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Assessment
of Media
Development in

Malawi

*Based on UNESCO's
Media Development
Indicators*

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SHORT SUMMARY

Room for improvement, despite growth

Free, pluralistic and independent media play a crucial role in the protection of human rights, peace and democratic rule in countries all over the world. Malawi has seen an exponential growth of its media, both in quality and quantity. For example, there were only two broadcasting stations at the start of the 1990s, while Malawi has increased this over the years to 57 radio stations and 14 television broadcasters. Although the plurality of Malawi's media greatly increased, the functioning of the media has still been affected by arrests of media practitioners, outdated laws and other constraints.

This report offers an extensive overview of the status of the media in Malawi, based on an assessment of the UNESCO Media Development Indicators (MDIs). It analyses the legal and regulatory framework, the plurality of the media, safety of journalists and other relevant media development indicators, while at same time providing relevant recommendations for all stakeholders involved. The recommendations cover a large number of issues, some notable ones focused on:

- The conception of self-regulatory systems;
- The safeguarding of journalists;
- The introduction of a code for the regulation of advertisement practices;
- The reform of outdated laws relating to media practitioners.

After having
only **two** radio stations
at the start of the **90s**,
Malawi reached **57** radio
and **14** television stations.

Media practitioners, government officials, media stakeholders, CSOs and researchers are invited to discuss this report and consider implementing its recommendations in order to improve the media landscape of Malawi.



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"Since wars begin in the minds of men and women it is in the minds of men and women that the defences of peace must be constructed"



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Table of Contents

Abbreviations and acronyms	7
Foreword	9
Executive summary	10
Key recommendations	13
Methodology and context	17
Category 1	
A system of regulation conducive to freedom of expression, pluralism and diversity of the media	32
A. Legal and policy framework	32
B. Regulatory system for broadcasting	41
C. Defamation laws and other legal restrictions on journalists	44
D. Censorship	50
Category 2	
Plurality and diversity of media, a level economic playing field and transparency of ownership	56
A. Media concentration	56
B. A diverse mix of public, private and community radio	60
C. Licensing and spectrum allocation	67
D. Taxation and business regulations	69
E. Advertising	71

Category 3

Media as a platform for democratic discourse	76
A. Media reflect diversity of society	76
B. Public service broadcasting model	79
C. Media self-regulation	82
D. Requirements for fairness and impartiality	87
E. Levels of public trust and confidence in the media	88
F. Safety of journalists	89

Category 4

Professional capacity building and supporting institutions that underpin freedom of expression, pluralism and diversity	98
A. Availability of professional media training	98
B. Availability of academic courses in media practice	100
C. Presence of trade unions and professional organizations	103
D. Presence of civil society organizations (CSOs)	104

Category 5

Infrastructural capacity is sufficient to support independent and pluralist media	110
A. Availability and use of technical resources by the media	110
B. Press, broadcasting and ICT penetration	111

References	121
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Annexes

Annex 1. List of Key Informants	125
Annex 2. List of participating media organisations	126
Annex 3. List of interviewees/ respondents for the safety of journalists	128

Appendixes

Appendix 1. Coding Sheet for Content Analysis	135
Appendix 2. Focus Group Discussions Guide for Media Consumers	137
Appendix 3. Interview guide for Media Stakeholders on a Wide Range of Issues	141
Appendix 4. Interview guide for stakeholders in media training	151
Appendix 5. Interview guide for Media Stakeholders on Media Self-Regulation	154

List of figures

Figure 1. Proportion of Individuals Listening to Specific National Radio Stations	62
Figure 2. Proportion of Individuals Listening to the Radio by Place of Residence	63
Figure 3. Distribution of Languages Listened to by Individuals on Radio	77
Figure 4. Nature of threats journalists face in Malawi	92
Figure 5. Mobile data costs	115
Figure 6. Changes in prices	116

Abbreviations and acronyms

ABC	African Bible College
ACB	Anti-Corruption Bureau
ACHPR	African Charter on Human and Peoples' Rights
ADMARC	Agricultural Development and Marketing Corporation
BIU	Blantyre International University
CEC	Continuing Education Centre
CFTC	Competition and Fair Trading Commission
CHANGO	Chancellor College, City of Zomba
CSOs	Civil Society Organisations
DPP	Democratic Progressive Party
FBC	Federal Broadcasting Corporation
ICCPR	International Covenant on Civil and Political Rights
ITU	International Telecommunications Union
LUANR	Lilongwe University of Agriculture and Natural Resources
MAMWA	Malawi Media Women Association
MANA	Malawi News Agency
MBC	Malawi Broadcasting Corporation
MCM	Media Council of Malawi
MCP	Malawi Congress Party
MDAs	Ministries, Departments and Agencies
MIJ	Malawi Institute of Journalism
MISA	Media Institute for Southern Africa
MISA Malawi	Media Institute for Southern Africa, Malawi Chapter
MLS	Malawi Law Society

- MRA** Malawi Revenue Authority
- MUBAS** Malawi University of Business and Applied Sciences
- NAMISA** National Media Institute for Southern Africa
- NCHE** National Council for Higher Education
- NPL** Nation Publications Limited
- PLU** Pentecostal Life University
- UN** United Nations
- VAT** Value Added Tax
- ZBS** Zodiak Broadcasting Station

Foreword

In March 2017, UNESCO's International Programme for the Development of Communication (IPDC) engaged The Polytechnic, a constituent college of the University of Malawi (UNIMA), through the Department of Journalism and Media Studies, to carry out a study on media development in Malawi using UNESCO's Media Development Indicators (MDIs). The IPDC is a multilateral forum in the United Nations (UN) system designed to mobilize the international community to discuss and promote media development in developing countries. The study was commissioned upon the recognition that there has been no prior systematic assessment of Malawi's media landscape and that there is no reliable empirically researched data on the general state of the media and how the recent environment is either facilitating or suppressing media development in the country.

This publication presents the findings of this assessment. The study, which began in 2017 and concluded in 2022, was conducted by a team of researchers from the Department of Journalism and Media Studies at The Polytechnic, now the Malawi University of Business and Applied Sciences (MUBAS). Data was collected through various techniques such as reviewing media-related documents, conducting interviews with respondents, commissioning a questionnaire-based survey of media practitioners, media trainers and managers, holding consultations and observing media trends in the country. To validate the findings, various stakeholders were invited to review and make their input into the document. These included representatives of the media industry, journalists, government representatives, media trainers and civil society groups.

The report is structured into five thematic sections in line with UNESCO's list of indicators grouped into five main categories. These look at the legal framework within which the media operate and the current system of regulation, at economic conditions and their effect on plurality and diversity of media, at the role they play as a platform for democratic discourse, at professional capacity-building and supporting institutions, and at infrastructural capacity including ICTs. At the end of each section, the report presents conclusions and research-guided recommendations for the improvement of the media landscape in Malawi.

The publication comes at an opportune time when the Access to Information Law has been operationalised and is awaiting monitoring and evaluation. The law is expected to safeguard and promote the exercise of human rights and media freedom as enshrined in the Constitution of the Republic of Malawi.

It is expected that the publication will provide useful reading for the government, media stakeholders and the international community. It is further hoped that the information gathered will not only assist all stakeholders in maintaining the positives gained in the Malawi media so far but will also help to formulate various interventions aimed at addressing current and future challenges for the media in the country.

Dr Lydia Brito

UNESCO Regional Office for Southern Africa,
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Executive summary

This study assesses the state of media in Malawi with regard to the legal and regulatory framework in which it operates, its professional and technical capabilities and degree of plurality and diversity as compared to international standards. It identifies milestones of progress and points out gaps and weaknesses against which priorities in media development can be set. It also makes recommendations to domestic and international stakeholders on how to formulate media-related policies and interventions. The study applied the UNESCO Media Development Indicators (MDIs), which are an internationally recognised framework for assessing national media landscapes and identifying media development priorities. The MDIs, approved in 2008 by the 26th session of the Intergovernmental Council of the International Programme for the Development of Communication (IPDC), provide a comprehensive framework for the assessment of national media landscapes. They have been applied in a number of countries all over the world. The instrument complements other UNESCO indicators systems that enable national assessments of the wider Internet environment of communications, issues of media and gender equality, the safety of journalists, and media's economic viability.

As an analytical tool for charting an enabling environment for a free, independent and pluralist media, MDIs focus on five categories, namely: the media regulatory system, media plurality and diversity, media as a public sphere, media professional capacity, and media technical capacity. The study report is divided into these five analytical categories.

The first category of the MDIs focuses on the media regulatory system. It assesses the extent to which the system of regulation is conducive to freedom of expression, pluralism and independence of the media in Malawi. The key indicators are the legal and policy framework, the regulatory system for broadcasting, the existence of defamation and other legal restrictions on journalists, and the nature of censorship.

The Constitution of the Republic of Malawi has provisions that protect the rights of media such as freedom of expression, freedom of the press, right to access information, right to administrative justice, freedom of opinion, right to privacy and freedom of expression. However, the country still maintains and applies statutes that limit freedom of expression and media freedom such as provisions in The Electronic Transactions and Cyber Security Act, the Penal Code, the Protected Flag, Emblems, and Names Act, the Official Secrets Act, the Censorship and Control of Entertainment Act, and Communication Act. . These statutes fail to meet international standards and have been applied selectively to silence and sanction

political dissent. The Government has either been reluctant to repeal them or has superficially reviewed them to maintain elements that have the potential to abrogate the rights to freedom of expression and freedom of the media. The study recommends a systematic and holistic review of these laws, on the one hand, and more public and civic education of citizens, on the other, to enable them to demand and practice their human rights.

Category 2 assesses the plurality and diversity of the media with regard to ownership and concentration, diversity of the media mix, licensing and spectrum allocation, taxation and business regulation, and advertising. The study finds that the state has taken positive measures to promote plurality and a diverse mix of public, private and community media. However, the National Frequency Allocation Plan does not provide for special quotas for community broadcasters and many stakeholders in the broadcast industry expressed ignorance about the existence of the plan. Generally, the government appears committed to empowering the media through an equitable advertising policy, while in practice it sometimes uses advertising as a tool for penalising critical media. Currently, Malawi has no code of conduct that provides specific regulation of advertising. The study recommends that Government and stakeholders in the industry should develop guidelines on government advertising decisions.

One of the roles of the media is to create a public space that people can use to obtain information and engage in debates on issues that concern them. The third category assesses the degree to which the media provide such a platform for democratic discourse. The growth of the media sector in Malawi has created a corresponding responsive audience, with a growing interest to participate in public debates through the media. While the number of broadcast media outlets has increased, a significant proportion of the population is not adequately served or does not actively participate in content creation and production. In addition, the media are accused of neglecting the voices of women and minorities, and of perpetuating stereotypes about some segments of society. The political elite in Malawi views public broadcasting as an important platform for advancing their political interests. While there has been a significant improvement in the safety of journalists, the relationship between the private media, on the one hand, and state institutions and political parties in power, on the other, has been characterised by suspicion, mistrust, and sometimes victimisation of media practitioners. Recommendations are, therefore, made to develop equity policies and practices in order to level the economic and political playing field in all media sectors, especially community media.

Category IV of the MDIs looks at the availability of professional media training and academic courses in media practice, as well as the presence of supporting institutions like trade unions and civil society organisations. All of these exist in Malawi, but have a limited scope of coverage. For example, there are no programmes that specifically provide comprehensive training in media management. The available training programmes in different institutions encourage journalists to report the perspectives of marginalised groups by incorporating

human rights, child rights, gender, race and other issues in the curriculum and focusing on how to report fairly on the vulnerable groups. While human rights issues are mainstreamed in the curricula, there are no stand-alone modules on these topics in most training institutions. The media have formed organisations most of which are dependent on external donor support. Civil society organisations and NGOs engage in advocacy on behalf of media freedom and those working in human rights and governance areas have been subjected to death threats, arbitrary detentions, physical violence and harassment. Given this situation, the study recommends that media support institutions should be strengthened and media stakeholders should not relent in the fight for media freedom, human rights and improvement of professional media training.

The last category of the MDIs evaluates whether infrastructural capacity is sufficient to support independent and pluralist media. It focuses on an analysis of availability and use of technical resources by the media, including digital technologies and the level of ICT penetration among citizens. The study finds that most media institutions in Malawi have insufficient equipment of good quality for gathering, producing and distributing news and stories, suggesting that some organisations invest very little in the procurement of modern equipment. The levels of ICT penetration have generally improved. However, affirmative action is required to mobilise resources for economically challenged individuals and non-profitable media organisations such as community radio stations.

Key recommendations

1. To improve the regulatory framework:

- 1.1 The Government of Malawi should align domestic laws with the African Commission on Human and Peoples' Rights 2019 Declaration of Principles on Freedom of Expression and Access to Information by repealing laws that criminalise sedition, insult and publication of false news; and by amending criminal laws on defamation and libel in favour of civil sanctions, which must themselves be necessary and proportionate.
- 1.2 Parliament should enact a Data Protection Law to protect personal information which is collected, processed and stored in files by relevant public bodies and relevant private entities, to empower people to control this information and protect it from abuse.
- 1.3 Media stakeholders such as MISA Malawi and the donor community should mobilize pressure from below to monitor the effective and full implementation of the Access to Information Act. Such efforts should involve raising public awareness and emphasizing the importance of demanding the exercise of human rights among the citizens.
- 1.4 Media stakeholders such as MISA Malawi and the donor community should enhance the watchdog role of civil society to flag any new legislation that has the potential to unduly restrict freedom of expression and media freedom.
- 1.5 Media stakeholders should lobby Parliament to push for the revision of the E-Transaction and Cyber Security Act so that it reflects international standards of practice.
- 1.6 Parliament should push for the independence of the Malawi Communications Regulatory Authority. This can be effected by removing the appointing powers of the State President and instituting a transparent appointment system as recommended by Principle 17(1) and (2) of the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa.

- 1.7 Parliament should enact a stand-alone whistle-blower protection law as stipulated by Principle 35 of the Declaration of Principles on Freedom of Expression and Access to Information in Africa.
- 1.8 Parliament should amend the Censorship and Control of Entertainments Act (1968) to align it with international standards.
- 1.9 Government should facilitate a comprehensive reform of the public sector to eliminate undue political interference and instil a public service ethos for the full realization of human rights, freedom of expression, media freedom, and access to information.
- 1.10 Stakeholders and civil society organisations should continue to put pressure on the government to outline specific steps and timelines for the transformation of MBC from a state broadcaster into a public service broadcaster.

2. To advance media plurality and diversity:

- 2.1 The media industry should develop a code of conduct that provides specific regulation of advertising practices.
- 2.2 Government should desist from using advertising and taxation measures as a tool for advancing a political agenda, particularly concerning independent and critical media.
- 2.3 The media and other stakeholders should heighten public awareness and enhance citizens' understanding of the laws, policies and other instruments that regulate competition in the country.
- 2.4 Government and other stakeholders should empower the media and citizens with the knowledge and information they need to effectively fight anti-competitive and unfair trading practices.

- 2.5 Given their centrality in integrating local, community voices in the national discourse community media need more structured and sustainable forms of support that will create a more favourable environment for their growth and development. Government could consider special preferential taxation and other measures that specifically support community media.

3. To develop an all-inclusive public sphere through the media:

- 3.1 The media needs to provide an equitable platform for projecting a multiplicity of voices and interests.
- 3.2 Parliament, media, media supporting institutions and the donor community should re-invigorate the discourse and action towards establishing a Public Service Broadcasting (PSB) framework in Malawi, based on the research and other initiatives already undertaken to establish PSB in Malawi.
- 3.3 The media, supporting institutions and the donor community should create a strong, assertive and sustainable self-regulation institution that will enforce professional standards as well as safeguard media independence and the interests of media consumers.
- 3.4 Government, the media and other stakeholders must provide guarantees, safeguards, skills and measures that ensure the safety of journalists in Malawi, including during crises such as COVID-19.

4. To enhance professional capacity-building and media-supporting institutions:

- 4.1 The National Council of Higher Education in Malawi should ensure that all institutions of higher learning offering courses in Journalism and Media are well equipped, and have adequate teaching and learning facilities as well as qualified members of staff.

- 4.2** Civil Society Organisations should not relent in supporting the full realisation of media freedom, good governance, human rights advocacy, and a conducive working environment for the media.
- 4.3** Media stakeholders should strengthen and support media unions, associations and groups to ensure operational autonomy, ownership and financial self-sustenance.

5. To build the infrastructural capacity of the media:

- 5.1** The Government of Malawi should ensure that the ICT4D policy is effectively and fully implemented as it has the potential to revolutionise the information and communication technology sector.
- 5.2** The Government of Malawi should fast-track its efforts for the rural electrification programmes to ensure that more people in the rural areas have access to electricity and thus to television viewing and other forms of electronic media.
- 5.3** The Government of Malawi, CSOs and NGOs should support the development of the community media sector especially in technical, financial and human resource capacity building.
- 5.4** The Government of Malawi and the donor community should support the adoption of modern ICTs in media institutions to enable them to extend their reach to difficult-to-reach areas.
- 5.5** CSOs, NGOs and the government should embark on ICT literacy programmes deliberately targeting people in rural areas to help them make use of ICT facilities effectively.
- 5.6** The rates for internet access must be lowered considerably to give more people, especially the poor, access to internet.
- 5.7** The Government of Malawi should reduce taxes for ICT products to enhance universal access and make the internet affordable.

Methodology and context

The overall methodological approach for the research was informed by the imperative to obtain data that adequately illuminate the varied areas under study. The study was conducted using approaches drawn from quantitative and qualitative research traditions. The decision to combine research designs was made in line with the MDIs methodology and to enable the research process to benefit from the strengths of quantitative and qualitative research techniques while also counteracting their inherent weaknesses. The research was conducted from 2017 onwards, and the report was written up in 2022. The quantitative dimension of the study was conducted to generate generalisable findings relating to the safety of journalists in Malawi and the coverage of minority populations such as people living with albinism and LGBTQ people. Using systematic random sampling, a total of 154 respondents was drawn from a list of 345 journalists. The sampling frame was triangulated from multiple data sources, specifically membership lists for professional media organisations. With regard to the coverage of minority groups, newspapers spanning the period from September 2017 to August 2018 were reviewed. The newspapers analysed were *The Nation*, *Weekend Nation*, *Nation on Sunday*, *The Daily Times*, *Malawi News* and *Sunday Times*.

Purposive sampling was used for identifying respondents for the qualitative aspects of the study. Purposive sampling is based on the judgment of the researcher in identifying the participants that are typical of the population of interest.¹ Participants were selected based on their professional interest in media issues, their role in making and implementing decisions that affect the media, and consumption of media content. The respondents ranged from those in active media practice, policymaking, civil society activism and media users.

Data collection methods

The following methods were employed in collecting data for the study: documentary analysis, content analysis, focus group discussions, key informant interviews and questionnaire survey.

1 Cresswell, (2014)

Study population and areas

The documentary analysis involved a review of the documents that fall within the scope of the study. Documentary evidence was evaluated based on its authenticity, credibility, representativeness (typicality), and meaning (clarity and comprehensibility).² An extensive literature review was conducted of previous reports on the state of the media in Malawi such as studies on the Malawi Access to Information Bill by the World Bank and MISA Malawi; *Obstacles to Access to Information* by MISA-Malawi; *National Survey on Access and Use of Information and Communications Technologies by Households and Individuals in Malawi* by National Statistics Office; *Whose News? Whose Views?* by Gender Links; annual reports on the state of the media in Malawi such as the *African Media Barometer*, *So This Is Democracy*, *Media Sustainability Index*, and *World Development Indicator*. The review was benchmarked by referring to international standards and best practices including the Declaration of Principles on Freedom of Expression and Access to Information in Africa adopted by the African Commission on Human and Peoples' Rights (2019), Article 19 of the United Nations Human Rights Declaration and Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Broadcasting (2001).

Media content analysis

In this study, content analysis was used to examine the coverage of minority groups such as people living with albinism and LGBTQ people. The objective was to assess the extent to which the media in Malawi cover a diverse range of the population. The analysis was employed to establish the frequency of the coverage of minority issues and the main issues as well as themes relating to minorities that the media report.

Focus group discussions

A focus group discussion (FGD) is a facilitator-led interactive data collection method used for obtaining information from a group of participants about a particular topic in a limited amount of time.³ FGDs are primarily used for understanding audience attitudes, perceptions, and behaviour. The purpose of conducting FGDs in this study was to establish, explore and interrogate public attitudes, trust, and confidence in the media in Malawi and these were implemented during 2018. Overall, a total of five FGDs were conducted in Mzuzu, Lilongwe, Mchinji, Blantyre and Nkhata Bay.

² May 2000 and Deacon *et al* (2007)

³ Hayton (2011)

Key informant interviews

A key informant interview is a qualitative in-depth interview with people who possess the knowledge, expertise and information critical for the study. A good key informant has the knowledge and experience required by the researcher, the ability to reflect, is articulate, has the time to be interviewed, and is willing to participate in the study.⁴ Using semi-structured questionnaires, key informant interviews were used to obtain information from a wide range of respondents in areas such as media policy and regulation, media self-regulation, training and technical capacity as well as the perceptions of media professionals towards the quality, fairness and effectiveness of the regulatory framework in Malawi. The interviews were conducted in 2020. A list of key informants is provided in the appendix.

Questionnaire survey

Using a close-ended questionnaire, a survey of media professionals was conducted to gauge the experiences and perceptions of the operating environment for the media in Malawi. Specifically, this was in relation to the safety of journalists from physical and psychological threats as well as to self-censorship. Overall, 154 journalists were interviewed to establish whether or not they feel safe enough to practice their trade.

National context of media development in Malawi

General context

The Republic of Malawi is a landlocked country in South-Eastern Africa, covering an area of 118,480 square kilometres. It was a British Protectorate, called Nyasaland, from 1891 to 1964, when it gained independence from the United Kingdom. It became a republic with a single-party system of government in 1966. In 1994 it switched from a single-party to a multi-party political system.

Malawi is a densely populated country with 18.2 million people. The population has quadrupled from 4.4 million in 1966 to 18.2 million in 2019, and is expected to grow to 19.4 million in 2022. Only 15% of the population lives in urban centres, but Malawi is one of the fastest urbanising countries in the world at a 3.77% growth rate.⁵ Malawi's population is young, with 46% aged below 15 years and 75% below 30 years.⁶ While this population matrix could offer a potential market for the media industry, the high population growth rate is exerting adverse

⁴ Morse (1994).

⁵ National Statistical Office (2019).

⁶ Malawi Growth and Development Strategy III (2017).

pressure on access to resources and services. This has the potential to negatively affect the socio-economic development of the country.

Media in Malawi operate under dire economic conditions. Malawi is one of the least developed countries in the World. It has a Human Development Index (HDI) of 0.485, ranking 172 out of 189 countries.⁷ Life expectancy stands at about 63.8 years and the country is marked by high levels of vulnerability including poor nutrition.

General facts

Official Name	The Republic of Malawi
Type of Government	Presidential Republic
Administrative divisions	28 districts divided into 3 regions (Central, Northern, Southern)
Official Language	English
National Language	Chichewa
Total Population	18.2 million (2019)
Population Growth Rate	2.9%
Projected Population	19.4 million by 2022
% Urban Population	15% (2019)
Life Expectancy	63.8 years
HDI	0.485 in 2019
Poverty Rate	50.7% (2016)
Literacy rate	68.6% (2018)

The economy is largely agro-based, with the majority of farmers involved in subsistence rain-fed agriculture, which is negatively affected by vagaries of frequent and extreme weather conditions. The contribution of agriculture to the GDP stood at 28% in 2017.⁸ GDP growth rate during the pre-COVID-19 decade has averaged around 6% per year, although the majority of Malawians have not benefitted from this growth. Disposable income to access media services and products is severely limited among the majority of Malawians. While the poverty rate had declined from 52.4% in 2005 to 50.7% in 2015, the rate of ultra-poor increased from 22.4% to 25% over the same period. Income distribution has worsened over

⁷ United Nations Development Programme Human Development Report (2022).

⁸ Malawi Growth and Development Strategy III (2017).

time. According to the Malawi Growth and Development Strategy III, the Gini coefficient, as a measure of inequality, increased from 0.39 in 2005 to 0.45 in 2016. The UNDP puts the country's Multi-dimensional Poverty Index (MPI) at 0.243 in 2019, when 52.6 percent of the population were multi-dimensionally poor. Furthermore, the African Development Bank estimates that Malawi's GDP growth rate declined from 5.7 percent in pre-COVID-19 estimate to 1.7 percent in 2020. The Government of Malawi, in 2020, estimated that the country's economy would lose over \$6 billion. About 50.7% of the population live under the poverty line of below \$1 a day. Advertising and sponsorship revenue available to the media is limited because Malawi's labour market structure is dominated by the informal economy, where workers have inadequate social and income security.⁹

Governance institutions

The political governance structure has created space for media development and impact. Malawi is a presidential representative democratic republic with a multi-party system of government. The Head of State and Head of Government is the President, who appoints the cabinet, and is in charge of the executive branch of government. Malawi has a unicameral Parliament to which members are elected by majority vote every 5 years.

The Constitution of the Republic of Malawi establishes three branches of government: the executive, the legislature and the judiciary. Section 88 of the Constitution of the Republic of Malawi vests executive powers in the president and the cabinet. Section 8 states that the executive is "responsible for the initiation of policies and legislation and for the implementation of all laws which embody the express wishes of the people of Malawi and which promote the principles of this Constitution".¹⁰

Legislative powers are vested in the Parliament¹¹, which consists of the National Assembly¹² and the Presidency.¹³ The legislature is required by the Constitution to enact laws and shall ensure that its deliberations reflect the interests of all people of Malawi and that values expressed or implied in the Constitution are furthered by laws enacted.¹⁴ Enacted laws have primacy over other forms of law but are subject to the Constitution of the Republic of Malawi.¹⁵

Judicial powers in Malawi vest in courts, namely: magistrates' courts, High Court and Supreme Court of Appeal. The judiciary has the responsibility of interpreting, protecting and enforcing

⁹ Malawi Growth and Development Strategy III (2017).

¹⁰ Constitution of the Republic of Malawi (1995).

¹¹ See Section 48(1) of the Constitution of the Republic of Malawi (1995).

¹² Section 62 of the Constitution of the Republic of Malawi provides that a National Assembly consists of such members of seats representing every constituency in Malawi, as determined by the Electoral Commission.

¹³ See Section 49(1) of the Constitution of the Republic of Malawi (1995).

¹⁴ See Section 8 of the Constitution of the Republic of Malawi (1995).

¹⁵ Section 48(2) of the Constitution of the Republic of Malawi (1995).

the Constitution and all laws in accordance with the Constitution.¹⁶ It also has the responsibility to act independently and impartially concerning legally relevant facts and prescriptions of the law. Judges are appointed by the president, acting on the recommendation of the Judicial Service Commission, a constitutional body established to participate in the appointment and removal of judges. Judges can only be removed by the president in consultation with the Judicial Service Commission after a motion passed by a majority of the National Assembly on grounds of incompetence or misbehaviour.

The three branches of government are separated functionally by the Constitution of the Republic of Malawi so that no single branch can operate alone, assume complete state control and amass centralised power. Each branch is expected to play a 'watchdog' role over the other.

Aside from the three branches of government, Malawi also has constitutional bodies for enforcement of rights under the Constitution. These bodies include the Ombudsman and the Malawi Human Rights Commission. Section 123 (1) of the Constitution of the Republic of Malawi states that the function of the Ombudsman is to "investigate all cases where it is alleged that a person has suffered injustice and it does not appear that there is any remedy reasonably available by way of proceedings in the court...or where there is no practicable remedy".¹⁷ The Malawi Human Rights Commission was established to protect and investigate violations of the rights accorded by the Constitution or any other law.

Civil society is a significant player in the governance structure of Malawi. The role of civil society is recognized through the enactment of the Non-Governmental Organisations Act No. 3 of 2000, which provides for the rights and obligations of NGOs to promote the development and values of a strong, independent civil society by, among other things, establishing an NGO Board of Malawi to establish and maintain a register of NGOs and to provide free public access to this register. Aside from being public and commercial entities, the media in Malawi are part of civil society. They have become an important governance institution by acting as a watchdog and exploiting the power spaces among the three branches of government.

¹⁶ Section 9 of the Constitution of the Republic of Malawi (1995).

¹⁷ Constitution of the Republic of Malawi (1995).

Brief historical overview of media development in Malawi

Colonial origins

The history of the media in Malawi begins with the introduction of the press to Malawi by Scottish missionaries. The first media were community media circulated within particular religious or academic communities. Missionaries circulated ethnographic journals on Nyasaland among European audiences, and evangelical as well as literacy print materials among the indigenous people. Occasionally missionaries circulated regular publications on current and public affairs. These included journals such as *Aurora*. As the European community grew in the territory, newsletters for a local readership were launched such as the *Livingstonia News*. Apart from missionary publications, another type of community media emerged to contest British authority after the First World War. Nationalist movements opposing the British colonial system published advocacy papers as part of political mobilisation campaigns.

While the indigenous population remained on the periphery of media activities, windows of participation opened through educated Africans, who not only occasionally articulated native interests in established commercial media, but also set up their own media outlets and networks as alternative avenues to counter British domination. Almost all indigenous-owned newspapers were short-lived. The first regular publication in vernacular (*Tumbuka*) called *Makani (News)*, was founded in 1906 by the Overton Institute of the Free Church of Scotland. It folded two years later. Another was established in 1936, named *Zo-ona (Truth)*. This publication provided an alternative channel of communication for nationalist movements. For example, when Reverend John Chilembwe's protests were suppressed in the *Nyasaland Times*, his letter was published posthumously in *Zo-ona* and reproduced abroad in *South African Outlook*.¹⁸ Many newspaper ventures failed in Nyasaland most likely due to low readership.

Commercial media in Malawi were introduced as an integral part of British imperialism. In 1895, R.R. Stark and S.R. Hynde from Scotland founded the first commercial newspaper called *Central African Planter*, which targeted European settlers who established tea, cotton, coffee and tobacco estates in the southern highlands of the territory. The name changed to *Central African Times* and then *Nyasaland Times*, after the British Colony of Nyasaland had been declared in 1907, before being renamed *The Daily Times* in 1972, when it was bought by the first President of Malawi, Dr. Hastings Kamuzu Banda.

¹⁸ John Chilembwe was a Malawian nationalist and liberation fighter who led the 1915 uprising against the white settlers.

Regarding broadcast media, its history in Nyasaland is short. British political interests motivated the introduction of radio broadcasts to Nyasaland. Radio broadcasts were emanating from Lusaka, Northern Rhodesia (Zambia), to cater for British miners. When World War II began, African vernacular productions were introduced primarily as a propaganda tool to conscript Africans into British armed forces. Although there was no broadcast equipment installed in Nyasaland until 1960, the administrations of Southern Rhodesian (Zimbabwe), which had its own radio station, and Nyasaland were persuaded to contribute to the operational cost of the radio station in Lusaka because of its orientation towards vernacular programmes. Later with the formation of the Central African Federation, comprising Northern Rhodesia (Zambia) Southern Rhodesia (Zimbabwe) and Nyasaland (Malawi), broadcasting became centralised, with the broadcasting headquarters in the Southern Rhodesia town of Salisbury (Harare). From inception, radio broadcasting in Nyasaland began as a surrogate of other territories and was characterised by government involvement. Due to the structure of distribution of radio broadcast equipment within the Federation, access to the medium by indigenous populations of Nyasaland was difficult. For example, artists had to travel to Lusaka or Salisbury to record music. natural disaster. Nevertheless, the clause was used when government shut down all privately owned national broadcasting stations during the staged swearing-in ceremony of Raila Odinga as the people's President of Kenya in January 2018 (Pala, 2018).

When Nyasaland seceded from the Federation of Rhodesia and Nyasaland, she inherited impoverished federal broadcasting facilities on her soil. Following the independence, as national broadcasting began, broadcasting media were still a novelty in Malawi.

Media in single-party state 1964-94

At independence in 1964 there were two general circulation newspapers, the *Nyasaland Times*, owned by Roy Thompson, and *Malawi News*, owned by the Malawi Congress Party (MCP), which was the majority political party in Parliament. In 1972 President Hastings Kamuzu Banda bought the *Nyasaland Times*, placing both regular national papers under his ownership and that of his political party, MCP. Kamuzu Banda decided to turn the *Malawi News* into an international weekend newspaper, with a slant towards a party organ, and the *Nyasaland Times*, which by then was a bi-weekly, into a daily re-named *The Daily Times*. The two papers enjoyed a politically backed monopoly for close to three decades. Apart from these two newspapers and a couple of missionary publications, private media were almost non-existent. Occasionally, privately-owned sports or women's magazines appeared and folded. A common characteristic of the missionary publications and specialised magazines was the lack of in-depth or critical reportage of politics.

The Malawi Broadcasting Corporation (MBC) was established under an ordinance in 1964 to replace the Nyasaland Broadcasting Corporation set up in 1962. MBC was established on programming objectives similar to those of the British Broadcasting Corporation (BBC),

namely, to inform, entertain and educate. Other external radio stations such as BBC, SABC's *Channel Africa*, VOA and Radio Lusaka were also available on short-wave frequencies. Until 1991 when Africa Bible College (ABC Radio) obtained a licence for religious broadcasts, there was no alternative local radio to MBC.

In 1967 the Malawi News Agency (MANA) was established, under the Ministry of Information, to disseminate information on development projects and policies within and outside Malawi. MANA established an administrative headquarters in Blantyre, three regional offices and district offices throughout the country to gather, process and disseminate information through print and film media. As an agency, MANA supplied news to media institutions, in this case, MBC and Daily Times/ Malawi News. It also sent news and features to regional agencies such as Pan-African News Agency and also prepared and provided a World News Service to the president and cabinet.

The 1969 MBC Act made it a legal requirement for the Corporation to support the political party in power (MCP) as the country was a single party-state. In 1991 the MBC Act was amended to provide sweeping powers to the minister responsible to direct the inclusion or exclusion of any broadcast content on any radio station. The Act also required any prospective broadcaster to apply to MBC for a licence, thereby making it both a service provider and broadcasting regulator. In 1973 the Criminal Procedures and Evidence Code was amended to make it an offence to communicate false statements that might be published outside the country. In general, the conditions prevailing prior to 1993 promoted censorship. For example, the censorship law resulted in the banning of books, including some classics on socialist and communist ideologies.

Given the prevailing culture of fear and silence, a pastoral letter by Roman Catholic Bishops in Malawi, read on 8th March 1992 in all Roman Catholic Churches, is widely regarded as marking the turning point in freedom of expression in Malawi. The pastoral letter, titled *Living Our Faith*, publicly criticised the government for human rights abuses and called on the government to hold a referendum on the system of government. It covered a wide range of cultural, political, economic and social issues but identified popular participation as a key empowerment strategy for Malawi. In the letter, freedoms of expression, opinion, association and media were named as requisite conditions for realising the full human potential of every Malawian. The Church pointed out that media monopoly, lack of academic freedom, and persecution of opposition for dissenting views stifle creativity and initiative in society.

After independence in 1964, the media in Malawi were state-controlled and used as instruments for meeting party-state objectives. They advanced and supported party-state policies actively or through silent acquiescence in the case of missionary and privately-owned media. Mainstream media such as newspapers and radio were brought under direct party-state control such that any countervailing views to party-state reason were suppressed. A

strict surveillance system of both formal and informal instruments, from censorship laws to party-state vigilantes, defined limits of media practice.

The media were also used to counter what the party-state institutions regarded as misconceptions from outside the system by presenting an “accurate” picture. Media practitioners who were perceived by the party-state authorities to be non-conformist, for instance by criticising or questioning party or state goals, conduct, leaders or activities, were harassed, detained, deported or killed.¹⁹ Party-state affairs were considered paramount to individual liberties.

Media in single-party state 1964-94

The legal and policy framework in which the current Malawi media operate has changed. The status of media in Malawi is protected by the Constitution. With the re-introduction of political pluralism in 1994, freedom of expression and media have been enshrined and guaranteed in the Constitution of the Republic. Section 36 states:

The press shall have the right to report and publish freely, within Malawi and abroad, and be accorded the fullest possible facilities for access to public information (Government of Malawi 1995 and 2004).

Since media freedom was guaranteed by the Constitution, significant changes have occurred in the Malawi media. The number of media outlets, especially radio and television stations, has increased. New forms of media such as computer-mediated communications have been introduced and adopted. In addition, there has been an expansion of user generated content, citizen journalism and a wider scope for participatory journalism.

In addition to the constitutional guarantee, a communications sector liberalisation policy and legal framework took effect in 1998 to break government monopoly in the provision of broadcasting, telecommunications and postal services. Legal requirements for persons interested in establishing a print publication have been streamlined. No licence is required for print publications, but they need to register with the office of the Registrar-General just like any other business entity.

Re-regulation through liberalisation of the media sector has also enabled the expansion of media advertising. The advertising sector had been a monopoly of Graphic Advertising, established in 1974 as a subsidiary of Blantyre Print and Publishing Company. The MBC, which had set up its internal advertising departments to solicit, produce and distribute advertisements as early as 1967, began to outsource the production of advertisements.

Currently, Malawi has over 60 advertising agencies operating, the most dominant being those working in partnership with multi-national advertising agencies. In addition, small-scale operators began the importation of stationary and to a lesser degree supply of newsprint and printed material. This venture was previously a monopoly of Paper and Printing Supplies, another subsidiary of Blantyre Print and Packaging Company, which also had power to authorise any importation of printed material.²⁰

The media in Malawi operate in a political environment in which power is structured around political factions, where political competition is not based on ideological differences among political parties, but rather on perceived entitlement of members belonging to a particular faction. State-owned and funded media, namely MBC and MANA, are controlled by political factions under the central command of the ruling parties, while commercial or community media are prone to align or, from time to time, shift editorial policies to any political faction. Thus, private commercial and community media are either included or excluded from entitlements accruing from membership of the dominant factions, leading to a structural dichotomy between pro- and anti-establishment media, which in turn results in editorial policy shifts in support of or in opposition to the ruling political party factions.

This political polarisation in the media is exacerbated by oppositional political factions, which are ever-present within either pro- or anti-establishment media organisations. This creates various forms of opposing factional struggle, rivalry, antagonism and tension. While at times this factionalism has led to sensationalism, misinformation and character assassination rather than cultivating a democratic culture, it has also generally promoted the watchdog role of the media in Malawi. Competition among rival political factions or members of a faction creates fertile ground for news scoops. Cases of corruption, violation of human rights, disregard for provisions in the Constitution and all forms of social injustice have often been leaked to and published in the media. Since membership to any faction is fluid, a shrewd media practitioner may navigate and enjoy entitlements of different dominant factions by switching allegiances.

Despite constitutional and legal reforms, the legislative environment remains restrictive rather than enabling. Existing laws have been applied in a manner to stifle media freedom, mainly through selective enforcement and application of the law for political expediency. Law enforcement agents and the legal process have been utilised as legitimate means to control the media. While accused persons are presumed innocent until proven guilty and the Constitution requires that such persons should be charged within 48 hours of arrest media workers have been arrested and charged but cases do not make it to court. The State systematically uses the 'arrest and drop charges' tactic to punish media workers and control the media.

20 Hall, 1995.

Defamation cases against the media have been numerous. Unlike in the first decade of multi-party rule, such cases have mostly been resolved through an Alternative Dispute Resolution Process. Media managers in Malawi have found this legal provision of out-of-court arbitration less costly, fast, informal, friendly and flexible. While they bemoan that in most cases media organisations incur costs for lawyers, mediation fees and compensation, they find the negotiations over terms of payment and bargaining over levels of compensation accommodating and conducive to media practice.

The print media have remained an exclusive privilege of few rich Malawians. Since the majority of Malawians live on less than one US Dollar a day, the domestic media market is highly confined to the richest 10%, whose income median is three times that of the poorest 10%. Most publishers circulate 10,000 to 18,000 copies of a print run in a country of 18.2 million inhabitants. The sector remains an oligopoly dominated by Nations Publications Limited and Times Group.

Print media are operating in dire economic conditions as the government introduced substantial tax-burdens in 2010: a 16.5% value-added tax on the cover price of print products in addition to a 15% import duty on newsprint and other imported inputs. The cover price of daily papers has risen from K120 in 2010 to K600 (US\$0.7) in 2021. The market is shrinking further as existing customers are switching to online media as a source of ‘free’ news and information. Many mainstream print media organisations run online versions of their print publications, but such outlays do not offer much return on investment. COVID-19 negatively affected the economic viability of print media as circulation dropped by about 20%.²¹

Broadcast media have grown exponentially from one radio station in the early 1990s to over 50 radio stations, and from one domestic television station in 1998 to over a dozen in 2021. Radio listenership remains high. Malawi has migrated to digital broadcasting for television. Malawi media have embraced the online news medium as a democratisation tool. Most media institutions have online publications and the number of stand-alone online news sites is increasing. These sites have many interactive features for user participation including windows for user-generated content. Many practise blogging as a form of journalism to circumvent editorial or self-censorship in mainstream media houses. The media also participate in reflective professional forums, such as the NAMISA forum, MISA Malawi WhatsApp group and Media Hub WhatsApp group, where a critique of media performance is one of the focal points of discussion. During the mass demonstrations in 2011 and 2019, the online medium was the most accessed source of information, especially when MACRA banned the live broadcasts of events related to the protests. Sharing of information through social networks has become a vital tool for democratisation in Malawi especially when mainstream media are gagged by government or editorial policies.

However, the rate of ICT penetration in Malawi remains the lowest in the region. Only 6% of the population uses the internet. Low levels of computer literacy, high cost of internet services, poor infrastructure and scarcity of electricity are some of the major obstacles to advances in ICT and telecommunications.

In the recent past media houses in Malawi have embraced inclusive policies on gender and people with different abilities. To create a gender-aware media practice, news media organisations have drafted and implemented gender policies. By February 2015, more than 10 media houses had launched organisational gender policies. While institutionalisation of gender in media workplaces is a very significant step in efforts towards developing a gender-equal media practice, further monitoring and support for this initiative are required. Currently gender-blind, blatant gender stereotyping and subtle gender stereotyping remain an issue in media content. But overall, every media outlet has deliberately given prominence to gender-based violence and also promoted content on gender issues in relation to HIV/AIDS.

The implementation of the Malawi 2063 Vision may offer the media a platform to assert relevance and vitality, as the selected enablers of the Vision depend on communication media. The Vision aims to build an inclusively wealthy and self-reliant nation by 2063 through mind-set change, effective governance systems and institutions, enhanced public sector performance, private sector dynamism, human capital development, economic infrastructure, and environmental sustainability.²² Media are important for the achievement of development objectives. By promoting participation, the media can significantly contribute to national discourse and enhance democratic growth and national development. In addition, the envisaged focus on improved ICT infrastructure might help provide the necessary backbone for media operations.²³ Coupled with the rising level of literacy among the youth, the prospects for media viability might increase.

²² Government of Malawi (2020).

²³ Government of Malawi (2021).

Category 1

A system of regulation
conducive to freedom of
expression, pluralism and
diversity of the media

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Category 1 **A system of regulation conducive to freedom of expression, pluralism and diversity of the media**

The nature of media regulation has an impact on its operations. This category assesses the extent to which the system of regulation is conducive to freedom of expression, pluralism and diversity of the media.

A. Legal and policy framework

The media are formally regulated by laws and policies that have an impact on media practice. In Malawi, national policy is the prerogative of the executive branch of government. Section 7 of the Constitution of the Republic of Malawi 1994 places the duty of initiating national policies exclusively on the Executive arm of government.²⁴ According to Section 92 (2) of the Constitution of the Republic of Malawi, the Cabinet, among other functions, is responsible for advising the President concerning policies of the Government. Formulation and implementation of national policy is, therefore, the duty and function of state machinery. National policy initiatives generated outside formal government structures necessarily require Cabinet support and approval. Since the institutional set-up legitimates national policy-making through Cabinet, the structure is amenable to political interference.

Section 13 of the Constitution also provides for principles to direct policy formulation and implementation. These principles also provide benchmarks against which any policy initiative can be evaluated. The principles of national policy stipulate that policies should encourage the participation of each citizen in the life of the community, enhance rural standards of living, obtain gender equality for women with men as well as support vulnerable groups such as the disabled and elderly.

The principles consist of 15 policy goals which target the provision of adequate resources to sectors such as education (Section 13f), health (Section 13c), and nutrition (Section 13b); management of the environment (Section 13d), economy (Section 13n), peaceful settlement of disputes (Section 13l), international relations (Section 13k), administration of justice (Section 13m), public trust and good governance (Section 13o); protection of children (Section

13h), family (Section 13i), persons with disabilities (Section 13g), and the elderly (Section 13j). These principles legitimate national policy on grounds of public interest rather than individual and sectarian political or economic interests. Section 13(e), for example, directs the State to adopt and implement policy and legislation that prioritise enhancement of the quality of life in rural communities, where 85% of the Malawi population live, and to recognise rural standards of living as key indicators of the success of Government policies.²⁵

Even Section 13(n), which provides direction for economic management and policies, demands that government adopts and implements policies and legislation which aim at achieving public economic welfare by striking “a sensible balance between creation and distribution of wealth through the nurturing of a market economy.”²⁶

Applied to media, these constitutional principles of national policy direct that media-related policies should be grounded in a public service ethos in response to social demand for media services while paying close attention to the impact on gender equality, nutrition, health, administration of justice, the environment, international relations and vulnerable sections of society such as persons with disabilities, elderly and children. These constitutional standards should in principle bind media policy to foreground the value of media as a public or community utility at the service of the common good rather than as a private resource for accumulation of wealth.

However, despite the high-sounding public service ethos the Constitution of the Republic of Malawi does not give these principles of national policy any legally binding powers on state actors. Section 14 of the Constitution of the Republic of Malawi states that these principles are directory in nature:

The principles of this national policy contained in this Chapter shall be directory in nature but courts shall be entitled to have regard to them in interpreting and applying any of the provisions of this Constitution or any law or in determining the validity of decisions of the executive and in the interpretation of the provisions of the Constitution.

In effect the application of the principles is discretionary, meaning that courts are not obliged to apply them in determining the validity of decisions of the executive branch of government. Furthermore, unless a constitutional provision on policy has enabling legislation it cannot be enforced by law. Cabinet in this case is not expected to account for departure or deviation from policy decisions.

²⁵ Government of Malawi (2004).

²⁶ Government of Malawi (2004).

Malawi has no overarching media-specific policy but rather media-related policies which include the National Communications Sector Policy (1998), National ICT Policy (2013), the National Access to Information Policy (2014) and the Digital Broadcasting Policy (2013). The National Communications Sector Policy re-regulated the communications sector, previously a public service domain, to allow private capital investment, to provide for a regulatory body, the Malawi Communications Regulatory Authority (MACRA), and to re-constitute the existing statutory postal, telecommunication and broadcasting services. The Policy took legal effect through the Communications Act (1998). The ICT policy provided strategic direction on the application of information communication technologies to socio-economic development. Its enabling law was the Electronic Transactions and Cyber Security Act (2016). The Digital Broadcasting Policy promoted and guided the digital migration process of television broadcasting from analogue to meet the International Telecommunications Union (ITU) deadline of June 2015.

In general, policy implementation is shaped by practice, where informal policy prevails over formal policy. Instead of an all-inclusive written media policy, the custom of practice, especially in patterns of government decisions, resource allocation and legal interpretation of the law in court cases, constitute policy. Such non-formal policy gives direction and purpose to media management and characterises the current media environment.²⁷

Media related laws can be classified into three broad categories as laws that provide for (a) state or public interests such as administration of justice, authority of the government, national economy and financial management, international relations, law enforcement, law and order, official secrecy, public order, and public security; (b) community or social interests such as equitable access to public resources, and public morality; and (c) individual or private interests such as laws on privacy and reputation.²⁸ Aside from statutory legal frameworks media practice is also shaped by judicial imperatives through legal interpretation of laws by courts.²⁹ Courts also define the scope of media practice through their determination of cases.

1.1 Freedom of expression is guaranteed in law and respected in practice

National laws including the Constitution of the Republic of Malawi guarantee freedom of expression. The Constitution has incorporated the United Nations Bill of Rights and some citizens are aware of these rights. Freedom of expression is guaranteed in the Constitution of the Republic of Malawi under Section 35, which states;

²⁷ Government of Malawi (1994).

²⁸ Kanyongolo (2008).

²⁹ Kanyongolo (2008).

Every person shall have the right to freedom of expression.

Unlike other Constitutions, the Constitution of Malawi specifically provides for press freedom. Section 36 of the Constitution of the Republic of Malawi protects media freedom:

The press shall have the right to report and publish freely, within Malawi and abroad, and be accorded the fullest possible facilities for access to public information.³⁰

Significantly, the only legislation, other than the Constitution, that refers to the issue of freedom of expression is the Parliamentary and Presidential Elections Act, Section 59, which provides as follows:

Every political party and every representative, member or supporter thereof shall enjoy complete and unhindered freedom of expression and information in the exercise of the right to campaign under this Act and no person shall, during or after the period of campaigning, be subjected to any criminal prosecution for any statement he made or any opinion he held or any campaign material he produced, published or possessed while campaigning in the election.³¹

Section 61(1) of the Parliamentary and Presidential Elections Act states that:

Notwithstanding guarantees of freedom of expression, information and assembly under this Act, no person shall in campaigning in an election use language which is inflammatory, defamatory or insulting or which constitutes incitement to public disorder, insurrection, hate, violence or war.³²

Section 43 of the Local Government Act is to the same effect as both section 59 and 61(1) of the Parliamentary and Presidential Elections Act.

Malawi is a signatory to the Declaration of Principles for Freedom of Expression in Africa and the African Charter on Human and Peoples' Rights (ACHPR) through Article 95, to which Malawi is also a state party. Malawi is also a state party to the International Covenant on Civil and Political Rights (ICCPR).

30 Constitution of The Republic of Malawi (1995).

31 Constitution of The Republic of Malawi (1995).

32 Parliamentary and Presidential Elections Act (1993).

1.2 The right to information is guaranteed in law and respected in practice

The Constitution of the Republic of Malawi guarantees the right of access to information, and the Access to Information Act (2016) supports this right, among other pieces of legislation. There were considerable delays in the implementation of the Access to Information Act as the government did not adequately fund the oversight authority, Malawi Human Rights Commission, and the Minister responsible had not set a commencement date. The law is now operational and requires systematic support, monitoring and evaluation in its implementation.

The right of every person to access public information is guaranteed in the Constitution of the Republic of Malawi under Section 37:

Every person shall have the right of access to all information held by the State or any of its organs at any level of Government in so far as such information is required for the exercise of his or her rights.³³

The Access to Information Act (2016) in its sections 16 and 17 provides for proactive disclosure of information by public entities and entities which use public funds as well as for an obligation by public institutions to publish an information manual on procedures for accessing the information on demand from citizens. The law clearly outlines in Section 32 that personal information that is exempt from disclosure, such as communication between doctor and patient, lawyer and client as well as between a journalist and his informant. The Act also exempts trade secrets, diplomatic communication and matters of national security.

Section 30 of the Access to Information Act (2016) states:

An information holder may not disclose information which has been requested where disclosure of the information would reasonably be expected to:

- a)** *cause damage to the security or defence of Malawi or would divulge information which relates to the defence or security of a foreign government which is communicated in confidence by, or on behalf of such foreign government;*
- b)** *disclose or enable a person to ascertain, the existence or identity of a confidential source of information in relation to the enforcement or administration of law or endanger the life or physical safety of any person; or(c) cause substantial harm to the legitimate interests of Malawi in crime prevention and any preliminary investigation of criminal or other unlawful acts.³⁴*

³³ Constitution of The Republic of Malawi (1995).

³⁴ Access to Information Act (2016).

Interestingly, Sections 51 to 54 of the act stipulate penalties for holders of information: K3,000,000 (US\$3,700)³⁵ or jail up to three years for wilfully destroying or changing documents which had been required for disclosure, K500,000 (US\$620) or two years' imprisonment for providing false information to a requester, and K3,000,000 for wrongfully refusing disclosure.

Aside from the Access to Information Act, some statutes that facilitate access to publicly held information include the Environmental Management Act and the Parliamentary and Presidential Elections Act.

Section 17 (2) of the Environmental Management Act (1996) states that a person is entitled to have access to any record or document in the Environmental Register.

Section 109(f) of the Parliamentary and Presidential Elections Act (1993) provides that international observers shall have the right to have access to information transmitted by or to the Electoral Commission and its officers.

While these two laws provide for circumscribed access to information, the provisions, unlike those in the Access to Information Act, do not explain what members of the public can do in the event of being denied access to information held by the state.

Over the last decade government and public institutions have created a gate-keeping system through their public relations officers and official spokespersons in virtually every department. Contrary to the spirit of proactive disclosure of information for an informed citizenry provided for in the Access to Information Act, they protect the public image of the employer, thereby imposing obstacles, rather than facilitating openness, thus hindering access to public information.

Legal scholar Kanyongolo identifies a series of obstacles Malawians face in accessing information held by public agencies, namely: user-based, interface-based, social and systemic and law-based obstacles.³⁶ User-based obstacles include: low levels of formal education as 22% of people aged 18 years or older never attended school and have limited knowledge and understanding of the content and sources of public information; low awareness of the right to information as only 45.8% of Malawians are aware of their basic human right; extremely low levels of English literacy, where English is the official language; and lack the financial resources required for demanding and gaining access to information. Interface obstacles identified include: limited penetration of broadcasting and telecommunications coverage, especially in rural areas; and centralised bureaucracy and culture of secrecy among holders

³⁵ Exchange rate in December 2021.

³⁶ Kanyongolo (2012).

of public information. Social or systemic obstacles include: social marginalization and exclusion of women, the youth, persons with disabilities and others; physical marginalisation of geographically excluded rural and peri-urban communities that travel long distances to public offices; and predominance of the culture of orality among Malawians which impedes the systematic storage of information in permanent form. Legal obstacles include laws that prohibit public officials from unauthorized disclosure of information that they obtain in the course of performing their official functions or information that may be useful to enemies of the state. The paradox is that some of these laws were passed after the constitutional right to access to information had come into effect.

While these laws substantively comply with international standards in protecting individual privacy, they have the potential to curtail the right to media freedom. The Corrupt Practices Act (1995), for example, requires any person in the service of the Anti-Corruption Bureau (ACB) to take an oath of secrecy and prohibits them from directly or indirectly providing or disclosing to any unauthorized person the nature or contents of any document, communication or information which has come to their knowledge in the course of duty. The Competition and Fair Trading Act (1998) prohibits any person, without the consent in writing given by or on behalf of the Commission, to publish or disclose contents of any document, communication of information which relates to, and which has come to their knowledge in the course of duty. It is a criminal offence for any person to solicit for use any confidential information relating to the privatization of a public enterprise.

The Malawi Revenue Authority Act (2000) prohibits members of the Board and employees from publishing documents and information relating to the income, expenditure or other financial dealings or status of any taxpayer or other person involved in any operations; and all confidential instructions in respect of the administration of the Act. The Employment Act (2000) forbids labour officers from revealing any manufacturing or commercial secret or working process which comes to their knowledge in the course of duty. They are obliged to treat as absolutely confidential the source of any complaint.

The Veterinary and Para-Veterinary Practitioners Act (2001) prohibits any person, without consent in writing given by or on behalf of the Board, from publishing or disclosing to any person, contents of any document, communication or information which relates to or has come to their knowledge in the course of duty. The Science and Technology Act (2003) forbids employees from publishing or disclosing to any person contents of any document, communication or information which relates to, and has come to their knowledge in the course of duty.

In the Public Audit Act (2003), the Auditor General or any employee is prohibited from disclosing to any unauthorised person any information that comes to their attention in the

course of duty. The Defence Force Act (2004) prohibits the disclosure of any information which is or appears to be information useful to the enemy either directly or indirectly.

While these confidentiality requirements may be justified and permissible to protect the overriding interests of the state, public and private individuals, in particular during investigations of criminal activities, or the protection of individuals' privacy in respect of financial matters, they have the potential to abrogate the right to access to information by the chilling effect of their existence or trends of court decisions and interpretations of the substance of the law.

1.3 Editorial independence is guaranteed in law and respected in practice

The media in Malawi are predominantly electronic as opposed to print. No law directly guarantees editorial independence yet most media institutions, especially community-owned and privately-owned ones, appear to enjoy relative editorial autonomy from the undue influence of economic and political interests.

However, at a deeper level, editorial independence in Malawi should be understood within a complex patronage system between the media and the political sphere, where the media are material and economic resources exchanged for political support. The economic value of media does not only lie in the monetary exchange value accrued from the sale of media services to advertisers or sponsors and of media products to consumers, but also in the perceived strategic importance of media as a stepping stone to public office.³⁷

Aside from the effects of investing in politics, editorial independence is negatively affected by the fact that media business is mediated by politics. To get government advertising or sponsorship revenue media, especially private commercial media and community media houses, have to pull the appropriate political strings. Politics sells and the editorial independence of private commercial media houses is circumscribed by the profit-maximisation drive. In addition, for media organisations to attain economic sustainability, they require prudent negotiation and engagement with existing patron-client networks. The media business is pressured into informal affiliation and political alliances not only because politics is business for media, but also because politicians supply media income. Editorial independence is often affected by pressure to form particularistic alliances with political patron-client networks. The government has often selectively placed or withdrawn advertising from media houses perceived to be anti-establishment. Cases of strategic placement of advertisements to enrich

³⁷ Chikunkhuzeni (2010).

supporters and exclude dissenting media are numerous. Media organisations owned by politicians are at the service of political factions to which owners belong and editorial policies are from time to time prone to shift according to owners' political objectives and strategic alliances they form with other factions.

For media funded from public resources such as MBC and MANA, editorial independence is compromised not only by pressure to operate as efficient public enterprises but also by the strain exerted by politicians who expect their parties to be patronised in broadcast content. Pressure from the ruling party in particular results in public media editorial content that supports the government of the day while disenfranchising Malawians who hold alternative and opposing views, opinions and facts.

Editorial independence is also affected by levels of media access to information. The media are expected to publish a diversity of views. However, while the Access to Information Act (2016) is not yet fully implemented, the general trend is for information to be released selectively to the media. Information, including public information, is held and regarded as a private, secret and confidential resource, released to media in exchange for political support.³⁸

1.4 Journalists' right to protect their sources is guaranteed in law and respected in practice

No law safeguards the right of the media to protect their sources of information and journalists have been subpoenaed to disclose such sources. The Media Council of Malawi's code of conduct, which has no legal effect, provides for the protection of sources. Section 3.11 (i) states "A journalist has an obligation to protect confidential sources of information."³⁹

Section 50(1) of the Access to Information Act (2016) seems to protect whistle-blowers by stating:

*[Any] person shall not be penalized in relation to any employment, profession, voluntary work, contract, membership of an organisation, the holding of an office or in any way as a result of having made or attempted to make a disclosure of information which the person obtained in confidence in the course of that activity, if the disclosure is of public interest.*⁴⁰

³⁸ Chikunkhuzeni, (2011).

³⁹ Media Council of Malawi.

⁴⁰ Access to Information Act (2017)..

However, subsection (2) stipulates that such a “public interest” exists only if the disclosure is made “to a law enforcement agency or to an appropriate public authority”. Disclosure to journalists, thus, is not protected by law. Some media reports have indicated that the Government is planning to enact a stand-alone whistle-blower protection law.⁴¹

Section 11 of the Official Secrets Act of 1913 makes it an offence for any person to refuse to give information about any offence to a commissioner of police. Police have demanded that journalists reveal their sources in breach of their professional obligation to protect sources.

1.5 The public and civil society organisations (CSOs) participate in shaping public policy towards the media

Media reform in Malawi has been implemented with the active and effective participation of civil society organisations. The most notable is the formulation of the National Communications Sector Policy (1998), the National ICT Policy (2013), the National Access to Information Policy (2014), the Access to Information Act (2016) and the Digital Broadcasting Policy (2013). Civil society organisations have not only been consulted but also driven policy development processes, with advocacy strategies that have involved holding night vigils, demonstrations, lobbying Members of Parliament, naming and shaming, donation of free airtime, sponsorship of meetings, research, and concept papers, and confrontation and dialogue with government organs. For example, the executive director of MISA Malawi recalls that CSOs played a critical role in the Access to Information initiative: “The initial draft of the law was commissioned by MISA Malawi as well as the realignment of the draft to be in sync with the AU access to information law.”

B. Regulatory system for broadcasting

While broadcasting was predominantly the preserve of the state for 34 years since independence, Malawi re-regulated the mostly state-controlled communications sector in 1998 through the National Communications Sector Policy and its enabling Communications Act.

⁴¹ “Govt set to develop Whistleblower Protection Act”
<https://mwnation.com/govt-set-to-develop-whistleblower-protection-act/>

These instruments allowed for private investment, established the Malawi Communications Regulatory Authority (MACRA) to oversee the development of the sector, and re-constituted the state-controlled MBC into a public broadcaster.

1.6 Independence of the regulatory system is guaranteed by law and respected in practice

The broadcasting regulatory system was reviewed in 2016 to take into account the convergence of technologies and services for telecommunications, broadcasting, and information by establishing technology and service-neutral licensing regimes. The revision, like its predecessor, the Communications Act (1998), provided for MACRA to regulate the communications sector and for the Malawi Broadcasting Corporation (MBC) to deliver public service broadcasting services through a public content licence. Both bodies are required by law to operate independently, although the legal appointment structures for boards and management make them dependent on government.

MACRA was mandated by the 1998 Communications Policy and law to operate independently, with legal provisions excluding political party membership in the Board of Directors. The operations of the Authority were supposed to be free from political and economic interference and according to section 5(3) of the Communications Act 2016 MACRA “shall be independent in the performance of its functions”⁴².

The revised Communications Act (2016) retains the substance of the preceding Act of 1998 by maintaining the State President as an appointing authority and says in sections 7 and 8:

7. The Authority shall consist of__

(a) six members, appointed in accordance with section 8;

and__

(b) the following ex-officio members__

(i) the Secretary for Information or his representative;

(ii) the Secretary to the Treasury or his representative; and

(iii) the Solicitor general or his representative.

8. The President shall appoint members of the Authority, other than ex-officio members, and each appointment shall be subject to confirmation by the Public Appointments Committee.

The Public Appointments Committee has the power to reject any appointee if in their judgement he or she has been appointed on political grounds.

The law further stipulates in Section 5 that MACRA may

*... where necessary, seek the general direction of the Minister as to the manner in which it is to carry out its duties under this Act, (which) shall be in writing and published in the Gazette."*⁴³

These provisions allow for direct ministerial influence on the work of the Authority and accord the President the prerogative to appoint and fire any boards of directors and influence the fate of senior employees in public communications statutory corporations. The Board of Directors of MACRA is appointed for political strategic placements rather than professional merit. The Authority is accountable to the appointing authority in operational practice. While the policy and legal framework give the appearance of an appropriately constituted public service institution, MACRA's internal operating order is entrenched in partisan politics. For example, in 2007 it took the High Court to rule that the then MACRA Board of Directors was illegally constituted.⁴⁴

The new law was drafted in line with international practice, the World Bank supported its drafting after benchmarking in several countries in Africa and beyond, and stakeholders were also consulted. Nevertheless, the regulatory law constituting the Authority and its practice fall short of international standards, in particular Principle 17 of the Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019).

- 1. A public regulatory authority that exercises powers in the areas of broadcast, telecommunications or internet infrastructure shall be independent and adequately protected against interference of a political, commercial or other nature.*
- 2. The appointment process for members of a public regulatory body overseeing broadcast, telecommunications or internet infrastructure shall be independent and adequately protected against interference. The process shall be open, transparent and involve the participation of relevant stakeholders.*

⁴³ Communications Act (2016).

⁴⁴ <https://allafrica.com/stories/200707230869.html>.

1.7 Regulatory system works to ensure media pluralism and freedom of expression and information

Over the last two decades since regulatory reform in the communications sector was instituted, the broadcasting sector has grown from four radio stations and a television station in 1998 to over 50 operational radio stations and 13 national television stations.

Some community radio stations, such as GAKA FM of Bangula in Nsanje, Nyathepa of Nsanje, Tuntufye of Karonga, Umoyo of Mangochi and Mzimba Community Radio broadcast programmes in non-official and non-national languages while MBC broadcasts translated versions of news headlines in seven vernacular languages. It is not uncommon that advertising is broadcast in vernacular languages other than the national language, Chichewa. The proportion of content broadcast in ethnic languages other than Chichewa remains low. The proportion, excluding music, is very insignificant for television programming. Local film production is low and rare. Issues of minority rights are covered sporadically especially through sponsored programmes. Several radio stations use multimedia platforms including live streaming of radio programmes on the online medium.

The revised Communications Act (2016) provides for licensing while the E-Transaction and Cyber Security Act provides for the regulation of online content. Unfortunately, the E-Transaction and Cyber Security Act has been used to stifle freedom of expression among non-media practitioners as evidenced by the lawsuits which Government has used against citizens, especially opposition politicians.⁴⁵

C. Defamation laws and other legal restrictions on journalists

As noted above, freedom of expression and press freedom are guaranteed in the Constitution in sections 35 and 36, respectively. However, the Penal Code of 1929, which criminalises libel, sedition and defamation, the Protected Flag, Emblems, and Names Act, and the Official Secrets Act of 1913 are some of the pieces of legislation that variously restrict these freedoms.

MISA reports that the Attorney General has notified Parliament on the intention of Government to table the Protected Flag, Emblems and Names (Amendment) Bill, 2022 and Penal Code (Amendment) Bill, 2022 to alter, among others, provisions related to sedition.⁴⁶

⁴⁵ For example, an opposition politician was arrested and charged with treason on allegation that she formed a WhatsApp group to overthrow government.

⁴⁶ Misa Malawi (2022).

Section (200) of the Constitution of the Republic of Malawi addresses the legal transition from a single-party to the multi-party regime by stating that “all Acts of Parliament, common law and customary law in force” when the new Constitution took effect “shall continue to have the force of law.”⁴⁷ Effectively this provision carries over all laws, which were in force during the single-party regime into the multiparty political system. The section provides only two mechanisms for amending or repealing laws inconsistent with the Constitution; namely, through an Act of Parliament or declaration of a competent court of law. The media have not succeeded in obtaining judicial interpretations that invalidate old laws that have been exploited to stifle media operations such as those related to sedition, defamation and public security. The process is both expensive and time consuming. When such opportunities arise, especially in cases where media workers are arrested for national security or public order offences, the tendency for the government has been to withdraw cases before conclusion. In this manner, laws that can be invoked against media workers at will are effectively retained.⁴⁸

1.8 The state does not place unwarranted legal restrictions on the media

As a member of the international community, Malawi has to comply with international human rights law in its national laws that restrict freedom of expression.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) states:

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
 - (a) *For respect of the rights or reputations of others;*

⁴⁷ Government of Malawi (1995). On 22 February 2016, police arrested Malawi Congress Party officials on charges that they were conspiring to overthrow the Government through WhatsApp communications.

⁴⁸ Kanyongolo (2008).

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20 adds:

- 1. Any propaganda for war shall be prohibited by law.*
- 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*

Similar to article 19 (3) of the ICCPR, section 44(1) of the Constitution says:

No restrictions or limitations may be placed on the exercise of any rights and freedoms provided for in this Constitution other than those prescribed by law, which are reasonable, recognized by international human rights standards and necessary in an open and democratic society.

This means the public utility value of the media is effectively subordinate to individual rights of dignity and privacy, public interest considerations such as national security, preserving public order, protecting public health, maintaining moral standards, and meeting the just requirements of the general welfare of a democratic society.

In practice, though, the State places unwarranted legal restrictions on the media through selective application of archaic colonial laws on those perceived to uphold dissenting views in the public sphere. This practice is also reflected in a continental trend as aptly summarised by the Declaration of Table Mountain, adopted by the World Association of Newspapers and the World Editors Forum in Cape Town in 2007:

...the African press is crippled by a panoply of repressive measures, from the jailing and persecution of journalists to the widespread scourge of 'insult laws' and criminal defamation which are used, ruthlessly, by governments to prevent critical appraisal of their performance and to deprive the public from information about their misdemeanours...⁴⁹

1.9 Defamation laws impose the narrowest restrictions necessary to protect the reputation of individuals

Defamation and insult laws have been used to limit freedom of expression in general and media freedom in particular in Malawi. Although some sections of the Penal Code of 1929 were revised in 2012 and 2016, provisions of criminal defamation including libel were retained.

Section 201 of the Penal Code defines defamation as a matter that

is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or likely to damage any person in his profession or trade by injury to his reputation. It is immaterial whether at the time of the publication of the defamatory matter the person concerning whom such matter is published is living or dead.

Section 200 stipulates that criminal libel is committed when

Any person who, by print, writing, painting, effigy, or by any means otherwise than solely by gestures, spoken words, or other sounds, unlawfully publishes any defamatory matter concerning another person, with intent to defame that other person.

Malawi has both civil and criminal defamation.

The laws of defamation have been criticized for being vague and open to interpretation, placing the burden of proof on the accused and being ambiguous and too broad in scope of practice. In Malawi, aside from protecting the reputation of an individual, they have been used to stifle free speech, especially through the media. Although a substantial number of defamation cases brought against the media were not contested by media organisations, even where legal representation has been available, the tendency in court sentences has been to either rest the burden of proof of innocence on the accused or to uphold the rights of individuals to reputation.⁵⁰

There is no recorded case of defamation in Malawi in which the media have successfully defended the right to publish over the right to human dignity. Of late, because of the arbitration process in which parties are offered an opportunity to settle cases before being heard before

⁵⁰ For examples, see Justice Mwaungulu vs. Malawi News Civil Cause Number 518 of 1994, Ndovi vs. UDF News Ltd Civil Cause No. 683 of 1997, Khembo vs. Weekly Chronicle Newspaper Civil Cause No. 3670 of 1998, Ngwira vs The Editor, Daily Times Civil Cause No. 325 of 1999, and Dick Chagwamnjira vs. Nation Publication and another Civil Cause No. 2438 of 2000.

a judge, and the hiring of legal counsel by media organisations to offer pre-publication legal advice, many defamation cases are settled out of court. This gives the impression that defamation cases have decreased but a scan of newspaper retractions and apologies is a symptom of the defamation challenge Malawi media contend with.

The African Commission on Human and Peoples' Rights Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019) states in its Principle 22:

States shall repeal laws that criminalise sedition, insult and publication of false news.

States shall amend criminal laws on defamation and libel in favour of civil sanctions which must themselves be necessary and proportionate.

The Government of Malawi should abide by this Declaration.

The effects of defamation laws on the media include the closure of media outlets due to heavy fines, institutionalisation of self-censorship in media houses, exclusion and narrowing of space for deliberative democracy, punishment of editorial comment and political discussion, exclusion of opposition voices, excessive protection to public officials from reporting and commentary leading to impunity, loss of media credibility and disregard for the public good in favour of individual rights.⁵¹

Aside from defamation laws, other laws that criminalize free speech through the media include provisions in the Penal Code about treason and sedition and the Protected Flag, Emblems, and Names Act 1967. Malawi has an array of statutes that prohibit the publication of certain kinds of information, including information regarding legal proceedings, relating to public safety, order and security, and information that undermines government authority. Also prohibited is any communication which intimidates or insults the president, flag and protected emblems; is obscene or contrary to public morals, harms relations between sections of the public, or offends religious conviction.

The most frequently applied pieces of law in media operations stem from the Penal Code, Act 22 of 1929. Section 60(1) of the Penal Code provides that

any person who publishes any false statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace shall be guilty of a misdemeanour.

Section 61 stipulates:

Any person who without such justification or excuse as would be sufficient in the case of the defamation of a private person publishes anything intended to be read, or any sign of visible representation, tending to degrade, revile or expose to hatred or contempt any foreign prince, potentate, ambassador or other foreign dignitary with intent to disturb the peace and friendship between the Republic and the country to which such prince, potentate, ambassador or dignitary belongs, shall be guilty of a misdemeanour.

Some of the most frequently applied include laws relating to national security and public order. Section 3 of the Preservation of Public Security Act of 1961 empowers the minister to prohibit publication of any matter that appears to be prejudicial to public security, while the Public Security Regulation of 1965 does not only contain prohibitions on publications but also undermines the duty of a journalist to protect sources of news. Section 4 of this regulation prohibits the publishing of anything likely to be prejudicial to public security, undermines the authority of government and promotes ill-will and hostility between races, classes or sections of Malawians.

The Official Secrets Act of 1913 makes it a crime to communicate without authorisation any information relating to prohibited places or entrusted in confidence by a person holding government office. The Protected Places and Areas Act of 1960 makes it an offence for any unauthorised person to be in a protected place without a permit. While Section 3 of the Corruption Practices Information Regulations of 1998 prohibits any person from communicating information on an unpublished tender if such information could be used in dealings of any related contract.

Police usually arrest media workers or obstruct their work on the pretext of enforcing the law. However, while the Constitution requires that any accused person should be charged within 48 hours of arrest, in many instances, media workers have been arrested and charged but cases do not proceed to conclusion in a court of law. In this manner, the State systematically uses the 'arrest and drop charges' tactic to punish media workers and manage the media.

D. Censorship

1.10 The media is not subject to prior censorship as a matter of both law and practice

The media in Malawi do not require prior authorisation to package content and distribute it. In terms of Section 23(1) of the Censorship and Control of Entertainment Act 1968 states:

Any person who—

(a) imports, prints, publishes, manufactures, makes or produces, distributes, displays, exhibits or sells or offers or keeps for sale any publication, picture, statue or record; or

(b) publicly plays any record, which is undesirable or which has, under section 24 been declared by the Board to be undesirable, shall be guilty of an offence'

Section 23(2)(b)(ii) provides that a publication will be deemed to be undesirable if it is

likely to bring any member or section of the public into contempt.

Currently, publishers and editors are responsible for ensuring that the media under their direction do not carry any material that violates the law, jeopardizes national security or offends moral standards, as failure to comply with these norms may result in legal proceedings.

Given the ubiquity and convergence of modern communications, the Censorship and Control of Entertainment Act is ill-equipped to manage communication content. Several attempts have been made to review the Act to align it with international standards. Initial calls for the review were made in 1993 by the media and the Civil Liberties Committee, a draft bill was ready by 2003, then revisited in 2010, and updated in 2012. In 2021 it has been sent to the Ministry of Justice again in the hope that it will be tabled in parliament.

1.11 The state does not seek to block or filter Internet content deemed sensitive or detrimental

The Malawi government has the capacity to block or filter internet content. During the consultative process for the E-Transactions and Cyber Security Bill, some stakeholders feared that Government was intent on blocking or filtering internet content perceived to be politically detrimental to the ruling party. While the E-Transactions and Cyber Security Act of 2016 contains broad provisions on protecting “public order and national security” and penalises “offensive communications” on online platforms, incidents of online content filtering or blocking have not been verified by research.

Conclusion

Media regulatory reform in Malawi, like most transitional democracies in developing countries especially in Sub-Saharan Africa, has yielded limited impact towards establishing an egalitarian media system for popular participation in civic affairs. While considerable changes have occurred in the media landscape since the early 1990s when the country formally embraced political and economic liberalisation policies, their effect remains debatable with regard to the significance and extent of inclusiveness of the emerging media system. While the Malawi media are contributing significantly to social change such as poverty alleviation and institutionalisation of democracy, the policy and legal framework has essentially created and sustained a media system that is at the service of a minority political and economic elite rather than public interests.

Recommendations

1. The Government of Malawi should abide by the African Commission on Human and Peoples' Rights 2019 Declaration of Principles on Freedom of Expression and Access to Information by repealing laws that criminalise sedition, insult and publication of false news; and by amending criminal laws on defamation and libel in favour of civil sanctions which must themselves be necessary and proportionate.
2. Parliament should balance the public service ethos and economic imperatives in the realisation of human rights and freedoms enshrined in the Constitution of the Republic of Malawi through review of policy and legal provisions. The exercise of human rights and freedoms should not be subject to the ability to pay.
3. Parliament should enact Data Protection Law to protect personal information which is collected, processed and stored in files by relevant public bodies and relevant private entities; and to empower people to control their information and protect them from abuse. The Access to Information Law and other ancillary laws do not adequately address issues of data protection.
4. CSOs should mobilize pressure from below to help guarantee the effective and full implementation of Access to Information legislation through an inclusive monitoring system. To this end, a national structure on access to information, an inclusive CSO grouping responsible for coordinating and collaboration of interventions by CSOs on ATI, a national ATI coalition, should be formed.
5. CSOs should proactively raise public awareness and emphasize the importance of citizens demanding the exercise of their human rights.
6. Parliament should enact a stand-alone whistle-blower protection law as demanded by Principle 35 of the Declaration of Principles on Freedom of Expression which states that "No person shall be subject to civil, criminal, administrative or employment-related or other sanctions or harm, for releasing information on wrongdoing or which discloses a serious threat to health, safety or the environment, or whose disclosure is in the public interest, in the honest belief that such information is substantially true." Media stakeholders and civil society should advocate for the above reforms to be completed and ensure the monitoring of compliance with international best practices.

- 7.** Donor partners and other stakeholders should enhance the watchdog role of civil society to flag up any new legislation that has the potential to unduly restrict freedom of expression and media freedom.
- 8.** Parliament should revise the E-transaction and Cyber Security Act to reflect international standards.
- 9.** Parliament should guarantee the independence of MACRA by removing the appointing powers of the State President and instituting a transparent appointment system as recommended by Principle 17 (2) of the Declaration of Principles on Freedom of Expression and Access to Information in Africa.
- 10.** Parliament should amend the Censorship and Control of Entertainment Act (1968) to align it with international standards.
- 11.** Government should reform the public sector to eliminate undue political interference and instil a public service ethos for the full realization of human rights, freedom of expression, media freedom and access to information.

Category 2

Plurality and diversity of media, a level economic playing field and transparency of ownership



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Category 2

Plurality and diversity of media, a level economic playing field and transparency of ownership

The foundational principle underpinning the notion of media plurality and diversity is that a fully functioning democracy requires a population that is informed by multiple competing sources of news and information.⁵² Media plurality and diversity, therefore, ensure that the media not only reflect the social composition of the society they serve but also create the platform for national discourse, enabling citizens to meaningfully engage with the issues they face. It is in this context that the African Commission on Human and People's Rights Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019) states that government or private monopoly over print, broadcast and online media is not compatible with the right to freedom of expression.⁵³ One approach used to engender and sustain a media environment where a multiplicity of players and voices interact to inform the national discourse is the application of legal and policy instruments and practices to ensure that the media operate in an environment where one or only a few individuals and institutions monopolise the media space. To achieve this objective, one of the tools used is the application of competition and fair trading legislation designed to level the playing field for media operators. This category provides an overview of the state of media plurality and diversity in Malawi as well as the underlying legal, political and other influences that shape media structure, composition and operations.

A. Media concentration

2.1 State takes positive measures to promote pluralist media

In Malawi, the major legal instrument enacted to prevent anti-competitive and unfair trading practices is the Competition and Fair Trading Act which was passed by Parliament in 1998.

⁵² Moehler & Singh. (2011). Whose News Do You Trust? Explaining Trust in Private versus Public Media in Africa. Political Research Quarterly.

⁵³ This is captured in Principle 11 (1) of the Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019).

Other relevant instruments in the competition framework are the Consumer Protection Act, Consumer Protection Policy, Competition and Fair Trading Regulations, Sales of Goods Act and the Communications Act (2016).

The Competition and Fair Trading Act (1998) is meant to create a legal basis for promoting competition and fair trading and broadly seeks to provide incentives for achieving economic efficiency and innovation and ensure that the production of goods and services responds to consumer demands. Specifically, the Competition and Fair Trading Act (1998) is intended to achieve the following outcomes:⁵⁴

- Encourage competition in the economy by prohibiting anti-competitive trade practices;
- Regulate and monitor monopolies and concentration of economic power;
- Protect consumer welfare;
- Strengthen the efficiency of production and distribution of goods and services;
- Secure the best possible conditions for the freedom of trade;
- Facilitate the expansion of the base of entrepreneurship.

This competition framework was the product of the neoliberal economic and political orthodoxy underpinning the liberalisation efforts and economic reforms in the 1980s and 1990s, which resulted in the lessening of government control over businesses, removal of restrictive business policies and selling of commercial enterprises previously operated by the government. Another key outcome of the Competition and Fair Trading Act (1998) was the establishment in 2005 of the Competition and Fair Trading Commission (CFTC) to act as the focal point and implementing agency of the legislation. The Commission was operationalised in 2013. Since then, the Commission has generally been assertive in preventing anti-competitive and unfair trading practices as well as punishing offending institutions.

Over the years, the Commission has dealt with three mergers and acquisitions in the media industry. One involved the acquisition of 60% shares in Matindi Broadcasting Station by Times Radio Limited. The process was completed in November, 2015. The merger was unconditionally approved since the Commission found no evidence that the transaction was likely to result in the lessening of competition to an appreciable extent in Malawi. The decision

54 www.cftc.org. Undated. Accessed on 12/06/2021.

was made in the context of the expanding portfolio of Times Group which owns *The Daily Times*, *Malawi News*, *The Sunday Times*, Times Online, Times Television and Times Radio.

In October, 2016 the Commission also approved the acquisition of Star Radio Limited by Timveni Child and Youth Media Organisation. The third case was the acquisition of Ufulu Television by Mauritius-based Kwese Free Television Ltd. The company later disinvested from Malawi and Ufulu Television is no longer operational. Investigations into the application by Mzati Media to acquire Luso Television were ongoing at the time of preparing this report. Overall, the media market in Malawi has not exhibited an ownership structure that poses a serious threat to media diversity and pluralism, particularly because of the proliferation of privately owned radio and television stations. The media industry is, therefore, converging towards fragmentation of ownership as opposed to concentrated ownership patterns.

In addition to the CFTC which has a broad mandate, the Malawi Communications Regulatory Authority (MACRA) is also mandated by the Communications Act (2016) to prevent anti-competitive and unfair trading practices in the communications industry. Section 59 of the Act empowers MACRA to intervene in instances where:

...it appears to the Authority that a licensee is taking or intends to take any action that

(a) may constitute an abuse of a dominant position in relation to the provision of any electronic communications service; or

(b) has or is likely to have the effect of placing another licensee engaged in communications activities at a competitive disadvantage in relation to that licensee, the Authority may, after giving the licensee concerned an opportunity to make representations, order the licensee to cease or refrain from taking such action.

In regulating the market in the provision of communications services, the Act is supplemented by the Guidelines on Regulation of Market Dominance in the Communications Industry in Malawi. According to Section 57 of the Act, a licensee shall be deemed as holding a dominant position in a relevant market if the licensee:

- a)** *holds a large market share;*
- b)** *has control of essential facilities;*
- c)** *is involved in a vertical relationship that could harm competition in the market applicable to the particular category of licence as determined by the Authority;*
- d)** *or any other factors as determined by the Authority.*

The Guidelines on Regulation of Market Dominance in the Communications Industry in Malawi provide specificity regarding the designation of a dominant player in the communications market. According to the Guidelines, determination of market dominance will be based on the following criteria:

- a) *the licensee has a market share of at least 30% of that market;*
- b) *the licensee has a market share of less than 30% but can operate in the market without effective constraints from its competitors, potential competitors, suppliers or customers;*
- c) *licensees will be considered to be jointly dominant in a particular calendar year if three or fewer licensees hold at least 60% share of the relevant market; or five or fewer licensees hold at least 70% share of the relevant market.*

Based on the 2022 market analysis conducted by MACRA, MBC holds a dominant position in the retail free-to-air television services market, with an estimated viewing of 84%. However, the report said that “no remedies are required because MBC’s services are provided for free and are available on subscription TV platforms as well as MDBNL.”

Another key highlight of the 2022 market analysis is the determination that MultiChoice is a dominant player in the market for retail subscription television services. MACRA estimates that MultiChoice (DStv and GoTV combined) has a market share of 51% by subscribers and 85% by revenue. While the market analysis notes that the newer entrants are generally backed by significant regional and international companies, so theoretically, they have the necessary financial and operational resources to compete with MultiChoice, it nevertheless makes recommends, *inter alia*, that MultiChoice should be required to provide subscriber and revenue data to MACRA on a quarterly basis to enable MACRA retain an up-to-date view of the market as it develops. Going forward, the report argues that “there may be a case for the future imposition of further remedies such as a ‘wholesale-must-offer’ obligation and a set-top box interoperability requirement, but these are not considered to be necessary at the present time.”

In 2018, MACRA conducted a market analysis to investigate the possibility of anti-competitive conduct in the broadcast sector. The assessment established that there was no “anti-competitive behaviour in the broadcasting sector and as such no remedial interventions were imposed on any player in the sector.”⁵⁵ The next round of the market analysis was underway at the time the report was being finalised.⁵⁶

⁵⁵ Interview with a MACRA official conducted on February 4, 2020.

⁵⁶ Interview with a MACRA official conducted on March 29, 2021.

2.2 State ensures compliance with measures to promote pluralist media

In general, the competition and fair trading system in Malawi is robust and objective enough to ensure a level playing field for media ownership, pluralism and diversity. Since CFTC became operational, it has demonstrated sufficient oversight and regulatory authority unconstrained by political interference and other parochial interests. The CFTC has also exercised reasonable authority in imposing sanctions against regulatory breaches.⁵⁷ In terms of the media, CFTC and MACRA have not imposed any sanctions on media organisations arising from anti-competitive and unfair trading practices because there are no recorded cases of such practices in the industry.

Currently, a review is underway to strengthen the Competition and Fair Trading Act and the Consumer Protection Act to align them with current realities in the business environment. In this context it needs to be highlighted that interviews with media stakeholders conducted for this report established troublingly low levels of awareness and understanding of the laws and policies that provide safeguards against anti-competitive and unfair trading practices in the media industry. The lack of broadly shared knowledge on competition issues poses serious risks in terms of the capacity of stakeholders in the industry to provide oversight for the implementation of the framework. There is also a risk that the media may be unable to competently and significantly contribute towards improving technical quality of the competition legislation and policies in the country.

B. A diverse mix of public, private and community media

2.3 State actively promotes a diverse mix of public, private and community media

The media industry in Malawi is characterised by a diversity of media institutions catering for a broad range of interests such as business, religion, politics and community issues. For the broadcasting sector, the major legal tool for the establishment and regulation of radio and

⁵⁷ One of the major companies sanctioned for unfair trading practices is CASTEL Malawi which was fined for distributing harmful products.

television stations in Malawi is the Communications Act (1998) which was revised in 2016. The objectives of the Act are to:⁵⁸

- a)** *recognize the convergence of technologies and services for telecommunications, broadcasting, and information through the establishment of technology and service-neutral licensing regimes;*
- b)** *remove unnecessary barriers to entry and attract investment in the communications sector;*
- c)** *facilitate the deployment and use of communications services;*
- d)** *encourage the adoption of new services and technologies within the communications sector;*
- e)** *encourage the participation of indigenous Malawians in the communications sector;*
- f)** *facilitate the provision of affordable communication services;*
- g)** *facilitate technology neutrality;*
- h)** *ensure consumer protection.*

To ensure compliance with the provisions of the Act, the Malawi Communications Regulatory Authority (MACRA) was created to enforce the regulatory requirements of the broadcasting sector. The enactment of the law and establishment of MACRA have helped to ensure largely fair and equitable radio and television licensing in Malawi. The diversity of the media and their interests is a reflection of a licensing regime that has encouraged the emergence of a wide range of radio and television stations. Radio broadcasting in particular has experienced an exponential increase in the number of players. From only two radio broadcasters at the turn of the 1990s, the country has risen to having 57 radio stations, which are operated by public, religious, commercial, community and community of interest content providers.⁵⁹

⁵⁸ Government of Malawi. (2016). Communications Act. Zomba. Government Printer.

⁵⁹ Information based on MACRA data accessed on June 5, 2021.

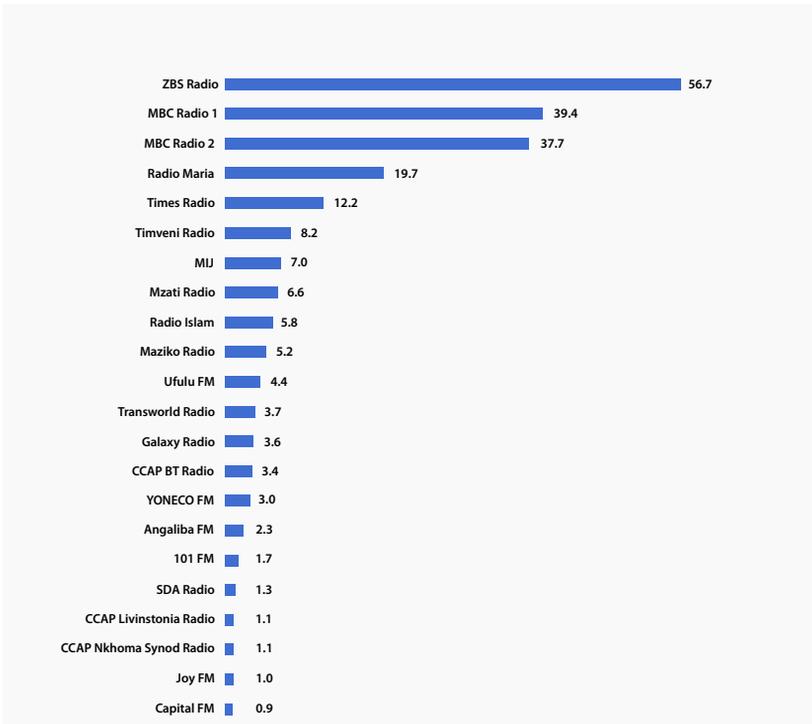
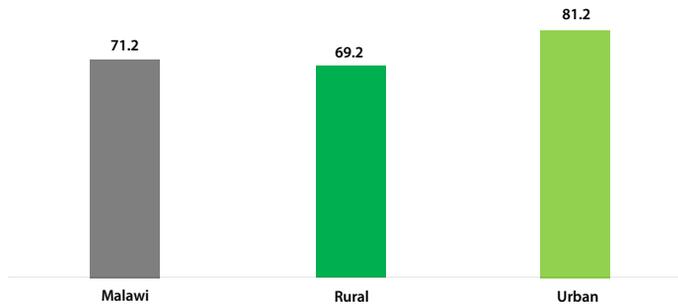


Figure 1: Proportion of Individuals Listening to Specific National Radio Stations
 Source: NSO, 2019⁶⁰

The radio broadcasting industry in Malawi plays a central and critically important role in the provision of information to media consumers. According to the National Statistical Office (NSO), 46.3% of households own radio sets in Malawi. Based on the multiplier principle, this means a substantial proportion of people in Malawi have access to the radio because generally Malawians listen to the radio in groups, further reinforcing the centrality of radio as an information platform.⁶¹ Analysis by place of residence shows that 60.8% of individuals in urban areas have a working radio compared to 32.8% in rural areas. Individual radio listenership is at 71% overall, with 81.2% in urban and 69.2% in rural areas.

⁶⁰ Zodiak Broadcasting Station is a private radio with a network of reporters across the country while MBC Radio 1 and Radio 2 are public radios funded by the state. MBC Radio 2 primarily focuses on music and entertainment while MBC Radio 1 concentrates on general and development programming.

⁶¹ www.nsomalawi.mw



Source: National Statistical Office: Access and use of ICTs 2019

Figure 2: Proportion of Individuals Listening to the Radio by Place of Residence

Television has also registered a significant increase since the 1990s. In 1990, Malawi had no local television station but now boasts of 14 stations owned by the state as well as private and religious interests. Based on the NSO data, the proportion of households with a functioning television set is currently at 11.6%. Predictably, the proportion is higher in urban areas (44.3%) than in rural areas (5.4%). The establishment of the Malawi Digital Broadcasting Network Limited (MDBNL) has helped to expand access to television services in Malawi. Some households are now able to access local free-to-air television stations and services with improved technical quality following the migration of television services from analogue to digital television. Following the migration, set-top boxes are offered at subsidized rates by MDBNL. Nationally, the proportion of households owning a functioning television set and having access to local free-to-air television services stands at 5.3%, 21.6% of households in urban areas and just 2.2% of those in rural areas.

With regards to the print media, currently, the country has four established weekly newspapers published in English and Chichewa, two daily newspapers in English and a bi-lingual newspaper in Chichewa and ChiTumbuka. The industry is dominated by two commercial newspaper houses: Nation Publications Limited, which publishes one daily, two weeklies and a bi-lingual paper and Times Group, which owns a daily and two weeklies. Because of economics and other factors, it is inconceivable that in the foreseeable future new entrants into the newspaper market will be able to displace or compete at par with the two established print media institutions.

The role of economics in shaping the print media industry in favour of the established institutions is best exemplified by the erratic and fragile nature of the magazine segment. After being on the market for nearly five decades, *Moni* magazine, published by the Catholic Church, is no longer in circulation while *Pride Magazine* now comes out irregularly. Both Nation Publications Limited and Times Group once ventured into the magazine business but

the projects collapsed after a few years largely on account of economic factors. Currently, the most consistent news magazines are the *Lamp* and *Together*, published monthly by Montfort Media, a Catholic Church organisation that also publishes the fortnightly Chichewa language *Mkwaso* newspaper.⁶²

2.4 Independent and transparent regulatory system

For the broadcast industry, the licensing system is, by and large, transparent in the sense that the Communications Act (2016) specifies the licensing requirements and conditions. However, MACRA has faced intense criticism for the manner it applies the regulatory requirements, particularly with regard to the broadcasting of political content. The key argument has been that MACRA gives preferential treatment to state-owned Malawi Broadcasting Corporation (MBC) whose political content has traditionally favoured the governing party. For example, in February 2018 the main opposition party at the time, the Malawi Congress Party (MCP), complained to the regulatory body over a programme run by MBC called 'Never Again' which highlighted the atrocities committed by the MCP regime when the party was in power from 1964 to 1994. MACRA responded that the party should first lodge the complaint with MBC before seeking the regulator's intervention. This was strange because MACRA has the mandate to deal with such complaints even in instances where the aggrieved party has not engaged the offending media organisation prior to seeking MACRA's intervention. Even in the absence of a complaint from an aggrieved party against the conduct of a broadcaster MACRA can use its own monitoring information to take action against the offending broadcaster as the regulator has done in several instances. The complaints against MACRA are made in the context of the requirement of the Communications Act (2016) which obliges MBC to operate independently of political and other forms of interference. The Act imposes on MBC the obligation to function without any political bias and independently of any person or entity; support the democratic process; demonstrate respect for human rights, the rule of law and the Constitution; and provide balanced coverage of any elections.⁶³

In contrast, MACRA has not hesitated to discipline private broadcast media for apparent licence breaches. Two cases involved the privately-owned Zodiak Broadcasting Station (ZBS) and Times Media Group. MACRA accused ZBS of unbalanced reporting after the radio station had interviewed former Member of Parliament for Rumphu East constituency, Kamlepo Kalua, who alleged that some top government officials were involved in the plunder of government resources known as Cashgate.⁶⁴ MACRA argued that the interview was in contravention of

⁶² See Manda, (2018).

⁶³ Section 109 of the Communications Act (2016).

⁶⁴ MISA, 2016.

ZBS's broadcasting licence conditions because the station did not allow the accused officials to explain their side of the story.

Times Group was accused of not following its programme schedule on its Times Radio. Ultimately, MACRA did not take further disciplinary action against Times Group beyond the censure and warning. The charges against Times Group came against the background of its critical coverage of government, particularly relating to the procurement of maize from Zambia by the state grain marketer, Agricultural Development and Marketing Corporation (ADMARC). At the time when MACRA censured Times Group, the company was also accused of failing to remit taxes to the Malawi Revenue Authority (MRA). The general perception was, therefore, that Times was being victimised by the state because of its critical reportage of government issues.

Another bone of contention between MACRA and the broadcast sector relates to the regulator's enforcement of licensing fees and spectrum charges. Players in the communications sector generally view the licensing fees and spectrum charges as too high given the economic situation in the country. According to Section 6 of the Broadcasting Regulations, an applicant for a broadcast licence is required to pay:

- a) *licence application fees;*
- b) *annual fees;*
- c) *annual levies;*
- d) *renewal fees;*
- e) *licence transfer fees;*
- f) *and any other fees related to provision of broadcasting services.*

In July 2022, MACRA published a statement indicating that 23 radios and six television stations could face licence revocations over liabilities in licence fees.⁶⁵ At the time this report was going to print MACRA had revoked operating licenses for three television stations and six radios. MACRA's actions were generally viewed by the broadcast industry as too punitive and unreasonable. In a statement released in the wake of the licence revocations, media advocacy organisation MISA Malawi said the actions had the potential to limit the media space and erode the gains the country had made since the return of democracy in 1993.

⁶⁵ The broadcasters whose licenses were revoked included Rainbow Television, Angaliba Television, Angaliba FM, Capital Radio, Sapitwa FM, Joy Radio, Ufulu FM and Galaxy FM.

In response to the accusations of unreasonable charges and heavy-handedness, MACRA Director General Daud Suleman argued that the rates comply with international standards. He also said MACRA was only enforcing regulatory requirements relating to licensing obligations. Speaking at an open-day function where MACRA engaged operators and the public on its regulatory services, Daudi contended that “as the regulator we were not enforcing license fees, but we want to correct that. The affected broadcasters, operators and service providers must have also slept on their job by not honouring their obligations to MACRA. They shouldn’t have allowed the money to accumulate.”⁶⁶ MACRA’s position was reinforced by the Minister of Information and Digitisation Gospel Kazako who told the same meeting that “if you are opening a radio station, for example, you need to understand your obligations, you have to know you need to pay licence fees, tax, levies and other requirements, otherwise you might get shocked while you are already in there.” The actions by MACRA, while within the law, raise important questions over the extent to which it uses media regulation as an instrument for facilitating, rather than constraining, media operations in Malawi.

To enhance the independence of MACRA as a regulatory body, the amended Communications Act (2016) provides for the approval of its board of directors by the parliamentary Public Appointments Committee upon appointment by the president. However, in the period covered by this study, the legislative change had not yet had the intended effect. The implication is that the law does not always provide sufficient safeguards against interference in the operations of the media. Political will and the interaction of informal practices also influence the extent to which the media can be truly independent.

No state institution regulates the operations of the print media, and the technical design of the registration system is largely transparent and independent. Upon satisfying the usual requirements for registration with the Registrar of Companies as required by the Business Names Registration Act, print media organisations operate in an environment in which they have reasonable scope for freedom. The regulatory problem for print media organisations relates to the transparency of ownership. While it is a requirement to provide ownership details at the Registrar General’s Office when seeking business licences, sometimes individuals behind the organisations disguise their true identities, thereby creating opaque ownership structures that undermine accountability.⁶⁷

⁶⁶ Sulemani and Kazako’s statements were quoted by *The Nation* newspaper on 09/08/2022.

⁶⁷ The Africa Media Barometer (2016) highlights the risks of opaque media ownership.

2.5 State and CSOs actively promote development of community media

The community media sector has registered significant growth in terms of the number of players. Currently, there are 39 community radio broadcasters in Malawi. In contrast, there are no records of community print media registered and operating in the country. Although community radio has made great strides, it is generally marked by problems of limited skills and fragile financial resources. Owing to these and other factors, community media in Malawi depend mainly on volunteers.⁶⁸ To address the capacity gaps in the sector, MACRA has been running training programmes and other forms of support to equip reporters and other media practitioners with the skills they need to do their work effectively.

In recognition of the limited financial resources of community media, MACRA set lower annual licence fees of around US\$100 for the sector. However, community broadcasters still view the licence fees and other dues payable to MACRA as prohibitive. Measures to encourage the growth of the community broadcasting sector could be the designation of a specific frequency band or special quotas for community broadcasters. At present, the National Frequency Allocation Plan does not provide for special quotas for community broadcasters and objective coverage. In the run-up to the elections the media presented different opinions and views and carried statements from political figures across the spectrum, however some radio stations, especially local language stations, Gathiji found, were often parochial and played partisan politics aligned with the preferences of local audiences rather than national interests. Mainstream media focused on the two main political parties (National Super Alliance - NASA and Jubilee Party -JP) and gave limited airtime to smaller parties and other presidential candidates.

C. Licensing and spectrum allocation

2.6 State plan for spectrum allocation ensures optimal use for the public interest

Issues relating to frequency spectrum allocation and management are governed by sections 81-86 of the Communications Act (2016). Among others, the Act mandates MACRA to formulate rules governing the allocation, assignment and use of frequencies; defining the

⁶⁸ Chirwa, W. (2014). Malawi: Democracy and Political Participation Discussion Paper. Open Society Initiative for Southern Africa.

standard assignment conditions of a frequency spectrum licence; governing the prevention of harmful interference with other frequency spectrum users; and establishing minimum performance standards of electronic appliances concerning the manufacture, import, sale, shipment and use of such appliances. The law also obliges MACRA to develop and manage a national frequency allocation plan to ensure optimal management of spectrum allocation.

The legal requirement concerning frequency allocation is that the national frequency allocation plan must:⁶⁹

- a) *be divided into several frequency bands that the Authority shall deem appropriate for regulating communications;*
- b) *designate one or more bands to be used primarily by the government for national security matters;*
- c) *specify the general purpose for which any other band may be used; and*
- d) *include such other matters as the Authority shall deem necessary to give full effect to the national frequency allocation plan.*

In compliance with these legal requirements, MACRA developed the Malawi Frequency Spectrum Allocation Plan which provides guidance on the allocation and management of radio frequencies in the country. Although it is an important regulatory tool, many stakeholders in the broadcast industry expressed ignorance about the existence of the plan as well as reason why spectrum needs to be allocated. This is an area that will have to be addressed urgently so that industry players are in a position to engage meaningfully on issues of spectrum allocation.

In 2018, MACRA conducted a spectrum and frequency audit which revealed saturation of the 87.5 to 108 MHz band, making it incapable of accommodating new radio stations. Consequently, MACRA conducted stakeholder consultations on re-planning the FM band to manage congestion and interference among broadcasters. As a result of the remapping exercise, broadcasters were allocated new frequencies. However, following the allocation of new frequencies, broadcasters accused MACRA of not giving them sufficient time to alert their listeners on the frequency changes. MACRA insisted that the broadcasters were given adequate time to prepare for the shifts in frequencies. The broadcasters' reaction to MACRA's decision reflects the general pattern of the relationship between the regulator and players in the communications sector which is characterised by unease and suspicion.

2.7 State plan for spectrum allocation promotes diversity of ownership and content

The Communications Act (2016) and the National Frequency Allocation Plan provide adequate scope for a diversity of players to operate in the broadcast sector in Malawi. The Act and the Plan do not impose any special or unjustifiable requirements on particular groups in applying for and acquiring frequencies. The diversity of operators and ownership structures in the broadcast sector is a manifestation of this generally permissive frequency allocation and management regime.

2.8 Independent and transparent regulatory system

Aside from the regulatory biases in the broadcast sector relating to content, the allocation and management of national frequencies are generally fair and balanced. General issues that have emerged about frequency allocation and management have been frequency interferences among some broadcasters. Such problems have arisen largely because errant broadcasters have encroached into the frequency bands of others. By and large, MACRA has been able to intervene by way of providing clarification and warnings to broadcasters that have breached their frequency allocations.

D. Taxation and business regulation

2.9 State uses taxation and business regulation to encourage media development in a non-discriminatory manner

In Malawi, the main legal instrument for taxation is the Taxation Act (2006). The practical manifestation of the Taxation Act are government's annual budgets which outline key taxation measures it intends to implement in the financial year to achieve its fiscal and monetary objectives. Concerning the media, the major area of contention has been the Value Added Tax (VAT) on newsprint. Some media experts and industry players view the measure as an attempt by the government to mute vocal and critical voices.⁷⁰ In 2016, for example, the government

⁷⁰ This is the point that media advocacy organisation MISA Malawi has consistently advanced in highlighting the hidden political motives behind legislation.

reintroduced 16.5% VAT on newsprint after having scraped it in 2012 following successful lobbying by MISA Malawi and its partners.

The rise in VAT has led to adjustments in newspaper copy prices. For example, in 2011 the country's major print media organisations, Nation Publications Limited and Times Group, increased prices by 40% after the introduction of a 16.5 % VAT on newsprint. The price levels were generally viewed as too high for Malawians, the majority of whom live on less than the World Bank poverty line of \$1.90 per day while 71% live in extreme poverty. It is in this context that MISA Malawi has persistently fought against VAT and other taxation measures imposed on the media which, in the view of the organisation, unduly constrain their financial operating space for the media.

There is also a continued perception that the government sometimes uses taxation measures to punish critical media. Amid persistent critical reporting of government and the governing DPP, in 2017 and again in 2018 the Malawi Revenue Authority (MRA) closed the Times Group premises because of unpaid taxes. In 2019 MRA also closed another independent media organisation, Nation Publication Limited, for not meeting its tax obligations. The perception of bias against Times Group and Nation Publications Limited came in the context of huge tax bills owed some public institutions. At the time MRA was taking action against Times Group and Nation Publications Limited, several public and private organisations, including the MBC, had significant tax liabilities but there was no publicly known punitive action taken as in the case of the two private media organisations.

While not necessarily based on political considerations, some stakeholders engaged during consultations for the report said government needs to revise some taxation measures to accommodate the media industry which faces the constant problem of financial limitations. Measures proposed for review are withholding tax and import duty on production equipment. Other media industry stakeholders suggested that taxes to be levied might be based on the category and economic profile of media institutions to enable organisations such as community broadcasters sustain themselves. At the time of writing, Malawi did not have preferential taxation measures designed to encourage the growth and development of broadcasting or any particular area of the media.

E. Advertising

2.10 State does not discriminate through advertising policy

The general position of the Malawi Government advertising policy, inferred from its advertising practices, is that all major media institutions are used for public advertisements. This position is reinforced by the procurement specifications of some donors who require public procurement notices to be published in at least two major newspapers. However, from the policy perspective, while government appears committed to empowering the media through an equitable advertising policy, in practice it sometimes uses advertising as a tool for penalising critical media.

In 2017, some public institutions stopped advertising in Times Group publications following what some government officials said was adversarial reporting. Because private media generally survive on advertising and the government is the major advertiser, the decision had the potential to cripple the operations of Times Group. Although the withdrawal of advertising from Times Group did not reflect general government policy, it served to demonstrate the extent to which such withdrawal can be used to penalise critical and independent media. The 2017 advertising ban followed a similar action in 2010 when the government ordered its ministries, departments and agencies to stop advertising in newspapers published by Nation Publications Limited. The ban was implemented following what was viewed as negative coverage of government issues and officials by the media house.

In interviews with media industry stakeholders there were perceptions, particularly from some stakeholders in the private media, that government advertising practices favour public media organisations, particularly MBC. Although they did not offer evidence to support such claims, the stakeholders believe that the government's perceived bias towards MBC denies them the advertising revenue they need to sustain themselves. Such feelings are important for analytical purposes because they shape stakeholders' perceptions in their assessment of public policies and government practices that affect the media. One way of addressing such perceptions is for the government and stakeholders in the industry to develop guidelines and an advertising policy that would guide players in the industry in terms of the criteria that inform government advertising decisions. The absence of such policy and guidelines creates room for perceptions of bias even in cases where government may have legitimate reasons for choosing some media organisations over others with respect to the placement of advertising.

2.11 Effective regulation governing advertising in the media

There is no code of conduct that provides specific regulations of advertising. For example, there are no nationally agreed limits on advertising content or separation of advertising and programming content. These gaps need to be addressed in light of the liberalised market where commercial imperatives have the potential to undermine other media interests such as editorial content. From a competition perspective, the Competition and Fair Trading Act (1998) makes it illegal to engage in deceptive or misleading advertising. While there are no reported cases of anti-competitive or unfair trading practices in the media, the CFTC has sometimes sanctioned other companies for misleading advertising.⁷¹

For the broadcast industry, the Broadcasting Regulations provide minimum standards for advertisements. For example, under Section 38 of the Regulations, a licensee is required to ensure that its advertisements are:

- a) *lawful;*
- b) *decent;*
- c) *in conformity with the principles of fair competition;*
- d) *sensitive to gender, culture, religion and age;*
- e) *prepared with a sense of responsibility to the audience.*

Section 39 of the Regulations also obliges broadcasters to ensure that any advertising breaks are clearly distinguishable from broadcast programmes. When reading advertisements, presenters are required make a clear distinction between the programming material and the advertisements.

In addition to the Competition and Fair Trading Act, the Media Council of Malawi Code of Ethics and Professional Conduct prescribes that advertisements and public announcements should be accurate and distinguishable from news items.⁷²

Conclusion

The media in Malawi exhibit commendable levels of plurality and diversity. Among other factors, this is due to a generally liberal legal and regulatory framework. Given the background of a long period of suppression of the media during the one-party era from 1964 to 1993, such changes provide hope for the future.

⁷¹ In 2016 CFTC reprimanded the Medical Aids Society of Malawi for floating adverts suggesting that its clients would not be required to pay shortfalls when they seek medical care when in practice this is not the case.

⁷² This is contained in Section 3.9 of the Media Council of Malawi Code of Ethics and Professional Conduct.

Recommendations

1. The media industry needs to develop a code of conduct that provides specific regulation of advertising practices. This could be in terms of nationally agreed limits on advertising content and separation of advertising and programming content. Such measures would be crucial in addressing the regulatory gaps engendered by a liberalized market environment where commercial imperatives could potentially undermine other media interests such as editorial content.
2. Government should desist from using advertising and taxation measures as a tool for advancing a political agenda, particularly with respect to independent and critical media. While media organisations have the duty to settle their tax obligations, taxation should not be used as an instrument for stifling critical voices in the media and other areas.
3. To ensure that the media and other stakeholders fully participate in the implementation of the competition framework, there is a need to enhance citizens' understanding of the laws, policies and other instruments that regulate competition in the country. Government and other stakeholders need to empower the media and citizens with the knowledge and information they need to effectively fight anti-competitive and unfair trading practices.
4. Given their centrality in integrating local community voices in the national discourse, community media need more structured and sustainable forms of support that will create a more favourable environment for their growth and development. The government should consider preferential taxation and other measures that specifically support community media.

Category 3

Media as a platform for democratic discourse



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Category 3 **Media as a platform for democratic discourse**

The idea that the media must be a platform for democratic discourse is informed by the social responsibility function of the media which posits that they should fulfil some obligations towards society. One of their obligations is to publish and broadcast content and voices that reflect the diverse range of communities and interests and thus create a public sphere that people can use to obtain information and engage in the issues that concern them. The social responsibility perspective also argues that in accepting and fulfilling these obligations, the media should be self-regulating within the framework of the law and established institutions.

A. Media reflects diversity of society

3.1 The media – public, private and community-based – serve the needs of all groups in society

The point of departure for discussing the media in Malawi as a mirror of the society they serve is to refer to the national constitution which prohibits any form of discrimination. Section 20 of the constitution makes it illegal for individuals and organisations to engage in discrimination of any form based on race, sex, religion or other markers of identity. In terms of media practices relating to employment and content, the media in Malawi generally capture various groups in society. Radio and television programmes and newspaper articles also generally reflect a wide range of groups and interests.

The major concern, however, is the extent to which media content reflects the demographic character of the Malawian society. In particular, the media are accused of neglecting the voices of women and minorities in their coverage and perpetuating stereotypes against some segments of society. Evidence published by Gender Links supports this observation. In a major study of 2015, Gender Links established that women in Malawi were used as sources in only 21% of the content published in print and broadcast platforms.⁷³ This was a rise from 12% in 2012. In addition, the study found that women make up only 26% of employees in the media. Considering that women constitute about 53% of the country's population, the

⁷³ Gender Links. (2015). *Whose News? Whose Views? Southern Africa Gender and Media Progress Study*. Johannesburg.

findings raise important questions over whether the media in Malawi represent the diversity of the society they serve to its fullest extent.⁷⁴

An equally important observation is that out of the many languages spoken in Malawi, English and Chichewa remain the predominant languages of the media. For example, a study of major Malawian broadcast and print media found that out of 8 085 minutes of weekly broadcasting on MBC Radio, only 520 minutes (6.4%) were allocated to programmes in languages other than English and Chichewa. The finding was made even after MBC had introduced indigenous languages in news broadcasts.⁷⁵

The 2019 National Survey on Access and Use of Information and Communication Technologies by Households and Individuals in Malawi provides important pointers to the dominance of Chichewa in radio broadcasting. The survey established that in 2019 about 89% of individuals listened to programmes in Chichewa followed by English at a distant 5.7% and Chitumbuka (3.2%). The least proportion of individuals listened to programmes in Chiyao (0.8%) and Chilhomwe (0.2%).

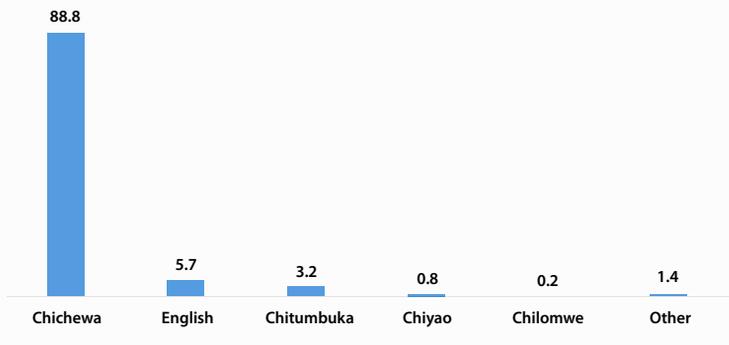


Figure 3: Distribution of Languages Listened to by Individuals on Radio.

Source: NSO, 2019

In addition, according to the content analysis for this study, 95% of the content published by weekly newspapers was in English, 4% in Chichewa and 0.5% in ChiTumbuka while 100% of daily newspaper content was published in English. The status quo is a reflection of the impact of economics on print media in general. Given the low levels of disposable incomes it is unlikely that a local language publication would sustain itself over the long run. Although the study was limited in scope, it provides an important starting point for evaluating the capacity

⁷⁴ Government of Malawi. 2018 Housing and Population Survey. National Statistical Office. Zomba.

⁷⁵ Manda. L. (2007). Local Media, Local Content and Local Literacy. How Malawian Media Thwart Popular Participation in Development. *Journal of Development and Communication Studies*.. Volume 1.

and willingness of the Malawian media to adequately represent the broad composition of their audiences. Despite the dominance of English and Chichewa, it must be acknowledged that the change in the political system from the one-party system to democracy has created some space for other languages to assert themselves in the media, particularly in community radios.

An analysis of newspaper content published between September 2017 and August 2018 conducted for this report reinforces the notion that the media in Malawi do not sufficiently represent all segments of society. The review of content on persons with albinism and gays focused on *The Nation*, *Weekend Nation* and *Nation on Sunday* published by Nation Publications Limited as well as *The Daily Times*, *Malawi News* and *Sunday Times* operating under the label of Times Group. For the period under review, the six newspapers published a total of 20 articles on gays, representing a ratio of one article for every 37 papers. Coverage of persons with albinism was appreciably higher, with a total of 80 articles published during the period. This represents an article to newspaper ratio of one article per nine newspapers.

However, the coverage of persons with albinism needs to be understood within the context of the attacks on albinos that occupied media reporting in Malawi between 2017 and 2019. Inevitably, the coverage focused on the murders and victimization of albinos. While the media have a legitimate right to highlight such important issues, the unintended consequence is that they pigeonhole a section of society as victims and in the process undermine their voices in other areas of national life.

3.2 Media organisations reflect social diversity through their employment practices

The Constitution of the Republic of Malawi prohibits any form of discrimination in employment and other practices. Section 31 of the Constitution makes it illegal to engage in discriminatory labour and employment practices. Section 11 of the Broadcasting Regulations also requires licensees to avoid any form of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, age, disability, property, birth or other status. The law, therefore, imposes on media organisations and others the obligation to institutionalise fairness, inclusion and non-discrimination in their employment policies and practices.

To reflect their commitment towards the legal requirement for fairness, some media organisations have embedded non-discrimination as an important principle of their editorial and employment policies. Overall, employment practices among media organisations in Malawi reflect the principles of inclusion and non-discrimination.

B. Public service broadcasting model

3.3 The goals of public service broadcasting are legally defined and guaranteed

Public service broadcasting (PSB) is defined as broadcasting made, financed and controlled by the public, for the public. It is neither commercial nor state-owned, free from political interference and pressure from commercial forces.⁷⁶ It is broadcasting viewed as a public utility driven by a public service ethos, designed to effect positive change in society and enrich the quality of people's lives. The African Commission on Human and People's Rights Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019) imposes on the state the obligation to establish public service media governed by a transparently constituted and diverse board adequately protected against undue interference of a political, commercial or other nature. According to the Declaration, "the public service ambit of public broadcasters shall be clearly defined and include an obligation to ensure that the public receive adequate and politically balanced information, particularly during election periods." In their model for public service broadcasting in Malawi, media scholars Chikunkhuzeni and Osman proposed the following obligations for broadcasters that would constitute PSB in Malawi:⁷⁷

- a) *To operate independently of political and economic influence and by maintaining transparency and accountability to the public;*
- b) *To promote and consolidate democracy by engaging citizens on their right to speak and debate on matters of public interest;*
- c) *To promote social and economic development by inducing and initiating as well as instituting positive change at every level of society and in all aspects of life;*
- d) *To produce programmes that reflect and promote the wide diversity of Malawi's political and cultural life;*
- e) *To uphold the Constitution and Laws of Malawi and promote human rights including minority rights;*
- f) *To offer continual service to all publics in Malawi.*

⁷⁶ www.unesco.org. Accessed on 09/10/2018.

⁷⁷ The two media scholars were engaged by MISA Malawi to design and propose a model for public service broadcasting in Malawi.

The underlying principle of the model is that PSB should be a function that operates beyond any particular media organisation.

The broadcasting landscape in Malawi remains at its core a function of the social, economic and political factors that have historically shaped it. While the new constitutional, policy and legal frameworks have helped to open up the broadcasting environment, the colonial and one-party rule cultivated a political culture antithetical to pluralism and low levels of technological developments as well as high levels of poverty constrain access to media.⁷⁸

The impetus to transform the broadcasting landscape in Malawi was informed by the need to make a clean break with the 30 years of dictatorship during which the sole radio, the state-run MBC, was the province of the party in power, the Malawi Congress Party. The advocacy efforts by various stakeholders have been supported by the judiciary which has set precedents that entrench the principle of liberal and pluralist broadcasting.

One of the key initiatives for opening up the broadcasting sector in Malawi has been to give MBC a new face in the form of operational independence from political influence. The efforts to transform MBC from a state broadcaster into a public service broadcaster date as far back as the early 1990s. The Communications Act (2016) designates MBC as a public broadcaster whose mandate is the:

- a) *the provision of programmes that educate, entertain and inform;*
- b) *the encouragement of free and informed opinion on all matters of public interest;*
- c) *the need to reflect the wide diversity of Malawi's cultural life; and*
- d) *respect for human rights, the rule of law, and the Constitution.*

The amended Communications Act also makes it a requirement for the MBC board of directors to be approved by Parliament after their appointment by the president, in order to enhance the editorial and operational independence of MBC.

However, over two decades of advocacy by MISA Malawi and other stakeholders have not brought about the anticipated transformation, largely on account of political interference, persisting illiberal attitudes and a citizenry that is too passive to demand meaningful change. Therefore, while the policy and legal framework gives an external appearance of an appropriately constituted public service broadcasting institution, the internal operating order in MBC remains entrenched in partisan political structures.⁷⁹

⁷⁸ Banda, F. (2005). *The Broadcasting Landscape: Malawi*. Panos Southern Africa.

⁷⁹ Chikunkhuzeni, F & Osman, A. (2013). *Public Service Broadcasting Model for Malawi*. Misa Malawi.

While efforts to develop public service broadcasting in Malawi have been longstanding, there appear to be few prospects for a significant shift in this direction in the foreseeable future. Despite its rhetoric of being committed to transforming MBC, the Tonse Alliance government at the time of writing was yet to demonstrate concrete enthusiasm and commitment towards opening up the state media.⁸⁰ The few tentative steps in accommodating opposition voices on MBC, particularly the former governing DPP, may not necessarily indicate an MBC free from the grip of politics in the long term given that such moves proved only a mirage in 2013 when the Joyce Banda administration briefly opened up the state broadcaster before the institution returned to its usual modus operandi of favouring the party in power. Given that this has been a constant theme under successive governments, the inevitable conclusion is that the political elite in Malawi views public broadcasting as an important platform for advancing their political interests. Equally crucial is the fact that commercial imperatives and the general economic conditions the media face in Malawi also stand in the way of efforts towards fully fledged public service broadcasting. Driven by such agendas, media owners see little incentive in creating a broadcasting structure that puts service above survival, sustainability and other interests.

3.4 The operations of public service broadcasters do not experience discrimination in any field

The general orientation of the legal and policy framework regulating the broadcast industry in Malawi is impartial in its design. Requirements for licensing, frequency assignment and operation are transparent and fair. The problem arises during implementation in the sense that in the application of the law MACRA sometimes applies double standards. For example, even when MBC is blatantly biased towards the governing party, it has not been sanctioned by the regulator for standards and licence violations. Private broadcasters, on the other hand, are swiftly punished when they appear to breach the requirements of their licences.

3.5 Independent and transparent system of governance

Section 112 of the Communications Act designates the Board of Directors as the highest policy-making body for the MBC. The chairperson of the board is appointed by the president and confirmed by the Public Appointments Committee of Parliament. While the governance system for MBC is transparent, its independence is seriously compromised. In practice, the

⁸⁰ The Tonse Alliance is a grouping of nine political parties which contested the presidential elections re-run held on June 23, 2020 as a bloc. The re-run was conducted after the Constitutional Court annulled the 2019 presidential elections citing anomalies.

institution remains the mouthpiece of the government and party in power. MBC's editorial bias and partisanship highlighted throughout the report are rooted in the culture of politicising public institutions that is emblematic of Malawi's post-independence history. While legal and policy reforms provide an important starting point for improving and safeguarding the independence of public institutions such as MBC they are not sufficient on their own in light of the constellation of informal constraints that influence the functioning of such institutions.

3.6 PSBs engage with the public and CSOs

The law and policy in Malawi do not oblige broadcasters to engage with the public and civil society organisations. Where broadcasters do engage with their stakeholders, the process is largely driven by editorial and commercial demands. Some of the systems broadcasters use for public engagement and feedback are phone-in programmes and online platforms.

C. Media self-regulation

3.7 Print and broadcast media have effective mechanisms of self-regulation

The principle that defines and frames the notion of media self-regulation is the desire by media organisations to obviate the need for statutory regulation. Self-regulation provides the media with the platform to play their roles effectively within the framework of social responsibility obligations. In countries emerging from dictatorships, where media repression is a recent memory, self-regulation mechanisms are particularly vital as a buffer against attempts by the state to muzzle independent and critical media. Self-regulation mechanisms also play a crucial role of ensuring media accountability and professionalism.

In Malawi, the reference point for analysing media self-regulation is the Media Council of Malawi (MCM). The Council was established in 1996 to act as a voluntary, independent and non-statutory institution to promote self-discipline among its members and to consider complaints from the public. According to the revised MCM constitution, the Council was established specifically to:

- a) *Uphold and maintain the freedom of the media in Malawi, including the freedom of expression and the public right to freely receive and impart information and opinion, and to defend/protect the media from undue pressure from any source;*

- b)** *Update, maintain and promote the Code of Ethics and professional standards for media practitioners and media organizations;*
- c)** *Assist in ensuring that proprietors, publishers, journalists, broadcasters and other media stakeholders adhere to the highest possible standards by strict compliance with the Code of Ethics and improvement of governance and management of the media integrity systems;*
- d)** *Provide alternative dispute resolution mechanism on matters involving the media and the public;*
- e)** *Accredit local and foreign journalists in Malawi in conjunction with the relevant government agency;*
- f)** *Conduct professional development activities for the media in Malawi;*
- g)** *Encourage an ongoing dialogue between the media, government and the public through conferences, seminars, symposia and other fora;*
- h)** *Maintain and promote the status of journalism as a profession;*
- i)** *Promote public awareness of the Council through the publication of its activities and operations;*
- j)** *Promote media accountability and safeguard press freedom and the interests of its members and the public in all matters affecting the profession;*
- k)** *Establish and operate an audit bureau of circulation and provide independent consultancy services to publishers, broadcasters, media associations and relevant organizations in the interest of developing an independent and effective media;*
- l)** *Promote media-user empowerment, access and use of media products and services through public outreach services;*
- m)** *Enhance a culture of investing in integrity systems and moral capital in the media through capacity development in media governance, accountability and management systems among media practitioners, organizations and associations;*
- n)** *Promote collaborations and partnerships with stakeholders in the promotion and defence of freedom of expression and media freedom;*
- o)** *Carry out any activities necessary and incidental to achieving its objectives.*

Over the years, MCM has played an important role in enforcing standards among media practitioners and handling public complaints against the media. However, for much of its existence, the Council has persistently struggled to sustain itself primarily owing to its fragile financial base. The Council was dormant for several years, until late 2019 when MISA Malawi revived it with donor support. Informed by interviews with stakeholders in the media industry, the key issues that have generally stymied the operations of MCM are the following:

- In general, there is limited ownership of MCM and a lack of appreciation of its role in promoting and enforcing professional standards largely because the organisation has not been aggressive enough in discharging its functions. In contrast, stakeholders highlighted the role of MISA Malawi in advocating and fighting for the welfare and interests of journalists in Malawi.
- MCM has not been proactive, assertive and creative enough in mobilising resources to sustain itself beyond membership subscriptions and donations.
- MCM has generally lacked the visibility and stakeholder engagement necessary to keep the organisation functional.
- In general, MCM has lacked leadership at the operational and policy levels to take it forward.
- There are perceptions among media stakeholders that MCM has not demonstrated adequate transparency and accountability to earn the trust and commitment of its members.
- MCM needs to be authoritative in enforcing standards in the media. The institution should reflect the image that it is in control of media self-regulation in Malawi.

Since its revival in 2019, MCM has undertaken a number of activities such as the election of National Governing Council and sub-committees, membership and accreditation of both local and foreign journalists, procurement of some assets, development of the strategic plan, review of policy documents such as the constitution, handling some complaints against the media, raising its profile through radio programmes and other platforms, developing a website, conducting stakeholder engagement and resource mobilisation through project proposals as well as membership and accreditation subscriptions.

The principal sources of income for the Council are membership subscriptions, contributions by media owners, accreditation fees, donations and funds for running specific projects. While media owners committed to fund the Council, financial pressures resulting from the Covid-19 pandemic have forced them to either suspend the support or do so erratically. Currently, MISA Malawi provides office space for MCM. Given the Council's history of difficulties to sustain itself, the support by MISA Malawi and donations from media owners provide welcome relief to the Council. However, such support raises fundamental ethical questions considering that as a regulator and referee, MCM was established to provide oversight for the media, including MISA Malawi itself and organisations under the Media Owners Association of Malawi.

During consultations for this report, media stakeholders expressed strong support for the idea of media self-regulation as a way of promoting media professionalism and standards, insulating themselves from state interference and entrenching accountability processes in media organisations with respect to audience engagement. A stakeholder summed up the support for media self-regulation when she said:

Self-regulation helps the media operators and journalists work with responsibility and not in fear of the law or the state that administers the law. Self-regulation is significant in the sense that there is no room for abuse of the law by the state which oftentimes seeks to silence the critical voices.⁸¹

Going forward, stakeholders were divided on the operational model that should underpin the revived MCM, particularly whether the organisation should remain purely voluntary or rather be anchored by some form of statutory provision recognizing its existence. Those who expressed support for the law to establish and recognize MCM said this would give the organisation the legal authority it needs to secure sustainable funding and enforce professional standards in the media. They referred to the more stable and authoritative Malawi Law Society (MLS) which was established by an Act of parliament.

In contrast, other stakeholders feared that putting MCM under legislative cover would open the door for the state to interfere with and undermine media independence in Malawi. Stakeholders in this group generally agreed that the media themselves should address the problems that have undercut the ability of MCM to forcefully and effectively enforce professional standards and address complaints against journalists. Ultimately, the revived MCM adopted a co-regulation operational model consisting of the media, civil society organisations and the public. The model is encapsulated in sections 6.0 and 7.1 of the MCM constitution which was amended in 2020. Section 6.0 deals with the composition of the

⁸¹ These views were expressed by a journalist in the private media.

board of trustees while section 7.1 provides for the membership of the Ethics, Complaints and Disciplinary Committee. Section 6.0 says that:

the Board of Trustees shall have a maximum of 11 (eleven) and a minimum of 7 (seven) members comprising representatives from paid up media members; members of the public appointed from each of the following institutions: the Public Affairs Committee (PAC), the Council for Non-Governmental Organizations (CONGOMA) and the Malawi Law Society (MLS); and a Chairperson who shall be a person of very high standing in society who may be a veteran in the media profession or a highly respected member of the public with passion for the media in the country.

The Ethics, Complaints and Disciplinary Committee comprises five members, three of whom are from the media while two are drawn from the public, with the provision that one of the public members must be a representative of the Malawi Law Society.

3.8 Media displays a culture of self-regulation

In addition to the idea of having an overarching national institution to enforce media standards, media organisations in Malawi generally appreciate the need for institutional mechanisms for regulating and safeguarding professional standards. Stakeholders interviewed indicated that their media institutions have some form of codes of conduct whether in general policy prescription or specific principles regulating the conduct of their employees. The media also appreciate the need for continual audience engagement and responsiveness manifested by mechanisms intended to manage complaints and receive feedback from media consumers. Some of the processes media organisations use to enhance responsiveness to audience perceptions are social media platforms such as Facebook, SMS messaging, phone-in programmes, suggestion boxes and messages to their audiences indicating how listeners, viewers and readers can channel their feedback to media organisations on content and other issues. To enhance complaints handling mechanisms in media organisations, MCM established an Ombudspersons Forum. The forum aims to equip complaints handling officers in media organisations with the skills for effective management of audience feedback on their services within the framework of self-regulation.

D. Requirements for fairness and impartiality

3.9 Effective broadcasting code setting out requirements for fairness and impartiality

At the Malawi Communications Regulatory Authority (MACRA), the mandate of regulating the broadcasting sector falls under the Broadcasting Directorate. As a way of ensuring effective regulation of the sector, the directorate established the Broadcasting Monitoring Unit which monitors the performance of broadcasters. In line with the Communications Act the directorate also formulated broadcasting regulations to govern and guide the broadcasting industry in Malawi, setting out requirements for fair and impartial broadcasting services and standards. Among other things, the regulations specify requirements regarding licensing and licence renewal, content format, reporting of controversial issues and language.

Aside from statutory regulation, the Media Council of Malawi Code of Ethics and Professional Conduct provides guidelines for fair and impartial media practice. The code prescribes professional conduct in areas such as accuracy, balance, fairness, objectivity, privacy and plagiarism. These principles apply at both the institutional level of media houses and to the conduct of individual journalists.

3.10 Effective enforcement of broadcasting code

To promote and safeguard standards in the broadcast sector, MACRA has been quite forceful in regulating players in the industry based on the requirements of the Communications Act, broadcasting regulations and licence conditions. The major regulatory issues have centred on content and frequencies. Specifically, MACRA has not hesitated to act where it views the content of broadcasters as deviating from the requirements of their licences. Broadcasters have also been taken to task for broadcasting outside their geographical areas of operation and frequencies as provided for in their licences.

Of particular concern over MACRA's regulatory role have been perceptions of bias against broadcasters that are critical of the government and the party in power. For example, in June 2019 MACRA suspended live phone-in programmes after some broadcasters conducted live coverage of demonstrations aimed at forcing the chairperson of the Malawi Electoral Commission (MEC) to resign over the institution's handling of the 2019 tripartite elections.⁸² In its legal challenge of the order, MISA Malawi argued that the suspension was a violation of

⁸² Voters elected the President, Members of Parliament and local Councillors.

the freedom of expression and would lead to loss of revenue for broadcasters. The High Court later granted MISA Malawi an injunction lifting the suspension. The court found that MACRA was wrong in issuing a blanket ban of the programmes.

E. Levels of public trust and confidence in the media

3.11 The public displays high levels of trust and confidence in the media

The area of audience analysis in Malawi is generally marked by a lack of empirical studies that examine public trust in the media. While attempts have been made to understand public perceptions towards some aspects of the media, broad and more encompassing studies have not yet been undertaken. Some of the most reliable data on public perceptions towards the media have been generated by Afrobarometer in a series of surveys examining public attitudes towards democracy and governance in African countries.

A study that analysed Afrobarometer data on public trust in broadcasters found that Malawians trust public broadcasters more than private broadcasters.⁸³ In addition, the study established that the lower levels of trust in private broadcasters were not on account of the quality of their output. This was a rather surprising finding considering the experiences of repression that Malawians went through under the dictatorial government of Dr Hastings Kamuzu Banda and the role the state media played in reinforcing the oppressive regime. Further analysis of the data suggested that the findings could be explained by low political sophistication, persistent illiberal attitudes and general support for incumbents.

Another study that provides important insights into public levels of confidence in the media in Malawi was conducted by Afrobarometer in 2016. The study found that 75% of Malawians view the media as effective in holding government accountable. The study also established that 78% of Malawians support the idea that the media should always expose government mistakes and corruption.

An indirect measure that could also be used to establish the general levels of public trust in the media in Malawi is public support towards the free media. The level of public support for a free media could reasonably be taken to indicate how much Malawians believe they need the media to play its role in society, particularly about its watchdog role. In the 2016 survey, Afrobarometer found that 72% of Malawians support the need for the media to be given

the freedom to operate without undue restrictions by the state. In the 2022 Afrobarometer survey, about 68% of Malawians agreed or strongly agreed with the statement that the media should have the right to publish any views and ideas without government control. These are important findings in light of the public expressions of distrust by government officials. They affirm the central role the media in Malawi play in exposing malfeasance by those in power and public support for their efforts.

The trust that audiences have in the media in Malawi was supported by findings of focus group discussions (FGDs) conducted for this report. Despite having some misgivings about the performance of the media in some areas, in general audiences believe that the media disseminate truthful and accurate content. Of particular significance are perceptions that the media are generally playing an important role in exposing government wrongdoing. They were rated particularly highly as providers of news and information. Respondents generally expressed satisfaction with the regularity and accuracy of the news the media disseminate. Concerns about media performance stemmed from perceptions that the media sometimes exaggerate and sensationalise issues and that they do not provide adequate focus on some areas such as women and the youth.

3.12 Media organisations are responsive to public perceptions of their work

In general, the media in Malawi provide spaces for their audiences to provide feedback on the quality of their work. A wide range of feedback mechanisms includes talk-back programmes, pages capturing readers' comments in newspapers, and online platforms where audiences can channel their views on the performance of media organisations in terms of content, the conduct of journalists and other areas. One major print house conducted surveys to gauge audience perceptions towards its products and services.

F. Safety of journalists

3.13 Journalists, associated media personnel and media organisations can practice their profession in safety

The safety of journalists is not only an important indicator of the quality of the operating environment for the media in a country. More broadly, it is also a measure of the overall quality of democracy because it is inextricably linked to the available space for the operations of civil

society in general. Principle 20 of the African Commission on Human and People's Rights Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019) obliges states to guarantee the safety of journalists and other media practitioners. States are under the obligation to

take measures to prevent attacks on journalists and other media practitioners, including murder, extra-judicial killing, torture and other forms of ill-treatment, arbitrary arrest and detention, enforced disappearance, kidnapping, intimidation, threats and unlawful surveillance undertaken by State and non-State actors.

In Malawi, the history of dictatorship and media repression provides a crucial backdrop against which to assess the progress the country has made in transforming the environment in which the media operate.

Overall, the relationship between the media on the one hand and state institutions and political parties in power on the other has been characterised by suspicions, mistrust and sometimes victimization of media practitioners. Even the change of government in June 2020 has not provided guarantees for the safety of journalists. For example, in December 2020 supporters of the governing Tonse Alliance engaged in a campaign of intimidation against Nation Publications journalists Ephraim Munthali and Golden Matonga over what they viewed as adversarial reportage of the new government. On April 6, 2021, the Malawi Police Service detained and questioned freelance journalist Watipaso Mzungu for about two hours over a story published on Nyasa Times online platform on April 2, 2021. In the story, Mzungu had quoted a local organisation which had criticized the delay by President Lazarus Chakwera in reshuffling the Cabinet by March 31, 2021 as he had promised. After spending about two hours at the police headquarters in Lilongwe, Mzungu was released unconditionally. Mzungu's detention followed the assault by police officers of a correspondent for *The Telegraph* and BBC Africa Eye, Henry Mhango. The journalist was assaulted in January 2021 at Bwalo la Njobvu in Lilongwe where he had gone on an assignment on Covid-19 interventions. He was assaulted after he had asked the officers enforcing Covid-19 restrictions whether he could take photos of the officers. Further highlighting the uneasy relationship that exists between journalists and political parties, in July, 2020 DPP and UDF supporters assaulted Zodiak Broadcasting Station cameraman David Chapita at the Lilongwe Magistrates Court. Chapita had gone to the court to cover the bail hearing of former President Peter Mutharika's guard Norman Chisale.

In a case that drew widespread condemnation from the media and human rights actors, on April 5, 2022 police raided the offices of the Platform for Investigative Journalism (PIJ)

Malawi, arrested its managing director Gregory Gondwe and confiscated his phone and laptop. The arrests followed a story PIJ had published. A week after Gondwe's arrest, the PIJ website was hacked by unknown people.

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The pattern of insecurity for journalists in Malawi shows that the majority of the cases are linked to the police and sympathisers of political parties, particularly the party in power. It is because of such linkages to power that the perpetrators are rarely prosecuted. The failure to punish people who assault journalists is contributing to a culture of impunity for the perpetrators.

However, even against the background of continued threats, there is a feeling among journalists that the media are generally free to operate. In a survey of 154 media practitioners sampled across public and private media institutions, 60% indicated that the media are generally free to operate in Malawi while 40% said they were not. These sentiments come on the back of the particularly fractious relationship between the media and the former governing party, DPP. Under the DPP government, people who harassed journalists enjoyed virtual impunity from prosecution. For example, in 2019 Times Group journalist Douglas Banda was assaulted within parliament premises by suspected DPP supporters. Although parliament has an extensive network of CCTV facilities that could help in identifying the perpetrators, no arrests were made.

With respect to whether in the past two years they have faced any form of threats or intimidation because of their work, about 44% of the respondents answered in the affirmative while 56% said they had not. While this is encouraging, the findings show that risks to media professionals remain a problem that needs to be addressed. The most prominent threats faced were verbal, 57% of those who encountered some form of intimidation indicated this form of threat, followed by physical threats, censorship, assault, and sexual harassment. A combined total of 51% of media practitioners who reported to have received threats or intimidation said the sources of the victimization were people affiliated to the party in power and government officials.

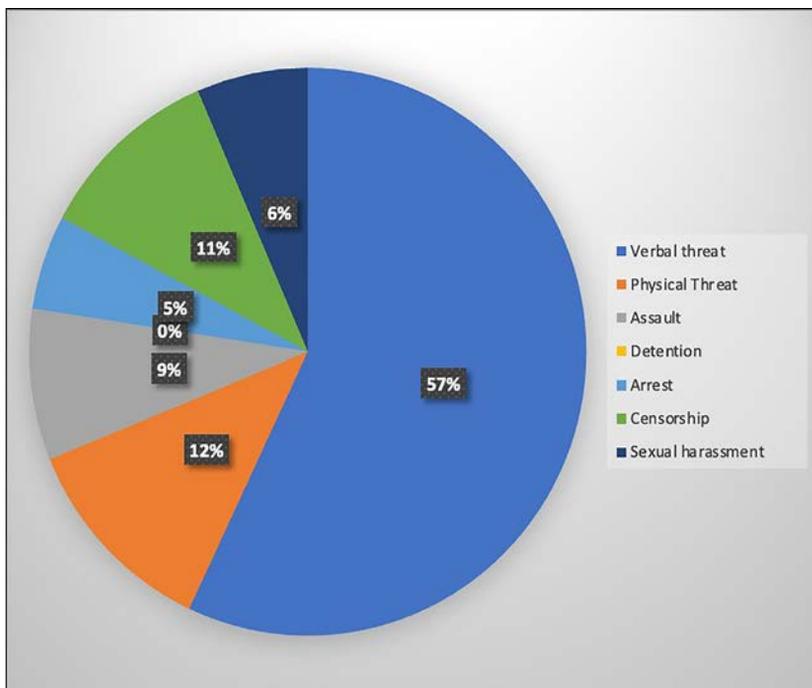


Figure 4: Nature of threats journalists face in Malawi

Particularly poignant for press freedom in Malawi is the proportion of media practitioners who indicated that sometimes they are forced to exercise self-censorship for fear of reprisals. Out of the 154 respondents interviewed, 74% said that sometimes they exercise self-censorship to avoid harassment and attacks.

Perhaps a refreshing finding is that a slight majority of journalists feel that their media institutions have policies and measures designed to safeguard their safety and health while on assignment. 51% of the 148 respondents who tackled this question said their organisations have the systems to protect them, 20% said their employers do not have such policies and measures, while another 29% said they are not sure whether such systems exist in their institutions. Obviously, more needs to be done by media organisations to engage with the issue and to engender feelings of safety among their employees.

In light of the above, the Journalists Union of Malawi (JUMA) has been calling on the government and other stakeholders to establish the National Social Security System to safeguard the welfare of workers such as journalists against work-related risks like workplace

injuries and accidents, occupational diseases, unemployment and disability. However, even if such a broad and national system is established, media-specific standards and safeguards will still be necessary to address the peculiar nature of the risks that journalists and other media practitioners face.

Another possible area of intervention is for media training institutions to integrate issues of journalists' safety in their curricula. Such measures would equip journalists with the skills to enhance and ensure their personal safety. At the time of developing this report, the Malawi Institute of Journalism (MIJ) had completed the process of integrating issues of journalists' safety in its diploma curriculum. The institution has also developed a handbook on the safety of journalists in Malawi.

Over and above the political environment, journalists in Malawi have faced additional peculiar insecurity as a result of the Covid-19 pandemic. Besides affecting the general operations of the media in Malawi and across the world, the pandemic has had a profound impact on the personal safety of journalists. To cope with the serious hazards posed by Covid-19, journalists and media organisations have had to scale down their operations, and take precautionary measures such as decongesting newsrooms and other areas to safeguard their safety.

In Malawi, Covid-19 has exerted a serious toll on media organisations, particularly on content production for news and programmes as well on their cashflow, forcing some organisations to scale down operations. With regard to content production and dissemination, the major pact has been on quantity, depth, variety and overall quality. This is the case because generally, media organisations have had to make adjustments to their content gathering and processing routines in response to the safety concerns posed by Covid-19 to their journalists and other employees, news sources as well as in response to containment measures implemented by the government. The key outcomes of these adjustments are work shifts in media organisations to decongest newsrooms, scaling down some operations, suspending or modifying some programmes and content areas, some employees working from home, and journalists having to rely on phone interviews and other technology-based content gathering processes such as Zoom. In some newsrooms, reporters are encouraged to focus on analytical and investigative stories as a way of enriching content. As noted by an editor at a private radio station, these adjustments affected the overall quality of media content:

Because some of our reporters had to work from home, productivity suffered. They could not meet the deadlines and sometimes they claimed that it was difficult to get news sources. You know, as people working from home, they could be engaged in some other things other than work that affected the quality of their output and productivity.⁸⁴

⁸⁴ Interview with an editor of a private radio station conducted on May 31, 2021.

Of particular concern for some media organisations were their inability to send reporters out into communities to obtain material for content areas that needed voices, television footage and contexts to enrich stories, programmes and other media outputs. In some cases, community members grew hostile towards journalists, fearing that the 'strangers' from urban centres carried a serious risk of infecting them with the corona virus.⁸⁵

However, overall, the major impact of the Covid-19 pandemic on the media in Malawi is the cashflow problem it has imposed on their operations. This is the most significant theme that emerged from interviews conducted with media managers. As is the case elsewhere in the world, the media in Malawi depend primarily on advertising for their operations, survival and growth. With the emergence of Covid-19, most advertisers suffered significant financial setbacks, thereby constraining their ability to place adverts in all kinds of media. For print media organisations, the Covid-19 preventive measures have also affected circulation sales of newspapers and other print products. The economic impact of Covid-19 is aptly captured by an editor at one of the leading print media organisations in Malawi:

Covid-19 has significantly reduced economic activities which has, in turn, eroded people's buying power, directly or indirectly, reducing print copy sales and adverts. Surprisingly, as print copy sales shrink, the electronic edition continues to grow substantially, especially during the Covid-19 period. We are yet to establish if there is any connection between Covid-19 and the rising demand for electronic copy. Normally newspapers are sold on the streets especially when people go to work. Work from home arrangement has disrupted this arrangement, effectively reducing copy sales. As circulation falls, costs of production rise. More money is being spent on staff protective equipment as well as on Voice and Internet data to conduct interviews, hold meetings and training (in the face of movement restrictions and other Covid-19 measures put in place).⁸⁶

The limited financing spaces forced some media organisations to lay off staff, suspend recruitment and pay rises, scale down some operations or even close altogether.⁸⁷ In this difficult operating environment, retaining the few available advertisers gained added significance as captured by a station manager at a radio station:

85 Interview with an editor of a community radio based in the central region of Malawi. The editor said at the peak of the Covid-19 pandemic some communities harboured suspicions and mistrust towards journalists, fearing that the media personnel from urban centres would spread the disease in their areas. He said this had a chilling effect on news gathering for the radio.

86 Interview conducted on June 3, 2021.

87 For example, the Mirror newspaper closed in November 2020 because of dwindling advertising and circulation income.

“To keep the few organisations that are still advertising with us, we have had to offer them free slots on our radio. Retaining advertisers is key for us in light of the significant dent we have suffered in our finances because of Covid-19. For example, we are unable to fill vacancies because we don’t have the money to pay more people. As a result, the few employees that are there have to shoulder a big workload. This has compromised the quality of our programmes.”⁸⁸

In light of the general cash flow fragility among media organisations in Malawi, the impact of Covid-19 is likely to be felt for many years to come even when we account for the fact that some media organisations have generated revenue from adverts on the Covid-19 pandemic.

3.14 Media practice is not harmed by a climate of insecurity

The operating climate for the media in Malawi has improved significantly over the years, given the risks journalists faced during the one-party era of the Malawi Congress Party (MCP) when they could be killed for reporting that was critical of the government and the party. The constitutional provisions on freedom of expression and media freedom provide the legal foundations on which the media have been able to operate relatively freely.

However, despite the constitutional guarantees for media freedom, risks for journalists remain. There is still a wide range of laws in place which could potentially compromise the safety and security of journalists as detailed under category 1. In addition, intolerance and illiberal attitudes which view democracy with suspicion are still entrenched in Malawi as established by successive Afrobarometer studies. These and other factors account for the continued threats to media freedom and an environment that still poses risks to media practitioners in Malawi.

Conclusion

The media as a platform for democratic discourse faces a wide range of risks and structural impediments. From media content through self-regulation to the safety of journalists, some hurdles continue to undermine the capacity of the media to provide the public sphere for national conversation on the issues that matter to Malawians. Addressing these gaps requires the concerted efforts of all key players in the industry, the government, the media themselves and the citizens at large.

⁸⁸ Interview held on June 1, 2021.

Recommendations

1. Given the significance of Public Service Broadcasting (PSB) in creating a public sphere unencumbered by political, commercial and other interests, it is time the country re-invigorated the discourse and action towards establishing a PSB framework in Malawi. Such efforts can build on the research and other initiatives already undertaken to establish PSB in Malawi.
2. In their content, policies and practices, the media need to provide an equitable platform for projecting a multiplicity of voices and interests. The exclusion of women and other sections of the society through media content and employment practices constitutes a form of social exclusion that leaves whole segments of society without a voice in the national discourse.
3. Self-regulation is an important pillar of media independence and accountability. It is, therefore, crucial for the media industry in Malawi to have in place a strong, assertive and sustainable self-regulation institution that will enforce professional standards and safeguard the interests of media consumers.
4. Government, the media and other stakeholders must provide guarantees, safeguards, skills and measures that ensure the safety of journalists in Malawi. Journalists need to operate in an environment where they have scope and freedom to do their work without undue restrictions. Punishing those who threaten or assault journalists will go a long way in ending a culture of impunity that continues to undermine the safety of journalists. The media, government and other stakeholders need to raise public awareness to help citizens understand and appreciate the central role the media play in democratic governance and development. An informed citizenry provides the best safeguard and bulwark against a compromised operating environment for the media.
5. Government should create an independent public media trust fund to mobilise, manage and disburse revenue to public media service providers including MBC, independent content producers, media training institutions and commercial broadcasters.

Category 4

**Professional capacity-building
and supporting institutions that
underpin freedom of expression,
pluralism and diversity**



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Category 4 **Professional capacity-building and supporting institutions that underpin freedom of expression, pluralism and diversity**

Lack of professionalism among media practitioners can hamper efforts to establish strong independent media and the publication of false stories and rumours will impair people's confidence in free media. This category assesses the professional capacity-building and supporting institutions that underpin freedom of expression, pluralism and diversity.

A. Availability of professional media training

4.1 Media professionals can access training appropriate to their needs

Malawi has many capacity-building institutions for the media, offering non-credit and credit awarding certificates, diplomas and degrees. These programmes are authorised by international professional bodies, the Technical Entrepreneurial and Vocational Education and Training Authority (TEVETA) and Malawi's National Council for Higher Education (NCHE). Tailor-made short courses are also available. On October 30, 2019, the MISA Malawi Chapter launched Mtolankhani House which is home to its new offices and a training centre. The centre offers media training courses in the following areas: Essential skills for radio journalists, Essential public communication skills, Voter-centred election reporting for radio, and Digital storytelling using smartphones. In addition, the centre will be holding customised media workshops. The training centre was established with support from DW Akademie and Deutsche Welle's Centre of Excellence for Education and Knowledge Transfer.⁸⁹

⁸⁹ Misa Malawi (2019). MISA-Malawi set to launch its new office and training centre. Available at: www.malawi.misa.org

4.2 Media managers, including business managers, can access training appropriate to their needs

For a long time, Malawi has had no programmes that specifically provide training in media management. Before the establishment of Mtolankhani House, journalists relied on training conducted by Southern Africa organisations like the Southern African Media Training Trust (NSJ) (since closed) and the Sol Plaatje Institute for Media Leadership based in South Africa which have offered specialized skills training in different fields.⁹⁰ However, media managers are often too busy to attend these courses, and attendance fees are above what Malawi's media houses can afford. The Bachelor of Arts in Journalism curriculum offered by the Malawi University of Business and Applied Science (MUBAS) includes core modules on media and business management as well as business and economics reporting.

There are also few short-term training courses available in Malawi. These programmes are mostly organised by the British High Commission, the American Embassy, Canadian International Development Agency (CIDA), Swedish International Development Agency (SIDA) and a few local non-governmental organisations. MACRA also provides training to broadcasters on broadcasting ethics, regulations and content production through training institutions such as the Malawi Institute of Journalism (MIJ), MUBAS's Department of Journalism and Media Studies and the University of Malawi.

Media associations also provide subject-specific training to members, for example, upgrading and professional courses in business and financial reporting are offered by the Association of Business Journalists (ABJ), Environmental reporting courses are offered by Association of Environmental Journalists, and Farm Radio focuses on agricultural reporting.

4.3 Training equips media professionals to understand democracy and development

Among the training programmes available to media professionals are courses on elections and the media, HIV and AIDS, and the economy. These programmes allow participants to acquire skills in reporting on elections, as well as wider human rights and democracy issues. Participation fees for these courses are mostly covered by the organisers.⁹¹

⁹⁰ Media Sustainability Index (2006-2007).

⁹¹ Media sustainability Index (2006-2007: 205).

B. Availability of academic courses in media practice

4.4 Academic courses accessible to wide range of students

Malawi has six public universities and several private universities. Academic courses in media practice and journalism are offered by three public universities, the University of Malawi, the Malawi University of Business and Applied Sciences (MUBAS) and Lilongwe University of Agriculture and Natural Resources (LUANAR), As well as a number of private universities: Blantyre International University (BIU), Pentecostal Life University, Shareworld University and Skyway University. Other institutions that offer academic programmes in media practice and journalism include the Malawi Institute of Journalism (MIJ), a media training institution, HBI-Institute of Communication and Management, a commercial media training organisation, and African Bible College (ABC).

The Malawi University of Business and Applied Sciences (MUBAS) offers a four-year Bachelor's degree programme in journalism in the Department of Journalism and Media Studies as well as local and international diploma in Journalism programmes under the Continuing Education Centre (CEC). MUBAS has strong links with employers in the industry. This link enables the institution to send its third-year students for internships in the media industry for a full semester.

Reports from the industry show that the students receive adequate training to prepare them for the job market. The employers also assist in reviewing the curriculum from time to time to make it relevant to the needs of the industry. MUBAS has introduced a Master's degree programme in Media Studies which began in October, 2020. This is the first postgraduate programme in Media Studies in Malawi. The programme will give opportunities to qualified journalists to upgrade their skills and obtain essential knowledge in their specialised field. MUBAS also offers an undergraduate degree in business communication and Master's degree in health and behavioural change communication.

LUANAR offers a four-year degree programme in Agricultural Development Communication. The decision to introduce the programme was informed by the centrality of agriculture in the country's economy.

Among the private universities, Blantyre International University offers a four-year Bachelor of Journalism degree programme, and so do the other private universities mentioned above. The Malawi Institute of Journalism, established in 1996 as a media training institution and also as an affiliate of MUBAS, offers diploma and certificate courses in journalism. A number of

private schools and colleges run by professional journalists also offer certificate and diploma programmes in journalism.⁹²

These programmes are accessible to a wide range of students nationally. Although training materials and textbooks are usually in English, efforts are made to source and provide them in the local language in addition to using local case studies as examples. Some of these training institutions have the necessary training equipment and facilities such as computers, recorders, cameras, production studios and access to the internet which creates a conducive learning environment. However, most of them do not have computers and access to ICT facilities is limited. Entry into the country's journalism schools is open to anyone who meets the minimum academic requirements. Media organisations recruit journalists according to their own standards and requirements. People also have the freedom to work as freelancers, bloggers and others.⁹³

Opportunities for journalists to access distance learning are also available in a few institutions such as Blantyre International University where students on the Open and Distance Learning programme are given study manuals packaged according to the course outline and submit assignments while operating from their homes. They only come to school to write the end of semester examinations, and they sit the same examination as students studying on a full-time basis. Efforts to introduce Online Distance Learning for Journalism programmes are underway in some institutions such as MUBAS which already has ODL guidelines. The availability of these programmes across the country attracts a lot of people into the journalism profession to the extent that it is almost becoming saturated.

4.5 Academic courses equip students with skills and knowledge related to democratic development

Academic courses generally encourage journalists to report the perspectives of marginalised groups through the incorporation of human rights, child rights, gender, race, and other issues in the curriculum and focusing on how one can fairly report on the groups so affected. There are no stand-alone modules on these issues in most institutions. The concepts of minority reporting are embedded in some of the modules offered such as Development Communication and Media and Society. For example, at MUBAS, the Department of Journalism and Media Studies has mainstreamed gender, LGBV and child-rights into its journalism curriculum.

The training institutions have programmes and modules that cover issues of journalism and media ethics as well as professional standards. Modules such as Media Ethics, Media Law,

⁹² <http://www.pressreference.com/Ky-Ma/Malawi.html#ixzz5CoyaUmfi>

⁹³ Media Sustainability Index, 2012.

Journalism Ethics in Africa, African Ethics, and African Philosophy are offered as stand-alone modules both at degree and diploma levels. In addition, some elements of ethics are embedded in various modules such as News Writing and Reporting, and others to reflect the peculiarities of particular subject areas.

Training institutions also offer modules that equip journalists with investigative reporting skills. Investigative Journalism is offered either as a stand-alone module at certificate, diploma and degree levels, or in year four for the bachelor's degree and in year three in the diploma programme.

There are also some modules on Media Leadership and Management. For instance, BIU offers it as a standalone module called Media Management which tackles general management theories and principles and also issues to do with management of media productions and operations. Similarly, MUBAS offers a module called Media Leadership and Management at the degree level in year four.

In terms of building awareness of the potential of media in promoting democracy and human rights, some training institutions such as MUBAS offer stand-alone modules such as Media, Human Rights and Democracy, Political Studies, Development Communication as well as Media and Society. These modules familiarise students with the key issues in democracy, development and human rights. The niche of the Bachelor's Degree in Journalism at MUBAS is economic and political governance. The programme prepares candidates for roles in political and economic journalism. Other institutions such as Blantyre International University and African Bible College do not have stand-alone modules on these issues but incorporate these elements in other parts of their training to help students understand issues of rights, democracy and governance. Such modules include Specialised Journalism and Understanding and Reporting on Social Issues which have a component of political reporting.

Inconsistency, for example, offers a module on Media Law and Regulation, both at diploma and degree levels. There are also specific modules such as Introduction to Law, (law of torts in brief), Public Policy Formulation Processes, and General and Specific Laws Governing Media Operations in Malawi offered at Blantyre International University. In addition, some topics focus on particular areas of media law and regulation in various modules such as Photojournalism.

Some programmes are oriented towards equipping students with the skills needed for independent thought and analysis. For instance, students are introduced to the Principles of Logic and Critical Thinking in Year one for both the diploma and degree programmes at MUBAS. In other institutions such as Blantyre International University, Skyway and African Bible College, from Third Year to Fourth Year, there are elements of analysis and application which require independent thinking on the part of students.

C. Presence of trade unions and professional organisations

4.5 Media workers have the right to join independent trade unions and exercise this right

The Constitution of the Republic of Malawi provides every citizen including journalists with the right to freedom of association. Freedom of association is enshrined in the Constitution under Section 32 (1), which reads:

Every person shall have the right to freedom of association, which shall include the freedom to form associations.

Journalists in Malawi do not register with any authority to practice their profession, but do have press cards for easy identification whenever they are out in the field. There have been cases when unscrupulous people took advantage of this unregulated situation and posed as journalists to gain access to people or places.⁹⁴

Journalists themselves sometimes do not know their labour rights, the conditions under which they are supposed to operate and the standards governing their profession⁹⁵. To address such matters, the Journalists Union of Malawi (JUMA) was established in 2006 to promote the welfare of journalists, negotiate for appropriate remunerations and offer quality training.⁹⁶ JUMA has been proactive in informing and sensitizing its members about their rights and ensuring that conditions of service for journalists are upheld.⁹⁷

There are also a number of professional associations in the country which journalists can join, like the National Editors' Forum, the Blantyre Press Club, the Bwaila Press Club, the Nyika Press Club, Association of Catholic Journalists, Association of Environmental Journalists, Association of Community Radios, Business Journalists Association, the Malawi Media Women Association (MAMWA), and the Broadcasters' Association of Malawi. In short, therefore, the right to form unions and associations is respected in law and in practice.

Nonetheless, there is generally a lack of ownership of professional media associations by the membership of these groups. Survival is usually donor-dependent. It is, therefore, recommended that a stakeholders' meeting be convened to find out what can be done to invigorate and empower these organisations before they die a natural death.

⁹⁴ Interview with Charles Nkula, General Secretary, JUMA (2019).

⁹⁵ Interview with Charles Nkula, General Secretary, JUMA (2019).

⁹⁶ Copyright Society of Malawi (n.d.).

⁹⁷ Copyright Society of Malawi (n.d.).

4.7 Trade unions and professional associations provide advocacy on behalf of the profession

The media associations mentioned in the previous section assist the media in the form of advocacy and lobbying. In addition, the Bwaila Press Club is very active in organising media debates on topical issues including media ethics and professional standards. The Malawi Media Women Association (MAMWA) is actively involved in defending the interests of women media professionals. Media owners are well represented by the above-stated professional associations and by MISA-Malawi.

MISA–Malawi is the most prominent organisation in the media sector and plays a critical and active role in advocacy and lobbying by, among other things, directly engaging the government and the Minister of Information on behalf of the media profession. While the Media Council of Malawi was dormant, MISA-Malawi took over some of its roles, such as arbitrating on complaints against the media which the council used to handle⁹⁸, in addition to defending the freedom of expression.

Every year MISA-Malawi celebrates World Press Freedom Day which falls on 3rd May. During the celebrations, different activities are organised including a Big Walk to raise funds for advocacy such as raising awareness for the passing of the Access to Information (ATI) law and other issues. The climax of the celebrations is the evening gala during which journalists who have excelled in their different fields in each year are recognised by being given awards.

D. Presence of civil society organisations

4.8 CSOs monitor the media systematically

The NGO Act of 2000 seeks to provide for the rights and obligations of Non-Governmental Organisations in Malawi; promote the development and values of strong independent civil society; provide for the establishment, functions and powers of the Non-Governmental Organisations (NGO) Board of Malawi and the rights of the public to access information with respect to registered organisations; and to provide for matters incidental thereto or connected therewith.⁹⁹ Civil Society Organisations (CSOs) in Malawi, therefore, encompass non-governmental organisations (NGOs), faith-based organisations, trade unions and other groups that have existed since before Malawi attained independence in 1964. However, prior

⁹⁸ Media Sustainability Index, 2006-2007: 204.

⁹⁹ The International Center for Not-for-Profit Law, 2018.

to and soon after independence, the work of these groups was largely developmental. The NGOs that promote human rights and work in advocacy emerged with the return of multiparty democracy in 1993.¹⁰⁰ The presence and impact of CSOs in Malawi is high and is felt in several areas. With media monitoring being predominantly a MISA mandate, CSOs have often worked on issues related to media freedom together with MISA and at times on their own. When they have united, CSOs and MISA have worked well together.¹⁰¹ Generally, despite the harsh environment in which they operate, members of civil society have been in the forefront fighting for freedom of speech, media independence, and other liberties.¹⁰²

4.9 CSOs provide direct advocacy on issues of freedom of expression

According to Trocaire (2012), many governments have recently moved to constrain operational and political space for civil society, through restrictive legislation against civil society, especially non-governmental organisations (NGOs), or the criminalisation of civil society activists for advocacy activities.¹⁰³ The situation is not different in Malawi. Events in the past decade seem to confirm that the relationship between government and civil society organisations is affected directly by the prevailing political environment. According to Moyo (2010), at any given time relations may be cordial and collegial, at another time they could be conflictual and adversarial.¹⁰⁴

Interviews with some CSOs highlighted that there still exist some 'bad laws' which make the operations of CSOs and their relationship with the government unpredictable. CSO members singled out the following laws as instruments that can curb the activities:

- The Police (Amendment) Act of 2010, which gives the police powers to undertake searches without a court warrant;
- The Preservation of Public Security Act (Act 58 of 1965), which makes it a criminal offence to publish anything that the Minister of Information may consider to be prejudicial to public security;
- The Penal Code (Act 22 of 1929), which criminalises the publication of anything that may cause public alarm;

100 Ibid

101 Africa Media Barometer, 2016: 22-23.

102 Media sustainability Index, 2012.

103 Trocaire Policy Report, (2012). Democracy in Action: Protecting Civil Society Space, p. 4.

104 Moyo (2010 cited in Howard, K., Bresnihan, S., Mavhinga, D., Chirwa, W., Mayaya, B., and Winstanley, L. (n.d.). How to protect and expand an enabling environment: Space for Civil Society. Act Alliance and CIDSE.

- The Protected Emblems and Names Act (Act 10 of 1967), which criminalises statements regarded to be embarrassing, ridiculing, demeaning, or insulting to the President;
- The Censorship and Control of Entertainments Act (21:01) enacted in 1968, which prohibits the publication of material that is considered by the Censorship Board to be 'undesirable';
- The Communications Act of 1998, which places limitations on political broadcasting by community radios in its Section 51.¹⁰⁵

Consequently, some civil society activists mentioned that they do not feel comfortable voicing explicit criticism of the government on matters of national development and public interest for fear of intimidation, harassment or arrests. For example, CSOs involved in advocacy but not affiliated with the government reported having been harassed by state agents for conducting activities regarded as an attempt to oppose the government or its policies and plans. CSOs have the right to assemble are required to submit advance notice to the local government. In addition, they must provide surety that they will be responsible for any damage caused, i.e. in the course of protests. Government reserves the right to deny CSOs the right to demonstrate or stop their demonstrations if they are anti-government. A good example is what happened in 2017 in the run-up to the 2020 presidential elections when, in the presence of unresponsive police forces, young people (known as cadets) affiliated to the ruling Democratic Progressive Party intimidated and disrupted demonstrations who were in support of the 50+1 proposal of electing the president. The proposal sought to amend the electoral law so that the president could be elected by 50 % plus one of votes cast. The inaction of the police was taken to mean that they had received 'orders from above' not to stop the 'cadets' from disrupting the demonstrations. Subsequently, the government sponsored several organisations to oppose CSOs' advocacy campaigns on the 50+1 proposal and ATI Act.¹⁰⁶

Apart from advocacy on issues of freedom of expression, some CSOs formed coalitions to work together on other issues of national concern. For example, Youth and Society (YAS), Church and Society, Human Rights Defenders Coalition (HRDC), and Public Affairs Committee (PAC) have worked together in holding the government to account for rampant corruption in the country.¹⁰⁷

¹⁰⁵ Howard, K., Bresnihan, S., Mavhinga, D., Chirwa, W., Mayaya, B., and Winstanley, L. (n.d.). How to protect and expand an enabling environment: Space for Civil Society. Act Alliance and CIDSE, pp 40-41.

¹⁰⁶ United States Agency for International Development, Bureau for Democracy, Conflict and Humanitarian Assistance, Center of Excellence on Democracy, Human Rights and Governance. (December 2018). 2017 Civil Society Organisation Sustainability Index for Sub-Saharan Africa (9th Ed.). USAID, International Center for Not-for-Profit Law, and fhi360.

¹⁰⁷ Ibid

4.10 CSOs help communities access information and get their voices heard

Civil Society Organisations play a vital role in being the voices of the voiceless in Malawi as seen in many areas such as health, education, environment, and governance, just to mention a few. They provide checks and balances to counter government decisions, to fight corruption and to express alternative opinions to government actions. The voices of ordinary people in the rural areas are rarely heard as most of them lack the opportunity to influence decision-making on a local or national level. They have little or no knowledge of the political and economic processes in the country and of their own rights. This is where CSOs come in to promote human rights, democracy and good governance on people's behalf.

Conclusion

The presence of media training institutions, the launch of Mtolankhani House and academic programmes in the country are positive developments which must be harnessed. To ensure that the programmes offered in institutions of higher learning are of high standard, the country's National Council of Higher Education (NCHE) has embarked on an exercise to accredit all higher education institutions and their programmes. The challenge, however, remains that of equipment and other teaching facilities in most of these institutions. It is encouraging to note that some media houses have in-house training programmes for their staff which can address shortfalls.

Civil Society Organisations such as MISA—Malawi and others in the country are playing a critical role in ensuring that media freedom is guaranteed and protected. Although they work in a hostile environment, we have seen important strides through the advocacy activities of these bodies in particular the passing of the Access to Information Act.

Recommendations

1. The National Council of Higher Education in Malawi should ensure that all institutions of higher learning offering courses in Journalism and Media are well equipped and have adequate teaching and learning facilities in addition to qualified members of staff to deliver the courses.
2. Civil Society Organisations should systematically support, monitor and evaluate the implementation of the Access to Information Law.
3. Civil Society Organisations should not relent in supporting the full realisation of media freedom, good governance, human rights advocacy and conducive working environment.
4. Media stakeholders should strengthen and support media unions, associations and groups to ensure operational autonomy, ownership and financial self-sustenance.

Category 5

**Infrastructural capacity
is sufficient to support
independent and
pluralist media**



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Category 5 **Infrastructural capacity is sufficient to support independent and pluralist media**

This category deals with analysis of whether infrastructural capacity is sufficient to support independent and pluralistic media. It analyses the availability and use of technical resources by the media and the level of ICT penetration among citizens.

A. Availability and use of technical resources by the media

5.1 Media organisations have access to modern technical facilities for gathering, production and distribution

Generally, most media houses in Malawi have poor quality equipment for gathering, producing and distributing news, due to the fact that some media organisations invest very little in equipment or do not have the financial resources to procure modern technical facilities.¹⁰⁸ In some cases, where there are limited resources, these are not handled properly, and in other instances, media professionals lack capacity to use them. This raises the question whether journalism curricula should also include training on equipment use and maintenance.¹⁰⁹ It is only the well-established and long running media houses that have better equipment for news production and distribution.

5.1.1 Capacity to archive material for future generations

Most media houses have the capacity to archive materials, depending on the resources available. Some media houses store the material on CDs which are kept in the library while others keep it on hard drives on the computer. Access to these materials for the general public also differs from one organisation to the other. Some media houses allow people to access archived material only after seeking permission from the authorities. In some instances, prior arrangement with senior management has to be made on specific requests depending on the intended use while in other cases access is permitted freely. With the advent of Web 3.0 technologies, media houses use cloud archiving facilities for online and digital content they generate. Hyperlinks and public access to such content still remain scanty on the online news websites.

¹⁰⁸ The Media Sustainability Index, 2012.

¹⁰⁹ Ibid.

B. Press, broadcasting and ICT penetration

5.2 Marginalised groups have access to forms of communication they can use

Access to wide-ranging, diverse media is a guarantee that different voices will be heard and reach the general public.¹¹⁰ However, while there is a wide range of sources of information in Malawi, they are not widely accessible or affordable to citizens.¹¹¹ Radio is the most widely accessible and affordable media nationally, reaching nearly 90% of the population.¹¹² However, the broadcaster with the widest reach nationally is the state-controlled Malawi Broadcasting Corporation with its Radio 1, Radio 2 and MBC Television.¹¹³ MBC's news coverage and editorial content are pro-government. For a country like Malawi to achieve universal access to information it needs to have radio and TV stations that are not influenced by commercial and state interests. Instead, broadcasters should have a public-service orientation, offering an independent range of programmes of high quality and depth that will not only promote public access to information but also stimulate debate on issues that affect all citizens through interactive programmes such as phone-ins.

Currently, MISA Malawi is campaigning for legislative, institutional and policy changes to create an independent, pluralist and sustainable three-tier system of broadcasting in line with regional and international instruments and standards on broadcasting.¹¹⁴ This three-tier system, which includes community, public and commercial broadcasting, can enhance diversity and help combat the domination of state broadcasters and the exclusion of minority voices¹¹⁵, especially in rural areas where few people use new media.¹¹⁶ It is recommended, therefore, to promote the medium of radio, especially in rural communities so that a lot of people can have access to information.

5.2.1 Strength of radio and television signals to reach rural communities

Among the national radio stations, MBC Radio 1 has the strongest signal reaching out to 90% of the households, with 85% MBC for Radio 2, 79% for private station Zodiak and 54%

¹¹⁰ Sida, 2005.

¹¹¹ African Media Barometer, 2016: 26.

¹¹² <http://www.pressreference.com/Ky-Ma/Malawi.html#ixzz5CovaPSPd>

¹¹³ African Media Barometer, 2016: 27.

¹¹⁴ <http://malawi.misa.org/issues-we-address/broadcasting-diversity/>

¹¹⁵ Ibid.

¹¹⁶ Dizard, 2000.

for Radio Maria.¹¹⁷ The rest of the national radio stations range between 33% to less than 1% of households reporting strong radio signals, according to the National Statistical Survey of 2014.¹¹⁸ As for television, about 87% of TV users view the MBC TV channel followed by Zodiak TV and Times TV.¹¹⁹ The Malawi Digital Broadcast Network signal covers over 80% of the country. Although trends have changed since the survey, indications are that most people listen to and watch the public broadcaster because it has a strong signal, hence a wider reach extending to the rural communities. It is recommended that other private national broadcasters should also consider improving their radio signals so that more people can have access to these stations.

5.2.2 Community radio's ability to reach marginalised communities through appropriate use of technical facilities

There are 45 operational community radio stations located in most parts of Malawi especially in rural areas, usually operating on low budgets and making use of low-tech equipment.¹²⁰ They are able to reach out to their target audiences through Radio Listeners Clubs whose members either listen directly to the programme or are provided with the programme content on flash disks or through sharing programmes on WhatsApp groups and Facebook pages. The Listeners' Clubs are provided with wind-up radios to enable them to listen as a group while others use their own radio sets.

5.3 The country has a coherent ICT policy which aims to meet the information needs of marginalised communities

Information and Communication Technologies (ICTs) are not only important for national development, they are also an indispensable transformational force enabling people to participate in the information society. Malawi adopted a coherent ICT policy, the National ICT Policy (2013). The objective of the policy is to

facilitate the creation of an enabling environment for efficient, effective and sustainable utilisation, exploitation and development of ICT in

117 National Statistical Office (NSO), 2014. Survey on Access and Usage of ICT Services in Malawi. Zomba: Malawi, pp. 53.

118 National Statistical Office (NSO), 2014. Survey on Access and Usage of ICT Services in Malawi. Zomba: Malawi, pp. 53.

119 National Statistical Office (NSO), 2014. Survey on Access and Usage of ICT Services in Malawi. Zomba: Malawi, pp. 76.

120 <http://www.macra.org.mw/>

*all sectors of the economy, including the rural and underserved communities, in order to attain an information-rich and knowledge-based society and economy.*¹²¹

The ICT Policy guides “the provision of ICT services in the rural areas and to the vulnerable groups; the investment in priority ICT areas; the Public Sector in the planning for the national development and utilization of ICT; and the formulation of an appropriate regulatory and legal framework aimed at safeguarding fundamental human rights, protecting privacy, promoting electronic services, and promoting competition in the ICT sector”. To this effect, the Government of Malawi established tele-centres in rural areas to provide access to ICT equipment and internet services. However, the government has shifted the policy focus from telecentres to the Connect a School Programme to enhance access to information and communications in schools.

Overall, there are a number of problems when it comes to the implementation of the National ICT Policy, among them inadequate ICT infrastructure especially in the rural areas requiring constant investment and financing, underdeveloped research and development capacity in ICT lack of specialized ICT professionals and institutional capacity, high investment cost for ICT infrastructure, lack of local and relevant internet content and e-services that may be useful to rural communities, lack of awareness of ICT and e-services and their potential, and low levels of online public services. Internet access in Malawi is a luxury that few can afford.

¹²²Nevertheless, according to the ICT Household Survey (2020):

*access and use of internet services has grown over the past decade at both household and individual levels. While internet access has increased over the period, there is a relatively low proportion of households accessing internet services in Malawi with 10.0% of the households reporting that they had access to the internet services. The proportion of households with access to internet in urban areas was 31.1% while in rural areas it was 5.9%.*¹²³

There were several reasons which respondents of the survey mentioned as barriers to access to the internet, the major reason being the cost of internet connection (93% of the respondents).¹²⁴ When it comes to usage of mobile phones, the ICT Household Survey (2020)

¹²¹ National ICT Policy (2013).

¹²² African Media Barometer, 2016: 26.

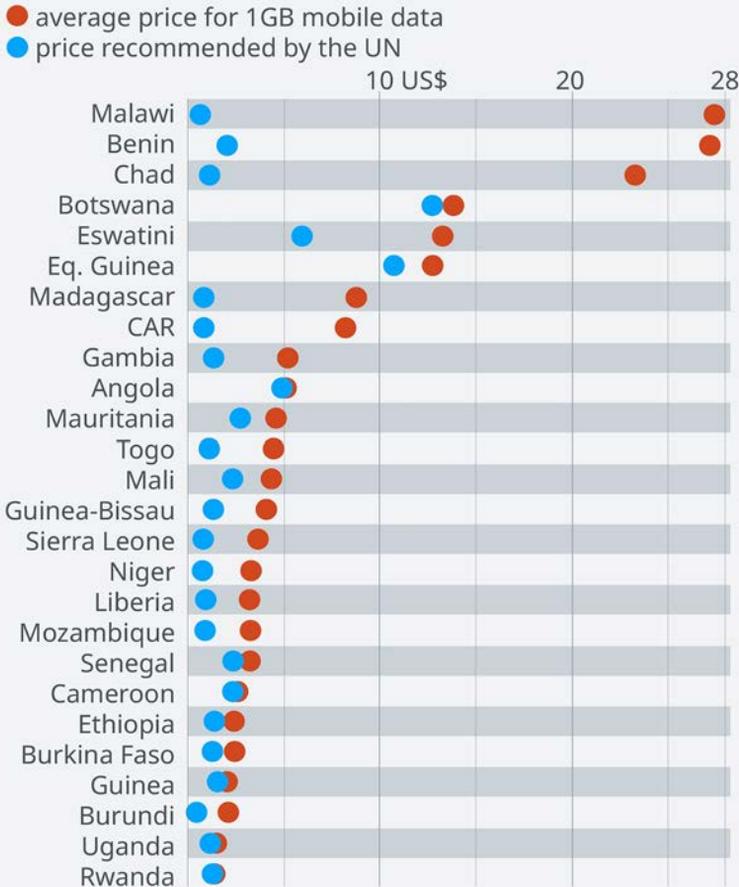
¹²³ NSO. (2020) National Survey on Access and Use of Information and Communication Technologies by Households and Individuals in Malawi. NSO: Zomba, p. 20

¹²⁴ Ibid.

reports that household and individual mobile phone ownership stands at 36.5% and 43.2% respectively, and this remains lower than the average Southern African regional levels.¹²⁵

In theory, people with mobile phones could listen to the radio on their mobile phones, most of which have FM reception, and can also access the internet if they are able to pay. In fact, the majority of people cannot access crucial information through any means other than radio and internet affordability remains a dream for most, especially those living in rural areas. Internet affordability is defined as '1 for 2' – that is 1GB of mobile broadband costing no more than 2% of the average monthly income, according to a United Nations' recommendation. The Affordability Index Report (2020) drawn up by CableUK Research Unit cites countries like Honduras and Nepal where 1GB can cost from 6 to as much as nearly 16% of a person's total income. In Malawi, people have been paying around 87% of gross national income per capita for 1GB of mobile data while Rwandans pay only 2%. The Figure below, sourced from CableUK Research Unit (2020) through DW (2020), illustrates the huge gap between affordable and real prices and what exorbitant rates Malawians are paying for mobile data as compared to some other African countries.

Huge gap between affordable and real prices



Source: CableUK Research Unit (2020) | World Bank | DW analysis: github.com/dw-data/mobile-internet

Figure 5: Mobile data costs

In terms of actual pricing, the Figure below, also sourced from CableUK Research Unit (2020) through DW (2020), shows how punitive Malawi’s rates are as compared to some other African countries:

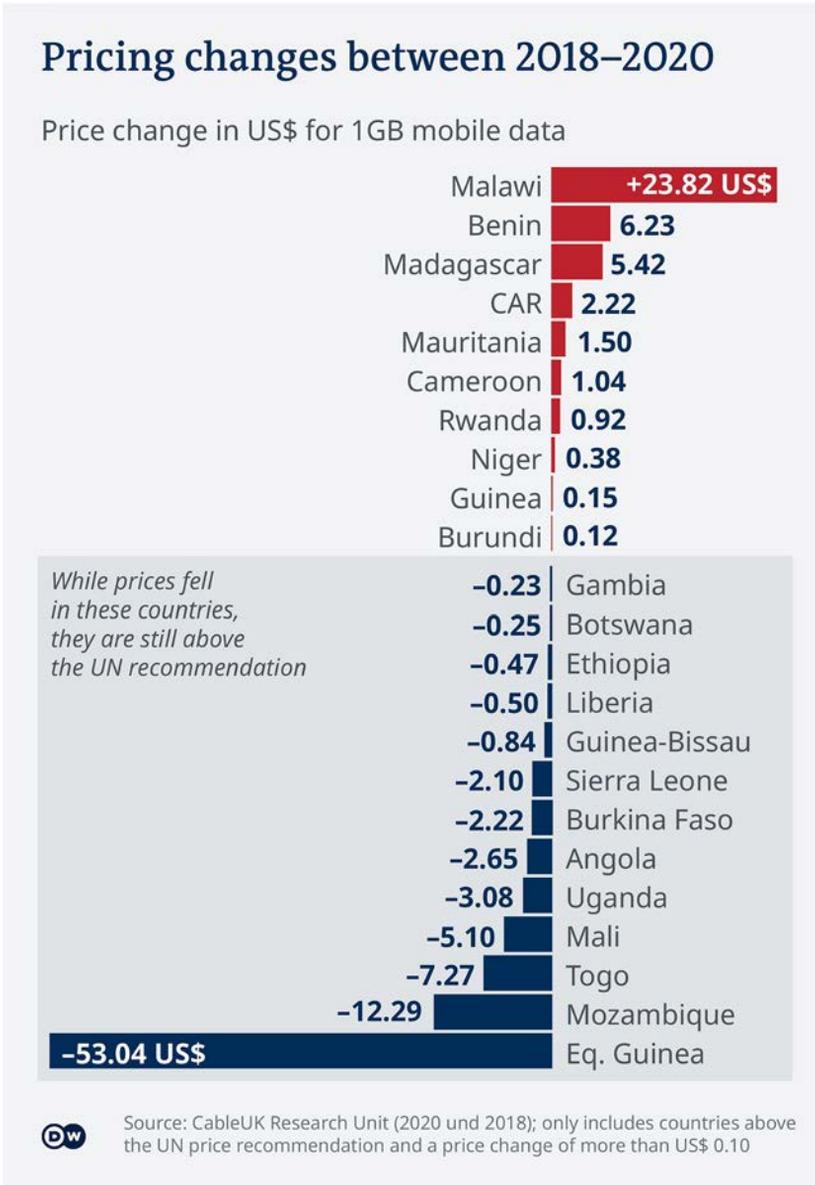


Figure 6: Changes in prices

To exacerbate the situation, taxation and regulatory levies appear to account for a large and increasing proportion of operating costs and retail prices, including a 30% corporate tax; a 10% excise duty on voice, short message service (SMS) and mobile data; 16.5% value-added tax (VAT) on internet services and mobile data; a US\$0.08 per minute levy on international voice traffic; and a 3% gross revenue levy to support the universal service fund (USF). Furthermore, in Malawi, the cost of an affordable smartphone is more than a quarter of the average monthly income. Until recently, there were only two mobile service providers, resulting in lack of competition and no incentives for them to reduce rates.

Given the Covid-19 pandemic which has revealed huge connectivity gaps between developed and developing countries as well as urban and rural, the need to bridge the digital divide has become more pressing. The pandemic has increased the need for accessing information online in all sectors of the economy and society in general and the government must take this seriously.

On a positive note, the Affordability Index Report (2020) emphasizes that policies related to infrastructure and access have played their role in making broadband more affordable. The report singles out Malawi as having “one of the largest year-on-year score increases on the Affordability Drivers Index (ADI) this year, of over six points, a reflection of its work around the consultation and adoption of its 2019-2023 national broadband strategy”. This has been attributed to the government of Malawi’s commitment to revive the market and issue a licence to a third mobile service operator alongside Airtel Malawi and Telecom Networks Malawi (TNM). The Affordability Drivers Index (ADI) is a “tool developed by the Alliance for Affordable Internet (A4AI) to assess how well a country’s policy, regulatory, and overall supply-side environment is working to lower industry costs and ultimately create more affordable broadband.”¹²⁶ A recent positive development is that “data prices in Malawi have been reduced following recent engagements between the Malawi Telecommunications Regulatory Authority (MACRA) and telecommunications operators. Under the new rates, the cost of 1GB to 4GB bundles are down by between 10% and 31% across the country’s two leading internet service providers – Airtel and TNM.”¹²⁷ This development comes as a result of concerns raised by Malawians with regard to the high costs of data bundles which forced the telecommunications operators to review and revise downwards the old data prices. The new rates came into effect from April 2021.

If the National ICT policy can be implemented to the letter, it is expected that it will greatly contribute to the building an information rich society and knowledge-based economy. It will also help solve the problem of access to information for the majority of the people, especially those in rural areas, because the unconnected will become connected.

¹²⁶ Affordability Index Report (2020).

¹²⁷ Kainja, J. (2021). Malawi Telcos further Reduce Data Prices but Affordability Concerns Remain. Available: <https://cipesa.org/2021/05/malawi-telcos-further-reduce-data-prices-but-affordability-concerns-remain/>

Conclusion

The development of Malawi's ICT for Development (ICT4D) policy (2006) should be seen as a step in the right direction because it sets the pace for the creation of an information society. Important strides can already be seen in the area of radio transmission which has penetrated the rural areas where the majority of Malawians live. We have also seen important developments in the area of mobile telephony whose penetration and use are extending to the rural areas at a faster rate and are expected to ease communication problems across the country. Mobile telephony is also being used for purposes other than communication such as mobile banking, as a radio receiver, and as a recording and information storage device. Those who have smartphones and internet connectivity are able to access almost any type of information online.

Although internet penetration is still low in Malawi, it promises to revolutionise the way people acquire and use information. Adoption and use of internet services by media houses, especially community radio stations, mean that marginalised people can also benefit from this technology if deliberate efforts are made to assist them through ICT literacy education programmes. Newspaper reach remains limited to urban areas due to low literacy and poor road networks in rural areas. The opening up of many commercial or private television stations in addition to Malawi's sole public television station MBC TV shows that the country is moving at a steady pace with regard to more choice in broadcast media and what is required is for the government not to back down on the rural electrification project so that more people in the rural areas can have access to electricity as a precondition for access to information.

Recommendations

1. The Government of Malawi should ensure that the ICT4D policy is effectively and fully implemented as it has the potential to revolutionise the Information and Communication Technology sector.
2. The Government of Malawi should fast-track its efforts for rural electrification programmes to ensure that more people in the rural areas have access to electricity to enable them to have access to television viewing and other forms of electronic media.
3. The Government of Malawi, CSOs and NGOs should support the development of the community media sector, especially in technical, financial and human resource capacity-building.
4. The Government of Malawi and the donor community should support the adoption of modern ICTs in media institutions to enable them to extend their reach to outlying areas.
5. The Government of Malawi should reduce taxes for ICT products to enhance universal access and make the internet affordable.
6. The rates for internet access must be lowered considerably to give more people, especially the poor, access to internet.
7. CSOs, NGOs and the government should embark on ICT literacy programmes deliberately targeting people in rural areas to help them make use of ICT facilities with ease.

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Annex 1: List of Key Informants

SN	NAME OF RESPONDENT	INSTITUTION
1	Angela Mkandawire	Competition and Fair Trading Commission
2	Victor Kaonga	MCM Board Member
3	Ellard Manjawira	Department of Journalism and Media Studies
4	Mercy Manja	Malawi Institute of Journalism: Training Manager
5	Fergus Lipenga	MACRA: Director of Broadcasting
6	Nelson Nyirenda	Blantyre International University: Head of Journalism Department
7	<i>Theresa Ndanga</i>	<i>MISA Malawi Chairperson</i>
8	<i>Aubrey Chikungwa</i>	<i>MISA Malawi Executive Director</i>
9	<i>Vales Machila</i>	<i>Former MCM Executive Director</i>
10	<i>Patrick Musyopa</i>	<i>MACRA: Manager, Spectrum Management</i>
11	<i>Fexter Katungwe</i>	<i>Competition and Fair Trading Commission: Senior Analyst</i>
12	<i>Ephraim Munthali</i>	<i>NPL: Managing Editor</i>
13	<i>Franklin Mtambalika</i>	<i>Timveni Radio: Editor</i>
14	<i>Joseph Claude-Simwaka</i>	<i>Tighabane Community Radio: Station Manager</i>
15	<i>Roselyn Makhambera</i>	<i>MIJ: Station Manager</i>

Annex 2: List of participating media organisations

N	MEDIA ORGANISATION
1	MBC
2	MIJ FM
3	ZBS
4	NPL
5	Joy Radio/TV
6	Capital Radio
7	<i>The Express Malawi</i>
8	<i>Times Media Group</i>
9	<i>Radio Maria</i>
10	<i>Radio Tigabane</i>
11	<i>Radio Islam</i>
12	<i>Montfort Media</i>
13	<i>Nkhotakota Community Radio</i>
14	<i>LUSO Television</i>
15	<i>Dzimwe Community Radio</i>
16	<i>Mudzivathu Community Radio</i>
17	<i>Maziko Radio Station</i>
18	<i>Galaxy Radio</i>
19	<i>Chancellor College Radio/TV</i>
20	<i>Nyathepa Community Radio/Gaka</i>
21	<i>Timveni Television</i>
22	<i>Blantyre Synod Radio</i>
23	<i>Livingstonia Radio</i>
24	<i>Matindi Television</i>
25	<i>Rainbow Television</i>
26	<i>Radio Bembeke</i>

N	MEDIA ORGANISATION
27	<i>YONECO FM</i>
28	<i>Trans World Radio</i>
29	<i>Ufulu FM</i>
30	<i>Love Community Radio</i>
31	<i>Umoyo Community Radio</i>
32	<i>Chisomo Community Radio</i>
33	<i>Lilanguka Community Radio</i>

Annex 3: List of interviewees/ respondents for the safety of journalists

SN	NAME	GENDER	ORGANISATION	BASE
1	Diffrey Jonathan Bwanaissa	Male	<i>Umoyo Community Radio</i>	<i>Mangochi</i>
2	Brenda Kawonga	Female	<i>MIJ</i>	<i>Blantyre</i>
3	Chimwemwe Mikwala	Female	<i>Yoneco</i>	<i>Mzuzu</i>
4	Rose Chipumphula	Female	<i>Montfort Media</i>	<i>Balaka</i>
5	Elita Nkalo	Female	<i>Capital</i>	<i>Lilongwe</i>
6	Evelyn Pangani	Female	<i>Joy Radio</i>	<i>Blantyre</i>
7	<i>Faith Kamtambe</i>	<i>Female</i>	<i>Times</i>	<i>Lilongwe</i>
8	<i>Enelless Nyale</i>	<i>Female</i>	<i>NPL</i>	<i>Blantyre</i>
9	<i>Joseph Kayira</i>	<i>Male</i>	<i>Montfort Media</i>	<i>Balaka</i>
10	<i>Francis Kamoto</i>	<i>Male</i>	<i>Lilanguka</i>	<i>Mangochi</i>
11	<i>Juliet Chirwa</i>	<i>Female</i>	<i>Voice of Livingstonia</i>	<i>Mzuzu</i>
12	<i>Sinthani M'baluku</i>	<i>Male</i>	<i>Radio Lilanguka</i>	<i>Mangochi</i>
13	Hassan Phiri	Male	<i>MBC</i>	<i>Mangochi</i>
14	Manday Pondani	Female	<i>Times</i>	<i>Mzuzu</i>
15	Martha Chikoti	Female	<i>Malawi24</i>	<i>Lilongwe</i>
16	<i>Mercy Kayange</i>	<i>Female</i>	<i>Chanco Radio</i>	<i>Zomba</i>
17	<i>Mercy Singano</i>	<i>Female</i>	<i>MBC TV</i>	<i>Blantyre</i>
18	<i>Miriam Kaliza</i>	<i>Female</i>	<i>MBC</i>	<i>Lilongwe</i>
19	<i>Nancy Malata</i>	<i>Female</i>	<i>Timveni</i>	<i>Lilongwe</i>
20	<i>Orama Chiphwanya</i>	<i>Female</i>	<i>NPL</i>	<i>Blantyre</i>
21	<i>Queen Nhlema</i>	<i>Female</i>	<i>Capital</i>	<i>Blantyre</i>
22	<i>Rabecca Chimjeka</i>	<i>Female</i>	<i>Times</i>	<i>Lilongwe</i>
23	<i>Clement Edward Msiska</i>	<i>Male</i>	<i>Capital Radio Malawi</i>	<i>Lilongwe</i>
24	<i>Sellina Kainja</i>	<i>Female</i>	<i>NPL</i>	<i>Blantyre</i>
25	<i>Shakira Chimbaza</i>	<i>Female</i>	<i>ZBS</i>	<i>Lilongwe</i>

SN	NAME	GENDER	ORGANISATION	BASE
26	<i>Shamima Binali/Bwanali</i>	<i>Female</i>	<i>Radio Islam</i>	<i>Blantyre</i>
27	<i>Sibongile Zgambo</i>	<i>Female</i>	<i>ZBS</i>	<i>Lilongwe</i>
28	<i>Suzgo Khunga</i>	<i>Female</i>	<i>NPL</i>	<i>Lilongwe</i>
29	<i>Teresa Temweka Ndanga</i>	<i>Female</i>	<i>ZBS</i>	<i>Lilongwe</i>
30	<i>Thoko Chikondi</i>	<i>Female</i>	<i>NPL</i>	<i>Blantyre</i>
31	<i>Tionge Hara</i>	<i>Female</i>	<i>MCR</i>	<i>Mzuzu</i>
32	<i>Tiyamike Phiri</i>	<i>Female</i>	<i>ZBS</i>	<i>Blantyre</i>
33	<i>Wezi Nyirongo</i>	<i>Female</i>	<i>Capital</i>	<i>Blantyre</i>
34	<i>Yvonne A. Sundu</i>	<i>Female</i>	<i>NPL</i>	<i>Lilongwe</i>
35	<i>Omega Mkandawire</i>	<i>Male</i>	<i>Rainbow TV</i>	<i>Lilongwe</i>
36	<i>Thoko Chilima</i>	<i>Female</i>	<i>Galaxy FM</i>	<i>Lilongwe</i>
37	<i>Melvin Maganiza Banda</i>	<i>Male</i>	<i>Galaxy FM</i>	<i>Lilongwe</i>
38	<i>Malumbo Ngwira</i>	<i>Male</i>	<i>Galaxy FM</i>	<i>Lilongwe</i>
39	<i>Bartholomew Boaz</i>	<i>Male</i>	<i>Montfort Media</i>	<i>Balaka</i>
40	<i>Grace Mkwapata</i>	<i>Female</i>	<i>YONECO FM</i>	<i>Zomba</i>
41	<i>Edwin Chulu</i>	<i>Male</i>	<i>YONECO FM</i>	<i>Zomba</i>
42	<i>Titus Linzie</i>	<i>Male</i>	<i>YONECO FM</i>	<i>Zomba</i>
43	<i>Joy Khakona</i>	<i>Male</i>	<i>YONECO FM</i>	<i>Zomba</i>
44	<i>Rodrick Sinoya</i>	<i>Male</i>	<i>YONECO FM</i>	<i>Zomba</i>
45	<i>Andrew Thundu</i>	<i>Male</i>	<i>Love Community Radio</i>	<i>Salima</i>
46	<i>Abraham Bisayi</i>	<i>Male</i>	<i>Love Community Radio</i>	<i>Salima</i>
47	<i>Precious Msosa</i>	<i>Male</i>	<i>Montfort Media</i>	<i>Balaka</i>
48	<i>Francis Zulu</i>	<i>Male</i>	<i>Mudziwathu Community Radio</i>	<i>Mchinji</i>
49	<i>Bridget Chiotcha</i>	<i>Female</i>	<i>Love Community Radio</i>	<i>Salima</i>
50	<i>Brenard Kagona</i>	<i>Male</i>	<i>Love Community Radio</i>	<i>Salima</i>
51	<i>Fredrick Manda</i>	<i>Male</i>	<i>Malawi News Agency (MANA)</i>	<i>Nkhotakota</i>
52	<i>Stanley Nkhondoyachepa</i>	<i>Male</i>	<i>Malawi News Agency (MANA)</i>	<i>Nkhotakota</i>
53	<i>Ivy Tunkete Mwanyongo</i>	<i>Female</i>	<i>Nkhotakota Community Radio</i>	<i>Nkhotakota</i>

SN	NAME	GENDER	ORGANISATION	BASE
54	<i>Samuel Duncan</i>	<i>Male</i>	<i>Nkhotakota Community Radio</i>	<i>Nkhotakota</i>
55	<i>Steria Manda</i>	<i>Female</i>	<i>Nkhotakota Community Radio</i>	<i>Nkhotakota</i>
56	<i>Maria Tembo</i>	<i>Female</i>	<i>Nkhotakota Community Radio</i>	<i>Nkhotakota</i>
57	<i>Lucy Nkhata</i>	<i>Female</i>	<i>Nkhotakota Community Radio</i>	<i>Nkhotakota</i>
58	<i>Chinsinsi Cheketa</i>	<i>Male</i>	<i>Nkhotakota Community Radio</i>	<i>Nkhotakota</i>
59	<i>Jean Chilombo</i>	<i>Female</i>	<i>Chisomo Community Radio</i>	<i>Salima</i>
60	<i>Idah Mwambazi</i>	<i>Female</i>	<i>Chisomo Community Radio</i>	<i>Salima</i>
61	<i>Charity Vanessa Thondoya</i>	<i>Female</i>	<i>Chisomo Community Radio</i>	<i>Salima</i>
62	<i>Victor Faison</i>	<i>Male</i>	<i>Chisomo Community Radio</i>	<i>Salima</i>
63	<i>Memory Banda</i>	<i>Female</i>	<i>Chisomo Community Radio</i>	<i>Salima</i>
64	<i>VanClayton Damstar</i>	<i>Male</i>	<i>Chisomo Community Radio</i>	<i>Salima</i>
65	<i>John Chisuse</i>	<i>Male</i>	<i>Love Community Radio</i>	<i>Salima</i>
66	<i>Mary Banda</i>	<i>Female</i>	<i>Love Community Radio</i>	<i>Salima</i>
67	<i>Watson Maingo</i>	<i>Male</i>	<i>Malawi News Agency</i>	<i>Salima</i>
68	<i>Yamikani Chitamba</i>	<i>Male</i>	<i>Nkhotakota Community Radio</i>	<i>Nkhotakota</i>
69	<i>Chikondi Makungwa</i>	<i>Female</i>	<i>Radio Lilanguka</i>	<i>Mangochi</i>
70	<i>Nephitaly Chitedze</i>	<i>Male</i>	<i>Love Community Radio</i>	<i>Salima</i>
71	<i>Bridget Isabellah Benaih</i>	<i>Female</i>	<i>Love Community Radio</i>	<i>Salima</i>
72	<i>Aubrey Chilemba</i>	<i>Male</i>	<i>Love Community Radio</i>	<i>Salima</i>
73	<i>Naomi Kuthakwanasi</i>	<i>Female</i>	<i>Love Community Radio</i>	<i>Salima</i>
74	<i>William Kasiya</i>	<i>Male</i>	<i>Radio Lilanguka</i>	<i>Mangochi</i>
75	<i>Dann Jackson</i>	<i>Male</i>	<i>Umoyo FM</i>	<i>Mangochi</i>

SN	NAME	GENDER	ORGANISATION	BASE
76	Bright Kumwenda	Male	Nation Publications Limited	Blantyre
77	Archibald Kasakura	Male	Nation Publications Limited	Blantyre
78	Lloyd Chitsulo	Male	Nation Publications Limited	Blantyre
79	Edwin Nyirongo	Male	Nation Publications Limited	Blantyre
80	Bobby Kabango	Male	Nation Publications Limited	Blantyre
81	Mcdonald Bamusi	Male	Nation Publications Limited	Blantyre
82	Lucky Mkandawire	Male	Nation Publications Limited	Blantyre
83	Grace Phiri	Female	Nation Publications Limited	Blantyre
84	Ayami Mkwamba	Male	Nation Publications Limited	Blantyre
85	Garry Chirwa	Male	Nation Publications Limited	Blantyre
86	Kondly Chindenga	Male	Rainbow TV	Lilongwe
87	Jacquiline Nhlema	Female	Zodiak Broadcasting Station	Lilongwe
88	Silowe Sanena	Female	Rainbow TV	Lilongwe
89	Alfred Chauwa	Male	Nyasatimes	Lilongwe
90	Frank Raphael Maluwa	Male	Radio Lilanguka	Mangochi
91	Precious Kumbani	Female	Nation Publications Limited	Blantyre
92	George Lumwira	Male	MIJ FM	Blantyre
93	Innocent Mphongolo	Male	MIJ FM	Blantyre
94	Japhet Thole	Male	MIJ FM	Blantyre
95	Alice Msangambe	Female	MIJ FM	Blantyre
96	Ntchindi Meki	Male	Nation Publications Limited	Lilongwe

SN	NAME	GENDER	ORGANISATION	BASE
97	<i>Watipaso Mzungu</i>	<i>Male</i>	<i>Freelancer</i>	<i>Lilongwe</i>
98	<i>Suzgo Chitete</i>	<i>Male</i>	<i>Nation Publications Limited</i>	<i>Lilongwe</i>
99	<i>Samuel Chunga</i>	<i>Male</i>	<i>Nation Publications Limited</i>	<i>Lilongwe</i>
100	<i>Sylvia Zulu</i>	<i>Female</i>	<i>Transworld Radio</i>	<i>Lilongwe</i>
101	<i>Victor Kaonga</i>	<i>Male</i>	<i>Transworld Radio</i>	<i>Lilongwe</i>
102	<i>Patience Gomani</i>	<i>Male</i>	<i>Mudziwathu Community Radio</i>	<i>Mchinji</i>
103	<i>Luciano Milala</i>	<i>Male</i>	<i>Mudziwathu Community Radio</i>	<i>Mchinji</i>
104	<i>Yousef Daisa</i>	<i>Male</i>	<i>Radio Islam</i>	<i>Blantyre</i>
105	<i>Joseph Zalinga</i>	<i>Male</i>	<i>Mudziwathu Community Radio</i>	<i>Mchinji</i>
106	<i>Vester Chunga</i>	<i>Female</i>	<i>Mudziwathu Community Radio</i>	<i>Mchinji</i>
107	<i>McDonald Thom</i>	<i>Male</i>	<i>Times Media Group</i>	<i>Lilongwe</i>
108	<i>Taonga Sabola</i>	<i>Male</i>	<i>Times Media Group</i>	<i>Lilongwe</i>
109	<i>Joab Chakhaza</i>	<i>Male</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
110	<i>Andrew Viano</i>	<i>Male</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
111	<i>Daniel Mababa</i>	<i>Male</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
112	<i>Winston Mwale</i>	<i>Male</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
113	<i>Talasila Kaipa</i>	<i>Female</i>	<i>MIF FM</i>	<i>Lilongwe</i>
114	<i>Malumbo Ngwira</i>	<i>Male</i>	<i>MIJ FM</i>	<i>Lilongwe</i>
115	<i>Catherine Maulidi</i>	<i>Female</i>	<i>MIJ FM</i>	<i>Lilongwe</i>
116	<i>Life Litete</i>	<i>Male</i>	<i>MIJ FM</i>	<i>Lilongwe</i>
117	<i>Mphatso Namkwawa</i>	<i>Male</i>	<i>Transworld Radio</i>	<i>Lilongwe</i>
118	<i>Chimwemwe Manda</i>	<i>Female</i>	<i>Transworld Radio</i>	<i>Lilongwe</i>
119	<i>Malenga Chiyenda</i>	<i>Male</i>	<i>Rainbow TV</i>	<i>Lilongwe</i>

SN	NAME	GENDER	ORGANISATION	BASE
120	<i>Timothy Kadewa</i>	<i>Male</i>	<i>Capital FM</i>	<i>Lilongwe</i>
121	<i>Trust Ofesi</i>	<i>Male</i>	<i>Capital FM</i>	<i>Lilongwe</i>
122	<i>Steve Chilundu</i>	<i>Male</i>	<i>Nation Publications Limited</i>	<i>Lilongwe</i>
123	<i>Clement Msiska</i>	<i>Male</i>	<i>Capital FM</i>	<i>Lilongwe</i>
124	<i>Grace Khombe</i>	<i>Female</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
125	<i>Alinafe Mulamba</i>	<i>Female</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
126	<i>Veronica Mwale</i>	<i>Female</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
127	<i>Gabriel Kamlomo</i>	<i>Male</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
128	<i>Madalitso Phiri</i>	<i>Male</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
129	<i>Tadala Kaledzera</i>	<i>Female</i>	<i>Zodiak Broadcasting Station</i>	<i>Lilongwe</i>
130	<i>Amon Butao</i>	<i>Male</i>	<i>Timweni Radio</i>	<i>Lilongwe</i>
131	<i>Mekklena Chirwa</i>	<i>Male</i>	<i>Timweni Radio</i>	<i>Lilongwe</i>
132	<i>Jesina Chikwelete</i>	<i>Female</i>	<i>Timweni Radio</i>	<i>Lilongwe</i>
133	<i>Ian Soko</i>	<i>Male</i>	<i>Timweni Radio</i>	<i>Lilongwe</i>
134	<i>Franklin Ntambalika</i>	<i>Male</i>	<i>Timweni Radio</i>	<i>Lilongwe</i>
135	<i>Brian Longwe</i>	<i>Male</i>	<i>Timweni Radio</i>	<i>Lilongwe</i>
136	<i>John Namalenga</i>	<i>Male</i>	<i>Capital FM</i>	<i>Lilongwe</i>
137	* ¹²⁸	<i>Male</i>	<i>MBC TV</i>	<i>Blantyre</i>
138	*	<i>Male</i>	<i>MBC TV</i>	<i>Blantyre</i>
139	*	<i>Female</i>	<i>MBC Radio</i>	<i>Blantyre</i>
140	*	<i>Female</i>	<i>MBC Radio</i>	<i>Blantyre</i>
141	*	<i>Male</i>	<i>MBC Radio</i>	<i>Blantyre</i>
142	*	<i>Male</i>	<i>MBC TV</i>	<i>Lilongwe</i>
143	*	<i>Female</i>	<i>MBC Radio</i>	<i>Lilongwe</i>
144	*	<i>Male</i>	<i>MBC Radio</i>	<i>Lilongwe</i>

Appendix 1: Coding Sheet for Content Analysis



**DEPARTMENT OF JOURNALISM AND MEDIA STUDIES
UNESCO MEDIA DEVELOPMENT STUDY**

CODING SHEET FOR CONTENT ANALYSIS

Appendix 2: Focus Group Discussions Guide for Media Consumers



**DEPARTMENT OF JOURNALISM AND MEDIA STUDIES
UNESCO MEDIA DEVELOPMENT STUDY**

**FOCUS GROUP DISCUSSIONS GUIDE FOR
MEDIA CONSUMERS**

Name of Location

Date of the Interview

List of Participants

QUESTION		EXPLANATORY NOTES		RESPONSES	
Q1. How many of you follow what is happening in Malawi and other countries through the media?		This is an exploratory question designed be a point of entry into the discussion.			
Q2. Which media channels do you use to follow current events and other issues covered by the media?		What is expected here is the list of channels respondents use to access information. Rank the channels.			
Q3. What kind of content do you like/don't like on radios, television, newspapers and other media channels		Participants are expected to list the issues and content they like/don't like in the media and why.			
Q4. Are you satisfied with the content you get from the media?		Here, participants are expected to provide a general assessment of media content in terms of adequacy, ethical issues, depth etc.			

QUESTION	EXPLANATORY NOTES	RESPONSES
Q5. In general, do you trust what the media publish or broadcast?	Participants should evaluate the media in terms of whether they view them as trustworthy. Let them indicate which media platforms they trust/don't trust eg radio, tv, newspapers or based on ownership eg private/public/community etc	
Q6. Which areas do the media do well and where do they fall short?	Here, participants are expected to provide the strengths and weaknesses of the media in Malawi. Some strengths and weaknesses will have been provided by this stage. Further probing will elicit more issues.	
Q7. How can the media improve the content they disseminate?	Let participants provide suggestions for improving media performance.	
Q8. What is the role of the media in democracy?	Assess whether participants understand the role of the media in democracy.	
Q9. How well are the media performing this role in Malawi?	Let participants evaluate the performance of the media in the country's democracy.	
Q10. Is it important for the media to expose wrongdoing in government?	The rationale here is to establish participants' perceptions towards the watchdog role of the media.	

QUESTION	EXPLANATORY NOTES	RESPONSES
<p>Q11. Are the media in Malawi doing well in exposing wrongdoing in government?</p>	<p>Let the participants evaluate the watchdog performance of the media in Malawi.</p>	
<p>Q12. Do you think the media should be given all the freedom to operate or sometimes government should restrict their freedom?</p>	<p>Engage the participants on their perceptions of media freedom in terms of the acceptable scope of freedom for journalists.</p>	
<p>Q13. What factors affect your access to the media in Malawi? Eg radio, newspapers, television etc</p>	<p>To be structured, the discussion should revolve around one media platform at a time. For example, you can begin with radio, then newspapers etc.</p>	
<p>Q14. Are there any other areas about the media that you want us to discuss?</p>	<p>Are there any other areas about the media that you want us to discuss?</p>	
<p>Q15. We thank you most sincerely for participating in this discussion. The nation will benefit immensely from the rich and detailed information you have provided.</p>	<p>Wind up on a note that makes the participants feel valued as important stakeholders. Again, assure them that the information provided will be used solely for research purposes.</p>	

Appendix 3: Interview guide for Media Stakeholders on a Wide Range of Issues



**DEPARTMENT OF JOURNALISM AND MEDIA STUDIES
UNESCO MEDIA DEVELOPMENT STUDY**

INTERVIEW GUIDE FOR MEDIA STAKEHOLDERS ON A WIDE RANGE OF ISSUES

Date of the Interview

Name of Respondent

Organisation

Position

QUESTION	RESPONSES
Interview Guide on Media Self-Regulation for All Media Stakeholders	
Q1. What is your understanding of the idea of media self-regulation?	
Q2. What would you say is the role and significance of media self-regulation?	
Q3. Are you satisfied with the current state of media self-regulation in Malawi?	
Q4. In what way, if any, does your organisation support the Media Council of Malawi?	
Q5. Generally, the Media Council of Malawi, the key media self-regulation mechanism in the country, struggles to sustain itself. Why do you think this is the case?	

QUESTION	EXPLANATORY NOTES
Q6. What strategies would you propose for the Media Council of Malawi and the media self-regulation system in general in Malawi to be strong and sustainable?	
Q7. What do you think is the best model for media self-regulation in Malawi? Eg statutory self-regulation ie the law recognizing MCM etc	
Q8. Does your organisation have a code of ethics/editorial guidelines?	
Q9. Are they written or unwritten?	
Q10. How effective are these instruments in enforcing professional standards in the organisation?	
Q11. Does your organization have peer-based mechanisms for ensuring professional standards? Eg among reporters/editors or somebody outside the organization (eg news ombudsman).	

QUESTION	EXPLANATORY NOTES
<p>Q12. What mechanisms, if any, has your organization put in place to ensure that it is responsive to audience perceptions of its content and general conduct? Please share the organisation's complaints handling mechanism.</p>	
<p>Q13. Please share specific details of the complaints you received and how they were handled.</p>	
<p>Interview Guide on Frequency Spectrum Management for Broadcasters</p>	
<p>Q1. On what frequency is your radio and how was the frequency allocated?</p>	
<p>Q2. Are you aware of the National Spectrum Management Plan?</p>	
<p>Q3. Are you satisfied with the way the plan was designed and is implemented?</p>	
<p>Q4. Have there been any decisions based on the National Spectrum Management Plan that affected your organization?</p>	
<p>Q5. Were you consulted during the development of the National Spectrum Management Plan?</p>	

QUESTION	EXPLANATORY NOTES
<p>Q6. How can the National Spectrum Management Plan be improved to enhance effectiveness and fairness?</p>	
Interview Guide on Licensing and Broadcasting Regulations	
<p>Q1. Are you aware of the laws, regulations and policies that affect the broadcasting industry in Malawi?</p>	
<p>Q2. In terms of the way broadcasting laws, regulations and policies were designed, do you find them adequate, effective and fair?</p>	
<p>Q3. Do you think MACRA is effective and fair in the way it implements these laws and policies?</p>	
<p>Q4. Does MACRA consult you when it is developing broadcasting laws and regulations?</p>	
<p>Q5. In your opinion, are licensing fees fair for media organisations such as yours?</p>	
<p>Q6. How can the National Spectrum Management Plan be improved to enhance effectiveness and fairness?</p>	

QUESTION		EXPLANATORY NOTES	
Interview Guide on Taxation and advertising Measures for All Media Stakeholders			
Q1. Are you aware of the taxation measures that affect media organisations such as yours?			
Q2. Do you think the taxation measures affecting the media are fair?			
Q3. In your opinion, is the tax system in Malawi used to favour certain media over others?			
Q4. Are there preferential taxation measures to encourage the development of the media in Malawi? eg in broadcasting, print, online media.			
Q5. How can government improve the taxation measures that affect the media to enhance the quality and sustainability of the media in Malawi?			
Q6. Are you aware of government's advertising policy?			
Q7. Do you feel government's advertising practices are fair to a media organisation such as yours?			

EXPLANATORY NOTES	
QUESTION	
Q8. With reference to your media organisation, are there specific instances that demonstrate the fairness or unfairness of government advertising practices?	
Q9. What should government do to improve its advertising policy and practices?	
Interview Guide on Measures to Prevent Negative Dominance of some Media organizations	
Q1. Are you aware of the laws and policies that government put in place to prevent too much dominance of some media organisations and level the playing field in the industry?	
Q2. In terms of the way they were designed, are these laws and policies fair and effective in preventing anti-competitive practices in the media industry?	
Q3. Are the laws and policies implemented fairly and effectively to create a level playing field and prevent anti-competitive practices in the media in Malawi?	

QUESTION		EXPLANATORY NOTES	
Interview Guide on Media Training and Education for Tertiary Education Institutions			
Q1. Please provide the formal qualification programmes your training institution offers for journalists.			
Q2. Do formal training programmes encourage journalists to report the perspectives of marginalised groups? Provide examples.			
Q3. Are there opportunities for journalists to access distance learning through your institution?			
Q4. Does your training institution have programmes/modules that cover issues of journalism ethics?			
Q5. Does your training institution offer programmes/modules that equip journalists with investigative reporting skills?			
Q6. Does your training institution offer programmes/modules in media leadership and management?			

QUESTION	EXPLANATORY NOTES
Q7. Does your training institution offer programmes/modules that help build a general awareness of democracy, development and human rights?	
Q8. Does your training institution offer courses that cover issues of media law, regulation and public policy? Please explain.	
Q9. Are the programmes you offer oriented towards equipping students with the skills needed for independent thought and analysis? Please explain.	
Interview Guide on Media Penetration for MACRA	
Q1. Is the public broadcaster technically accessible nationwide?	
Q2. Are radio or television signals strong enough to reach rural communities?	
Q3. How do people typically access news and information?	
Q4. How do media access and usage patterns vary between men and women in the broadcast industry?	

QUESTION		EXPLANATORY NOTES	
Interview Guide on Infrastructure Capacity Measures for All Media Stakeholders			
Q1.	Does your media organisation have access to modern technical facilities for news gathering, production and distribution?		
Q2.	Do your journalists have secure, reliable and affordable access to ICTs?		
Q3.	Does your media organisation have the capacity to archive material for future generations?		
Q4.	If yes, is this material publicly available? Provide details.		
Q5.	Does your media organisation make use of multiplatform delivery systems (e.g. making radio and TV available online)?		
Q6.	If you are a community media house, are you equipped with appropriate technical facilities to reach marginalised communities? Explain. (This may mean low-tech solutions e.g. distribution of cassette tapes, wind-up radios).		

Appendix 4: Interview guide for stakeholders in media training



**DEPARTMENT OF JOURNALISM AND MEDIA STUDIES
UNESCO MEDIA DEVELOPMENT STUDY**

INTERVIEW GUIDE FOR STAKEHOLDERS IN MEDIA TRAINING

Date of the Interview

Name of Respondent

Organisation

Position

Introduction

The Department of Journalism and Media Studies at The Polytechnic, University of Malawi, is conducting a study to assess the state of media development in Malawi using the UNESCO Media Development Indicators. You are receiving this instrument because you are one of respondents identified to participate in the study. Please be assured that your responses will be used strictly for research purposes and your identity will not be disclosed to anybody outside the research team..

Interview Guide on Media Training and Education for Tertiary Education Institutions	
Q1. Please provide the formal qualification programmes your training institution offers for journalists.	
Q2. Do the training programmes your institution offers encourage journalists to report the perspectives of marginalised groups? Provide examples.	

Interview Guide on Media Training and Education for Tertiary Education Institutions

<p>Q3. Are there opportunities for journalists to access distance learning through your institution? Please explain.</p>	
<p>Q4. Does your training institution have programmes/modules that cover issues of journalism ethics? Please explain.</p>	
<p>Q5. Does your training institution offer programmes/modules that equip journalists with investigative reporting skills? Please explain.</p>	
<p>Q6. Does your training institution offer programmes/modules in media leadership and management? Please explain.</p>	
<p>Q7. Does your training institution offer programmes/modules that help build a general awareness of democracy, development and human rights? Please explain.</p>	
<p>Q8. Does your training institution offer courses that cover issues of media law, regulation and public policy? Please explain.</p>	
<p>Q9. Are the programmes you offer oriented towards equipping students with the skills needed for independent thought and analysis? Please explain.</p>	

Appendix 5: Interview guide for Media Stakeholders on Media Self-Regulation



**DEPARTMENT OF JOURNALISM AND MEDIA STUDIES
UNESCO MEDIA DEVELOPMENT STUDY**

INTERVIEW GUIDE FOR MEDIA STAKEHOLDERS ON MEDIA SELF REGULATION

Date of the Interview

Name of Respondent

Organisation

Position

Introduction

The Department of Journalism and Media Studies at The Polytechnic, University of Malawi, is conducting a study to assess the state of media development in Malawi using the UNESCO Media Development Indicators. You are receiving this instrument because you are one of respondents identified to participate in the study. Please be assured that your responses will be used strictly for research purposes and your identity will not be disclosed to anybody outside the research team.

QUESTION	RESPONSES
Q1. What is your understanding of the idea of media self-regulation?	Interview Guide on Media Self-Regulation
Q2. What would you say is the role and significance of media self-regulation?	
Q3. Are you satisfied with the current state of media self-regulation in Malawi?	

Interview Guide on Media Training and Education for Tertiary Education Institutions	
Q4. In what way, if any, does your organisation support the Media Council of Malawi?	
Q5. Generally, the Media Council of Malawi, the key media self-regulation mechanism in the country, struggles to sustain itself. Why do you think this is the case?	
Q6. What strategies would you propose for the Media Council of Malawi and the media self-regulation system in general in Malawi to be strong and sustainable?	
Q7. What do you think is the best model for media self-regulation in Malawi? Eg statutory self-regulation ie the law recognizing MCM etc	
Q8. Does your organisation have a code of ethics/editorial guidelines?	
Q9. Are they written or unwritten?	
Q10. How effective are these instruments in enforcing professional standards in the organisation?	

Interview Guide on Media Training and Education for Tertiary Education Institutions

<p>Q11. Does your organization have peer-based mechanisms for ensuring professional standards? Eg among reporters/editors or somebody outside the organization (eg news ombudsman).</p>	
<p>Q12. What mechanisms, if any, has your organization put in place to ensure that it is responsive to audience perceptions of its content and general conduct? Please share the organisation's complaints handling mechanism.</p>	
<p>Q13. Please share specific details of the complaints you received and how they were handled.</p>	
<p>Q14. If you have other insights on media self-regulation not covered in the instrument that you would like to share with us, please be free to do so.</p>	

Thank you so much for participating in the study. We value your contribution.

Assessment of Media Development in Malawi

In recent years the media in Malawi experienced an exponential growth, both in terms of the number of media houses as well as coverage throughout the country. Due to the increase of radio stations, the range of people that have access to media and information has increased significantly. On top of that an increasingly large portion of the population is now able to access the media due to the ongoing development of ICTs. These developments highlight the huge strides that have been made to improve the accessibility of the media. However, even though the media has seen growth the past decades, there are some hurdles that interfere with functioning of the Malawian media landscape like journalists arrests, an outdated legal framework and a lack of a proper self-regulating organization. This report provides an overview of the status of the media by analyzing it according to the UNESCO Media Development Indicators and serves to provide relevant recommendations for all stakeholders involved.

List of countries in which MDI-based assessments have been completed to date: *Bhutan, Croatia, Ecuador, Egypt, Gabon, Libya, Maldives, Mozambique, Nepal, Palestine, South Sudan, Timor-Leste, Tunisia.*

For more information, see

www.unesco.org/new/en/communication-and-information/intergovernmental-programmes/ipdc/initiatives/media-development-indicators-mdis/



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