



MALAWI

National Overview 2007
by MISA Malawi

National Overview

By Kelvin Sentala

Human rights lawyer



Malawi

The year 2007 should have read like a fairy-tale for Malawi media. However, it did not. It began with a luncheon for media bosses hosted by the President Bingu wa Mutharika at the new State House, his official residence, in Lilongwe. He followed this up with invitations to selected private media houses to send their journalists to accompany the President in his foreign tours, presumably to stave off a spate of bad publicity from foreign media. But the stand-off between the Parliament and the public media moved from bad to worse on matters of covering opposition activities. This culminated in the crown jewels of the public media - *Malawi Broadcasting Corporation (MBC)* and *Malawi Television (TVM)* - getting more than a rap on the knuckles from the National Assembly. Finance Minister Goodall Gondwe gave the two institutions a token of MK1 (less than one US cent) each in the national budget. It became clear that the national assembly would not fund institutions that it felt favored the opposition.

The Government continues to exercise the power given by laws that exist to harass the media. For instance, the police can still harass and detain media workers on unclear grounds. Montfort Media photojournalist Kazembe Kayira was detained and had his camera confiscated by the police for taking pictures at a presidential function. He was released without charge.

Media-Government Relationship

The government and the media continued to play the cat-and-mouse game. There was no change in the long-running mistrust between the two institutions, with the Government withholding information and sometimes using threats against the media, while the media earned itself a bad name for persistently trying to uncover every piece of dirt it can on the Government and glossing over the wrongs of the opposition. There is clearly a need for open dialogue and mutual assurance of goodwill.

Constitutional Rights and Legislative Environment

The Malawi Constitution, which the country adopted in 1995, a year after acceding to multi-party democracy is regarded as one of the best on the African continent. However many laws in the country violate the Bill of Rights in the Constitution and need instant repeal. Last January, MISA Malawi, in conjunction with Media Council organised a national consultative meeting to find a way forward on how to address these issues.

Politicians have sometimes tried to infringe the rights of the media through the use of sheer brute force, as amply demonstrated by the attack on Blantyre Newspapers Limited (BNL) Lilongwe Bureau Chief Dickson Kashoti by MP Joseph Njobvuyalema; or through the abuse of the courts as in the case of Neno MP Mark Katsonga who obtained an injunction stopping BNL from reporting on a case in which he was accused of causing a hit-and-run road accident and killing a cyclist. BNL challenged the injunction and reported the matter, including his conviction and the fine he was ordered to pay.

Defamation

The media faced several defamation suits in 2007, some of them totally ingenious in their construction. Two people mentioned in a story involving a woman caught in a love triangle with a bank manager and a catholic priest sued *The Daily Times* for defamation. The woman, whose marriage was dissolved by the courts for irreconcilable differences, and the bank manager sued the newspaper for not seeking their side of the story although the story was based on court records. BNL fired Reporter Carol Somanje and suspended its general manager over the same story. On a lighter note, several people have threatened to sue or sued *The Sunday Times* over its scandal column "the drycleaner", all of them claiming to have been the subject of a story that mentions no name but gives pointers on possible culprits.

Access to Information

There was a lot of lobbying for the Access to Information Bill and general sensitisation of stakeholders, many of who erroneously believed it is meant for the benefit of the media only. Although the Minister of Information and Civic Education and the Parliamentary Committee on Media and Communication have openly supported the draft bill, it is still a long way from being tabled in the National Assembly. The Access to Information Bill is a crucial piece of legislation enabling scholars, researchers and ordinary citizens to get hold of information necessary for their work but which officials would normally want to keep under wraps.

The Government has not been proactive in releasing information of public interest, except where it may be injurious to the reputation of its detractors. For instance, the State House issued a statement accusing former President Bakili Muluzi of giving aid to Sudanese rebels while he was in office. The claim was never substantiated nor was it clear in whose interest this information was being issued.

One piece of excellent reporting where a public institution was forced to eat its words was the case of the leakage of the 2007 Malawi School Certificate of Education (MSCE) examinations. The Malawi National Examinations Board (Maneb) insisted its security was watertight and no paper had leaked to the public until The Daily Times published excerpts of as yet unpublished examination papers. It is not clear what secrecy code the newspaper breached in breaking this story.

Other legislation

There is greater danger of self-censorship than outside censorship. An excellent example was the luncheon with President Mutharika. *TVM* broadcast the conference live, but for whatever reason, in its evening rebroadcast the station carefully edited out all the questions, leaving the President giving answers to questions no one knew. *TVM* was forced to make another rebroadcast in which they took the President out of the vacuum and appropriately provided him with questions to answer. Most of the censorship we see in the press is of this kind, from overzealous editors and producers trying to carry favour with the powers that be.

The courts have maintained their independence in dealing with cases involving the media. The Lilongwe Magistrate's court ruled against Njobvuyalema in his assault on Kashoti and awarded Kashoti damages. The MP appealed against the ruling. His conviction could lead to his losing his seat in Parliament. The appeal is yet to be heard.

The laws governing the licensing of radio and television stations are also unreasonable. The law under the Malawi Communications Regulatory Authority (Macra) Act forbids dual ownership, making it impossible for anyone to operate both radio and television. This piece of legislation, which was originally intended to check on unscrupulous monopoly in media ownership, has had the undesired effect of blocking potential investors in their tracks. Individual politicians wanted to perpetuate the myth that they are a cut above ordinary mortals and therefore above the law, but the courts often trimmed them to size, to the general acclaim of the judicial system.

Broadcasting

Macra remains the only regulator and its independence has been challenged by various stakeholders, especially the independent media houses, which have suffered the brunt of its terror. It is the sole authority that issues broadcast licences and frequencies. There are indications that Macra would like to see some of its draconian regulations changed.

General Information on Broadcasting as at the end of 2007

Radio/TV Station	Owner	Classification	Coverage
MBC Radio 1	State Owned	Public	All districts
MBC Radio 2	State Owned	Public	All districts
MIJ Radio	Malawi Institute Of Journalism	Private	Blantyre, Ntcheu, Lilongwe, Mzuzu
CFC Radio	Calvary Family Church	Religious	Blantyre
TVM	State Owned	Public	All districts
Capital Radio	Al Osman & Family	Private	All the country's three regions
Power 101 FM	Oscar Thomson	Private	Blantyre, Dedza, Karonga, Lilongwe, Ntcheu
Joy Radio	Bakili Muluzi & Family	Private	Blantyre, Chikwawa, Lilongwe, Mwanza, Thyolo
Star Radio	Rev. Richard Lutwama	Private	Chiradzulo, Lilongwe, Thyolo
Channel For All Nations	Assemblies of God Church	Religious	Lilongwe
Radio Alinate	Roman Catholic Diocese of Lilongwe	Religious	Lilongwe
Zodiak	Gospel Kazako	Private	Blantyre, Lilongwe, Karonga, Mangochi, Mwanza, Mzuzu
Radio Tigabane	Roman Catholic Diocese of Mzuzu	Religious	Mzuzu
Transworld Radio	Transworld International	Religious	Blantyre, Dedza, Mangochi, Mzuzu, Nkhotakota

Radio Islam	Zakaat Islamic Foundation	Religious	Blantyre, Lilongwe, Karonga, Mangochi, Mchinji, Mzuzu
Dzimwe Radio	Dzimwe Community	Community	Mangochi
Nkhotakota Radio	Nkhotakota Community	Community	Nkhotakota
Mudziwathu Radio	CRECCOM	Community	Mchinji
Television Luntha	Montfort Fathers	Religious	Balaka, Zomba
BBC	BBC	Relay	Blantyre, Lilongwe, Mzuzu
ABC Radio	African Bible College	Community	Lilongwe, Mzuzu
Mzimba Community	Mzimba Volunteers	Community	Mzimba
Radio Maria	Association of Radio Maria Malawi	Religious	Blantyre and surrounding districts
Adventist Radio	Adventist Church of Malawi	Religious	Blantyre and surrounding districts

**Information obtained from Macra*

At the end of 2007, the following publications were in circulation:

Publication	Publisher	Circulation	Distribution	Frequency
Daily Times	Blantyre Newspapers Ltd	14,000	National	Daily
Malawi News	Blantyre Newspapers Ltd	26,000	National	Weekly
Sunday Times	Blantyre Newspapers Ltd	17,000	National	Weekly
The Nation	Nation Publications Ltd	15,000-20,000	National	Daily
Weekend Nation	Nation Publications Ltd	35,000-40,000	National	Weekly
Nation on Sunday	Nation Publications	12,000-15,000	National	Weekly

Guardian Newspaper	Guardian Publications	5,000	Selected districts	Tri-weekly
Boma Lathu	Information dept.	10,000	National	Monthly
Weekly News	Information Dept	5,000	National	Weekly
Financial Digest	Financial Digest Ltd	5,000	National	Weekly
Pride Magazine	Pride Publications	10,000 - 15,000	National	Bi-Monthly
Nkwaso Magazine	Montfort Press	3,000	Community	Bi-Weekly
The Lamp	Montfort Press	3500	National	Bi-Monthly
Together magazine	Montfort Press	5000	National	Quarterly

**Information obtained from individual media managers*

Media Diversity

There was little to show for media diversity in 2007. *Joy TV* was unable to take off over legal wrangle surrounding its licence and issues of dual ownership. The *Joy* case seems to be complicated by the fact that under the Macra Act, no politician can own a radio/TV station. Bakili Muluzi is the former President and still an active politician while Atupele Muluzi is a serving MP. Both are listed as owners of *Joy Radio*.

There were hardly any new titles of publications; on the contrary, quite a few seemed to have folded or taken a long break, viz. *The Chronicle*, *Dispatch* while one new title, *Business Digest*, comes out intermittently.

A blend of editorial policy and self-censorship determine editorial outcomes. Advertisers tend to be a very powerful influence on editorial decisions; they are the so-called lifeblood of the media and the media have to pander to their every whim.

Media Fraternity

The comatose Media Council of Malawi resurrected to life with campaigning from MISA-Malawi and funding from Casals & Associates acting on behalf of the Millennium Challenge Account.

A Journalist Union of Malawi (Juma) was born out of the ashes of defunct Journalists Association of Malawi (Jama) also with MISA-Malawi's push and funding from Copyright Society of Malawi and International Federation for Journalists (IFJ).

There were significant gains for the media in 2007, including Presidential blessing. Media workers should rise up to the challenge of ownership in order to become a dominant factor in making editorial decisions. As we approach elections in 2009, the media will be put to the test once again.

• **ALERT**

Date: October 29, 2007

Persons: Joy TV

Violation: Censored

On October 29 2007, the Malawi Communications Regulatory Authority (Macra) ordered *Joy TV* to immediately stop all television broadcasts until the station is issued appropriate radio and broadcasting licenses.

Joy TV - a sister company to *Joy Radio* - has been held up in a wrangle with the country's communications regulator after it challenged the Macra Board in court, describing it as illegal.

In the latest development, Joy TV's project manager Tailosi Bakili expressed surprise over the directive, saying the television station had applied for a court injunction stopping Macra from blocking its operations.

According to Macra's letter to the station's manager, the regulator expressed concern that *Joy TV* was broadcasting without a license, which it said expired on March 31, 2007.

The letter further warned that if the station flouts the directive, Macra would proceed to take appropriate measures against it, as stipulated in the same Act.

Joy Television Limited is expected to be Malawi's first private TV station. There is only one state-owned television station, *Television Malawi* (TVM), in existence.

This development comes after *Joy TV* wrote the regulator on August 28, 2007 complaining that it had delayed in giving them a Studio Transmission Links (STL) Frequency, which could have allowed the station to conduct studio broadcasting.

Macra's board was dissolved following a lawsuit filed by the station's sister company, Joy Radio, describing Macra's board as unlawfully constituted and lacking an institutional memory.

• **ALERT**

Date: September 11, 2007

Persons: Malawi Broadcasting Corporation (MBC) and Television Malawi (TVM), citizens of Malawi

Violation: Other

On September 11 2007, Parliament passed its US\$670 million annual national budget with an allocation of only K1 (approx. US\$.01) each for the Malawi Broadcasting Corporation (MBC) and Television Malawi (TVM), for their 2007/2008 financial year.

The MK1 allocation is nominal, to satisfy the law that make it illegal to provide no allocation at all without holding a vote.

The development comes barely a week after MISA Regional Governing Council chairperson Thabo Thakalekoala sent a strong statement to government demanding sufficient resources to the two institutions.

The 193-seat Parliament, with the opposition in the majority, recently claimed that the two state broadcasters were being used as propaganda tools by the current government to castigate the opposition.

• **ALERT**

Date: July 13, 2007

Persons: Malawi Communications Regulatory Authority (MACRA)

Violation: Victory

On July 13 2007, the High Court in Blantyre nullified the composition of the Malawi Communications Regulatory Authority (MACRA) board because its members did not qualify for appointment.

In his ruling, Judge Frank Kapanda said it was wrong for President Bingu wa Mutharika to appoint the board members while excluding old members of the board. Kapanda issued an order stopping the board members from exercising their functions and another requiring the President to comply with the Communications Act.

The Act prohibits the President from appointing political activists. It also requires that any change to the composition of the board should be gazetted and that at least half of the membership be re-appointed for another term in office.

Joy Radio questioned the legality of MACRA's board in early 2007 and argued that, among other issues, the appointment of the members was not gazetted as required by law.

President Bingu wa Mutharika suspended MACRA's board on April 4, 2005, before dissolving it on April 8 the same year. The President accused the board of "stinking" and replaced it with a new board on 2 March 2006 whose chairperson was once an executive member of the ruling Democratic Progressive Party.

Joy Radio also argued that some members lacked qualifications, expertise and experience in any field of post and telecommunications, broadcasting, frequency planning, law, economics, business, finance, public administration and public affairs.

Joy Radio's lawyer, Ralph Kasambara also argued that the board did not retain old members as is required by the Communications Act, for continuity's sake.

• **ALERT**

Date: May 22, 2007

Persons: Caroline Somanje, Jika Nkolokosa

Violation: Threatened

Caroline Somanje, a senior reporter working with Blantyre Newspapers Limited (BNL), publishers of the *Daily Times* newspaper, has been fired from her job for writing a story that implicated a Catholic priest and a bank manager. The bank manager is a banker for BNL.

Somanje was summoned to a disciplinary hearing after she wrote a story on the front page of one of Blantyre Newspapers publications, *The Daily Times*, on May 14 which implicated the two as having an affair with a married woman.

Blantyre Newspapers General Manager, Jika Nkolokosa was also suspended pending a disciplinary hearing for what the management says is his failure to exercise sound editorial judgement concerning the same story.

The paper subsequently retracted the whole story and apologised to all people who might have been injured by publication of the story.

A letter from the management to Somanje said the reporter breached a journalist's code of ethics and the company's editorial policy by authoring the story without giving the subjects, whose reputation was affected, a chance to be heard.

It also said that the story was a private matrimonial matter and was not in public interest as divorce matters take place in the courts everyday and are not reported unless they involve well-known public figures.

However, the reporter said there was no need to contact the subjects as she got the story from a court ruling where the husband of the woman sought a divorce after discovering that his wife was having an affair with the two men.

• **ALERT**

Date: April 10, 2007

Persons: 13 private radio broadcasters

Violation: Censored

On April 10 2007, the Malawi Communications Regulatory Authority (MACRA) informed all private radio stations that they are to seek official permission – in advance - from the regulating body should they wish to carry live broadcasts.

A statement from MACRA also said the regulating body has ceased issuing radio and television broadcasting service licences upon application by those intending to introduce the service.

These developments come four days after Information Minister, Patricia Kaliati visited MACRA offices in Blantyre and challenged the regulator's board members and management to be strict, strong, tough and professional in regulating private radio stations. The minister also urged the

station to revoke licences of radio stations that were breaching their licence provisions. The communications regulating body says now it shall be advertising for prospective licensees to apply and licenses shall be issued to successful bidders in compliance with the Communications Act.

Before this development, prospective licensees used to apply to MACRA which could then grant a license to broadcast. Currently there are two radio stations and one TV station which were allocated frequencies but have never rolled out and owe MACRA close to K2.5 million (US\$17,000) for broadcast and licence fees.

There are 13 private radio stations in Malawi and MACRA has warned that it shall punish all stations that fail to inform and seek its permission in advance before any live broadcast. It further warns radio stations against hate messages being aired out various broadcasting stations.

• **ALERT**

Date: March 25, 2007

Persons: Joy Radio station

Violation: Bombed (vandalised)

Joy Radio was attacked by five unidentified thugs for broadcasting live events from a meeting that was supposed to be addressed by the former president Bakili Muluzi, who is also United Democratic Front national chairman.

According to Joy Radio station manager, Peter Chisale, the thugs came around 3.00pm when state president, Dr Bingu wa Mutharika was addressing a rally just less than five kilometres from the station and queried why the radio station was broadcasting live events from a rally that was to be held 80 kilometres away.

“They beat up a security guard, tearing his uniform in the process. They also pelted stones but fortunately there was no damage caused. The thugs fled when the guard blew his whistle to alert us,” Chisale said.

Bakili Muluzi owns Joy Radio and is bidding for a come back to the presidency.

Earlier, the former president had obtained a court injunction restraining the police from stopping his rally and mounting roadblocks on roads leading to the venue of the rally.

Management of the radio reported the matter to Blantyre Police Station but no arrest has been made and no officer visited the scene.

• **ALERT**

Date: March 21, 2007

Persons: Kazembe Kayira, Peter Mulinde

Violation: Detained, censored

On March 21 2007, Police detailed Kazembe Kayira, a photojournalist working for Montfort Media, for taking pictures at a presidential function. His camera was also confiscated.

Kayira was arrested around 12h00 during a presidential whistle-stop tour in a Southern district of Balaka and was taken to the police station without explanation.

The Police later released him after four hours after charging him with the offence of “taking pictures without the knowledge of the authority” as the police officers were waiting for further instructions from their seniors.

The Police also returned the camera they seized after screening all the pictures Kayira had taken and found none that posed a threat to the presidential security.

Kayira suspected that he might have been arrested because he took pictures of the President’s Democratic Progressive Party (DPP) youth allegedly fighting over T-shirts and was cautioned by some five police officers before the presidential convoy arrived not to publish any pictures that would portray a negative image about the function.

Kayira becomes a second person to be arrested for taking pictures of the presidential convoy within a period of one week. On March 16, police also arrested Peter Mulinde a photographer for taking pictures of the presidential envoy when the president was coming from Ghana. Two

of his cameras were seized. Media reports indicated that he was likely to be charged with conduct likely to cause breach of peace.

• ALERT

Date: February 9, 2007

Persons: Dickson Kashoti

Violation: Beaten, Victory

On February 9 2007, Dickson Kashoti, a journalist working for *Blantyre Newspapers Limited* was assaulted by a Member of Parliament, Joseph Njobvuyalema over a story he published about the MP's young brother, Harvey Njobvuyalema.

August 2 2007: the Lilongwe Magistrate's Court convicted Lilongwe Mapuyu South Parliamentarian Joseph Njobvuyalema for assaulting *Blantyre Newspapers Limited* (BNL) journalist, Dickson Kashoti. The conviction means Njobvuyalema automatically loses his seat as MP in accordance with the constitution.

Presiding Magistrate Mzonde Mvula dismissed Njobvuyalema's claims that the case was politically motivated and found that the MCP legislator indeed rolled up his sleeves and purposely attacked Kashoti by punching him in the face three times on his (Kashoti) right eye leaving it with soft membrane injuries.

During the judgment, Mvula revoked Njobvuyalema's bail and committed him to Maula prison to await sentencing on the following Friday.

Njobvuyalema who is also chairperson of the Parliamentary Public Appointments Committee (Pac) claimed in his defence that he was a victim of political persecution.

Njobvuyalema beat up Kashoti in February at the Newspaper's office after he wrote an article about Njobvuyalema's younger brother Harvey Njobvuyalema who had been arrested for allegedly stabbing his wife to death.

• ALERT

Date: January 9, 2007

Persons: Capital Radio

Violation: Threatened

On January 9 2007, Malawi Telecommunication Regulatory Authority (Macra), threatened *Capital Radio FM* with action over a CD it aired purportedly with the voice of President Bingu wa Mutharika ordering an undisclosed officer to "shake up" a political foe, according to media reports.

The *Daily Times* reported that Macra gave *Capital Radio* until close of business on Tuesday to show cause why the regulatory authority should not invoke their enforcement/punitive powers pursuant to section 54 of the Communications Act. Section 54 of the Communications act, among other sections, talks of imposing a fine if a broadcaster has breached its license conditions.

Capital Radio played the CD on Tuesday morning and afternoon and wanted to have it as subject of discussion in its phone-in News Talk programme, but was stopped by Macra's action.

According to the paper, Macra said the CD was a breach of the right to privacy, broadcasting of illegally obtained information without the consent of the owners, and broadcasting of materials likely to prejudice public safety, order and tranquility.