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S. J. RES. 74

Expressing the sense of the Senate regarding the Government of Malawi's arrest of opponents and suppression of freedoms, and conditioning assistance for Malawi.

IN THE SENATE OF THE UNITED STATES

MARCH 26 (legislative day, MARCH 3), 1993

Mr. KENNEDY (for himself, Mrs. KASSEBAUM, Mr. SIMON, and Mr. SPECTER) introduced the following joint resolution; which was read twice and referred to the Committee on Foreign Relations

JOINT RESOLUTION

Expressing the sense of the Senate regarding the Government of Malawi's arrest of opponents and suppression of freedoms, and conditioning assistance for Malawi.

Whereas a one-party state under the control of a few has maintained absolute control of all aspects of life in Malawi for many years;

Whereas active prodemocracy forces have emerged in Malawi as other countries move to embrace democratic change;

Whereas on March 8, 1992, the Bishops of Malawi issued a pastoral letter condemning the social, economic and political conditions in Malawi, thereby further encouraging peaceful demonstrations and strikes against the Govern-

ment and reenforcing the emerging efforts of prodemocracy leaders;

Whereas the United States and other donors acted in May 1992 to restrict foreign assistance to Malawi in light of the extensive repression by the Government, and such aid remains suspended today;

Whereas as opposition to the Government has grown, the Government has responded brutally to dissent and has arrested its opponents;

Whereas one of the leading opponents, Chakufwa Chihana, was arrested on April 6, 1992, for publicly calling for peaceful and democratic change, and has been sentenced to two and a half years of hard labor;

Whereas another prominent government opponent, Orton Chirwa, died in prison on October 20, 1992, at the age of seventy-three after eleven years of incarceration with hard labor, and his wife, Vera, was released only on January 24, 1993, after having served eleven years in jail herself;

Whereas Malawian President for Life H. Kamuzu Banda agreed to schedule a referendum on his one-party rule for June 14, 1993, only after intense international criticism and pressure; and

Whereas the Government of Malawi continues to jail opposition candidates and restrict opposition campaigning and freedoms, and has even jailed Malawian exiles who return to participate in the referendum, including the arrests of Edmond Jika and Gabriel Nkunika on February 24, 1993: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 That (a) the Congress—

4 (1) strongly condemns the Malawian Govern-
5 ment's continued incarceration and harassment of
6 dissidents; the restriction on freedoms of speech,
7 press and assembly; and the repeated, short-term ar-
8 rests of opposition leaders in order to impede their
9 prodemocracy efforts,

10 (2) further condemns all efforts by the
11 Malawian Government to limit the ability of political
12 parties and popular organizations to campaign in re-
13 lation to the upcoming referendum,

14 (3) strongly urges the Government of Malawi to
15 consider the recommendations of the United Nations
16 Technical Team on the Conduct of a Free and Fair
17 Referendum on the Issue of a One Party/Multiparty
18 System in Malawi,

19 (4) calls upon the Government of Malawi to re-
20 lease immediately all political prisoners, including
21 Chakufwa Chihana, and demands that the Govern-
22 ment immediately cease arresting opponents for the
23 peaceful expression of their views,

24 (5) commends the actions of the United States
25 and the United Nations in support of democratic

1 change in Malawi and the freedom of expression and
2 human rights and encourages the President and the
3 Secretary of State to work closely with other govern-
4 ments to these ends, and

5 (6) calls upon the President and the Secretary
6 of State to ensure that the United States develop-
7 ment assistance program bears relation to the Gov-
8 ernment of Malawi's progress toward an open politi-
9 cal system and respect for human rights and to work
10 to ensure that the assistance of other governments
11 and multilateral institutions is directed toward these
12 same goals.

13 (b)(1) CONDITIONS FOR THE RESUMPTION OF AS-
14 SISTANCE.—Assistance to the Government of Malawi (in-
15 cluding deliveries of assistance previously obligated) shall
16 be resumed only if the President determines and reports
17 to the appropriate congressional committees that the Gov-
18 ernment of Malawi has—

19 (A) released political detainees, including
20 Chakufwa Chihana, ended the prosecution of individ-
21 uals for the expression of their political beliefs, halt-
22 ed the use of torture, stopped the unlawful short-
23 term detention of opponents, and granted amnesty
24 to Malawian exiles wishing to return home;

1 (B) established and respected fundamental free-
2 doms, including freedom of expression, assembly, the
3 press, and the ability to organize free and independ-
4 ent political parties and labor organizations and a
5 repeal of the ban on all publications;

6 (C) permitted unimpeded the right to partici-
7 pate freely in the selection of government, the cre-
8 ation of an independent and impartial referendum
9 commission, secrecy of all balloting, equal access to
10 the media to all parties, the granting of permits for
11 political meetings to opposition groups, the access of
12 international election monitors, and the establish-
13 ment of a fair system of voter registration;

14 (D) established effective institutions for the
15 protection of the above-described rights, including an
16 independent judiciary with the security of tenure for
17 judges, public accountability for police actions, the
18 adoption of internationally respected standards of
19 due process in the courts—including the so-called
20 “traditional” courts—and effective remedies for
21 those tortured or mistreated.

22 (2) The President may waive such parts of the re-
23 strictions in this subsection which are necessary to provide
24 assistance to refugees currently residing in Malawi.

1 (3) A determination under paragraph (1) shall not
2 become effective until fifteen days after it is reported to
3 the appropriate congressional committees.

4 (c) DEFINITIONS.—For purposes of this section, the
5 term “assistance” means—

6 (1) assistance provided under chapter 4 of part
7 II of the Foreign Assistance Act of 1961 (relating
8 to the economic support fund);

9 (2) quick disbursing, nonproject assistance pro-
10 vided under chapter 10 of title I of the Foreign As-
11 sistance Act of 1961 (relating to the Development
12 Fund for Africa); and

13 (3) financing made available under the Arms
14 Export Control Act.

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