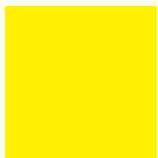
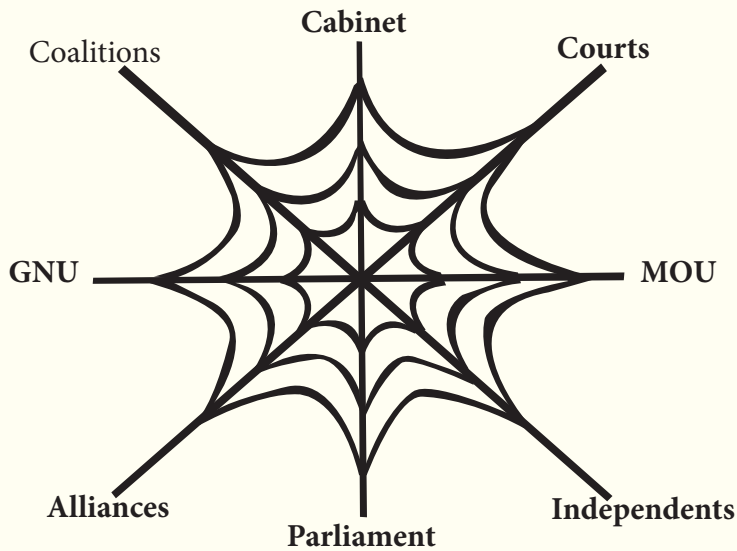


MALAWI BEFORE THE **2014** TRIPARTITE ELECTIONS

**Actors, Issues, Prospects & Pitfalls
An Analytical Stocktaking.**



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Malawi Before the 2014 Tripartite Elections

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FOREWORD

Malawi celebrates 20 years of multiparty democracy, a significant milestone for this emergent democracy. The upcoming elections will be the fifth organized under the new system inaugurated in 1993 when a Referendum set the stage for multi-party democracy. A year later, in 1994, Malawians voted in the first democratic elections which the UDF won, ending 30 years of MCP rule.

Its democratic paradigm distinguishes Malawi within the wider Southern African region. The country has successfully transitioned from the dominant single party system so characteristic of many its neighbouring countries. This achievement can only be ascribed to its history.

The struggle against settler colonialism has been a minor issue compared to, among other countries, South Africa, Mozambique or Namibia. In these countries, their liberation movements: the ANC, FRELIMO and SWAPO respectively have ruled unopposed since independence.

Malawi is also unique because its political liberation from its colonizers was achieved in a bloodless manner. Besides, its founding political party, the Malawi Congress Party, was removed from power unlike in Botswana and Tanzania where the political dominance of BDP and CCM has never been challenged since independence.

Where issues of bloodless transitions to multiparty democracy and peaceful transfer of power are concerned, Malawi shares a common denominator with Zambia.

Whilst it is virtually inconceivable to imagine the ruling parties losing power in South Africa, Namibia or Botswana where elections will also be held this year, Malawi stands out as the single case whose outcome is not virtually predetermined because the race is tight.

Competitive elections are a very important feature for a vibrant democracy. As you know, power corrupts. Therefore the possibility of change which elections provide becomes the best predicament against corruption of power. Through voting, citizens in a democracy determine who rules the country. Being not subjects to the ruling class they are obliged by an injunction of right and duty to demand accountability. The opposition must not exist for the sake of the donor community. They should be a government in waiting – not only criticizing those in power, but constantly presenting alternatives.

Democracy is a process that does not endure on its own; it has to be demanded over and over again to be entrenched. This includes an environment where political leaders frequently shift identities, forge new alliances between former

supposedly arch enemies, and change party affiliations and names at will. This made Malawi to be famously or infamously described, at some point, as a “democracy of chameleons”

While it is certainly a positive factor that Malawi, unlike most of its neighbouring countries, features fiercely contested elections, it is not so clear what lies at the heart of this contest. Fundamental questions linger.

What are the differences between Malawi’s four major parties? Which visions and strategies set them apart? Do Malawi’s citizens have a real choice between different political projects or are these upcoming elections merely a beauty contest between orange and yellow, between blue and red?

Thus this publication aims at answering these and other questions. It is meant to provide guidance for all those who are interested in the upcoming elections.

It will deal with these questions from a mere political as well as political science point of view. We wish our readers an interesting and challenging read.

Marcus Schneider,
FES REGIONAL COORDINATOR FOR SOUTHERN AFRICA

Rafiq Hajat,
IPI EXECUTIVE DIRECTOR

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1. INTRODUCTION

The papers compiled in this publication were presented at a national conference themed “**Malawi Before the 2014 Tripartite Elections: Actors, Issues, Prospects & Pitfalls-An Analytical Stocktaking Conference**”. The conference was jointly organised and co-hosted by the Friedrich Ebert Stiftung (FES) and the Institute for Policy Interaction (IPI) in Blantyre Malawi from 6th to 7th December 2013. The five main contributions present the background in which 2014 tripartite elections are taking place in Malawi, raising the fundamental institutional context in a regional comparative perspective.

Professor Christof Hartmann’s paper titled, “**Minority Government, Party Coalitions and Democratization**”, draws attention to the fact that among the recent cases of democratization on the African continent, Malawi has a particular track record. It became one of the first countries to achieve a change in Presidency through peaceful means in 1994. It then became one of the first countries to refuse its incumbent President a third term in office. It finally became one of the first African countries to start an impeachment procedure against the President. Its civil society has shown to be strong in defending the country’s democratic achievements. Malawi also became famous for floor-crossing of unknown dimensions, a high number of independent MPs, two governing parties created ex nihilo by Presidents leaving their own parties, and continuing deadlock in executive-legislative relations. Some of these features reflect the basic institutional structure of the political system. But the political history of the country and its political culture have had a strong impact on the evolution of the party system and the political landscape more generally.

The political system continues to rotate around a particular strong Presidency. Among the various institutional challenges, this presentation will concentrate on the two questions of minority government and coalition building, discuss the theoretical logic behind different institutional options, illustrate the dominant empirical patterns in Africa and beyond, and end with the discussion of some strategies that could be used to deal with contexts of a minority government.

Dr. Nandini Patel’s paper titled, “**The twists and turns of Malawi’s Politico Economic Landscape in the run up to 2014 elections**”, examines Malawi in the regime classification since 1964 to 2012 from being an ‘administrative hegemonic’ to ‘electoral authoritarian’ where the ruling elite uses the tools of cooptation and repression for political survival. The paper argues that Malawi is one of those Sub Saharan African countries where repetitive and competitive elections have not paving way for democratic consolidation.

The paper makes reference to similarities in the governing styles between the

one party state and the post democracy state where dissent is suppressed, ethno regional factors emerge to play a role even when a political party wins a majority nationwide and the informal norms and rules assume precedence over the formal institutions and rules.

Parliament's oversight role remains constrained by the dominant executive and all constitutional watch bodies are kept stunted in order to leave the executive alone. Analyzing the pre-electoral setting to 2014 elections, the paper enlists the laws and governmental actions of post 2009 elections which brought Malawi to the brink of political and economic collapse and how a revival process began in 2012 after the demise of President Mutharika. Malawi has survived many crises in the last twenty years but has not yet evolved as a stable democracy.

Associate Professor Dr. Happy Kayuni's paper titled, **“Local Government Elections in 2014: The legal-political context and their implications on the future of Malawi local governance”**, analyses the forthcoming 2014 tripartite elections with special focus on local government elections. Specifically, the paper discusses the elections in the context of the 2010 legal amendments related to local governance and electoral processes. The paper views elections not as a single act but a process which influences or is influenced by other social-political developments in a nation.

Consequently, the discussion in this paper will not solely focus on the single forthcoming episode of 2014 local government elections but how the elections themselves will influence or be influenced by other issues which will have a bearing on future outcomes of local governance. The paper refers to the concern that despite the much lauded decision of holding the 2014, the councilors will be coming into office amidst several unpopular 2010 Local Government and Electoral Law amendments which have not yet been reviewed. These may have implications on the quality of the 2014 Local Government elections, the nature of competition as well as the form of local governance after the elections. The aforementioned amendments potentially have many negative ramifications on local governance such as: Appointment of Chief Executive Officer, Reduction of wards, weakened role of councillors.

Dr. Henry Chingaipe's paper titled, **“Political Parties' Preparedness for the 2014 Tripartite Elections highlights”**, points out that since 2009 there has been a wave of leadership change in a number of political parties including the United Democratic Front (UDF), the Democratic Progressive Party (DPP), the Malawi Congress Party (MCP) and the Alliance for Democracy (AforD). In spite of these happenings on the political landscape, six months before the election in 2014, the issues on which the political parties will fight the tripartite election have not consolidated.

The paper brings out the role of traditional authorities and deals with the

question as to why politicians seek the support of chiefs. Political parties and politicians in Malawi court chiefs in order to use their traditional authority and legitimacy to cultivate grassroots support. Dr Chingaibe also tackles the issue of hand-outs which is rampant in Malawian politics, arguing that it demonstrates the depth and breadth of the deficit of integrity among politicians. The paper submits that elected politicians (Principals) are expected to provide some form of 'insurance cover' to poor clients (i.e. voters) in exchange for political and other forms of support.

On the prospect for independent candidates, the analysis of this paper suggests that their number can be expected to be high in the 2014 elections depending on how political parties will manage the politics of candidate selection, especially primary elections. Dr. Chingaibe expects that many aspirants who will feel dissatisfied with the processes and outcomes will seek to contest as independent candidates.

Dr. Samson Lembani's paper titled, "**Survival of Minority Governments in Malawi: Coalitions or Collusions? Actors, Approaches and Consequences for Party System and State Governability**", argues that in nascent democracies of presidential regimes and plurality electoral systems, the emergence of fragmented political party systems is inevitable compounded by ethnic politics, fragile institutions and minority governments which ultimately leads to volatile and contentious legislative-executive relations, weak political party cohesion and stagnation of democratic consolidation.

The presidential regime type and plurality electoral system in Malawi inherently offer neither incentives for coalition formation nor mutual interdependence between the executive and the legislature. Hence, the latent conflicts, persistent governance crises, inertia and grinding executive-legislative confrontations. Among political actors and across minority regimes in Malawi, recourse to coalition politics has not been embraced as an optimal democratic instrument and formal strategy for state governability since 1994.

The Mutharika minority government (2004-2009) which was persistently wrecked and frustrated by parliamentary paralysis survived on floor-crossing inducements of opposition legislators, extended judicial injunctions and presidential prorogation of parliament. In addition, the brief 'experiments' with government coalitions and electoral alliances weakened political party cohesion within its partner parties, hardly increased national cohesion, but promoted state governability and yielded marginal gains to democratic consolidation.

The paper argues that political institutions that are designed to encourage formal political coalitions and discourage floor-crossing (parliamentary systems and proportional electoral laws) serve to predictably mitigate against state instability and enhance democratic consolidation.

2. MINORITY GOVERNMENT, PARTY COALITIONS AND DEMOCRATIZATION:

A Comparative Analysis with particular emphasis on Sub-Saharan Africa

Christof Hartmann

Setting the scene

Among the recent cases of democratization on the African continent, Malawi has a particular track record. It became one of the first countries to achieve a change in Presidency through peaceful means in 1994.

It then became one of the first countries to refuse its incumbent President a third term in office. It finally became one of the first African countries to start an impeachment procedure against the President. Its civil society has shown to be strong in defending the democratic achievements.

Malawi also became famous for floor-crossing of unknown dimensions, a high number of independent MPs, two governing parties created ex nihilo by Presidents leaving their own parties, and continuing deadlock in executive-legislative relations.

Some of these features reflect the basic institutional structure of the political system. But the political history of the country and its political culture have had a strong impact on the evolution of the party system and the political landscape more generally. The political debate has been strongly concerned with several constitutional provisions, but the broader constitutional and institutional framework has remained quite stable since 1994 (notwithstanding a change in floor crossing provisions in 2001) and the political system continues to rotate around a particular strong Presidency.

Objective of chapter

The objective of the following chapter is less to discuss the pros and cons of specific reform steps, but rather to situate the debate within a broader comparative framework. It will make a strong claim that institutions matter notwithstanding the prevailing understanding of African politics as largely driven by neopatrimonial and clientelistic networks (Hyden 2006).

Among the various institutional challenges, it will concentrate on the two questions of minority government and coalition building, discuss the theoretical logic behind different institutional options, illustrate the dominant

empirical patterns in Africa and beyond, and end with the discussion of some strategies that could be used to deal with contexts of minority government. There is general a lack of comparative research on these questions in the African context. Kadima's excellent book on party coalitions (2006) features a chapter by Lembani and Kadima on Malawi, and more recently Resnick (2011) has compared pre-electoral alliances in Africa. The problem of minority governments, on the contrary, has remained under-researched and the following paper aims to be a first step in that direction.

Government formation in presidential and parliamentary systems

Government formation and termination follows a different logic under different systems of government. In a classical parliamentary system, the Prime Minister is elected from among the members of parliament, and will then select his/her cabinet among the members of parliament.

A parliamentary system is usually defined in terms of one feature, i.e. that the (not directly elected) executive is dependent on the assembly for its origin and survival. There are differences with regard to the capacity of parliament to end the office of an individual minister. In most cases the parliament can only bring down the whole government.

According to the classical logic, this will also automatically end the term of the parliament, i.e. lead to fresh elections. The individual law-maker will thus think twice before he/she contributes to the fall of the government.

In a pure presidential system of government, both the President and the Parliament are directly elected by the people. i.e. both have fixed terms, and as both have a mandate given to them by the people, there is normally neither a possibility for Parliament to end the tenure of a President (except for impeachment) nor a possibility for the President to dissolve Parliament. Malawi has such a system with a particularly powerful President, although he lacks the competence to dissolve Parliament.

There are some few examples in Africa, i.e. South Africa and Botswana, where the President is actually not elected by the people but by Parliament. These Presidents have thus quite a similar role to a Prime Minister, i.e. their term is actually not fix, but can be terminated through a no-confidence motion in parliament and the governmental system is actually much more of parliamentary than presidential in nature, although the Presidents of Botswana and South Africa might have some specific authority, i.e. appointment or foreign policy which a Prime Minister under parliamentary systems might not typically hold.

Looking at the evolution and distribution of systems of government world-wide, political scientists had to recognize that many regimes have developed other

features that make a clear-cut attribution to the categories of ‘presidential’ or ‘parliamentary’ problematic. Regimes that fulfil the criteria for a presidential regime may, for example, also have parliamentary features, such as cabinet accountability to the legislature. The concept of semi-presidentialism has been used to characterize such regimes, but it remains contested due to the great variations found within this category (cf. Elgie 1998, Siaroff 2003). Shugart and Carey (1992) developed two subtypes of semi-presidentialism to account for the different varieties. The president-parliamentary type, which combines a popularly elected president and a cabinet accountable to the legislature, seems dominant among the African systems.

The premier-presidential type corresponding rather to the original formula of the Fifth French Republic provides for a President that should have ‘considerable power’ and that the premier has ‘executive functions’. The precise division of competences between the two offices, however, is organized differently depending on the local context.

Table 1: Distribution of system types in Africa

System of Government	Countries (as of 31.12.2012)
Presidential Systems	Benin, Burundi, Comoros, Congo, Côte d’Ivoire, Djibouti, Equatorial Guinea, Gambia, Ghana, Guinea, Liberia, Malawi, Mozambique, Nigeria, Rwanda, Seychelles, Sudan, Sierra Leone, Zambia.
Semi-Presidential Systems	Burkina Faso, Cameroon, Cape Verde, CAR, Chad, DR Congo, Gabon, Guinea-Bissau, Kenya, Madagascar, Mali, Mauritania, Namibia, Niger; Senegal, Sao Tomé, Tanzania, Togo, Uganda, Zimbabwe.
Parliamentary Systems	Ethiopia, Lesotho, Mauritius, Botswana, South Africa

Author’s own compilation

²This happened in South Africa on 24 September 2008 when Mbeki ‘resigned’, and the Parliament voted Kgalema Motlanthe, i.e. another President, into office during Mbeki’s original term. On 20 September 2008 the ANC National Executive Commission had decided to ‘recall’ Mbeki from Presidency. Please note that Motlanthe did not serve as Deputy President when Mbeki stepped down, i.e. he had to be elected by Parliament.

In some of the cases, the President is all powerful and the Prime Minister a minor figure. This seems to be the case in many countries of Francophone Africa where this model is widely adopted. The president is also free to appoint or dismiss the premier, although accountability to the assembly implies that the premier must be supported by the majority in parliament.

Even in those Anglophone countries which have adopted some variant of such a semi-presidential system of government (such as Uganda, Tanzania, Namibia) the role of the premier appears very limited: the premier is merely 'leader of government business in parliament'. In Namibia and Uganda, the premier has no say in the appointment of other ministers (for more details van Cranenburgh 2009).

In most Anglophone countries Presidents have thus a strong role in government formation. There is, to give another example, just one exception to the pattern of presidential chairing of the council of ministers, which is the pure parliamentary system of Mauritius (with the President having a rather ceremonial function).

Appointment powers are present in all countries, as is the presidential ability to conduct foreign policy – again, the only exception is Mauritius (Cranenburgh 2009).

Theoretical Arguments

In a democratic setting, the idea of a stable government relies on the idea of a majoritarian support for it. In a parliamentary system, if the government loses the support of the majority of parliament it becomes unstable, as it can be brought down at any moment.

In a presidential system, the President's rule continues independently of majority support in parliament, although governing can become more difficult. Still, both in presidential and parliamentary systems of government, government might continue to work without a majority.

Technically this is called a minority government in a parliamentary system (as there is only a stable support of a minority of MPs) and minority or divided government in a presidential system.

Theoretically speaking, a minority government should be less plausible in a parliamentary system than in a presidential system. Why is this so?

As pointed out, a parliamentary system is a regime in which the government, in order to gain and keep power, must enjoy the confidence of the legislature. Because decisions are made by majority rule, no parliamentary government can exist without the support of a majority.

“Minority governments could occasionally emerge, but these would be relatively infrequent and necessarily ephemeral, since they would simply reflect the temporary inability of the current majority to crystalize.

This inability is temporary because the system contains automatic correctives for these situations: Either a new government supported by a majority will be formed, or, if this is not possible, new elections will be held so that such a majority may emerge.” (Cheibub/Limongi 2002: 153)

A minority government might thus also exist under a parliamentary system, but the government in these systems exists only as long as there is no alternative majority that can replace it. Ultimately, a minority government, in a parliamentary system, cannot produce deadlock in the same sense as in a presidential system.

Yet, the fact that a parliamentary system includes a mechanism that can be invoked in case of policy conflict between the government and the legislative majority does not mean that this mechanism will always be used, or that, once used, it will necessarily put an end to the disagreement that led to its use. For this reason, deadlock under parliamentary regimes may occur over time, as when no stable majority is formed even after new elections are held. In a presidential system, the two organs have fixed terms in office and do not depend on each other to exist. “If elections result in a situation in which the presidential party does not control a majority of legislative seats, there is no mechanism to solve the conflicts between the two legitimate majorities.

The most likely outcome, it is believed, is stalemate and impasse between the executive and the legislative branch, which can ultimately result in the collapse of the democratic regime.” (ibid.)

According to this literature (going back to Linz 1994, cf. Frye 2002) the role of political parties also strongly varies: In a parliamentary system political parties have strong incentives to cooperate with one another; parties in the government will obviously support the executive, and parties out of the government will most likely refrain from escalating conflicts because they may, in the future, become part of the government.

As a rule, the government is supported by a majority composed of highly disciplined parties, ready to cooperate with one another. A presidential system, on the other hand, is characterized by the absence of such incentives and hence is likely to generate governments that, even if supported by a majority, are based on undisciplined parties that tend to compete fiercely with each other (Cheibub/Limongi 2002: 157).

In a parliamentary system, undisciplined parties represent a potential failure to obtain majority support in parliament, the defeat of government bills, and

consequently the fall of the government. In order to remain in government, political parties enforce discipline so that their members in parliament can be counted on to support the bills proposed by the government.

“Individual legislators, in turn, have an incentive to support the government in order to prevent the occurrence of early elections in which they would risk losing their positions. Under presidentialism, since the government and the legislature are independently constituted, office-seeking political parties have no reason to impose discipline on their members; their survival in office does not depend on the result of any particular vote in the legislature. (...)

Thus, even if a president were lucky enough to belong to a party that controlled a majority of seats in congress, he or she could not necessarily count on the support of that majority in order to govern. On the contrary, the president should expect, at least under some circumstances, that no support would be forthcoming from that majority.” (ibid.)

Empirical Trends in Africa and Beyond

Looking at empirical data from regime comparisons at global level, a minority government is not an exception at all. As demonstrated by Strom (1990), parliamentary governments do not necessarily produce majority governments. Minority governments existed 22% of the time in all parliamentary regimes from 1946 to 1999. Other counts (Cheibub/Limongi 2002), based exclusively on industrialized democracies, find that each third government formed under a parliamentary system has a minority status and with no relationship to increased levels of instability.

The quite frequent “emergence of minority governments can be explained in terms of the calculus made by party leaders about the costs and benefits of participating in government, given that they are concerned not only with achieving office but also with the policies to be implemented by the government.

This calculus, Strom argues, is affected by the degree of policy influence parties can exert when outside the government, as well as the competitiveness and decisiveness of the electoral process.

Out-of-government policy influence, in turn, depends essentially on the organization of parliament (existence of standing committees, degree of specialization, scope of action, allocation rules).” (Cheibub/Limongi 2002: 154).

As Malawi has a presidential system of government, what can be said about the prevalence of minority government in presidential systems at global level?

In line with the theoretical expectations, it is even more frequent than in parliamentary systems.

Around 40% of the years of a presidential system in all states worldwide (mostly Latin America, US and Asia) between 1946 and 1996 were under minority governments, a number not far from the estimates for parliamentary regimes (Cheibub/Limongi 2002: 154).

Negretto (1998) and Aleman and Tsebelis (2011) discuss in more detail the situation in Latin America where lack of a parliamentary majority has become more of a rule than an exception for the Presidents of some countries.

As much as Malawi's situation over much of the last two decades is, therefore, not a surprise by comparative standards, it is rather unusual if we compare Malawi with the other African states. As showed above, nearly all African states have some form of presidential government.

If we look at the two last decades since the massive re-introduction of competitive politics on the continent, we can easily observe that minority rule has remained an exception here.

Many African Presidents can rely on stable majorities in parliament produced by one dominant party, which is either the successor party to the former single party of the one-party regime, or the political arm of former armed liberation movements. If we look only at Anglophone Africa, this is the case of Namibia, South Africa, Mozambique, Botswana, Tanzania, Uganda, Nigeria (looking at the phase since 1999), the Gambia, and the Seychelles. In the remaining African states we find in this category Angola, Mozambique, Rwanda, Ethiopia, Cameroon, Burkina Faso, Djibouti, or Gabon.

For a number of reasons (quite different from one country to another), the leaders in these countries did not face the risk of losing a majority of 50% + one seat in their parliaments throughout all elections held since the reintroduction of multi-party politics.

In all those cases where previous single-parties lost the control over the political competition, the building of stable majorities is much more difficult. Even with several alternations in the presidency, a country such as Ghana has managed to produce a parliamentary majority for each President elected since 1992.³

Other countries had minority governments at least after some election during the last two decades. In Anglophone Africa, these are the cases of Kenya (since 2007), Lesotho (since 2012), Malawi (1994-2004), Sierra Leone (1996), Zambia (since 2001), and Zimbabwe (2008).

Malawi Before the 2014 Tripartite Elections

It is notable that among the Francophone countries there are even more cases of minority governments, most strongly in one of the best performing democracies of Benin.

We lack the space to discuss the details of these various cases, although some of them such as Kenya and Zimbabwe are well documented.

Table 2: Minority Government in Anglophone Africa (since 1991), own compilation.

	Party Of President	Election Year	Largest Party	Seat Share*	2nd Party	Seat Share
Kenya	PNU	2007	ODM	49	PNU + Alliens	37
Kenya	Jubilee	2013	Jubilee	47	CORD	38
Lesotho		2012	DC	40	ABC	25
Malawi	UDF	1994	UDF	47	MCP	31
Malawi	UDF	1999	UDF	48	MCP	34
Malawi	UDF	2004	UDF	25	MCP	31
Sierra Leone	SLPP	1996	SLPP	40	UNPP	25
Zambia	MMD	2001	MMD	46	UPND	33
Zambia	MMD	2006	MMD	48	PF	29
Zambia	PF	2011	PF	40	MMD	37
Zimbabwe	ZANU-PF	2008	MDC	48	ZANU-PF	47

*Seat Share directly after elections

³This is also, to an extent, the case of Mauritius (although having a multi-party system since independence). In this parliamentary system with many changes in government, all of them could rely on a majority in parliament

If we are interested in the dynamics of minority governments, there is, thus, some empirical evidence even within the confines of Africa to analyze the main reasons behind their emergence.

Explanations for Minority Governments

The theoretical literature has advanced three types of (institutional) explanations for the emergence of minority governments: First is related to the number of political parties and the structure of the party system, second is related to the type of electoral system, and thirdly, it is related to the electoral cycle (Mainwaring 1993, Shugart / Carey 1992). We will shortly see that they are only of limited relevance in making sense of the African context.

Electoral cycle means whether presidential and parliamentary elections are held simultaneously or not. Non-simultaneity suggests a greater likelihood of the opposition gaining substantial power in the assembly which might explain why a minority government has a higher frequency in Francophone Africa where parliamentary elections are generally not held together with presidential elections.

Voters which are disappointed by the performance of the President might be more inclined to vote for the opposition if these elections are held at mid-term. The Electoral Cycle, however, does not explain the variance among the Anglophone cases, as all hold general elections.

Zimbabwe – until recently without concurrence – introduced it with a constitutional amendment in September 2007. Malawi or Zambia has Presidents without majorities although their electoral cycle theoretically should favour this.

The same goes for arguments around the electoral system. Nearly all the countries with a minority government have majoritarian electoral systems, which are the systems which tend to ‘manufacture’ a majority even where it does not reflect voters’ preferences.

Only the case of Lesotho would somehow be explained by the electoral system, as the country reformed its system from relative majority to a combined mixed-member proportional system (MMP), and the minority government emerged only after this change. We could also point out that majoritarian electoral systems indeed fabricated a parliamentary majority in some countries.

This means that Ghana’s elections in 2000 and 2008 would have produced a minority government if the country had a PR system at this time.

The strongest explanatory power seems to lie in the structure of the party system. Our main interest should not be with the number of parties, but rather with the structure of interaction. We can, first, observe that minority

governments, with one exception (Zimbabwe), only affect Presidents who came to power through competitive elections.

It seems, thus, generally a bigger challenge to form strong and dominant parties when a President cannot count on many years of incumbency. A minority government is also favoured by the existence of strong opposition parties (sometimes the former single parties as in Malawi and Kenya) because if the party system is very fragmented, it will be much easier for the incumbent President to collect a majority in parliament.

Finally, and this brings me to the final section, it matters when pre-electoral coalitions transform a plurality of support into a majority.

Strategies to deal with or avoid a Minority Government

Empirical evidence suggests that in some parts of the world a minority government is considered a normal aspect of politics and nothing to be avoided at any cost. In Africa, however, it seems a long tradition of consensus politics and informal brokering of clientelistic networks which, inter alia, still works against the acceptance of the more conflictive notion of a minority government.

Three different strategies can be identified which are applied in the African context. We distinguish pre-electoral coalitions as a means to build a viable alliance, post-electoral coalitions and power-sharing, and finally attempts to build majorities through floor-crossing and independents. I will briefly discuss all four strategies.

1. Pre-electoral coalitions

Africa is a continent full of alliances but with few coalitions. Research on pre-electoral oppositional coalition has shown that such coalitions are both the logical result of party system fragmentation, and of the meager chances to win a presidential election against all-powerful incumbents.

Empirically, there is little probability such electoral coalitions allow the opposition to actually win elections. Resnick (2011: 736) shows that in only a few notable cases (Kenya 2002, Mali 2002; Mauritius, Senegal 2000, 2012) have opposition coalitions resulted in incumbent turn-overs.

She also demonstrates that in these cases pre-electoral coalitions have been primarily motivated by an office-seeking agenda and have tended to coalesce around a shared goal of ousting the ruling party.

Oyugi (2006: 64) wrote, with regard to Kenya 2002, that the National Rainbow

Coalition (NARC) “had very little, if anything, to do with the 14 parties coming together to trade off policies they wanted to implement.”

Pre-electoral coalitions might have different forms, i.e. working together under one party banner or negotiated pacts, whereby parties compete under their own banner but agree not to compete against their coalition partners for the same legislative seat.

What follows in the case of an electoral victory is often not made explicit. Most probably, the leaders of the coalition parties will make arrangements about who is competing in a second round of presidential elections or how important offices are shared.

Programmatic issues are most probably not discussed at the level of pre-electoral alliances. Only in Mauritius and in Kenya 2002 did pre-electoral coalitions actually lead to a true post-election coalition cabinet.

Pre-electoral coalitions are not restricted to the opposition. In some cases, incumbent parties will try to build pre-electoral alliances if they feel they will otherwise lose the elections or if their government effectively relied on the collaboration of other parties. This pattern is more frequent in Francophone Africa with the tendency to form a *mouvance présidentielle*, a broad-based movement of often smaller parties that commit themselves to work with and vote for the President and his/her party.

Such coalitions are, however, rarely formalized and manifest themselves only through the attribution of governmental portfolios to these parties. A case in point is Senegal under President Abdoulaye Wade (2000-2012). In Kenya’s multiethnic party system all parties tend to form quite formal coalitions, but, interestingly, even the coalitions which are formed by the incumbent government have failed to attract a majority of votes or seats during the last three elections (cf. table 2).

2. Post-electoral coalitions and Power-Sharing

Kadima (2006) mentions two cases of successful post-electoral coalition-formation in the African context. One is the 1976 election in Mauritius, when Labour Party (LP) and Parti Mauricien Socialiste Democrate (PMSD) built a coalition to avoid Paul Berenger’s leftist Mouvement Militant Mauricien (MMM) from taking power.

The other refers to provincial politics in South Africa and the successful coalition of Democratic Party (DP) and New National Party (NNP) to build a majority government in the Western Cape against the African National Congress. We should add here the maybe-not-so-successful cases of the NARC-government 2002 in Kenya (cf. Oyugi 2006) and Malawi with the

coalition government formed by UDF and AFORD (1994-1996) with AFORD having a vice-president and some ministerial positions (Lembani and Kadima 2006). We can now add a successful third case, so far, which is the recent 2012 post-electoral coalition which ousted Lesotho's long standing Prime Minister Mosisili.

Post-electoral coalitions are a standard feature of parliamentary government in established democratic systems. They are needed where no single party or pre-electoral coalition wins such an election.

Although specific procedures vary, such coalitions are normally built on some explicit contract among these parties, including a list of programmatic positions to be taken by the government, a distribution of portfolios to coalition parties (meaning that the party has a right to re-appoint a party member to this portfolio) and some mechanism for solving conflicts among coalition partners.

There are two more prominent cases of de facto post-electoral coalition which have occurred in the context of violence and growing political polarization in Kenya 2007-08 and Zimbabwe 2008. In both cases, the governing party/alliance, despite retaining the Presidency in contested circumstances, lost the majority in parliament.

In these cases, the post-electoral coalition government was fabricated with assistance (or actually a lot of pressure) from external actors both intra- and extra-African. In both cases, these Governments of National Unity were based on quite formal contracts about distribution of posts and competencies. In both cases, they were actually not a solution for the problem of minority government, but the only way out of a protracted civil conflict.

3. Majority-Building after Elections

There are finally other ways to deal with the problem of minority government. It consists in not engaging in coalition-building but in fabricating a majority through manipulation of voters' preferences. One option is to co-opt MPs elected as Independents to the ruling party, thereby securing a majority for the president's party in parliament (as seen in Malawi 1999).

This strategy works only if there is a sufficient number of independent candidates in parliament and if only a restricted number of seats are lacking to obtain a majority. Another option, also experimented in Malawi, is to try to heavily invest in by-elections in order to modify the relative strength of parties in parliament.

Finally, we have the option of floor-crossing, i.e. to 'lure' mostly opposition MPs away from their party in order to build a governmental majority which

did not exist at election time.

Floor-crossing should not be considered un-democratic in any case. In fact, most established democracies do not ban it. If it is used to form a government, however, some normative challenges exist, especially with regard to the principles of political participation and democratic representation (Goeke / Hartmann 2011).

There is a sophisticated debate on floor-crossing in Malawi triggered by the lengthy conflicts around Section 65 of the Constitution and its practical implementation (cf. Lembani 2013). I will not summarize this debate here. I will only point out that the continuous practice of floor crossing - while assisting in the near future to create a governmental majority - will also lead to new minorities and governmental instability by weakening the party system and the principle of political representation.

Conclusion

There is little doubt that political parties are the weakest link in democratizing the political regimes in Sub-Saharan Africa. Neither stable, dominant nor fragmented and unstable party systems are essentially positive for the consolidation of democratic institutions because both weaken the role of parliament in representing the multitude of social and political interests. As a matter of fact, only few African states avoid one of these two scenarios. While coalitions are absent or hopeless in a dominant party system, in a fragmented system coalitions cannot rely on the necessary degree of party institutionalization, i.e. some stability in interaction patterns between voters and parties.

As long as coalitions are alliances of convenience, they will not be able to solve the problem of stable governmental majorities. This might be a problem of the nature of parties on the continent or the incentives created by strong presidencies with strong prerogatives in government formation.

Cooperation of political parties in opposition, but even more so in government, should be supported while institutional barriers in constitutions and legislation removed as much as possible. This conclusion should not be interpreted as favouring a superficial consensus at any cost.

Consensus is required with regard to the acceptance of rules of the game. Differences on policy issues, on the contrary, should have a chance of being heard and manifested in the political competition.

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THE TWIST AND TURNS OF MALAWI'S POLITICO-ECONOMIC LANDSCAPE IN THE RUN UP TO 2014 ELECTIONS

Nandini Patel

Introduction

The 2000-2010 decade was of major twists and turns in the political history of Malawi. The optimism following the victory of multipartyism, followed by peaceful transfer of power with the 1994 elections, ushered in a fairly stable three party system with evolving accountability mechanisms, emerging free press and civil society.

The bid for extension of Presidential term limit in the early 2000s by the then incumbent President, shook the foundations of the three political parties. Though the bid was narrowly defeated in Parliament, marking a significant victory for constitutionalism in Malawi, the development disturbed the rubric of Malawian polity in more ways than one.

The post 2004 elections phase ushered in new economic and political dimensions by setting new precedents in floor crossing by incumbent Presidents in Malawi. The country also witnessed unprecedented economic growth, and created a new chapter in food security and seeming fiscal prudence.

The governing style of President Mutharika from 2004 - 2012 were, in many ways, comparable to the style of the first President of independent Malawi, Dr. Kamuzu Banda, which the paper describes as a period of economic upturn and democratic downturn eventually leading to a national crisis.

The post 2009 period has been examined as two regimes holding power in one term, Mutharika's second term and Joyce Banda (the Vice President) taking over the mantle upon his demise. Within a period of four and half years, i.e. from 2009 to 2013, the country suffered economic meltdown and democratic reversal.

Subsequently, a reversing process began with Joyce Banda taking over the Presidency. Such onslaughts on democracy, with potential to derail the process of democratic consolidation from its course, compel reflection on the stability of democracy in Malawi and whether repetitive elections, flawed though they may be, really do pave the way for democracy as claimed (Lindberg: 2006).

Malawi’s regime classification 1961 – 2013

1964 -1993	1994 – 2003	2004-2009 & 2010-2012
Administrative hegemonic (Chazan et.al 1992) and/or Developmental patrimonial (Cammack, Kelsall, Booth – 2010)	Electoral democracy: Defective democracy/delegated democracy/illiberal democracy? (Zakaria, and others)	threshold of breaking from the past and setting new records of progress and development (Radelet, 2010) 2010 – 2012 Electoral authoritarian(Wahman & others,)feckless pluralism(Carothers, Svasand & Rakner, others)

Administrative hegemonic state of 1964 – 1993

Chazan et al (1992) classifies Malawi as an administrative hegemonic state along with Kenya, Zaire and other African states as a result of the decades of one party rule in post-colonial Africa.

This type of regime is argued to have an executive, the bureaucracy and a coercive apparatus (a one party auxiliary organ subordinated to the Presidency). The Malawi Congress Party and its Youth Wing (the Young Pioneers) constituted the coercive apparatus.

The run up to the first post-independence elections in 1964 was violent. Opposition parties, some chiefs, candidates and individuals were targets of assault, petrol bombing of houses and murders (Malewezi J. 2013).

This tendency, of using violence to silence dissent and opposition, continued in the post 1994 era, especially when the Executive wished to get an unpopular motion or constitutional amendment passed. The youth vigilantes were given a free hand and directions to intimidate and harass any opposition or dissent, whether real or perceived.

Ahead of the 2004 elections, President Bakili Muluzi expressed interest to run for a third term. So, he attempted to amend the Constitution accordingly, but the move was strongly resisted by some within his party, opposition parties, civil society and the media.

The youth wing of the party, misleadingly named ‘Young Democrats’, unleashed vicious violent attacks against all those opposing the infamous third term. During the latter part of the year 2011, which was perhaps the

darkest period of democracy for human rights and democracy since 1994, houses and offices of a number of government critics from civil society and the opposition were petrol bombed by assailants - apparently sent by functionaries of Mutharika's DPP.

President Mutharika publicly stated, while addressing the youth, that the DPP 'Young Cadets' should do for him, what the Young Pioneers did for President Kamuzu Banda and what the Young Democrats did for Muluzi. This period is discussed in more detail later on.

Cooptation and repression as tools in African democracies

It is generally dictatorships that resort to two broad tools to stay on in power - repression and cooptation. Out of these two tools, dictators resort to repression in the name of maintaining political order (Poe, Tate & Keith, 1999; Hathaway, 2002; Davenport & Armstrong, 2004; Vreeland, 2008; Conrad & Moore, 2010).

Repressive tactics include limits to freedoms of speech and assembly, targeted imprisonments, detentions and other sanctions against regime dissidents. Repression has proven to be an effective strategy for survival.

Besides repression, it has been observed that dictators tend to coopt their opposition. Cooptation is the intentional extension of benefits to potential challengers to the regime in exchange for their loyalty (Corntassel, 2007). In addition to patronage, one of the more common ways dictators coopt is by establishing institutions, such as political parties and legislatures.

These institutions incorporate rivals into the regime apparatus with the aim of reducing opponents' incentives to seek the leader's overthrow and extending autocratic survival (Geddes, 2006; Gandhi & Przeworski, 2007).

Although repression is often associated with killings, torture and other brutal practices, the violation of physical integrity is not the only repressive instrument at hand. Autocrats may also ban political parties, close legislatures, and suspend basic civil rights. Thus, repression can include imposing restrictions on individuals' civil rights to limit the coordination and mobilization capacity of groups and individuals.

Africa has been repeatedly subjected to arbitrary and coercive rule, making the continent to be feared, evaded, cheated and defeated as circumstances permit. Aptly summing up the consequences of this, (Ake: 1999 in Daddieh: 1999) says Africans turn their loyalties from the more ecumenical level of the state and localize it in community groups, kinship groups, ethnic or religious groups.

As a result of political repression, Africa is witnessing dissolution of society instead of nation building and/or development. This bears reflection in countries like Nigeria, Kenya. In these countries, authoritarian regimes stifle electoral oversight through bribery so as to strengthen their incumbency at the expense of democracy.

Curtailing the resources and space to institutions that must function independently is arguably a form of repression. Malawi stands as a good case to drive this point. Governments of national unity in some of the Presidential regimes in Africa in the post 1990s era, whereby an office of Prime Minister is created to incorporate the main opposition leader in government, are the ways of cooptation in these electoral authoritarian democracies, Zimbabwe and Kenya being examples.

In the context of Malawi, cooptation has been used from time to time by the ruling elite. The creation of the office of Second Vice President, through a constitution amendment in 1995 to accommodate Chakufwa Chihana, President of the opposition party AFORD, is an example of cooptation by President Muluzi.

Often Cabinet positions are created, especially at deputy minister level, to bring in members who will strengthen the consolidation of the President's powers. Cooptation, thus, naturally weakens the opposition party and the legislature.

Cooptation has also been used to stifle dissension by appointing critical/dissenting voices from civil society sector government positions. All regimes since 1994 have systematically resorted to this, thereby weakening the already fragile civil society.

1994 – 2003: Malawi's transition to multiparty democracy or electoral authoritarianism?

After a couple of elections in the 90s and early 2000s democratic regimes in Africa, including Malawi, were labelled as challenged or stunted democracies - defective, illiberal or delegated. Identifying which one of these is more apt is a subject for another debate.

But the following features comprise the essence of the challenges faced during the first two decades of Malawi's democratic journey:

- Parliamentary subservience to the Executive;
- Executive wielding extensive Constitutional powers and spoils of the office.

Malawi Before the 2014 Tripartite Elections

- Judiciary drawn into almost all political disputes, but court rulings subsequently ignored;
- Flawed local governance structures, which undermine effectiveness;
- Watchdog institutions under resourced and prone to pressure;
- Weak Political Parties with a number of dysfunctional challenges;
- Flawed Elections – the process of uncertainty;
- Media – between somewhat free and not free;
- Fragmented Civil Society – not cohesive or coherent, differing levels of understanding and commitment;
- Non performing Parastatals - not delivering goods and services, not transparent, prone to political influence;
- Civil Service – not neutral, influenced by patronage;
- General intolerance to any dissent;
- Ethno-regional factors influencing centralised power;

In addition to the above challenges, which require focused attention, Malawi also had to contend with crises such as the ill-fated third term bid of 2002/03, the economic political crisis of 2011, the ‘Cashgate’ scam of 2013 - all of which tended to derail the process of democratic consolidation.

In Malawi, like in other Sub Saharan African countries, competitive elections do not seem to bring democratic outcomes. Recent studies on democratization point out that electoral outcomes cannot be an adequate indicator for democratic transition. Svasand & Rakner (2013) contends that whilst more and more countries are holding competitive elections, the fact that they do not necessarily lead to democratization suggests that there is need to take a closer look at what happens in between elections and question why competitive elections and electoral turnovers do not necessarily produce democratic outcomes.

Democracies where competitive elections do not bring democratic outcomes have also been called ‘electoral authoritarian’ regimes (Wahman: 2012) characterized by uneven electoral playing fields which contributes to significant incumbent advantage.

Although fierce competition for political office and the extensive use of the

courts and the Constitution to serve political ambitions indicate that formal institutions are at the centre of power struggles, this does not mean that the political institutions function as intended by the Constitution and liberal democratic standards.

Malawi has largely held peaceful elections, with polling day rules and procedures followed quite diligently. However, there are glaring inadequacies in the electoral process at large. During the third general elections of 2004, it was observed that the electoral process undermined the trust which the public and politicians had placed in the Commission (English: 2004).

The dominance of influence of the incumbent party was evident and the EC did not operate as an independent, professional and cohesive body. Local and international observers condemned this lack of independence of the EC. The Composition of the Commission in the run up to 2009 elections also raised concerns on its inclusivity and fair representation of parties in Parliament.

President Mutharika's floor crossing after the 2004 elections and the political wrangles thereafter delayed the appointment of new Electoral Commissioners and for fourteen months electoral management process was stopped and the Commission was virtually defunct.

In 2011, President Mutharika ordered the closure of MEC due to alleged corruption involving senior MEC officials. The closure lasted for almost a year. This cast doubts on security of material and credibility of the whole process. After the demise of Mutharika, new President Joyce Banda put in place a new Commission.

In December 2012, the President appointed the Vice President to oversee MEC operations, a decision that drew wide criticism and resistance from the electoral referee. The appointment was reversed subsequently.

The adoption of a presidential system of governance in Africa, including Malawi, has attracted less attention for parliamentary functions. Presidential systems are not inherently undemocratic or non-democratic. In the aftermath of independence, however, African presidential systems have tended to move in an authoritarian direction owing to the lack of horizontal accountability mechanisms that characterize parliamentary systems.

Wide powers were conferred onto the presidency by the constitution at the expense of the national assembly, often justified by the need for decisive and rapid development that parliamentarianism was presumed to thwart.

The formal constitutional provisions also combined with the informal neo-patrimonialism of African societies to reinforce the concentration of power in the presidency. The result was personalized rule by 'big men' whose position

was often underpinned by a personality cult and systematic clientelism.

Political processes, including the electoral process in Sub Saharan Africa, demonstrate informal practices influencing and interfering with formal institutions and practices, producing outcomes that often undermine the democratic intentions of elections (Van de Walle 2009).

It can be argued that we are, in fact, dealing with two institutions. In a sociological sense, an institution comprises a set or a pattern of relatively stable social relations. Within this pattern, interaction is iterative over time and governed by formalized, written rules and agreements as well as informal, tacit understandings about acceptable behaviour.

When the formal and informal rules reinforce each other, they contribute to consolidating and solidifying the institution. Conversely, if formality and informality pull in different directions in terms of the normative institutional foundation, scope is created for instability and unpredictability to arise. To some extent, this is what is being observed in the National Assembly of Malawi (Patel & Tostensen: 2006)

Economic Growth	2004	2005	2006	2007	2008	2009
Annual GDP growth %	5.7	2.6	8.2	8.6	9.7	7.7
Poverty						
Country wide	52	50	45	40	40	39
Urban	25	24	25	11	13	14
Rural	X	53	47	44	44	43
North	56	51	46	46	35	31
Central	47	46	40	36	40	41
South	64	60	55	51	51	51

Source: [www.developmentprogress.org/malawi economic conditions](http://www.developmentprogress.org/malawi-economic-conditions).

2004 – 2009: The democratic downturn

Mutharika's economic reform agenda began with his famous slogan 'zero tolerance for corruption,' which was an implicit threat to his mentor, Bakili Muluzi, and other senior members of the UDF cabinet. This obviously led to a widening rift between him and the party hierarchy.

The tension between the party cadres and Mutharika broadened so much that it seemed his expulsion from the party was imminent. But before that action

could be taken, Mutharika resigned from the party that had ushered him into power and went ahead to form his own party with a handful of ranking UDF members. Thus Mutharika and his cronies had effectively crossed the floor. The new party, called the Democratic Progressive Party (DPP), signalled the start of the Mutharika-Muluzi clash, which was reflected in the functioning of the government.

The DPP controlled executive and the UDF /MCP dominant legislature were in a state of perpetual tug of war. As a result, Parliament only met for a total of 30 weeks during the entire term. In some fiscal years, of 2006/2007 and 2008/2009, Parliament met only once and otherwise stood virtually suspended (Patel, Tostensen: 2012).

The meetings occurred only during the budget sessions, which were tense and acrimonious. In 2008, the Opposition was adamant about not allowing any debate on the budget until section 65 had been implemented – either first or concurrently with the budget as the case might be, but the Executive insisted on passing the budget first before discussing any other issue, thereby creating an impasse.

A UDF MP moved a motion to introduce impeachment procedures in the Standing Orders of Parliament on the grounds of a provision for posterity, not necessarily targeting the incumbent President. This justification ran contrary to the commonly held opinion that the underlying intention was, in effect, to impeach the incumbent President.

This view was soon borne out by events after the adoption of the new procedures, when a motion was filed during the 38th session in 2005 to impeach the President, citing seven grounds as just cause.

Fearing a possible impeachment move, the 2008 budget session was split into two segments in cynical ploy to nominally satisfy the minimum constitutional requirement of at least two sittings in a year, after which the President immediately prorogued Parliament.

Judicial powers

Meanwhile, the Constitutional Court, comprising of three Supreme Court Judges, issued an injunction restraining Parliament from summoning the President for indictment. They also issued an order preventing the Speaker from implementing the procedures pending judicial review.

The determination by the Constitutional Court effectively froze proceedings and debate on impeachment procedures, which were held in abeyance until such time as the judicial process had been completed. Even though

the Constitutional Court's action might be perceived as a way of securing political stability and temporary peace, the other side of the coin was to establish a dangerous precedent, whereby the Judiciary was overextending its jurisdiction by directly impinging upon parliamentary sovereignty.

The role that the judiciary has played in the democratisation context cannot be called ideal in terms of ensuring horizontal accountability amongst the three arms of government by strict adherence to separation of powers. The term 'dikastocracy' refers to a situation, where it is not elected representatives, but unelected judges who are used or misused by the political elites who revert to the courts for nearly all political disputes, thereby substantially impairing political neutrality of judges (Chilenga:2008).

The lengthy and oft delayed court procedures provide adequate time for the executive to govern without let or hindrance. It is also important to highlight the fact that unfavourable court rulings, generally go unheeded by the executive which continues to govern with impunity.

President Mutharika invoked his referral powers by asking the courts to interpret the constitutional validity of Section 65. He contended that there was a contradiction between Section 65, which prohibits floor crossing, and Section 32 which guarantees freedom of association.

He opined that Section 65 was incompatible with Section 32, and since Section 32 constituted an inalienable fundamental freedom, it could not be compromised and Section 65, therefore, had to be declared ultra vires.

An injunction was obtained in October 2005, and was upheld until 2007, when final judgment was pronounced on the matter. Marshal Chilenga calls it dikastocracy at work (Chilenga: 2008:p.53).

After the Supreme Court had pronounced judgment, Hon. Yunus Mussa and 43 other MPs went to court for judicial review of the decision of the Speaker requiring MPs to answer petitions that were made on floor crossing.

Victimisation of the Vice President

Practical experience has shown that the Vice President (VP)'s office is at the mercy of the President, who can victimise the VP and render the office irrelevant. Yet the VP can only be removed from office by impeachment just like the President. Hence, apart from protection of tenure, the Constitution does not protect the VP from being mistreated by the President.

Indeed, President Muluzi, who ruled between 1994 and 2004, victimised Justin Malewezi, who served as VP during the same period. This happened

after Malewezi and Muluzi had fallen out due to the fact that Muluzi had ‘anointed’ Bingu Mutharika to succeed him and stand as UDF presidential candidate in the 2004 General Elections.

The Constitution could not protect the VP from such victimisation except to secure his tenure as VP (Chilemba:2013). Similarly, when Mutharika became President in 2004 with Cassim Chilumpha as VP, Mutharika was able to victimise Chilumpha after the two had fallen out when Mutharika abandoned the UDF to form the Democratic Progressive Party (DPP) and Chilumpha refused to join him in the resulting defections.

Mutharika was able to render the VP office irrelevant for the greater part his first presidential term. With advice from the Attorney General, he coined the term ‘constructive resignation’ which is neither in the Constitution nor in the democratic tradition of Malawi.

The Constitution only managed to protect Chilumpha from being removed as VP, but did not provide any remedy as regards the victimization, which included withdrawing his security and other entitlements. The government even defied a court order of 2006 which required the restoration of the entitlements, which had been withdrawn on grounds that the VP had, by implication, resigned from his position.

2009 Elections and after

The results of the 2009 elections indicate that people hailed the economic performance of the Mutharika government and gave him an overwhelming mandate whilst paying a blind eye to his breaches of the rule of law and abrogation of the Constitution.

Presidential Results

1994	1999	2004	2009
47.2 %	51.37%	35.89%	66.1%
33.5%	44.30%	27.13%	30.6%

Parliamentary results

Party	% of votes	Number of Seats
DPP	37.1%	113
Independents	28.6%	32
MCP	12.1%	27
UDF	12.5%	17

Composition of Parliament by seats from 1994 - 2009

Party	1994	1999	2004	2009
UDF	85	93	49	17
MCP	56	66	58	27
AFORD	36	29	06	01
DPP	-	-	-	113
Independents	0	4	40	32
Other parties	0	0	34	02

Source: *Compiled from election results published in Government Gazette.*

In a 2009 post elections speech, the Vice President elect, Mrs. Joyce Banda, said ‘let me underscore the sentiments expressed by the State President that the DPP led Government will in no way take advantage of its majority seats in parliament to abuse its powers or to question the legitimate separation of powers that builds the backbone of any democratic system (Ott & Kanyongolo: 2009:p.12)’.

The outcome of the May 2009 elections, wherein the DPP swept 143 seats (including 29 Independents), drastically reduced the UDF and MCP seats in Parliament in stark contrast to their previous predominance, rendering them virtually ineffectual.

The ‘not taking advantage of majority’ promise of the inaugural speech was soon abandoned and the DPP government proceeded to tamper with the process of selection of the Leader of the Opposition by insisting that the said person must be elected by all the Parties in Parliament (including the party in majority). The fractious success of this strategy further weakened the Opposition and reduced the Honourable House into a virtual ‘rubber stamp’ institution that passed any bill tabled by the Executive with cursory inspection regardless of its importance.

Further, the DPP also went on to appoint all the Heads of the Parliamentary Committees, including the Public Appointments Committee, Public Accounts Committee and the Budget and Finance Committee, which play a pivotal role in the oversight function as well in the structure of constitutional checks and balances.

To reflect that spirit, these committees were traditionally headed by the Opposition. The inordinately rapid processing of bills indicated a myopic partisan bias that had little regard for the consequences of their actions. Indeed, some of the bills grossly undermined fundamental rights and personal

freedoms. Four examples of such bills are:

The Police Bill 2009:- this piece of legislation allowed any policeman above the rank of Sub Inspector, who had “reasonable grounds for believing that anything necessary for purposes of an investigation into an offence which he is authorized to investigate may be found in any place and that such thing cannot in his opinion be otherwise obtained without undue delay” may enter any place and conduct a search without a search warrant.

The Act was in direct violation of S21 of the Constitution which states: “every person shall have the right to personal privacy, which shall include the right not to be subject to-(a) searches of his or her person, home or property; and may thus be prone to challenges in the constitutional court.

Amendment to Section 46 of the Penal Code in 2011 – this empowered the Minister of Information & Broadcasting to ban any publication, which contained repulsive or offending material, such as child pornography, incitement of violence or promotion of hatred, genocide or terrorism.

The Minister was required to give reasonable grounds for the ban in writing and the decision could be appealed against. However, the media fraternity and civil society at large expressed fears of abuse of this amendment in the light of the deteriorating democratic environment.

The Local Government (Amendment) Bill, 2010 - The amendment contains several elements which virtually renders the office of the local councillors ineffectual. These are:

- MPs would now become voting members of the councils. The presence of councillors would now make no difference, as MPs had decision-making powers at the local level, despite the fact that MPs are not elected as members of councils, raising legitimacy questions.
- Removal of policy making from the responsibilities of Councils. This meant that the representative role of the local councillors and their policy-making function were effectively constrained.
- Reduced the term of office of the Chairman and Vice chairman from five years to one year, renewable once;
- Appointment of the CEO would now be in the hands of the Ministry of Local Government;
- Councillors would now not be entitled to any honoraria or sitting allowances, i.e. Councillors were rendered irrelevant in the

development equation. This was in stark contrast to MPs who enjoyed access to various developmental funds, including the Constituency Development Fund (CDF).

Ban on Injunctions - In mid-2011, the National Assembly passed a controversial bill that sought to ban injunctions against the government. A group of non-governmental organizations obtained an injunction from the High Court to prevent President Mutharika from signing the bill into law until a judicial review had been conducted.

The Economic downturns

In 2010, economic growth was still at 6.7% - above the MGDS target of 6%, and the average for Sub-Saharan region which was 5.5% (Mutharika: 2011). Mutharika announced that government would finance expenditure entirely from internal resources whilst development projects expenditure would require the support of development partners. In other words, this was the (in) famous 'zero deficit budget' introduced by the government.

A new Finance Minister replaced Goodall Gondwe. Malawi's IMF programme stalled, as the government remained staunchly opposed to a depreciation of the overvalued kwacha (which was around 135 – 150MK to 1 US \$). This further compounded the already shrinking aid inflows.

The government's firm stand on a strong stable currency, though laudable, was unsustainable. Malawi's main donors questioned the fiscal projections contained in the national budget for 2011/12. Public reaction to the budget was strongly negative, mainly because of the tax increases that were necessitated by the decline in aid. Basic consumables like bread were taxed. The trade deficit was widened in 2010 as fewer farmers planted tobacco following a fall in tobacco prices in 2009. Revenues from tobacco (accounting historically for about 60-70% of export revenues) were reduced by about 40%. Mutharika reacted by setting minimum prices for tobacco exports and warned buyers to comply.

He accused companies of transfer pricing and externalizing profits, and deported tobacco bosses after labelling them as 'exploitative colonialists' when companies refused to meet his minimum prices. This only served to reduce tobacco sales, thereby worsened Malawi's forex position even more, and the declining value of the local currency reduced real local currency export prices, which hindered macro-economic performance further.

Tobacco farmers suffered, and maize farmers, who had benefited from subsidies that generated surpluses, were also affected by falling prices. The fuel crisis deepened to a point that diesel, petrol and kerosene were

unavailable for days on end.

Long queues of frustrated people became a regular sight. Water and electricity supplies became more erratic and intermittent. Medicines became a scarce commodity in hospitals and national morale plummeted.

The overall result of all these retrogressive measures was a decline of business, external payment arrears that cause shrinkages in external lines of credit, and fewer and more expensive intermediate inputs that increased the cost of local production (EIU:2011). By mid-2011, many businesses were being asked by local suppliers to purchase their imports with foreign exchange, which became increasingly scarce.

The lack of forex and poor credit ratings impacted severely on fuel supplies, and shortages of this vital commodity affected the entire economy. Mini-buses increased fares and/or stopped running, transport costs rose, factories closed and dismissed staff, and the availability of consumer goods declined as prices climbed.

New construction projects were halted in mid-stream (Cammack: 2011). The positive policies of 2005 – 2009 degenerated into inappropriate policies, which led to fiscal deficit, growing inflation and depletion of international gross reserves due to overvalued exchange rate. The donors concern on deteriorating governance conditions, expressed in strong terms in a cable message of British High Commissioner Fergus Cochrane-Dyett to headquarters, gave signals of potential budget support withdrawal.

Suspecting such a move by donors, Mutharika announced his 'zero deficit' budget plan, suggesting that Malawi will only spend what it raises from domestic resources. This further hit the common man hard as even basic consumer commodities like bread was taxed.

Mr. Cochrane-Dyett was expelled in April 2011, marking the climax of the economic meltdown as the international community resorted to suspending financial support (40% of the national budget).

Impact of Corruption: In the midst of this meltdown, Mutharika and his cronies used loopholes in the IFMIS accounting system, which had been introduced by Government in 2005, to plunder public coffers and continued with an ostentatiously lavish lifestyle in stark contrast with the deepening misery and poverty of the general populace. He is reputed to have amassed a fortune of over MK61 billion at the time of his demise in April 2012.

This trend has continued and emerged as the infamous 'Cashgate' scandal that has currently rocked the very foundations of Government under President Joyce Banda and reduced public confidence in state institutions to an all-

time low.

New revelations of pillage and looting of public coffers continue to emerge daily, implicating Civil Service officials at all levels. To date, 70 people have been interdicted and are facing trials in court whilst their assets and properties have been seized to offset the massive losses incurred.

A forensic audit team, sponsored by the British Government, has delved into the issue, but their report has been released to the IMF in confidence. The public has not yet been allowed access to this report and no reason for the withholding of such crucial information has been furnished.

In the absence of credible information, the rumour mill has taken ascendance and speculations have run rife, thereby leading to a deepening cynicism in the public psyche, which promises to undermine state authority for the foreseeable future.

Relations with China - Formal diplomatic relations were established in 2007 by abruptly and undiplomatically cutting off 41 years of relations with Taiwan. The reason for this change was that it was good to embrace a large market and that Malawi was only following a general trend of switching to China.

Evidence of the Chinese coming to Malawi is visible in infrastructure development, which includes construction of a Parliament building, Malawi's first five-star hotel with an international conference centre and a University of Science and Technology, one of the best in South East Africa. A number of such projects have been pledged for \$260 Million of concessionary loans, grants and aid from China.

Suppression of Rights and Freedoms - In February 2011, the Inspector General of Police summoned a public Policy lecturer at Chancellor College to explain the issues and examples he was giving in class pertaining to fuel and foreign exchange shortage, forming the backbone of the economy, by relating them to the events of Tunisia and Egypt.

Media was under constant scrutiny. Director of Youth in the DPP warned civil servants not to advertise in or read any newspaper published by Nation publications because their reporting was sometimes critical of the government and the President (Nyasa Times: March 2012). This was reminiscent of one party style of stifling basic freedoms.

Amidst threats to personal freedoms like expression, assembly, gay rights propped up as an issue after a gay couple got publicly engaged to be married and got sentenced in 2010 to 14 years in prison for committing "unnatural acts."

In March 2011, a group of donors threatened to withhold more than \$400 million in aid in protest of a law preventing gay marriages and a separate one permitting bans on newspapers' publication of material deemed indecent(Freedom House:2013).

In late 2011, President Barack Obama issued a directive tying protection of lesbian, gay, bisexual, and transgender persons to U.S. foreign assistance and bilateral engagement. This donor pressure did not prompt the Mutharika government to repeal or reform the laws at issue, but did appear to have spurred some moderation in its outlook.

The Secretary General of the United Nations Mr. Ban Ki Moon made a rushed visit to Malawi and high on agenda was the request to the President to pardon the gay couple. Mutharika pardoned the gay couple after their sentencing, and in late 2011 announced that his government would seek a review of some of the other laws discussed above.

The July 20 Demonstrations - The harsh economic conditions and suppression of democracy was brewing a sense of resistance which brought citizens together as a coalition of 80 Civil society groups – religious groups, NGOs, student bodies, came together and mobilized themselves to take to streets, hold a peaceful demonstration and present a 20 point petition.

A total of 20 people lost their lives, while 58 were reported injured. About 24 journalists were arrested, beaten up by the police and thrown into custody. A commission of inquiry was set up by the President. The commission's report came out after Mutharika's death. The report states, though, that the demonstrations were poorly organized, did not abide by the court order not to demonstrate, but lays the blame squarely at the feet of the authoritarian government and heavy highhanded and incompetent policing. The use of live ammunition by the police is cited as the reason for the casualties.

Vice President Joyce Banda endorsed the protests against Mutharika government but expressed regret for the deaths, injuries and damage to property during the demonstrations.

Watch dog bodies like the Malawi Human Rights Commission (MHRC) and the Office of the Ombudsman were sidelined. For over one year the position of the Ombudsman remained vacant.

Following a release by the MHRC of a frank and critical report on the July 20 demonstrations which blamed the police behavior during that event, the President got angered and his government charged the Chair of the MHRC with treason, while the governing party cadres threatened him with violent attacks.

Consolidating tribal/Ethnic ties – A trust ostensibly formed for promoting cultural identity of the Lhomwe tribe during the first term of Mutharika came out more clearly with a Lhomwe power consolidation agenda after the 2009 elections.

One of the many reasons the 2009 elections were applauded was the fact that the DPP won votes across the country, breaking from the tradition of the three regions voting for the three parties having strong regional bases. However, the reality was that the modus operandi of this was a highly political agenda aimed at using political influence and connections to ensure Lhomwes occupied top government positions (Ntata:2012).

Despite the Civil Service Commission being insulate from political influence, politicisation of the upper echelons of the civil service remained an issue of concern as many key governmental positions were held by individuals from the Southern Region of Malawi, and particularly from Mutharika's Lhomwe group which held a disproportionate number of top positions in the state, including the security establishment, major parastatals, and those dealing with fiscal and monetary matters (Van Deopp:2012)

Fall out with the Vice President - Victimisation of the Vice President continued, and this was the turn for Mrs. Joyce Banda, who was Mutharika's and was refusing to endorse Mutharika's 'anointing' of his brother, Peter Mutharika, to stand as DPP's presidential candidate (in the 2014 elections).

Mutharika expelled Banda from the DPP and Banda formed her own party, Peoples' Party (PP). Mutharika sidelined the VP and continually castigated her. Once again, the office of Banda as VP was rendered irrelevant. The Constitution only protected her tenure.

The experience demonstrates that the person serving as president holds a lot of executive powers which can enable him or her get away with such deplorable victimisation of the VP. This suggests the continuation of perceiving the president as a very powerful institution.

Mutharika dies, Joyce Banda succeeds him

Mutharika passed on 5th April 2012 but for two days there was no official announcement. Instead, the Minister of Information was giving out false story that he was still alive in a hospital in South Africa.

This was a deliberate ploy by Mutharika's inner circle to buy time and maneuver ascendancy to presidency of Peter Mutharika, brother to the former President. Constitutionally, the Vice President takes over the office on death of the President. A Constitutional crisis was looming as a group of DPP cabinet ministers argued that Joyce Banda could not assume the Presidency

as she was no longer in the DPP.

However, this claim fizzled out and constitutional order prevailed, culminating into Joyce Banda taking oath of office of the President. Again, a major crisis was averted which could have completely eroded democracy in Malawi.

On 18th May 2012, President Joyce Banda delivered her State-of-the-Nation address to Parliament in which she set out her agenda towards the elections in 2014. It was comprehensive, detailed and optimistic. Her vision for Malawi was couched in 'I-have-a-dream' rhetoric borrowing from the famous speech of Martin Luther King Jr. The list of items on the agenda was an assortment of issues lacking prioritization and focus.

President Banda made all the right moves on assuming office. She formed an inclusive cabinet with members from all major parties in order to enjoy unity and support to pull the nation out of crisis it was in. The much delayed Kwacha devaluation was executed. Strained diplomatic relations, especially with Britain, were restored. Some negative laws passed in the previous regimes, like the one to ban a publication by a minister, were repealed.

President Banda announced an 'Economic Recovery Plan' to get the economy back on track. Exchange rate adjustment was taken as a priority and necessary measures were undertaken. For Malawi to regain macroeconomic balance it entailed a realignment of the exchange rate regime to one that is credible to all market players and allows business to return to normal.

To this end, the following reforms were implemented. In order for the exchange rate reforms not to be economically and socially disruptive, there was need for some foreign exchange reserves to meet the need for strategic fuel supplies, social support package, and outstanding arrears on foreign bills.

The country returned to automatic fuel pricing and zero deficit budget was abandoned. Government decided to maintain a tight fiscal policy that would not entertain any expenditure over runs so as to achieve prudent public financial management as well as create an enabling environment for private-sector led growth.

Malawi Before the 2014 Tripartite Elections

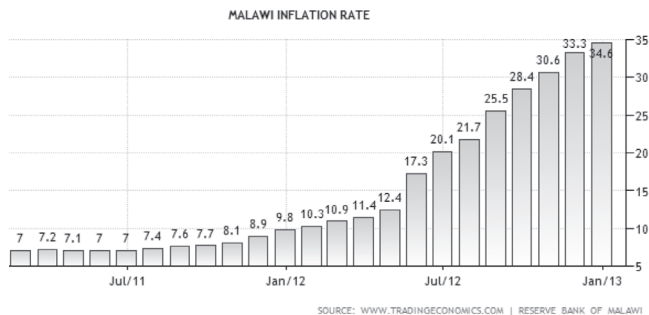
Malawi Macroeconomic Indicators

Year	2012	2011	2010
Inflation(y/y) %	21.3	8.3	6.3
GDP growth %	4.3	5.3	6.7
Exchange Rate(USD)	337.00	150.80	150.80

Source: Economic Intelligence Unit, 2013

The steep devaluation of the Kwacha from 150 to 1 US dollar down to MK 350 to a US dollar had a direct effect on the fuel prices, affecting all sections of society. President Banda's travels local and international in the face of grim economic conditions became a target for attention and concern.

Inflation in 2012 reached almost 22% and rose up to 33 % in 2013. The nation was reeling under the pressure of cost of living. The President announced a 30% salary cut for herself and the Vice President 'to show we are making sacrifices'. This was not received very well by the people.



Source: Reserve Bank of Malawi Report 2013

Assets declaration - The Constitution of Malawi in Section 88(3) stipulates that the President and members of the Cabinet must fully disclose their assets, liabilities, and business interests and those of their spouses or those held on their behalf within three months of their election or appointment.

Demands for the President to declare her assets were raised and the then Attorney General, said' there was no reason for her to declare her assets now because she is a member of the Cabinet that was sworn in 2009. Later in a conflicting statement the AG said, the President is willing to declare her assets if the law so requires.

Public demand for President Banda to declare her assets grew, especially after a sack full of billions of US dollars was unearthed from the house of the former President Mutharika. In the last sitting of parliament in November

2013, the assets bill was fiercely debated and fine-tuned.

The Cabinet reshuffle following the Cashgate episode saw the coming in of Dr. Maxwell Mkwazelamba who announced suspension of both local and foreign travels by government officials including the President. The President, however, continues with her travel to elevate chiefs and welcome defectors to her party and says 'I will never stop coming to visit you'.

Civil and Constitutional Rights: Background and Trends Under Joyce Banda -

President Banda vowed in May 2012 to push to overturn several controversial laws, including one giving the minister of information substantial authority to ban publications and another one limiting court orders of injunctions against the government. They have since been repealed.

Banda also suspended enforcement of a law making homosexual acts (albeit technically only those between males) illegal. Two other laws, including a provision broadening the judicial authorities of traditional leaders and another allowing for warrantless police searches and arrests, remain in place. Banda's suspension of the anti-homosexuality law in early November 2012 came as a surprise to some observers because, despite her initial pledge to support abolishment of the law, in September she had stated that repeal was unlikely due to popular support for such laws.

Despite President Banda's strong rhetorical support for human rights, there are some indications that the tendency to suppress freedoms, like freedom of press, is not gone. In October 2012, a journalist was arrested (and later released on bail) on charges of allegedly insulting the president and publishing false information. In a separate incident, police tear-gassed vendors protesting the arrest of a peer. There have been periodic disputes between petty vendors and city authorities, sometimes leading to protests and forceful police responses. Police have also deployed in force at several recent political protests in 2013.

Conclusion

The period between 2004 and 2011 in the political history of Malawi confirms the dictum that 'good economics needs good politics' and that the economic gains made under the developmental patrimonialism model are not only sustainable but they take a huge toll on democratic gains.

It also repudiates the claim that repetitive elections even if flawed guarantee democracy in the long run. Recent history shows that Malawi escaped regression to one party rule by a hairline margin and had Mutharika regime continued to complete its second term this fine margin would have been

erased.

Malawi has averted many serious crises but there is no concerted systematic process to engage key institutions to ensure that events do not lead to crisis points. The need to strengthen oversight and accountability role of governing institutions and constitutional bodies goes without saying. They need adequate resources and practice autonomy in the discharge of their duties.

There is a growing debate on how regular competitive elections do not necessarily equate to democratization. Wahman(2012) raises a pertinent question, as to “When do turnovers in African competitive authoritarian regimes result in democratization?”. When will the usage of incumbency factor for political survival and power accumulation cease?

The Malawian case fits well in this context of running debate and requires close reflection.

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LOCAL GOVERNMENT ELECTIONS IN 2014:

The legal–political context and their implications on the future of Malawi local governance

Happy Mickson Kayuni

Introduction

Local government, generally described as a governing body (whose members are either elected or selected) that operates below the national or state level, has emerged as one of the central features of democratisation process in Africa since 1990s.

The influential definition of local government or governance is provided by UNDP (2004 in Olsen 2007:7) which states that it “comprises a set of institutions, mechanisms and processes through which citizens and their groups can articulate their interests and needs, mediate their differences, and exercise their rights and obligations at the local level.”

The nature and form of local governance instituted in a country is largely determined by its corresponding powers and authority bestowed on it by the central government through various legal frameworks (Chiweza 2009 and Cammack et al 2007). In other words, apart from other factors, the central government is the major decider of scope and operation of local government institution.

The extent to which the central government decentralises its powers to local level is one of the key indicators of its willingness to share powers. Elections are some of the key indicators of central government’s willingness to see power being exercised at local level. This paper aims at critically analysing the forthcoming 2014 tripartite elections with special focus on local government elections.

Specifically, the paper discusses the elections in the context of the 2010 legal amendments related to local governance and electoral processes. The paper views elections not as a single act but a process which influences or is influenced by other social-political developments in a nation.

Consequently, the discussion in this paper will not solely focus on the single forthcoming episode of 2014 local government elections but how the elections themselves are to influence or be influenced by other issues which will have a bearing on future outcomes of local governance outcomes.

In order to achieve this objective, apart from the introduction, the first part

of the paper provides a theoretical background of local government and how it relates to elections. The next section discusses performance of contemporary Malawi local governance and is followed by an outline of previous Malawi local government elections.

Before concluding, the final section discusses the forthcoming 2014 local government elections processes and their implications on governance.

Theoretical underpinnings: Local government and elections

Universally, local government as an institution is inspired by certain theoretical frameworks that further influence the rationale for local governance elections. This section highlights these theoretical underpinning as well as their relevance to Malawi.

Relevance of local government and its relation to elections

Before an analysis of the relevance of local government elections is unravelled, it is important to first of all discuss the justification for the existence of local government institutions. Over the years, several schools of thought have emerged which justify local governance and Chiweza (2009) identifies three main schools of thought which are the efficiency services, democracy participation and the development schools of thoughts.

These schools of thoughts may be explained as follows: The efficiency services school of thought focuses on the delivery of services as the priority and justification for existence of local governance institutions. Being close to the people, local government institutions are better placed to address the needs of the people as opposed to the central government which is often pre-occupied with overall national issues.

In the democracy participatory school of thought, the rationale for local governance is intensification of democratic behaviour and practices at local level through citizens' exposure to systems of political participation and accountability. More importantly, it is envisaged that this exposure may lead towards political socialization and education at local level.

Finally, in development school of thought it is assumed that local governance assists in the national socio-economic programme implementation. In other words, the local governance institutions are expected to facilitate poverty alleviation at local level.

Once a local government institution has been established, there are some expected indicators to demonstrate its viability. In this regard, according to UNDP (2004 in Olsen 2007), the "building blocks of good local governance"

include:

- (a) Citizen participation,
- (b) Partnerships among key actors at the local level,
- (c) Capacity of local actors across all sectors,
- (d) Multiple flows of information,
- (e) Institutions of accountability, and
- (f) A pro poor orientation.

A critical view of all these pillars point to the fact that points (a) and (e) are more or less reinforced by local government elections. The significance of political accountability in relations to local elections and citizen participation is further highlighted by Olsen who says that:

Political accountability is a process whereby citizens hold their elected officials to account for their behaviour and performance. This could be, for example, directly through elections. Political accountability can also be improved through elected local officials' overseeing local executives, through activities that increase awareness about the policy performance of local governments, or through direct citizen involvement in policy decision making beyond elections (Olsen 2007:16).

Form of Malawi local government and significance of elections

This brings in the related concepts of deconcentration and devolution (Tambulasi and Kayuni 2007). Specifically, decentralisation is whereby decision making is delegated to local levels (in general it is also a collective term for both deconcentration and devolution). Deconcentration is regarded as decision making delegated to local levels through structures that are part of the central government machinery but without local level democratic oversight.

In devolution, decision making is delegated to local levels, to autonomous bodies, specifically created by an Act of Parliament with local level democratic oversight, and where decisions are supposed to be taken by elected members on behalf of the electorate. In Malawi, Cammack et al (2007) states that the decentralisation policy is, on paper, meant to achieve the extreme case of decentralisation which is devolution. Cameron (2002:114) further outlines characteristics of devolution as follows:

- Local government should be separate constitutionally from central government. It should be responsible for a significant range of services;
- Local authorities should have their own treasury, a separate budget and accounts, and their own taxes to produce a significant part of their revenue;

- Local authorities should have the right to allocate substantial resources, including the power to decide over expenditure, and vary revenue and to appoint and promote staff;
- Policy should be decided by local councils, consisting predominantly of elected representatives;
- Central government administrators should play an indirect, advisory and inspection role only.

In the case of Malawi, the legal framework of local governance is stipulated in three key documents which are:

- (a) Section 147 (1) of the 1994 Malawi Republic constitution;
- (b) Local government Act of 1998 (amended in 2010) and;
- (c) Decentralization Policy of 1998.

Performance of contemporary Malawi local governance

It is important to have a brief discussion on the performance of local government in Malawi in the post 1994 period because it has a bearing on the future. Using various Afrobarometer data sets (2003, 2006 and 2009), there is a clear indication that the performance of local governance, when compared with our neighbouring countries, has not been satisfactory. The focus is on trust of local government institution, citizen participation and consultation and other key indicators.

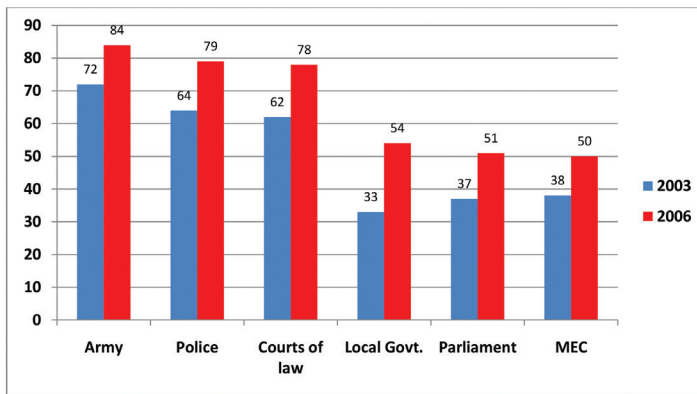
Trust in local government institution

The 2003 and 2006 Afrobarometer survey asked the question: “How much do you trust the following institutions?” The list of options included Local Govt. and other public institutions. The findings show that although all the

institutions improved when compared to the 2003 and 2006 survey results, the gap between the top three which had more trust and the remainder (which includes local government) is huge (see figure 1 below).

⁴The Afrobarometer is an independent, nonpartisan research project that measures the social, political, and economic atmosphere in Africa. Afrobarometer surveys are conducted in more than a dozen African countries and are repeated on a regular cycle. Because the instrument asks a standard set of questions, countries can be systematically compared. Trends in public attitudes are tracked over time. Results are shared with decision makers, policy advocates, civic educators, journalists, researchers, donors and investors, as well as average Africans who wish to become more informed and active citizens (from Afrobarometer webpage: www.afrobarometer.org).

Figure 1: Trust in public institutions (A lot/ A great deal) - 2003 and 2006



Source: Afrobarometer data (2003 and 2006).

By the nature of its name, local government is expected to be closer to the people, but a 54% trust in 2006 is still very low when compared to other institutions such as Army (84%) and Police (79%).

Citizen participation and consultation

The Malawi Local government Act of 1998 clearly values citizen participation because it states that “The objectives of local government shall be to further the constitutional order based on democratic principles, accountability, objectives of local transparency and participation of the people in decision-making government and development processes”.

Being one of the corner stones of local governance, it is imperative to analyze how the citizens themselves perceive the performance of local government in this area. Thus in relation to citizen participation, the 2009 Afrobarometer survey asked the question: “How well or badly do you think your local council is allowing citizens like yourself to participate in the council’s decisions?” (aggregation of ‘fairly well’ and ‘very well’ responses). When compared with our neighbouring countries (Mozambique, Zambia and Tanzania), Malawi is the least performing (at 12%) in this area while Mozambique is leading at 45%.

The same 2009 Afrobarometer survey asked the question: “How well or badly do you think your local council is consulting others (including traditional, civic and community leaders) before making decisions?”. In an aggregation of ‘fairly well’ and ‘very well’ responses, the survey results shows that Malawian and Zambian local councils are least likely to consult others before making a decision (at 22% and 17% respectively). In Mozambique and Tanzania it was

48% and 44% respectively.

Performance in other key indicators

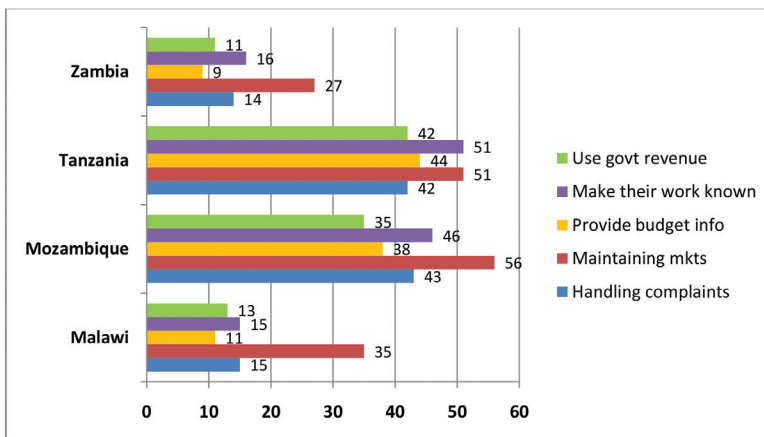
Finally, in 2009 respondents were also asked “How well or badly do you think your local council is practicing the following procedures?” (aggregation of ‘fairly well’ and ‘very well’ responses):

- Handling complaints
- Maintaining local markets
- Making their work known
- Provide budget information
- Use government revenue

The finding shows that Malawian and Zambian local councils are the least performing. For instance in the use of government revenue only 11% in Zambia and 13% in Malawi indicated that the local government is doing well, while in Tanzania and Mozambique it is 42% and 35% respectively.

In relation to making their work known, only 16% and 15% in Zambia and Malawi respectively indicated that local government is doing well, while in Tanzania and Zambia it was 51% and 46% respectively (see figure 2).

Figure 2: A comparison of Malawi local government performance in other key areas



Previous Malawi local government elections

Malawi has had local governance since the colonial period but elections for local representatives have been problematic. This section discusses these

problems during the colonial and MCP era as well as the post 1994 era.

Colonial and MCP era

Since the colonial period, Malawi is an example of a country in which, with only one exception, the state has consistently abandoned the idea of having elected local representatives despite officially claiming the opposite. For instance, Baker (1975) observes that the colonial state, in selected districts of the country, facilitated the establishment of a statutory district council which was supposed to have an element of elected officials.

The major reason for this inclusion of elected officials was to enhance political education at local level. However, the elections were abandoned several times. One of the major reasons for the failure of the elections was the fear by the colonial state of the nationalist movement, which was at that time predominantly sweeping across the country (Kaunda 1999).

It is not surprising, therefore, that when Benedict (1962) conducted a study amongst the youth in Malawi (then Nyasaland) between 1960 and 1961, the youth were found to be very active in mobilizing nationalists' political support at local level. Specifically, one of the findings of the survey was that: The principal activities of Malawi Youth have been political - explaining political problems, organizing political meetings and demonstrations [at local level]... In this, it would appear they have been extremely successful (Benedict 1962).

When the Malawi Congress Party (MCP) under Dr. Banda came to power (under self-government), after the 1961 general elections, he initially indicated that they would push for elected local representatives.

In 1962 the first real local government elections were held and the MCP easily gained control of the district councils. For the next few years local government most closely approached an ideal situation (Lodge et al 2002: 122-123) because:

- it was close to the people on the ground and their problems;
- it was democratic because all councillors were elected;
- it was reasonably efficient because local government officers and District Commissioners still exercised fairly close supervision.

This scenario was, however, short-lived as in subsequent elections, ward councilors were subjected to party appointments. In other words, the local representatives merely became an extension of the one party structure and

direct elections were not regarded as necessary at that level.

What is interesting is that the new MCP led government seemed keen to improve the caliber of local and central government administrators but paid less attention to promotion of democratic process of elected local officials. For instance, Public Administration training was introduced around independence time in 1965, under the Institute of Public Administration (IPA) located at Mpemba, Blantyre. The MCP's first manifesto highlighted the establishment of this Institute by stating that:

The party will establish as a soon as possible an Institute of Public Administration in Nyasaland by the Government for the purposes of training locally the large number of staff needed to cope with the new tasks of modern local Government and also to train Africans for the Higher Executive and Administrative posts in the Civil Service (MCP 1961: 8)

The basic reason mentioned was that IPA could be critical for the supply to the nation of indigenous personnel to support the growing human resource needs of the public service; perceived in both quantitative and qualitative dimensions. The public service at local and central level was at the time manned mainly by colonial (British) civil servants and it was generally small in size.

Similar attention for establishing elected office bearers was not considered a priority. This was compounded by the fact that a few months after independence, a cabinet crisis emerged which led to the arrest of several key politicians whilst others were exiled. In such unstable political environment, promotion of elected local government office bearers was out of question.

By the time Malawi adopted multiparty system of governance in 1994, the role and relevance of councillors were almost negligible.

Post 1994 era

After adopting the multiparty system of governance in 1994, there was a huge feeling that the local governance structures will be fully revived and empowered. Elections for local government were delayed on the pretext that the necessary supporting legal framework (apart from the constitution) was not yet available.

By 1998, the much delayed Decentralization Policy as well as Local Government Act came into force. However, despite the constitutional and legal backing, the UDF led government consistently delayed elections until in the year 2000. One of the reasons is that the UDF government had not managed to win seats in the Northern region and very few were won in the Central region of

Malawi. In this case therefore, the government feared that it was going to lose the local authority to the opposition especially in the northern and central regions of the country (Chinsinga 2008).

After much anticipation, the first local government elections were conducted in 2000, a year after the national general elections, but several problems characterized these elections. At 14.6%, the turnout was extremely low yet the Presidential and Parliamentary elections which were held the previous year in 1999 had a turnout of 93.76% of the registered voters.

What is even significant is that no elections were held in 131 of the 860 wards because candidates in these areas stood unopposed. In relation to gender representation, the results were also dismal; only 9.13% women were registered candidates for the elections and out of all the successful candidates, 8.49% were women. The elections were a clear manifestation of the people's lack of interest in the institution and its representatives as compared to national politics. According to the Malawi Electoral Commission, some of the factors that affected a low turnout include the voters' fatigue and imposition of candidates by the political parties.

After the term of councillors expired in 2005, subsequent elections never occurred but were postponed. The government argued that it lacked funding as it was dealing with the problem of hunger in the country. Parliament passed a motion that elections should be held in May 2007 but were again postponed because one of the problems which emerged was the unsettled wrangle of the composition of Malawi Electoral Commission commissioners. Government indicated that it was going to hold elections in 2009 but this never materialized as well. In 2005, no attempt was made to hold elections as the party in power also feared loss of its authority at local level to the opposition (Chinsinga 2008). It should be mentioned that the party in government at this time was the DPP which had been formed by President Mutharika after he had resigned from the party that ushered him into power, the UDF.

Since the DPP had not yet consolidated itself at local level, it was not an appropriate period for the party to hold local elections. After the 2009 Presidential and Parliamentary elections, several signals emerged indicating the holding of elections soon but these never materialized. It is the final legislative motion of holding tripartite elections in 2014 that has ultimately fulfilled the aspiration of holding local government elections.

Forthcoming 2014 local government elections processes: Their implications on governance

Despite the much lauded decision of holding the 2014 elections, the councilors will be coming into office amidst several unpopular 2010 Local Government

and Electoral Law amendments which have not yet been reviewed. These may have implications on the quality of the 2014 Local Government elections, the nature of competition as well as the form of local governance after the elections. The aforementioned amendments potentially have many negative ramifications on local governance such as:

Appointment of Chief Executive Officer

One of the amendments clauses includes appointment of Chief Executive Officer by the Minister of Local Government. In this regard, just as the time of the one party rule, it is perceived that those officers who are sympathetic to the party in government will be appointed as Chief Executives.

Chief Executives are hugely involved in the provision of election logistics at district level (or city and municipality). In other words their neutrality in the provision of election logistics is questionable (Chinsinga and Kayuni 2010). Since Chief Executives (or District Commissioners) are also key players in the secretariat of local governance, another danger is that the appointment is perceived as a deliberate ploy to ensure that the central government should have a strong grip on local administration.

Reduction of wards

The Electoral Commission (Amended) 2010 Act also has implications on ward boundaries which have been reduced in number per district. Specifically, the Act stipulates that there shall be 2 wards for each parliamentary constituency, except that, in the case of cities of Blantyre and Lilongwe, the number of wards shall be 30, and in the case of the City of Mzuzu and the City of Zomba, the number of wards shall be 15 and 10, respectively.

This has implications for small districts such as Likoma and Balaka which implies that the number of councillors will be very low. For instance in Likoma, the situation implies that they shall have only two councillors in the district. In the same Act, Clause 5 amends section 7 of the 1998 Act to exclude Members of Parliament and other ex officio members of the Council from appointment as Chairman or Vice chairman of the Council and further reduces the term of office of the Chairman and Vice chairman from five (5) years to one (1) year, renewable once.

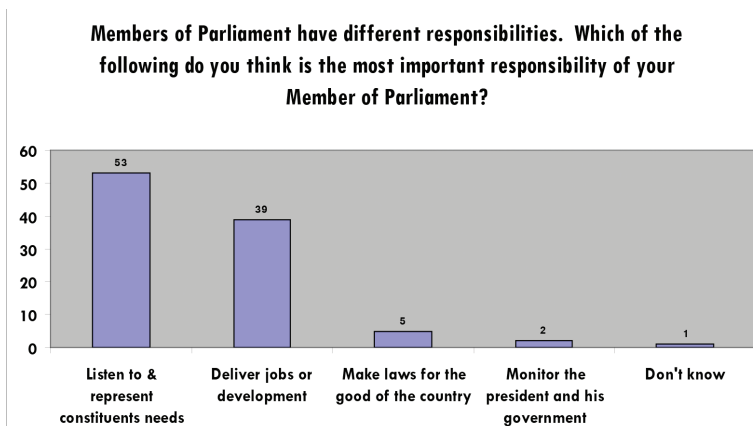
If they have only two councillors in a district as is the case with Likoma, application of this clause will be extremely difficult. More importantly, each district council is supposed to have several sub-committees and with only two councillors, it will be impossible to have their representation in key areas that matter. In other words, this problem raises the question of relevance of political representation at grassroots level.

Another problem with this amendment relates to the rationale for the baseline of determining wards. Determining wards based on parliamentary constituency make councillors to be hierarchically under MPs: a situation that would undermine the former's independence and local representational role. More importantly, creating wards in line with constituencies may have implications on electoral campaign processes. The campaign messages of Councilor vis a vis MP has the potential to confuse the voters.

The eight year absence of councillors has seen the legally prescribed roles of councillors being claimed by MPs and Traditional leaders. The political education has not been adequate which should have emphasized the different roles of a councillor and MP. Several Afrobarometer survey results show that MPs are perceived as development facilitators at local level whilst national roles are not regarded as important.

As Figure 3 below shows, in the 2008 Afrobarometer survey, 53% of Malawians stated that the most important role of an MP is to listen and represent constituents' needs followed by 39% who mentioned delivery of jobs or development. Formally, the most important role of an MP is to make laws for the good of the country but only 5% of Malawians mentioned this.

Figure 3: Most important responsibilities of MPs



Source: Afrobarometer data, 2008

This entails that the role of a councillor is not properly identified at local level hence affect candidates' campaign messages. In other words, what will candidates for the position of councillor's campaign message be which will be unique to that of an MP? This has to further be thought in the light of the subsequent discussions in sections below.

Weakened role of councilors

Apart from the above mentioned developments which have contributed to the weakening of the roles of councilors, several other additional amendments have also further weakened the role of councilors.

Firstly, Clause 4 of the 2010 Local Government Act amends section 6 of the 1998 Act to remove the function of policy making from the responsibilities of the Councils. This implies that aspiring councillors are seeking for an office which is not going to effectively achieve their goals. Secondly, Clause 3 of the 2010 Local Government Act amends section 5 of the 1998 Act to include Members of Parliament as voting members of Councils.

MPs are now allowed to vote in the councilor's domain, the councils, yet they were elected on the basis of influencing policies at national level in the legislature. In other words, practically the position of councilor has been weakened whilst that of MP strengthened at local level. It is likened to transformation of local to national representation.

In the past, people used to compete for the position of MP because it was "regarded as more prestigious and rewarding than being a councillor" (Kayuni 2005:51). During one of his interviews in Zomba, Kayuni (2005) found that a councillor is regarded as 'katundu boy' (porter) of the MP. In this context, MPs regarded councillors as their political rivals whose ultimate aim was to claim their position.

According to Tambulasi (2009:33), MPs "are therefore reluctant to offer support to elected members of Assembly fearing that their success may make them popular to an extent that they might be considered for the MP candidacy for the next election". The current amendment reinforces the attitude which had already been there instead of passing legislation which could reverse the situation. Thirdly, traditional leaders are now paraded as bona fide development agents of government and not councilors. This was the case during the UDF, DPP and also now in the PP era. As Tambulasi (2009:34) observes:

The local government institution still recognizes and rewards traditional leaders more than the councillors, albeit the former being only non voting ex officio members of the local government assembly. As the Neno District Commissioner put it, "it is only councillors that are voting members and chiefs do not.

However when there is an assembly meeting, traditional leaders are given transport and councillors are not, although it is the councillor who matters at the meeting as he is the voting member. In addition traditional leaders receive allowances and monthly salary and councillors get nothing but only

allowances when there are meetings”

Finally, due to reduced authority of councilors, those with genuine concern for local service will likely avoid standing as local government election candidates thus eliminating real and meaningful competition at this level. It should be noted that some view politics as an investment to improve their personal financial standing; in this context to pay MEC fee and later remain without salary and no political power seems an irrational investment. Some of the conflicts between councilors and district secretariat were attributed to financial rewards as observed by Tambulasi (2009):

Conflict comes in because of monetary and reward issues that the councillors thought would be due to them. The problem is that “when councillors were campaigning for their seats they had high hopes of making rich pickings for themselves like members of parliament or ministers” (Malawi News,2003:3). In this regard, conflicts erupt as councillors try to influence the secretariat to issue out monetary payments or give them some rewards which they are not entitled (Tambulasi 2009:35).

Currently, although other candidates (parliamentary and presidential) are refunded their MEC fees if they manage to get 5% of the electoral votes, this is not the case with local government candidates. As some people observed during a MEC stakeholders meeting held in Blantyre in on 29th November 2013, those aspiring for the position of councilors are normally not well to do in the community and subjecting them to a non-refundable fee of K20,000 or K15,000, for male and female candidates respectively, is very unfair.

The government has so far not indicated whether they will be provided with a salary or not. The salary provided to traditional leaders has recently not only increased but widened to include some low ranking chiefs yet government is not committing itself to provide salaries for elected local representatives. The same problem of conflicts between chiefs and councilors that Tambulasi (2009) observed is likely to proliferate after the 2014 elections.

6.0 Conclusion

The paper has pointed out that although Malawi adopted democratic decentralization, it has been reluctant to hold local government elections due to several social-political reasons. Specifically, throughout the history of local governance in Malawi, local government elections were only held once in 2000.

Despite the general enthusiasm of holding tripartite elections in 2014, which will usher in elected local representatives for the first time since 2000, there are several problems that need to be addressed. The key problem revolves around the unpopular Local Government (2010 Amendment) Act and the

Electoral Commission (2010 amendment) Act which have seriously eroded the relevance and efficacy of local governance structures in Malawi.

These problems will negatively affect the quality of candidates featuring for local government elections and, in the long term, the very nature of local governance itself.

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POLITICAL PARTIES' PREPAREDNESS FOR THE 2014 TRIPARTITE ELECTIONS HIGHLIGHTS

Henry G. Chingaipe

Introduction

On 20th May 2014 Malawi will hold its fifth general election since the transition to multiparty democracy in 1993. However, unlike the previous four general elections, the forthcoming general election will be tripartite. Thus, for the first time the general election will consist of three elections, namely for the presidency of the country, for parliamentarians and for Local Government ward councillors.

This paper is mainly concerned with the preparedness of political parties for the 2014 tripartite elections. The analysis concentrates on prospects of a number of aspects that are consequential for political party performance in the elections. These are:

- a. Electoral priorities for political parties in readiness of the elections
- b. Timeliness of party activities in relation to the electoral calendar
- c. Importance and influence of traditional leaders in elections
- d. The significance of handouts in relation to the acquisition, retention and loss of parliamentary seats
- e. Prospects for Independent candidates
- f. Whether the return of regional voting pattern or re-emergence of national parties can be expected

The analysis mostly draws on experiences from previous general elections and scholarly literature on the various issues.

Electoral priorities for Political Parties

In a functioning democracy, political parties are expected to aggregate the interests of various segments of the electorate and to articulate an agenda that spells out the good policy and programmatic intentions of the parties once they win the mandate to govern or to represent constituents (Ball, 1989).

This essentially entails that political parties engage in the politics of agenda setting by identifying, between elections, the key issues that government under their leadership would deal with and how they would do it i.e. political parties become or must become policy entrepreneurs (Kingdon, 2010; Birkland, 2010).

Since the last general election in 2009, a number of important governance and development issues of widespread public concern have come up or transpired. Furthermore, there has been a wave of leadership change in a number of political parties including the United Democratic Front (UDF), the Democratic Progressive Party (DPP), the Malawi Congress Party (MCP) and the Alliance for Democracy (AforD).

In spite of these happenings on the political landscape, six months before the election in 2014, the issues on which the political parties will fight the tripartite election have not consolidated. The main reason is that, except for the Peoples Progressive Movement (PPM) which has put out in the public domain its 20 point plan on which it wants to fight the election, all the other parties have been less coherent on the key issues.

It can be argued that spelling out electoral priorities is tantamount to releasing election manifestoes and that this can only be done when the official campaign period commences. However, it is observed that all political parties have been in campaign mode since the general election in 2009.

Nonetheless, apart from unclear, populist announcements for change that all political parties apparently seek, there is less clarity on the nature of change that they seek and even less on the strategies that will be implemented to bring about the desired state of change. It is not surprising, therefore, that there has been lack of inter-party policy debates that would be informative to the voters and help in defining electoral priorities by giving issues the necessary degree of salience i.e. relative importance of policy areas (Wlezien, 2005).

An often-cited excuse for the delay of the release of ideas on which the parties will fight the election is that early disclosure will make the ideas vulnerable to intellectual theft by other parties. However, this fear is potent only because political parties are still less clear and coherent about their political and economic ideologies which provide a framework of ideas for making policy choices (Heywood, 2003). Nonetheless, lack of clear articulation on change and the absence of election manifestoes give the impression that political parties and their leaders are clueless on how to deal with the vexing problems of governance and development that beset the country.

⁵ Twenty-point Plan for Malawi's Economic Recovery and Good Governance, People's Progressive Movement

Of the three elections, local government elections appear to be accorded less attention by the political parties. This is probably the case because the political system has run without local governments for a long time so much that the contest for power is mainly viewed at presidential and parliamentary level.

Furthermore, the legal framework for local government remains compromised by the amendments that were done in 2010 (Chinsinga, 2013; Chingaipe and Thombozi, 2014) so much that there is a reasonable amount of doubt as to whether the local councils will be able to function as they should or are going to be captured by the ruling party and the central government using the law as amended.

Why Electoral priorities are particularly important for 2014 Tripartite Elections

Previous elections, except the 2009 general elections, have been fought mainly on regionalism, ethnicity and religion (Phiri and Ross, 1998; Ott et al 2000; Ott et al 2004). However, there are indications since 2009 that subsequent elections, including the tripartite elections in 2014, will be fought based on issues.

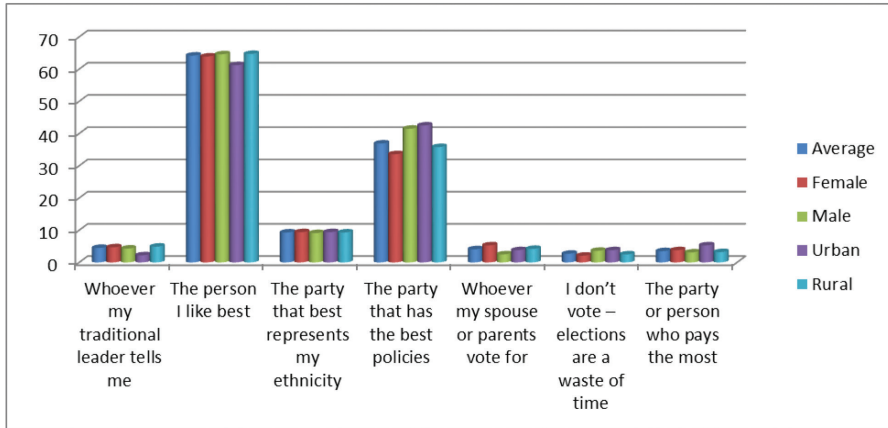
Chingaipe and Kabondo (2013) found that voters in selected constituencies where voter turn - out was lowest and the proportion of null and void votes was relatively high would like parliamentary and presidential candidates to focus more on marketing their policies and programmes that they will focus on during their tenures.

However, the absence of frameworks of ideas and clear priorities at party level means that aspiring candidates, especially at parliamentary and local government levels have no proper footing for their electoral propaganda. The scenario carries the risk of politicians sending conflicting messages to the electorate.

Furthermore, other recent research evidence shows that elements of political culture that shape voter behaviour and choices are changing. For the most part of the period after transition to multiparty democracy, voter behaviour has mostly been shaped by ethnicity and regionalism, and patrimonialism based on a culture of cash and material hand-outs and a perceived influence of traditional leaders (i.e. chiefs).

However, CSR (2012) found that on average 64.2 percent of the electorate would vote for candidates they like best and about 35 percent would vote for the party that has the best policies as shown in the figure below:

Figure 1: Factors that influence voters' electoral choices⁶



Source: CSR (2012:88)

Although there is no data to explain factors that make voters to like candidates to different degrees and there is no single criterion for identifying 'best policies', the results sufficiently suggest that the personal attributes of candidates and the quality of policies announced by political parties will become important decision factors for voters beginning with the 2014 elections.

Thus, political parties will have to be more searching and more serious in recruiting candidates for elections and in articulating policies and strategies on the most salient issues in the political economy of development of the country.

Importance and influence of traditional leaders in elections

Since the aborted attempt to scrap presidential term limits in 2002, the role of traditional leaders (i.e. chiefs) in multi-party democracy in Malawi has been in the spotlight. Popular debate has been concerned with whether chieftaincy is compatible with the democratic aspirations of Malawians.

The debate has arisen due to overt partisan engagement of chiefs in politics against a commonly held perception that they ought to be politically neutral. The most disconcerting element is that they have persistently sided with ruling parties on unpopular or controversial questions and in ways that disadvantage opposition political parties. In electoral politics, the importance and influence of traditional leaders has been both positive and negative.

⁶ Note that respondents were asked to indicate all factors that would shape their choices in the elections i.e. multiple responses. The exact question was 'If you were to vote, how would you choose who to vote for?'

Positive Importance and influence of chiefs in electoral politics

Traditional leaders have been and continue to be positively instrumental to the electoral process because of their various roles as follows:

- i. **Voter mobilization:** Chiefs help in mobilizing their people to take part in electoral activities aimed at ‘getting out the vote’ such as registration, attending CVE activities and turning out to cast ballots.
- ii. **Voter identification:** Chiefs help with the identification of voters as true and bonafide sons and daughters of their villages. This is particularly important when many Malawians do not have alternative means of identifying themselves except the Voter’s card.
- iii. **CVE – delivery and monitoring:** Because of their roles and positions in society, chiefs are mandated to support and take part in delivering civic and voter education and also to monitor the delivery of CVE by accredited CSOs

Negative importance and influence of chiefs in electoral politics

Competitive elections are seen as a cornerstone of democratic governance and politics (Reynolds, 1999; Von Doep and Villalon, 2005). Such elections are supported by constitutional guarantees of political rights such as freedoms of assembly and association and free political choices in the context of fair play. However, in Malawi, these basic requirements tend to be undermined by the behaviour of some chiefs.

- a. Barring parties and/or candidates from conducting meetings in certain areas or denying them access to and use of public spaces, has been a common practice in previous elections. For the 2014 elections, there are already media reports of the malpractice. Not only does it undermine freedom of assembly and association but it also denies voters unimpeded access to information that is necessary for free and informed choices. Common justifications for this practice revolve around preserving peace and order
- b. Partisan support to ruling parties – In previous elections, chiefs have been coerced to attend ruling party rallies and were victimised for attending opposition rallies; they were made to make public statements pledging their personal support and that of their subjects to the ruling party. Some of them were made members of campaign task forces for the ruling party (Msowoya, 12 March 2004; Chandilanga, 22 March 2007; Munthali and Nyirongo, 28 April 2009).

Malawi Before the 2014 Tripartite Elections

For the 2014 elections, this role of chiefs does not appear to let up at all. The current governing party, the Peoples Party, has almost exclusively focused on politicizing the chiefs and is implementing a strategy bent on promotion and installation of chiefs, sometimes against judicial rulings (Chingaipe, 2013).

Although ruling politicians profess in public that Chiefs must not accept to be used for partisan gain, they also indicate that Chiefs must serve the government of the day. However, just like in previous regimes of United Democratic Front (UDF) and Democratic Progressive Party (DPP), under the People’s Party (PP) regime, chiefs are deemed to be partisan only when they associate with an opposition political party. In practice, serving the government of the day translates into co-opting chiefs into the ruling party which compromises their objectivity and neutrality that is desired for a credible electoral process (Chingaipe, 2012).

But why do politicians seek the support of chiefs? Political parties and politicians in Malawi court chiefs in order to use their traditional authority and legitimacy to cultivate grassroots support for the parties.

A 2009 Afro barometer survey found that 51 per cent of Malawians thought that chiefs have a great deal of influence and a further 22 per cent thought chiefs have ‘some influence’ (Tsoka and Chinsinga, 2009:23) on voters’ choices. Chiefs are assumed to exercise this kind of influence apparently because of their multiple roles in governance at the local level and they enjoy more popular trust than other players in the governance sector as shown in the table below:

Table 2: Level of people’s trust in governance structures

Level of trust	Traditional	Courts	Police
	Leaders		
	%	%	%
Not at all	9	6	13
Just a little	16	14	16
Somewhat	18	23	24
A lot	55	52	45
Don’t know/haven’t heard enough about them	3	5	3

Source: Tsoka and Chinsinga, (2009: 23).

Data in this table has been pooled from responses to the question: How much do you trust **X**, or haven't you heard enough about them to say?

Despite the high level of confidence and trust that chiefs enjoy, their involvement in partisan politics is abhorred by the majority of the people. As shown in figure 1, less than 5 percent of voters would vote for a particular candidate or party on the basis of influence of chiefs. Even in the rural areas, the influence of chiefs on voting choices is found to be very low.

This is consistent with Afrobarometer findings of 2009 which showed that 56 per cent of respondents agreed that chiefs should be non-partisan and should not affiliate themselves with any political party (Tsoka and Chinsinga, 2008:41).

The significance of handouts in relation to the acquisition, retention and loss of parliamentary seats.

The culture of hand-outs is rampant in Malawian politics and demonstrates the depth and breadth of the deficit of integrity among politicians. Scholars have attempted to explain this behavioral pattern in terms of the patron-client relationships between elected politicians and voters within a cultural logic in which political legitimacy rests on the tacit normative idea that elected politicians stand in the same relationship to their electorates as a father or mother does to his or her children (Schatzberg,2001).

Elected politicians (Principals) are expected to provide some form of 'insurance cover' to poor clients (i.e. voters) in exchange for political and other forms of support. The implication is that voters receive and often expect occasional personal transfers plus some promises of local public goods in exchange for their votes at the expense of all-encompassing supportive policies.

The culture of hand-outs presents an incentive scheme that motivates elected politicians to support policies that actually contribute to keeping their clients (constituents) in poverty as it is in their interest as poor voters will continue to offer support in return for very limited insurance benefits. In the long term, handouts are an instrument for disempowerment of the masses and a tool for institutionalizing kleptocratic elitism in politics.

A common justification for hand-outs is that they help to shore up incumbent politicians to retain their elected positions. While this may be true for big patrons, the evidence of parliamentary turnover largely contradicts this assertion. For instance, in spite of the availability of a constituency development fund (CDF) and the absence of potentially competing actors in the form of councilors at the local level, parliamentary turn over in 2009 was as high as 75 percent.

Timeliness of party activities in relation to the electoral calendar

The Malawi Electoral Commission (MEC) released the electoral calendar for the 2014 elections in June 2013. For many electoral stakeholders and observers, the release of the calendar had delayed. This section presents a synoptic analysis of how political parties have responded to the calendar in so far as preparations for the 2014 TPE are concerned.

Leadership and policy Conventions held by parties

Five political parties, namely, DPP, PP, MCP, UDF and Aford have so far held pre-election party conventions between April and October 2013⁷. Except for Aford, the party conventions were successful in electing or endorsing party leadership especially presidential candidates in the 2014 general elections.

The Aford convention was marred mainly by the inability of the party and its cousin-parties, especially the National Rainbow Coalition (NARC) to establish a framework of rules that would guide the business of the convention. Consequently, at the convention, instead of playing the game within an agreed framework of rules, time was spent on contesting what the rules of the game should have been.

None of the Conventions, however, had enough time to signal sufficiently the governance and development agenda, policies and programmes of their respective parties.

While the Conventions were held in time for the election, it is observed that when leadership conventions are held too late, there is very little time for the leaders to get known by the voters in terms of their leadership abilities, policy orientations on different questions etc. Leading a party into and through an election successfully requires more than a few months at the helm before the election so that candidates are tested and tried

Registration of Voters

The Malawi Electoral Commission gazetted notice of registration of voters on 25th June 2013. The registration period commenced on 22nd July 2013 and was expected to end in early January 2014. A key observation in relation to political parties is that not all parties fielded party monitors in all constituencies as the parties are still localized. It is further observed that political parties have raised accountability questions about the registration exercise, sometimes leading to extension of registration periods.

⁷ DPP convention on 17th April 2013; MCP convention on 9th- 11th August 2013; PP convention on 27th-28th August 2013; UDF convention on 30th October 2013.

However, the observed trend has been that political parties have tended to vary their intensity of engagement in voice options based on their perceptions of the geography of their political support. For instance, going by media reports, the DPP was most vocal when registration was in Phase three which covered most of the districts in the Lhomwe belt including Thyolo, Luchenza, Phalombe and Mulanje.

Similarly, the MCP was most vocal in phase six when registration moved to central region districts including Dowa, Mchinji, Salima, Dedza and Lilongwe. This trend suggests that political parties are not yet thinking nationally in terms of the credibility of the electoral process. The inclination is still to protect their known bases of support.

Presentation of Nomination papers

According to the electoral calendar, presentation of nomination papers by candidates in the TPE is scheduled for 27th to 31st January 2014. As of first week of December 2013, only presidential candidates of a few political parties are known. Running mates for all presidential candidates are not known and are expected to be something of a surprise a few days before presentation of nomination papers.

However, this kind of delay will disadvantage voters who will have very little time to get to know the running mates. Our recent political history suggests clearly that voters need to know and understand the running mates as much as they do with the presidential candidates. Furthermore, when running mates come from parties other than those of the presidential candidates, voters need more and better civic education on how to vote correctly.

The same applies when parties forge electoral alliances. For instance, a review of the CVE strategy of 2009 found that the proportion of null and void votes in the eastern region (especially Machinga and Mangochi) increased significantly because of an eleventh hour electoral pact between the UDF and the MCP. Many voters ended up voting for both MCP and UDF candidates on the same ballot (Chingaipe and Kabondo, 2013).

Furthermore, in view of the dates set aside for presentation of nomination papers, primary elections for political parties have clearly delayed. For those parties that have expressed intentions to go down the democratic path of candidate selection through primary elections in all constituencies, for both parliamentary and local government elections, they have a maximum of six weeks to carry out the mammoth task⁸.

⁸ So far, these include the DPP, UDF, MCP and PP.

Experience has shown that primary elections are usually not well managed and bring forth a lot of issues, disputes and conflicts within the parties which require ventilation, sometimes even repeat elections so much that the time left before presentation of nomination papers is clearly far inadequate for a free and fair process of primary elections within the parties. This has potential implications on party cohesion.

Campaign

According to the electoral calendar, the official campaign period will run for sixty days from 19th March to 06.00am to 18th May 2013. All political parties are ahead of schedule as the law does not preclude campaigning before the official period. The period only denotes the time when the MEC is legally obliged to monitor and regulate campaign. From previous elections, two sticky issues in this regard have been about unfair media coverage by state broadcaster, MBC and abuse of state resources for campaign purposes by ruling parties. It is not yet clear how the MEC intends to proceed on these two issues for the TPE in 2014.

Debates for Presidential candidates organized by MEC are scheduled for 25th March (Mzuzu), 10 April (Lilongwe) and 14th May (Blantyre). Although these debates provide the opportunity for presidential candidates to articulate their party ideologies and policy directions and demonstrate their preparedness to lead, there is not yet unequivocal acceptance for all candidates to participate. An important element of the campaign is financing. Very little is formally known about how political parties are raising or have raised money for campaign, especially the parties that have not been in government recently. However, recent public efforts of mobilizing financial support by MCP have started rather late.

Polling

Polling is set for 20th May 2014. Political parties are expected to help with 'getting out the vote' by sensitizing their registered supporters to turn out for polling. Political parties are further expected to appoint political party monitors and submit their names to MEC in the month of April 2014

Prospects for Independent candidates

The legal framework for elections provides individuals with the freedom to contest in any of the three elections on a ticket of a political party or as an unaffiliated person i.e. Independent of any political party. The number of independent candidates and the number of successful ones in parliamentary elections has been on the increase as shown below:

	1994	1999	2004	2009
# independent candidates	12	115	372	483
#Elected independent MPs	0	4	40	32

In percentage terms, the number of independent candidates for parliamentary seats rose from 29.4 percent in 2004 to 40 percent in 2009 . Similarly, the proportion of seats held by independent Members of Parliament has been increasing from zero in 1994 to 2.25 percent in 1999, to 20 per cent in 2004 before dropping down to 16 per cent in 2009.

The main reason for the increase in the numbers of independent candidates has been lack of intra-party democracy. Political parties have demonstrated a clear lack of viable institutional mechanisms for carrying out recruitment and managing succession (Chinsinga, 2011). This has fuelled fissions and fissures in political parties leading to a progressive disengagement reflected through the increasing number of independents, many of whom are simply disgruntled with their parties. Common practices within parties that have partly contributed to the increasing number of independent candidates include:

- i. Unfree and unfair primary elections. Losing candidates have opted to contest as independent candidates leading to a split of votes for the original party.
- ii. Prevalence of elitocracy in the parties. Party leaders tend to protect their preferred candidates by avoiding primary elections altogether or by stage-managing them. Other aspirants simply run as independents.
- iii. Party leaders encourage others to run as independents to maximise the chances because effectively the party fields more than one candidate. This has been on a minimal scale but it has been sheer exploitation of the weaknesses of the anti-defection law because once elected, independent MPs have been able to re-join their original parties.

⁹ Author calculations.

¹⁰ There are reports that UDF senior politicians deployed this strategy in 1999

and 2004.

For the 2014 elections, there are prospects for an increasing number of independent candidates especially for parliamentary and local government elections. The main reasons for this are three as follows:

- i. There is very little time left for political parties to carry out credible primary elections before presentation of nomination papers. It can, therefore, be expected that many disgruntled aspirants will want to try it out independently.
- ii. The impasse on anti-defection law presents an incentive for candidates who want to join a party that will win the presidency. Their most viable option is to contest as independent candidates and if they win, join the ruling party on the pretext of 'working with the government of the day'.
- iii. Afrobarometer survey results have consistently shown decreasing levels of confidence and trust in political parties. The main reason for this is widespread dissatisfaction with the performance of parliamentary parties which has been shaped by excessive party discipline that is widely seen to have been responsible for advancing narrow agendas of political leaders rather than the national interest (CCJP, 2010; Chingaibe and Kabondo, 2013). This factor has potential to influence aspirants to run as independents. However, the leadership changes that have occurred in political parties may minimise the importance of this factor.

May 2014: regional voting pattern or re-emergence of national parties?

The 2009 general election is unique in the history of Malawian electoral politics mainly because it represented a departure from regional pattern of voting that characterized elections since 1994. The Democratic Progressive Party put up a national outlook and won votes across regional and ethnic divides (Chinsinga, 2011). However, deteriorating democratic governance after the 2009 general election brought back the salience of regions and ethnic identities in Malawian politics.

The 2014 elections will be held against a heightened consciousness of these parochial identities and are expected to shape voting behaviour of the electorate. However, unlike in previous elections where regionalism has shaped results significantly, it is ethnicity that may be more influential in 2014, especially in the southern region.

This assertion is premised on the fact that three of the four presidential candidates known so far, hail from the southern region and have their

strongholds of support from parts of the southern region with scattered pockets of support in the other regions. While the regional card may deliver dividends for the MCP in central region, it is unlikely to shape results in the North where there is no longer a party galvanizing the region as a whole.

However, the influence of regionalism in the central region is likely to be weaker than before as other parties have built significant pockets of support in the region. As for the south, the region is politically fragmented giving room for other factors to shape voters choices. Given the geography of political support of the various presidential candidates and their parties, ethnicity and policy articulation may be more influential in the southern region.

Conclusion

This paper has presented an assessment of the preparedness of political parties in Malawi, six months before the polling day – 19 May 2014; and preliminary thoughts on some variables in the electoral process. The key argument is that in many respects political parties do not appear to be ready for elections.

Their electoral priorities are yet to be consolidated as only one party (PPM) has released its manifesto and all the parties are lagging behind on candidate selection processes. On the influence of chiefs, the analysis suggests that chiefs have both positive and negative influences on the electoral process and that the negative dimension is influenced by an institutionalized patrimonial relationship that exists between chiefs and the state president who doubles as president of the governing party. However, their influence on voters' choices is on the decrease.

On the prospect for independent candidates, the analysis suggests that their number can be expected to be high in the 2014 elections depending on how political parties will manage the politics of candidate selection, especially primary elections. It is expected that many aspirants who will feel dissatisfied with the processes and outcomes will seek to contest as independent candidates.

On the geography of voting patterns, the analysis suggests that regionalism is likely to be less of an influence on voters' choices than ethnicity, especially in the southern region which is providing more presidential candidates to the electoral competition. Without a strong party based in the Northern region, the northern electorate is somehow uncaptured and represents a battle ground for the political parties. For the central region, regionalism may be a factor but its influence is likely to be attenuated as other political parties have made substantial in-roads in the last three general elections.

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SURVIVAL OF MINORITY GOVERNMENT IN MALAWI:

Coalitions or Collusions? Actors, Approaches and Consequences for Party System and State Governability.

Samson Lembani

Introduction

Electoral outcomes in Malawi's first three general elections gave minority votes for both the president and the president's party. The majority presidential and legislative votes received by the Democratic Progressive Party (DPP) in 2009 were therefore an exception. Put differently, the United Democratic Front (UDF), whose candidates became the state president did not secure majority seats in parliament in 1994, 1999 and 2004.

Thus, the combined number of legislative seats controlled by the opposition parties were more than those of the president's political party, thereby creating 'divided government,' in which the executive and the legislature were controlled by opposed political blocks. This created protracted instability in legislative business which prominently manifested in brief and erratic meetings of parliament, recurrent legislative boycotts by opposition parties, and undue presidential prorogation of the legislature.

To ensure relative predictability of government legislative business, patterns of political defections in favour of the government, within and outside the legislature have been discernible and prevalent across regimes. Paradoxically, even with the comfortable legislative majority obtained in 2009 which guaranteed no opposition sabotage to government's legislative agenda, defection trends remained significantly sustained.

Political defections seem to take their toll during periods closer to general elections when new or breakaway political parties also emerge often inundated by old political entrepreneurs, who instrumentally switch political affiliations seeking to maximise their political prospects. It is evident that the practice is in fact fast forming into a political legacy devoid of enduring and invincible ideological convictions.

What remains understudied is the extent to which such practice constitutes Malawi's form of political settlement in tilting the power balance in favour of minority governments without a formally and transparently negotiated inclusive or coalition government.

Indeed, this aspect of political science discourse has received insignificant attention among scholars, analysts and practitioners. Yet, the political practice begs numerous questions including how it affects the fortunes for political parties and candidates in subsequent elections. Other questions include the extent to which defections affect political cohesion of both the abandoned and receiving parties. It is also little known whether defections enhance or undermine democratic consolidation, two decades after democratization in Malawi.

Lastly but importantly, how does the practice influence the emergence of an established political culture of formal electoral alliances and coalitions in Malawi? This paper seeks to partly address these ambitious questions by analysing trends on the past two decades from the perspective of coalition theory and lessons emerging from the sub regional responses to post-election threats to state stability and national cohesion. The rest of the discussion in this paper proceeds as follows.

The next section is a brief discussion on key conceptual aspects of this study, namely definitions of political alliances and coalitions, and their descriptive features. This is essential as it clarifies theoretical conditions that rationalise the formation, maintenance and unmaking of political alliances and coalitions. This is followed by a brief overview of floor-crossing or defections and other institutional considerations such as electoral systems, regime types and party systems that promote or discourage political alliances and coalitions.

The second part presents Malawi's political profile, depicting the construction and status of its institutional makeup and political conditions within which this discussion is established. The third and fourth sections are devoted to the empirical analysis of causes of party alliances and coalitions, systemic and political considerations in party alliances and coalitions, and consequences for state governability, impact on party system, and effects on democratic consolidation and national cohesion. This discussion draws parallels from coalition experiences in South Africa, Burundi Kenya and Zimbabwe. The last section summarises this discussion with concluding reflections on scenario prospects for the future and dynamics for political alliances and coalitions in Malawi.

Conceptual Clarifications: Alliances and Coalitions

Alliances and coalitions are phenomena associated with the multiparty democracy dispensation and the scenarios in which not one single party can get outright majority legislative seats to govern. Alliances and coalitions, therefore, facilitate the formation of a power-sharing government to ensure stable state governance, increased legitimacy to govern and defuse executive-legislative tensions.

Although the two terms are in practice used interchangeably especially among Malawi politicians themselves, existing literature treats them as similar but conceptually different. In attempting to retain this conceptual distinction, it is essential to highlight what is common to the two and how their constitutive elements separate them, if any.

One of the major expository theoretical models dealing with the notion of political coalitions is the seminal work of William Riker (1962)¹¹ which was itself building on the original thesis of Neumann and Morgestern (1953). This model introduced the zero-sum game theory to abstract an established and stable institutional context which hypothetically contextualised how and when political parties would combine forces and synergies and form coalitions from the perspective of western established democracies.

The thrust of Riker's book, which attracted as many fervent admirers as its critics, depicts a politician as a rational actor seeking to maximise the prospect of winning and maintaining political power.¹² Hence, of necessity, he argued, political actors will tend to strategically form a not bigger than minimal winning coalition to maximise the share of governmental power and spoils or pay-offs of ministerial and sub-ministerial positions.¹³

As observed by his critics, the 'coalition size' assumption did not receive sufficient empirical validation and theoretical support. Real life coalition models predominantly feature minority government coalitions such as those formed in the Nordic countries (Sweden, Norway and Denmark) and/or those formed on the basis of commonality of ideological identities, while those formed in Italy, France and Denmark,¹⁴ are formed to structure and maximise harmony and predictability in policy choices.

Indeed an avalanche of definitions and typologies exist in the literature on alliances and coalitions which this paper makes no attempt to exhaustively discuss. A few, however, suffice to provide an aperture of this vastness of scholarship from which the working definition in this paper is derived.

Evidently, alliances and coalitions manifest in different forms and for varied aims. Alliances and coalitions are formed in all societies for the attainment of social, political or economic aspirations that are otherwise unachievable by an individual organisation, group or society.¹⁵

¹¹ Leftwich, Andrew & Laws, E 2012

¹² Wyatt, Andrew 1999:5

¹³ Riker, William, 1962

¹⁴ Grofman, Bernard, 1996:265, 267; Wyatt, Andrew, 1999:5

¹⁵ Ibid

Although institutional and political challenges and opportunities may vary across contexts and times, this goal: achievement of objectives that are not attainable by lone efforts, is the dominant and common feature to all alliances and coalitions.

In the study of regime politics, the use of coalition framework of analysis offers the exponential explanatory advantage of ‘delineating who sides with who, against who and over what.’¹⁶ While arguing that coalitions matter, Deborah Yashar¹⁷ defines coalitions as ‘alliances’ or union arrangements among heterogeneous groups and social actors who wilfully sacrifice their divergent individual long term-interests for the sake of mobilising and realising ‘intermediate collective goals.’ Notably, Yashar’s conception treats coalitions as synonymous to alliances and further asserts that coalition members can, for instance, organise joint electoral candidates without necessarily having a common ideological identity among its constitutive partners.

The cardinal aspect of this definition is the pursuit of and passion for intermediate, collective political goals; even among groups with distinctive ideological orientations.

This paper adopts the definition which views alliances and coalitions as agreements of joint cooperation and common agenda of a minimum of two political parties. Fundamentally distinct in this characterisation of an alliance from a coalition is the timing and basis for the agreement. The former is formed prior to elections to ‘maximise votes,’ while the latter refers to a post-election similar formation of political parties in parliament or government, based on their respective electoral outcomes.¹⁸

Thus, the formation of alliances precedes an election for purposes of maximising electoral outcomes for their joint candidates in anticipation of forming a shared government. Essentially, electoral alliance formations are premised on imprecise estimation of each constitutive partner’s electoral support, without being preclusive on account of such incomplete or imperfect information. By contrast, coalitions are conceived as the coming together of at least two political parties based on their actual electoral results for the sake of forming a shared governmental authority.¹⁹

From around the 1980s, further refinements to coalition theory development have extended the debate to institutional determinants of coalition formations, beyond size and ideological considerations of the 1960s and 1970s.²⁰

¹⁶ Yashar, Deborah, 1997:15

¹⁷ Ibid

¹⁸ Wyatt, Andrew, 1999

¹⁹ Ibid, 1999:6

²⁰ Kadima, Denis, 2006:5

This institutional dimension argument posits that the formation, management and survival of alliances and coalitions are equally conditioned by prevailing formal and informal institutional arrangements that define power configurations-how asymmetric power relations are structured in specific political environments and spheres.

This quest explores and explains ways and forms by which institutional factors promote, discourage or constrain political alliances and coalitions as reviewed in the next section.

Institutional determinants of alliances and coalitions

Institutions are understood here as generally agreed formal and informal rules, scripts or devices, which provide a template of incentives to guarantee a socially regulated, compliant and predictable human interaction and sequence of decision-making.²¹ The assertion here is that cognitive intuition, courtesy and moral appropriateness are necessary but not sufficient to constrain variability and flexibility of social behaviour. Formal institutions, official rules of procedure, statutes, agreements or contracts that are explicitly codified, relatively invariable, impersonal and externally enforced are critical due to their inherent compelling incentives for compliance and constraining sanctions against deviance.²² Examples include constitutions, alliance or coalition agreements, electoral laws, regime type, party system and parliamentary system.²³

However, understanding the simultaneous influence of informal norms, practices and traditions provides an instrumental perspective and knowledge in accounting for ancillary structural factors and drivers of human interactions, especially in most African countries which are noted to be operating on institutional-dualism: formal and informal. Informal norms are unwritten, tacit, interpersonal, reciprocal, normative codes, and habitualised routines generally accepted and self-enforced outside official systems.

Importantly, informal institutions can complement, accommodate, substitute and compete with formal rules.²⁴ In essence, informal institutions that are competitive and substitutive tend to undermine compliance to formal rules. The social affection theory as elaborated by Emerson (1962) and Blau (1964) is a model of the 'economy of affection' that captures the essence of informal norms by explaining the existence of asymmetric social relations that are ubiquitous in underdeveloped economies, emerging or hybrid democracies

²¹ Ostrom, Elinor, 1996:2; Shepsle, Kenneth, 2008:24

²² North, Douglas, (1990:4) Lindberg, Stefan, 2010:153

²³ Bickers, Kenneth & Williams, John, 2001:41

²⁴ Helmke, Gretchen & Levitsky, Steven, 2004:728-730

and classless societies of South East Asia, Latin America, Eastern Europe and Africa, where reliance is on a 'hand-shake rather than a contract.'²⁵

Where they exist, these relations feature individuals who invest in lateral and reciprocal relationships for the attainment of desired aspirations deemed unattainable otherwise.²⁶

To secure objectives such as material (i.e. benefits, loans, business favours) or social status (i.e. prestige and influence) informal norms and practices become stubbornly established scripts that they seem to conspire against, substitute or subvert formal rules, especially where the latter are themselves either defunct or poorly enforced or both.²⁷

A dominant feature of the economy of affection is that while the well-resourced patrons (political or economic entrepreneurs) dispense instrumental subsistence support as social, political and economic 'insurance,' from their position of advantage to the underprivileged clients, the latter provides political support. It is the permeation of predatory extraction, accumulation and distribution of private goods (through bribes, duplicity, illicit rents, fraud, dubious contracts) at the expense of public goods that turns patron-client relations repugnant to democratic consolidation and rule of law.²⁸

Regarding how these institutional factors affect coalition formations in Africa, ample literature provides evidence suggesting that specific institutional contexts are more compatible with the formation of alliances and coalitions than others. In political contexts, where alliances and coalitions are hardly an optimal strategy for political settlement and resolving legitimacy questions against minority governments, it may be insightful to seek explanations from the enabling or disabling institutional design.

For example, in what has been held as the Mauritius 'Miracle,' it is insightful to note that despite its pre-independence political turbulence and instability, Mauritius is one of the few African countries to have met Samuel Huntington's 'two-turnover test' of democratic consolidation²⁹ and that both the multi-ethnic Island's economic development and political stability are attributed to the institutional design adopted at independence that encourages coalition compromises and regime alternation.³⁰

²⁵ Hyden, Goran, 2006:72, 85; Scott, James, 1972:91

²⁶ Ibid:73

²⁷ Helmke, Gretchen & Levitsky, Steven 2006:729

²⁸ Diamond, Larry, 2010:55

²⁹ Logan & Cho 2009:3-4

³⁰ Brautigam, Deborah 1999:138

Elsewhere in Africa, alliances and coalitions are systematically uncommon in presidential regimes with highly centralised executive power that coexists with and enhances patronage politics.³¹ The scenario is similar; alliances and coalitions are unfamiliar in plurality electoral systems, unitary states with fragmented party systems such as Malawi, Zambia and Kenya. As the Malawi case shows in the next section, floor-crossing or party switching seems to remarkably and routinely replace formal alliances and coalitions, notwithstanding the risk of heightened executive-legislative acrimony and governability challenges. Further, dominant-party systems such as Mozambique, Tanzania, Namibia, Zimbabwe and Botswana have no tradition of alliances and coalitions either, although South Africa was an exception after 1994.

Common to dominant party systems are limited prospects for regime alternation with obstinate grip on state control by parties that had won transition elections.³²

Successful inclusive coalitions and perils of exclusive collusions in Southern Africa

Ethnicity and elections, like water and oil, are immiscible elements especially when 'ethnicity is mobilised during elections, and when elections are deliberately ethnicised by the political elites.'³³ Yet, electoral politics and ethnicity have not been divorced in African politics occasioning bloody violence with varied effects and implications on democratic governance and state stability.

Within the sub-region, South Africa and Burundi offer for illustrious lessons of credible pre-election negotiated models of inclusive power-sharing coalition governments, which averted the eruption of disruptive post-election ethnic turmoil in 1994³⁴ and 2005, respectively. From the two country scenarios, it is evident that 'to share or not to share power is a dilemma when the alternative to sharing power is perhaps to lose it.'³⁶ In South Africa, just as in Burundi, all parties were keen to make considerable political concessions through a negotiated and inclusive political settlement to secure lasting peace.

³¹ Clark, John & Gardinier, David, 1997; Chabal, Patrick & Daloz, Jean-Pascal, 1999

³² van de Walle, Steven, 2003:301

³³ Matlosa, Khabele & Shale, Victor, 2013:12

³⁴ Matlosa, Khabele & Shale, Victor 2013:10-11 aptly refer to the broad-based multiparty negotiations under the Convention for Democratic South Africa (CODESA I & II), which created a constitutional order and consensus for the choice of electoral system, premise for a post-1994 Government of National Unity (GNU), thresholds of power-sharing based on electoral results and tenure of the GNU.

³⁵ Matlosa, Khabele & Shale, Victor, 2013:13-14, 18 refer to the 2005 post-transition constitutional engineering in Burundi which stipulated specific terms of equitable power-sharing arrangements at national (executive and legislature), provincial and local level between Hutu and Tutsi ethnic groups.

³⁶ Chaudhury, Ray, 1969:296-297

The return to protracted and bitter ethnic conflicts was not an option. By contrast, Zimbabwe and Kenya are classic cases of political collusions of post-election governments of national unity to bequeath short-lived national stability of elite-centred power-sharing pacts following disputed elections³⁷.

It is evident that even under unprecedented post-election volatility and extended governance crises as witnessed in Malawi (2004-2009, 2012), Zimbabwe (2003-2008) and Kenya (2007-2008), there is an emerging tendency that conveniently shifts away from formal government coalitions towards collusive and exploitative political settlement mechanisms such as 'government of national unity' or 'power-sharing' arrangements as witnessed in Zimbabwe and Kenya. Owing to a combination of extremely limited levels of mutual trust, non-exhaustively negotiated partnership conditions and rent-seeking pre-dispositions of actors anchored in both patronage and vague agreements, such power-sharing arrangements collapse for lack of long-term legitimacy, mutually-binding commitments and guiding principles to balance political cooperation and political competition.

In contrast, political coalitions manifest more in minority governments of parliamentary systems, federal government systems and proportional representation electoral systems, which also have relatively stable and cohesive party systems such as Israel, Italy, Germany, Belgium and Mauritius.

The foregoing synthesis has attempted to set the theoretical scope and broad political context within which to locate and examine political and structural factors which explain the processes, challenges and scenarios for political alliances and coalitions in general. In the next section, the discussion focuses on Malawi's institutional, political and structural contexts and how they have enhanced or impeded alliances and coalitions.

Using documentary analysis and empirical evidence, the rest of the discussion in this article is a mini anatomy that interfaces institutions, actors and strategies with political alliances and coalitions in Malawi since the transition elections in 1994.

Malawi's Political Institutions

Politically, Malawi is a unitary state with three regional administrative centres - north, centre and south that have no legislative autonomy. The unicameral national assembly represents the country's 193 constituency seats whose representatives are directly elected under the plurality system.

³⁷ Matlosa, Khabele & Shale, Victor, 2013:19

The Senate (Sections 68-72) in the 1995 constitution was abolished in 2001 by a unanimous vote of parliament to consolidate executive power over the single chamber parliament in defiance to the dominant public view and unsuccessful petitions for its retention.³⁸ Both the president and legislators serve for 5-year office tenures, renewable every five years for the MPs and only for a maximum of two five-year terms for the president.³⁹

The party system remains fragmented and weakly institutionalised, internally challenged by legacies of patronage, serious democratic deficits especially over leadership succession issues and primary elections for legislative candidates. It has been contended that political patronage, clientelism and nepotism are preserved by and embedded in formal rules which centralise power 'in the hands of the President (vis-à-vis parliament, the judiciary, and parastatals, local and district government, ruling party machinery, and chiefs,' in Malawi.

In addition, there are recurrent and unprecedented incidences of floor-crossing or party switching from the opposition to support minority governments since 1995, as further elaborated below. Political parties are transient with muted, vague or non-existent ideologies and no deterministic effect on voters' choice.⁴¹

Membership mobilisation remains unstructured in all parties, predominantly utilising public rallies. Party ownership remains personalised in the president with the latter being the main financier to party activities while membership identification and estimates are imprecise and intuitively based on party colours.⁴² Legislative turnover remained substantially high in the 1999, 2004 and 2009 elections, averaging 75%.

The 2004 and 2009 election outcomes proved a marked decline of support for political parties particularly for the UDF and Alliance for Democracy (AFORD), who lost their legislative seats mainly to splinter parties and independent candidates.⁴³ The trend on legislative performance for all political parties across four general elections is captured by table 2. The configuration of political parties in the legislature especially after 2004 is indicative of party fragmentation and status of the parties' organisational capacity to counter rising unpopularity.⁴⁴

³⁸ Patel, Nandini, 2005:5; EISA 2007:30; Cammack, Diana, 2009:163

³⁹ Malawi Constitution 1999:Sec.67; 83(1-3)

⁴⁰ Cammack, Diana, 2011:2; 2009:155

⁴¹ Lembani, Samson, 2011:12-13, Meinhardt, Heiko & Patel, Nandini, 2003:29; Phiri, Kings, 2000:68

⁴² Khembo, Nixon, 2004:105

⁴³ Mpesi, Andrew, 2011:27

⁴⁴ Kadima, Denis & Lembani, Samson, 2006:111-146 aptly account for party splits and defections in Malawi

It must be mentioned that the DPP's victory to secure nearly 60% of the legislative seats and 66% of the presidential votes in 2009 and distributed across the country may be attributed to three reasons.

First, voters gave a protest vote against the MCP and UDF over their MPs' conduct when they were often pressured to pass the national budget between 2005 and 2008.⁴⁵ During this period, legislative opposition party leaders preconditioned the passing of the national budget to the prior dismissal of parliamentarians who had crossed the floor by supporting Mutharika's minority government.

Traditional leaders added their pressure to that of civil society groups and university students to compel MPs to pass the national budget when it was nearing two months into the new financial year and the government did not have an approved budget. The opposition relented on 'No Section 65, No Budget,' slogan and reluctantly passed the budget when it was apparent that the electorate was becoming increasingly enraged against the opposition's sustained objection to pass the budget.⁴⁶ This author, therefore, concludes that the opposition parties' informal legislative coalition in refusing to pass the budget had attracted unprecedented unpopularity and political costs that may have led to the electoral verdict against the major legislative parties-UDF and MCP.

Second, emerging from a narrow and humble political base, Mutharika's only option was to advance public policies that would generate the needed political support. Thus, his agricultural inputs subsidy programme launched in 2005/2006 on the back of good weather conditions was widely hailed as a remarkable success by the general public as well as donors for having spurred increased productivity and food security.⁴⁷

Improved food security was complimented by improved road infrastructure, sound macroeconomic policies and favourable donor inflows, which led to superior economic growth for Malawi in the same period, with Gross Domestic Product (GDP) growth rate averaging 8% between 2005 and 2009. These factors may have fundamentally altered electoral fortunes in favour of DPP's landslide victory.

⁴⁵ Chinsinga, Blessings 2009:148. Based on the 2008 Afro-barometer study which showed that 76% of the people

⁴⁶ candidly opined that parliaments needed to prioritise the passing of the national budget over floor-crossing.

⁴⁶ Ibid: 132

⁴⁷ Mpesi, Andrew & Muriaas, Ragnhild, 2012:10

⁴⁸ Chinsinga, Blessings, 2009:149

Malawi Before the 2014 Tripartite Elections

Table 2: Performance of Malawi political parties in four general elections

Political Party	1994	1999	2004	2009
United Democratic Front (UDF)	85 (48%)	93 (48%)	49 (25%)	17 (8.8%)
Malawi Congress Party (MCP)	56 (31.6%)	66 (32.6%)	58 (30%)	27 (14%)
Alliance for Democracy (AFORD)	36 (20%)	29 (15%)	6 (3%)	1 (0.5%)
Malawi Forum for Unity and Development (MAFUNDE)	N/A	N/A	N/A	1 (0.5%)
National Democratic Alliance (NDA)	N/A	N/A	8 (4.1%)	N/A
Republican Party (RP)	N/A	N/A	15 (7.8%)	0
Peoples Progressive Movement (PPM)	N/A	N/A	8 (4.1%)	0
Movement for Genuine Democracy	N/A	N/A	3 (1.6%)	N/A
People's Transformation Party (PETRA)	N/A	N/A	1 (0.5%)	0
Democratic Progressive Party	N/A	N/A	N/A	114 (59%)
Independents	N/A	4 (2%)	39 (20%)	32 (16.6%)
Total Number of Electoral Parties	8	11	15	6
Total number of Seats	177	192	192	192

Source: Author compilation on the basis of Malawi Electoral Commission, various years,

N/A: Indicates non-existence- either the party/group was not registered or abolished

Third and lastly, the disorganisation and chaos that followed Muluzi's unsurprising rejection of his candidature by the Electoral Commission at the eleventh hour suddenly entailed that UDF had no presidential candidate. Muluzi's subsequent signing of an electoral alliance agreement with MCP within 72 hours before the elections raised more curiosity and controversy than hope for both UDF and MCP followers.

This ultimately restricted the political choice of sceptical MCP/UDF voters for a presidential candidate since the two alliance partners were unable to sufficiently develop mutual trust and common campaign strategy for their joint presidential candidate-MCP's John Tembo. The desperate and illusory hopes of the two parties were premised on anticipation for past precedents of regional voting to garner sufficient presidential votes from their parties' respective regional enclaves.⁴⁹

Cumulatively, the above factors may have swayed popular support towards the DPP's massive electoral victory in 2009. Overall, table 2 shows that the number of legislative parties changed from 3 (between 1994 and 2004) to 8 (between 2004 and 2009) and to 5 after the 2009 elections. The table also illustrates the significant show-up of independent MPs: from 4 in 1999 to 39 and 32 in 2004 and 2009, respectively. This is attributed to flawed party primary elections in which the favoured party candidates were not the same as the voters' candidates of choice.⁵⁰

Legislative configurations across four elections

With the exception of the overwhelming victory of DPP in 2009, all other elections hitherto had resulted in combined majority legislative seats for the opposition parties and a minority government controlling the executive - a scenario referred to as divided government. This state of affairs, in itself, ideally necessitated the formation of formal government coalitions to ensure governance stability.

Yet, without any meaningful government coalitions, the Muluzi and Mutharika governments survived their tenures through floor crossing. The regional spread of legislative seats for all parties in the 1994/1999 elections is shown in table 3. The results illustrate that the governing party had no decisive parliamentary majority although the number of constituencies were increased from 177 in 1994 to 193 in 1999.

⁴⁹ Chinsinga, Blessings, 2009:149

⁵⁰ Ibid:148

Table 3: Regional share of legislative seats across three parties in 1994 and 1999

Party ⁵¹	1994 Regional share of legislative seats				1999 Regional share of legislative seats				1999 Regional share of legislative seats			
	N	C	S	Total	N	C	S	Total	N	C	S	Total
UDF	0	14	71	85	1	16	77	94	3	8	38	49
MCP	0	51	5	56	4	54	8	66	0	57	2	59
AFORD	33	3	0	36	28	1	0	29	N/A	N/A	N/A	N/A
DPP	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	6	0	0	6
RP	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	6	0	9	15
NDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1	0	7	8
PPM	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	5	0	1	6
MGODE									3	0	0	3
PETRA									1	0	0	1
CONU									0	0	1	1
INDEPEND-ENTS					0	1	3	4	6	6	29	39
Total	33	68	76	177	33	72	88	193	9	65	40	193

Source: Author compilation on the basis of Malawi Electoral Commission, various years,

N/A: Indicates non-existence- either the party/group was not registered or abolished

N=North; C=Centre; S=South

Table 3 also shows that the election results for the three legislative parties between 1994 and 2004 were regionally-based with AFORD, MCP and UDF winning more than two thirds of their votes in the north, centre and south,⁵² respectively.

⁵⁰ Khembo, Nixon, 2004:111

⁵¹ **RP**=Republican Party; **NDA**=National Democratic Alliance; **PPM**=Peoples Progressive Movement; **MGODE**=Movement for genuine Democracy; **PETRA**=Peoples Transformation Party; **CONU**= Congress for National Unity

⁵² Mpesi, Andrew, 2011:27

On this basis government coalitions were justified to ensure state governability, national cohesion and enhanced party system.

Yet, as the following sections show, each administration resorted to patronage politics and opportunistic cabinet appointments for MPs who pledged support to Mutharika's administration to survive opposition hostilities and power wrestling.⁵³

In 2009, the legislative dominance of MCP, UDF and AFORD was profoundly contracted, mainly by what seemed to be a decisive electoral verdict against the opposition parties' 'stubbornness' in the inter-election period, which yielded the DPP a windfall of 'sympathy' votes. The MCP legislative seats shrank from 59 to 26, while its electoral alliance partner-UDF, secured 17 seats, down from 49 in 2004.

As for AFORD, they only got one seat. By contrast, DPP moved from having 6 MPs through by elections in late 2005, to a comfortable majority of 114 seats spread across all regions. It must be noted that the 2009 MCP-UDF electoral alliance came with grave consequences as elaborated below.

Causes of party alliances and coalitions

Except for the 1999 and 2004 elections in which both opposition parties and the party in government at the time (UDF) formed separate electoral alliances as discussed above, the phenomena of electoral alliances and coalitions have not gained popular appeal in Malawi. Thus, it is critical to start answering the question whether opportune junctures existed in Malawi for alliances and coalitions. The answer is a strong affirmative Yes! and more than once. . Different opportunities emerged for potential alliance and coalition formations.

However, partners opted to align with each other or stay apart for various reasons including:

- (a) guised vengeance by opposition majorities against minority governments whose electoral victory was vehemently but unsuccessfully contested as an allegedly stolen election,
- (b) perceived common political 'enemy' to the allied political parties based on personal victimisation, trumped infamous treason charges and/or 'political persecution,'
- (c) sheer malevolence or hunger for power- the conspiracy of 'if not us in government, then no one else,' and

⁵³ Chinsinga, Blessings, 2011:143

- (d) external influence of concerned civic and religious leaders pressuring for alternative government over deteriorating socio-economic and political conditions.

The first electoral alliance was mooted prior to 1994 led by the UDF with five smaller political parties.⁵⁴ None of the five small parties secured a parliamentary seat and disappeared into oblivion as their party leaders were offered appointments in parastatals or diplomatic missions.

Since it disbanded soon after elections, this paper does not discuss it. This analysis

limits itself to (a) 1994-1995 MCP/AFORD coalition and the 1994-1995 UDF/AFORD coalitions, (b) the 1997-1999 AFORD/MCP-led Mgwirizano alliance; (c) the 2003-2004 Mgwirizano alliance and 2004-2005 UDF/DPP coalitions and finally; (d) the 2009 MCP/UDF Alliance and (e) the 2012-2013 PP led government of national unity with UDF, MCP and AFORD formed after the death of president Mutharika in April 2012.

MCP-AFORD Coalition (1994-1995) nexus UDF-AFORD Coalition (1995-1996)

Presidential and parliamentary election results of the 1994 elections showed two major trends. First, a distinct split of votes on regional lines. Second, the governing party-UDF did not win with a clear legislative majority. Consequently, AFORD and MCP formed an informal legislative opposition coalition or 'collusion' in 1994 to effectively impede government business in parliament.

To resolve the state of un-governability posed by the recurrent parliamentary boycotts and sabotage, a constitutional provision-Section 80(5), was created for the position of the second vice president, also to institutionally insulate government coalitions.⁵⁵ A government coalition was established in 1995 between UDF and AFORD in which the latter's leader was made second vice president of the Republic, along with six MPs who got ministerial positions.⁵⁶ Although this 'minimum winning coalition' was short-lived with Chihana's resignation from the second vice presidency in 2006 on allegations of widespread corruption in government, it was hailed as the most objectively conceived and well-intended coalition based on its impact.

⁵⁴ Kadima, Denis, & Lembani, Samson, 2006:122

⁵⁵ Cammack, Diana, 2009:163

⁵⁶ Kadima, Denis & Lembani, Samson 2006:123. However, the six AFORD minister MPs remained in government

The coalition facilitated speedy legislative decision-making, ended recurrent opposition boycotts and therefore stabilised state governance and enhanced national cohesion, at least in the short-term.⁵⁷

However, four other outcomes were apparent. First, with the six AFORD MPs still in government, the coalition left AFORD fractured and weakened in terms of its internal cohesion since the six 'rebel' MPs would support the government agenda which AFORD would naturally oppose. Second, it was revealing that ideology did not matter in making legislative opposition coalitions or government coalition to any of the partners. For AFORD, the MCP, whose one party regime was the hegemony of AFORD's pre-1994 campaign as the party of 'darkness and blood,' was now to become an opposition legislative ally before and after its alignment with UDF. The 'making, unmaking and remaking' of these paradoxical political alignments partly explain the insignificant influence of ideological considerations in electoral alliance and post-election coalitions in Malawi.

Third, the coalition was anchored in the political convenience not substance among rational elites aimed at maximising private and short-term incumbency gains for the leaders and immediate lieutenants.

One informant observed that the 1995 government coalition collapsed because pressure was building up against Chihana on the unmet promises for extra ministerial appointments.⁵⁸ This is linked to the fourth factor: patrimonialism and patronage politics, which are intricately embedded in the political culture of democratic Malawi to the extent that they significantly determine political associations.

President Muluzi used appointment inducements to lure AFORD MPs that pledged loyalty to Chihana. Some informants observed that what influenced the six MPs not to opt out of cabinet was the intrinsic personal financial security, which they exchanged for cooperation and support to Muluzi and the UDF.⁵⁹ Several other MCP and AFORD MPs declared themselves independent when in fact they had been lured by various favours from UDF to improve its tally in parliament.⁶⁰ This supports the view that neo-patrimonialism is discernible where 'power and legitimacy are built on politics of personalities, centred on big men and their networks rather than parties with clear ideologies and programmes...(and) fluid political alliances (are) primarily based on the quest for power rather than issues or principles or norms...'⁶¹

⁵⁷ Interviews with Dan Msowoya, Boniface Chibwana and Ian Nankhuni on various dates, August 2013

⁵⁸ Interview with an AFORD official

⁵⁹ Interviews with former senior UDF official and AFORD official

⁶⁰ Kadzamira, Zimani, D 2000:59

⁶¹ Chinsinga, Blessings, 2009:121

AFORD/MCP-led Mgwirizano alliance (1997-1999)

The interchangeable usage of the terms coalition and alliance in Malawi's contemporary politics was most prominent in 1999 and 2004 when the pre-election alliance code-named Mgwirizano (literally meaning Unity) was in fact referred to as coalition. Based on the conceptual clarifications made earlier, the rest of this paper accordingly refers to it as alliance.

Initially formed between the MCP-Chakuamba faction and AFORD in anticipation that their combined forces would yield landslide victory in the 1999 general elections and unseat UDF, the motivation was a shared grave disenchantment with the Muluzi administration.⁶²

Chihana and Chakuamba dominated Malawi's experiments with alliances and coalitions until 2004. The initial pairing up with MCP president - Gwanda Chakuamba in 1997 prepared the ground for the two parties' electoral alliance in 1999.

Although the alliance was a rational office-seeking option for political actors, it effectively accentuated the pre-existent leadership rift in MCP which resulted in divided loyalties between the Tembo and the Chakuamba factions, especially when the latter nominated Chihana for his running mate in 1999 elections.⁶³

⁶² Interview with former Secretary General of the Mgwirizano alliance

⁶³ Khembo, Nixon, 2004

Table 4: 1994/1999 Presidential Election Results

1994		1999		2004	
Presidential Candidate	Votes	Presidential Candidate	Votes	Presidential Candidate	Votes
Bakili Muluzi (UDF)	1, 404, 754 (47.16 %)	Bakili Muluzi (UDF)	2,442, 685 (51.37 %)	Bingu Wa Mutharika	1,119, 738 (35.8%)
Kamuzu Banda (MCP)	996, 353 (33.45 %)	Gwanda Chakuamba (Mgwirizano Alliance)	2,106, 790 (44.3%)	John Tembo (MCP)	833, 027
Chakufwa Chihana (AFORD)	562, 862 (18.90 %)			Gwanda Chakuamba (Mgwirizano Alliance)	802, 386
				Brown Mpinganjira (NDA)	272, 172
				Justin Malewezi (Independent)	78, 892

Source: *Compiled by author the basis of Malawi Electoral Commission, various years.*

In terms of how the 1999 alliance partners were identified, it was clear that civic and religious leaders especially the Christian church leaders including the Catholics, Anglicans and evangelicals originated the idea and decided who would comprise the alliance partner to unseat Muluzi in the midst of deteriorating governance, and grave economic policy malaise.⁶⁴

As expected, the religious groups were heavily antagonised and reproved by the Muluzi administration. Although UDF retained power in 1999, the results from the presidential vote in table 4 show a substantial number of voters wanted change of government in favour of the MCP-AFORD coalition as noted from the 7% margin between Muluzi and his immediate rival Chakuamba. It is also evident that the axis of MCP’s factionalism especially after Chakuamba

picked Chihana as his running mate was inimical to its internal cohesion.⁶⁵

Table 5 illustrates that while presidential contests are increasingly becoming competitive; splits, alliances and coalitions are affecting political parties negatively and inducing further weakening of the fragile party system. The regional share of the votes and seats for each party across all election years are prominent that 'ethnicity and regionalism remain a source of political cleavage in Malawi.'⁶⁶

Soon after Muluzi was declared the winner in the 1999 closely contested elections, Chakuamba swiftly abandoned the electoral alliance group, announcing his alignment to Muluzi. A sense of dejection and delusion fell on the other alliance partners, who were at the time filing for legal redress on the allegedly stolen election.

Chihana's 'weird flexibility' with alliances and coalitions was visible as he yielded to the call to join Muluzi's open-term crusade in 2002, which sought to remove the two-five-year presidential term constitutional limits. This crusade which mildly commenced soon after the 1999 elections gained momentum and proved politically divisive and significantly strained national cohesion. Although the June 2002 AFORD national convention resolved neither to join the UDF government nor support its open terms agenda, Chihana unilaterally defied his party's decision and got restored as second vice president of the Republic,⁶⁷ and along with some AFORD MPs, voted for the proposed removal of presidential term limits of office. As it turned out, this decision ripped AFORD apart.

Post 1999-2004 UDF/MCP/AFORD Coalitions and Mgwirizano Alliances

The agenda to extend Muluzi's office tenure gathered momentum with Chihana and Tembo's initial public sentiments supporting the cause after 2001. This was significantly manifested when Tembo, now Leader of Opposition and his MCP MPs along with nearly all AFORD MPs, acting as informal pro-government legislative coalition partners, voted in support of the failed amendment to extend Muluzi's presidential tenure beyond two terms in July 2002.⁶⁸

⁶⁴ Ibid; Kadima, Denis, & Lembani, Samson, 2006:123

⁶⁵ Kadima, Denis & Lembani, Samson, 2006:123

⁶⁶ Khembo, Nixon, 2004:113

⁶⁷ Interview with Dan Msowoya

⁶⁸ Kadima, Denis & Lembani, Samson, 2006:125

Nonetheless other progressive MCP MPs led by Ishmael Chafukira called for Tembo's resignation from politics since his support to the failed open presidential terms bill signalled that he was not ready to take MCP into government. During the same period, an informal 'hybrid' alliance opposed to the removal of presidential term limits emerged.

It was hybrid as it comprised civic leaders, political pressure groups like the NDA, NGOs, activists, Forum for the Defence of the Constitution (FDC), academicians and constitution-minded individual citizens.⁶⁹

The resurgence of bad governance between 2001 and 2004, coupled with growing concerns over corruption in government, declining social indicators, deteriorating road infrastructure, nepotism and politicisation of the police service, prompted civic leaders and religious leaders from Anglican and Catholics to identify and approach pre-2004 opposition alliance partners: MCP, RP, PPM, MAFUNDE; National Unity Party (NUP), Malawi Democratic Party (MDP); PETRA and MCODE.

Partly inspired by the success of the National Rainbow Coalition (NARC) in Kenya, which ended the 39 year rule by the Kenya African National Unity (KANU), the motivation was to replace and stop the prospect of Muluzi's continued control of state affairs through Mutharika beyond 2004. Common among these opposition parties was the one political enemy - the UDF regime and Muluzi's hegemony.

On the other hand, the UDF-led electoral alliance was aimed at retaining governmental power and maximising legislative seats through Mutharika, as their second best option to the failed bid for Muluzi's extended presidential tenure. Notably, MCP refused to join the 2004 Mgwirizano opposition alliance, claiming that as the biggest opposition party their leader John Tembo was supposed to be its natural presidential candidate. Mpinganjira's NDA also ambitiously claimed they were popular enough to face the polls alone.

Notably, NDA was a UDF breakaway faction over Muluzi's undemocratic succession. His party claimed that it controlled a bigger share of the populous southern region.

MCODE and RP were fragments from AFORD and MCP, respectively, over leadership disputes. It was, however, obvious that Tembo and Chakuamba's irreconcilable personality clashes, rooted in the past were decisive reasons for the two never to work together under any arrangement. This combination of malevolence, bad blood, opportunism and egoistic presidential ambitions came at a huge cost for the opposition.

⁶⁹ Ibid

Table 4 shows that had they reconciled and worked together under the Mgwirizano Alliance, they would have won because the combined votes for the opposition leaders - Tembo and Chakumba - by far exceeded those of the winning UDF candidate.

Mutharika's win in 2004 was, therefore, a classic consequence of 'if not us in government, then no one else,' political attitude that partly constitutes Malawi's political culture in the democratic dispensation. Given that the 2004 elections were held in the fading shadow of Muluzi's failed bid to remove presidential term limits which severely fragmented the party, his handpicked successor Mutharika assumed the presidency with a compensatory poll of 35.8% of the total votes.

The majority of the voters had rejected UDF and its candidate, yet the plurality electoral system gave him the presidency, albeit to struggle with legitimacy crisis within UDF and revealed a discrepancy about the electoral choice of the majority voters against the minority votes of the presidential winner.⁷⁰

Sensing this disaffection of his presidency which was reflected by the over 64 % of the votes shared by opposition candidates, Mutharika opted to resolve the looming legitimacy crisis by cosmetically extending a gesture for a government of 'national unity,' not a formal coalition with all opposition legislative parties.

Engineered by Muluzi, the 2004 post-election UDF-led government was unusually swift but consistent with what Diana Cammack refers to as being of 'opportunistic and duplicitous nature-chameleon like character-of multiparty era politicians, who, with ease, castigated opponents one day and welcomed them with open arms, the next.'⁷¹ RP and MGODE joined the UDF-led coalition government, on their part-motivated by access to state resource. Patronage politics took its toll with ever expanding cabinet appointments mainly from opposition legislators to fortify smooth sail of government business in parliament.⁷²

Events accelerated and Malawi's political arena was sooner to cope with Mutharika's defection from his nominating UDF, a few months after his election, and established his own party - DPP. The ensuing resentments and power wrestling that followed UDF's relegation to the opposition side in parliament and the perils of state governance emanating from Mutharika's resignation are cogently documented by many scholars.⁷³

⁷⁰ Dulani, Boniface, 2004:14

⁷¹ Cammack, Diana, 2009:153

⁷² Chinsinga, Blessings 2009:143

⁷³ See various essays in *Democracy in Progress: Malawi's 2009 Parliamentary and Presidential Elections*, Ott, M., & nyongolo, Fidelis, (Eds.). 2009

Table 5 reveals that the decline in the regional share of votes by MCP, UDF and AFORD is attributed to the increase in breakaway parties and independent candidates in the regions which share a common ethnic identity with the established parties.⁷⁴ To restate, the majority votes received by Mutharika resulted substantially from the chaos created by the UDF/MCP alliance.

Table 5: 2009 Presidential Election Results

Presidential Candidate(s)	Regional Share of the Total Valid Votes			Total Valid Votes
	North	Centre	South	
Bingu wa Mutharika (DPP)	650,791 (95%)	937,163 (52.6%)	1,358,149 (68%)	2,946,103 (66%)
John Tembo (MCP/UDF Alliance)	20, 829 (3%)	780,522 (44%)	568,693 (28%)	1,370,044 (31%)
Kamuzu Chibambo (PETRA)	2,496 (0.3%)	14,912 (0.8%)	17,759 (0.9%)	35,167 (0.7%)
Loveness Gondwe (NARC)	3,974 (0.5)	13,697 (0.8%)	14,489 (0.7%)	32,160 (0.7%)
Stanley Masauli (RP)	2,163 (0.3%)	15,620 (0.9%)	16,104 (0.8%)	33,887 (0.7%)
James Nyondo	1,999 (0.3%)	12,803 (0.7%)	12,526 (0.6%)	27,328 (0.6%)
Dindi Gowa Nyasulu (AFORD)	3,936 (0.6%)	6,444 (0.4%)	9,771 (0.5%)	20,151 (0.4%)
Total	686,188	1,781,161	1,997,491	4,464,840

Source: Compiled by author on the basis of Malawi Electoral Commission, various years.

2009 UDF/MCP Alliance

By 2009, the legislative conduct of opposition parties (UDF and MCP) seemed to conspire against Mutharika’s administration. As collaborators, they were approaching the elections with one goal: to remove Mutharika by the ballot, having desperately but unsuccessfully attempted to remove him through legislative impeachment.⁷⁵

⁷⁴ Khembo, Nixon, 2004:113

⁷⁵ Chinsinga, Blessings, 2009:128-129

Most of their anti-government legislative machinations had slowly shifted public sympathy towards the widely perceived political 'victim', Mutharika. This simultaneously increased isolation of the two opposition parties from popular good will as the 2009 elections drew closer. Following the rejection of Muluzi's electoral candidature by the MEC, UDF found itself stranded with no presidential candidate.

This was not surprising as Muluzi may have foreseen this scenario but deliberately never prepared the party with an alternative candidate, who would consolidate his power once in government and frustrate the ascendancy of Muluzi's son, Atupele, who was being earmarked for presidency by his father.⁷⁶ Considering Tembo as a better enemy than Mutharika, Muluzi and Tembo agreed to have the latter as the torch bearer of MCP/UDF electoral alliance with UDF's political returnee, Brown Mpinganjira,⁷⁷ as running mate.

Similar to the previous ones, this MCP/UDF electoral alliance was hurried, its contents shrouded in secrecy and negotiated by trusted elites to Tembo and Muluzi (Chinsinga 2009:148). Paradoxically, this dramatic arrangement saw the two parties conducting a few joint rallies and whistle stops in Lumbadzi, Mponela, Dowa and ended in Kasungu, all these being MCP's strongholds in the centre.⁷⁸

The message in their rallies was consistent with their common agenda: a desperate electoral alliance resolved to remove Mutharika at all costs. Hitherto, their informal legislative cooperation was their common fate of being in opposition. It did not create mutual trust between them.

It seemed the alliance had neither the time nor intentions to resolve unsettled questions between them as alliance partners including, who fields MPs where? Intriguingly, the alliance agreement was signed after the whistle-stops and 72 hours before the actual general elections. This was thorough preparation for a profound electoral showdown.

Accordingly, they both came out of it limping and significantly reduced in parliamentary seats: a two thirds legislative scale down for UDF and decisive a 50% loss of seats for MCP. Similar to all other alliances and coalitions: this was another elite-centred 'collusion,' with no consultation with their party members and without any substantive commonly shared national agenda.

⁷⁶ Interview with Humphrey Mvula, former UDF member of the National Executive

⁷⁷ Brown Mpinganjira and eight other prominent leaders had defected from UDF in 2001 to form a new party National Democratic Alliance (NDA) under which they opposed Muluzi's third term bid and contested the 2004 elections. NDA was disbanded in 2008 as Mpinganjira rejoined UDF

⁷⁸ Interviews with Boniface Chibwana, Humphrey Mvula and Ian Nankhuni

Strikingly, even patronage politics and campaign hand-outs were insufficient to reverse the electoral fate of the two parties and deliver the needed presidential votes for the MCP/UDF alliance to torpedo Mutharika.

The mid 2012 PP-led coalition government

On 5th April 2012 Malawi's President Mutharika died of cardiac arrest, barely two years into his second and final term in office. According to the constitutional order, Vice President, Joyce Banda, ascended to the Presidency, with her PP - as a minority party in parliament.

Mutharika's DPP, despite its legislative majority seats, was relegated to the opposition, thereby creating a mid-term regime alternation. While serving as Vice President of the DPP and the Republic, Joyce Banda was ejected from the DPP in December 2010 for withholding her endorsement of Mutharika's own brother, Peter, as the anointed successor and DPP presidential candidate for the 2014 elections. However, Banda remained Vice President of the Republic until Mutharika's unprecedented death.⁷⁹

Taking the cue of her mentor -Mutharika, Joyce Banda founded her own party, the PP along with some legislators such as Anita Kalinde and former DPP 2nd Vice President- Khumbo Kachale, who faced the same wrath of expulsion from DPP on allegations of being involved in setting up parallel political structures across the country purportedly to oppose Peter Mutharika's Presidential 'inheritance' from the senior Mutharika in 2014.

Stripped of all previous cabinet portfolios, the Vice Presidency was reduced to a symbolic one, which afforded her more time in 2011 to establish nationwide PP structures. She was overtly and covertly supported and encouraged by those within and without the DPP, who shared similar opposing views to the planned 'family succession' of the presidency between the Mutharika brothers.

In mid-2011, the PP was officially registered under High Court orders after the DPP had for weeks covertly sabotaged PP's official registration at the Registrar of Political Parties. The DPP-PP tensions and acrimony heightened as Mutharika made fruitless efforts to remove Joyce Banda from the State Vice Presidency until his sudden death.

A Commission of Inquiry Report into Mutharika's death and the alleged attempt by the DPP to prevent Joyce Banda's constitutional ascendancy to the presidency was submitted to President Joyce Banda in March 2013.⁸⁰

⁷⁹ See more on Mutharika's death intrigues on: <http://www.bbc.co.uk/news/world-africa-17636393>

⁸⁰ Full Report:<http://www.nyasatimes.com/2013/03/07/malawi-full-inquiry-report-on-bingu-wa-mutharikas-death/>

Consequently, Peter Mutharika, along with the Chief Secretary to the President and Six top DPP former ministers-cum legislators, named 'Midnight Six,' were arrested and charged with attempted treason and criminal charges of intent to conceal the death of Mutharika through a live televised briefing close to midnight claiming that the President was still alive but in a critical state. The cases remain in court.

Unsurprisingly and through the lens of the unfolding trail of repeated history, more than 40 DPP MPs defected to the PP.⁸¹ Of the 32-member cabinet that Joyce Banda announced on 26 April 2013, 15 were DPP legislators. The rest were mainly MCP, AFORD and UDF legislators, including the UDF 2014 presidential candidate, Atupele Muluzi.

Only 13 were in cabinet for the first time, an indicator that not much would change.⁸² The ensuing political discontent from the UDF, DPP and MCP and some quarters within AFORD suggested that there was no openly negotiated intra-party agreement for a government of national unity but collusion to support the PP government in exchange for cabinet appointments and its benefits to the beholder.

The already few seats obtained by the UDF and MCP in 2009 were further decimated as their legislators switched to join the PP,⁸³ synonymous to the events witnessed when Mutharika jilted the UDF and formed the DPP. Not long after Joyce Banda appointed her first cabinet, the stage was set for the convolutions of begrudged political parties petitioning the Speaker to dismiss from parliament all MPs who had switched their allegiance to support the PP government.

On their part, the 'floor-crossers' obtained court injunctions restraining the Speaker's actions.⁸⁴ Ironically, Mutharika himself had survived the 2004-2009 period primarily on MPs who were induced to cross the floor to join the DPP-led government, just as Muluzi exploited similar collusions with AFORD and MCP defectors between 1995 and 2004.

⁸¹ See for example, 'DPP Goes to Court Over Speaker's Sec 65 Ruling: Speaker Acting As Judge-Nicholas Dausi,' 21 June 2102: <http://www.malawivoice.com/wp-content/uploads/2012/06/Nicolus-Dausi.jpg>

⁸² See Boniface Dulani, 'The more things change, the more they stay the same: thoughts on Joyce Banda first cabinet,' 28 April 2012, <http://ntwee.blogspot.de/2012/04/more-things-change-more-they-stay-same.html>

⁸³ See more on <http://www.maravipost.com/national/politics/851-defection-bombshell-cassim,-uladi,-phoya-join-joyce-banda%E2%80%99s-pp.html>

⁸⁴ See more on <http://www.malawivoice.com/2012/06/22/history-repeating-itself-nomadic-mps-gag-speaker-with-court-injunction-69950/>

Despite the existent anti-floor crossing law and the multiple violations against it in almost two decades of Malawi's democracy, only two legislators have lost their seats.⁸⁵

Institutional Framework for Political Party Alliances and Coalitions

As indicated earlier, the only piece of legislation that comes closest to anticipating and catering for formal coalitions is the provision that creates the office of the Second Vice President. Specifically, Section 80(5) says that 'Where the President considers it desirable in the national interest so to do, he or she may appoint a person to the office of Second Vice-President and may do so upon taking his or her oath of office or at any time thereafter or upon a vacancy in the office of Second Vice-President; and, where no person has been appointed to the office of Second Vice President then ... **Provided that where the President was elected on the sponsorship of a political party, then he or she shall not appoint a Second Vice-President from that political party,**'(Author's emphasis).

The part in bold suggests that the Second Vice President can only be from a political party other than that of the president. Apart from this provision, neither the electoral law nor any other legislation makes direct or implied statutory provision for political coalitions. In fact, the MEC determined in 1999 that where the presidential candidate and his or her running mate come from separate political parties (as in electoral alliance partners), only the symbols and emblems of the presidential candidate's party will be printed on the ballot papers and any other MEC election materials, excluding those of the running mate's political party.

Thus, the only legal basis for political coalitions is Section 80(5) of the constitution. As argued earlier, Malawi's regime type- presidential system, effectively does not offer any incentives for the formation of political coalitions since the survival and tenure of the president, once elected even with minority votes, does not depend on the sustained trust and confidence of the legislature.

While parliamentary rules of procedure do not officially provide for and acknowledge the existence of legislative coalitions, they do not explicitly inhibit them either. The creation of the office of the Leader of Opposition in Malawi's National Assembly denotes an implicit understanding that hierarchically, all opposition parties in parliament are both formally and informally headed by the Leader of Opposition.

⁸⁵ See Malawi Voice Reporter, 'DPP, Law Expert Hail Chimunthu's Invocation of Section 65: We Hope Our Petition Will Also See Light of the Day-Chaponda,'19 February 2013: <http://www.malawivoice.com/wp-content/uploads/2013/02/henry-shaba.jpg>

This hierarchy is observed in the order in which the Leader of Opposition, for example, is the first one to respond to presidential address to parliament on the State of Nation at each official opening of a parliamentary session. Similarly, parliamentary procedures and practice require that the Leader of Opposition is the first to respond to the national budget estimates once presented to parliament by the Minister of Finance.

Consequences for party coalitions and alliances

The foregoing analysis was regularly highlighting the implications of each coalition arrangement on state governability, democratic consolidation, party system and nation cohesion. This section briefly summarizes these observations.

The 1995/1996 brief UDF/AFORD government coalition minimised opposition confrontations and legislative-executive tensions, in addition to expediting legislative decisions on government policy proposals. This coalition also enhanced national cohesion in the sense that President Muluzi was now freely able to hold public meetings in the AFORD stronghold-north and make symbolic gestures that the north, the centre (where first vice president Malewezi came from) and the south, Muluzi's home-ground, were jointly running government affairs.

However, nearly all subsequent alliances and coalitions either deterred or undermined democratic consolidation. For examples, most undemocratic constitutional amendments were passed during periods of pro-government legislative coalitions. Such legislations include:

- removal of the recall provision (Section 64) from the constitution in 1995 to ensure MPs are not recalled by their constituents until next elections,
- abolition of the senate provision (Section 68) in 2001 to ensure that the presidential open terms bill would not be blocked by the second chamber
- amendment to floor-crossing clause (Section 65) in 2001 to ensnare MPs who opposed Muluzi's bid to limitless presidential tenure
- the 2001 amendment to Section 50 in which the quorum for the legislature to pass constitutional amendments was reduced from two thirds to 50+1%⁸⁶

⁸⁶ Author's compilation on the basis of Acts of Parliament, various years.

Thus legislative majorities obtained through formal or informal coalitions proved detrimental to democratic consolidation. In the case of minority governments, it is evident that alliances and coalitions enhanced the size and cohesion of legislative opposition parties, to the extent and on occasions when these majorities supported government business that was in the national interest.

However, to the extent that these majorities served to advance personal and partisan interests and unconstructively objected government business, such behaviour collided with public opinion. Thus, internal cohesion was threatened by subsequent factions and splits emanating from public pressure on some MPs to disassociate themselves with such partisan positions.

Under such circumstances, the already fragmented party system weakened further, rendering opposition parties as not-so viable alternative government in waiting.

Prospects for Alliances and Coalitions in Malawi

Future prospects for electoral alliances and coalitions remain bleak in Malawi. For slightly over one year, Nyasatimes⁸⁷ has been running an online opinion survey on the question ‘Should Malawi opposition parties form a Grand Alliance in 2014?’

Arguably, online surveys have inherent multiple methodological and sample representation challenges. These include being exclusive to the participation of the minority literate with access to internet, while the opinion of majority voters are hardly represented. It is both striking and illustrative however, to note that the survey results show that over two thirds (64%) of the respondents are against an opposition electoral alliance. The online survey started before the change of government in Malawi in April 2012, and before any of the major political parties (MCP, UDF, DPP and PP) held their conventions.

Yet, this general perception has not been reversed or altered across the political events of the one year. The signal is clear: opposition alliance in 2014 has not yet received significant political support. Of course reasons for this dominant attitude can only be inferred.

⁸⁷ Nyasatimes: <http://www.nyasatimes.com/>

Table 6: Should Malawi opposition parties form a Grand Alliance in 2014?

Responses	Percentage vote (%)	Absolute votes
No	64	2,253
Yes	30	1,061
Not sure	6	219
Total	100	3,533

Source: Nyasatimes: <http://www.nyasatimes.com/>

Source: *Nyasatimes*: <http://www.nyasatimes.com/>

The impression captured in table 6 is shared by some informants in this study. Asked what were their hopes for alliance partnerships towards 2014, one respondent opined, ‘trends are not explicit, the population is indifferent, they have to be incited by church leaders or NGOs early enough...they may likely respond favourably.’⁸⁸

Other informants observed that they could not foresee hopeful prospects for electoral alliances, given the discouraging history and effects of previous electoral and coalition pacts. Notwithstanding the direction of survey opinions, and given that politicians in Malawi do not seem to learn from past mistakes of others and their own, it is discernible that political and electoral entrepreneurs will soon come to the centre- stage.

Predictably, some small faction parties will dissolve and merge with bigger parties for a free-ride over campaign expenses. Indeed, the political culture of opportunism and neo-patrimonialism may reactivate and manifest again and influence the formation of the most improbable, elite-centred ‘collusions,’ with no ideological basis nor common ideals for the alliances.

Tentative Conclusions: Effects of Political Party Alliances and Coalitions.

From the foregoing discussion and analysis, this part summarises issues raised and serves as concluding reflections on effects of party alliances and coalitions on the party system, democratic consolidation, national cohesion and state governability in Malawi.

⁸⁸ Interview with Dan Msowoya

Unlike in most Africa's emerging democracies where successive elections have often resulted in majority votes for the president and creation of dominant governing parties, Malawi offers unique insights. The results of the first three elections (1994, 1999 and 2004) resulted in minority governments and opposition majorities except in 2009.

With the exception of the UDF/AFORD coalition episode (1995/1996), all minority governments have survived their tenures through the support of opposition MPs, who defect to and support the government thereby negating the essence of formal coalitions. Pessimism with and indifference to formal alliances and coalitions are perpetuated by the exploitive culture of informality, deference to hierarchy, political opportunism, neo-patrimonial reciprocities and legal vacuum to encourage and regulate political coalitions.

Since 1994, the shifting and transient political alliances and coalitions were mainly influenced by the flexibility and personal quest for power by Gwanda Chakuamba and Chakufwa Chihana.

Experiments with electoral alliances across all elections were not based on ideological considerations, rather on narrowly defined short-term opportunistic motivations and shared loyalties compounded by scarcely defined, extensively negotiated and mutually binding agreements. The alliances and coalitions yielded unintended and costly negative results to partner political parties, thereby accentuating frustration and delusion. While smaller parties secured no seats in parliament, eventually disappearing into oblivion, regional political parties suffered remarkable diminishing electoral results and severely compromised party cohesion.

Presidential regimes offer no institutional incentives for mutual dependence and cooperation in executive-legislative relations. By design, the separate electoral legitimacy entails that the president and the legislature are given mutually-exclusive electoral mandates and tenures by the voters.

This encourages executive arrogance and unilateralism, which engender systemic paralysis until the expiry of the full tenure, without the option of government dissolution and fresh elections, as it is permissible under parliamentary regimes. The presidential system also concentrates extensive appointment and other executive powers in the president.

This reinforces neo-patrimonialism, personalised power and patronage politics. The plurality voting law permits the creation and survival of minority governments, executive unilateralism and intolerance. This law neither anticipates nor sufficiently tackles legitimacy crises of minority governments.

The unencumbered and strategic exploitation of the court system and the floor-crossing clause (Section 65) by successive minority governments undercuts

the need for coalitions. Opposition MPs declare themselves independent in defacto defections to support minority governments in exchange for public appointments or other forms of private returns. This substantially weakens cohesion in opposition parties, and promotes bad governance as it compromises horizontal and vertical accountability.

Cumulatively, the above factors have led to the further declining of internal party cohesion, augmented fragmentation of the party system, increased volatility of executive-legislative relations, hence state governance instability, and ultimately undermined democratic consolidation.

On the basis of discernible probability of minority governments in future elections, the lessons from the 1995/1996 UDF/AFORD coalition remain instructive as it served a strategic purpose. Formal coalitions based on mutually agreed and realistic agreements are the ultimate option for a negotiated post-election political settlement.

They enhance legitimacy of the coalition government, promote mutual trust between coalition partners, diffuse latent conflict and therefore improve state governability, in addition to encouraging democratic consolidation, party cohesion and national cohesion.

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List of Interviewees

Boniface Chibwana, Programme Officer, Centre for Multiparty Democracy (CMD), Lilongwe: Interviewed 20.08.2013

Dan Msowoya, Publicity Secretary/former Secretary General, Alliance for Democracy AFORD, Mzuzu, Interviewed 21.08.2013

Humphrey Mvula, former Director of Campaign and Strategy, United Democratic Front UDF, Blantyre: Interviewed 21.08.2013

Hon. Lingson Belekanyama, MP, Director of Research, Malawi Congress Party (MCP), Lilongwe: Interviewed 23.08.2013

Ian Nankhuni, Publicity Secretary, Peoples Party (PP), former Secretary General for Mgwirizano Coalition (1999-2004), Zomba: Interviewed 21.08.2013

Chatinkha Nkhoma, MCP, Interviewed 20 September 2013

Annex 1.

KEYNOTE ADDRESS BY : JUSTICE MAXON MBENDERA, JUDGE, SC. CHAIRPERSON OF THE MALAWI ELECTORAL COMMISSION

SALUTATIONS

The Ambassador of the Republic of Germany in Malawi
Development Partners & Members of the Diplomatic Corps,
Dr. Marcus Schneider, Representative for Fredrick Ebert Stiftung,
Commissioner Mrs. Gloria Chingota
Prof. Christoff Hartmann, University of Bochum, Germany
Prof. Lars Svasand, University of Bergen, Norway
Dr. Samson Lembani, Scientific and technical advisor to the conference
Chairperson of the Institute for Policy Interaction, Dr. Nandini Patel
Members of Parliament
Traditional Authorities
Leaders of Political Parties represented here
Members of Civil Society
All protocols observed
Ladies & Gentlemen.

Good morning.

I am very delighted, Distinguished Ladies and Gentlemen, to make this keynote address at this important conference. Important because, as Chair of the Commission, I take this as a complimentary role to the statutory function of the Commission in the delivery of credible elections. I am very optimistic, the conference will go a long way in enhancing the preparations and delivery of the first ever tripartite elections in this country. The honest and patriotic discussions will assist the commission in this endeavour.

Background –Your Excellency, Distinguished Ladies and Gentlemen, the theme of this conference, ‘actors, issues, prospects and pitfalls’ in the context of the forthcoming 2014 tripartite elections, illustrates the integral elements of democratic elections in that it involves an interplay of various actors, forces – social, economic, political, and a complex web of a wide range of issues, which have a direct bearing on the prospects for further consolidation of democracy and challenges or pitfalls which must be addressed and corrected to the maximum possible extent.

The underlying objective is to recognise that political institutions set ‘the rules of the game’ and hence, to build adherence to the letter and spirit of those rules and ensure predictable and acceptable behavior among all stakeholders. The code of conduct which was developed and subsequently signed is an example of the rules being referred here.

Distinguished Ladies and Gentlemen, in a conference of a similar nature held a few months ago, our former Vice President Justin Malewezi reminded us of why Malawians reject the sham elections that were held between 1964 and 1992 and indeed, many Malawians subsequently risked and lost their lives in the quest for free and fair elections, he said.

This is an important reminder for us not to forget where we started from and how far we have come while preparing for our fifth general and first tripartite elections, knowing that a society's past is linked to the future through the legacies of its institutional makeup and practices.

You will agree with me Your Excellency, Ladies and Gentlemen that elections become an asset to a democracy if they institutionalize democratic culture and practice, but they can also become a liability when they are twisted into a vehicle for institutionalizing autocracy. When do they become an asset?

When they legitimize the political system and government, through the credible transfer of national trust to persons and parties, provide orderly succession of governments, facilitate selection and recruitment of leaders, provide space for social mobilization and political education and become a conduit for expression of expectations by the electorate, thereby influencing public policy.

Thus elections enable peaceful competition for state power, by channelling political conflicts into clearly defined procedures for their peaceful settlement.

Election Management bodies in the electoral process

Your Excellency, Ladies and Gentlemen, for any EMB to be credible and effective, sufficient and timely funding as well as human resources (election officials) who are impartial and independent must be made available. Administering democratic elections requires that EMBs be visibly impartial and independent of government or other influences.

This is a critical area, as the election administration machinery makes and implements important decisions that can influence the outcome of the elections. The political circumstances of the particular country under consideration need to be taken into account when assessing the legal framework regulating electoral management bodies.

The first strategic goal in the Strategic plan of the Malawi Electoral Commission 2013 – 2017 is **the Independence of MEC, which states 'MEC strives for genuine administrative, political and financial autonomy whilst maintaining public accountability.'** MEC derives its independence from

its status as a constitutional body created under Section 75 of the Malawi Constitution and Sections 76(4) and Section 6 of the Electoral Commission Act confirms the independent model of electoral management.

In order to realize this objective, the plan envisages public funding of MEC protected and predictably by the end of 2017 – this is to be achieved by concerted steps as proposed in the strategic plan.

Your Excellency, Ladies and Gentlemen, **Leveling the playing field is another strategic goal worth discussing in this conference.** This basically means ensuring the fairness of the electoral process and a number of key issues have been identified in this area: **Public media** – which, in past elections, have tended to unfairly favour the party in power to the disadvantage of the other contesting parties.

MEC is working with MACRA to start media monitoring, media reports, and engage with media managers on election reporting.

Let me also inform the conference that MEC is also collaborating with relevant stakeholders in organizing live presidential debates. Planning and preparations are underway for this. This is the first time such an initiative has been created in Malawi.

This, as you will appreciate, is one way of ensuring that the contestants have an opportunity of reaching out to the masses and also to enable the public access the policies of the contestants in order to make informed decisions on the ballot.

Unregulated influence of Money: The playing field is also challenged by the unregulated influence of money in politics as there is, at this point in time, no legal framework governing election campaign financing.

However, serious debates have begun and in the last sitting of the Parliament the issue generated much attention and time. Let us hope the momentum will be maintained, resulting in the formulation of appropriate law.

Distinguished Ladies and Gentlemen, elections do not take place in a vacuum, hence the **Enhancing Stakeholder relationship** – This is a goal towards which MEC has made substantial progress in the run up to the 2014 elections. Though the concept of National Elections Consultative Forum (NECOF) is not new, during the past elections these meetings were not held regularly due to disruptions caused by political differences and tensions.

This time round however, NECOF meetings have taken place regularly with participation by over 100 delegates – we have held three of them thus

far. To a significant extent, this is building mutual trust and confidence in the electoral process which is essential for stakeholder collaboration and maintenance of collective ownership of the electoral process among all actors. Besides NECOF, MEC has been engaging with Civil Society and political parties in numerous forums provided by CSO bodies such as the Centre for Multi-Party Democracy. Their views and concerns have been seriously taken on board – a case in point was the consideration that MEC gave to adopting the biometric system of voter registration.

But, once the CSOs networks and other stakeholders raised their valid concerns on this system MEC promptly reversed the plan.

In addition, MEC has welcomed Civil Society proposals to run Parallel Vote Tally (PVT) during the forthcoming elections. This is clear evidence of our openness to proposals that will enhance the credibility of our election.

However, as emphasized during the last NECOF meeting held on 29 November, 2013, the Commission endorsed the PVT proposal in its truest sense where results from all polling stations will be tabulated and not a sampling tabulation of a few polling stations. I hope this was made clear and I am only emphasizing that aspect.

111. Some specific steps towards the 2014 tripartite elections –Your Excellency, Ladies and Gentlemen, notwithstanding the unprecedented events that Malawi witnessed since 2009, there has been some progress made in the following specific areas:

1. Harmonization of electoral laws - Immediately Parliament authorized the conduct of tripartite elections, there was a need for the harmonization of the Parliamentary and Presidential Elections Act (PPEA) and the Local Government Elections Act (LGEA) in order to ensure a smooth conduct of elections.

The current budget sitting of Parliament has since passed the proposed amendments. However, not all proposed amendments were passed.

2. Adoption of the Civic and voter education strategy – The Electoral Commission is specifically required to promote public awareness of electoral matters through the media and other appropriate and effective means and to conduct civic and voter education on such matters.

In order to effectively deliver its mandate on civic and voter education for the 2014 tripartite elections, the Commission developed a strategy to serve as a framework for coordinating the roles of the various CVE providers whilst ensuring gender parity, equality and equity in access to information and voter participation.

Your Excellency, Ladies and Gentlemen, MEC is aware of the challenges CSOs are facing in accessing funding for civic and voter education exercise. It has been limited and delayed considering the demand on the ground and the fact that this will be the first tripartite elections to be held in Malawi.

It is heartening that the situation is being addressed. MEC commends NICE for trying its best to effectively deliver its role in the given circumstances. MEC also appreciates the role of the National Democratic Institute (NDI) for the assistance rendered in some areas of intervention.

3. Codes of conduct signed with Political Parties, Media and Civil society - I am pleased to inform the conference that in order to ensure that the elections are happening on an even field and also encourage ownership, the Commission facilitated the development of codes of conduct for the political parties, the media and accredited civil society organizations. The codes provide accepted behaviour and actions and also present unaccepted behavior.

4. Voter registration exercise – Ladies and Gentlemen, at the end of phase 8 of the registration, which was on 1 December 2013, 6,756,528 eligible voters have been registered. Of these 3,640,417 are females and 3,116,111 males. The projection is 94.01% registration, which is over 15.87% increase from 2010 registration figures which have been set as the baseline. This information can also be accessed on our website www.mec.org.mw

Your Excellency, Ladies and Gentlemen, MEC has tried to take prompt remedial action for any reported anomaly or shortfall in the registration process. For instance, where it was reported that in a couple of centres during phase 1 and 2, eligible voters could not register due to logistical and administrative hiccups, those centres were reopened to enable those voters to register.

This has also continued in the subsequent phases where automatic extensions are done on the following day if people are still on the queue during closing time. In addition, immediately after the end of the phase, centres that were not functional for the statutory period continue to appear for the equivalent of the number of lost days.

Your Excellency, Ladies and Gentlemen, preparations are underway for the candidate nomination process for all the three elections. The Commission will brief Returning Officers on the nomination process from 5 – 15 January 2013 and nomination forms will be available for collection to all aspiring candidates for Parliamentary and Local Government Elections who will present their nominations at the Council Headquarters whereas Presidential candidates will present their nomination papers to the Commission. The presentations will be done from 10 – 14 February 2014 and nominations fees are as follows:

- (a) Candidates for Presidential Elections: K 1,000,000.00
- (b) Male Candidates for Member of Parliament Elections: K 200,000.00
- (c) Female Candidates for Member of Parliament: K 150,000.00
- (d) Candidates for Local Government Elections: K 20,000.00 for male candidates, and 15,000.00 for female candidates

Let me mention here that the nomination deposit for parliamentary and presidential candidates is refundable upon getting 5% or more of the total valid votes while nomination deposit for the candidates for Ward Councillor is non-refundable.

Issues for the future

Electoral System Debate- Since 1966, the Malawian National Assembly has been constituted using a ‘first-past-the-post’ plurality electoral system based on the Westminster model - a system inherited from elections held in the colony of Nyasaland, and the Central African Federation administered by Great Britain.

The choice of electoral system was never fully considered, nor were the consequences of the choice or negation of choice recognized. The electoral system question was not touched upon in the transition negotiations between the MCP government and the UDF-AFORD led opposition, largely because of a consensus that this was not a priority issue and most party leaders expressed a desire to continue with the Westminster model.

However, today the electoral system issue needs attention. Because in the First Past The Post system, which is called the ‘winner takes all’, there are times when a candidate takes it all by winning a seat after losing the majority vote like in 2004 elections where the President won with 36% of votes. Many discussions have ensued and studies have been conducted on this subject, and the Law Commission’s Constitutional review also recommends introduction of the principle of absolute majority for the winner with 50%+1 votes of the total vote cast. As work in progress, this will have to be taken up amongst other issues after the 2014 tripartite elections.

Conclusion - With such collaboration, I am sure 2014 tripartite elections in Malawi will surely be a step towards transparent and credible elections, which will set the stage for a viable, legitimate and strong government irrespective of the party that wins at central and local governmental level. But we cannot do it alone.

Let me remind you that these elections belong to all of us and it is, therefore, incumbent upon all of us to play our rightful roles during the process. Let us

all own the elections, for they are ours!

Your Excellency, Distinguished Ladies and Gentlemen, I thank you very much for your patience.

May the almighty God bless our nation.

Thank you very much.

Annex 2

Reflections on the Analytical Stocktaking Conference 5-7 December, 2013.

Dan Msowoya - AFORD

The **Fredrich Ebert Stiftung (FES)** of the Federal Republic of Germany and our very own **Institute for Policy Interaction (IPI)** jointly hosted an analytical stocktaking conference under the theme “**Malawi Before the 2014 Tripartite Elections: Actors, Issues, Prospects and Pitfalls**” which was held at Shire Highlands Hotel in Limbe.

This concept drew largely from a Symposium on Causes and Consequences of political party coalitions in Africa, which took place at the Hilton hotel in Sandton, Johannesburg South Africa from September 25 -28, 2013. This symposium sought to address consequences of faulty party systems and state governability, as well as to influence the culture of forming alliances and coalitions as a means of correcting the errors committed by minority regimes.

The guest of Honour was the Ambassador of the Federal Republic of Germany, His Excellency Dr. Peter Woeste. Other key guests and facilitators included Marcus Schneider of the Fredrich Ebert Stiftung - the funders of the conference, Dr. Nandini Patel of the IPI, Dr. Samson Lembani a Malawian resident in Germany. The Conference was an interactive one, comprising a cross section of our society.

We were politicians, academicians, civil society organizations as well as traditional leaders. We were known by our first names. We met as persons for whom our own organizational values and traditions mattered much and were willing to critically reflect about them in the presence of other organizations and political parties.

We shared with one another issues that were important in our traditions,

even issues that needed rethinking and reformulation. There was both an atmosphere of trust enabling us to share with utmost honesty and an ethos of friendship that helped us to learn from one another.

Very candid talk characterized this conference presentations and deliberations. The conundrum created by the Local Government Act as it will affect the election of councillors was among the interesting discussions. A session for political party representatives was another interesting phase of the conference; some topical questions were thrown at a panel of political party representatives which included the following among others:

A question as well as lamentation by Honourable Lillian Patel was why Malawians have hitherto not spoken against Presidents who form political parties after ascending to the high office of President, and after abandoning the party that ushered them into that position of power.

She was referring particularly to the conduct of the late Dr. Bingu wa Mutharika, and most recently the incumbent. Due to the usual constraint on time in such gatherings we did not exhaustively discuss and most logically conclude them. However the following recollections below will partially indicate perceptions from AFORD of the situations alluded to thereof.

AFORD's initial reaction to Hon. Patel's question was that of shock and surprise, while of course buying into the appeal for critical review of these dubious traditions and tendencies in our pursuit of political ends and goals. In this instance, the leadership of the United democratic Front (UDF) moved the party's national convention to hurriedly amend its constitution to facilitate the nomination of a complete outsider as the party's Presidential candidate to succeed Bakili Muluzi whose tenure had come to an end, and after failing to secure a third term.

The convention knowingly or unknowingly voted unanimously in preference of Bingu wa Mutharika the newcomer to late Aleke Banda, who at that time was Vice President, and Justin Malewezi. However soon after being elected President in 2004, Bingu arbitrarily opted to resign from the United Democratic Front and formed the Democratic Progressive Party (DPP). The perplexing paradox, thereafter, which indicated a lack of principles and core values in the party, was that the majority of UDF legislators thronged to the DPP without restraint. That action alone legitimized Bingu, and there was dead silence in the party. I wonder if Hon. Patel raised this matter within the National Executive Committee of UDF, if so what was the response or consensus on the development?

One would wish to allege political illiteracy or ignorance of the broad membership, and opportunism of the political elite; suffice to say it is still a valid topic and worthwhile prudent stocktaking exercise if we earnestly seek to consolidate democracy in Malawi.

In AFORD the National Executive Council stood its ground, asserted its authority as a governing body against the third term, supporting the party's National Convention resolution against the proposed constitutional amendment of s83(3). Of the thirty (30) Legislators twenty (20) of them stood against it, representing two thirds majority.

In this context, the ten (10) individual legislators that voted in support of the bill comprising the party President Chakufwa Chihana, Hon. Khwauli Msiska (who actually moved the motion) and the other seven was actually merely an exercise of the right to freedom of conscience as individuals and not as AFORD. This, however, was a violation of fundamental principles of the party and is punishable by revocation of party membership [s6.4]. But here again the rampant political illiteracy among the broad membership shrouded in the purported heroism of the then President of the party, overpowered this possibility. Instead, the President connived with the other cronies and conspired to expel from the party key top officials that stood by and sustained the party convention resolution against the third term bill.

The short and concise response to that question is repudiating that manner of politics, strongly condemn and put a stop to this once and for all and by consensus of the entire political fraternity, our partner the civil society organizations, academia, leaders of the faith community and traditional leaders and legislation. At this point UDF should concede that they set a bad precedent for which they should be remorseful.

Experience they say is a good teacher, it would seem like through Hon Lillian Patel and others of like minds in the UDF appear to have been thoroughly edified by this experience. An extended example is the event in South Africa's African national Congress (ANC) where President Thabo Mbeki was dethroned by his party; the ANC should be an eye opener to all of us, in terms of the party's supremacy and the need for adherence to party policies, tradition and regulations by those holding high public offices.

Another equally sad question was about why there has been consistent and continuous bad blood between Presidents and their Vice Presidents? Our view of this problem is the failure to appreciate the jurisprudence of the original intent expressed by Section 80(3) of the Constitution. This provision compels a presidential aspirant to declare his running mate. The practicality of this provision during the electoral exercise is that the duo gets elected concurrently, both individuals appearing on the same ballot. In the event that they excel in the elections this **law** enjoins them to conform to each other for the entire 5 year term of office, except in the tragic circumstance that one of them is called to eternal rest. This essentially entails that the two comprise the office of the President, the head of state and government. Their validity in that office depends upon a sustained trust of the citizenry, according to the

spirit and letter of section 12 of the constitution.

The sad side of the situation in the DPP again borrows from the AFORD scenario where the party's governing body (NEC) compromised its authority to mediate in the feud at party level, where Bingu had an assumed prerogative to exercise his personal whim as was the case in this feud, to decide that his brother should become the presidential candidate after him. If NEC bought into this development they did it at the wrong time considering that Joyce Banda was Vice President also in government. The frustration that this whimsical impulse from Bingu created affected Joyce Banda's rhythm of performance in government, and generated an irreconcilable impasse between the President and his Vice.

The bad blood then denounced their oath of allegiance, betrayed the national conscience and it adulterated both sections 12 and 80(3) leading to a notion that the head of state and government was in conflict with itself rendering it unpalatable and a liability. At this point Government should have been deemed to have collapsed thereby giving rise to the inevitability of the possibility of an early election. This notion and position was espoused by AFORD in 2010, but it was not received at all, obviously because generally Malawians are slow to respond to such controversial situations, largely due to the prevalent rampant political illiteracy.

But examples like the event in South Africa's African National Congress (ANC) where President Thabo Mbeki was dethroned by his party, the ANC should be an eye opener to all of us, in terms of the party's supremacy and the need for adherence to party policies and regulations by those holding high public offices.

The antidote to this bad blood problem should be identifying and nominating running mates based on their professional capabilities, proper disposition of character and moral posture, which would facilitate complementarity in the discharge of state business. It is prudent to assign each other tasks that fall within the established capabilities of the individuals. This will give them a sense of duty, of responsibility and of belonging to the cause of developing the nation. No one would find reason and time to undermine the other in anyway, as they would be preoccupied with meeting their deadlines.

They are accountable to the people. The bad blood will transform into mutual trust and symbiotic workmanship and efficiency in government. The fights simply expose the mediocrity that seems so entrenched in our systems of government.

There was another question/concern that was raised concerning the lake dispute. My take is Malawi should never have gone into any dialogue with Tanzania before ascertaining the prompting factor on the Tanzanian side.

We had nothing to lose. Our engaging the Tanzanians for being aggressive to us is costing us unnecessarily in terms of travel allowances and other expenditures. We are better off disengaging and watch the aggressor commit a more visible offence.

Such an experience of openness led to the affirmation of common concerns. All of us expressed agony and anguish over the ways in which our political practices, decisions and traditions, particularly the governing parties have tended to condone and, to some extent, support vices like nepotism, corruption, tribalism, regionalism in government including the worst case scenario now the Cash gate. We seem to have been together as well in asserting that there were ambiguities and contradictions in our political beliefs and traditions that gave room to the eruption of the numerous vices including the horrific Cash gate.

As we said good bye to one another after lunch on December 7, it was clear to most of us that the task before us was huge and overwhelming. Our political beliefs and traditions need an intense renewal that will enable them to acknowledge the dehumanizing power of greed and self-centeredness in our political parties as well as government, and offer a penetrating moral critique of the structures that perpetuate such offences and propensity as the dreaded isms and the Cash gate. Such a renewal would include educating people of all political persuasions, civil society, traditional leaders, and leaders of the faith community about their commitment to human welfare. Yet we left with the knowledge that it was precisely our political will that offers us the hope for such a renewal.

Annex 3**List of Delegates**

	NAME	INSTITUTION
1.	Austin Mtambalika	MAFUNDE (Political Party)
2.	Charles Nkalo	Malawi Broadcasting Corporation
3	Chavula Viweni	GIZ
4	Cheu Mita	Media
5	Chikondi Juma	Malawi Broadcasting Corporation
6	Christoff Hartmann	University of Bochum
7	Clement Makuwa	Young Politicians Union
8	Dan Msowoya	Alliance for Democracy
10	Dyton Milanzi	Lilongwe City Assembly
11	Elita Yobe	Catholic Commission for Justice & Peace
12	Felix Chauluka	Institute for Policy Interaction
13	George Chaponda	Democratic People's Party
14	Gloria Chingota	Malawi Electoral Commission
15	Happy Kayuni	University of Malawi
16	Harris Potani	Malawi Electoral Commission
17	Helen Mpata	Young Politician Union
18	Henry Chilobwe	National Democratic Institute
19	Henry Chingaipe	Institute for Policy Research
20	Henry Nandolo	IPI – Phalombe
21	Henry Kamata	Malawi Congress Party
22	Jessie Kabwila	Malawi Congress Party
23	Ken Ndanga	United Democratic Front
24	Kennedy Rashid	IPI
25	Lars Svasand	University of Bergen
26	Lilian Patel	United Democratic Front
27	Marcus Schneider	Fredrick Ebert Stiftung
28	Maxon Mbendera	Malawi Electoral Commission
29	Mphundu Mjumira	IPI
30	Nandini Patel	IPI
31	Nicolas Dausi	Democratic Peoples Party
32	Ollen Mwalumbunju	NICE
33	Peter Woeste	German Ambassador
34	Rafiq Hajat	IPI
35	Rhodes Nsonkho	Capital Radio
36	Robert Grevulo	Blantyre City Council
37	Roosevelt Gondwe	National Assembly
38	Roy Paya	Fredrick Ebert Stiftung
39	Robert Silungwe	Malawi Election Support Network
40	Samson Lembani	University of Bochum
41	Sean Dunn	UNDP
42	Stella Chikumbole	PAC

43 Sylvério Mjumira
44 T/A Kaduya
45 T/A/ Nkhumba
46 Veronica Sembereka
47 Wellington Chatepa
48 Willie Chaponda
49 Willie Kalonga
50 Yusuf Auŕi

IPI
Phalombe district
Phalombe district
PACENET
People's Progressive Movement
Pentacostal & Charismatic network
MEC
Maravi People's Part

Institutional Profiles



**Marcus Schneider,
FES REGIONAL COORDINATOR FOR SOUTHERN AFRICA**

FES is Germany's oldest political foundation. It was founded in 1925 as a legacy of Germany's first democratically elected Head of State, Friedrich Ebert, who presided over a country he famously described as a "democracy without democrats".

Germany's first experience with democracy, the so-called Republic of Weimar, eventually failed. The burden of the lost war, hyperinflation and mass unemployment, the humiliating Versailles peace order, vicious attacks from the extreme right and left, and a bureaucracy often still loyal to the Ancien Régime presented obstacles that could not be overcome.

A democratic constitution and a democratic set-up of institutions are, by themselves, not enough to make democracy triumph if the majority of citizens retract support.

Democracy cannot live without political parties that share a minimal consensus on upholding political and economic freedom.

The German experience also proves that the survival of democracy depends, to a certain degree, on the political system delivering the necessary social conditions for the wellbeing of its citizens.

It is these experiences of democratic failures and successes that inspire the international work of FES. Today the foundation is active in more than 100 countries in the world, 20 of them in Africa.

The aim of FES is to promote social democracy, to work with democratic parties, to support trade unions and to foster democratic discourses and debates in a world that is ever more growing together.

Institutional Profiles



Rafiq Hajat, IPI EXECUTIVE DIRECTOR

IPI is a Malawian non-partisan, non-profit, non-governmental organization. It was formed in 2001 to promote participation by all Malawians in political/ economic/ social decision-making processes within a participatory democratic framework.

The institute endeavours to facilitate the evolution of a participatory democracy that upholds the cardinal values of equality and justice – nationally and internationally.

IPI has, since its inception, implemented numerous projects, with funding from several donor agencies, in the areas of: policy research, analysis and consultancy services; strengthening democratic institutions by providing training and information on salient issues; conflict management: building bridges between adversarial groups; socio-economic and political empowerment in rural areas through interactive civic education on basic entitlements; socio-political advocacy through collaboration with civil society organisations (CSOs) and other stakeholders in common positions on issues of national interest.

Despite suffering grievous setbacks in 2011 and 2012, occurring as a consequence of its activist role in demanding accountability from duty bearers, IPI has managed to resurrect from the ashes to continue undeterred on its chosen path.

This latest collaboration with the FES marks another important milestone in IPI's quest to contribute positively towards the evolution of a truly participatory democracy in Malawi.

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