

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

OVERVIEW OF CORRUPTION IN MALAWI

QUERY

Please provide the corruption profile of Malawi with a special focus on transport, agriculture and education.

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CAVEAT

The literature on corruption in the transportation sector in Malawi is very limited; therefore this answer focuses on the main motivating factors of corruption in the country as well as on the main corruption risks in agriculture and education.

SUMMARY

Since the return of multi-party democracy to Malawi in 1994, Malawian governments have undertaken important steps to contain corruption, and every government that has come to power since then has made the fight against corruption a central part of its agenda. Important milestones in the fight against corruption in Malawi are the creation of a number of relevant institutions, laws, policies and strategies, including the National Anti-Corruption Strategy.

The progress in the fight against corruption, however, seems to have stagnated: petty and grand corruption are commonplace and the high levels of patronage, nepotism and clientelism constitute a hurdle to the proper functioning of the anti-corruption framework. The latest corruption scandal in the country emerged in the second half of 2013 and has had some important consequences for the country, including the disruption of foreign aid that constitutes 40 per cent of the government's budget.

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Author(s)

Roberto Martínez B. Kukutschka, tihelpdesk@transparency.org

Reviewer(s):

Maira Martini; Dieter Zinnbauer; Tapiwa Uchizi Nyasulu,
Transparency International

Acknowledgment: Thanks to Jeff Kabondo from the African Institute of Corporate Citizenship for his contribution.

Date:

3 September 2014.

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This Anti-Corruption Helpdesk is operated by Transparency International and funded by the European Union.

1. OVERVIEW OF CORRUPTION IN MALAWI

Background

Malawi achieved independence in 1964 and was ruled as a one-party state by Dr Hastings Kamuzu Banda for 30 years. After three decades of autocratic rule, democracy returned to the country. In 1992, President Banda held a referendum that resulted in the return of multiparty politics. The thirty-year dictatorial rule of “President-for-Life” Banda formally came to an end in 1994 with his electoral defeat to the United Democratic Party (UDF) candidate, and former cabinet minister, Bakili Muluzi (Polity IV 2010). Since then, democratic elections have been held regularly, and today the country enjoys political stability. The state also retains a monopoly on the use of force (Global Advice Networks 2011).

Malawi is one of the world's least developed countries. Its economy is mostly based on agriculture, which employs around 80 per cent of the workforce and accounts for 40 per cent of the national GDP. The rapid expansion of the maize and tobacco industries between 2004 and 2010 led to a substantial economic growth of approximately 7 per cent per year on average (Mussa and Pauw 2011).

The agricultural boom of the mid-2000s also helped reduce poverty in the country. According to the National Statistical Office, the proportion of people living in poverty dropped from 50 per cent of the total population in the country to 39 per cent between 2005 and 2009 (Mussa and Pauw 2011). There was also a reduction of the number of people living in extreme poverty (less than a dollar a day) from 21 per cent to 15 per cent in the same period.

Despite these positive developments, poverty and inequality remain high, and the economy of Malawi is still very vulnerable to external shocks. The poor quality of much of the basic infrastructure and the government's inefficiency in delivering public goods have been serious impediments to vibrant economic development (Heritage Foundation 2014). Moreover, the government is heavily dependent on donor funding to support the national budget.

General corruption trends

Despite the various governance reforms introduced under donor pressure, the efforts to control corruption have shown weak results (Phiri and Edriss 2013). The control of corruption component from the Worldwide Governance Indicators (WGI), which ranges from 0 (lowest control of corruption) to 100 (highest control of corruption), shows that the levels of corruption in Malawi were perceived to be lower 15 years ago. This indicator reached its peak in the year 2000, with a score of 50 as a consequence of the anti-corruption measures approved in the mid-1990s that included the Corrupt Practices Act (1995) and the establishment of the Anti-Corruption Bureau (ACB).

In 2002, only two years after reaching its peak position, the control of corruption score dropped to 28, the country's lowest score, amid a scandal of corruption that led several donors such as the International Monetary Fund (IMF), the World Bank (WB), the United States and the European Union to withhold nearly US\$100 million in budgetary aid. All donors cited poor economic policies and corruption as the reasons for this (IRIN 2007).

The index recovered during the presidency of Bingu Wa Mutharika and stabilised around a score of 40 during the presidency of Joyce Banda. Malawi's current control of corruption score positions the country above both the sub-Saharan Africa average of 30 and the low-income country average of 19. This means that, despite being one of the poorest countries in the world, corruption levels in Malawi are still lower than in many other countries in the region or other countries with similar income levels.

Transparency International's Corruption Perceptions Index (CPI) corroborates these results. In 2012 and 2013, Malawi received a score of 37 on a scale that ranges from 0 (most corrupt) to 100 (least corrupt). This score is comparable to the ones of Zambia or Morocco and puts the country in position 91 on the global scale and 16 in sub-Saharan Africa.

Despite the fact that Malawi has lower levels of corruption than its sub-Saharan African peers, corruption levels remain high and have not

improved much over the last decade. Moreover, data from the 2013 Global Corruption Barometer (GCB), assessed by Transparency International, seems to suggest that corruption is on the rise. When asked whether corruption had increased, stayed the same or decreased between 2011 and 2013, 71 per cent of the Malawian respondents answered that it had increased and only 10 per cent believed it had declined.

2. NATURE OF CORRUPTION CHALLENGES

Transparency International's 2013 National Integrity System Assessment (NIS) for Malawi concludes that corruption in the country remains a significant and cross-cutting problem that ranges from high-level political corruption to petty bribery as well as patronage and nepotism. Other sources also suggest that the current social, political and administrative conditions tend to provide an environment that is conducive to corrupt practices (Phiri and Edriss 2013) and, as a result, petty, political and grand corruption are still widespread (Global Advice Network 2011) despite efforts to curb them.

Malawi's latest corruption scandal, "Cashgate", came to light in late 2013 and revealed the vulnerabilities of Malawi's anti-corruption system, which allowed for the funnelling of around US\$250 million from government coffers into private bank accounts (McCormick 2014). Cashgate triggered a confidence crisis that led donors to withhold US\$150 million in budgetary support marking a new low in the donor-country relationship for Malawi under Joyce Banda's presidency.

The existing literature offers a wide variety of reasons why the implementation of the anti-corruption framework in Malawi has been faulty and explains, to certain extent, how Cashgate was made possible:

Underfunded oversight mechanisms

Poor funding of the institutions in charge of controlling corruption is a significant cause for

implementation deficiencies. There are insufficient financial and human resources to audit all public offices effectively (Phiri and Edriss 2013). The Ombudsman's Office, for example, is grossly underfunded. In December 2012, only 30 per cent of the required funding was provided (Transparency International 2013). Interviews conducted for the NIS 2013 also reveal that, due to limited funding, this organ struggled to conduct investigations on complaints raised in various districts of Malawi. In June 2014, Member of Parliament Bently Namasasu noted that the persistent underfunding to institutions such as the ACB and the Office of the Director of Public Prosecutions, which are mandated to combat corruption in the country, is crippling their duties (Phiri 2014).

Clientelism and patronage networks

The public sector in Malawi has been characterised by patronage through appointment, offers of lucrative contracts, and enticement of party loyalists and opposition with cash (Hussein 2005). According to the 2013 GCB data, around 80 per cent of the respondents in Malawi believe that connections are important to get things done in the public sector. This reflects the importance and the extent of patronage and clientelism in the Malawian society, where public posts are used to favour political allies of the ruling elite, even if this implies bending the rules of a democratic system (Hussein 2005). The 2013 NIS report also notes that the separation between public and private affairs is not clear, with many office-holders openly favouring their business and family interests over public ones (Transparency International 2013).

In its assessment of the ACB in 2010, the British Department for International Development (DFID) states that the fight against corruption has been affected by "a political context where politics and institutions are highly personalised and by a political culture which tends to discourage impartiality". (Hechler and Parkes 2010). The extensive patronage networks in Malawi have also raised doubts about the independence of the public service as appointments in public sector positions, awards of lucrative contracts, and enticements of party loyalists and opposition MPs with cash and

favours are commonplace (Transparency International 2013).

Patronage and clientelism have also cast a shadow on the actual goals of the anti-corruption policies in Malawi, with some critics highlighting the fact that investigations undertaken by the ACB are not objective but politically motivated and that they are used to keep close control of certain groups, while turning a blind eye to corrupt practices by party loyalists (Phiri and Edriss 2013).

Extensive red-tape

Excessive, complicated regulations (red tape) are known to be a potential source of corruption as they give public officials leverage to intentionally slow down or bottleneck processes so that potential clients offer bribes to get things done. Due to a lack of automation in most government departments in Malawi, operations are slow and inefficient and almost every transaction has to be supported by official stamps, signatures and copious amounts of documentation (Hussein 2005).

According to the World Bank's 2014 Ease of Doing Business report, Malawi ranks in place 171 out of 189 economies included in the study. The data reveal that starting a firm in Malawi would take around 40 days and include 10 different bureaucratic procedures. The time and number of procedures is high even when compared to other economies in the region. On average, it takes 29 days and eight bureaucratic procedures to start a business in sub-Saharan Africa. Getting electricity, however, is even more complicated and takes around 222 days, 80 days longer than the regional average for the same procedure.

On top of long and inconvenient procedures that businessmen and citizens need to endure, the 2009 World Bank Enterprise Survey also showed that the percentage of transactions in which a gift or an informal payment was required was 8.4 per cent. According to this same survey, 11.4 per cent of firms were expected to give gifts in meetings with tax officials, 2.8 per cent to secure government contracts, 3.5 per cent to obtain operating licenses, 4.9 per cent to get a construction permit, and 12.6 per cent to get an electricity connection.

Restricted access to government information

The public sector is particularly weak with regard to its internal governance mechanisms of accountability, transparency and integrity (Transparency International 2013). For example, public officials in senior positions are appointed in a discretionary manner with both a lack of transparency and through widespread patronage networks as mentioned before. As a result, the top leadership can be easily removed or replaced, which creates a sense of insecurity at the top levels of the bureaucracy.

Executive accountability in Malawi has been partly limited by the inadequate access to an information framework, which further fuels the culture of secrecy and non-responsiveness of individual public officers (Bertelsmann Stiftung 2012). Although section 37 of the Malawi Constitution grants the right of access to information, there is no legislation to compel authorities to release information proactively or by request (Transparency International 2013).

A campaign for an Access to Information Law in Malawi started in 2003, but stalled in 2009 when the government indicated that there was a need for a policy on access to information before the bill could be passed to parliament for debate. In early 2014, the Malawian Cabinet finally adopted an access to information policy, but the legal framework for its application is still unfinished. As a result, the government does not publish enough information to allow citizens and civil society to judge the government's performance in the provision of goods and services. This lack of information also provides politicians with the opportunity to allocate goods and services through clientelism, to "buy" political support (World Bank 2004).

Weak checks and balances

Although Malawi's political system is said to be a hybrid that combines aspects of the presidential and parliamentary systems, the presidential model dominates the political practice. The president has enormous power and influences the life of almost all

other institutions in the country (Transparency International 2013): The president appoints the head of nearly every agency and the constitution grants the president powers to appoint ministers without subjecting the appointments to any form of checks and balances. The president also appoints most constitutional office holders, the attorney-general, the director of public prosecutions, the solicitor-general, the auditor-general, the secretary to the cabinet, the chairman and commissioners of the electoral commission and the director of the anti-corruption commission, among others (Transparency International 2013).

In addition to these extensive presidential powers, political power remains concentrated at the national level. As a result, there is little local accountability, which has led to the poor performance of many key services, with staff often unsure who reports to whom (O'Neil, Cammack and Kanyogolo 2014).

3. EFFECTS OF CORRUPTION BY SECTOR

According to GCB 2013 data, the police, judiciary, bureaucracy, the education sector, the health care system and the political parties are all perceived as corrupt or extremely corrupt by more than 70 per cent of respondents. Other surveys tailored towards the business community also suggest that corruption in customs, tax administration and public procurement is common and particularly serious (Heritage Foundation 2013). These surveys reveal that corruption in Malawi is not restricted to certain vulnerable sectors, but is a generalised phenomenon in the public sector.

The competitive clientelism that is prevalent in the existing governance arrangement sets up strong incentives for the elite to establish and maintain institutions that enable them to deliver rewards of different kinds to their factions and supporters and to retain their positions in the party by demonstrating their usefulness to its leader. Conversely, they often have few incentives to work together to build institutions that will deliver national public goods over the long term (O'Neil, Cammack and Kanyongolo 2014).

Agriculture

The agricultural sector is of vital importance to Malawi as it constitutes the backbone of the economy and employs almost 80 per cent of the workforce. Most of the farmers in the country, however, are subsistence farmers. Since 2004, and after years of continuing food crises, Malawi implemented the Farm Input Subsidy Programme (FISP) designed to boost its food self-reliance capacity.

The programme's design is easy to understand: beneficiaries are given coupons that allow them to buy fertiliser at a subsidised rate. Without the subsidy, most farmers would not be able to afford the fertiliser at market prices. Only those categorised as poor were supposed to benefit from the programme. At the start, the programme was criticised by donors as it did not support a free market economy, but it yielded some positive results almost immediately. By 2005, a year after the subsidies started, Malawi harvested a grain surplus of half-a-million tonnes and it started exporting grain to other sub-Saharan African countries.

By the end of 2010, FISP was being heralded as a success because of the abundant yields, and it served as a role model for countries that were contemplating a similar strategy. The programme, however proved to be very costly: by 2009 the government was spending 16 per cent of its budget on subsidies. Malawi is now facing severe food shortages again due to the fact that most of the maize production relies on rainfall and only 3 per cent of the country is considered to have a proper irrigation infrastructure.

Evaluations of FISP note the existence of corruption in its implementation. Procurement and transportation contracts were awarded in an opaque manner, providing evidence of rent-seeking activities (Holden and Tostensen 2011). Since its launch in 2005, the program expenditures exceeded the initial budget by between 41 and 105 per cent (Dorward and Chirwa 2011), and although some of the over-expenditure is attributed to fluctuations in the price of fertiliser, this does not account for all the extra costs (Chinsinga 2011).

The World Bank (2011) estimates that programme costs could have been inflated by as much as 50 per cent due to policies of favouring certain contractors rather than applying competitive pricing.

Using corruption as their *modus operandi*, organised criminal groups have infiltrated the programme to obtain both subsidised fertiliser and coupons. The networks involve a diverse group of people, ranging from government officials, politicians, coupon printers, businessmen, and truck drivers to foreign nationals who are part of the organised groups (Tambulasi 2013). This example shows that the agricultural sector is vulnerable to the weak governance and high levels of corruption that predominate in the country.

Education

One of the first reforms that came with the restoration of multi-party democracy in Malawi was the introduction of free primary education in 1994. This reform increased access to primary as well as secondary education and created opportunities for many children, but it also placed additional pressure on an education system that was already weak in terms of human and financial resources (Transparency International 2013b). The increased intake necessitated more teachers, learning materials and new facilities (AfriMAP 2014).

According to the Governance and Corruption Survey 2010, the majority of Malawians felt that the schools their children attended were good or very good (68 per cent). This shows an improvement since the 2006 survey which showed Malawians were split on the quality of schools. In general, the perception of households is that the education sector in Malawi, irrespective of whether it is private, mission or government funded, has improved. The main reason for concern in the sector, however, is that the percentage of people paying bribes to get access to education increased from around 1 per cent to 7 per cent between 2006 and 2010. The 2013 GCB also reveals that 70 per cent characterise the education sector as either corrupt or very corrupt.

As it is the case for agriculture, the education system is also a victim of the weak governance

context in which it operates. There are weak systems of accountability throughout the system and an inadequate allocation of funds to education at all levels (Transparency International 2013b). A public expenditure tracking survey carried out in 2011 revealed that only 52 per cent of the approved budget for 2010/11 had been spent as of March 2011, when 75 per cent of the financial year was already over (Transparency International 2013). Previous years showed similar trends.

Civil society involvement in the education sector has been important to hold the authorities accountable. For example, the Civil Society Education Coalition (CSEC), an umbrella grouping of organisations active in advocacy for high-quality basic education, have focused on monitoring the education budget allocated for specific activities, such as teacher housing and classroom construction, at the local level in order to show communities how much money was allocated and to hold authorities accountable (Transparency International 2013b)

Through its work, CSEC has managed to identify cases of mismanagement and other malpractices such as the financing of “ghost” teachers and schools, and the charging of administration fees by regional governments for handling school funds. It also contributed indirectly to the prosecution of the former education minister for spending public funds on his wedding. CSEC’s constant pressure and surveillance has done much to open up the Malawian government to civil-society demands for greater accountability. The budget monitoring exercise has added a voice for Malawian civil society in demanding social services and accountability (Van der Gaag and Rowlands 2009)

4. LEGAL AND INSTITUTIONAL ANTI-CORRUPTION FRAMEWORK

Legal framework

On 17 May 1995, Malawi introduced a new constitution. This expressed the new democratic Malawi’s commitment to public trust and good governance. Section 13 of the constitution committed the country to “introduce measures

which will guarantee accountability, transparency, personal integrity and financial probity and which by virtue of their effectiveness and transparency will strengthen confidence in public institutions". In response to this commitment, several laws have been passed over the last two decades:

- The Corrupt Practices Act (1995) criminalises attempted corruption, extortion, active and passive bribery, bribing a foreign official, and abuse of office (Global Advice Networks 2011). Malawi's penal code also criminalises active and passive bribery.
- The Public Procurement Act (2003) requires procurement regulations to provide thresholds for the use of procurement methods, bid evaluation procedures and contract management.
- The Public Audit Act (2003) expands the powers of the National Audit Office and the auditor general so they can undertake performance reviews and audits. They may also seek assistance for specialised audits where required.
- The Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act (2006), criminalises money laundering.
- The National Anti-Corruption Strategy (2009) consolidates multi-sectoral efforts to fight and prevent corruption and support the goals outlined in the Malawi Growth and Development Strategy. The main thrust of the strategy is the establishment of a National Integrity System (NIS) supported by eight pillars: the executive, legislature, judiciary, private sector, civil society, faith based organisations, traditional leaders and the media.
- The Public Officer's Declaration of Assets, Liabilities and Business Interests Bill (2013) requires all public officials to disclose their assets within three months of being appointed or elected.

According to the 2011 Global Integrity Report for Malawi, the country has strong anti-corruption laws. However, there is still a significant gap between law and practice. Malawi's legal anti-corruption

framework received a score of 87 out of 100, but actual implementation received a score of 60 out of 100. For example, although the law requires senior elected representatives and public officers to declare their assets, implementation of this law has been deficient (Transparency International 2013).

There are two main areas of concern regarding Malawi's legal framework: access to information and political financing. As explained above, there is no legislation regulating access to public information and although an Access to Information Bill exists, it is yet to be passed by parliament. Regarding political party financing, there are no limits on individual political contributions, corporate donations or party expenditures. Furthermore, there is no requirement for disclosure of donations or audits of political parties or candidates (Global Advice Networks 2011). Access to government information in Malawi is also deficient.

Institutional Framework

Anti-Corruption Bureau (ACB)

The ACB was created in 1995 in accordance the 1995 Corrupt Practices Act. The ACB is an independent and autonomous government body, and its approach against corruption is based on four pillars: investigation, prosecution, prevention and public education. As a result, the anti-corruption measures conducted by the ACB involve reviewing procedures, systems and methods in public as well as private organisations, and advising on best practices with regard to prevention and detection of corruption. The ACB has also established important partnership agreements with a number of key institutions that could aid the operations of the ACB in its fight against corruption with a multi-sectoral approach (Transparency International 2013).

Following the amendment of the Corrupt Practices Act in 2004, the ACB has increased its efficiency, handling a vast number of cases and investigations and conducting a number of trials against both politicians and businesspeople. Nevertheless, the ACB still faces serious financial and human resource constraints and has consistently run into problems obtaining the necessary consent from the director of public prosecutions (DPP) to prosecute

high-profile cases (Global Advice Networks 2011 and Transparency International 2013).

The failure of the ACB to successfully pursue high profile corruption cases has created the perception that the bureau is being influenced by politics (Global Advice Network 2011), especially as the director is nominated by the president. The ACB is undertaking civic education efforts, such as workshops and campaigns in the media, which has led to greater public visibility of the ACB (Global Advice Networks 2011).

Office of the Ombudsman (OoO)

The OoO was established by the 1994 constitution and is an important governance institution in terms of enhancing public awareness about the misuse of public office (Andreassen and Oftedal 2007). This office has the mandate to investigate, free of charge, “cases where it is alleged that any person has suffered injustice”.

The wide scope of the OoO’s mandate to handle all cases of injustice has turned it into a cheap substitute for the courts for people who cannot afford to go through expensive court processes (Andreassen and Oftedal 2007), but this institution lacks the capacities and resources to respond to the overwhelming demand for its services (Bertelsmann Stiftung 2012). In addition, for most of the 2009 to 2010 period, there was no ombudsman in place, rendering the office effectively non-operational.

Since its creation, the OoO has been investigating charges of corruption, maladministration and tender irregularities. However, the 2013 NIS assessment finds that in addition to its resource constraints, there have been instances of political interference including open defiance by government agencies when it comes to implementation of the Ombudsman’s determinations (Transparency International 2013: 125). In spite of this, the office enjoys good levels of public trust. Integrity mechanisms are however weak and would require further strengthening.

National Audit Office (NAO)

The NAO, headed by the auditor general, is the supreme audit institution in Malawi. Its mandate derives from the constitution and the Public Audit Act 2003. As the institution tasked by law to provide financial oversight to government entities and departments, the goal of this office directly contributes to the principles of good governance, transparency, accountability and sound financial management in Malawi’s public sector.

Despite NAO’s efforts, serious misappropriation of public funds, such as the 2013 Cashgate corruption scandal, have been exposed over the years. It is important to remember, however, that the responsibility for safeguarding public funds is not limited to the NAO alone. Moreover, like other anti-corruption bodies in Malawi, the NAO lacks the financial and human resources to audit all public offices effectively (Bertelsmann Stiftung 2012).

Office of the Director of Public Procurement (ODPP)

The ODPP was established in 2004 to monitor and oversee all public sector procurement activities, to ensure transparency and value for money and to maximise the potential for public procurement to support sustainable development. Tenders are publicised at the ODPP website and most calls for bids are placed in the media. The ODPP website has an archive of closed and awarded tenders and has an anonymous e-mail based hotline for reporting irregularities in the tendering process. (Global Advice Networks 2011). However, the procurement process in Malawi is still inadequate, partly due to the agency’s lack of capacity to enforce the law, the inadequate public awareness regarding the existence of the law, and the little familiarity with the mandate and operations of the institution (Transparency International 2013).

Office of Public Officers Declarations (OPOD)

Following the Cashgate scandal and the ensuing public pressure to make public officials declare their assets in order to prevent them from accumulating excess and unexplained wealth during their time in office, the Malawian Parliament passed the Public Officers Declaration of Assets Liabilities and

Business Interest Act in 2013.

This new law created the ODOP, which will be responsible for receiving and verifying declarations of assets of public officers, including the president and members of parliament. The first director of the ODOP was selected by the parliament in late August 2014 and the office is not yet fully operational, which makes it difficult to assess its potential impact in the future. The Public Officers Declaration of Assets Liabilities and Business Interest Act is nevertheless a step in the right direction for achieving greater transparency and accountability in the public sector.

Non-governmental anti-corruption watchdogs

Civil Society

One of the most notable results of the transition to multiparty democracy was the rebirth of civil society. Although the law grants Malawian civil society organisations (CSOs) freedom of activity, the attitude of political authorities creates practical limitations: high level politicians seem to believe that freedom of CSOs is conditioned on CSOs not involving themselves in political activities (Transparency International 2013). As a result, CSOs experience all sorts of interference and constraints mainly from ruling political parties and state agents (Transparency International 2013).

Despite these limitations, civil society has been able to push the agenda on public accountability, but it has not been very successful in securing policy and institutional reforms as their work in the governance sector has often been compromised through co-optation of their leaders into government structures (Transparency International 2013). The late President Mutharika created a presidential advisory council involving civil society leaders which attenuated the capacity of the leaders to raise questions on bad political and economic governance, but co-optation did not end after his death and key personalities in civil society now serve in a variety of government posts on appointment by the president.

In summary, CSOs in Malawi are vulnerable to government interference and need to strengthen

their corporate governance systems and procedures to ensure that they gain and sustain their own integrity, public confidence and credibility to carry out evidence based research and advocacy (Transparency International 2013).

Media

The Constitution of Malawi guarantees both freedom of speech and freedom of the press. However, there have been some substantial setbacks for media freedom in the country since 2011 (Freedom House 2012). In January 2011, the president amended a law that previously allowed the minister of information to prohibit the importation of publications deemed “contrary to the public interest” and granted the authority to ban the domestic publication of such materials as well. Political interference with media houses has also been a constant, especially between the 2009 general election and the death of President Mutharika in April 2012 (Transparency International 2013).

Although the only formal restriction for the media is the need to have a licence, provided by the Malawi Communications Regulatory Authority (MACRA), which is funded by the government and led by a presidential appointee, this agency has regularly been accused of political bias in its operations (Freedom House 2012 and Transparency International 2013).

Despite these limitations and the increasing trend in violence and harassment of journalists (Freedom House 2012), the media in Malawi is very active and successful in informing the public on the activities of the government and other governance actors. Apart from the ordinary news bulletins, the media also runs special programmes that deal with various government and governance issues. Radio stations have panel discussion programmes, among others. The print media also has specialised columns which tackle topical governance issues (Transparency International 2013).

Furthermore, the media has been increasingly involved in the promotion of governance projects focused on the promotion of accountable and inclusive governance (Transparency International

2013). Moreover, the Malawian media has also benefitted from donor funding in the governance arena. The lack of an Access to Information Law in the country, however, limits the potential role of the media as an anti-corruption watchdog.

Private sector

Although the private sector's involvement in anti-corruption efforts has been "barely average" according to the 2013 NIS report (Transparency International 2013), some interesting initiatives have been undertaken by this sector in order to help curb corruption:

- The corporate governance code, for example, was a collective effort that involved government, private sector and a few civil society organisations.
- The National Construction Industry Council (NCIC) is implementing a project known as the Construction Sector Transparency (CoST) initiative aimed at promoting integrity in the sector by advocating for more transparent transactions between government and contractors, ensuring adherence to construction standards, timeliness of projects, award of contracts and resource tracking, etc. (Transparency International 2013).
- In 2006, Malawian companies also launched the initiative called Business Action against Corruption (BAAC), which developed a code of conduct guiding business enterprises to conduct honest and corruption-free business transactions. The code binds its members to operate within certain ethical standards and provides a range of programs to enable member companies and their representatives to effectively deal with corruption.
- The TIP OFF Anonymous project, aims at enabling reporting of corrupt practices in companies, CSOs and any other interested organisations.

5. CONCLUSIONS

Despite a relatively strong legal anti-corruption framework, there is a significant gap between law and practice in Malawi. This is a systemic problem that affects all sectors of government and complicates the fight against corruption. This problem is a symptom of a lack of common practice to follow rules and a deeply entrenched culture based on patronage relationships (Transparency International 2013).

The influence of the executive branch on politics is also a source of concern. The vast presidential powers combined with the patronage networks negatively impact the performance of institutions that are supposed to help control corruption and keep an eye on the government, such the ACB, the NAO, the OoO, etc. and the judiciary, among others.

6. REFERENCES

- AfriMAP. 2014. Malawi: Democracy and Political Participation. Open Society Initiative for Southern Africa <http://www.afri-map.org/ReportCountry/Malawi>
- Andreassen, B. and T. Oftedal. 2007. The Office of the Ombudsman in Malawi: An Appraisal, NORAD Collected Reviews 5/2007. <http://www.norad.no/en/tools-and-publications/publications/publication?key=109612>
- Bertelsmann Stiftung. 2012. Malawi Country Report, Bertelsmann Transformation Index 2012. http://www.bti-project.org/uploads/tx_itao_download/BTI_2012_Malawi.pdf
- Chinsinga, B. 2011. "The Political Economy of Agricultural Processes In Malawi: A Case Study of the Fertilizer Subsidy Programme", Working Paper 039, Future Agricultures.
- Dorward, A., E. Chirwa and R. Slater. 2011. "Evaluation of the 2008/9 Agricultural Input Subsidy Programme Malawi"
- Freedom House. 2012. Malawi, Freedom of the Press Report 2012. <http://www.freedomhouse.org/report/freedom-press/2012/malawi#.VAb29UtVuls>
- Global Advice Networks. 2011. Malawi Business Anti-Corruption Portal.

<http://www.business-anti-corruption.com/country-profiles/sub-saharan-africa/malawi/snapshot.aspx>

Global Integrity. 2009. Malawi Scorecard 2009. Global Integrity Report. 2009.
https://www.globalintegrity.org/global_year/2009/

Global Integrity. 2011. Malawi Scorecard 2011. Global Integrity Report 2011.
https://www.globalintegrity.org/global_year/2011/

Hechler, H. and B. Parkes. 2010. "Annual Review of the DFID/RNE Malawi's Anti-Corruption Budget Support Programme", NORAD Collected Reviews 09/2010.
<http://www.norad.no/en/tools-and-publications/publications/publication?key=207030>

Heritage Foundation. 2014. Malawi, Index of Economic Freedom.
<http://www.heritage.org/index/country/malawi>

Holden, S., and A. Tostensen. 2011. "Appraisal of the Malawi Medium Term Plan for the Farm Inputs Subsidy Programme, (2011-2016)", Norwegian Embassy Lilongwe, Malawi

Hussein, M. 2005. "Combating Corruption in Malawi", *African Security Review* 14:4
<http://www.issafrica.org/topics/corruption-and-governance/01-dec-2005-combating-corruption-in-malawi-mustafa-hussein>

IRIN. 2007. "MALAWI: Corruption seen as Worsening", IRINnews
<http://www.irinnews.org/report/74577/malawi-corruption-seen-as-worsening>

McCormick, T. 2014. "Climate of Corruption", *Foreign Policy*.
http://www.foreignpolicy.com/articles/2014/01/27/corruption_malawi_climate_change_africa

Mussa, R. and K. Pauw. 2011. "Poverty in Malawi: Current Status and Knowledge Gaps", *Policy Note* No. 9, International Food and Policy Research Institute.
<http://www.ifpri.org/sites/default/files/publications/massppn9.pdf>

O'Neil, T., D. Cammack, E. Kanyongolo, et al. 2014. "Fragmented governance and local service delivery in Malawi", ODI.
<http://www.odi.org/publications/8382-fragmented-governance-local-service-delivery-malawi>
Polity IV. 2010. Country Report 2010: Malawi.
<http://www.systemicpeace.org/polity/Malawi2010.pdf>

Pauw, K. and J. Thurlow. 2014. "Malawi's Farm Input Subsidy Program: Where Do We Go from Here?", *Policy Note* No. 18, International Food Policy Research Institute.
<http://www.transparency.org/gcb2013/country/?country=malawi>

Phiri, H. and A. Edriss. 2013. "Neopatrimonialism and Agricultural Protection: The Case of Maize in Malawi", Working Paper 01, International Food Policy Research Institute.
<http://www.ifpri.org/sites/default/files/publications/masswp1.pdf>

Phiri, B. 2014. "Underfunding Cripples ACB, DPP", *The Nation*. June 30 2014.
<http://mwnation.com/underfunding-cripples-acb-dpp/>

Tambulasi, R. 2013. "The Public Sector Corruption and Organised Crime Nexus: The case of the Fertiliser Subsidy Programme in Malawi", *African Security Review* 18:4

Transparency International. 2013. Malawi National Integrity System 2013.
http://www.transparency.org/whatwedo/pub/malawi_national_integrity_system_assessment_2013

Transparency International. 2013b. Global Corruption Report: Education.
<http://www.transparency.org/whatwedo/publications/doc/gcr/>

Transparency International. 2014. Corruption Perception Index 2013.
<http://cpi.transparency.org/cpi2011/results/>

Transparency International. 2014. Global Corruption Barometer 2013.
<http://www.transparency.org/gcb2013/country/?country=malawi>

Van der Gaag, N. and J. Rowlands (eds.) .2009. *Speaking Out: Case Studies on how Poor People Influence Decision Making*, Practical Action Publishing and Oxfam
<http://policy-practice.oxfam.org.uk/publications/speaking-out-case-studies-on-how-poor-people-influence-decision-making-115529>

World Bank. 2004. World Development Report: Making Services Work for Poor People"
<https://openknowledge.worldbank.org/handle/10986/5986>
World Bank. 2014. "Doing Business in Malawi", *Doing Business Report* 2014.

<http://www.doingbusiness.org/data/exploreeconomies/malawi/>

World Bank. 2009. Country Summary for Malawi, Enterprise Surveys: What Businesses Experience.
<http://www.enterprisesurveys.org/data/exploreeconomies/2009/malawi>

Worldwide Governance Indicators. 2013. Country Data Report for Malawi.
<http://info.worldbank.org/governance/wgi/pdf/c154.pdf>

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