

State of media freedom in Southern Africa 2014

Malawi

National Overview by MISA Malawi



History will remember 2014 as a moment of great triumph for democracy and the Malawi media. The country held its first ever Tripartite Elections, featuring the traditional conflict between the State, its opposition and the media. However, for this first time in the country's history, the Malawi Electoral Commission (MEC) included presidential debates in the electoral calendar. The debates were championed and coordinated by the Media Institute of Southern Africa's Malawi Chapter (MISA Malawi) with support from the Open Society Initiative for Southern Africa (OSISA) and provided an open platform for critical discussion on matters of public interest between presidential candidates and voters. The debates also ushered in an era of active citizen participation in the democratic process and cast the spotlight on issues rather than personalities.

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Another landmark for the country's media and democracy generally was

a marked move by state media during the elections to programming based on public interest and professionalism rather than political whims. *Malawi Broadcasting Corporation* (MBC) has over the years gained a reputation for being a mouth-piece of the ruling party, with over 99 percent content in favour of the state. Much as MBC's content still favoured then incumbent Joyce Banda and her People's Party (PP), the broadcaster moved away from issuing pure propaganda for the ruling party to providing a platform for critical debate and dialogue on matters of national interest. MBC proved most critics wrong by broadcasting all the presidential debates live, despite incumbent Joyce Banda's refusal to participate in the debates.

On the policy front, the country witnessed another milestone with the adoption of the Access to Information (ATI) Policy by cabinet on 27 January 2014. Adoption of the ATI Policy closed a chapter that started in 2009 when government indicated the country could not move forward in enacting ATI legislation without an enabling policy on the same. The ATI Policy provides a framework for enacting and implementing the ATI Bill.

Although the country did not witness any new media outlet on the market, the sector continued to grow in strength by speaking with one voice on matters of national interest.

The media continued to comment on the country's worst looting of public funds, popularly known as 'cashgate', and the need to demonstrate political will in concluding the cases. The media also came out strongly on government and the MEC to provide people with information during the electoral impasse. The media proved to be instrumental and gained the confidence of the people as a source of critical information at a

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time when the nation was on the verge of chaos as the major political parties failed to agree on the outcome of the elections. The media, MBC and *Zodiak Broadcasting Station (ZBS)* – which were appointed by the MEC as official broadcasters of the elections – proved critical in updating Malawians on the outcome of the elections. The media also came out strongly in condemning attempts by the then incumbent Joyce Banda to annul the elections and saved as a platform for dialogue on controversial matters such as recount of the votes and extension of the voter tabulation period.

FREE EXPRESSION AND ELECTIONS

Government intimidation and threats toward ‘critical’ media workers lead to fear and self-censorship

Intimidation and threats worsened during the campaign period and PP functionaries branded those critical of the party’s policies and strategies as pro-opposition. As noted in the 2013 review, such statements spread fear and intimidated journalists, some of whom cowered into silence.

In the first and second quarters of 2014, the PP administration continued to castigate media workers and civil society leaders who were ‘critical’ of the Joyce Banda administration as enemies of the state.

MISA Malawi, for example, had information that reporters deemed critical of the administration were receiving calls from ‘high places’ cautioning them against writing unpatriotic stories about the Banda administration. In February 2014, then presidential press secretary Steven Nhlane is said to have warned *Malawi News Agency (MANA)* journalist Grace Kapatuka for commenting on

the controversial sale of a presidential Jet. Nhlane warned Kapatuka to resign as MANA reporter instead of ‘degrading’ President Banda. Kapatuka made her comments on a MISA Malawi google group discussion forum where journalists share experiences, views and opinions. MISA Malawi suspended Nhlane as a member of the google group after his action. Several senior journalists also reported receiving calls directly from the Head of State castigating them for criticising her administration and demanding they desist from writing negative stories about government.

Some media, however, appeared to be in the government’s good books and towed the government line. This turned the sector into a battleground of conflicting interests and ideologies. Politicians rushed to their favourite outlets and journalists for cheap publicity. Instead of lodging their complaints with relevant bodies and waiting for proper processes to be concluded, most political parties preferred to run to the media. In the end, the media became a complaints body, judge and battleground. Even the ruling PP resorted to the media, state and private, to complain about irregularities in the electoral process, fulfilling a known fact that people – including authorities, merely use the media as a means to an end rather than a partner and critical player in the development discourse.

A key area of concern over the years has been the nature and conduct of presidential press conferences, ‘which are usually party rallies rather than a platform for engagement between the media and the president.’ The first and second quarter of 2014 saw unabated continuation of the practice despite numerous efforts by MISA Malawi and other players for government to change. The new President Arthur Peter Mutharika has, however, brought in a marked

change and party supporters are no longer allowed to attend the press conferences. This has made the conferences less hostile. Mutharika has also created optimism in the sector with repeated pledges and commitment to media freedom and freedom of expression, including creating a favourable environment for journalists.

FREE EXPRESSION AND THE LAW

Un-constitutional anti-press laws continue to threaten media freedom

As stated in past reports on Malawi media, over a dozen archaic, anti-press laws still remain on the country's statute books – in sharp contradiction with the post-single-party Republican Constitution, which clearly provide for media freedom, freedom of expression and access to information. Some of these laws include the Official Secrets Act (1913), the Printed Publications Act (1947) and the Censorship and Control of Entertainments Act (1968) as well as the Protected Flags, Emblems and Names Act, which past administrations have applied to silence critics. The Protected Flags, Emblems and Names Act still quotes a fine in Pound Sterling (1000 Pounds, about MK660, 000) and not Malawi kwacha, an element that supports the argument that this law is archaic and needs to be reviewed, 51 years after independence.

The Democratic Progressive Party (DPP) has promised to amend and/or repeal laws that limit freedom of expression, including signing the Declaration of Table Mountain, but such promises are not new and nothing might be done as was the case with Joyce Banda who promised the same immediately after assuming office in 2012. Though most of these laws appear harmless, their presence alone remains a cause for concern be-

cause they have a chilling effect on both journalists and civil society actors.

FREEDOM OF INFORMATION

Victory as cabinet adopts ATI policy

The campaign on Access to Information (ATI) triumphed with the adoption of an ATI Policy by cabinet in January 2014. The adoption of the policy signalled a new chapter in the ATI campaign and provides a framework for enacting and implementing an ATI regime. The policy also makes it imperative for government to adopt ATI legislation. Among other key priority areas, the policy provides for enactment of the ATI Bill, awareness campaigns on ATI, systematic records management and coordination in government departments and ministries.

Apart from the adoption of the policy, it is important to note the draft ATI Bill is now formally with the Ministry of Justice. This is a key development in the campaign and ought to be commended. Since the campaign started in 2003, no government department or ministry had come in the open to own the process and take responsibility. We now have direction and we are able to monitor progress.

It is important to also note that MISA Malawi made ATI a campaign issue during the 2014 Tripartite Elections and capitalised on the presidential debates to confirm commitments from the candidates to enact legislation on ATI once in power. The DPP actually committed in its manifesto to ensure Malawi has ATI legislation. Section 180 of the DPP manifesto reads: 'We recognize that access to information is a major challenge... In this regard, the DPP government will pass and implement the Access to Information bill.'

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It is on this basis that MISA Malawi believes the current administration is committed to promoting access to information. Whether the bill will be enacted as promised by the authorities, however, is a different story.

Section 37 of the Malawi Constitution clearly provides for the right of access to information but this provision in itself is not sufficient to ensure easy access. For example, factors such as an unresponsive or unwilling public sector and illiteracy combine to limit the citizenry from enjoying this right. With the policy in place, the Ministry of Information is on record as starting to implement some provisions of the policy, including encouraging government departments and ministries to recruit Information Officers and proactively disseminate information.

BROADCASTING

Sector growing, but operation costs continue to threaten community radio and sector diversity

The broadcasting sector has grown from a single radio outlet in the early 1990s to 78 to date, 26 of which are not yet operational. The growth in the sector has increased sources of information for the citizenry. Unfortunately, however, only few outlets have the financial means to sustain their operations, let alone roll out.

MISA Malawi secured funding from OSISA around September 2014 to support a community radio initiative in Nsanje district called *Nyanthepa*, which was granted a license in 2010 but has been failing to roll out due to financial constraints. The radio is now set to go on air in April, 2015.

Securing a broadcasting license is one thing but rolling out and sustaining operations, especially community, is another. The limited independent television outlets granted licenses in 2012 and 2013 are also struggling to roll out.

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Nonetheless, the growth in the sector is important as it demonstrates government's commitment and willingness to strengthen the broadcasting industry given the country's literacy levels and limited penetration and circulation of the print media.

A notable development in the broadcasting sector during the elections period was a marked move by state run MBC to programming based on public interest and professionalism. MBC has always supported the party in power with over 99 percent content in favour of the state. However, a media monitoring project during the 2014 elections

funded by DFID, USAID and Institute for War and Peace Reporting (IWPR), which MISA Malawi participated in noted, "... compared with the bias demonstrated by the state media towards the ruling party in 2009, this time round the bias was slightly less... a development that can only be welcomed.'

Much as MBC's content still favoured then incumbent Joyce Banda and her People's Party (PP), it was obvious to all the station had moved away from operating as pure propaganda machinery for the party in power to a platform for critical debate and dialogue on matters of national interest. To the surprise of many, MBC broadcast all the presidential debates live, despite the fact that incumbent Joyce Banda had refused to participate. MBC also featured the opposition and people critical of the PP, a development that probably led to the unceremonious dismissal of Director General Benson Tembo during the unofficial announcement of the results. A court injunction saved Tembo from the chopping board, but still demonstrated the need for speedy review of the Communications Act to ensure statutory independence of the public broadcaster.

Different governments have come and gone with promises that they would loosen government grip on MBC. The current administration has promised the same and we are yet to see what will happen. What is clear, however, is that at the time of writing this review the draft Communications Bill had been finalised by the Ministry of Justice and set for review in cabinet. The bill will most likely be tabled in Parliament in June alongside the E-Transactions Bill – which aims at regulating on-line content, and the Access to Information Bill. Our only hope is that the bill will not be changed to provide government leeway to continue interfering with MBC opera-

tions.

FREE EXPRESSION ONLINE

Malawi on track for digital migration, but are we ready for it?

With the deadline for digital migration approaching, government in February 2014 registered a company called Malawi Digital Broadcasting Network Limited to provide signal distribution services to all licensed broadcasters and hopes are high that the country will meet the June 17 deadline. Government officials are also optimistic that the country is on the right track, being among the top four in SADC – alongside Tanzania, Mauritius and Namibia, promising to meet the deadline. Media reports and random interviews, however, show that little has been done to sensitize people and broadcasters on digital migration and what it will mean for the country and its citizens come June 17.

PRINT MEDIA

Concerns over threats to Malawi's media plurality

The Malawi print media has shown little signs of growth when the broadcast sector is increasing in numbers, largely due to the costs associated with printing. The sector is also urban based with little penetration even in semi-urban and remote districts. It is important to note, however, that the print media remains the most direct and influential platform for decision makers. Most comments and complaints by those in power are based on newspaper reports and columns. This, to a large extent, shows that the print media is key in reaching out to the echelons of power.

One key development in the print media

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in the year under review is diversification. One of the print media publishing giants, Times Group, has ventured into television broadcasting and is set to also venture into radio. On a positive note, the move has created competition in the broadcast sector and might force state run *MBC TV* to be more professional and competitive. The move, however, is creating a media empire without much plurality across its spectra as the same people are responsible for creating all the content for the various platforms - *Daily Times*, *Malawi News*, *Sunday Times* and *Times Television*.

In all respects, as noted in past reviews, the print media has managed to establish itself as a true watchdog and continues to expose mismanagement of public resources and the need for change and it is fair to say that despite its urban-centric approach, the print media remains a platform for critical debate and has been very instrumental in keeping the executive under check.

LOOKING TO 2015

The year ahead promises more gains for the media and democracy as a whole. Several key bills – AT1, Communications and the E-Transactions Bill, will likely be tabled in Parliament in 2015. The challenge is not only to ensure these bills go to Parliament, but that the final products adhere to international instruments and standards.

Malawi 2014 violations & victories



27 January ■

Government adopts Access to Information Policy.

■ **February**

Then presidential press secretary Steven Nhlane allegedly told *Malawi News Agency* journalist Grace Kapatuka she should resign after she commented on the controversial sale of a presidential Jet.



21 October ■

Journalist, Archibald Kasakula, arrested southern Malawi for allegedly taking pictures of an altercation between Blantyre City Council officials and vendors.

■ **21 October**

Journalist, Archibald Kasakula, beaten by police when they arrested him for allegedly taking pictures of an altercation between Blantyre City Council officials and vendors.

