guns, 84mm anti-tank weapons, mortars, gunboats and armed helicopters.¹⁷ The same informant also noted that every soldier is issued with a rifle. The Malawi Police own pistols, rifles and general-purpose machine guns. In the Malawi military the Ordnance Depot is responsible for purchasing firearms, while in the Police it is the Officer-in-Charge of Weapons in conjunction with the Quartermaster.¹⁸

The parastatal organisation, Agricultural Development and Marketing Co-operation (ADMARC), is also permitted to own weapons and has autonomous control over its weapons and armouries.¹⁹ ADMARC has its own security division whose guards carry firearms. These firearms are used for guarding the Corporation’s establishment. Another parastatal company, the Electricity Supply Company of Malawi (ESKOM) is also authorised to arm its guards.

The National Intelligence Bureau (NIB) was established by the Office of the President and Cabinet in 2001, following a recommendation by the Inter-State Defence and Security Council of SADC for such organisations to be created in all SADC countries. Its activities, however, are shrouded in secrecy. Its role and function are unclear and its size is not known. The NIB is independent of the Malawi Police. According to Charman, the “NIB does not fall under any clearly defined Act of Parliament, but exists as a semi-autonomous body within the Office of the President and Cabinet.”²⁰ The organisations that were consulted during the course of this research expressed concern both about the secrecy surrounding the NIB and its close relationship with the ruling United Democratic Front’s youth wing. Some individuals suggested that the NIB was established to support the ruling party rather than carry out security functions of government. NGO representatives noted that officers of the NIB have been seen carrying pistols.

The level of secrecy surrounding the security forces in Malawi is such that it was one out of two SADC countries which failed to respond to a 1999 survey conducted by the Institute for Security Studies. The survey sought to determine the size of the regional police forces in order to assess the effectiveness of policing agencies in the region.²¹

Arms in the hands of the Young Democrats

Firearms have been seen in the possession of Young Democrats, the youth wing of the ruling United Democratic Front. These firearms have allegedly been used to intimidate members of opposition political parties. For example, in 2003 at a bar in Biwi, a suburb of Lilongwe, a member of the Young Democrats was seen brandishing his pistol and threatening to kill

patrons who opposed the government.²² The source of these weapons is not known but there is a general perception that political figures in the ruling party supply firearms to the Young Democrats.²³

The Malawi Young Pioneers – MYP

Under the rule of the Banda regime, the MYP were armed with military-style firearms intended for the Malawi Army. During the transition to democratic rule, this group was forcibly disarmed by the Malawi military following a shooting incident between MYP and military personnel at a bar in northern Malawi. This resulted in “Operation Bwezani” (“Operation Bring Back”). The operation started on 1 December 1993 and lasted approximately two weeks. The military were supported by the Malawi pro-democracy forces and by the public in tracking down and apprehending MYP members. As a result, many MYP members were injured and killed. Approximately 2 000 MYP members fled to Mozambique where it was believed they found refuge at Renamo camps in the Anogonia and Tete districts of Mozambique. Despite having been heavily armed, few MYP firearms were recovered, and there is a strong possibility that the firearms were either hidden in Malawi or taken to Mozambique.²⁴

Inadequate policing resources

The Malawi Police Service has a workforce of about 6 000 men and women. The police-to-population ratios indicate that the police are significantly under-resourced. The most favourable police-population ratio was 1: 2 357 (in Mchinji), while the least favourable was 1: 8 421 (at Chileka). Mponela and Dedza too had ratios of 1: 6 035 and 1:4 413 respectively.

There is a general perception in the communities of Malawi that the police are unable to provide adequate protection against crime. In 2001, in order to address the lack of civilian confidence in the police, the Malawi Community Safety and Firearms Control Project (MCSFCP) was launched by Centre for Human Rights and Rehabilitation (CHRR) and Public Affairs Committee (PAC) with support from Norwegian Initiative on Small Arms Transfer (NISAT).²⁵

The project was implemented through community policing structures, which were established to deal constructively with crime. The project aimed to mobilise civil society groups to work in co-operation with the police to monitor and prevent the proliferation of firearms and armed crime and encourage support for better training of police and better accountability to prevent abuse.²⁶

To date the project has:

- conducted preliminary research into of the scope of the problem of armed crime and sources of firearms, public awareness of the dangers of illicit firearms and the need for community policing;
- initiated proposals for legal reform, especially of the Police and Firearms Act;
- assisted the Malawi police, the main donor (the UK Department of International Development, DFID) and priority communities affected by armed violence to promote and expand the capacity of Community Policing Forums (CPF);
- helped with the establishment of a training programme for community-based, police/civil society liaison groups; and
- started developing regional cooperation between NGOs, in order to enhance co-operation between governments, police and civil society.²⁷

Private Security Companies

Private security companies in Malawi are not permitted to arm their guards, but do operate in Malawi despite there being no formal legislation to regulate their activities.

Draft legislation in the form of the Private Security Officers Act 1999, provides for the establishment of a secretariat to regulate the functions performed by security guards. The Act would empower the Minister of Home Affairs and Internal Security to allow security companies to render security services if registered with the Secretariat. At the time of writing, the draft Act was under review by the Parliamentary Committee on Defence and Security, and awaiting signature by the President.²⁸

Homemade firearms

Research conducted by Andrew Charman found that:

“Apart from the conventional military and civilian weapons entering into Malawi, the country has an extensive home-based small arms industry at village level, producing ‘home-made’ weapons. The industry has been sustained by a demand for low cost and low maintenance guns for (illegal) hunting and crop protection against game. Muzzle-loader guns are the main weapons to be produced. They are both simple to make and can utilise a broad spectrum of metal objects (including nails) as bullets. Production techniques have recently become more sophisticated and a more diverse range of weaponry and ammunition has resulted. These greatly improved weapons have now begun to acquire a new utilisation in crime activities.”²⁹

Of all prosecuted homicides between 1999 and 2003, at least 55% were committed with homemade firearms indicating that the proliferation of homemade firearms is a problem which needs to be addressed by the MPS. The prison study by Eye of the Child established that much armed violence involves homemade weapons. A total of 26 (of the 90) respondents used homemade firearms in the commission of their crimes. This suggests that the production, possession, and use of homemade firearms is well entrenched in Malawi.

Loss and theft of firearms

The researchers were unable to obtain information about numbers of firearms lost or stolen by civilian owners or state institutions. Isolated incidents of firearm theft and unauthorised use by members of the armed forces have been reported in the press.³⁰

Both the army and police carry out routine inspections and audits of their firearm stocks, but information about the loss of arms in these and other authorised institutions is not available to the public.

Assessing the Demand for Firearms

More than half of the respondents interviewed during the opinion survey suggested that most firearm owners are men. Sixty-seven percent of

respondents were of the view that firearms are expensive. They estimated the cost of an illegal firearm to be between K15 000 (US\$ 140) to K60 000 (US\$ 560), depending on the type of weapon. Twenty-one percent of respondents estimated that an illegal firearm can cost anywhere between K5 000 and K10 000 (US\$ 45 to US\$ 90). The balance of the respondents were unsure of the prices of illegal firearms. Dynamic Explosives gave prices as follows: 8-bore shotgun K58 500 (US\$ 500); Rifle K65 000 (US\$ 600); Shotgun 410 K55 500 (US\$ 500); Norinco 9mm K60 000 (US\$ 550).

The survey results indicate that it may be marginally cheaper to purchase an illegal firearm than a legal one (although the price of illegal firearms were also considered by respondents to be high). The variation in expectations regarding the cost of firearms may also suggest that the respondents had not, themselves, sought to purchase an illegal firearms and, therefore, did not know exactly what such a firearm would cost.

A number of participants at the national stakeholders workshop suggested that most illegal firearms are acquired for reasons of self-protection and poaching – and that many of these are homemade. It was also said that legally owned arms are at times illegally used for criminal activities, including poaching in protected game reserves. It was not possible to verify this information.

Firearm Crime in Malawi

Only limited data on firearms-related crime was made available to researchers, namely armed robbery and motor vehicle theft in which a firearm was used. Data on other violent crimes, such as murder, attempted murder and assault was available, but was not disaggregated to reveal the type of weapon used in the commission of the crime. According to Malawi police records, between 1996 and 2000 there were a total of 2 161 cases of armed robbery and 875 cases of motor vehicle theft (firearm involved). According to Charman, for the period August 2000 to July 2002, the police recorded a total of 789 cases of crime involving small arms.³¹

According to data obtained from the Registrar of the High Court and Supreme Court for the period 1999 to 2003, only 48 cases of armed

robbery were reviewed by the High Court and the Supreme Court. The relatively low number of cases before the High Court may be explained by the lack of police and criminal justice resources to apprehend and try the perpetrators of these crimes.

Firearms have also been reportedly used in incidents of poaching in game reserves and national parks. Illegal poaching is conducted by heavily armed groups of poachers from villages that surround the parks.³² While game scouts have traditionally been armed with .303 calibre rifles, the increased threat has resulted in guards being issued with M16 rifles. The number of poaching incidents is impossible to gauge, since some of poachers apprehended by guards are not handed over to the police. Rather, the game scouts administer types of informal punishment.³³

If a person is found guilty of possessing an illegal firearm, it is likely that s/he will be fined, rather than jailed. However, if that person has committed a crime with the firearm, the penalty will be more severe and may include imprisonment.

Assessing Firearm Controls

The 1967 Firearms Act regulates firearm control in Malawi. Other legislation containing references to firearm control includes the National Parks and Wildlife Act, the Preservation of Public Order and Security Act, the Dangerous Drugs Act, the Customs Act and the Police Act (which is currently under revision).

The *de facto* functioning of the firearm control system has evolved independently of the legislation, particularly in relation to the issuing of firearm licences. For example, an applicant must receive a recommendation from a senior community member, such as a village headman, prior to applying for a firearm licence, a requirement not stipulated in the Firearms Act.

In terms of record keeping, recent research conducted by SaferWorld and SaferAfrica concluded that the Central Firearms Registry, which maintains a manual recording system, is significantly under-resourced and has resulted in licence renewals not being effectively monitored.³⁴

On the issue of marking and tracing of state-owned firearms, an unofficial presentation by a Malawian police representative at the SARPCCO training workshop on the identification and handling of firearms held in June 2003 noted that:

“In Malawi, identification of firearms has become a problem of late due to scarcity of reference books and the absence of proof marks on firearms and ammunition that are found at the scene of crime.”³⁵

On the matter of the disposal of state arms the Malawi country report at a SARPCCO meeting in April 2003 stated that:

“Until now, there have not been any state-owned firearms that can be said to have been rendered surplus, redundant or obsolete requiring disposal thereof. However, steps have at all times been taken to destroy, through burning, of all home made guns that have been confiscated by the police.”³⁶

Malawi has signed and ratified the SADC Firearms Protocol and is a signatory to both the UN Programme of Action and the Bamako Declaration. However, at a 2003 SARPCCO workshop, the Malawian representative acknowledged that:

“Malawi’s current legislation is not compatible with the SADC Protocol and thus needs to be reviewed. A National Committee is presently being established for this purpose. The Ministry of Home Affairs and Internal Security submitted a proposal to the Cabinet Committee on Safety and Security to initiate review of the legislation. If this gets approved, then the Law Commission will be approached to review the existing legislation”.³⁷

The UK Department for International Development has indicated that it will provide financial support for a review of the Firearms Act.

The Malawian government has declared its support for international co-operation and transparency in arms transfers. The following statement was made by the Deputy Permanent Representative of the Republic of Malawi to the United Nations in October 2003:

“We welcome the outcome of the first Biennial Conference of States to consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its aspects. It is our hope that the report of the Group of Governmental Experts on the tracing of illicit small arms and light weapons will generate global, regional and national support by all member states in strengthening international cooperation and transparency in arms transfers.”³⁸

Despite this commitment by government, civil society researchers have been unable to access information relating to the import of arms into Malawi or certain categories of small arms information.

Endnotes

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- 6 Charman, A. *Small Arms Proliferation in Malawi: An overview of the supply of weapons and small arms demand for crime and game poaching*. Graduate Institute for International Studies, Geneva, January 2003.
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- 8 Charman, op cit.
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- 13 Cross, op cit.
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- 17 Undule Mwakasungura interview with retired Malawi Army Major (name withheld on request), Lilongwe, February 2004.
- 18 Undule Mwakasungura interview with retired Malawi Army Major (name withheld on request), Lilongwe, February 2004.

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- 25 Community Safety and Firearms Control Project Report, 23 August, 2000.
- 26 Ibid.
- 27 Ibid.
- 28 Undule Mwakasungula, interview with a Ministry of Home Affairs and Internal Security Official, 19 April, 2004 . See also First Draft Laws of Malawi: Constitution for Private Security Companies (undated).
- 29 Charman, op cit.
- 30 Malawi Community Safety and Firearms Control: Seminar on Media and police relations in firearms control, May, 1999.
- 31 Charman, op cit.
- 32 Ibid.
- 33 *Daily Times*, February 11, 2000.
- 34 Cross, op cit.
- 35 "Malawi Country Report: Marking, Tracing and Disposal of State-Owned Firearms", 3-4 April 2003, Southern African Regional Police Chiefs Co-operation Organisation, Zimbabwe, p.2.
- 36 Malawi Report on the Identification and Handling of Firearms and Training at the Southern African Regional Police Chiefs Cooperation Organisation training workshop facilitated by the Institute for Security Studies, 9-11 June 2003, Pretoria.
- 37 Ibid, p5.
- 38 Statement by Mr Hastings Amurani-Phiri, Deputy Permanent Representative of the Republic of Malawi to the United Nations at The General Debate of the First Committee of the 58th Session of the United Nations General Assembly, New York, 15 October 2003.