

THE ROLE OF THE JUDICIARY IN THE 2004 GENERAL ELECTIONS IN MALAWI

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ABSTRACT

The paper analyses the central role played by the Malawian judiciary in the 2004 presidential and parliamentary elections. We argue that the judiciary assumed four crucial functions in the electoral process: it performed an *accountability function*, serving to “unblock the democratic channels” and secure the integrity of the electoral process (although not succeeding); it functioned as a *safety-valve* diffusing tension and averting violence; it served as an *internal arbiter* for political parties; and it provided *political leverage* for individuals and parties contesting the elections. Particularly in terms of the first two functions, the judiciary contributed positively to the electoral process. Nevertheless, the growing prominence of the courts in the political arena is cause for concern, reflecting a lack of trust in the political institutions. It also makes the courts vulnerable; the more political battles are channeled into the legal arena, the more tempting it becomes for the executive to assert control over the judicial branch.