



School of Politics, Philosophy and International Studies
Centre for Legislative Studies
The University of Hull
United Kingdom

**THE VERTICAL AND HORIZONTAL ACCOUNTABILITY
IN THE MALAWI PARLIAMENTARY DEMOCRACY**

A Thesis submitted to
The University of Hull
in partial fulfilment of the requirements for the Degree of

**DOCTOR OF PHILOSOPHY (PhD.)
POLITICS**

By

WEBSTER SIAME KAMEME

[MPhil, MSc, PGD, ATD]

**THE VERTICAL AND HORIZONTAL ACCOUNTABILITY
IN THE MALAWI PARLIAMENTARY DEMOCRACY**

DOCTOR OF PHILOSOPHY
Politics

THESIS

By

WEBSTER SIAME KAMEME
[MPhil, MSc, PGD, ATD]

June 2015

Dedicated

To my Mum LIZIE

Born 1915, Died 15/12/2014:

[A day before my viva voce]

R.I.P.

Tributes

I would like to pay tribute to two special people who started this project with me but never saw it complete because they have since passed-on to Glory.

My Father Rev. Adam Kameme (1913-2007) and my Father-in-law Pinson
Mwengama Mtambo (1934-2013)

“O death, where is thy sting? O grave, where is thy victory?”

(1 Corinthians 15:55; KJV)

Acknowledgements

For those that believe in divine interventions, please join me in giving “God” the Honour and Glory for preserving and providing for us to see this project to fruition.

The list of people that deserve my sincere and profound gratitude is inexhaustible. Almost everyone went out of their way to support this research project. However, there are a few names that I am compelled to acknowledge. If I was able to see far, it was only because I stood on the shoulders of these ‘giants’. Special ‘thank-you’ to my personal supervisor, the Legendary Professor Lord Norton of Louth and my second supervisor, Dr Cristina Leston-Bandeira for christening me into the philosophies of politics. I shall forever remain indebted to the University of Hull in general, The School of Philosophy, Politics and International Studies and that of the Centre for Legislative Studies in particular for the Scholarship; without which this project would have been, but a fantasy.

Allow me to acknowledge the Speaker of Malawi Parliament the Rt. Hon. Henny Chimunthu Banda – MP, Management and staff of Malawi Parliament for opening the Parliamentary ‘Golden Gates’ for office accommodation as well as allowing me to study the institution. The support that this project received from all political parties, the Civil Society, Non-governmental Organisations, the Academia and Faith Groups was no doubt overwhelming. However, the personal contributions from a few individuals deserves a mention, Her Excellence Dr. Joyce Banda, (president of the Republic of Malawi), The Rt. Hon. J.Z.U. Tembo-MP (leader of Opposition in Parliament), Dr. Cassim Chilumpha-MP (Former State Vice President), Bishop Matoga and Rev. Vincent Chirwa, to mention a few.

My family network was enormous, beginning from our household with my wife Christine, our children Webster Jr. and Suwilanji as well as stretching back to Malawi with Norah Siame Nsanja and Family. We were all together in it! It will be hypocritical of me not to mention my bigger church family network. Pastors Themba Ndlovu and Dean Chauke and their families together with the Brethren in Christ Church (UK) and friends, May God richly bless you.

Special thanks to all my constituents in Chitipa North who overwhelmingly voted for me to Parliament in the 1999 General Elections. They allowed me to have 'hand-on' experience as Member of Parliament. My Executive Committee, Senior Chiefs Kameme and the late Mwabulabia and all those that actively took part in various development endeavours for Chitipa North, I was proud to serve you with humility and honour.

To one and to all, we can say, *"We did it."*

Abstract

...the future is that; I think we have hit rock bottom and that the only way we can go now is not down but up. I have hope. I have told Malawians that we need to look into the future with hope and I know that we shall be fine. What I am implying here is that ultimately what is going to save democracy in Malawi is the willingness by Malawians to protect themselves and preserve the freedoms and rights which they have..., (President, Joyce Banda, 2011)¹.

The thesis of this study is that the Malawi Parliament ought to be the hub of vertical and horizontal accountability in legislation, representation and oversight roles. Salih, (2005, p.3) states that parliaments are caught between fulfilling the governance role and acting as part of government. Therefore, in order to effectively fulfil this objective, parliament must be supported, (Ma Ngok, in Siu-Kai, 2002). However, the study notes that the Malawi Parliament has a high executive influence; no policy making power with minimal legislative viscosity, (Norton, 2005, 1990; Polsby, 1975; Mezey, 1979 and Blondel, 1973). Consequently, it is argued with empirical data that since the 1994 multiparty election, parliament has not been effective in its vertical and horizontal accountability roles, (Lindberg, 2009). In the horizontal accountability, parliament plays an inter-governmental role of the executive oversight as well as that of checks and balance, (Stapenhurst and O'Brien, 2011, p. 3). In the vertical, parliament is held accountable through its elected members by its voters, stakeholders and the civil society, (Chirwa and Nijzink, 2012, p.6). It is argued that when voters (principals) delegate their decision-making power to parliament (agent), the principal must have mechanisms in place of holding the agent(s) accountable for their actions or lack of it and if necessary, impose sanctions or remove the agent from power, (Strom, 1999, pp. 7, 8). In every developed democracy, government

¹ **President Joyce Banda:** Sworn in as President of the Republic of Malawi on the 7th April, 2012.

policies and services are demand driven; sanctioned, monitored and evaluated by the legislature (Lupia and McCubbins, 1999, p. 4). Using empirical data, the study observed that although the Malawi Parliament has made significant reforms towards regaining its independence and autonomy from the executive, it still continues to be seen as a legitimatisation and sometimes rubberstamping institution, (Nyamongo, 2010; Chinsinga, 2007; Patel, 2007). The contributory factors were both intrinsic and extrinsic such as lack of institutional capacity as well as political will by the executive to support a greater parliamentary autonomy. Thus, the study recommends that the Malawi Parliament institutes a human resource development programme in order to improve the technical capacity of legislative support staff as well as MPs; increase funding and strengthen parliamentary committee system for higher scrutiny as well as a wider stakeholder consultation at every stage of the legislative process; The study also recommends that appointments of directors in auxiliary governance agencies such as the Anti-Corruption Bureau, the Electoral Commission of Malawi, and the Human Rights Commission shift from the presidency to parliament. It is the assumption of this study that increasing parliamentary oversight potential promotes democracy and good governance, (Pelizzo and Stapenhurst, 2007, p.13).

Contents

Dedicated	iii
Tributes	iii
Acknowledgements.....	iv
Abstract	vi
Contents	viii
Tables.....	xii
Table of figures.....	xiii
Glossary of Words and Terms	xiv
Who is who in the thesis?	xix

CHAPTER: ONE.....	1
Malawi Parliament: The Nation and its Constituents	1
1.0 Introduction	1
1.1 The Study Objectives	2
1.2 Hypotheses	2
1.3 Research Questions.....	3
1.4 Major contribution of the study	4
1.5 Structure of Thesis	5
1.6 Malawi: The Land and the People	6
1.7 Historical Context.....	8
1.8 Type of political system	11
1.9 Constitutional arrangements.....	12
1.10 Post-independence political evolution	14
1.11 Why study the Malawi Parliament?.....	15
1.12 Conclusion	16

CHAPTER TWO	17
The Theoretical Framework:	17
The Vertical and Horizontal Accountability in Malawi	17
2.0 Introduction	17
2.1 The principle of accountability as a pillar of good governance	18
2.2 The horizontal and vertical accountability dimensions of good governance	20
2.3 The Accountability Concept in Delegate Democracy	23
2.4 Presidentialism in Africa based on Neo-patrimonialism	24
2.5 The Constitutional framework of the Presidential system in Malawi.....	26
2.6 Why Malawi parliament is not able to effectively perform its oversight role	31
2.7 Stakeholder's Participation.....	33
2.8 Political Participation in Malawi	35
2.9 Conclusion	37

CHAPTER: THREE	38
Review of relevant literature	38
The Malawi parliamentary democracy: Vertical and Horizontal Accountability	38
3.0 Introduction	38
3.1 Previous studies of the Malawi Parliament	39
3.2 Malawian Geo-parliamentary Discourse	43
3.3 The vertical and horizontal accountability roles of some regional legislatures	44
3.4 Malawi Parliaments' Performance Parallels within the Region.....	55
3.5 The Vertical and Horizontal accountability roles in the Malawi legislature.....	56
3.6 A discourse of political trends in Malawi (1994-2012).....	62
3.7 Political power relations in Malawi.....	65
3.8 Balancing of Political Power in the Malawi Government	70
3.9 Political power and accountability.....	80
3.10 Parliament of Malawi and its members: Politics within.....	81
3.11 The Politics of Floor-crossing in the Malawi Parliament.....	82
3.12 Governance pillars of governmental accountability.....	87
3.13 Political accountability within and without the Legislature	97
3.14 Significance of parliamentary democracy to the process of democratisation	98
3.15 Legitimacy and political leadership.....	100
3.16 Governmental Accountability and Good Governance	102
3.17 Conclusion	105
CHAPTER: FOUR	106
Methodological Framework.....	106
4.0 Introduction	106
4.1 Design Objectives	106
4.2 Research Overview	107
4.3 A trajectory of the Research.....	108
4.4 Methodological approach	109
4.5 Methods used in Data Mining	112
4.6 Developing Hypotheses and Research Questions.....	115
4.7 Formulating Research Questions.....	117
4.8 Study Participants	118
4.9 Location of the Study and the Unit of Analysis.....	119
4.10 <i>Sampling Method</i>	119
4.11 <i>Research Design</i>	120
4.12 Access to Respondents, Participants and Documents	122
4.13 Data Collection	123
4.14 Selecting methods for data collection.....	126
4.15 <i>Data Analysis</i>	130
4.16 Variables.....	133
4.17 Coding	134
4.18 Quality Control	137
4.19 Identifiable Limitation in the research	139
4.20 Dissemination of Findings.....	140
4.21 Conclusion	141

CHAPTER: FIVE.....	142
Presentation and Analysis of Data	142
5.0 Introduction	142
5.1 The central role of parliamentary vertical and horizontal accountability	143
Part: A	144
Challenges of vertical and horizontal accountability	144
5.2 Challenges of vertical accountability: UDF and DPP Governance	144
5.3 MPs assessment of Government oversight role	147
5.4 Government accountability from governance agencies	150
5.5 Challenges of accountability from the minority governance point of view	156
5.6 Challenges of accountability from the majority governance point of view	162
5.7 People's Party (PP) responsive accountability	168
Part: B	170
Constraints faced by Members of Parliament.....	170
5.8 Political space for members of Parliament.....	170
5.9 MP's Parliamentary role at Constituency Level.....	172
5.10 Intra-Party Democracy.....	174
5.11 Democracy in Political parties.....	175
5.12 MPs Participation in Parliament.....	179
5.13 MP's challenges in independent voting in Parliament.....	180
5.14 Legislative viscosity and parliamentary accountability	184
5.15 Challenges of Accountability and Governmental Responsiveness	190
5.16 Committee System and the challenges of governmental accountability.....	194
Part C	
Challenges in the Parliamentary Secretariat	
5.17 Constraints faced by Secretariat	198
5.18 Role of external donor funding to Parliament.....	200
Part: D	202
The role of political parties in parliamentary accountability.....	202
5.19 Why party caucuses are not effective in providing parliamentary accountability.....	202
5.20 Self-centred politics an impediment to parliamentary accountability	206
5.21 Adversarial politics and political accountability	208
5.23 Conclusion	218

CHAPTER: SIX.....	219
Representational function of parliament in vertical accountability.....	219
6.0 Introduction	219
6.1 Vertical political accountability.....	220
6.2 Legislation, Representation, Oversight (MCP, 1964-1994).....	238
6.3 Legislation, Representation, Oversight (DPP, 2004-2012)	241
6.4 Numerical Advantages/Disadvantages and parliamentary accountability	245
6.5 Conclusion	250
CHAPTER: SEVEN	251
Summary of Findings.....	251
7.0 Introduction	251
7.1 Significance of the findings	251
7.2 Summary of results from relevant literature	252
7.3 The past legacy on the contemporary Malawi parliament	254
7.4 Parliamentary Performance in Post-independence.....	255
7.5 Performance Gaps in Malawi Parliament	257
7.6 The negative trends of adversarial politics in the Malawi Parliament.....	259
7.7 Role of parliament in legitimising the MCP administration	260
7.8 The UDF Administration (1994-2004).....	263
7.9 The DPP Administration (2004-2012).....	264
7.10 Legislative viscosity in the Malawi Parliament.....	265
7.11 The Speaker in the role of parliamentary accountability	267
7.12 Governance indicators in horizontal and vertical parliamentary accountability.....	270
7.13 The State of Democracy in Malawi: Reflections from Respondents	272
7.14 Conclusion	273
Chapter: Eight.....	274
Recommendations.....	274
8.0 Introduction	274
8.1 Improving the Legislative Process.....	274
8.2 Enhancing Representative role [Vertical Accountability]	277
8.3 Improving in oversight horizontal accountability for good-governance	278
8.4 Take greater account in donor and government funded development projects.....	279
8.5 Role of the Researcher in Effecting Change.....	279
8.6 Conclusion	280
Appendices.....	281

Tables

Table 3:1 Composition of the Malawi Cabinet (1994-2011)	70
Table 3:2 Responsiveness of Political Leaders (including MPs).....	74
Table 4:1 Categories of Study Participants	118
Table 4:2 Distribution of Questionnaire	129
Table 4:3 Coding Questions (QC) and Responses (A-C)	135
Table 4:4 (a, b) Inventory of Qualitative Responses from Questionnaire.....	136
Table 4:5 The Likert Bipolar Scale	137
Table 4:1 (b) Coding	136
Table 5:2 MPs Reasons for Rating Governance Agencies.....	152
Table 5:3 Intra-Party Democracy (%).....	176
Table 5:4 Sample of Controversial Legislation (1964-1994)	187
Table 5:5 Controversial Legislation (2009-2013).....	190
Table 5:6 Making Reforms in Parliamentary Accountability.....	212
Table 6:1 Parliamentary Turnover of MPs (1994-2009).....	228
Table 6:2 Separated Power in the USA Government	231
Table 6:3 Checks and Balance Control Mechanisms in Malawi	234
Table 6:4 Influence and Interest Matrix	243
Table 7:1 MPs Opinions on the Office of the Speaker.....	269
Table 7:2 DPP (Ruling Party) MPs Opinion on the Office of the Speaker.....	269
Table 7:3 Participants' Perceptions on Governance Indicators	271

Table of figures

Figure 1:1	Map of Malawi (Constituency Boundaries)	7
Figure 2:1	Vertical and Horizontal Accountability Paradigm	20
Figure 2:2	Accountability Concept of Delegation	24
Figure 2:3	The Malawi Cabinet	28
Figure 2:4	Sherry Arnstein's Ladder of Participation.....	36
Figure 3:1	Legislative Activity in the Region	47
Figure 3:2	MP Time Allocation	50
Figure 3:3	MPs Role Orientation	54
Figure 3:4	Typology of Legislatures	60
Figure 3:5	Power Relations	65
Figure 3:6	MPs Workload in the House of Commons.....	73
Figure 3:7	Public Trust in National Institutions (Regional average).....	78
Figure 3:8	Role of Parliament in Governmental Accountability	88
Figure 3:9	Parliamentary Representative by Party (National) 1994-2009	91
Figure 3:10	Legimacy, Vertical Horizontal Accountability Cycle.....	101
Figure 4:1	Case Study Research Trajectory	109
Figure 4:2	Convergent Parallel Design	114
Figure 4:3	Development of Hypotheses and Research Questions.....	116
Figure 4:4	Convergence of Evidence	125
Figure 4:5	Non- Convergence of Evidence (Separate sub-studies)	125
Figure 4:6	Methods of Reasoning	131
Figure 4:7	Deductive and Induction Approach.....	131
Figure 4:8	Dependent, Independent and Correlations.....	134
Figure 5:1	MPs Perceptions on Government Accountability.....	145
Figure 5:2	Trajectory of Parliamentary Oversight	149
Figure 5:3	(i, ii) Rating Governance Organisations	151
Figure 5:4	Malawi GDP Growth Rate (2003-2010)	159
Figure 5:5	Change of the National Flag	167
Figure 5:6	People's Party Government Press statement on Bad Laws.....	169
Figure 5:7	(a, b, c, d) Understanding Parliamentary Roles by MPs.....	171
Figure 5:8	(a, b) MPs Role at Constituency Level	173
Figure 5:9	Perceptions on Intraparty Democracy: DPP (Gov.) and Opposition Parties.....	177
Figure 5:10	(a, b) MPs Participation at Political Party Level	178
Figure 5:11	(a, b) MPs Participation in Parliament	179
Figure 5:12	Legislative Viscosity versus Parliamentary Configuration	186
Figure 5:13	Trajectory of Viscosity	186
Figure 5:14	Parliament Sitting 2004-2009 (graphs 1, 2)	189
Figure 5:15	Specialisation and Careerism in the Malawi Parliament (2009-2014).....	197
Figure 5:16	Trend and Distribution of Democracy and Governance Aid	201
Figure 5:17	(a, b) MPs Opinion on Political Violence in Malawi	209
Figure 6:1	A Holistic Representative Role of an MP	221
Figure 6:2	Ibrahim Index of African Governance	237
Figure 6:3	One Party Parliamentary Membership.....	246
Figure 6:4	Parliamentary configuration: 2009 General Election	248
Figure 7:1	Legislative Viscosity in the Malawi Parliament	266

Glossary of Words and Terms

- **Definitions of key concepts in the study**

For the purpose of this study, key concepts and definitions were adopted from the Malawi *National Assembly Standing Orders*² made pursuant to Section 56 (1) of the Constitution, (unless otherwise stated). The rationale for this deliberate attempt by the researcher was for purposes of achieving consistency with the use of words terminologies, and phrases that had the same meaning as in the Malawi Constitution of 1995 but would otherwise have multiple interpretations.

- **Act of Parliament**

A Bill which has been laid before the National Assembly and passed by a simple majority or such other majority as is otherwise required by the constitution of Malawi in respect of any particular Bill; and been asserted by the President in accordance with the Constitution³. (Malawi Parliament Standing Orders, 2003:2)

- **Bills (Government)**

Public Bills change the law as it applies to the general population and are the most common type of Bill introduced in Parliament. Government ministers propose the majority of Public Bills, those put forward by opposition and backbencher MPs are known as Private Members' Bills. Once passed into law, a Public Bill becomes an Act of Parliament. (House of Commons)⁴

- **Committee (Standing or Ad hoc)**

A committee of Parliament comprises of elected Members of Parliament tasked by Parliament to undertake a specific mission within a given time frame. It can be a standing or ad hoc. The Malawi Parliament has a total of about 16 committees, four of which have their functions provided for by the

² National Assembly Standing Orders: Adopted by the House on 22nd of May, 2003.

³ Section 49:1,2,3; of The Constitution of Malawi

⁴ House of Commons [on line] from (<http://www.parliament.uk/about/how/laws/bills/public/>)

Constitution, viz, Legal Affairs, Budget and Finance, Public Appointments, Defence and Security and the rest are provided for by the standing orders. (Malawi Parliament Standing Orders – Part 2)

- **Committee of the Whole house**

Committee of the Whole house according to Standing Orders (Part 2), means a committee composed of the whole body of elected members of Parliament.

- **Constituency**

A constituency in this study, unless otherwise specified, shall refer to a 'geographical location' represented by an MP in the National Assembly.

- **Constitution**

The Constitution shall refer to the 'Constitution of the Republic of Malawi' whose purpose is to bind all executive, legislative and judicial organs of the State at all levels of Government and that all the peoples of Malawi are entitled to the equal protection of Constitution and laws made under it. (Section 4 of the Constitution)

- **Crossing the floor**

According to The Constitution⁵, The Speaker shall declare vacant the seat of any member of the National Assembly who was, at the time of his or her election, a member of one political party represented in the National Assembly, other than that member alone, but who has voluntarily ceased to be a member of that party or has joined another represented in the National Assembly, or joined any other political party, or association or organisation whose objectives are political in nature (Amed. Act 8:2001)

⁵ Section 65:1,2

- **Democracy**

Decision making in democracies is a process of reaching agreement in group situations through discussion, debate, and analysis. Decision making should be more than the aggregation of performed opinions. Opinions must be confronted with each other in the public sphere, and all participants in this public discourse should truly listen to each other's arguments. To make proper democratic decisions, no groups should be excluded (Lipset, 1995).

- **Dissolution**

Means the end of parliament to be followed by a general election.

- **Leader of Opposition**

Means the Parliamentary leader of the largest party, elected by the parliamentary membership, which is not in government or in coalition with a government party, and who is recognised by the Speaker as such. (Standing Orders: adopted 22nd May 2003)

- **Leader of the House**

A minister of Government responsible for Government Business in the House and recognised by the Speaker as such. (Standing Orders: adopted 22nd May 2003)

- **Motion (Private Members)**

Means a proposal made a member that the house or the committee thereof do something, order something to be done or express an opinion concerning some matter.

- **Parliament**

Means the supreme legislative body of the Republic of Malawi consisting of the president and the National Assembly. (Standing Orders)

The word 'Parliament' originally meant 'a talk'; derived from the French word '*parler*' meaning to speak and the Latin '*parliamentum*'. In the 13th century was used to denote the after dinner conversation of the monks in their clois-

ters. It was also used to refer to conferences such as the one between Louis XI of France and the Pope in 1245. It was Matthew Paris of St. Albans who in 1239, applied the word 'Parliament' to a great council of prelates, earls and barons. According to Inter-Parliamentary Union (IPU, 2012), today there are about 193 National Parliaments across the globe charged with the responsibility of representation, deliberation and legislation. However, not all Parliaments carry out the task of making legislation.

- **Legislator**

From late 15th Century: from Latin *legis lator*, literally meaning, “*proposer of a law*”, from *lex* ‘law’ and ‘*lator*’ which, refers to a ‘proposer or mover.’ According to *Oxford Dictionary [on line]*⁶, it refers to “a person who makes laws; a member of a legislative body” (can be elected or appointed). However in the contemporary sense, the mandate has changed to include such other roles as representation and oversight.

- **Legislature**

A Legislature is a body of individuals (elected or appointed) in a country or state charge with the power to make alter and repeal laws. It may consist of one (Unicameral) or two (Bicameral) chambers with similar or differing powers such as the House of Commons and that of the Lords,⁷ or the American House of Representatives⁸ and the Senate.

- **Point-of-order**

Means a matter related to the procedure or practice of the house, which the member is entitled to raise when seeking the guidance of the chair or complaining of some unparliamentary behaviour on the part of another member.

- **Prorogation**

Means the end of a session of parliament to be followed by a state opening of parliament.

⁶ **Legislator:** Definition from the *Oxford Dictionary* [on line] from <http://oxforddictionaries.com/definition/english/legislator> (retrieved, 23/06/2012)

⁷ **House of Commons and Lords:** Is said to be more deliberative than legislative. Therefore, tends to lean more towards Parliament than Legislature.

⁸ **American Congress:** A classical example of a Legislature. It is said to almost have complete control of the legislative process.

- **Question**

Except in respect of the question period and a question of privilege, means a proposal put to the House or a committee thereof by the Speaker or chair for consideration and disposal in some manner.

- **Representation (Political)**

Childs, et al. (2012) contend thus, “*traditional political theory makes clear that political representation is paradoxical*” because the very notion of representation means one acting on behalf of the other. However, Pitkin, (1967) in her publication, *The Concept of Representation*, identified four types of representation, (1). *Authorised*: A representative is legally empowered to act on behalf of other. (2). *Descriptive*: Representation by shared identities such as sex, race, ethnicity or residence (3). *Symbolic*: Leaders standing for their nations, corporations, and organisations. (4). *Substantive*: A representative seeks the mandate to champion the group’s interests and policies.

- **Standing orders**

Means standing rules and orders of the assembly and any other rules and orders of procedures amending or replacing them made in pursuance of section 56(1) of the constitution. SEC: 56. - 1. Subject to this Constitution, the National Assembly, the Senate, or may by Standing Order or otherwise regulate its own procedure. (Constitution: The right to regulate procedure 6 of 1995)

- **Legislative Viscosity**

A concept initially advanced by Blondel, (1970, 1973) referring to the aggregate of the number of amendments and the time spent on legislative deliberations both in committees and the plenary. A host of other scholars have endeavoured to use it as a unit of legislative analysis (see, Polsby, 1975; Norton and Leston-Bandeira, 2005;⁹ Ma Ngok, in Siu-Kai, 2002, p. 357; Maurer, 2010; MacGregor, 2011).

⁹ Norton, P. Leston-Bandeiras, C., (2005), Parliamentary Institutions Basic Concepts: Strengthening the Capacity of People’s Elected Bodies in Viet Nam, *United Nations Development Programme - Viet Nam, ONA-UNDP, Project VIE/02/007*, [on line] form <http://www.undp.org.vn/projects/vie02007/library.htm>

Who is who in the thesis?

Banda Henry Chimunthu (Banda, H.C): *Speaker of the National Assembly of Malawi from May 2009 to May 2014.*

Banda Joyce Hilda (Banda J.H): *The President of Malawi from 7 April 2012 to 31 May 2014. She is the founder and leader of the People's Party.*

Banda Kamuzu Hastings (Kamuzu Banda): *Prime Minister of Nyasaland from 1961 to 1964 and the President of the Republic of Malawi from 1964 to 1994.*

Chihana Enoch (Chihana, E): *Member of Parliament for Rumphi Central; President of Alliance for Democracy (AFORD) and son of Chakufwa Tom Chihana, the former President of AFORD.*

Chihana Tom Chakufwa (Chihana, T.C): *Founder member and president of Alliance for Democracy (AFORD) served as the Second Vice President in Malawi during the UDF regime, (1939-2006).*

Chilumpha Cassim (Chilumpha, C): *The Vice-President of Malawi from June 2004 to May 2009, during the DPP regime of Bingu wa Mutharika.*

Muluzi Austin Atupele (Muluzi, A.A): *Member of Parliament for Machinga North East constituency since 2004. He is also the President of the United Democratic (UDF) and son of former President of Malawi and leader of UDF Bakili Muluzi.*

Muluzi Elson Bakili (Bakili Muluzi): *He was the first freely elected President of Malawi under UDF after the 1993 referendum from 1994 to 2004. He was Chairman of the UDF until 2009.*

Tembo John Zenus Ungapake (Tembo, J.Z.U): *Member of Malawi Congress Party since 1960s. Was among the first Ministers during the 1964 Cabinet Crisis. He served in various capacities during the 30 year rule of Kamuzu Banda. He was president of MCP from 2003 to 2013.*

Wa Mutharika Author Peter (Peter wa Mutharika): *President of DPP. He has been President of Malawi since 31 May 2014. He is also young brother to the former State President Bingu wa Mutharika.*

Wa Mutharika Bingu (Bingu wa Mutharika): *President of Malawi from May 2004 to 5 April 2012, (1934-2012).*

Acronyms

AAPPG	Africa All Party Parliamentary Group (House of Commons)
AFORD	Alliance for Democracy
ALP	African Legislatures Project
ANC	African National Congress
AU	Africa Union
BBC	British Broadcasting Corporation
BC	Before Christ (Century)
CCAP	Church of Central African Presbyterian
CCJP	Catholic Commission for Justice and Peace
CCR	Centre for Constitutional Rights
CDA	Critical Discourse Analysis
CDF	Constituency Development Fund
CFSC	Centre for Social Concern
CIA	Central Intelligence Agency
COP	Clerk of Parliament
CPA	Commonwealth Parliamentary Association
CPI	Corruption Perception Index
CS	Communication Strategy
CS	Commonwealth Secretariat
CSO	Civil Society Organisation
CSSR	Centre for Social Science Research
DPP	Democratic Peoples Party
DRC	Public Affairs Committee (PAC)
DSM	Descriptive Statistical Methods
DSP	Doctrine of Separation of Power
EISA	Electoral Institute for Sustainable Democracy in Africa
EISA	Electoral Institute for Sustainable Democracy in Africa
FINCA	Foundation for International Community Assistance
FRELIMO	Liberation Front of Mozambique (Frente de Libertação de Moçambique,)
GDP	Gross Domestic Product
Hp	Hypothesis
IFES	International Foundation for Electoral Systems
IPU	International Parliamentary Union
KANU	Kenya African National Union
MCP	Malawi Congress Party
MDM	Democratic Movement of Mozambique (Movimento Democrático de Moçambique,)
MEC	Malawi Electoral Commission
MOU	Memorandum of Understanding
MP	Member of Parliament

Acronyms continued...

MPC	Malawi Privatisation Commission
MPhil.	Master of Philosophy
MYP	Malawi Young Pioneer
NA	National Assembly
NAC	Nyasaland African Congress
NCA	Norwegian Council for Africa
NGO	Non-Governmental Organisation
NSO	National Statistics Office (Malawi)
OAU	Organisation of African Unity (now Africa Union-AU)
OPP	Oppotion
PAC	Public Accounts Committee
Pana	Pan-African News Agency
PP	Peoples' Party
PP	Progressive Party
PSP	Parliamentary Strategic Plan
RENAMO	Mozambican National Resistance (Resistência Nacional Moçambicana,)
SADC	Southern Africa Development Community
SWAPO	South West African People's Organisation
TI	Transparency International,
UDF	United Democratic Front
UK	United Kingdom
UMCA	Universities Missions to Central Africa
UN	United Nations
UNIP	United National Independence Party
WGI	World Governance Index

CHAPTER: ONE

Malawi Parliament: The Nation and its Constituents

1.0 Introduction

Parliaments are an essential component of a national governance paradigm, (Hudson, et al., 2007, p. 4). However, the context of parliamentary performance is shaped by political, electoral and constitutional systems as well as the nature of political parties. Consequently, enhancing the democratic vertical and horizontal accountability is essential in strengthening the parliamentary systems and structures (DFID, 2008). Vertical accountability on one hand, demands that government organs, institutions and agencies explain and justify their decisions to the public. On the other hand, horizontal accountability occurs at the intra-governmental level, when one organ, institution or agency of government holds another to account. For instance, the executive and legislature are subject to judicial control for the exercise of their constitutional and statutory powers, while the legislature provides oversight of the executive, (Chirwa, et al., 2012; IPU, 2006). Thus, the locus of this thesis becomes a critical empirical analysis of the vertical and horizontal accountability in the Malawi parliamentary democracy, (Wolfgang, et al., 2000).

1.1 The Study Objectives

The study aimed at accomplishing the following three main objectives:

- The motivation for the study was to gather and analyse data in an attempt to seek solutions on why the Malawi Parliamentary vertical and horizontal accountability in legislation, representation and oversight roles did not seem effective in its delivery systems under the multiparty democracy.
- Using the Malawi Parliament as a unit of analysis, the study makes a contribution to the scholarly literature and analysed data towards informing best parliamentary practice among developing democracies in general and African parliaments in particular.
- From the evidence based analysis, the study seeks to identify alternative models in improving parliamentary vertical and horizontal accountability.

1.2 Hypotheses

The following main hypothesis was a by-product of five years of the researcher's own personal lived experience as a member of the Malawi Parliament, (1999-2004).

That the Malawi Parliament's vertical and horizontal accountability in legislation, representation and oversight roles have not been effective due to MPs self-centredness; that the Malawi Parliament continues to be dominated by the executive branch as well as deficiencies in human, financial and infrastructure capacity (Sherwood, 2012).¹⁰

¹⁰**The Citizenry expectations at independence:** The 'Spirit' of Nationalism could have been a direct product of Pan-Africanism whose objectives for the struggle against

The main hypothesis is further divided into three sub-hypotheses in order to adequately examine the parliamentary accountability towards its constituents as follows:

Hp. (1)

That the vertical accountability in the Malawi Parliament has been less effective due to MPs self-centredness.

Hp. (2)

That the Malawi Parliament continues to be dominated by the Executive Branch (the Presidency). Therefore, not effective in horizontal government oversight.

Hp. (3)

That the Malawi Parliament has lapsed in vertical and horizontal accountability to nurture good governance.

1.3 Research Questions

Furthermore, the research questions were designed along the following four tiers.

- I. *Can good governance be achieved through authoritarian rule? A focus on three decades of MCP Government in Malawi.*
- II. *Has multi-party politics created a democratic culture and good governance in Malawi? A focus on Multi-party democracy.*
- III. *What are the opportunities and challenges that have either hindered or supported the development of democracy, genuine politics and good governance in Malawi?*
- IV. *What can be done differently to enable Parliament to meet the expectations of the majority of Malawians?*

colonialism was to gain political power as the first step towards a complete social, economic and political emancipation.

To this effect, data were gathered for critical analyses to test the assumptions raised in the hypotheses as well as explored ideas on what could be done differently to enable Parliament meet the expectations of its constituents.

1.4 Major contribution of the study

The study aims at contributing in a number of ways to the body of knowledge in the field of legislative studies in general and the Malawi Parliament in particular. The following are the major areas of contribution:

- From the theoretical perspective, the study observes that at the apex of parliamentary democracy are vertical and horizontal accountability paradigms. Contextualised in the case of the Malawi Parliament, the study demonstrates that public institutions are accountable to their stakeholders and that in political accountability, individual governors are answerable to the governed. Thus, the study contributes to the understanding of power relations between constituents and MPs on the vertical paradigm and on the horizontal between the legislature, the judiciary and the executive.
- From the theoretical concept the study is validated with empirical data in support of the hypothetical propositions that the Malawi Parliament's vertical and horizontal accountability in legislation, representation and oversight roles have not been effective due to MPs self-centredness; and that it continues to be dominated by the executive branch as well as deficiencies in human, financial and infrastructure capacity. Therefore, the study contributes to the body of knowledge and scholarly literature through its qualitative and quantitative data presentation and analysis.

- Based on theoretical framework and empirical data, the study identified a number of key performance gaps such as lack of parliamentary capacity (financial, infrastructure and personnel); Partisan politics and lack of intraparty democracy as well as rent-seeking among its membership within the Malawi Parliamentary system and structures. In proposing alternative models, the study is contributing towards a democratic Malawi Parliament that is capable of providing both vertical and horizontal accountability for good governance.

1.5 Structure of Thesis

This thesis comprises of eight chapters. Chapter one is introductory that provides the background as well as aims and objectives of the study. Chapter two discuss the vertical and horizontal accountability as the study's theoretical framework. Chapter three is dedicated to reviewing relevant literature on the politics of parliamentary democracy for good-governance. Chapter four outlines the methodological framework incorporating the design, the methods used in data mining, analysis synthesis as well those of validation and ethical issues. Chapter five presents data analysis and is subdivided into four parts as follows:

- *Part A: Parliament of Malawi: Setting the political agenda*
- *Part B: Parliament of Malawi: Conduit of democratisation*
- *Part C: Parliament of Malawi: In light of good-governance*
- *Part D: Enhancing parliamentary democracy and representation*

In Chapter six, empirical evidence is used to test the hypothetical assumption advanced in the study.

Chapters Seven and Eight summarise the findings and the significance of its contribution to knowledge in the study of Malawian politics in general and that of its parliament in particular as well as making recommendation for

strengthening parliamentary accountability. Limitations of this research and suggestions for future research are also identified.

This project also benefited from previous research on recommendations made by the researcher in the Master of Philosophy (MPhil.) project; *'Politics, democracy and governance in independent Malawi: the dichotomy between promises and reality'*, (2011) as well as from the Master of Science research project, *'Good Governance: A prerequisite to Malawi's Development Agenda'* (2007).

1.6 Malawi: The Land and the People

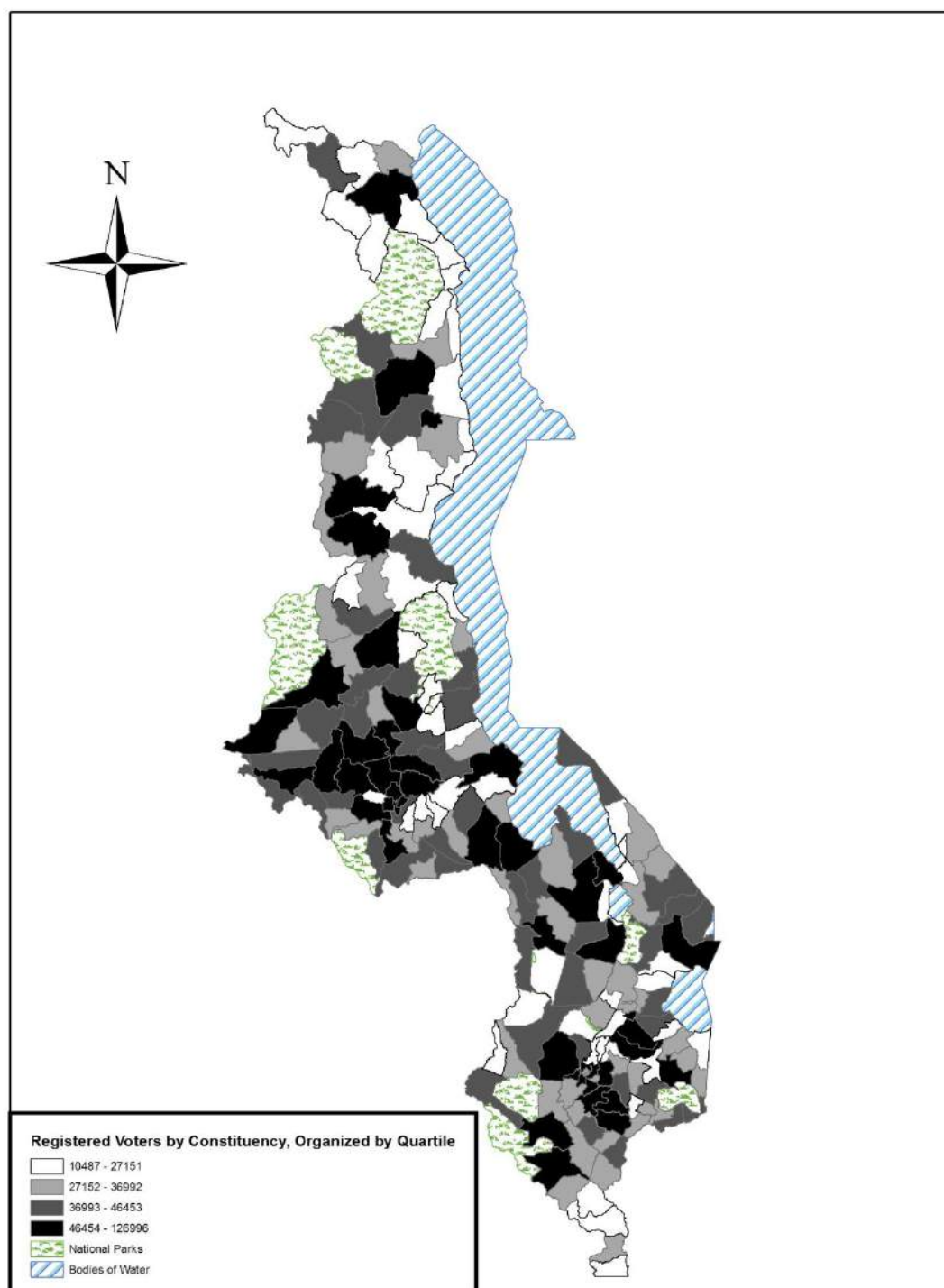
Malawi lies on the continent of Africa on longitude 30 degrees east and 15 degrees south. It has a total land area of 118,480 square Kilometres and 24,400 square Kilometres of fresh water. Lake Malawi is about 571 Kilometres in length and about 75 Kilometres in width (Figures 1:1).

The official population of Malawi is about 15 million people (NSO, 2010 est). According to Africa Guide (2010) life expectancy has dropped by almost 50% since independence from 60 to 42 years. This could be due to HIV and AIDS pandemic exacerbated by poverty, lack of adequate and freely available antiretroviral drugs (FINCA, 2013). The Malawi people are mostly of Bantu-speaking origin, with the ethnic groups including Chewa, Nyanja, Yao, Tumbuka, Lomwe, Sena, Tonga, Ngoni, Ngonde, Asian and European. The Chichewa (Chewa) people form the largest population group and are largely in the central and southern parts of the country. The Yao people are predominantly found around the southern area of Lake Malawi. Tumbuka are found mainly in the north of the country. There is a small population of Asian and European people living mainly in the cities (NSO, 2010 est).

The illiteracy level is still very high in Malawi especially among females due to early marriages; a culture that encourages boys to attend school rather than girls; and an orphanage situation that has left most 'girl children' taking

care of other family members. 76% of the male and 50% of the female population can read and write. (MPC 2003 est.)

Figure 1:1 Map of Malawi (Constituency Boundaries)¹¹



Source: Wahman and Chapman, (2015, p. 10)

¹¹ Registered voters in the 2014 elections by constituency

1.7 Historical Context

Literature (Crosby, 1980; Brelsford, 1960; Kalinga, 2011), suggests that the early inhabitants of the land dates back to 8000-2000 BC. The Bantus were among the first immigrants to arrive in Malawi between the 1st and 4th centuries. Furthermore, the early chronicles, (Alpers, 1969; Curtin, et al., 1964; Page, 1974), suggest that there were large slave trade markets¹² in the 18th and 19th centuries that were established by the Arab slave traders who also introduced Islam to the region. However, Dr David Livingston's extensive exploration of the region in the 1850 and 60s directly contributed to his passion as a 'slave trade abolitionist', [see, Livingstone, (1865)]. In 1884 Cecil Rhodes' British South Africa Company was given a Charter to develop what would be carved as Nyasaland British Protectorate (1882) from the German East Africa (Tanganyika) and the Portuguese in the South (Mozambique), (Wright, 1969; Vail, et al., 1983).

Established in 1891 as a British protectorate of Nyasaland, the territory became the independent nation of Malawi in 1964. The next presidential elections¹³ were held in 1994, under a provisional constitution after three decades of one-party rule under President Hastings Kamuzu Banda who lost to Bakili Muluzi of the United Democratic Front (UDF) in the new multiparty dispensation; who ruled the country for two five-year terms of office. Muluzi was succeeded by Bingu wa Mutharika who was first elected in May 2004 after a failed attempt by his predecessor to amend the constitution to allow him a third term of office. Bingu was re-elected for his second and final term in 2009. He suddenly died in office on 5th April 2012 and was succeeded by his Vice-President Joyce Banda on 7th April 2012. Consequently, the Democratic Progressive Party (DPP) led Government'¹⁴ of the late president

¹² Captured Slaves in and around east, southern and Central Africa, were bound for Zanzibar, Kilwa, Ibo and Quilimane slave markets.

¹³ Presidential Elections: From 1964 to 1994, President Kamuzu Banda led the Malawi Congress Party, (MCP) and the Republic of Malawi as a 'sole-leader'.

¹⁴ DPP Government, (2004-2012): It must be noted that this study was conducted between (2010 and 2013). Therefore, care will be taken in making references to 'Party-in-government' to refer to either DPP or PP Governments that came into power from the 7th April, 2012.

Bingu wa Mutharika was relegated into opposition while Joyce Banda and her newly founded Peoples' Party (PP) formed the next government.

While the Executive Branch of Government had revolutionary episodes of change (from colonialism to independence in 1964 and dictatorship to democracy in 1994), the legislative branch seemed to take an evolutionary dimension (Momba, 2005, p.101). Thus, making a steady growth since independence. According to Malawi Parliament (2007), the archives indicate that the first Legislative Council met on 4th of September, 1907. By 1932, there were 8 Members of the legislative Council (all whites); 53 elected members of Parliament in 1964; 141 members in 1992; and 193 since 1999. Although, the Malawi Parliament had registered a steady numerical increment in terms of its membership, it did not necessarily follow an increased capacity in its basic parliamentary roles of representation, oversight and legislation. However, the parliamentary configuration trends seem to alternate between a majority government and a minority opposition and vice versa from one election to the other. To this effect, examining the role of parliament as a conduit for vertical and horizontal accountability towards good governance becomes an important point of analysis.

The origins of the Malawi Parliament come with the British settlers and missionaries in the late 1800s (Malawi Parliament, 2007). Furthermore, much of its recent past (1964-94) was under the one-party state dictatorship, making it scholarly inaccessible. During this period, the legislative process in Malawi Parliament revolved around the presidency and that Parliament played the roles of rubber-stamping and legitimatisation since the infamous 1964 Cabinet Crisis, (Chirambo, 2009; Chirwa, 2001; Chirambo, 2004).

1.7.1 The 1964 Cabinet Crisis

Nobody can say the charge of tiki in government hospitals can be responsible for the cabinet crisis no way. It [tiki] was not the reason. It was a convenient something to get political support. It was a question of political ambition. The reason is that there were some people who wanted to use Kamuzu to get independence quickly but they wanted him out of the way soon after. (JZU Tembo, 2011)

Chiume (1982, p.196-207), Baker (2001) and Chinguwo (2002) suggest that the actual event of the cabinet crisis was a physical manifestation of the underlying factors that underpinned the general framework of Kamuzu Banda's governance in general as well as foreign and domestic policies in particular. In Chiume's observation, President Kamuzu Banda's personality was that of a dictator. He further noted that Kamuzu was a leader not prepared to take any advice and that the crises he initially created on hospital charges, and bilateral relations with the Portuguese in Mozambique, the apartheid regime in South Africa and the Government of the Minority whites in Southern Rhodesia (Zimbabwe) were manifestations of his true leadership style. Furthermore, Chiume stated that Kamuzu Banda used the 1964 cabinet crisis to his advantage by demonising his critics as rebels and accusing them of causing disunity in the party and the nation; disloyalty, disobedience, avarice, ambitious, and that their actions were treasonous. The climax of the crisis was that ministers were dismissed and others resigned in protest. Kanyama Chiume, Orton Chirwa, Austin Bwanausi, and Mrs Rose Chibambo were dismissed. Yatuta Chisiza and Masauko Chipembere resigned in solidarity with their colleagues. John Msothi who had tendered his resignation, went back to withdraw and remained Kamuzu Banda's loyalist.

During interviews participants observed that Kamuzu Banda succeeded in galvanising unquestionable support and loyalty from the remaining Members of Parliament as noted in the following views:

During MCP regime, people acting purely from a political party point of view took actions that could not be distinguished from the actions of government. There was no distinction between government and the ruling party as two separate institutions. (Cassim Chilumpha, 2011)

1964 to 1994, Malawians remember it as a period of death and darkness. The atrocities that MCP committed might have eclipsed the little good that had been achieved during the same period. Instead of being free from the crutches of colonialism, now we were shackled by our own fellow blacks. (Daniel Msowoya, 2011)

Good governance requires a number of things and one of them is that there must be the rule of law. The rule of law was never there in MCP and DPP and may be little bit in UDF. It was actually the rule of the party. (Cassim Chilumpha, 2011)

It is argued that the legacies of colonial government (Olsson, 2009) and that of Kamuzu Banda's thirty years of dictatorship may continue to have a negative impact in the institutionalisation of the current parliament. For instance, both the colonial and MCP led governments were not keen in developing the infrastructure, structures and democratic systems within parliament, (Lovering, 2010; Acemoglu, et al., 2000; Kaspin, 1995). Therefore, the Malawi Parliament remained underdeveloped in its systems, structures as well as infrastructure for more than 30 years after independence. Arguably, it is only beginning to develop its capacity after a return to political pluralism in 1994 (Khaila, et al., 2005; Patel, et al., 2003).

1.8 Type of political system

Malawi is typically a Presidential Executive type of government. The executive is headed by the president, the legislature is headed by the Speaker and the judiciary is led by the Chief Justice. The president and Members of Parliament are simultaneously subjected to the 'first-past-the-post' electoral system in accordance with Section (80:2) of the Constitution. In 2010, Parliament amended the Local Government Election Act in order to pave way for tripartite elections. Thus, presidential, parliamentary and local government elections were held in May 2014, (Hartmann, et al., 2014).

1.9 Constitutional arrangements

After the referendum¹⁵ of 1993, the MCP led government established the National Consultative Council (NCC) and the National Executive Committee (NEC) under the NCC Act of 1993 to oversee a smooth transition to political pluralism. Consequently, in November 1993, the NCC opted to adopt a new constitution (Act No 20 of 1994) that entered into effect on 18 May 1994 and was fully operational on 18 May 1995 rather than amend the existing 1966, (Nkhata, 2007, pp.6-7). In the post-dictatorship, the constitution gave prominence to some sections that were non-existent in its predecessor such as Chapter 4 (The Bill of Rights) became cornerstones in building the democratisation project in Malawi in addition to a few others as sampled below:

1.9.1 Supremacy of the Constitution

Section 12: Outlines the fundamental principles of the constitution stating that no person or organisation would be above the constitution as stated in Sec. 12:vi, *“All institutions and persons shall observe and uphold the Constitution and the rule of law and no institution or person shall stand above the law.”*

1.9.2 Separation of powers

Section 7, 8, 9: clearly stipulates the separated status, functions and duties of the executive, legislature and the judiciary;

Section 7: *The executive shall be responsible for the initiation of policies and legislation and for the implementation of all laws which embody the executive express wishes of the people of Malawi and which promote the principles of this Constitution.*

¹⁵ Referendum (14th June 1993): 64.69% of the voters opted to return to multiparty politics against 35.31% for one party state.

Section 8: *The legislature when enacting laws shall reflect in its deliberations the interests of all the people of Malawi and shall further the values explicit or implicit in this Constitution.*

Section 9: *The judiciary shall have the responsibility of interpreting, protecting and enforcing this Constitution and all laws and in accordance with this Constitution in an independent and impartial manner with regard only to legally relevant facts and the prescriptions of law*

1.9.3 Judicial independence

Section 103: *All courts and all persons presiding over those courts shall exercise their functions, powers and duties independent of the influence and direction of any other person or authority.*

1.9.4 Rule of law

Sections 4: *This Constitution shall bind all executive, legislative and judicial organs of the State at all levels of Government and all the peoples Malawi are entitled to the equal protection of this Constitution, and laws made under it.*

Section 5: *Any act of Government or any law that is inconsistent with the provisions of this Constitution shall, to the extent of such inconsistency, be invalid.*

1.9.5 Transparency and accountability

Section 86: *The President or First Vice-President shall be removed from office where the President or First Vice-President, as the case may be, has been indicted and convicted by impeachment.*

Section 64: (Repealed by Act No. 6 of 1995 – The recall provision)

The campaigners of the reinstatement of Section 64 argue that the repeal of this section significantly watered down the accountability of Members of Parliament and also diluted their role in representing their constituents, (Nkhata, 2007).

1.9.6 Crossing of the floor

Section 65:1, 2

Although the section gives leverage for the speaker to declare seats vacant of MPs who on their own volition have crossed the floor, its application has been controversial and most times problematic because it has been argued to be inconsistent (as stated in Sec. 5 of the constitution) with other constitutional provisions.

1.10 Post-independence political evolution

The thesis discusses the post-independence political evolution in reference to the Malawi Parliament under the one party dictatorship and the multiparty parliamentary democracy after the 1993 referendum. Empirical evidence suggests that during one party rule, the Malawi Parliament developed neither its structures nor its systems. However, it was effective and efficient as a 'legitimation' and 'rubber-stamping' institution of the wishes and political

agenda of the presidency.¹⁶ Furthermore, it has been argued in the study that even after a return to political pluralism after the 1994 general election, the Malawian model of the executive presidency seem to have continued yielding considerable influence over the legislature and the judiciary as also observed by the Speaker of Parliament,

...I would speak on the side of Parliament. The institution of Parliament has been faulted probably because of the way MPs have at times passed bills. Indeed, the bills that have been passed have put the institution of Parliament in the negative light. (Banda, H.C.)

1.11 Why study the Malawi Parliament?

After years of marginalisation, parliaments have begun to emerge as key institutions in African governance. Many a new African democracy boasts a legislature that has been restored after a long hiatus. (Gyimah-Boadi, 1998, p.41)

Gyimah-Boadi (1998) acknowledges the emergence of re-energised African parliaments, courtesy of the rebirth of liberalism. He was however, quick to point out that the agenda for democratisation in Africa was undergoing a process of political metamorphosis exhibiting a host of negative trends such as elections being marred by fraud; weak commitment by elected rulers to democratic governance; fragile constitutions, parliaments and civil society; excessive patronage as well as expensive perks for the politically elite. Furthermore, Gyimah-Boadi observed that neopatrimonial politics, large cabinets, costly presidential establishments and corruption were still synonymous with most African governments including Malawi. In addition, Nijzink, et al., (2007) argues that although parliaments in Africa seem to be receiving little scholarly literature, they are drawing considerable attention from the international donor community, such that legislative 'capacity building' programmes have become an important part of international democracy assistance. However, Nijzink and colleagues contends that

¹⁶**Presidency:** In this context there is a greater emphasis on the 'Presidency' rather than the 'Executive Branch' of government because, according to this study, since independence, the 'Office of President' (or the Presidency) seemed omnipotent over the judiciary and the legislature.

despite such interventions, “*our knowledge about Africa’s current parliaments remains limited.*” Literature, (see Nijzink, et al., 2007; 2006; AAPG¹⁷, 2008) also suggests that the rebirth of liberalism and neo-liberalism, constitutionalism, parliamentary democracy and a proactive civil society in Africa have all been positive indicators towards a return to a scholarly research in African politics in general and legislatures in particular. The Parliament of Malawi is one example that at independence in 1964, its multiparty political systems were quickly absorbed into a one-party state dictatorship that dominated the political landscape for the next three decades. For nearly thirty years, the Malawi Parliament remained a one party chamber and like many totalitarian regimes, it remained outside the orbit of academic research. However, a return to political pluralism in 1993 also opened new frontiers of academic pursuits in the legislature. Therefore, this thesis is another contribution towards broadening the knowledge base of Malawian politics in general and that of Parliament in particular.

1.12 Conclusion

This chapter was introductory to the study. Its objectives were to give an overview of the aims and objectives of this research project. It started by giving a demographic analysis of the Malawian people as well as the historical background of its Parliament. Furthermore, the chapter included a brief discussion in setting the study context of the impact of the Malawi Parliament on the politics of parliamentary democracy and accountability for good governance. Consequently, the chapter outlined the significance of studying the institution of parliament in order to appreciate the challenges it faces in its delivery systems. In addition, a synopsis of the parliamentary core functionalities of representation, legislation and oversight was given in order to set the backdrop on which the rest of the thesis was constructed. In the final analysis, the structure of the thesis was outlined to sign-post the readers as they navigate through this thesis.

¹⁷ AAPG: All Africa Parliamentary Group in the House of Commons

CHAPTER TWO

The Theoretical Framework:

The Vertical and Horizontal Accountability in Malawi

2.0 Introduction

Chapter two discusses the paradigms of vertical and horizontal accountability as conduits of institutional oversight, checks and balances within the state as well as power relations between the state and the citizenry, (Sharma, 2008; O'Donnell, 1999 in Fox, 2000, p.1). In which, accountability means public institutions and individuals remain answerable to the citizenry and stakeholders for their actions, (OECD, 2015)¹⁸. It also portrays an image of credibility and limpidity, (Bovens, 2005, p.2). Bentham's principle in Lindberg, (2009, p.7) states, "*The more strictly we are watched, the better we behave.*" It can be argued that Bentham's principle can be applicable for governments. The institution of parliament therefore, finds itself in a strategic position to scrutinise the executive and its agencies (horizontal accountability) as well as remain answerable to its electorates and stakeholders for its own actions and omissions (vertical accountability). It is argued in the chapter that accountability as a pillar of good governance must incorporate mechanisms of holding public officers accountable for their decisions and if necessary for imposing sanctions. Furthermore, the orbital centre around which, the vertical and horizontal accountability must revolve is the Malawi Constitution as it states in Section 12(vi) that neither institution nor individual shall stand above the law, (Loquai, 2011). However, it has been observed that the system of presidentialism (power concentrated in the hands of one individual) in Malawi like most African countries that came out of dictatorships in the 1990s, may have found its flavour into the new dispensation of political pluralism at the backbone of neo-patrimonialism (the 'father-figure' image), (Bratton and Van de Walle, 1994). Supported by the

¹⁸ OECD: Organization for Economic Co-operation and Development

constitutional framework, the chapter discusses the balance of power within the vertical and horizontal relationships among the legislature, the executive and the judiciary. In the final analysis, it highlights why Malawi parliament is not able to effectively perform its oversight role as well as emphasises on the political participation in the decision making process by constituents and stakeholders, (Gaventa, 2002).

2.1 The principle of accountability as a pillar of good governance

Accountability ensures actions and decisions taken by public officials are subject to oversight so as to guarantee that government initiatives meet their stated objectives and respond to the needs of the community they are meant to be benefiting, thereby contributing to better governance and poverty reduction, (Stapenhurst and O'Brien, 2011, p.1)

The principle of accountability as a pillar of good governance has its established presence in political science and financial accounting. The latter being concerned with financial prudence and that accounting is in accordance with regulations and instructions. The former is concerned with mechanisms of holding governors to account for their decisions and if necessary for imposing sanctions (Lindberg, 2009). In adopting Stapenhurst and O'Brien's (2011) positions as unit of analysis, it may be useful to contextualise democratic and political accountability respectively (Grant and Keohane, 2005).

2.1.1 Democratic Accountability

Just like individual political leaders, public institutions are accountable to their stakeholders. Thus, democratic accountability is about institutional structures that realise the liberty and equality of citizens through legitimate and correct functioning of their systems and structures (Morlino, 2002, p.4). For instance, the legislature plays a pivotal role in providing checks and balances to the executive and its agencies (Chirwa and Nijzink, 2012). Furthermore, the

electoral commission, the ombudsman, the human rights commission, the media and civil society organisations are equally important in providing parallel democratic accountability (Chirwa, 2014).

2.1.2 Political Accountability

The concept of accountability is intrinsically linked to the concepts of democracy and legitimacy (Mulgan, 2003, pp.6-7; Skogstad, 2003, pp.956-957; Erkkila, 2004, p.10). It is further argued that the governors are duty bound to answer to the governed (electorates) for their actions when called upon; and that failure to do so can result in being substituted in a democratic election. Lindberg (2009, p.7) in citing J.S. Mill says:

Responsibility is null and void when nobody knows who is responsible..., there must be one person who receives the whole praise of what is well done, the whole blame of what is ill, (Mill, 1861/1964, p. 332).

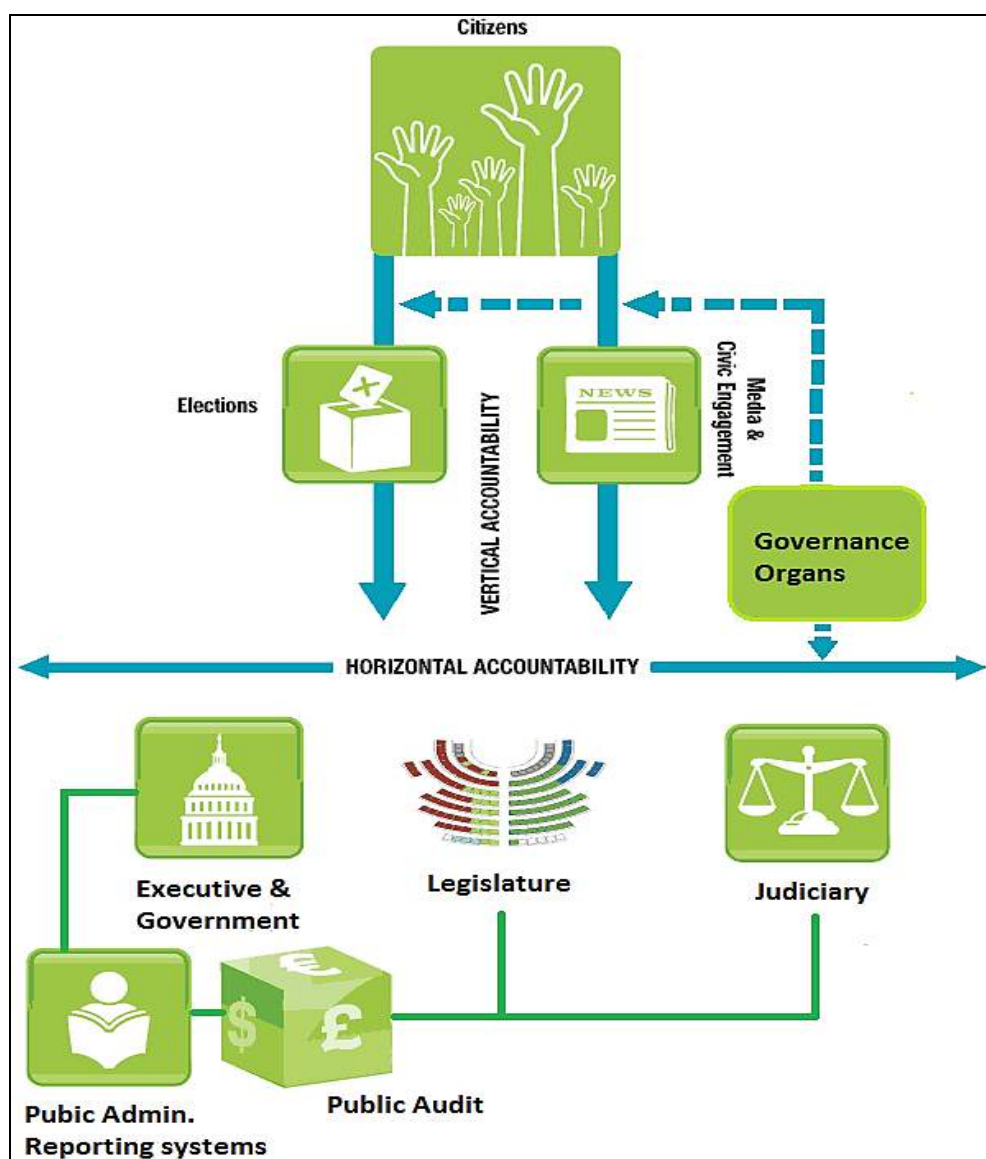
Therefore, political accountability serves as a mechanism of holding the locus of authority responsible for their actions or lack of it, (Joshi and Ramshaw, 2010). According to Lindberg (2009, p.8), the core concept of accountability consists of the following five components:

- i. *An agent or institution who is to give an account (A for agent)*
- ii. *An area, responsibilities, or domain subject to accountability (D for domain)*
- iii. *An agent or institution to whom A is to give account (P for principal)*
- iv. *The right of P to require A to inform and explain/justify decisions with regard to D*
- v. *The right of P to sanction A if A fails to inform and/or explain/justify decisions with regard to D*

2.2 The horizontal and vertical accountability dimensions of good governance

For purposes of this analysis, accountability as a pillar of good governance is observed in two dimensions, viz., horizontal and vertical, (Figure 2:1). The paradigm assumes the citizen-centred approach with emphasis on collaboration, participation as well as vertical and horizontal governance structures. Moreover, it provides greater opportunities for participation by non-elites (Grube, 2013, p.5).

Figure 2:1 Vertical and Horizontal Accountability Paradigm



Source: Modified from Unifem (2015)

2.2.1 The Horizontal Accountability (HA)

Institutions of accountability, such as the legislature and the judiciary, provide horizontal accountability (Stapenhurst, et al., 2011, p.1). In this regard, horizontal accountability provides capacity for state institutions to check abuses by other autonomous public agencies and branches of government (Sahni and Vayunanda, 2010). According to Mainwaring, and Welna (2003, p.57), the means of horizontal accountability include oversight, sanctions and impeachment. Furthermore, its scope encompasses actions or omissions deemed unlawful such as the violation of national constitution. For instance, the Malawi Constitution in Section 12(vi) states that no personality or institution stands above the law. In addition, Sections 52 (a, b) and 81(1) allows Members of Parliament, Ministers, President and Vice-Presidents to make a conscious decision, required by law to defend the Constitution in their jurisdiction of duties as cited in part (Oath of office, Section 81:1), *“... I will preserve and defend the Constitution, and that I will do right to all manner of people according to law without fear or favour, affection or ill-will...”* Therefore, institutional and individual accountability can be measured to the extent against which the rule of law is not only observed but also supported.

It is pragmatic to argue that while parliament is typically considered as a key institution in the paradigm of horizontal accountability, it is also important in vertical accountability, (Stapenhurst, et al., 2011, p.2; Lindberg, 2009). For instance, parliament can provide a vehicle for public voice and a means through which citizens and civic groups can question government and seek parliamentary sanctioning where appropriate, by exerting pressure on their elected representatives (Ghaus-Pasha, 2005).

2.2.2 Vertical Accountability (VA)

Vertical Accountability, also referred to as direct-accountability, occurs when the government or its organs, institutions and agencies are called upon to explain and justify their decisions to the public (electorates). It enables constituents and stakeholders (citizenry) including the mass media and civil society seek to enforce standards of good performance on government officials and public office holders (Stapenhurst, et al., 2011, p.2). This can be achieved through a variety of strategies such as lobbying, writing petitions, vigils and public demonstrations. In Malawi, like most democracies, electioneering is probably the most effective mechanism in vertical accountability (Schmitter, 2007). The periodic presidential, parliamentary and local government elections¹⁹, have arguably proven effective in deselecting non performing MPs and presidential candidates (Chirwa and Nijzink, 2012). For instance, there has been an increase in the turnover of MPs in Malawi Parliament at 40.7%, 56% and 61% in 1999, 2004 and 2009 parliamentary elections respectively (Chirwa, 2009). Furthermore, the incumbent presidential candidate lost to the opposition in the 2014 presidential election.

It is argued (UNDP, 2014, p.11) that if both vertical and horizontal accountability were efficiently and effectively applied, the following outcomes would be realised:

- *Focus on public service delivery would be improved*
- *Demand transparency and expose government failure and corruption*
- *Improve responsive governance as well as monitor government performance*
- *Adequately cater for the needs of vulnerable groups in policy formulation and implementation*
- *Empower marginalised groups traditionally excluded from policy processes*

¹⁹ **Local Government Election:** Conducted twice in Malawi since 1994. First in 1999 and Second in 2014.

2.3 The Accountability Concept in Delegate Democracy

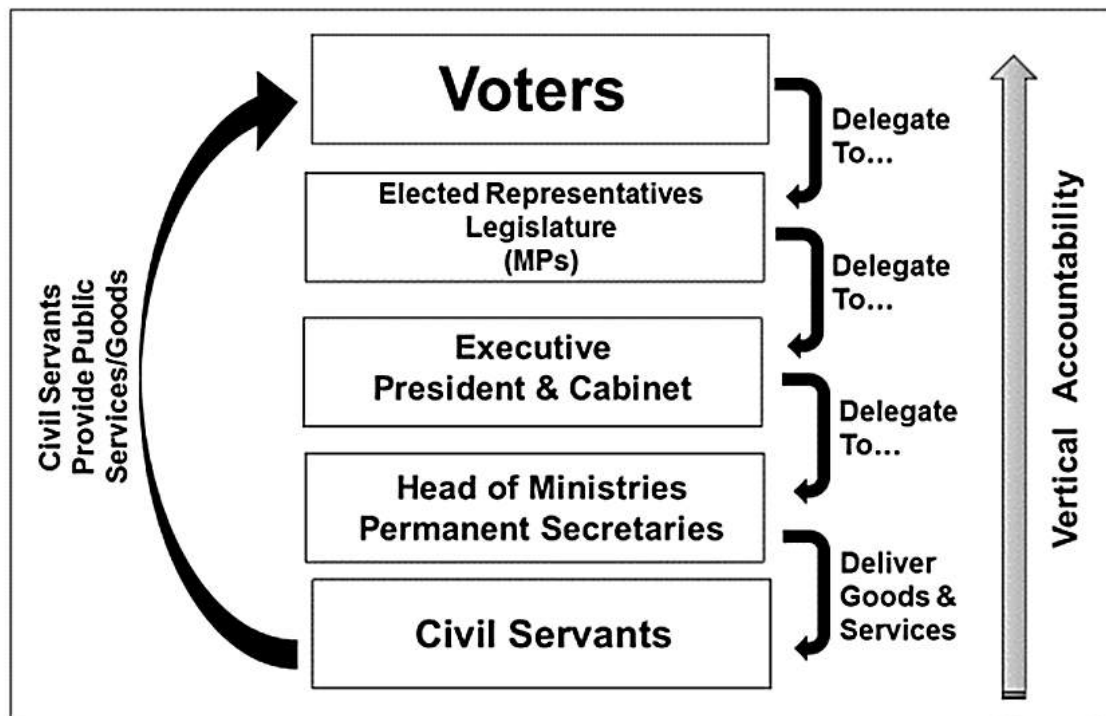
Patel and Tostensen (2006, p.1) in citing O'Donnell (1994, pp.59–61) state that in a delegate democracy, *“Presidents winning elections have delegated authority to govern as they see fit, constrained only by the hard facts of existing power relations and a constitutionally limited term of office.”*

In democratic societies, citizens delegate to politicians first and foremost through elections, (Strom, 2003, p.19). The credibility of an election must satisfy a number of criteria in order to confer legitimacy. They must be held under the conditions of competition, freedom of information and expression, an independent and competent administrator as well as operated within an acceptable legal framework, (Goodwin-Gill, 2006). Strom, (2003, p.19) in citing Sartori (1987, p.156), argues that the fear of electoral punishment is a stronger incentive for the incumbents to maintain in tune with the voters' demands. Strom and colleagues identifies four main chain of political delegation within the governance system with a vertical accountability trajectory (Figure 2.2) as follows:

- *Delegation from voters to their elected representatives (MPs)*
- *Delegation from the legislators (MPs) to the executive (President and Cabinet)*
- *Delegation from executive to heads of ministries (Permanent Secretaries)*
- *Delegation from permanent secretaries to civil servants who in turn provide the goods and services as required by the voters.*

The chain of delegation is mirrored by a parallel chain of accountability that runs in the reverse order (Strom, et al., 2003, p.20). Therefore, it is observed that democratic constitutions encompasses mechanisms that provide space for delegation and its subsequent accountability (Figure 2:2).

Figure 2:2 Accountability Concept of Delegation



Source: Author, Data from Strom, et al (2003)

However, Bratton and Walle (1997, p.63) state that most post-colonial dictators in Africa that either emerged from military ranks or single dominant political parties, rapidly consolidated personal political power within existing structures, (Waldner, 2004). Consequently, most governments in Africa gravitated towards Presidentialism that found its fertile ground in cultural neo-patrimonialism.

2.4 Presidentialism in Africa based on Neo-patrimonialism

Even if 'good governance' goals have dominated public policy in postcolonial [African] polities in the last decades, their politics and public administration often continue to be marked by authoritarianism, nepotism and corruption – the very practices good governance policy was to eradicate, (Beekers and Gool, 2012, p.1)

It is plausible to argue the symbiosis between Presidentialism by Bratton and Walle (1994, p.63) that it is “a systematic concentration of political power in the hands of one individual, who resists delegating all but the most trivial

decision-making tasks” and the definition by Beekers and Gool, (2012, p.1) that neopatrimonialism is,

A type of regime in which ruling elites use the state for personal enrichment and profit from a public administration that is patently unstable, inefficient, non-transparent and that fails to distribute public resources to large segments of the population.

Patel and Tostensen, (2006, p.2) in citing van de Walle (2003, p.309) observed that Malawi like most African countries that went through a democratic transition in the 1990s adopted a presidential system of governance. In the case of Malawi, by 1972, Kamuzu Banda had almost controlled every aspect of socio-political and economic landscape as also observed by Bratton and van de Walle (1979, p.63) when Kamuzu Banda was quoted saying, *“Nothing is not my business in this country: everything is my business, everything. The state of education, the state of our economy, the state of our agriculture, the state of our transport, everything is my business.”*

Literatures (Alemazung, 2010; Waldner, 2004; Bratton and Walle, 1994) suggest that it was the combination of presidentialism and neopatrimonialism that may have contributed to a greater extent towards tyrannical and dictatorial leadership in Africa during the post-colonial era with leaders such as Robert Mugabe of Zimbabwe, Kamuzu Banda of Malawi, Mobutu Sese Seko of Democratic Republic of Congo, Jean-Bedel Bokassa of Central African Republic, Ahmed Sékou Touré of Guinea, José Eduardo dos Santos of Angola, Kenneth David Kaunda of Zambia to mention a few.

It is important to note that the introduction of multiparty politics in Malawi after the 1993 referendum also ushered in a significant shift towards the democratic governance paradigms with sufficient systems for both vertical and horizontal accountability, (see Patel and Tostensen, 2006). However, although the instruments of governance such as the constitutional provision

of the separated status, functions and duties of the executive²⁰, the legislature²¹, and the judiciary²² seem robust, it is observed (see Chirwa, 2014; Hussein, 2004) that the Malawi constitutional framework tends to lean towards the presidency giving it more constitutional leverage over the legislature and the Judiciary.

2.5 The Constitutional framework of the Presidential system in Malawi

Members of the Malawi Parliament have called on President Peter Mutharika to fulfil his promise to reduce presidential powers as stated in the Democratic Progressive Party, (DPP) manifesto... the president should fulfil his promises made during the tripartite elections to reduce presidential powers... our leaders must be good at addressing issues they promise us... (Chakwantha-MP, 2014)

The President of the Republic of Malawi who is also head of state and government is by constitution vested with executive authority, (Chapter 8: 78-102)²³. The President is assisted in the exercise of his or her duties by the First and Second Vice-Presidents and a Cabinet, (Sections 79, 92)²⁴. Important points to note are the significance of the election of First Vice president and the appointment of the Second Vice president in Sections 80: (4 and 5). In subsection 4:

The First Vice-President shall be elected concurrently with the President and the name of a candidate for the First Vice President shall appear on the same ballot paper as the name of the Presidential candidate who nominated him.

In subsection 5:

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...

²⁰ Malawi Constitution: Section 7; Chap. 8

²¹ Malawi Constitution: Section 8; Chap. 6

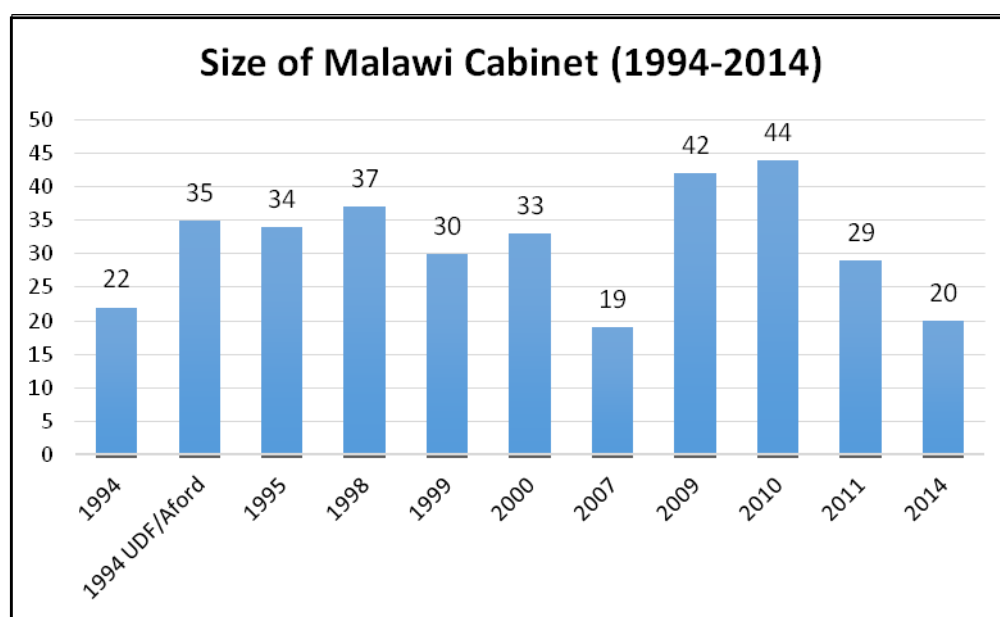
²² Malawi Constitution: Section 9; Chap. 9

²³ Malawi Constitution (Chap. 8:78-102 of 1995)

²⁴ Vice-Presidents: Malawi Constitution, 31 of 1994

The implications of the two sections are that in the first instance, the constitution restrains the president from making a unilateral Cabinet reshuffle or dismissal of his first vice president as the case may be in the second instance once elected into office. Arguably, Subsection 4 abated the dismissals of Cassim Chilumpha and Joyce Banda respectively as first vice presidents to Bingu wa Mutharika after a political fallout. Furthermore, it facilitated a constitutional transition to the presidency of Joyce Banda after the death of president Bingu wa Mutharika in 2012. However, under the current constitutional arrangement (Section 94: 1 and 2), the president has a prerogative to appoint members of the cabinet including the second vice president without any need for parliamentary vetting and approval as the case was with other presidential appointments. It may also be important to note that the constitution is silent on the size of the cabinet. A bloated cabinet in Malawi has been a contentious issue since returning to political pluralism in 1994 with opponents arguing that due to the poor state of the economy, the incumbents should be hiring lean cabinet as expressed by Malawi Watch (2012) a local NGO, “...it seems President Joyce Banda is not concerned with the plight and welfare of Malawians. Instead of hiring a mean cabinet she has come up with a 36 member cabinet...” (Chirwa, 2014; Cammack, 2011; PAC, 2007; Wiseman, 1999). The following Figure (2.3) helps illustrate the sizes in the Malawi Cabinet between 1994 and 2014.

Figure 2: 3 The Malawi Cabinet



Source: Malawi Parliament (2007)

2.5.1 Responsibility of the President

Section 88: (1-5), outlines five main responsibilities of the President as:

- 1. To defend and protect the Constitution of the Republic of Malawi*
- 2. To provide Executive Leadership*
- 3. Not to hold any other public office*
- 4. Not to hold business interests in their personal names*
- 5. Not to use the privilege of the office of president for personal gains*

2.5.2 Constitutional Powers of the President

The very nature of the office of the President as the Chief Executive Officer of the land comes with a breadth of powers and duties limited only by the checks and balances provided under the Constitution, (Malawi Law Commission, 2006, p.2).

In Section 89: (1-6), the Constitution confers upon the president executive authority to make decisions on behalf of the Nation. One such authority as stipulated in Sec. 89:(1, d), “ *The president shall have authority to make such appointments as may be necessary in accordance with powers conferred upon him or her by this Constitution or an Act of Parliament.*” It has been argued by civil societies, NGOs and the opposition political parties that presidential appointments for heads of governance bodies such as the Anti-Corruption Bureau (ACB) and the Malawi Electoral Commission (MEC) should have been left to independent bodies such as the Parliament or the Judiciary in order to guarantee independence of such bodies. It has been observed that the other challenge for the ACB’s failure to prosecute some high profile cases was Section 95 of the Penal Code (2003) that requires public prosecution relating to abuse of public office to be instituted only as sanctioned by the Director of Public Prosecution who is also a presidential appointee (Hussein, 2005). This may partly explain why there may have been major bottlenecks in the fight against corruption in Malawi in the last two decades (Thindwa, 2014). According to Transparency International, (2014), Malawi slipped backwards by 4 points in its corruption perception index at 33/100 from 37/100 in 2013, placing Malawi at 110/175 in Global ranking.

2.5.3 The balance of power between the Executive and Legislature

The effect of the status quo as regards the relationship between the legislature and the executive is that the balance of power is tilted towards the executive... (Malawi Law Commission, 2006, p.36)

There are three main areas worth examining in the executive-legislature relationship in Malawi. The first is the duality of Members of Parliament doubling as cabinet ministers. Section 94:1 empowers the President to appoint members of his cabinet from any part of the Malawian society including Members of Parliament. The opponents of duality argue that MPs should not double as Ministers because it creates a conflict of interest

between the executive and the legislature in terms of horizontal accountability. It is also argued that both roles are equally demanding. Giving a divided attention will most likely disadvantage one role or the other. However, proponents of duality, argues that MPs are better placed as cabinet ministers because they easily identify themselves with the needs of the constituents and that they are better placed in accessing government resources than ordinary MPs, (see, The Malawi Law Commission, 2006; Patel and Tostensen, 2006; Hussein, 2004; PAC, 2012)

The second is in Section 59 :(1, a, b) in which convening and proroguing parliament is placed at the discretion of the Speaker in consultation with the President. The Malawi experience on this arrangement was that in 2007/8 and 2008/9, Parliament was convened only twice and once respectively amidst fears of the DPP minority government losing its Bills to the majority opposition block vote as was stated by Lunn, et al., (2008, p.3) in a report to the House of Commons:

In June 2007 the Supreme Court upheld the ruling of the Constitutional Court that parliamentarians who defect from a party must subject themselves to a by-election. Within a few weeks Parliament had been suspended by the Speaker. Then in September it was prorogued by Mutharika, (Lunn, et al (2008, p. 3)

It is argued that Parliament should have a definite calendar of events as a minimum constitutional requirement backed by its budgetary requirements without the intervention from the head of state (CCJP, 2010, p.3).²⁵

The third is the presidential appointment of head of governance organs such as the Malawi Electoral Commission (MEC)²⁶ and the Anti-Corruption Bureau (ACB)²⁷ including the Office of the Ombudsman, the Human Rights Commission, and the Law Commission. The independence of these institutions is critical in the promotion of transparency, accountability, respect

²⁵ CCJP: Catholic Commission for Justice and Peace

²⁶ MEC: Malawi Constitution; Sections 75,76,77

²⁷ ACB: Malawi Constitution; Section 4(1) Corrupt Practices Act No.18 of 1995

for human rights and the rule of law (ACB, 2013). It has been argued that the executive dominance of influence in these institutions has rendered the legislature to play a subservient oversight role as also observed by (AAPP, 2008, p.25)²⁸, *“The strength of parliament is also defined by the extent to which parliament’s operations are determined by parliament itself, rather than by the executive.”* The significance of government oversight is what Willimon, (2013) argued for when he said, *“The checks and balances is a way to prevent governments from either devolving into an autocratic tyranny or an autocratic mob mentality.”* In the case of Malawi, one could argue that Parliament has adequate oversight structures and systems in addition to a host of auxiliary institutions charged with the responsibility of holding public officers accountable, (Malena, et al., 2004). However, the main challenges are in its implementation due to lack of political will, financial and infrastructure as well as capacity in human resources, (Kroon and Stapenhurst, 2008).

2.6 Why Malawi parliament is not able to effectively perform its oversight role

According to Hudson and Wren (2007, p.15), the research conducted by African Governance Report for 2005; the United Nations Economic Commission for Africa (UNECA, 2006) and (Eberlei and Henn, 2003) all came to a concordant conclusion that:

In terms of enacting laws, debating national issues, checking the activities of the government and in general promoting the welfare of the people, these duties and obligations are rarely performed with efficiency and effectiveness in many African parliaments, (UNECA, 2005, p.127).

Research conducted by CCJP reported two of the multifaceted challenges as to why the Malawi parliament was not able to effectively perform its oversight role were a lack of an extensive monitoring schedule to ensure that the

²⁸ AAPP: Africa All Party Parliamentary Group (House of Commons)

recommendations of the oversight model finds expression in parliamentary processes and inadequacy in robust research services that contributed directly to less effective oversight roles for both Members of Parliament and parliamentary committees, (CCJP, 2009, p.4).

In research by former Clerk of Malawi Parliament (Katopola, 2011), eleven contributory factors were identified towards Malawi parliament's inability to effectively perform its oversight role as thematically summarised in four categories:

2.6.1 Institutional Capacity

- i. Lack of adequate professional and technical expertise; capacity of Members of the National Assembly; lack of continuity due to high turn-over during elections; inadequate organisational structure; communication technological gaps; inadequate financial resources*
- ii. Increasing parliamentary workload versus time and resources*

2.6.2 Law Reform

- iii. Delays in enactment of laws following the initiation process*
- iv. Defects in legal, regulatory and procedural legislative framework*
- v. Law reform programme targeting a small group of parliamentarians such as a specific Committee, individual Members as opposed to all Members of the Assembly*
- vi. Inadequate follow up on the law reform process in relation to legislative processes in Parliament*

2.6.3 Communication and information Management

- vii. Lack of strategic linkages between parliamentary processes and law reform processes such as strategic planning, civic education and outreach programmes*

2.6.4 Participation

- viii. *Uncoordinated consultative and civic education approach on legislative matters*
- ix. *Lack of understanding and minimal participation in the legislative processes by the stakeholders*
- x. *Minimum collaboration between governance institutions and the National Assembly*
- xi. *Inadequate or ineffective consultation, sensitisation and lobbying of Members of the National Assembly*

2.7 Stakeholder's Participation

A simple search entry into Google scholar (participatory + democracy + Malawi) yielded 15, 700 results. This may go to explain why in this study and a host others, there is emphasis on paradigm shift from top-down to down-up approach, (Katopola, 2011; Bwalya, et al., 2004; Ferguson and Mulwafu, 2001; Eberlei, 2007). There is genuine demand from constituents and stakeholders wanting to get involved in decision making processes especially in democracies such as Malawi that had emerged from a long period of dictatorship, (McCandless and Karbo, 2011; Lewis and Kanji, 2011; Rondinelli, 2007). For instance, in one of the focus group discussions, participants expressed their frustrations for non-engagement by their MPs:

Ma MP tikawatuma kunyumba ya Malamulo amakapanga za iwo woka. Sa malabadila za anthu a kumudzi amene amawatuma kumene kujako.

[Literal translation] *“When we send our MPs to Parliament, they care less about us the villagers who send them. They just go there to do their own things.” [FG-1]*

In support of citizenry participation in democratic and developmental process, Sparrow, (2012) says:

A genuine democracy involves the participation of the people in public reasoning beyond the mere representation that generates parasitic political and bureaucratic classes. To win the battle for democracy, we must find the institutional forms that represent the most thorough-going democracy, (Alex Sparrow, 2012)

Ferree, et al., (2002, p.295) says, *“Participation enhances the public sphere, allowing for the emergence of something approximating a general will, and improves the individual, by drawing on and developing the person’s highest capacities for action.”* Benjamin Barber (1984), refers to participation as *“Strong Democracy.”* He defines it as being literally self-government by citizens rather than representative government in the name of citizens. The significance of this model is that it mitigates the dilemma of delegated power in a representative democracy (Held, 2006; Pateman, 1970/1985; Macpherson, 1977). However, it is not without its weaknesses. Chief among them is that it only becomes effective in smaller communities and becomes practically impossible applying it at a grand scale as observed by Ferree, et al., (2002, p.295) in the following statement.

In a complex modern democracy, no one expects or desires that all citizens spend all their time discussing public affairs and directly deciding on public policies. Inevitably, there must be delegation to mediators who aggregate and articulate one’s discursive interests in the public sphere. (Ferree, et al., 2002, p.295)

However, in Malawi like most countries (more than 40) in Africa that thrived on the one-party political model had finally began to crumble in the early 1990s because the citizenry began to demand for participation in an inclusive political franchise (Finer, 2007; Anyang’Nyong’o, 1992; Shaw, 1986). Arguably, this created a more critical analyses to ‘governance paradigms.’ It may further go to explain why, most African countries (including Malawi) having thrived on dictatorship for such a long time,²⁹ could no longer sustain

²⁹Kamuzu Banda of Malawi, 30 Years in Power, (1964-1994), Mobutu Sese Seko Kuku Ngbenduwa Za Banga (1965-1997); Ben Ali of Tunisia – 23 years in power (1988 – 2011); Hosni Mubarak of Egypt – 30 years (since 1981-2012), Moummar Gaddafi of Libya – 42 years (1969-2011) Mbasago of Equatorial Guinea – 32 years – since 1979; Jose Santos of Angola – 32 years – since 1979; Robert Mugabe of Zimbabwe – 31 years – since 1980; Paul Biya of Cameroon – 29 years – since 1982; Yoweri Museveni of Uganda – 25 years – since 1986; Blaise Campore of Burkina Fasso – 24 years since 1987; Mswati III of Swaziland – 24

their dictatorial systems, (Kabemba, et al., 2004; Momba, 2005; Warren, 2008).

2.8 Political Participation in Malawi

Section 40 (c, d) of the Malawi Constitution states that every person shall have the right to participate in peaceful political activity intended to influence the composition and policies of the Government and that they were free to make political choices. However, Chirwa, (2009, p.34) said,

Despite this constitutional commitment, highly problematic legislation remains on the books restricting freedom of expression and the media, the foundation of any citizen's ability to engage in political life.
(Chirwa, 2009)

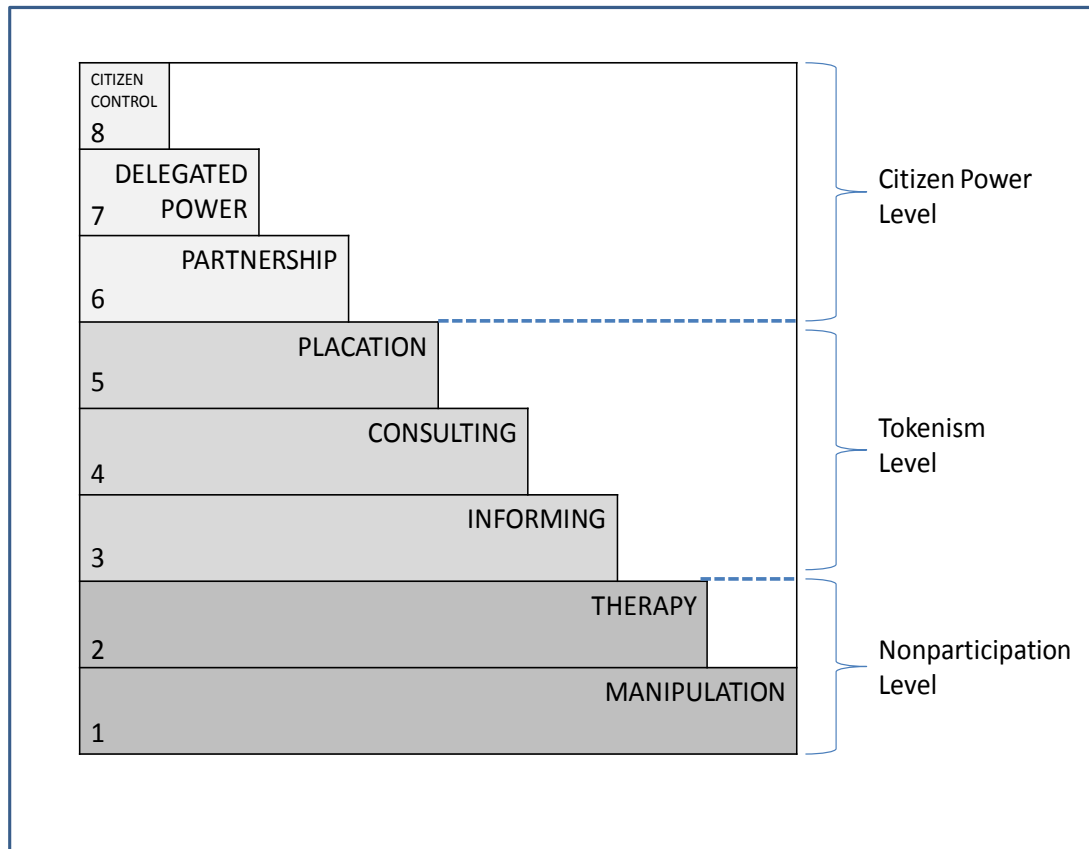
Indications in 2012 suggests that more than 79% (Afro-Barometer, 2012) of Malawians were keen in taking part in the political process. These could include but not limited to taking part in the voting, belong to a political party, attending party meetings, lobbying politicians, taking direct action such as mass demonstrations including politically motivated violence. According to Smith, (2007, p.149), the concept of political participation, is a human rights issue and therefore, worthy fighting for. It is a process whereby stakeholders exercise influence over public policy decisions and share control over resources and institutions that affect their lives (Agere, 2000).

According to Arnstein (1969), in the *Citizens' Ladder of Participation* (Figure 2.4) categorised participation according to the hierarchy of involvement. The first level is the non-participatory approach that involves manipulative and therapeutic methodologies. The second is tokenism, involving cosmetic consultation and placation and the third is the citizen power level that creates

years – since April 1986; Omar Bashir of Sudan – 21 years – since 1989; Idrissu Deby of Chad – 21 years – since 1990; Isaias Afewerki of Eritrea – 18 years – since 1993; Yahya Jammeh of Gambia – 17 years – since 1994

partnerships, delegated power and ultimately citizens' control of issues that affect their lives, (Connor, 1988, pp.249-257; Lane, 2005).

Figure 2:4 Sherry Arnstein's Ladder of Participation



Source: (Modified by Researcher, (2012): adapted from Arnstein, (1969)

According to Buhrmann, et al., (2007, p.5), “*Political participation is valued for its own sake and is considered as the core of each democracy.*” In citing Tocqueville, (1997), Buhlmann and colleagues argue that citizenry involvement in politics “*fosters political efficacy and democratic skills.*” Thus, empowering people to own the means of political governance as stated by Lincoln’s definition of “*...government by the people...*” (Buhrmann, et al., 2007; Held, 2006, pp.11-28; Fenske, et al., 1994, p.37).

2.9 Conclusion

In the final analysis, it is assumed (based on the principle of accountability as a pillar of good governance) that strengthening structures and systems in the horizontal and vertical accountability dimensions would provide mechanisms of holding governors to account for their decisions and if necessary for imposing sanctions. It is further assumed that good-governance has almost matured in most democracies in Africa including Malawi from its initial focus on economic processes and administrative efficiency to promoting democracy, the rule of law and participation, (see, EC, 2013; ADA, 2006; DAW, 2005; CIDA, 1997). Therefore, in the last decade, the principle of citizenry participation becomes an integral party of the good governance paradigm, (Smith, 2007).

CHAPTER: THREE

Review of relevant literature

The Malawi parliamentary democracy: Vertical and Horizontal Accountability

I call on people to be obsessed citizens, forever questioning and asking for accountability. That's the only chance we have today of a healthy and happy life. (Ai Weiwei, 2009)³⁰

3.0 Introduction

The chapter is dedicated to the review of relevant literature in the analysis of vertical and horizontal accountability in the Malawi parliamentary democracy (Beetham, 2006), in which, accountability, becomes an obligation for institutional and individual power-holders to take responsibility for their actions (UNDP, 2013, p.2). The emphasis of the review hinges on political and democratic accountability that it is at the heart of democratic governance and equitable human development (Cheema, 2013, pp.1-24). In this regard, human development refers to creating an enabling environment for people's freedoms to determine their livelihoods (Alkire, 2009). It is argued that at the centre of good governance is accountability which, in a constitutional democracy, allows parliament to play its basic roles effectively in oversight, representation as well as legislation (ECFA, 2007).³¹ Based on this assumption, it would follow that governmental accountability would improve the efficiency of public service delivery; budget utilisation; demand transparency and expose government failure and corruption as well as broaden the democratic political franchise, (UNDP, 2013, p.6). However, the chapter analyses literature as empirical evidence to support a hypothetical assumption that the Malawi Parliament has not effectively delivered on its oversight, representation and legislation as expected by its constituents due to lack of effective vertical and horizontal accountability. It is also noted that

³⁰ **Ai Weiwei:** Chinese Artist, democracy and human rights campaigner

³¹ **ECFA:** Economic Commission for Africa

in the last two decades, most African parliaments including Malawi are reclaiming their autonomy and independence especially from the executive branch of government as noted by the AAPPG (2008)³² to the House of Commons.

In recent years, African parliaments have begun to exert greater influence on how their countries are governed. Many African parliaments are now more effective at shaping legislation, monitoring and challenging the executive, and representing citizens' views. (AAPPG, 2008)

The chapter demonstrates with empirical evidence that the project of democratisation in general and that of the Malawi Parliament in particular has not developed at the pace commensurate with half a century since decolonisation, (see, Semu, 2002; Newell, 1995; Patel, et al., 2007; Chirwa, et al., 2013; Rotberg, 1965; Williams, 1978). The significance of governmental accountability according to Leftwich (1993, p.605) “*are not simply desirable but essential for development in all societies.*” From 1964 to 1994, the Malawi Parliament was a legitimatising, rubberstamping institution of the presidency (executive branch of government). However, even after a return to political pluralism in 1994, parliament seems to have continued on the struggle to wean itself from the executive. This is problematic, by Fish, (2006, p.5), “*the presence of a powerful legislature is an unmixed blessing for democratisation,*” (Gay, 2004; Whitefield, 2006).

3.1 Previous studies of the Malawi Parliament

With the post-independence emergence of authoritarian regimes throughout the African continent, scholarly interest in African legislatures ebbed away (Nijizink, et al., 2006, p.3)

Scholarly literature on the Malawi Parliament can be said to be in its formative stages as most of the academics started developing keen research interest in the institution after the fall of the one-party dictatorship in 1994.

³² **AAPPG:** Africa All Party Parliamentary Group

The emergence of a one-party state in Malawi soon after independence could have been a deterrent in the development of a critical mass of scholarly literature on the Malawi Parliament as observed by Nijizink and colleagues (2006, p.3). Literature suggests that during the MCP one-party dictatorship, parliament like many other organs of government were enviously guarded by the regime against academicians and researchers as observed by Chirwa (2001, p.16) that Kamuzu Banda managed to turn the country into “*a land where silence ruled.*” Mitchell (2002) also states that it was the Roman Catholic Bishops, (Pastoral letter, *Living our Faith*),³³ who challenged the prevailing culture of silence in Malawi in the changing global and regional political context of the early 1990s. Consequently, it was not until the 1993 and 1994 referendum and general elections respectively that ushered in political pluralism. Soon after political liberalisation, some significant research publications such as those of Patel, et al., 2007; Barkan, et al., 2010; Maganga, 2011) and many other media publications began to emerge. The three publications aforementioned had relevance in informing this study on what is already known about the structures and systems within the Malawi Parliament. This research used some of their findings as building blocks to the study.

In Patel, el at., (2007) the research report was the culmination of a study undertaken by EISA focusing on the state of democratic governance in the Southern African region. The programme, implemented under the generic theme ‘*Consolidating Democratic Governance in the SADC Region*’, had evolved over a four year period spanning 2003 to 2006. The research aimed at investigating the state of democracy and governance in the Southern African Development Community (SADC) region, posing a key question as to whether or not the region had undergone democratic transition and, if so, posing a related question as to whether or not the region was firmly set on the road to democratic consolidation.

³³**Living our Faith:** Was a the title of the pastoral letter by the Malawian Catholic Bishops that was read in all Catholic Churches on the Sunday of March, the 8th of 1992. This was going to be the first time in the 30 years of Kamuzu’s rule to be criticised publicly about his autocratic rule. The letter was decisive in pushing the agenda for political change in Malawi that led to the subsequent referendum and general, multi-party elections in 1993 and 1994, respectively.

The results of the research suggested that in Malawi, the relations between the executive and the legislature had generally been tense and often acrimonious. The legislature may deliberately block the passage of a bill to flex its muscles, while the executive may refuse to fund a sitting of parliament. It was thus concluded that these reflections of intolerance and lack of accommodation might have been impediments to democracy. Furthermore, in relation to the constitution and matters of constitutionalism, the research revealed that Malawi had a detailed and well-written constitution. However, it stated that the past decade had seen a tendency either to deviate from the constitution or to amend it hastily for some short-term political gains. The report described this as lack of the spirit of 'constitutionalism' that needed to be inculcated among all Malawians.

In the final analysis, the research recommended that government should adhere strictly to the constitution; that there should be regular debates, seminars and conferences on constitutional issues as well as establishing a separate constitutional court, (the Constitutional Court has since been established in Malawi). Patel's findings informed this research on two significant gaps in the democracy paradigm in Malawi. The first, being lack of adherence to the principles of the separation of power among the three organs of government and the second was the abrogation in upholding the tenets of constitutionalism, especially by the executive branch of government.

In the research by Barkan, et al., (2010), *African Legislatures Project [as a CSSR Working Paper No. 277]*, was based on the preliminary coding and analysis of data obtained from research in six countries-Kenya, Malawi, Mozambique, Zambia, Namibia and South Africa. Its main purpose was to achieve a *comparative* understanding of legislative institutions across Africa.

The research findings suggested that (i): Given the demographics and history of African countries, both citizens and MPs place a much higher emphasis on representation and constituency service than on legislating and

oversight. (ii): The form of electoral system through which countries select their members of the legislature had a profound effect on the relationships between MPs and the public, the operations of the legislature, and the nature of legislative-executive relations. (iii): Most African legislatures in the study were weak in [legislative] viscosity. However, the findings also revealed that Bills introduced by the executive for passage by the legislature were no longer being rubber stamped as the case may have been a decade ago; but rather were increasingly scrutinised and often amended before being passed into law. (iv): The amount of resources provided to both MPs and to the institution impacts on legislative performance. It was argued that in countries such as Kenya and South Africa where MPs salaries and travel allowances were high, and where legislative committees were better staffed, the frequency and quality of both committee service and constituency service seemed higher than in countries such as Malawi, Mozambique and Namibia where legislatures were relatively under resourced. A third piece of research, perhaps a little closer to the Malawi Parliament was one done by Maganga (2011), *An Investigation of the Political Factors Contributing to Floor Crossing in the Malawi National Assembly: 2003-2009*.

Maganga's findings were threefold: (a) the infrastructural factors including lack of finances for political parties made MP vulnerable to financial opportunism, (b) lack of intra-party democracy as well as amicable conflict resolution mechanisms in political parties led to members migrating to other political parties in frustration, (c) lack of corporate ownership of political parties. Individuals often financed political parties and subsequently dictated terms and conduct of political parties. Maganga's study, identified some gaps in the Malawi Constitution that might have contributed to the aggregate and non-satisfactory parliamentary performance. For instance, Section 65 (of 1994) (crossing the floor) is 'silent' on crossing of the floor for independent MPs; the repeal of Section 64 (Recall Provision) from the constitution as well as the electoral system of first-past-the-post.³⁴ Other factors included socio-economic patronage where politics was viewed by MPs [and most politicians]

³⁴ The first-past-the-post often times is a majoritarian rather than representative model of democracy.

as a means to financial prosperity. Thus, the regime of rigour in representation, legislation and oversight by MPs were seen to have been compromised for personal economic and political gains.

3.2 Malawian Geo-parliamentary Discourse

Malawi like most Sub-Saharan Africa, share their geopolitical, social and economic dynamics (see, Ndulu and O'Connel, 1999; Adesina, 2009; Harison, 2010). For instance, almost all sub-Saharan countries suffered the consequences of slave trade in the 1800s (with estimates of up to thirty thousand slaves sold per year in the great lakes region alone), (Manning, 1990, p.32). Furthermore, they were subjected to invasions, occupation, annexation as well as colonisation by foreign powers. During the scramble for Africa in 1884, tribes, kingdoms and social cohesions were defragmented in the best interest of the occupying forces (Moyse-Batlett, 2001). They all went through a centenary of colonisation from 1800s to 1900s, (Ikuenobe, 2001). In the 1950s the struggle for independence started in earnest with Ghana spearheading the revolution of nationalism and African independence, (Cooper, 2002; Pearce, 1984). Other countries of particular interest to this study, such as Zambia and Kenya were among the first generation of independent countries. While Namibia and Mozambique followed in the second generation with the end of the apartheid system of governance in South African concluding what Kwame Nkrumah, of Ghana had said, "*The independence of Ghana is meaningless until it is linked to the total liberation of Africa.*" ³⁵ However, the total liberation of Africa was the beginning of a new era; Africa governed by Africans. This thesis is mostly concerned about the new era. Herewith, is the synopsis of the performance indicators for some legislatures in west, south and eastern Africa. The significance of these legislatures to this study is to identify the locus within which the Malawi Parliament operated.

³⁵Quoted from *Pan African Perspectives* [on line] from <http://www.panafricanperspective.com/nkrumahquotes.html> , (retrieved, 05/07/2013)

3.3 The vertical and horizontal accountability roles of some regional legislatures

It may be important to analyse some regional parliaments based on their socio-political and geographical similarities to those of Malawi Parliament. This section of the study is dedicated to accomplishing this objective by reviewing legislatures in terms of their three major functionalities, viz., legislation, oversight, and representative performance. The review of literature was based on a number of studies conducted by the Africa Legislative project in conjunction with the Centre for Social Science Research of the University of Cape Town (South Africa) such as that of (Warren, 2008; Koep, 2009; Azevedo, 2008; Brierley, 2010; Barkan, et al., 2010; 2009, pp.33-72).

3.3.1 Parliamentary Legislative Performance in the Region

- *Zambia*

The ALP Country Report (Warren, 2008) indicated that the bill process in Zambia begins at the ministries where they are drafted and consultations with other stakeholders can take place. Since 2003, the report stated that all bills have had to be referred to parliamentary committees after the first reading. The rationale was to provide a formal process for Parliament to seek and receive input from stakeholders as well as have sufficient time to analyse bills in greater detail.

Although, a review of all bills passed in Zambia since 2003 indicates that there has been significant progress in increasing legislative scrutiny, the report suggests that the quality of debate on bills is quite variable. It also suggests that most MPs will engage in in-depth debates on issues regarding education, family life, social services, as well as topics accessible to a non-specialist audience. It was important to note that there had been a steady increase in the involvement of Parliamentary Committees in the scrutiny of Bills by 43%, between 2003 and 2006. In 2007 it was 73%. There was also

an increase in numerical terms for the number of Bills that were referred to the relevant committees from 13 Bills in 2006 to 21 Bills in 2007. Furthermore, there was a significant increase in the number of amendments to bills by parliament from 30% in 2003 to 71% in 2007. The average percentage of Bill passed was also relatively high at about 91%. Arguably, this scenario could be an indication of a steady increase in the legislative viscosity where bills were being more rigorously scrutinised and appropriate amendments made and that more Bills were referred to relevant committees to be given due attention and made recommendations to the plenary.

- *Namibia*

The dominance of SWAPO places Parliament in a reactive position, contributing towards the perception that the institution serves as a “one-party-dominant,” “rubber-stamping” body without teeth and resolve to function as a check on the executive. (Koep, 2009)

The dominance of SWAPO in the Namibian Parliament since independence may have negatively affected the legislative process so much to the extent that procedures, debates, questions, motions, and even walkouts may have little or no impact on the outcome of a Bill. Furthermore, the report stated that party [SWAPO] discipline and cabinet dominance had created a monopoly of the executive branch over the law-making process. For instance, budgets were routinely prepared by the Ministry of Finance with little time for preview before being presented and debated in parliament and subsequently passed without amendments. This was evident from the empirical data as presented in Koep's (2009) *Namibia Country Report* that between 2003 and 2007, 100% of Government Bills presented to Parliament were passed without amendments. This indicates the lower level of viscosity in the legislative process in the Namibian National Assembly.

- *Mozambique*

According to the ALP, [*Mozambique Country Report, October, (2008)*], the Mozambique legislative process is initiated by the Executive through the Speaker [President of the Assembly]; a bill goes to the relevant

parliamentary committee before it is introduced as a Bill to the plenary. However, almost all legislation is referred to a team of judicial experts mostly composed of lawyers for further scrutiny before being brought to parliament for general debate. The Report states that the Mozambican Assembly has eight working committees on which 120 deputies of the total of 250 have a place on the working committees. Overall, the legislative viscosity in the Mozambican parliament is said to be at its lowest level due to FRELIMO's numerical advantage.

- *Kenya*

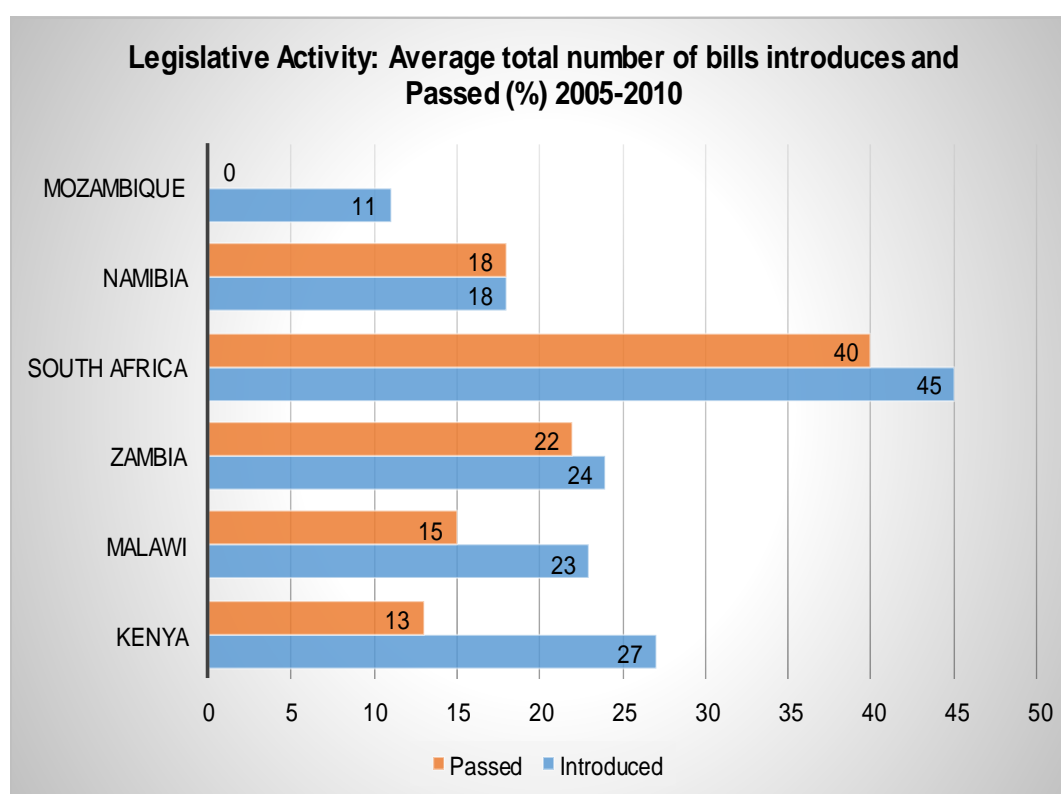
The Kenya National Assembly has been actively involved in the process of legislative scrutiny since 1997 when the former ruling KANU controlled the legislature with a simple majority of only four seats. Barkan and Matiangi, (2009, p.1) states that since then, “...*the National Assembly has evolved into an institution of genuine, albeit modest, countervailing power to the executive branch.*” The argument is supported by empirical evidence as presented in the Barkan and Matiangi's report. The summary of bills introduced and passed in Parliament between 2003 and 2007 suggest a high level in legislative viscosity. For instance, only about 42% of the total bills introduced were passed and signed into Acts. Furthermore, a much lower percentage of about 12% of government amendment Bills were passed into law. Barkan and Matiangi's (2009) report, attributes the success in the Kenyan Parliament legislative scrutiny, partly to the division of labour facilitated by a committee system as well as the parliamentary autonomy and independence of Members of Parliament in effectively contributing to the legislative process.

- *Ghana*

Based on the statistical data by *Africa Legislatures Project Bill Tracker* (Brierley, 2010, pp.3-4), suggests that the Ghanaian Parliament could be among some of the most progressive Legislatures in the Sub-Saharan Africa. It was further observed that the Ghanaian Parliament was receptive to

legislative scrutiny from both within and without. For instance, in the Period 2005-2009, statistics show that from the 110 Bills that passed, more that 50% received civil society input; more than 76% and 62% were moderately and substantively amended respectively. During the same period, it was estimated that about 16% of Bills presented were not passed due to a variety of factors ranging from technicalities to lack of popular support both inside and outside parliament (Brierley, 2010, pp.3-4). Figure: 2 helps to illustrate the legislative activities among some Parliaments in the region between 2005 and 2010.

Figure 3:1 Legislative Activity in the Region



Source: Barkan, et al., (2010)

3.3.2 Parliamentary Oversight Performance in the Region

- *Zambia*

The amendments to the Standing Orders in 1998 brought about a new committee system that parallels the ministerial structure and assured that all ministries were assigned to a parliamentary select committee. (Warren, 2008)

The observation made by Warren in the quote above could be an indication that the Zambian Parliament was gradually gravitating towards parliamentary autonomy in its legislative and oversight jurisdiction. Each government ministry was scrutinised and answerable to a specific parliamentary select committee. In addition, the report indicated that the new committee structure enabled all bills to be referred to an appropriate committee for technical and in depth scrutiny, thus, establishing formal structures that were supportive of expanded oversight capacity. It may also be important to highlight the role of the mass media in enhancing the transparency and accountability that creates a culture of publicly holding civil servants and politicians to account. The report singled out the widely publicised work of the Public Accounts Committee (PAC) through the print, electronic, radio and TV media houses as one way of supporting the oversight role of the Zambian legislature. However, it was reported that the work of PAC was a retrospective one and that its reports remained purely advisory.

- *Namibia*

Seven committees serve the Namibian Parliament. A member of the opposition chairs the Public Accounts Committee (PAC), according to their parliamentary standing orders. It is also stated in the report that because backbenchers are so few (34), MPs have had to spread themselves by serving on multiple committees. However, it is not automatic that Bills are referred to committees for any scrutiny. Some committees hardly meet.

- *Mozambique*

The ALP, [*Mozambique Country Report, October (2008)*], indicates that the oversight function is weak in the Mozambican Parliament because FRELIMO holds a comfortable majority. However, it is only in parliament where the executive can be held accountable publicly. Furthermore, parliament has the power to request information from the executive, compel testimony from civil servants, request reports, and hold question time with members of the executive. In addition, working committees are empowered to call public hearings on any matter of national significance.

- *Kenya*

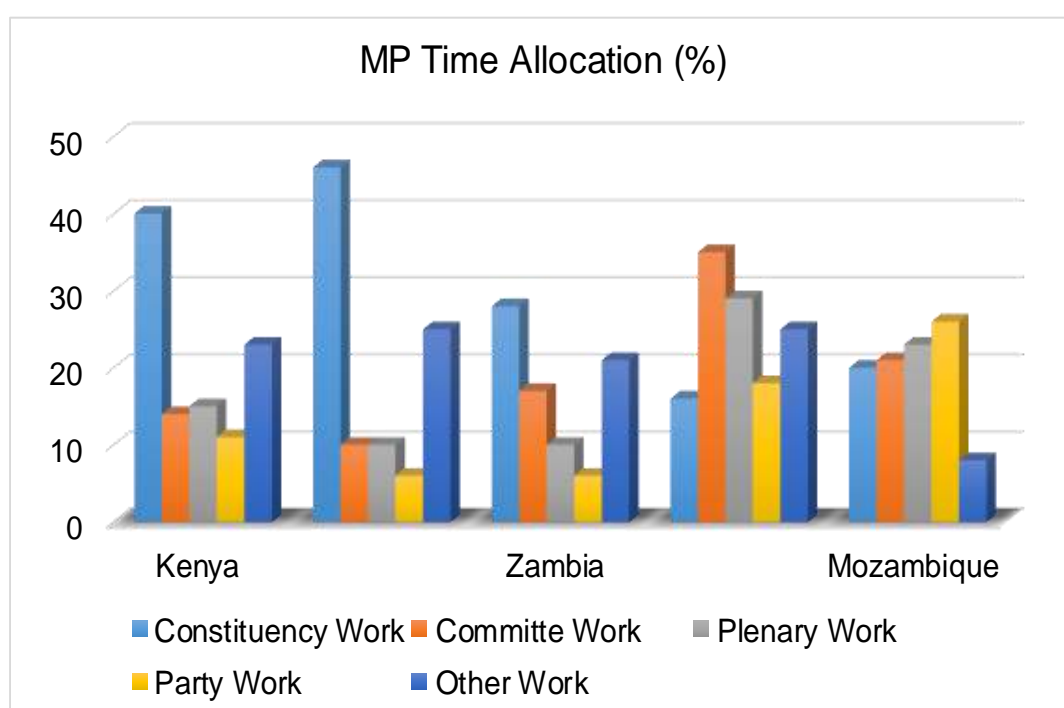
Barkan and Matiangi (2009) states that the Kenyan parliament undertook three main parliamentary reforms. Firstly, it reviewed the National Constitution to remove all the perceived grey areas that did not categorically create a separation of power between the executive and the legislature. Secondly, to compel the Speaker to be more accountable to the members of parliament who elect him rather than to the executive and thirdly, parliament took control of its own budget as well as recruitment, terms and conditions of service. It was noted that governance powers were too concentrated in the hands of the executive in general and the presidency in particular in the previous National Constitution at the expense of the legislature and the judiciary, hence the reforms, (Barkan and Matiangi, 2009). Arguably, the reforms may have significantly contributed to the independence of the members and staff in executing the legislative process (Idris, et al., 2013).

- *Ghana*

In the Report (Brierley, 2010), it suggests that most Members of Ghanaian Parliament interviewed felt that 'oversight' was where Parliament was at its weakest and where capacity needed to be raised most. It was further stated that overall, the majority 68% of Members of Parliament observed that Parliament did a poor job at overseeing the executive and, correspondingly, (about 64%) of MPs believed that parliament was doing a bad or very bad job at fighting corruption, (Thomson, 2006). However, it was also noted that

considering the resources available, committees such as the Public Accounts (PAC) were said to be doing a satisfactory job in investigating and inquiring into the activities and administration of ministries and departments on behalf of Parliament. On average as indicated in Figure 3:2 there is an indication that most parliaments in the region tend to dedicate most of their time in constituency and much less on committee and plenary work. It can be argued that this was a way of keeping their presence felt in the constituency in preparation for a re-election.

Figure 3: 2 MP Time Allocation



Source: Barkan, et al., (2010)

3.3.3 Parliamentary Representative Performance in the Region

- *Zambia*

Although the ALP Country Report (Warren, 2008), suggests that most Members of the Zambian Parliament were seen to be fulfilling their representative roles in many respects, it was not without impediments. Firstly, it was observed that MPs were given allowances for travel during their general constituency work, but were not required to submit any

evidence as to how the money was used. Second, most rural MPs did not live in their constituencies during their adult lives. It was thus noted that even after being elected into Parliament, most rural MPs continued leaving in urban areas, away from their constituencies, but continued to claim travel allowances as if they were travelling from their respective constituencies. Consequently, the system could have been prone to financial abuse as well as reduce the effectiveness of the representative role of MPs to be mere visiting representatives. However, it was noted that this trend seemed more prevalent in proportional representative more than one district member. In the latter, members were directly answerable to the constituents first and to their political parties second, while in the latter, the reverse may be the case. In the Zambian case, three main factors were identified as positive indicators that had enhanced the representative role in the *MP-Constituency* relationship as summarised below.

- ✓ *Members of Parliament including ministers had the political space to perform the representative role within their constituencies and political parties. Unlike in plenary legislative and oversight related debates where half of all MPs were unable to express their opinions freely*
- ✓ *The low re-election rate also provided some incentives for MPs to engage with their constituents and was supported, in principle if not financially, by most political party leaders*
- ✓ *The creation, and rapid expansion, of the Constituency Development Fund (CDF) over the past decade had provided MPs with enhanced incentives to spend time in their constituencies to participate in the committees that determined how the CDF would be spent at the local level*

- *Namibia*

Koep (2009, p.6) said, “MPs [in Namibia] are among those members of government with the lowest approval recognition ratings”. Furthermore, Koep (2009) stated that very few Namibians have had direct contact with their elected representatives. This may be partly because they are elected from a

party list. Thus, the *MP-Constituency* relation was at best tenuous. However, the report states that MPs are increasingly taking their representative role seriously and were now beginning to get committed to outreach-related activities.

- *Mozambique*

Arguably, Mozambique could be among the fastest growing democracies in the region. Since the end of civil war, it had managed to develop multiple layers of the democratic fibre from the political party structures to the three-tier legislative bodies: the Assembly of the Republic with 250 deputies; provincial assemblies with over 800 delegates; and municipal assemblies in 43 municipalities, all performing the representative functions at their respective levels.

- *Kenya*

Jewell (1983), argued that one of the important aspect of representation concerned the legislator's perception of and communication with, constituents. It can thus be argued that a positive harmony of perceptions and communication with the constituents can enhance an effective representative role and vice versa. In the case of Kenya, Barkan and Matiangi (2009) observed that Members of Parliament, like their counterparts across Africa, were under intense pressure to devote substantial time and personal resources to constituency service. However, it was generally observed that MPs in more advanced democracies devoted adequate time and in some cases personal resources towards balancing the three core functionalities of legislatures, viz, legislative, oversight and representation as observed by Johnson (2005) and Hornsby (1989).

- *Ghana*

Ghana like most Sub-Saharan Parliaments consists of a majority of underdeveloped rural constituencies. Ghana has 42% rural and 36% peri-urban with the minority of 22% being urban. Although according to August

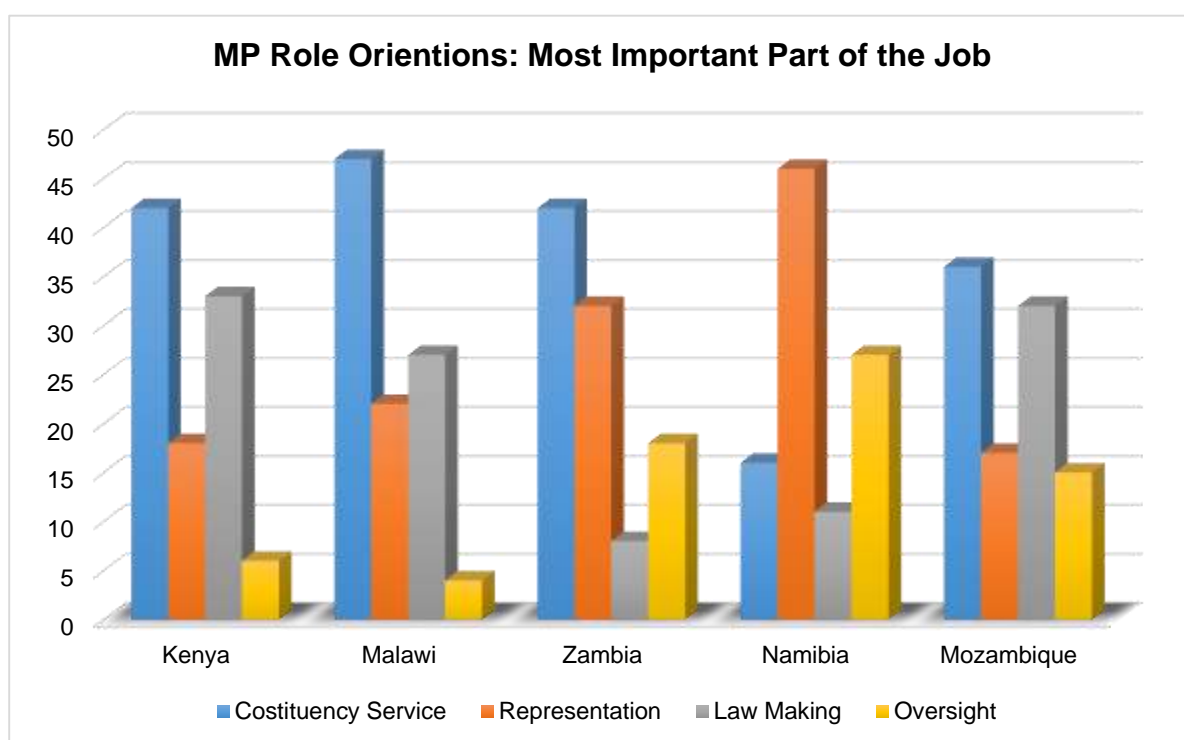
(2012) only 17% in urban and 19% in rural constituencies had any faith in their legislative system, Brierley's (2010) research suggest that there was a strong tie between MPs and their constituents, facilitated by the single-member nature of Ghana's electoral system. It was further reported that all (100%) MPs that took part in the interviews said they had an office in their constituencies paid for from their salaries with full time employees or volunteers.³⁶ It was also reported that most MPs visit their constituency every weekend during parliamentary sittings and go for extended visits during parliamentary recesses. The notion of representation in most African countries revolves around the conviction that Members of Parliament were development agents. For instance in Ghana, about 38% of MPs interviewed in Brierley's study, stated that developing their constituencies was their most important job as Members of Parliament. However, there was a realisation across the African continent that development and representation were just part of the equation in the bigger and more complex system of parliamentary democracy. In summation, Gyimah-Boadi (1998) says,

Many a new African democracy boasts a legislature that has been restored after a long hiatus. The new liberal constitutions have substantially improved the legal and political status of parliaments by equipping them with greater powers. (Gyimah-Boadi, 1998)

Having analysed the context in which the aforementioned region parliaments functioned, a number of parallel factors emerged between them and that of the Malawi Parliament as summarised in the following paragraphs. Figure 3:3 helps to illustrate that most Parliaments in region operate on less than 50% in their representative roles. According to Barkan, et al., (2010) report, most MPs spend much less time in their constituencies, especially those in rural and country sides that opt to migrate into urban towns and cities.

³⁶**Constituency Offices:** This research can confirm from its sources at Ghana Parliament that although a few MPS may have constituency offices paid from their own sources, the majority of MPs did not seem to run such offices in the their respective constituencies.

Figure 3:3 MPs Role Orientation



Source: Barkan, et al., (2010)

Having analysed the context in which parliaments in the region functioned, a number of parallel factors emerged between them and that of the Malawi Parliament as summarised in the following paragraphs.

3.4 Malawi Parliaments' Performance Parallels within the Region

3.4.1 Performance in Legislative roles

It was noted that there was an increase in the legislative viscosity where bills were being more rigorously scrutinised and appropriate amendments made and that more Bills were referred to relevant committees to be given due attention as well as getting input from stakeholders and recommendations made to the plenary. For instance, in Ghana, during the period 2005-2009, statistics showed that from the 110 Bills that passed, more than 50% received civil society input and more than 76% were amended. Furthermore, it was noted that the quality of in-depth debates by MPs during plenary has increased significantly in the last 15 years, (Brierley, 2010). However, it was noted that Parliaments that had dominant political parties such as that of SWAPO in Namibia and FRELIMO in Mozambique had a much lower legislative viscosity. For instance Namibia registered a 100% passage of legislation between 2003 and 2007 with no amendments to all the bills that were presented to Parliament, (Koep, 2007 and Azevedo, 2008).

3.4.2 Performance in Oversight roles

The study also demonstrated that most parliaments in sub-Saharan Africa including that of Malawi were gradually gravitating towards parliamentary autonomy in their legislative and oversight jurisdiction. Most of them had established formal structures such as committee systems, public media (i.e. TV, radio, newsletters, website and internet interaction between Parliament and the general public) thus, expanding the oversight capacity. It was further noted that parliamentary committees such as the Public Accounts were investigating and inquiring into the activities and administration of ministries and departments on behalf of Parliament. For purposes of independence and objectivity, most parliaments in the region had parliamentary budgets that were protected and controlled by Parliament. They also featured Members of the opposition as chairpersons in committees, (Shija, 2012).

3.4.3 Performance in Representative role

It was a common feature in the region that most rural MPs did not live in their constituencies during their adult lives. It was thus noted that even after being elected into Parliament, they continued living in urban areas, away from their constituencies making the MP-Constituency interaction less effective. However, the low re-election rate provided some incentives for MPs to engage with their constituents. It was also observed that Members of Parliament in this region, like their counterparts across Africa, were under intense pressure to devote substantial time and personal resources to constituency service than in legislation and government oversight, (Diamond, 2008)

3.5 The Vertical and Horizontal accountability roles in the Malawi legislature

The Malawi Republican Constitution Section (66),³⁷ stipulates the powers and functions invested in the National Assembly as follows:

- 1. All legislative powers of the Republic shall be vested in Parliament which shall have the powers and responsibilities set out in this [the] Constitution.*
- 2. An Act of Parliament shall have primacy over other forms of law, but shall be subject to the Constitution.*
- 3. Any question proposed for decision by the National Assembly or by the Senate shall be decided by a majority of the votes of the members present and voting, unless this [the] Constitution or any other Act of Parliament otherwise provides.*

In broader terms, as stated by CCPJ³⁸ (2010), parliament was mandated to receive, amend, accept or reject Government Bills and Private Bills; to initiate Private Members' Bills on the motion of any member and amend, accept or reject them as the case may be. It was also the duty of Parliament to debate and vote on motions in relation to any matter. These could include motions to

³⁷ The Constitution of Malawi (adopted in 1994)

³⁸ Catholic Commission for Justice and Peace CCJP (2010), Parliament Audit of the First One Hundred Days of the 2009-2014 Parliament

indict and convict the president or vice president by impeachment, (MNASP, 2010)³⁹. It was envisaged that the very existence of the Malawi Legislature was for it to act in the interest of its constituents as a matter of principle. However, this study suggests that the reality was to the contrary as stated in the following paragraphs.

3.5.1 Malawi Parliamentary Representation

Budge (2005) states that political representation is an alternative to democracy. Therefore, the politics of representation as stated by Pitkin (1967, p.209) means acting in the interest of the represented, in a manner responsive to them. However, Pitkin observed that on one end of the continuum, the representative must act independently, thus, his or her actions must involve discretion and judgement; must be the one who acts. On the other end, the represented must be capable of independent action and judgement. These assumptions by Budge, Pitkin and other theorists were not without their own challenges especially where the representative regards himself or herself as an expert and finds the opinions of his/her constituents irrelevant. It is against this background that accountability matters, Miller (2005). This research found that the notion by Members of Parliament, for instance, might have partly been responsible for MPs failure to consult their constituents, thereby resulting in most them losing a re-election in the following round of voting as a sanctioning mechanism of the representative (Agent) by the electorates (Principal). However, as suggested, by Patel (2010, p.5) the biggest challenge for the democratisation project to advance in Malawi was mainly due to lack of intraparty democracy at constituency level, contributing to very high MP turnover (70% in 2009) Parliamentary election. Furthermore, participants and respondents to this study confirmed that constituents were of the opinion that most of their MPs did not adequately represent their interest to the National Assembly. They argued that most MPs once elected to Parliament cared less about engaging and consulting their constituents as stated in one of their own narratives:

³⁹ Malawi National Assembly Strategic Plan- MNASP (2010) for 2010-2014.

We have a very big problem with these our MPs because once we elect them to Parliament, they never come back to consult and engage us on issues. We hear on the radio and read in newspapers about what is happening at parliament. For instance on the Change of the National Flag; we were never consulted to allow them to change as most of them claim when they get to parliament. That is why we do not elect them when they come to seek a re-election. (FG-2)

Arguably, this disenfranchisement was further compounded by Parliament's repeal in 1995 of the 'recall-provision' in Section 64 of the Constitution (repealed in Act 6 of 1995). Consequently, it diminished the power of the represented in recalling non-performing MPs in cases where they felt either underrepresented or miss-represented, to only limited options such as deselection in the next round of elections.

3.5.2 Performance in Legislation

Section (48)⁴⁰ of the Republican Constitution states that all legislative powers of the Republic shall be vested in Parliament that shall have the powers and responsibilities as set out in the Constitution. Furthermore, the Constitution empowers the Acts of Parliament to have primacy over other forms of laws and that these Acts were subject to the Constitution. The constitutional provisions stipulates that any question proposed for decision by the National Assembly shall be decided by a majority of the votes of the members present and voting, unless otherwise provided by the Constitution or any other Act of Parliament. This therefore, means that only Parliament has a constitutional mandate in the legislative function. However, the parliamentary constitutional mandate to make, amend or unmake legislation must not be viewed as an end in itself but rather a means towards achieving a more rigorous process of balanced and unbiased legislation. To this effect, Blondel, and colleagues in the 1970s introduced the concept of Legislative Viscosity (or Viscosity) as a unit-of-analysis in understanding the process of legislation in order to

⁴⁰The Constitution of Malawi (adopted in 1994)

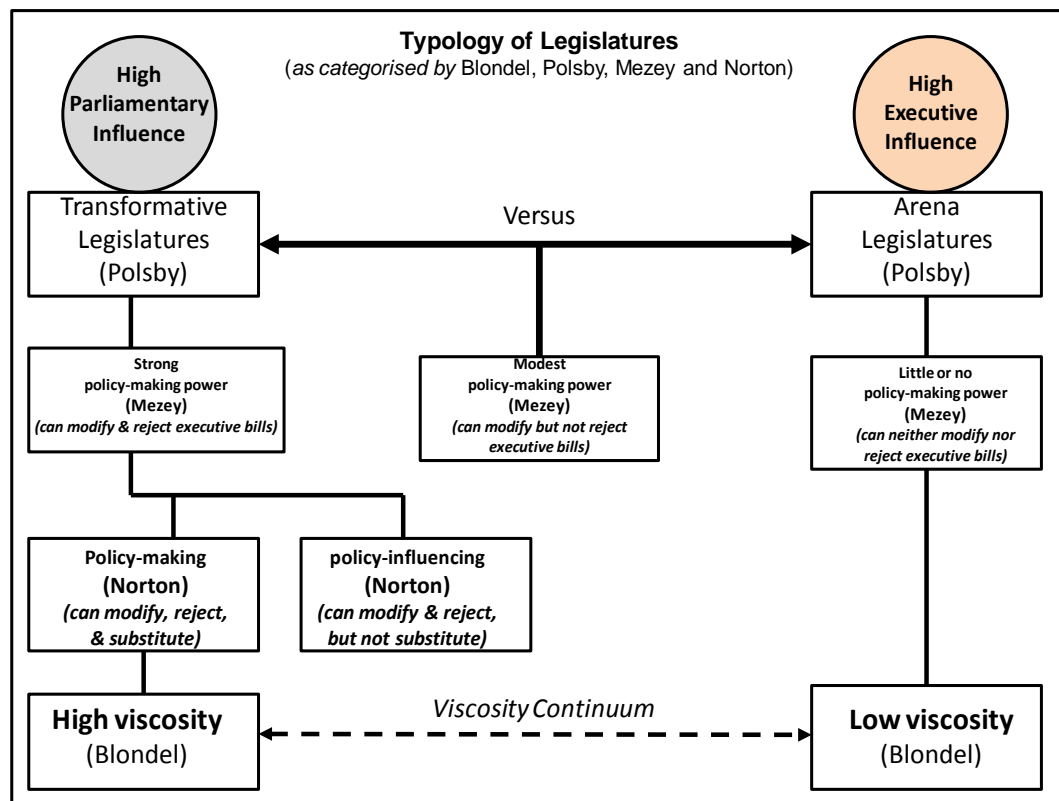
determine the typology of legislatures, (see Figure 3:4). Furthermore, a host of other scholars such as Polsby (1975); Mezey (1979); Norton (1984); Norton, and Leston-Bandeiras (2005) as well as Siu-Kai (2002), have all endeavoured to analyse and categorise legislatures from the 'Viscosity' point of view.

Blondel's (1970; 1973) concept of legislative viscosity referred to the aggregate of the number of amendments and the time spent on legislative deliberations both in committees and the plenary (see, Ma Ngok, in Siu-Kai, 2002, p.357). He suggested that a highly 'viscous' legislature was one that could effectively slow down or stop a proposal, forcing the executive to bargain with the legislature on policy. He thus, placed legislatures on the continuum from low-level to the high-level viscosity, suggesting that those on the lower end of the continuum were "*Compliant*" and those on the higher end as "*Free-Legislature*" (see, Maurer, 2010; MacGregor, 2011). Norton and Leston-Bandeiras (2005) observed that,

The level of viscosity that parliament can introduce depends on a number of variables, internal or external to parliament. External variables include political culture, constitution and the place of the legislature in the political system. Internal variables include the system of committees, agenda control, rules and organisation of the chamber and resources. (Norton and Leston-Bandeiras, 2005, p.7)

Perhaps, Norton and Leston-Bandeira's analysis of "*external*" and "*internal*" variables in determining the viscosity of legislation may be more useful and holistic approach in the analysis and categorisation of legislatures. Adopted from Maurer (1999), the researcher synthesises the legislative typology as analysed by Blondel, Polsby, Mezey and Norton from 'High Parliamentary influence' to 'High Executive influence' in the process of legislation.

Figure 3:4 Typology of Legislatures



Source: Author adopted from Maurer (1999)

Perhaps, the most cited classifications [typology] of Legislatures in literature were those by Blondel Jean, Polsby Nelson, Mezey Michael, and Norton Phillip, (see, Blondel, et al., 1970; Norton, 1984; 1990, pp.177-186; Polsby, 1975). The diagram above (Figure: 3:4) helps to contextualise and synthesise the phenomena of legislative classification and its significance to the study of comparative legislatures. The central focus is the symbiosis in the influence and power over legislation between the Executive and Legislature. Thus, 'High Parliamentary influence' against 'High Executive influence'. According to Polsby (1975) he places the two extremes along the continuum with the former being *Transformative* when emphasis of discussion and amendments are reached by consensus in committees. While, the later *Arena* type of legislatures is one that seeks confrontational debate in the Chamber such as that of the House of Commons, (Norton, and Leston-Bandeira, 2005). For Mezey (1979), the classification of legislatures, should be dependent on their *Policy-Making Power*; either strong, modest or

have little to no-power making policy. However, the policy-making or support can be identified at three levels. The high level (Strong) was where legislatures “*can modify and reject*” the Executive Bills. The Middle (Modest) level, “*can modify, but not reject*” Executive Bills; and the third level, (little or no policy making power), Legislatures “*can neither modify nor reject*” Executive Bills. Consequently, Mezey (1979) suggests that depending on where they rest on the continuum, legislatures can therefore, range from being “*vulnerable, marginal, active, reactive to minimal.*” In modifying Mezey’s school of thought, Norton (1984), suggest a ‘two-dimensional’ approach of “*Power-Making*” where legislatures “*can modify, reject and substitute;*” and “*Policy-Influencing*” in which, Legislatures “*can modify and reject but not substitute*” Executive Bills. According to Maurer (2010, p.28) in citing Blondel, et al., (1970), “*legislatures with ‘high viscosity’ possess a greater ability to resist the legislative initiatives of the executive than do those with low viscosity.*” Based on these analytical formulae, it goes to suggest that it may be over simplistic to assume that a high or low level viscosity in the process of legislation was indicative of the levels of democracy or good-governance. However, it was important to note that before arriving at any given conclusions both external and internal variable must be taken into consideration.

3.5.3 Parliamentary Government-Oversight

The true test of democracy is the extent to which Parliament can ensure that government remains answerable to the people. This is done by maintaining constant oversight (monitoring) of government’s actions. (South Africa Parliament- ND)

Yamamoto (2007) Inter-Parliamentary Union (IPU) submission states that Parliamentary Oversight is the review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation. Arguably, this definition focuses on the purpose rather than the process. Therefore, some of the functions for oversight were to detect abuse by those entrusted with public offices; hold government accountable on

issues of public interest; to ensure the delivery of policies authorised by parliament as well as to improve transparency for those in public office. It was against this background that the thesis was structured to gather empirical to test its hypotheses.

3.6 A discourse of political trends in Malawi (1994-2012)

Available data AED⁴¹ (2011) indicate that in the 47 years of independence (up to 2012), Malawians through a referendum on 14th June 1993, decided to return to political pluralism. However, equally significant constitutional amendments such as the repeal of the Senate (BBC, 2001)⁴²; the Recall provision of section 64 in the Malawi constitution (NCA, 2004)⁴³; Change of the national flag (News-24, 2010)⁴⁴ as government bills were ratified by the legislature despite public demand for such matter to be put to a referendum as reported in News-24, (2010), *“Critics have slammed the change[of the Flag], saying consultations on the issue were biased and that the issue should have been settled by referendum.”* Arguably, lack of responsiveness to the needs of the represented by government is an indication of lapse in vertical accountability. Vigoda (2002, p.527) said, *“Modern public administration involves an inherent tension between better responsiveness to citizens as clients and effective collaboration with them as partner.”* It can be further argued that the lack of clientele and partnership between government and the citizenry in Malawi plays a major role in the demand for a better governance model.

Thus, the quest to fight for a return to political pluralism in Malawi was to break the monopoly of political dominance by a few political elite. It was against this background that prodemocracy leaders like Chakufwa Tom Chihana (2006) described the Malawi Congress Party as *“a party of death and darkness.”* Therefore, the fight for a free and democratic society

⁴¹African Elections Database

⁴²BBC report (12th January, 2001)

⁴³Norwegian Council for Africa –NCA, (23rd June 2004)

⁴⁴ News 24, (8th October 2010)

became a collective responsibility. However, there were individuals and organisations that spearheaded the process. Notable among them were the Catholic Bishops who in 1992 issued a pastoral letter '*Living our Faith*' that broke the taboo of criticising the ruling Malawi Congress Party regime publicly by pointing out its fundamental failures in both vertical and horizontal accountability. Consequently, it was followed by university students, private and public workers anti-government demonstrations, augmented by the return of Chakufwa Chihana from exile; the formation of pro-democracy pressure groups such as AFORD⁴⁵ and UDF⁴⁶ as well as the donor community tying aid⁴⁷ to democracy pressed the ruling regime to give in to political plurality (Patel, et al., 2007; Kaspin, 1995). It was noted that even after a return to political pluralism, democracy did not flourish as observed by the Catholic Bishops in one of their Pastoral letters, '*Reading the Signs of the Times*':⁴⁸

...as we said in our previous letter 'Taking Responsibility for Our Future' (2008, par. 2.1.1.), within political parties, the party constitution and the leaders must provide ways and means to make it possible for all members to participate fully and give aspirants the opportunity to freely contest for key positions. Some of the consequences of not paying attention to these elements are: dictatorial tendencies in party leaders and those who surround them, disgruntled party members, factionalism in parties, and break up of parties. Our conviction is that it is within the political party that democracy starts; it is also here that it starts to fail! The symptoms of this failure are seen when parties give in to the big-man syndrome; when young new blood is not allowed to enter into political leadership. We call upon all political parties to uphold principles of constitutionalism and tolerance within the parties. (Catholic Bishops, 2010)

⁴⁵**AFORD:** 'Alliance for Democracy' was formed in exile as an under group political pressure group for political Change in Malawi.

⁴⁶**UDF:** The United Democratic Front. It can be argued that UDF was a splinter of AFORD because most of its founding members had quit from the later.

⁴⁷ National Budgetary Support (in foreign aid) was in excess of 50 %

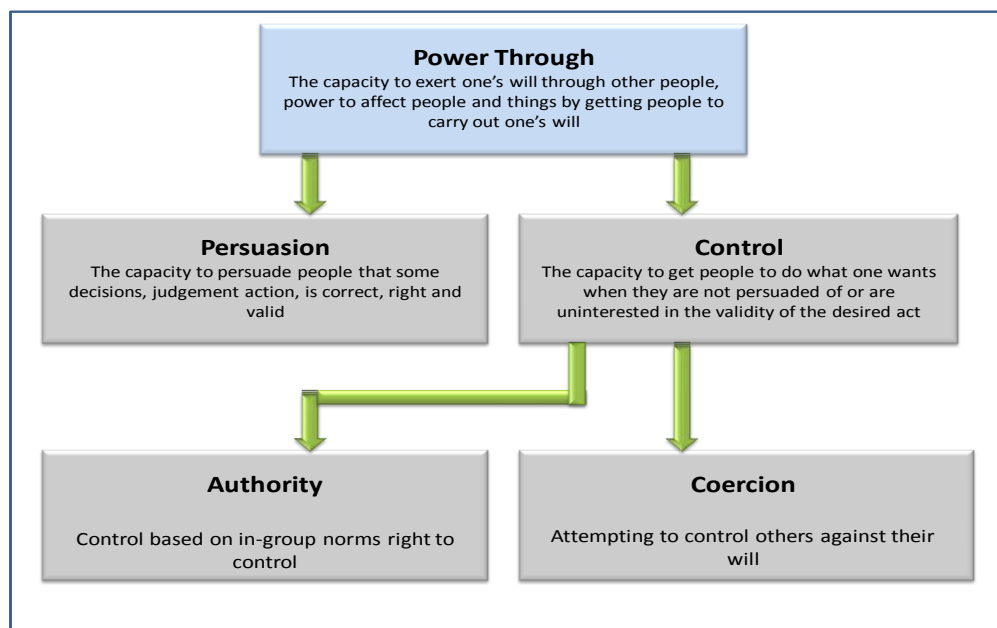
⁴⁸Pastoral letter (October, 2010) '*Reading the Signs of the Times* [PDF]

The Bishops' narrative cuts across the political spectrum. True to the Bishops' confession, "*Our conviction is that it is within the political party that democracy starts; it is also here that it starts to fail!*" It can also be argued that the conduct of MPs in Parliament was largely a by-product of the prevailing political culture of lack of accountability in their respective political parties. It should be noted that since independence, democracy in Malawi has suffered a number of major assaults. This however, may not be a justification by many scholars on African democracy such as Sklar (1983) for arguing that the project of democratisation in Africa was a mere process of experimentation with a new generation of countries. Furthermore, Loewenberg and Patterson (1979, p.16) state that legislatures in Africa and Asia were *transplants* of European legislatures during the process of colonisation. Such schools of thought as argued by Fayemi (2009, p.107) may not only be misleading to imply that democracy and representation were new concepts to Africa, but also "*grossly inaccurate for many traditional African societies.*" According to Wamala (1980), the African concept of representative democracy in its traditional context states that societies can be divided into two broad categories, namely, those that had very highly centralised authority and leadership under kings or powerful chiefs and those with decentralised authority and leadership where small chiefs ruled over small clans or lineages. Either way, African monarchs ruled through a council of heads of clans at various levels of society. Wamala concludes by stating that consensus was very central to the operation of rule and the administration of justice in traditional African Societies. This observation seems to agree with that of Loewenberg and Patterson (1979, p.8) that in medieval Europe, without the consent of the leaders of society, the King's policies could not be carried out. Although, Malawi draws its political leadership from established political systems, the incumbents tend to use and sometimes abuse traditional leaders as opinion changers, usually in support of the government of the day, (Logan, 2008; NDI, 1995).

3.7 Political power relations in Malawi

Turner (2005, p.2) defines power as, “*the capacity for influence and that influence is based on the control of resources valued or desired by others.*” However, he admits that this theory has always been problematic in its simplistic world view because he says, “*group identity, social, organisation and ideology rather than dependence are the basis of power.*” In light of this definition, one can deduce that power is based on three assumptions; (i) *persuasion*, (ii) *authority* and (iii) *coercion* as summarised in (Figure 3:5). Turner’s argument seems to agree with Emerson (1962, p.32), who states that power is, “*a property of the ‘social relation’; it is not an attribute of the actor.*” Furthermore, he observed that ‘power’ resided implicitly in the dependency of other; thus, creating a socio-political and economic interdependence relationship. To illustrate his argument; Emerson (1962, pp.32-33) states that if “*dependence*” of actor x on actor y was directly proportional to x motivational interests in objectives mediated by y; and inversely proportional to the availability of those objectives to x outside the x and y relation. It would therefore follow that the power of actor x over y will be the resistance on the part of y, which can be potentially overcome by x.

Figure 3:5 Power Relations



Source: Turner, (2005)

In practical terms, Barbalet (1985) states that all social relations and institutions must in some way be regarded as involving power. Arguably, challenges involving the ownership of power begins to emerge at the convergence of 'resistance.' From the most celebrated prototype of the definition of power by Max Weber⁴⁹, both political scientist and sociologists such as Nash (2000) Lukes (2005) and others, tend to grapple with its definition within the dichotomous relationship of power and resistance' paradigm, (see, Turner, 2005; Barbalet, 1985; Emerson, 1962). For instance, in Barbalet (1985, p.532) citing Webber envisages power as:

...the probability that one actor within a social relationship will be in a position to carry out his [her] own will despite resistance, regardless of the basis on which this probability rest. (Max Weber in Barbalet, 1985, p.532)

In this regard therefore, socio-political as well as economic power can reside in individuals, groups of individuals, institutions and organisations. It was against this background that the framers of the Malawi constitution were explicit in enshrining the doctrine of separation of power as discussed in the next topic. From Plato's idea of mixed state⁵⁰ and Aristotle's⁵¹ 'three-in-one'⁵² state solutions, to Charles-Louis de Secondat,⁵³ and John Locke⁵⁴ are considered among the architects of the modern version of the doctrine of separation of power (DSP) among the executive the legislature and the judiciary, (see Fombad, 2005; Fisher, 1971). Arguably, the DSP in contemporary politics of democracy has become a universal creed on which the basis of constitutionalism was centred. However, the rationale of the authors of this doctrine may have been, *"...the avoidance of governmental tyranny through the abuse of power by rulers pursuing their own interests at*

⁴⁹**Max Weber:** (1864-1920) was a German, sociologist, philosopher, and political economist. He is regarded as one of the architects of Sociology.

⁵⁰ Mixed State: Plato, (c. 428-347 BC) a Greek Philosopher, discovered the combination of the monarchic principle of wisdom with the democratic principle of freedom.

⁵¹Aristotle, (384 BC – 322 BC) was Plato's student

⁵² Three-in-one: deliberative, magisterial, and judicative

⁵³Charles-Louis de Second at, (1689 -1755) French political thinker

⁵⁴John Locke, (1632-1704), English Philosopher and father of 'Classical Liberalism'

the expense of the life, liberty, and property of the governed,” as argued by Fombad (2005, p.301). Fisher, (1971, p.114) also argued that absolutism of the doctrine may lead to *“political fragmentation and paralysis of power”* as well as causing damage to relationships between separated powers causing government inefficiency. However, Fisher (1971, p.114) says, *“...the loss of efficiency was a small price to pay for insurance against tyranny.”*

3.7.1 The Constitutional Framework of Separation of Power in Malawi

The Malawi Constitutional model establishes a presidential system with full executive powers. Provisions in Chapters 1:7, 8, 9 as read together with Chapters 6, 8 and 9 spell out the distinctive nature in the jurisdiction of each of the branches of government. However it was noted in the Constitutional review of 2006 that the Malawi Constitution had a lot of ambiguities that need to be made as clear, concise and flexible as possible. Further that it should be based on objectivity and neutrality of underlying principles (MLC, 2006). In comparative terms, Kurland (1986, p.593) stated that the original notion (in reference to the American Constitution) of the division of power was not only based on separation of power but rather on the concept of *balanced government* and of *checks and balances*. Kurland, (1986, p.593) emphasises that separation of power entails significant differences in governmental functions. However, Persson, et al., (1997, p.1163) argues thus, *“Political constitutions are incomplete contracts and therefore leave room for abuse of power.”* As a control mechanism, Persson and colleagues argues that in a democracy, elections can be used to discipline elected officials, although elections may not be sufficient on their own. They further observe that separation of power between the executive and the legislative bodies may also help to prevent the abuse of power but only with appropriate check and balances. Schedler (1999, p.14) argues that the exercise of power in government ought to be a rule-guided enterprise, that may require surveillance, monitoring, oversight, control, checks, restraint, public exposure as well as punishment. Furthermore, the enterprise of separation of power

may be rendered futile if it was not guided by the two-dimensional concept of accountability and enforcement as also stated by Schedler (1999, p.14-17). Accountability being the ability to ensure that officials in public offices were answerable for their actions and enforcement as the capacity to punish those that fails to act according to the rule-guided principles. In order to provide effective accountability and enforcement, the Malawi constitution provided for the governance agencies such as the Anti-Corruption Bureau;⁵⁵ Malawi Electoral Commission;⁵⁶ Ombudsman,⁵⁷ Malawi Human Rights Commission⁵⁸ as well as the Malawi Law Commission.⁵⁹ However, it was revealed at the *Rule of Law and Separation of Powers [regional-SADC] Conference* (28 to 31 January 2003), held at Blantyre, Malawi, that;

In many countries in the SADC region [including Malawi], the judicial branch remains relatively weak, compared to the executive and legislative branches, which hampers it from fulfilling its constitutional responsibilities to the people. Much of this is due to a lack of basic resources and a lack of sufficient political support. (IFES, 2003, p.3)

Arguably, lack of sufficient political support could have been by design especially from the executive to incapacitate the powers of the judiciary for its political gains. Two cases in point: In 2001, the UDF government moved a motion in parliament to impeach three Senior High Court Judges on allegations of misconduct, incompetence, misbehaviour and being 'partisan' [towards opposition] in their operations (Ligomeka, 2001, BBC, 2001⁶⁰). Again, in 2012, the DPP led government allowed a strike of judiciary personnel to prolong for nearly three months⁶¹ causing a complete paralysis of the judicial system, according to media reports (see, Malawi Voice Reporter, March, 2012; Chikoko, 2012).

⁵⁵Anti-Corruption Bureau: Under Section, 4: (1) of the Malawi Constitution (2005)

⁵⁶Malawi Electoral Commission: Section, 7:(75-77)

⁵⁷ Ombudsman: Section, 10: (120-128)

⁵⁸ Malawi Human Rights Commission: Section, 11:(129-131)

⁵⁹ Malawi Law Commission: Section12: (132-136)

⁶⁰ BBC Report of 20th November, 2001, 21:31 GMT

⁶¹ Three Months Strike [January to March 2012] of the Judicial Staff over government's failure to implement better conditions of service passed by Malawi parliament in 2006.

3.7.2 Duality of Members of Parliament Appointed as Cabinet Ministers

In the report of the *Constitutional Review* (N0.18 of August, 2007) by the Malawi Law Commission it was noted that for proper separation of powers it would be appropriate that Members of Parliament did not at the same time belong to the executive as ministers. However, Patel, et al., (2007, p.28) observed that since September of 1994,

It became a trend to draw members of the cabinet from the National Assembly, which reinforced the executive dominance over the legislature. The cabinet remained large...The bloated size of the cabinet...also tilted the balance of power in favour of the executive. (Patel, 2007, p.28)

Arguably, appointing Members of Parliament into Cabinet (executive) negates the notion of the doctrine of separation of power as also pointed out by Patel, et al., (2007, pp.25-26). In addition, it may not be acceptable on pragmatic grounds to fulfil two equally demanding roles as an MP and Cabinet Minister simultaneously. In Patel and colleagues' findings, they stated that some Members of parliament who were in favour of the duality of roles did not view it as a contravention of the doctrine of separation of power as long as the individuals concerned could make a clear distinction between them and be able to execute their duties accordingly. Furthermore, it was observed that some members of parliament argued that non-elected ministers would be detached from the grass-roots and also that their allegiance would be inclined to the appointing authority rather than the developmental needs of the constituencies. Literature (see Toshome, 2009; Patel, et al., 2007; Svasand, 2011) suggests that offering ministerial positions to individual members of parliaments has been used as a mechanism of luring government support of members in parliament. They concludes that one of the weaknesses of most opposition parties in Africa can be attributed to the incumbents' hostile policies aimed at fragmenting and weakening the opposition. The pattern (Table 3:1) clearly illustrates the incumbents' capitalisation of elected Members of Parliament for ministerial

positions. For instance, there were double digits of ministers who were not elected Members of Parliament between 1994 and 1996. The figures were seen diminishing to zero between 2006 and 2011.

Table 3: 1 Composition of the Malawi Cabinet (1994-2011)

Year	Number of Ministers	Ministers Doubling as MPs	Ministers Not Elected MPs
1994 (First Cabinet)	22	11	11
1994 Coalition (Cabinet UDF/AFORD)	35	23	12
1995	33	22	11
1996	33	23	10
1997	37	35	3
1998	30	27	3
1999	30	27	3
2000	33	26	7
2001	37	30	7
2002	40	35	6
2003	46	38	8
2004	30	25	5
2005	33	30	3
2006	38	38	0
2007	42	42	0
2008	No data	No data	No data
2009	40	40	0
2010	42	42	0
2011	30	30	0

Sources: Malawi Government, (2013) Malawi Parliament, 2007,
Patel, et al., (2007)

3.8 Balancing of Political Power in the Malawi Government

*The essence of Government is power; and power, lodged as it must be in human hands, will ever be liable to abuse. (James Madison, 1751-1836)*⁶²

The application of the doctrine of separation of power whether partial or in its strictest of sense, may in itself not be a guarantee in ensuring a good

⁶²James Madison,(1751-1836): was an American statesman and political orist, the fourth President of the United States

democratic government. A second dimension in the equation may be equally important; that of balancing such powers in order to avoid a monopoly of power by one organ of government over others. In this regard, Schedler, et al., (1999, p.23) introduces the concept of *vertical* and *horizontal* power relations; the former being the power between unequal. It is said to be either 'top-down' or 'bottom-up' relationship. By contrast, the latter refers to relationship among equals. In this instance, it could be the provision of check and balances between the executive, the legislature, and the judiciary. Schedler, et al., (1999, pp.23-25) state that the vertical relationship could be the 'powerful' exercising control over the 'powerless' as the case may be in a government bureaucracy. For instance, it could be principal officers exerting authority over their subordinates. However, in a representative democracy, it could also be the citizenry exercising their right to vote in periodic elections by replacing governments and representatives in accordance with their performance while in office. For the purpose of this discourse, the horizontal relationship and balance of political power is of primary concern. A quick overview of the distribution of the balance of power in Malawi since independence seems to reveal a wide range among the three organs of government. For instance, during the thirty years of the MCP (one party state) dictatorship, literature seems to suggest that 'all power' was concentrated in the presidency (Chirwa, 2001; Chirambo, 2007; Virmani, 1992, Cullen, 1994; Patel, et al., 2007). During this period, the state 'president-for-life' Hastings Kamuzu Banda, had a monopoly of power over the legislature and the judiciary by among other constitutional powers conferred on him, to hand-pick members of parliament as well as hire and dismiss senior members of the judiciary, with or without the intervention of parliament. Arguably, the three arms of government were directly responsible to him as head of state and government, not to the people of Malawi. Chirwa (2001, p.9) records that the period between the 1964 cabinet crisis and national referendum of 1993 was "...a Banda-centred political culture in the country." However, the political dynamics changed with the return to political pluralism after the 1994 general election. The 1995 national constitution gave a new lease of political life to the legislature and some independence to the judicial system. There seemed [at least in theory] a clear separation of power

between the executive, legislature, and the judiciary. It may be important acknowledging that the emergence of multi-party democracy also arrived with its own challenges in the power relation paradigm such as relationships between members of parliament and their constituents, political parties as well as that between parliament as an institution and the public. These dynamics may be worthy examining in turn.

3.8.1 Relationships: MPs and their Constituents

In a recent survey conducted by the Afro-barometer, (2012, p.22) one of the questions asked was: *“During the past year, how often have you contacted an Member of Parliament about some important problem or to give them your views?”* In this question, the survey found that about 85% of respondents had not had any contact with their MP, 86% and 82% of that number were from rural and urban areas respectively. Six percent indicated that they had contacted their representative at least once and another equal percentage indicated that they had contacts a few times. While, 3% indicated that they did often contact their MPs. Based on this statistics, four assumptions can be deduced as follows:

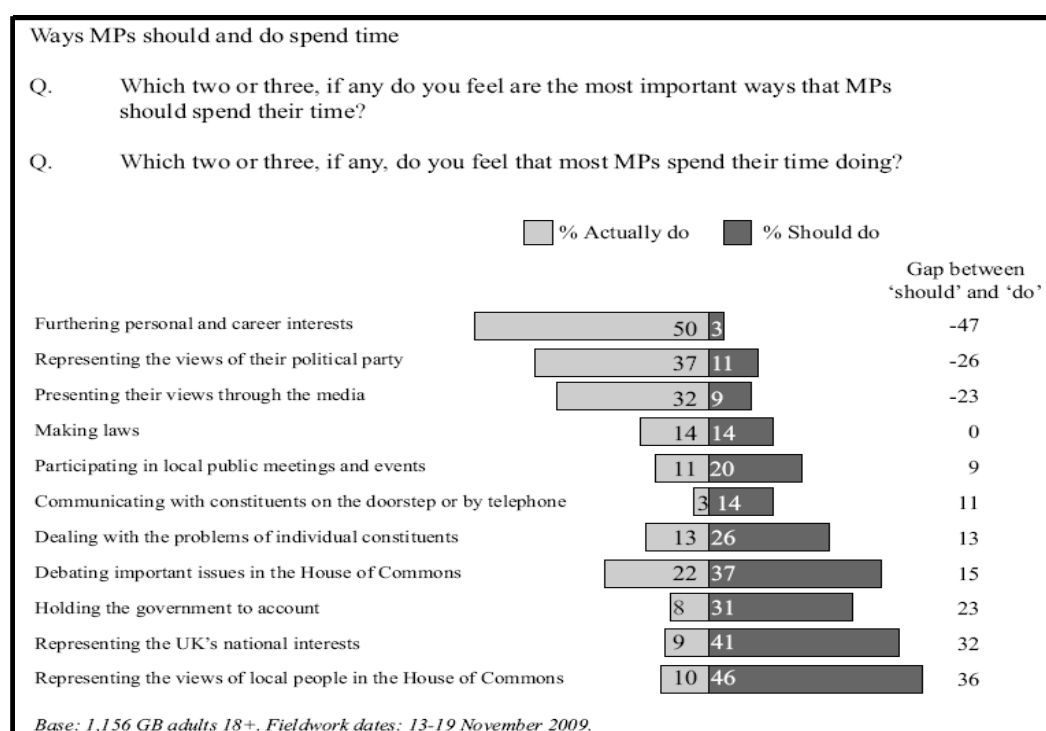
- i. That most Members of Parliament in Malawi, once voted into office, cared less about constituency consultations and participation*
- ii. That most MPs were ‘absentee representatives’⁶³ of their constituencies*
- iii. Constituents’ lethargy in their representatives*
- iv. A combination of all the above*

A similar pattern seems to be emerging even from the well-established parliaments such as the House of Commons (Figure 3:6) in a survey

⁶³**Absentee Representatives:** The author’s term to refer to Members of Parliament that perpetually reside outside their Constituencies and make little or no effort in consultations with their constituents.

conducted by the Hansard Society (2010). From the survey, MPs spent 50% of their time furthering personal and career interests, 11% in local and public events, 10% representing the views of local people in parliament and 9% representing the UK's national interests.

Figure 3:6 MPs Workload in the House of Commons



Source: Hansard Society (P 119, 2010–12)

In the final analysis, statistics seem to confirm the hypothetical argument that there was a disconnected relationship between the represented and their representative, (see Kurtz, 1997; Chinsinga, et al., 2008). In the Malawian press preview by Centre for Social Concern (CFSC) (2010)⁶⁴ it was reported that some legislators deserted their constituencies after winning their parliamentary seat. It quoted its sources thus; *“These members are seen in cities and have no time to visit the people who put them into power.”* Interestingly, Elizabeth Aipira, Deputy Minister for Statutory Corporations making contribution in the Malawi Parliament said, *“...people in our constituencies are complaining that we are running away from them.”* (see

⁶⁴**Centre for Social Concern (CFSC) (2010):**Reviewed several Local Media including The Daily Times, Malawi News, The Weekly News, The Nation, The Weekend Nation, The Guardian, The Sunday Times, The Chronicle, and Nation on Sunday,

Liwanda, 2006). These sentiments are reinforced by Khaila and Chibwana (2005)⁶⁵ in which, 14% strongly approved, while 27% approved the way their Members of Parliament performed their jobs over the past twelve months (2004-2005). On the contrary, 22 % and 33% disapproved and strongly disapproved respectively.

Perhaps the most revealing statistics could be (Table 3:2) that only 1% of the sample in the Khaila and Chibwana's, (2005, p.24) research stated that their political leaders either looked after the interests of their people or listened to the views of their constituents. Arguably, this may lead to discontent and mistrust between the represented and their representatives.

Table 3:2 Responsiveness of Political Leaders (including MPs)

	Leaders look after Interests of the people (%)	Leaders listen to people (%)
Never	58	62
Some of the time	29	25
Most of the time	6	7
Always	1	1
Don't know	5	5

Source: Khaila and Chibwana, (2005) Afro-Barometer

3.8.2 Relationship: MP and Political Party [The Rebel MPs]

Malawi's ruling Democratic Progressive Party (DPP) has expelled... Phoya, who was chairperson of Parliament's Legal Affairs Committee and Democratic Progressive Party (DPP) director of legal affairs, was expelled on Sunday alongside outspoken Thyolo Thava MP Lifred Nawena, Mzimba South MP Paul Shaba and Zomba Changelume MP Grace Maseko. (Nation News Paper of 20th July 2011)

⁶⁵ Afro-Barometer (2005) by Stanley Khaila and Catherine Chibwana, Working Paper No. 46

Expulsions of political party officials including MPs on differences such as that of Henry Phoya-⁶⁶ MP and others had been established as a means of resolving political differences within the party ranks. Lack of restraint and political tolerance on divergent views in political parties can be cited as one of the legacies carried over from the MCP regime where those with alternative views were branded as rebels.⁶⁷ The first time the term ‘rebels’ was used in the multiparty democracy in Malawi since the time of the one party state was in 1995 when AFORD pulled out of its coalition government with the UDF. During this pull out, four⁶⁸ of its cabinet ministers refused to resign their ministerial position and instead declared themselves as independents. They were branded as rebels and consequently expelled from the party (see Chinsinga, 2003; Kadima, 2006). The rocky relationship in AFORD between the party and its members of parliament continued unabated in subsequent years. For instance, on the 9th of September, 2002, six of its Members of Parliament were expelled from the party for refusing to support its coalition partner UDF’s agenda of the presidential ‘Open Term’⁶⁹ bid, (VOA, 2009). It can also be argued that the consequences of politics of intolerance in AFORD as well as in other political parties in Malawi may be directly correlated to their diminishing performance in subsequent parliamentary election. A typical example, AFORD had dropped from 36 Members of Parliament in the 1994 general election to only one MP in 2009 elections (MEC, 2009; Rakner, et al., 2005).

Expulsions of Members in almost all political parties had almost reached a pandemic proportion, especially against members that were perceived indifferent towards the political establishment. Since the advent of the

⁶⁶**Henry Phoya:** At the time of his expulsion was an MP and chairperson of Legal Affairs Committee. The DPP ordered his expulsion after publicly expressing his misgivings in the National Assembly on the Civil Procedures Amendment Bill, popularly known as *‘Injunctions Bill’*.

⁶⁷**Rebels:** The term was reminiscent of the Malawi Congress Party (MCP) dictatorship widely used from the time of the 1964 cabinet crises as a way of defining all those who had dissenting views from those of the party or its leadership; and were thus treated as such.

⁶⁸**AFORD Rebels:** included Matembo Nzunda, Mapopa Chipeta, Mervin Moyo and Reverend Banda.

⁶⁹**Open Term:** Constitutional amendment to Section 83:3 (of 1994, 1998) by removing the ‘term limits’

multiparty politics in Malawi, most Members of Parliament have fallen victim of their political parties in most cases for expressing, or acting in a manner deemed unpatriotic to the party and its leadership. For instance, during the Bakili Muluzi's quest to remain in power, several Members of Parliament who did not subscribe to the party's resolutions were expelled. Mpingangira and colleagues were among the first to be expelled from the party as quoted in the media below:

The political fall-out in the ruling United Democratic Front continued to take more toll with its highest governing body - the National Executive Committee - announcing the expulsion of four MPs,⁷⁰ accused of rebelling in the party (PANA, 7th January 2001)

In similarly political manoeuvres, the two factions of the Malawi Congress Party (MCP); that of John Tembo on one hand and Gwanda Chakwamba on the other, were perpetually engaged in both direct and proxy leadership battles as illustrated in the PANA (2001) press reports; before the latter broke ranks to form his own, Republican Party.⁷¹

The Speaker of Parliament Sam Mpasu expelled MCP president Gwanda Chakuamba and the party's treasurer general Heatherwick Ntaba from the 193-member chamber after a recommendation from estranged MCP secretary general Kate Kainja. Kainja, whom Chakuamba's MCP central committee had earlier expelled from the party alongside MCP vice president Tembo and central region MCP chairman Betson Majoni. (PANA, 12th July, 2001)

A host of literature (see Minnie, 2004; Patel, et al., 2003; Chirwa, 2004; 2009; Chinsinga, et al., 2008) suggests that stained and broken relations between Members of Parliament and their political parties could have been a by-product of what both the Roman Catholic Bishops⁷² and the CCAP⁷³

⁷⁰**UDF rebels:** Included, Brown Mpinganjira and his wife, Lizzie, Peter Chupa and Gresham Naura

⁷¹**Republican Party:** Was founded by Gwanda Chakwamba and Stanley Masauli in 2004. In May 2004 General elections, Gwanda Chakwamba was the presidential candidate of about Seven Member parties of the Mgwilizano Coalition Electoral block. He won about 25.7% of the presidential vote and 27 parliamentary seats in the 193 National Assemblies.

⁷²**Catholic Bishops:** In their 2010 Pastoral letter, 'Reading the signs of the times'

observed in their pastoral letters as *“lack of intra-party democracy; lack of consultations by those in leadership; corrupt practices...”* as well as those that were only concerned with the politics of self-gratification.

3.8.3 Relationship between the institution of Parliament and the general public

The [Malawi National] Assembly has often been perceived as being aloof and inconsiderate when it comes to service delivery. The public image of the secretariat is not impressive either as very little of national assembly work is known, except when parliament meets in the chamber. (Malawi Parliament: Communication Strategy, 2009-14)

The purpose of the 2010 to 2015 Parliamentary Strategic Plan (PSP) was *“to take parliament to the people so that the people should own it, question it and contribute to its functions,”* (MNACS, 2009-2014;⁷⁴ MNASP, 2010-2015⁷⁵). While, the Communication Strategy (CS) was designed as a framework for addressing the gap in relationship and communication between parliament and the general public. It can be argued that relationships in general and political ones in particular are dependent on the level of trust between parties. Horgan and Hunt (1994) in quoting Rotter (1967, p.651) said, *“The efficiency, adjustment, and even survival [of relationships] of any social group, depends upon the presence or absence of such trust.”* In the case of relationship between Malawi parliament and the general public, it was reported in the Afro-barometer (round 5 of 2012) survey that about 12% and 19% respondents stated that they had *“little”* or *“no faith at all”* respectively in the Malawi Parliament. Arguably, in population terms, it would represent about 5 million of the 15 Million Malawians with little or no confidence in the Malawi legislature. In comparative terms however, Malawi can be said to be among the few emerging African⁷⁶ democracies

⁷³**CCAP Church:** Nkoma Synod, In their 2012 Pastoral letter, *'Exercising our faith through Prayer, In our time, in our Nation'*

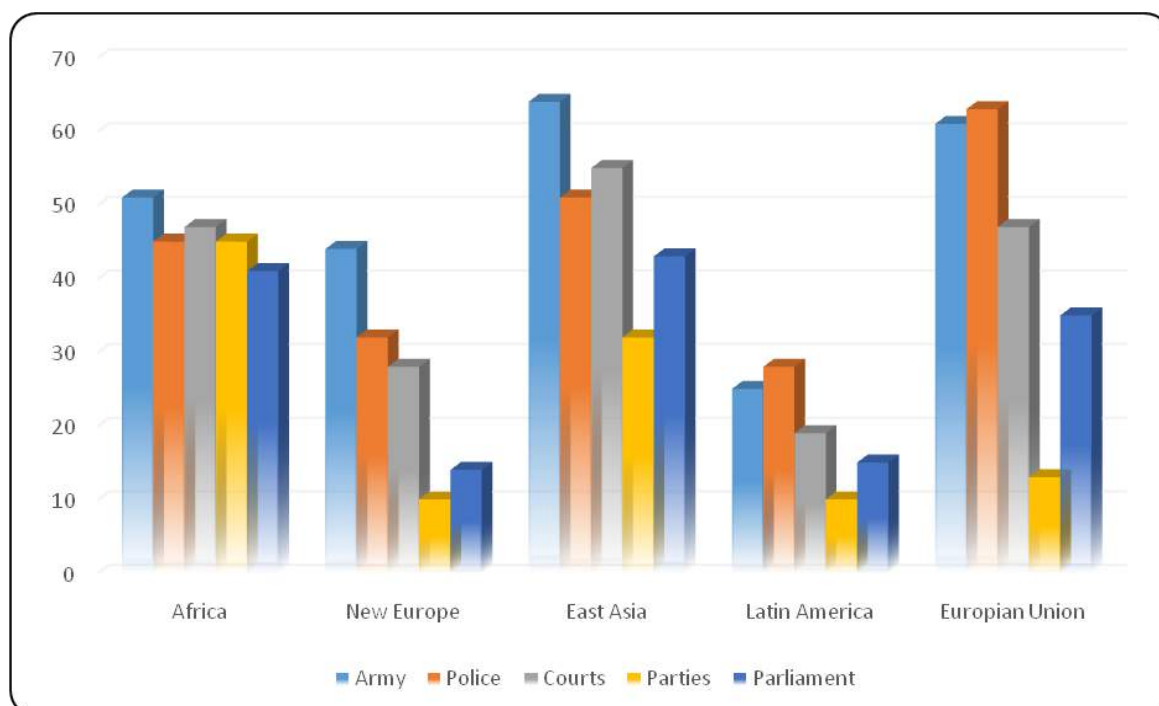
⁷⁴**MNACS,** (2009-2014), Malawi National Assembly Communication Strategy

⁷⁵**MNASP,** (2010-2015), Malawi National Assembly Strategic Plan

⁷⁶**African:** Study included the following, – Botswana, Cape-Verde, Ghana, Kenya, Lesotho, Malawi, Mali, Mozambique, Namibia, Nigeria, Senegal, South Africa, Tanzania, Uganda and Zambia.

whose legislature is still relatively popular in comparison to those in the New Europe⁷⁷ and Latin America⁷⁸ as indicated in Figure 3:7.

Figure 3:7 Public Trust in National Institutions (Regional average)



Source: Rolef, S.H (2006)

It may be equally important to acknowledge that since a return to multiparty politics in Malawi, the relation between the legislature and the general public seems to have been under a considerable strain; arguably orchestrated by four main factors:

- i. MPs floor-crossing without the Speaker of Parliament invoking Section 65(i) of the Constitution by declaring such seats vacant. Lembani, in KSA, (2007) said, *“most politicians favour floor-crossing, thereby betraying the trust of the electorate for the sake of personal interests other than the common good”*

⁷⁷**New Europe:** Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Russia, Slovakia and Slovenia.

⁷⁸**Latin America:** Argentina, Bolivia, Brazil, Chile, Columbia, Costa-Rica, El-Salvador, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela

- ii. Lack of wide consultation and stakeholders' participation in the legislative process. One of the core values of the International Association for Public Participation states as follows: *"participation, seeks out and facilitates the involvement of those potentially affected by or interested in a decision"*⁷⁹
- iii. Inadequate government oversight and representational role of parliament. Milanzi and Hajat, (2008), argued that despite several attempts at reform, the Malawi Parliament continued to face political challenges such as being chronically under-resourced especially in parliamentary committees consequently, severely damaging democracy in general and parliamentary oversight and representational roles in particular. Milanzi and Hajat, (2008, p.2) conclude thus, *"There has been a representation gap between what people of Malawi expect from their Parliament and what exactly happens."*
- iv. The dominance of the executive over the Legislature. Literature (Chinsinga, et al., 2008; Chirwa, et al., Booth, et al., 2006) suggests that there could be a correlation between the configuration of members in parliament and executive influence over the legislature. Thus, the higher the percentage of government members, the higher the executive influence and control over the legislature. For instance, during the DPP's (2005-2009) government, the executive had little or no influence over the legislature arguably because it was in the minority. However, the reverse seemed to be the case during its second term in office (2009-2012) that after winning an overall two thirds majority, parliament was reduced to the executive's policy 'rubber stamping' institution.

⁷⁹Source: International Association for Public Participation, www.iap2.org (retrieved 21/02/2013)

3.9 Political power and accountability

Acton, (1834–1902)⁸⁰ once said, “*Power tends to corrupt and absolute power corrupts absolutely,*” while Chatham (1766-1778)⁸¹ stated that “*unlimited power is apt to corrupt the minds of those who possess it.*” It can be argued from Acton and Chatham’s assertions that any leader (especially political) who accrues absolute or unlimited power may potentially possess the propensity to abuse that authority and power for egotistical gains. Abuse of political power by definition, according to the Centre for Constitutional Rights (CCR, 2006), was the violation of Human Rights as guaranteed by the Universal Declaration of Human Rights. At state-level, abuses of political power can emanate from different institutional structures such as the executive, parliament, army, police, and political party and from individuals with such authority as executive president, ministers, MPs as well as city mayors. Furthermore, abuse of political power can occur at any level within the structures of the political system. Bies and Tripp (1995) in citing Pfeffer (1992, p.134) argue that organisations cannot function without the use of power. However, they contend that the primary concern for any stakeholders in the political system should not be to get rid of any form of political power, but rather, how the abuse of power and the destructive aspects of political activities can be limited. In addition, Schedler, et al., (1999, p.15) suggests that political power should be bound by legal constraints and by the logic of public reasoning. Literature (Chirwa, 2001; Decalo, 1992; Chirambo, 2001) suggests that in Malawi for instance, the periods (1964-1994) under the Malawi Congress Party-(MCP) and the second term of the Democratic Progressive Party-(DPP) during (2009-2012), could have been the most prominent regimes associated with abuse of political power. Correspondingly, the Malawi Parliament during the afore-mentioned periods of regimes was to a greater degree an institution of legitimisation of the executive, (Chinsinga, 2003; Patel and Tostensen, 2006).

⁸⁰Lord Acton, expressed this opinion in a letter to Bishop Mandell Creighton in 1887.

⁸¹William Pitt, the Elder, The Earl of Chatham and British Prime Minister from 1766 to 1778, in a speech to the UK House of Lords in 1770.

3.10 Parliament of Malawi and its members: Politics within

Patel, et al., (2008, p.2) said, “...politicians in Malawi seem to be preoccupied with preserving power, gaining power and preventing others from getting power.” To this end, the Malawi parliament has been the centre of the national political battle field for individuals and political parties to gain political advantage, (Kedzia and Hauser, 2011). For instance, the MCP regime exploited parliament in rubber-stamping legislation through its one party system to legitimise its authority. Furthermore, after a return to political pluralism in 1994, the ruling regimes (UDF and DPP) utilised their numerical advantages in parliament to amend the Malawi constitution and initiate legislation in their favour. Chirwa (2014, p.5) noted that there were more than 205 amendments to the Malawi constitution between 1994 and 2005. In the post-dictatorship era, it was more prevalent in the second term of the DPP government, (2009-2012). A catalogue of bills (as listed in Chapter 5) that were rushed through parliament were immediately assented by the president and made into law. A case in point was one that President Bingu assented to the *Civil Procedure (Amendment) Bill of 2010*, widely known as the *Injunctions Bill* (Malawi Today, 2011), despite claims that the Civil Society⁸² had obtained a court order restraining the President from assenting to the Bill. It can be argued that the aggregate of all the controversial Bills that were rushed through parliament during (2009-2012) the second term of DPP in Parliament, backed by its two-thirds majority caused a lack of confidence in Parliament by the public. Thus, the masses resorted to communicate to government through public demonstrations (direct action) such as the one that claimed about 20 lives; purportedly killed by government forces, according to media reports, (see, BBC, 21st July 2011; *The Guardian*, 21st July 2011; Human Rights Watch, 2012). Arguably, these could be some of the consequences when parliamentary democracy is bleached; where there was lack of political accountability; abuse of political power and when Parliament is used as mere legitimisation institution for the executive.

⁸² Civil Society: According to media reports, *Malawi Today* (14th July 2011), the President overlooked a court injunction restraining him from consenting to the Bill. This may have created a negative impact on the separation of powers among the executive, legislature and the judiciary.

However, institutions of parliament are becoming increasingly more important in providing the legislative, representative and oversight roles. To this end, parliaments can be mirrors of the nature of the state (either democratic, authoritarian or somewhere along the continuum), party systems (either one-party, multiparty, or dominant party), and political culture, (Mohamed, 2005). Mohamed further observes that African legislatures, like other legislatures, are caught between two competing roles as part of the machinery that confers legitimacy on governments as well as a pivotal oversight institutions responsible for scrutinising the activities of governments. In developed democracies, Loewenberg and Patterson (1979, pp. 197-200), classifies the American House of Congress as a standard measure of a representative legislating body and the British House of Commons as a deliberating parliament, with the German Bundestag falling in the middle of the continuum. However, Loewenberg and Patterson (1979) points out that in practice many legislatures do not fit perfectly into any one classification. The same can be said for most parliaments in developing countries, including Malawi. By closely examining Section, (48:1, 2 and 3),⁸³ the constitutional framework places the Malawi parliament towards a legislative body.

3.11 The Politics of Floor-crossing in the Malawi Parliament

The purpose of this section is not to provide a legal argument on floor-crossing (Section 65), but rather to identify gaps in the constitutional framework and its political ramifications for elected members of parliament and the president. In a research conducted by Maganga, (2011, p. v), it was concluded that a combination of factors such as institutional weaknesses of political parties as well as gaps in the constitution contributed significantly to floor crossing in the Malawi Parliament. The three main constitutional dilemmas important to this study are: (1) When an MP on his/her own will declares him or herself independent from the political party that sponsored

⁸³**Sec. 48:1** *All legislative powers of the Republic shall be vested in Parliament which shall have the powers and responsibilities set out in this Constitution.*
Sec. 48:2 *An Act of Parliament shall have primacy over other forms of law, but shall be subject to the Constitution.*

them to parliament (2) When an MP who was elected to parliament as an independent, joins a political party in Parliament (3) When a state president resigns from a political party that ushered him/her into presidency.

The basic principle of floor-crossing as provided for in Sections 65 of the Malawi Constitution is a mechanism that allows the Speaker of Parliament to declare a seat vacant of the elected MP who on his or her volition switches political allegiance other than one that ushered him or her into parliament, (Patel, et al., 2008; Majola, 2007; Chimango, 2012; Lembani, 2007).

The rationale behind this provision as stated by Majola, (2007, p.1) is:

When voters chose candidates for public office, they delegate decision-making on public policy to political parties and to party-identified representatives. Repeated elections give voters the opportunity to hold parties [and individuals] responsible and accountable for policy decisions and outcomes. Thus, it is argued, that it would seem reasonable to expect parliamentarians to stick to the party labels under which they won the election. (Majola, 2007, p.1)

However, the Malawi parliament has seen a surge in MPs switching political parties as well as state president Bingu wa Mutharika leaving UDF (on his volition discussed in Chapter 3:11.2) to form the DPP and continued serving as head of state.

3.11.1 Constitutional and political challenges with Section 65

It is important to mention the two versions of Section 65 between that of 1994 and the amended of 2001 in order to highlight their legality and political impact, (Maganga, 2011, p. 22). The 1994 Malawi Constitution clause was as follows:

(1) The Speaker shall declare vacant the seat of any member of the National Assembly who was, at the time of his or her election, a member of one political party represented in the National Assembly, other than by that member alone but who has voluntarily ceased to be a member of that party and has joined another political party represented in the National Assembly.

The Section 65 of 2001 amended version made a rejoinder to the 1994 clause as follows: “...or has joined any other political party, or association or organisation whose objectives or activities are political in nature.” It should be noted that this amendment was introduced by the UDF government in 2001 as a deterrent to its MPs from leaving the party who did not support President Bakili Muluzi’s attempted bid for third term of office and a subsequent amendment to Section 83(3) of 1994 that limits the incumbent to maximum two consecutive terms, (Lembani, 2007; Maganga, 2011). However, its legal and political implementation was going to be a major challenge because a few MPs that crisscrossed the floor from AFORD and MCP to UDF and vice versa whose seats were declared vacant successfully challenged the Speaker of Parliament and came back through the court of laws on the basis of legality. Moreover, the first wave was going to be nothing compared to the mass exodus of MPs that left their political parties to join President Bingu wa Mutharika in February, 2005 who had also resigned from the UDF (a party that sponsored his presidency) to form his own DPP which at the time had no MPs in Parliament. Although he operated as a minority government between 2005 to 2009 general election, he managed to work with about 44% (n=85) MPs in a 193 member parliament, (Malawi Parliament, 2011). In order to protect his MPs from losing their seats, the president Bingu wa Mutharika used Section 89(h) that empowers the state president to refer disputes of a constitutional nature to the High Court. In this case the interpretation of Section 65 to the Constitutional Court composed of three High Court Judges, Kapanda, Twea and Potani, on the following grounds that:

- i. *Section 65 of the Constitution was inconsistent with Sections 32,33,35 and 40 on freedom of association; freedom of conscience; freedom of expression and protection of fundamental political rights respectively.*
- ii. *A Member of Parliament who at the time of election stood as an independent MP and whilst in the National Assembly decides to join a political party could be deemed to have crossed the floor;*
- iii. *An MP elected on a party ticket decides to resign from that party and becomes independent and later joins another party that has no MP represented in Parliament elected on the party ticket could be deemed to have crossed the floor under Section 65*
- iv. *An opposition MP who accepts a ministerial appointment from a President elected on another party's ticket but does not resign from his or her party crosses the floor or not.*

In passing their judgment, the Constitutional Court judges argued that all the four grounds presented were valid and that the Speaker of Parliament had legal obligation to evoke Section 65. Not satisfied with this ruling, the matter was referred to the Supreme Court of Appeal, '*In the Matter of the Question of the Crossing the Floor by Members of the National Assembly (Presidential Reference Appeal No. 44 of 2006 [2007] MWSC 1, (15 June 2007)*' before five Supreme Court Judges, Justices, Kalaile, Tambala, Mtambo, Unyolo and Tembo. In their judgement, they too upheld the ruling of the Constitutional Court on all matters (MSCA, 2007).⁸⁴ However, the president prorogued Parliament before the speaker could evoke Section 65 towards the 2009 general elections. Although its interpretation may seem to have been put to rest, Section 65 seems to lack political will in the executive and parliament for its implementation as observed by Louis Chimango, former speaker of Malawi Parliament in the following Statement:

⁸⁴ **MSCA:** Malawi Supreme Court of Appeal

For this law to be respected and implemented in an impartial and open manner, it is essential that the National Assembly is guaranteed its autonomy. This includes autonomy over its sessions, and hence removing or limiting the presidential prerogative to prologue Parliament, and the autonomy of the office of the Speaker. (Chimango, 2012)

3.11.2 What happens when the state president voluntarily resigns from the party that ushered him into presidency?

The quick and perhaps a theoretical answer to this question would be Section 86: 1, 2 (a-e) that allows Parliament for impeachment of the president and the vice president by two thirds majority vote. In part, it states as follows:

1. *The President or First Vice-President shall be removed from office where the President or First Vice-President, as the case may be, has been indicted and convicted by impeachment.*
2. *The procedure for impeachment shall be as laid down by the Standing Orders of Parliament, provided that they are in full accord with the principles of natural justice*
3. *Indictment on impeachment shall require the affirmative vote of two-thirds of the members of the National Assembly in a committee of the whole house*

When President Bingu wa Mutharika resigned (discussed, Chapter 3:11.2) from the UDF in 2005, a party that ushered him into presidency in the 2004 general election to form his DPP, the UDF as a party and the electorates must have felt 'cheated' by the president whose ruling mandate was based on the fact that he was directly elected to the office by the populace in accordance with Section 80: (1-7); in (2) it states that *"the President shall be elected by a majority of the electorate through direct, universal and equal suffrage,"* (Kayuni and Tambulasi, 2011). The implications of this section were three-folds:

- Once elected into office in the first-past-the-post (FPTP), the president no longer drew his/her governing legitimacy from the party, but rather directly from the electorate.
- The UDF as a party had limited options to sanction the president other than by impeachment whose systems and structure were inadequate to secure a conviction.
- That they would need the support of other opposition MPs to secure a two thirds majority vote as required by the constitution which was not going to be easy to achieve considering that other members had already forged working alliances with the new government thereby reducing the opposition vote.

The failure by parliament to successfully implement Section 65 on MPs crossing the floor and Section 86: 1, 2 (a-e) impeachment of state president are a clear indications of the Constitutional as well as institutional weaknesses in providing both vertical and horizontal accountability including sanctions, (IPU, 2008). However, these two occasions have succeeded in highlighting constitutional and procedural deficiencies within the Malawi parliamentary system, (MLC, 2006).⁸⁵

3.12 Governance pillars of governmental accountability

“Accountability breeds response-ability.” (Covey, S.R., 1932-2012)⁸⁶

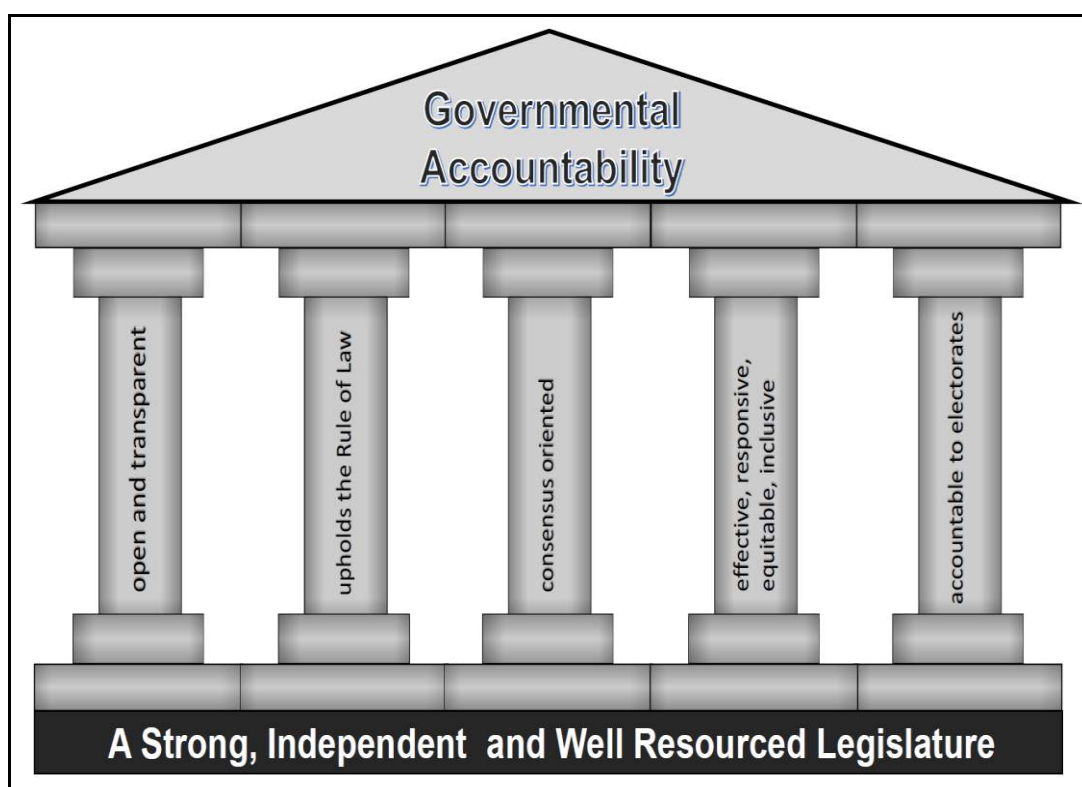
While it is acknowledged that a democratic parliament plays an important role in providing both vertical and horizontal accountability, Figure 3:8 helps to illustrate that the scientific measurements of democratic and good governance is measured by common denominators viewed as pillars of governmental and institutional accountability variables, (Rothstein, 2012;

⁸⁵ **MLC:** Malawi Law Commission

⁸⁶ **Covey** in Walsh, (2009, p. 1)

Charron, et al., 2010). Charron and colleagues contends that once these variables have been sign-posted, the next level would be to assign benchmarks against which, the quality of democracy and governance would be measured. For instance, it is assumed that a democratic, independent and adequately resourced parliament would effectively provide governmental accountability if it was open and transparent; one that upholds the rule of law; it is consensus oriented; effective, responsive and inclusive as well as one that provides vertical accountability to its electorates.

Figure 3:8 Role of Parliament in Governmental Accountability



Source: Adapted from UNESCAP, (2013)

Casini (2006)⁸⁷ observed, *“The paradox of our times is that we hail the victory of democracy while lamenting the fact that in many countries parliament - the central institution of democracy [and good governance]⁸⁸ - is facing a crisis of legitimacy.”* The central argument in this thesis is that while

⁸⁷Casini, P.F., (2006), Pier Ferdinando Casini was the 'President of the Inter-Parliamentary Union'

⁸⁸[...] Inserted words by the Researcher

parliament had been constitutionally mandated [Malawi Constitution, Chapter 6:48(1)] as the sole body of enacting legislation in addition to its other functionalities of representation and oversight, it might not have been sufficiently able to exercise its core values in upholding governance pillars of vertical and horizontal accountability, (Stapenhurst, 2007). These values would entail that government institutions and public servants (appointed or elected) embraced the principles of good governance such as transparency, consensus orientation, participatory, efficiency as well as adhering to the rule of law, (Klein, et al., 2011). Therefore, in the absence of these values, the Malawi Parliament remained a vulnerable institution to the overbearing of the executive branch on its systems and structures, thus failing to meet its institutional obligations of effective legislation, government-oversight as well as adequate representation of its constituents. An analysis of some of the pillars is discussed in turns:

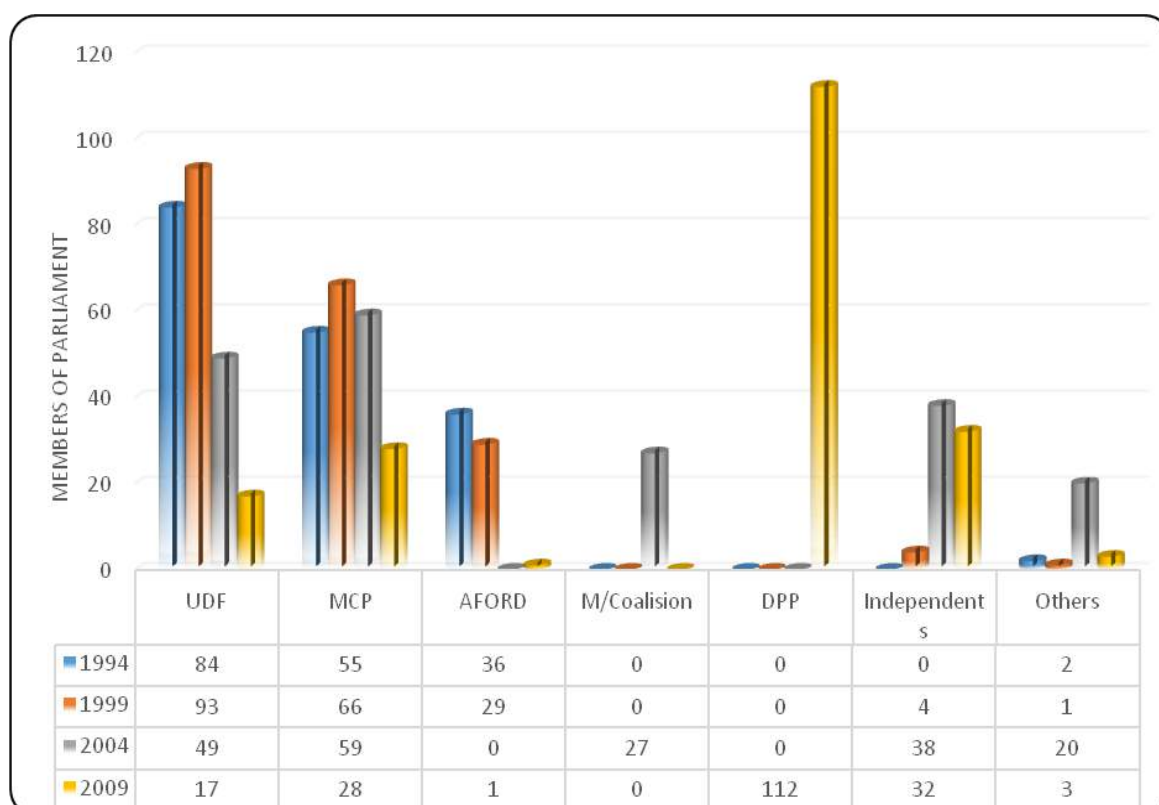
3.12.1 Accountability of Parliament and MPs

According to Agere (2000), accountability is holding responsible elected or appointed individuals and organisations charged with a public mandate to account for specific actions, activities or decisions to the public from whom they drive their authority. Smith (2007 p.21) argues that political accountability means punishing elected members for making wrong decisions, even when made within the law, by voting them out of office at the earliest opportunity because of their policy errors. Thus, it can be further argued that the losses and gains of Malawian political parties for their elected Members of Parliament since the return to political pluralism could be reflections of Smith's (2007, pp.21-22) assumption. The diagram (Figure 12) illustrates how UDF, AFORD and MCP had suffered losses in the National Assembly between the 1994 and 2009 parliamentary elections. It also illustrates how DPP (a newly founded political party) gained representation in Parliament from zero at the time of formation in 2004 to 112 MPs after the 2009 elections. Furthermore, the UDF dropped from 93 members in the 1999 elections to 17 in the 2009, a total loss of 76 members, representing a

decline of 81.7%. AFORD dropped from 36 members in 1994 to a single member in the 2009 elections, representing an almost 100% decline, while MCP lost 38 members, representing a 54.5% decline between the 1999 and 2009 elections. Thus, it had been observed by most scholars that these political dynamics both within and without parliament were partly attributed to lack of accountability by both Parliament as an institution and its elected membership. For instance, Chirwa, et al (2007, p.72) raised concerns over the conduct of parliament. They cite the controversial one year suspension of Gwanda Chakwamba (leader of opposition) from parliament in July of 2000 that seemed contrary to Standing Order 103 (p. 3);⁸⁹ furthermore, that MPs flouted Section 65:1, 2 (crossing the floor) of the Constitution of Malawi, (Lembani, 2007) with Parliament seemingly showing ‘partiality’ in the invocation of the said section. In the (2004-2009) parliament, Tembo J.Z.U., (leader of Opposition) was synonymous with the slogan of “*Section 65, nambala-wani; Budget, nambala-thu,*” meaning: Section 65 comes first before the National Budget in Parliament (Malawi Voices, 2012). However, Hussein (2009) states that democratic governance is promoted by a credible opposition that effectively acts as an alternative government. Furthermore, it was revealed in the survey conducted by Mthinda, and Khaila, (2006, p.6) that about 74% of respondents in Malawi indicated that their elected leaders needed to be more accountable to their electorates. In Figure 3:9, it helps in illustrating the losses and gains of Membership in the Malawi Parliament between 1994 and 2009 parliamentary elections.

⁸⁹**Standing order (103:3)** The House by resolution may suspend from the House a member for conduct, which grossly undermines the dignity and integrity of the House for a period of not exceeding 30 sitting days.

Figure 3:9 Parliamentary Representative by Party (National) 1994-2009



Sources: African Election Database and Malawi Electoral Commission

3.12.2 An open and transparent Parliament

Only through transparency and accountability can parliament, as one of the institutional pillars of democratic governance ensure that the operations of the state and the government are responsive and accountable to the people's needs and expectations. (Prasojo, 2009, p.12)

It can be argued from Prasojo's quote that there was urgent need for public institutions such as parliament to commit to transparency as a reflection of their competence in delivering on their mandate. Furthermore, Agere (2000, p.131-132) stresses, that there ought to be a clear and effective interactive structures and systems between the executive and the legislature on one hand and the legislature and the public on the other hand. Loewenberg and

Patterson (1979, p.43), in quoting Mill⁹⁰ and Bagehot⁹¹, state that parliament is a medium of communication between the people and their government and, as an institution, making government responsive to the people who in turn were expected to comply with the decisions of government. It therefore follows that in the absence of transparency, this symbiosis may be unattainable. Furthermore, Hyden (1998, p.51) argues that it was the responsibility of government to initiate transparency within its institutions because *“the policy of government is public policy.”* Thus, public policies ought to be devised, deliberated, adopted, announced, and enforced in the open to encourage institutional openness. In an attempt to achieve this objective, the Malawi Parliament is in its second phase of the *Malawi National Assembly: Strategic Plan, (2010-2015)*, its predecessor run from 2006 to 2009. Its primary objective is to *“bring parliament to the people and the people to parliament;”* as also provided for by the *Freedom of Information Act*, Article 37 of 1994 Constitution, promulgated, (1995)⁹²

3.12.3 Parliament that upholds the Rule of Law

For as in absolute governments the king is law, so in free countries the law ought to be king; and there ought to be no other. (Lord Bingham, 2007, p.69 in citing Tomas Paine)⁹³

According to the United Nations Security Council, the ‘rule of law’ refers to *“principles of governance”* that were determined by the supremacy of the law; that all people were equal before the law; laws that were consistent with the norms of international standards as well as had measures of adherence. It can thus be argued that the application of the rule of law ought to be holistic in approach to its quality, quantity and implementation such as defined by the UN.

⁹⁰Mill, 1910:239-240

⁹¹Bagehot, 1966: Chapter 4

⁹²Malawi Constitution (Article 37 of 1994): Subject to any Act of Parliament, every person shall have the right of access to all information held by the State or any of its organs at any level of government in so far as such information is required for the exercise of his rights.

⁹³Thomas Paine, (1776): English-American political theorist and activist, author, revolutionary

*...requires, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.*⁹⁴ (UN-S/2004/616)

According to Bingham (2007), the rule of law should mean that all persons and authorities within the state, whether public or private, are bound by and entitled to the benefits of the laws publicly made and publicly administered in the Courts. The UN definition implies that no individual or institution should be above or below the law. Arguably, as Agere (2000, p.95) put it, the respect of the rule of law in the country would be assumed that the popular notion of the separation of power would also be put into practice. Thus, a predictable legal environment, with an objective, reliable and independent judiciary would emerge (see Ferejohn, 1998). To this end, parliament has a duty to create a legislated environment in order to ensure that the rule of law and constitutionalism continue to reign supreme among its citizenry. It can be further argued that in the case of Malawi, the ruling regimes when in the majority used parliament to legalise their legitimacy through legislation (see Schmitt, et al., 1997). For instance, as Nkhata (2007, p. 5) observed that during the MCP One-party State (1964-1994) President Kamuzu Banda used the party conventions to endorse his proposals that would be passed on to Cabinet for adoption before being passed by an all MCP parliament. It was through this process that made him president for life. Ultimately, the 'spirit of constitutionalism' during this period was virtually dysfunctional. However, although, a return to political pluralism in 1994 may have resuscitated the state of constitutionalism and rule of law, it might have not gone far enough in consolidating it. For instance, Patel, et al., (2008), and Nkhata (2007) suggest that the constitutional amendments by the incumbent governments to the 1995 constitution may have compromised its consistency at least in part. A case in point: The Constitutional Amendment Act No. 8 of

⁹⁴ United Nations Security Council: The rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary General: S/2004/616 [on line] from <http://www.un.org/Docs/sc/sgrep04.html>, (Retrieved on 12th December 2011)

2001(Section 65- Crossing the floor) created a constitutional crisis in Attorney General and Speaker of Parliament versus Public Affairs Committee and others (Civil Cause No. 1861 of 2003). The Attorney General lost when Justice A.C. Chipeta ruled that the additional part to the original section⁹⁵ “...or has joined any other political party, or association or organisation whose objectives are political in nature,” was unconstitutional because it infringed on other constitutional basic rights of freedoms of assembly and association. It was therefore declared invalid (see, Patel, et al., (2008, p. 26-27). In addition, the fact-finding-mission of the *International Bar Association Human Rights Institute* (IBAHRI) in August of 2012,⁹⁶ reported that the key institutions tasked with the promotion of the rule of law (Police, Director of Public Prosecution (DPP); Anti-corruption Bureau; Electoral Commission) were not independent enough of the executive to carry out their mandated effectively as well as professionally.

3.12.4 Consensus oriented Parliament: Citizen-centric

From the researcher’s own lived experience as a legislator, consensus in Malawi Parliament (like any other legislature) was largely an orientation of voting according to party caucus. It was always argued and also confirmed by this study that often times with little or no consultations between parliament (legislators) and the constituents, (see CCFJP, 2009). The reality that the majority rules; for Malawi it seemed to transcend all logical argument and rational thought process. Saxena (2005) argued that consensus orientation governance not only developed a citizen-centric government but also development endeavours that were close to peoples’ needs. It may be logical to argue that consensus orientation was intrinsically intertwined with participation. Furthermore, Kim, et al., (2005, p. 650) said, “*The institutionalisation of participation by all people is a cornerstone of good*

⁹⁵Original Section Read as Follows: *The Speaker shall declare vacant the seat of any member of the National Assembly who was, at the time of his or her election, a member of one political party represented in the National Assembly, other than by that member alone, but who has voluntarily ceased to be a member of that party or has joined another party represented in the National Assembly,*

⁹⁶IBAHRI, (2012), The fact finding mission in Malawi by legal experts was conducted from 8–14 January 2012.

governance.” In citing the UN undersecretary-general José Ocampo; Kim and colleagues pointed out that “*participatory governance provided citizens with access not only to information, but also to decision-making power.*” In the democratic context, consensus may refer to gaining popular support from ordinary citizens without the use of deception. As argued by Chirambo, (2009) winning elections only gives the leaders the mandate to form government. However, Chirambo (2009, p.79) says, “*It does not automatically translate into legitimacy and popular support among the majority of the people.*” Thus, as observed by Rothstein, (2009, p.311), legitimacy can be created, maintained or destroyed at the output side of the political system. This phenomenon becomes particularly significant in the cycle of representative democracy that elected leaders and government ought to be subject to free and fair elections from time to time as well as creating a legal framework for a maximum term of office as one form of legitimacy measurement. In addition, consensus may also mean, taking into consideration the interests of rights of minority groups because for Bechler (2010), the politics of *winner-takes-all, dog-eat-dog* has no place in contemporary democracies. In her opinion about the formation of the UK Coalition Government after the 2010 elections, Bechler⁹⁷ (2010) said,

We want politicians willing to work with people who have different interests from themselves, and who get the point that they ought to be accountable to others...we want open discussion and robust decision-making that takes in a range of options we can keep our eyes and ears on. We want people who answer to our criticisms face to face. We want people who ask us what we think much more often. (Bechler, 2010)

In other words, good governance for Bechler, (2010) is about open discussion, robust decision-making, accountability, taking in a range of opinions as well as consultations from a cross section of society. Therefore, the phenomenon of consensus building in a multi-party,⁹⁸ multi-religion,⁹⁹

⁹⁷ Rosemary Bechler was a Contributing Editor for Open Democracy

⁹⁸There are estimated 46 Registered political parties in Malawi (2013 est.) according to Malawi Voice [on line] from <http://www.malawivoice.com-democracy-10456/>, (retrieved 06/08/2013)

multi-ethnic and cultural¹⁰⁰ society such as Malawi would arguably be important for socio-political stability. Electoral results from 1994 for instance, seemed to be on *Identity Based Motivation*¹⁰¹ (Ferree and Horowitz, 2007, p.3) much more than policy or party ideology. Ethnicity and religious inclinations seemed to have played significant roles in the presidential results of 1994, 1999, and 2004 elections as observed by Katipen, (1997, p.159) and Thorold (2000). In each case, political parties seemed to entrench their positions based on their presidential candidates. For instance, AFORD had its stronghold in the Northern Part of Malawi where its leader Chakufwa Chihana originated. The same was the case for the Malawi Congress Party in the Central region with its leaders Kamuzu Banda and JZU Tembo as well as The United Democratic Front in the South with its leader Bakili Muluzi. Consequently, as argued by Ferree and Horowitz's (2010, p.535), ethnic demographics hypothesis census-style block voting "*predetermine outcomes, creating permanent winners and losers and jeopardising the long-term viability of the democratic process.*" However, the trend was seemingly overcome in the 2009 elections. In which, the DPP secured both presidential and parliamentary votes across regional, ethnic and religious divides (contributing factors as discussed in subsequent chapters); for now, suffice to state that a combination of a weak opposition and government's potential to deliver on its promises may have been major contributors towards a unified vote.

3.12.5 An effective Responsive, Equitable and Inclusive Parliament

The main tenets of good governance includes good public sector management, absence of fraud and corruption, decentralisation, justice and the rule of law, security, good corporate governance as well as respect for the rule of law. (Banda, H.F.C. -2010)

⁹⁹ Protestant 55%, Roman Catholic 20%, Muslim 20%, 5% for indigenous beliefs

¹⁰⁰The Main ethnic groups may including the following; Chewa, Nyanja, Yao, Tumbuka, Lomwe, Sena, Tonga, Ngoni, Ngonde, Asian and European

¹⁰¹The so-called '*Wakwitu Syndrome*' among the Tumbuka of Northern region of Malawi. It also seemed localised across all ethnic groups in Malawi.

Arguably, it may not be an easy linear equation in the measurement of the effectiveness of a legislature; one that was responsive, equitable and inclusive. However, there are many indicators towards achieving such an objective. These may include but not be limited to the independence of the legislature by holding the executive to account, (Djietror, 2013); the independence of the speaker; the functions of the parliamentary committees, (Hudson 2006), the capacity of parliamentary staff and the available resources; the rigour of question time and general debate as well as the budgetary support systems, (Bowers-Krishnan, 2013). It was observed that one of the major challenges that the Malawi Parliament had experienced since independence was lack of autonomy and accessibility to stakeholders. During the MCP regime, parliament was an alien institution to most Malawian, (Kanyama, 1982). Even after a return to political pluralism in 1994, parliament was detached from its constituents by enacting laws that were inconsistent with the wishes of the citizenry with either minimal or no consultations. This may have been contrary to the general universal parliamentary practices as recommended by Inter-Parliamentary Union (2010), that a democratic parliament was one that reflected the social diversity of its population in terms of gender, language, religion, ethnicity, or other politically significant characteristics. It can be further argued that a more inclusive parliament strengthens democracy, promotes integration within society and thus, preventing potential conflict, and enhancing good governance, (Gaventa, 2004.a, pp. 25-41).

3.13 Political accountability within and without the Legislature

Accountability as a variable of governance is discussed in subsequent sections. For now, the discourse is confined to political accountability. According to Smith (2007, pp. 21-22), the concept of political accountability should not only mean keeping public officials within the law but also 'punishing' those that are elected for making the wrong decisions even when made within the law, (Kameme, 2011). It should also mean voting them out of office at the earliest opportunity because of their policy errors, failure to act

or broken promises. Developed democracies seem to be leading the way in that direction. For instance, in 2004, according to *The New York Times*, (7th April, 2004) the Lithuanian Parliament removed President Rolandas Paksas from office by impeachment.¹⁰² Prime Minister Tony Blair was compelled by his political party to resign and pave way for Gordon Brown according to *BBC Report* (16th May, 2004)

Labour's own canvassing returns from around the country suggest the prime minister had become an 'electoral liability'. The paper quotes an opinion poll, which suggests 46% of people believe Mr Blair should stand down before the next election. (Hill, 2004)

Similarly, Yukio Hatoyama stood down for Naoto Kan and Kevin Rudd for Julia Gillard in Japan and Australia respectively. This phenomenon was a rare occurrence (if any) in developing countries especially in the sub-Sahara Africa. However, as observed by Khouri (2011), the overthrow of president Zein el-Abidine Ben Ali in Tunisia by the ordinary citizenry may be a grim reality of the significance of political accountability both inside and outside of the legislature. Adversely, in the absence of political accountability, there could be a high propensity towards abuse of political power.

3.14 Significance of parliamentary democracy to the process of democratisation

The Universal Declaration of Human Rights (UN, 1948), clearly projects the concept of democracy by stating, "*The will of the people shall be the basis of the authority of government.*" This trajectory however poses two challenges to parliamentary democracy, which was based on the theory of representation that strikes a balance between *the will of the people* and *the authority of Government*. Loewenberg and Patterson (1979, p.111) argue that it was impossible to mirror the diversity of millions of inhabitants in the composition of institutions having only hundreds of members

¹⁰²Impeachment of Lithuanian President Rolandas Paksas in less than 14 months after he took office was accused of violating his oath and the Lithuanian Constitution through his dealings with a Lithuanian-Russian businessman suspected of links to Russian organised crime.

(representatives). Furthermore, Smith (1996, pp.349-51) argues that parliamentary politics only helps to institutionalise democracy. In quoting Huntington (1965, p.407), Smith (1996, p.350), observes that such a phenomenon had led to '*institutional decay*' in many developing democracies.

A case in point for Malawi, between 2004 and 2008 the opposition members of parliament were a majority in the National Assembly. During this period many government bills including the National Budgets were rejected by the opposition not on merit but because they had the means to do so as reported by IRIN (2007).

President Bingu wa Mutharika has spent almost three conflict-ridden years in power, at the centre of a tense standoff with the opposition that has stalled the functioning of Malawi's parliament and delayed the approval of bills. (IRIN, 2007).

Similarly, between 2009 and 2014 the Government in power had a comfortable majority in parliament. Consequently, it adopted the dictatorship of the majority, style of governance as stated by Escamilla (2008) in quoting John Stuart Mill.¹⁰³ In this case, one would argue against the justification that Parliament was acting on the will of the people or that Government's authority was based on the mandate given by the will of the people. To put it in Dahl's (1970, p.1) words as cited by Maravall (1996), "*A key characteristic of a [representative]¹⁰⁴ democracy is the continuing responsiveness of the government to the preferences of its citizens.*" Arguably, in a representative democracy, one way of achieving this objective was through a robust parliamentary democracy, [Fish, M.S., (1996), '*Stronger Legislatures, Stronger Democracies*']. It can be contested further that a lack parliamentary democracy may be recipe for lack of political accountability.

¹⁰³ John Stuart Mill (20 May 1806 – 8 May 1873) was a British philosopher and civil servant. An influential contributor to social theory, political theory, and political economy, his conception of liberty justified the freedom of the individual in opposition to unlimited state control

¹⁰⁴[...] insertion is researcher's own word

3.15 Legitimacy and political leadership

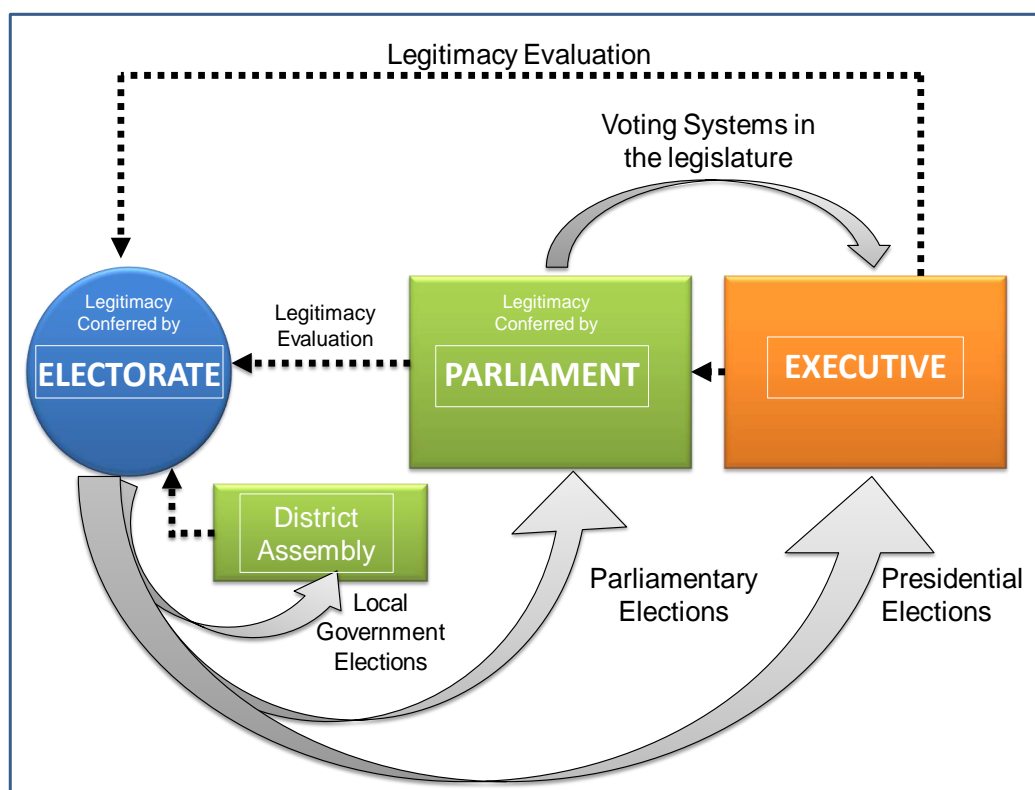
Ouziel (2009) in quoting Sternberger (1968, p.244) argues that legitimacy as a foundation of governmental power exercised both with a consciousness on the government's part that it had a right to govern and with some recognition by the governed of that right, may in itself not be enough. However, legitimacy involves accountability and the capacity of a political system to engender and maintain the belief that existing political institutions were the most appropriate for the society, (Lipset, 1983, p.64). It is noted that Ouziel and Lipset's argument does not go far enough in recognising the legitimacy of the processes that create an environment in the legitimisation of political institutions and systems as well as mechanisms for such institutions and systems to lose their legitimacy depending on performance. For instance, in an electoral or voting system, transparency and accountability must be ensured before legitimacy can be conferred on such outcomes. Baber (1984, p.136), argues, "*The authority of government to govern must be earned from the public, by deliberation and public judgement.*" In this way, it can be further argued that politicians emerge not simply legitimised but also transformed by the process to which they had been subjected. Gross (1992)¹⁰⁵, states that government loses its claim to legitimacy when it fails to fulfil its obligations. By implication, Gross states that legitimacy that translates to governments' exercise of authority was not only gained at an election but rather a continuous process of legitimisation and performance feedback as illustrated in Figure 3:10 below.

It may be important to underscore that while the electorate and Parliament (Figure 3:10) have the constitutional mandate to confer legitimacy by electing official into office and legislation respectively, it may be equally important for the elected officials to be constantly evaluating their legitimacy by checking on performance feedback. Suchman (1995), argues that evaluating legitimacy may help individuals as well as institutions in the pursuit of continuity and credibility. In Malawi, the constituents directly elect the State

¹⁰⁵Mr. Gross has been a member of the faculty of The New School for Social Research and an Adjunct Associate Professor of Social Science at New York University.

President; Members of Parliament and Local Government Councillors. Thus, the pursuit of continuity and credibility was dependant on 'continuous approval by electorates'.¹⁰⁶

Figure 3:10 Legitimacy, Vertical Horizontal Accountability Cycle



Source: Researcher, (2012)

Furthermore, the Malawi Parliament has a constitutional provision and procedures of impeaching (Section, 86:1, 2, a-e)¹⁰⁷ the State President as it sees it fit. It may also be important to note that the functional roles of legislatures and their members was increasingly becoming more effective in most developing democracies by holding the executive to account for

¹⁰⁶ **Continuous Approval by electorate:** which is why the Constitutional framework provides in Section 65 that an MP crossing the floor must seek a fresh mandate though a fresh lection

¹⁰⁷ **Impeachment: Sec.(86:1,2, a-e)**[Constitution of Malawi]

1. The President or First Vice-President shall be removed from office where the President or First Vice-President, as the case may be, has been indicted and convicted by impeachment. The procedure for impeachment shall be as laid down by the Standing Orders of Parliament, provided that they are in full accord with the principles of natural justice.

expenditure of funds as approved by the House to ensure transparency and accountability. In representation, MPs were a bridge between the electorate and the government. Hence, they relay issues facing voters to the government for consideration, and press for action. On the other hand, MPs are expected to communicate to the public government development agenda and policies to address voters' concerns. In the final analysis, legitimacy in relation to democracy occurs when decisions reflected the will of the majority, while protecting the rights and interests of minorities (Dilworth, 2006). Gilley (2006) also states that all citizens in a state are the relevant subjects of legitimacy. In other words, legitimacy should not be self-claimed but conferred. Furthermore, Zurn (2004, p.260) argues that most international organisation such as the UN and WTO acknowledged: *"democratic deficits include the lack of identifiable decision-makers who are directly accountable for wrong decisions made at the international level."* In Zurn's submission, there is a strong triangulated link between legitimacy, democratic governance and accountability (Bingham, 2007).

3.16 Governmental Accountability and Good Governance

In the late 1980s, the concept of governance emerged as a front runner of the donor's aid packages to recipient nations and organisations as also observed by Doornbos (2001, p.93) in the following citation.

'good governance' has served as a general guiding principle for donor agencies in demanding adherence from recipient governments to proper administrative processes in the handling of development assistance and expecting them to put in place efficient policy instruments towards that end. (Doornbos, 2001, p.93)

In order to measure performance in governance, eight main indicators (variables) in accountability, transparency, responsiveness, participation, fairness and inclusiveness, effectiveness and efficiency, following the rule of law, and consensus oriented (UN-ESCAP, 2013). These were identified as determinants of either good or bad governance as extensively analysed by

governance theorists (see, Doornbos, 2001; Nanda, 2005; Weiss, 2000; Landman, 2003; Bovaird and Löffler, 2003). In achieving the high levels in all the eight indicators, Ageres' (2000) argues that good governance becomes the highest state of development and management of a nation's affairs.

Santiso (2001) states that although the concept of good governance was increasingly being used, its contours remained uncertain. Bingham, et al., (2005, p. 144), also observed that, *"There has been quite some theoretical and conceptual confusion [in the definition and usage of governance],"*¹⁰⁸ despite its huge scholarly interest as a subject of research as well as its rhetoric usage. However, the 'good-governance' rhetoric began to resonate as the major variable in the democratisation project in the early 1990s when it became almost apparent that democracy was failing due to bad-governance and rampant corruption in the post independent era, (Adetula, 2011; Swyngedouw, 2005; Kersbergen, 2004; Santiso, 2001; Leftwich, 1993).

The conceptualisation of good governance by the UN and World Bank, is one that demands a high level of both vertical and horizontal accountability. The UN focuses on the management of nations' affairs, (UN-ESC,¹⁰⁹ 2006):

GOVERNANCE is the exercise of political, economic and administrative authority to manage a nation's affairs. It is the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights and obligations, and mediate their differences. (UN)

The World Bank places emphasis on the management of the nations' resources, (WB-SD,¹¹⁰ 2013):

¹⁰⁸Words in *[brackets]* are Researchers'

¹⁰⁹ **UN-ESC:** United Nations Economic and Social Council

¹¹⁰ **WB-SD:** World Bank Social Development

GOVERNANCE is ... the traditions and institutions by which authority in a country is exercised for the common good. This includes (i) the process by which those in authority are selected, monitored and replaced, (ii) the capacity of the government to effectively manage its resources and implement sound policies, and (iii) the respect of citizens and the state for the institutions that govern economic and social interactions among them. (World Bank)

Therefore, for purposes of this study, the concept of good governance ought to be one that incorporates both the management of political affairs as well as national resources by those elected or appointed in the public service.

The UN and its agencies emphasises the concept of governance on the management of the nation's affairs, which, according to Smith (2007, p.4), are policies designed for sustainable human development. For instance, governments that were democratic, decentralised, empowering, and accountable as well as had properly functioning legislatures, legal and judicial systems to protect the rule of law and human rights including the electoral structures and systems. Athorbei, (2011)¹¹¹ states that the donor community are interested in the economic and social resources management, the capacity of government to formulate sound policies and perform their functions effectively, efficiently, and equitably. However, both UN and its agencies as well as the World Bank suggests that governance is a means through which countries' economic and social resources were managed and political, social and economic power were distributed (Santiso, 2001).

Although Africa, like the rest of the world may still be grappling with the contextualisation of the concept of governance, Jabeen (2007) suggests:

¹¹¹ Athorbei, DD, (2011), Is the Minister, of Finance and Economic Planning in the Government of Southern Sudan

It is important that the concept of good governance is understood in the context of each country and region to find indigenous and pragmatic solutions to its unique problems of governance within the framework of universally accepted values, [accountability and possible sanctions]¹¹² (Jabeen, 2007, p.2).

3.17 Conclusion

This chapter has endeavoured to analyse empirical data from relevant literature in the Malawi parliamentary democracy focusing on vertical and horizontal accountability as conduits of good governance. It has been argued that an effective and democratic legislature is one that observes and enforces the pillars of governmental and institutional accountability such as ensuring that the Government and its agencies were transparent, upholding the rule of law; consensus oriented; responsive, equitable and inclusive as well as created a conducive environment in which the citizenry would take an active participatory role. Furthermore, lack of political will from the executive branch of government has not assisted in strengthening parliamentary structures and systems as well as continued executive dominance have been responsible for the aggregate dismal parliamentary performance in the last two decades in Malawi.

¹¹² [-] Words in brackets are author's

CHAPTER: FOUR

Methodological Framework

4.0 Introduction

Chapter Four provides the methodological framework used in the process of this research. Included, is a research design, approaches used in data collection, authentication, triangulation, analysis as well as statements on how collected data was interpreted as well as results presentation. The overall methodological framework of the study is based on qualitative research combined with quantitative methods as a means of diversifying data collection approaches in achieving multiple data evidence in a case study. The design adapted the suggestion advanced by Creswell (2003) that in a mixed method of research the type of strategy depends on the relative weight given by the qualitative or quantitative research in the study. In this case, relative weight was given to qualitative data collection. Notwithstanding quantitative approaches whose objective was to discover universal social laws and test theories that explained casual relationships (Boeree, 2006).

4.1 Design Objectives

They were three main objectives of the design for this study. Firstly was to demonstrate the methods used in addressing the research questions. Secondly, the design was used as a trajectory through which facts in terms of qualitative and quantitative data were methodically collected and analysed in order to test the hypotheses. Thirdly, it was used as a foundation on which a comprehensive thesis was to be built as argued by Thomas (2005) in citing Geddes's (2003) *"the questions, cases, evidence, and approach one chooses in carrying out one's research affect the answers one gets."* One can therefore deduce from Geddes' point of view that the outcome of the research was determined by its design.

4.2 Research Overview

The rationale behind using a mixed method of research, thus a qualitative and quantitative methodological technique was to maximise the usage in both data collection and analysis. Johnson, and Onwuegbuzie (2004, p.17) argue that mixed method research, offers a “*logical and practical alternative*” to ‘puritan’ methodologies of either qualitative or quantitative. In social and political science research, numerical and non-numerical representations were more often than not complementary to each other (Bryman, et al., 1994); as observed by Freedman (2008) no particular set of research methods are universally best. In this case, a combination of both was employed to improve on the quality as well as quantity of data. Furthermore, Trochim and Donnelly (2007) argue that the use of mixed method is to achieve the advantages of each method while mitigating their weaknesses. With the use of qualitative approach, the research applied a deductive reasoning approach that attempts to work from general to more specific assumptions and that conclusions follow logically from premises and available facts. Creswell (2003) quoting (Strauss and Carbin, 1990; 1998), states that this process involves multiple stages of data collection, refinement and interrelationships of categories of information in terms of either their similarities or differences. In a quantitative approach, the research aims at collecting and analysing numerical data. However as observed by Trochim and Donnelly (2007, p.52), “*All quantitative data is based on qualitative judgement*” because numbers in and of themselves cannot be interpreted without understanding their underlying assumptions. To this end, there was interpretation of the meanings of social phenomena embedded in the research theme ‘*The vertical and horizontal accountability in the Malawi parliamentary democracy.*’

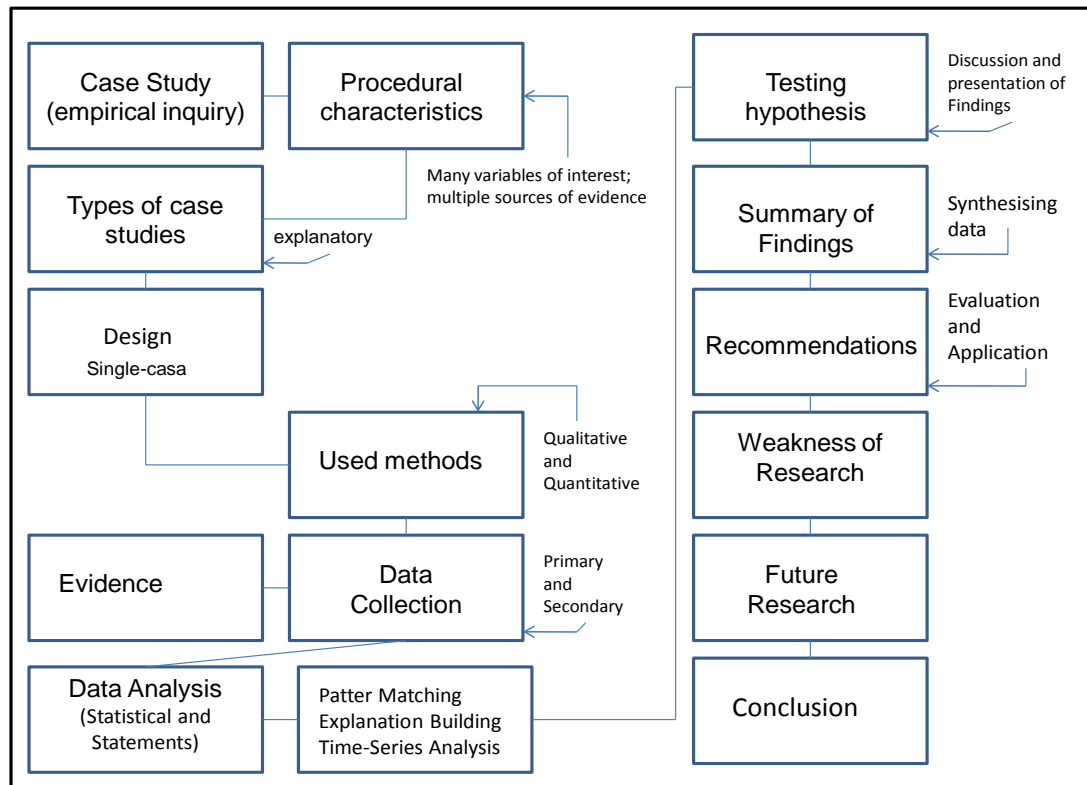
In order to achieve the research objectives, various methods were used in data collection such as interviews, focus groups, questionnaires and observations, archives, on-line data, press and print media sources. Strauss (1987) acknowledges that published documents of all kinds and private documents such as letters and diaries provide a useful source of qualitative

data for social research. Therefore, any such kind of resource that were relevant to the research project were also used.

4.3 A trajectory of the Research

The scientific method of explaining a phenomenon is by the process of collecting, analysing and drawing conclusions based on collected data (Stangor, 1998). Figure 4:1 summarises the trajectory of this research process. The choice of the use of a case study was most advantageous in dealing with multivariate phenomena in which a variety of determinants converged on observed experience (Gomm, et al., 2000). Therefore, the procedural characteristics were based on variables of interest from multiple sources of evidence. In testing the hypotheses, the study investigated the 'democratic governance phenomena' in the Malawi Parliament on a number of variables such as accountability, responsiveness, transparency, rule of law, inclusiveness, effectiveness, and efficiency. To achieve this objective, the study utilised employed mixed methodology in data mining and analysis from primary and secondary sources. It was important for the study to capitalise on descriptive, explanatory and discourse analysis as a broad-based approach in testing the hypotheses, (Donnelly and Trochim, 2007; Gomm, el at., 2000; Gillham, 2000; Yin, 1994)

Figure 4:1 Case Study Research Trajectory



Source: Author (2012)

4.4 Methodological approach

This research utilises three main research methodological approaches. These were, mixed, qualitative and quantitative methods of data collection and analysis.

4.4.1 Mixed Methods

The researcher adopted a mixed method approach because as noted by Creswell (2014, pp.3-5), it resides in between the qualitative and the quantitative approaches. Thus, combining research elements from both ends of the spectrum. Creswell, (2014, p.4) states that using both the qualitative and quantitative approach provides a more understanding of a research problem than either approaches (Johnson, and Onwuegbuzie, 2004). Other

enthusiasts of a mixed method such as Moran-Ellis, et al., (2006) and Bryman (2006), all suggest that a mixed method can be a useful tool in epistemological triangulation of data (Greene, 2008). Johnson (2007, p.210), in citing Schwandt (2000), argues that if we are to go forward, we need to get rid of the distinction of being “*qualitative*” or “*quantitative*” method because “*All research is interpretive.*” Therefore, a mixed method became a preferred choice. The main objectives in the pursuit of the usage of mixed methodology is to interpret theory, epistemology and the viewpoints of social reality (Habermas, 2006). Spratt, et al., (2004) also argued that the use of mixed methods play a significant role in the interpretation of theory where quantitative deals with a deductive approach in testing of theory. Creswell (2014) in citing Slife and William (1995) said, “*Although philosophical ideas remain largely hidden in research, they still influence the practice of research and needed to be identified.*” Furthermore, Creswell (2014, p.6) argued that espousing one’s philosophical idea helps explain why researchers prefer one method to the others. In broader terms, he introduces four clusters of worldviews identified with researchers, viz., post-positivism¹¹³, constructivism¹¹⁴, transformative¹¹⁵ and pragmatism¹¹⁶ (Creswell, 2003; 2014, p.6).

This study draws most of its inspiration from the transformative paradigm that embraces issues of power and social justice (Creswell, 2014, p.9). The post-positivism paradigm such as deterministic views in which causes determine effects as well as analytical determination of empirical observations and measurements were also important elements of analysis. From constructivism, understanding multiple participant meanings, social and historical constructions were useful elements in data mining, analysis and synthesis. In addition, pragmatism was a way of considering consequences of people’s actions, (see Creswell, 2014, p.9; Mertens 2010). Furthermore,

¹¹³ Constitutes: empirical observation and measurement, determination, reductionism and theory verification.

¹¹⁴ Involves; understanding of multiple participant meaning, social and historical construction and theory generalisation

¹¹⁵ It is collaborative, political, power, justice and change oriented

¹¹⁶ It considers consequences of actions, it is problem centred, pluralistic and real world practice oriented.

the deductive hypothesis testing was preferred because it was associated with the positivist paradigm of social and political science research (Bitektine, 2007; Guba and Lincoln, 1994; Lee, 1989; Yin, 1981; 2003; Dubois, and Gadde, 2002). Thus, in the epistemological interpretation, quantitative analysis follows a positivist model whereas, qualitative pursues an interpretativist model (see, Feilzer, 2010; Atkinson and Delamont, 2011). Therefore, the utilisation of both methodologies was a means of gaining from their advantages and mitigating on their weaknesses.

4.4.2 Qualitative Method

The use of qualitative method had its own advantages as well as disadvantages. Key (1997), states that the advantages of qualitative method are that it provides an in-depth and comprehensive data; uses subjective information and participant observation to describe the content; and seeks a wider description of the situation. Furthermore, Creswell (2014, p.4) suggests that using qualitative method helps in exploring and understanding the meaning individuals and groups ascribe to a social or human problem. Furthermore, Yates (2004, p.138) suggests that qualitative methods can be viewed in part, as a reaction against positivism and empiricism as the philosophical basis for social research. In its defence, Yates (2004) argues that qualitative methods, tend to explore the complexity, ambiguity and specific detailed processes taking place in a social context that one would otherwise not be able to get through any other means. However, Key (1997) also observes that the subjectivity of the inquiry can lead to challenges in establishing reliability and validity of data; it may also be difficult to detect the researcher's induced bias. This method can also limit the scope of study due to the comprehensive data collection strategies that can be costly and time demanding. Bearing these weaknesses in mind, this research exploits the full usage of its strengths through the usage of semi-structured questions in interviews and questionnaires as well as discussion topics in focus groups. The rationale behind the incorporation of qualitative methods was to seek depth of study over breadth as well as attempt to learn the intricate of life experiences as opposed to aggregate evidence (Whittemore, et al., 2001,

p.524). Furthermore, as suggested by Whittemore and colleagues, qualitative methods may have helped in achieving contextual and subjectivity in the study as opposed to generalisation and objectivity in quantitative methodologies.

4.4.3 Quantitative Methods

Quantitative methods were used in this project because the results are replicable no matter who conducts the research. Furthermore, data is quantifiable, reliable and that the method can be effective in conducting needs assessment, (Weinreich, 2006). However, its weakness is that it cannot be used where the phenomenon is not quantifiable or was difficult to measure such as that in human behaviour. Creswell (2014) states that quantitative research is an approach for testing objective theories by examining relationships among measurable variables by use of numerical data. Creswell (2014, p.4) also stated that researchers using this form of inquiry had assumptions about testing theories deductively, building protection against bias, controlling for alternative narratives as well as being able to generalise and replicate findings. For purposes of this study, three main techniques were used in data mining and analysis; viz., Descriptive, Inferential and Parallel Mixed Statistical Methods (see Teddlie, et al., 2009, pp. 256-284).

4.5 Methods used in Data Mining

4.5.1 Descriptive Statistical Methods

This study used Descriptive Statistical Methods (DSM) for summarising numerical data into easily interpretable tables, graphs and representations of groups of scores. The objective is to understand data, detect patterns and relationships as well as better communicate the results (see Teddlie, et al., 2009; Creswell, 2014).

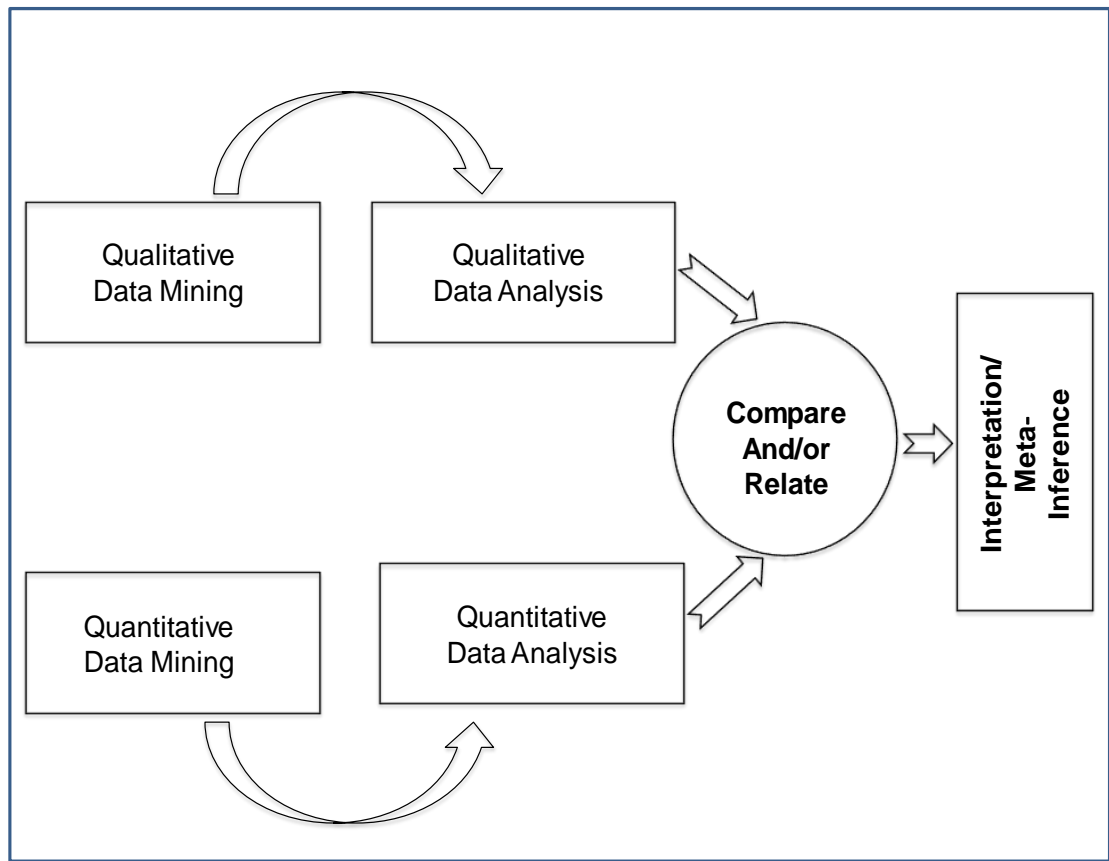
4.5.2 Inferential Statistical Methods

Teddlie, et al., (2009, p.258) argue that DSM would not be sufficient on their own for most research purposes including making inferences; but rather, that data analysis methods for testing hypothesis ought to be based on the degree of relationships between variables. These relations would include correlation coefficients and regressions such as correlations between good-governance and corruption or that between high ratio of opposition Members of Parliament and high levels legislative viscosity.

4.5.3 Parallel Mixed Statistical Methods

The study also used Parallel Mixed Statistical Methods as suggested by Teddlie, et al., (2009, p.266). It involved the use of two separate processes running simultaneously. Thus, the quantitative analysis of data using the descriptive and inferential statistics from variable on one hand and the qualitative analysis of data using thematic analysis related to the narrative data. For instance, the questionnaire for MPs was divided on a 2:5 Ratio on questions between quantitative and qualitative respectively. Angell and Townsend (2011, p.12) argue that Mixed Methods (MM) involve collection and analysis of qualitative and quantitative data in ways that are rigorous, framed epistemologically and that the methods are mixed by ordering them sequentially. Furthermore, that its strengths lay in the combination of data mining and analysis within the context of the single study, thus encapsulating strands within the overall research design that guided the study as a whole (Vogt, 2011; Creswell, 2014; Yates, 2004). Figure 4:2 helps illustrate how parallel mixed statistical methods in a convergent parallel design complemented each other between qualitative and quantitative methodological framework.

Figure 4:2 Convergent Parallel Design



Source: Author (2012), Adapted from Angell, and Townsend, (2011)

The *Convergent parallel design* was an attempt to create a more rigorous epistemological model of qualitative and quantitative data mining and analysis to address both the study hypotheses and its research questions effectively. Creswell, (2014, pp.148-152) suggests that in mixed method research both qualitative and quantitative research questions (and/or hypothesis) need to be advanced in order to narrow and focus the purpose statement.

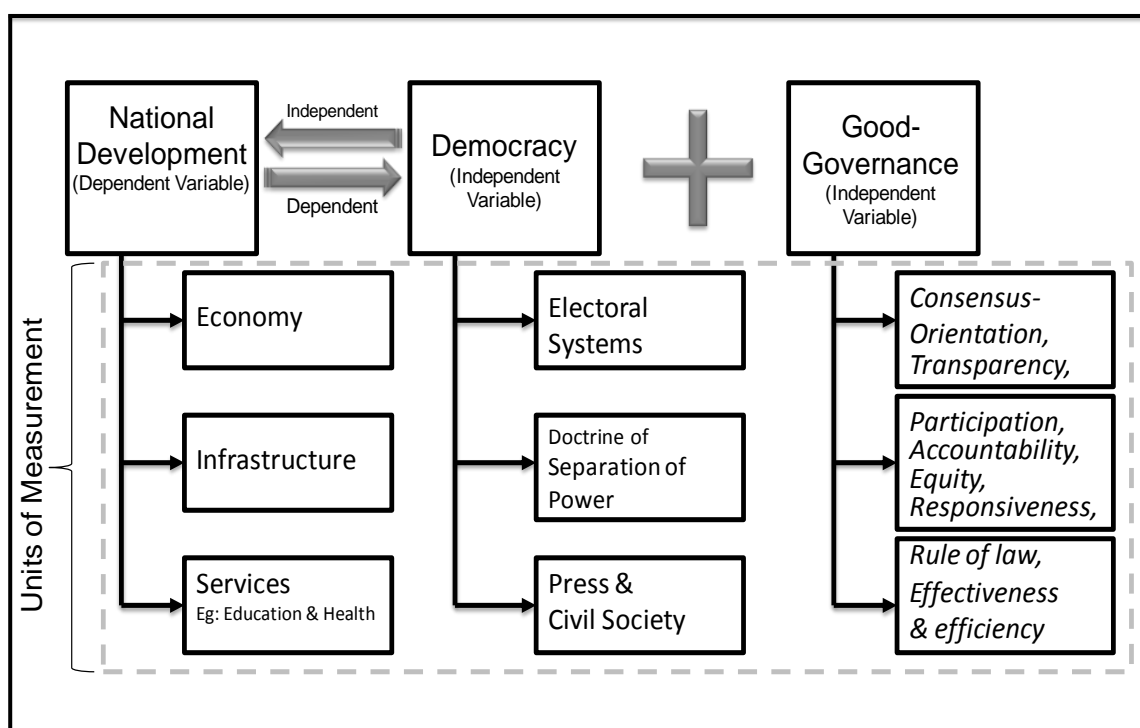
4.6 Developing Hypotheses and Research Questions

For the purposes of this study, the hypotheses and research questions were advanced from the premise that *'The Malawi Parliament's vertical and horizontal accountability in legislation, representation and oversight roles have not been effective due to MPs self-centredness; that the Malawi Parliament continues to be dominated by the executive branch as well as deficiencies in human, financial and infrastructure capacity.'* Creswell (2014; 2009), suggests that researchers using mixed methods should resort to mixed method paradigms which possess qualitative, quantitative and mixed method elements in their hypotheses and questioning. Based on this premise, the main hypothesis of the study was thus developed. In formulating hypotheses, care was taken in the consideration of independent and dependent variables, (see, Creswell, 2014; 2009; Teddlie and Tashakkori, 2009; Yates, 2004; and Vogt, 2011). According to Creswell (2014, p.52), variables in all their probabilities ought to be measurable in order to test the hypotheses or answer research questions. In this study, national development is measured in terms of its economic performance, the infrastructural development as well as service provision such as those in education and health. Democracy is measured in terms of its electoral systems, the separation of power between the legislature, the judiciary and the executive as well as the rights and freedoms of the civil societies and the press. Figure: 4:3 illustrates, the development and measurement of Hypothesis as well as research question.

Main Hypothesis:

That the Malawi Parliament's vertical and horizontal accountability in legislation, representation and oversight roles have not been effective due to MPs self-centredness; that the Malawi Parliament continues to be dominated by the executive branch as well as deficiencies in human, financial and infrastructure capacity.

Figure 4: 3 Development of Hypotheses and Research Questions



Source: Researcher, (2013)

In order to test the overarching hypothesis, the study recognised three sub-hypotheses (addressing the *politics*, the *democratisation* and *governance* aspects) as being responsible for the overall dismal performance of Malawi Parliament in the post independent Malawi as formulated in the following sub-hypotheses.

Sub-Hypotheses:

Hp. (1)

That the vertical accountability in the Malawi Parliament has been less effective due to MPs self-centredness.

Hp. (2)

That the Malawi Parliament continues to be dominated by the Executive Branch (the Presidency). Therefore, not effective in horizontal government oversight.

Hp. (3)

That the Malawi Parliament has lapsed in vertical and horizontal accountability to nurture good governance.

Guided by the research questions, the study rigorously endeavoured in empirical data mining and analysis to test the hypotheses (AMJ, 2011).

4.7 Formulating Research Questions

Teddlie (2009, p.5), said, *“Research questions guide investigations and are concerned with the unknown aspects of a phenomenon of interest.”* It also follows that quantitative and quantitative methodologies solicit numerical and narrative responses respectively, Vogt, (2011) and Yates (2004), while mixed methods, solicit both numerical as well as narrative (Creswell, 2009).

After considering the study hypotheses and research questions, the next level was to take into cognisance the participant recruitment process. Creswell (2014, p.189) states, *“The idea behind qualitative research was to purposefully select participants or sites that would best help the researcher understand the problem and the research questions.”* Therefore, this does not seem to suggest a random sampling or a selection of large number of participants as the case would be in a typical quantitative survey. In adopting Miles and Huberman (1994), as recommended by Creswell (2014) four generic criteria of participants were selected.

- ✓ The setting (where the research would take place)
- ✓ The participants and respondents (that would be observed and/or interviewed)
- ✓ The events (i.e., what the participants will be interviewed or observed for)
- ✓ The process (i.e., the dynamics of the research process, before, during and after data mining)

Consequently, a carefully choreographed inclusion and exclusion criteria was used in order of the researcher's preferences.

4.8 Study Participants

In light of Yin's (2003), definition that a case study was an empirical inquiry that investigated a contemporary phenomenon within its real-life context, the 'primary' study participants in this case were the 193 elected Members of Parliament. However, for purposes of rigorous investigation, multiple sources of evidence and triangulation as well as other stake holders were included Table 4:1 sums up all the categories.

Table 4:1 Categories of Study Participants

Category	Participants	Numbers
A	The Legislature Members of Parliament (serving or retired)	193
B	The Executive President, Vice President and Cabinet Ministers (serving or retired)	41
C	Retired Heads of State and Vice Presidents	3
D	Leaders of Political Parties, Academia, Civil Society, NGO, Traditional and Religious leaders	20

Source: Author, (2012)

All participants and respondents to this study were drawn from the following categories.

- Elected members of the Malawi Parliament (serving and retired)
- Cabinet Ministers (serving and retired)
- Leaders of Political parties (serving and retired)
- Traditional and religious leaders
- Members of the academia in political related studies
- Leaders of Civil Society and NGOs on civil rights

4.9 Location of the Study and the Unit of Analysis

Runeson and Host (2008) in citing Yin, (2003) Robson, (2002) and Benbasat, et al., (1987) suggest that case studies concerned with contemporary phenomenon were best studied in their real-life context. The significance of this argument is to allow the phenomena being studied to take place in its own unaltered environment. In this study, the Malawi Parliament is the *Unit of Analysis* as a holistic case study. The study was conducted for three months from September to November of 2011. The Malawi Parliament is located in Lilongwe the administrative capital. It consists of 193 elected members including the speaker and two deputies (Parliament of Malawi, 2007).

4.10 Sampling Method

The sampling of the study was not based on random sampling method, as would be the case in a widely open survey (Bell, 1999). In this case, it was carefully managed to include only those that meet the set criteria. However, the actual numbers depended on the goodwill and availability of respondents (Bell, 1999. p. 126).

4.11 Research Design

4.11.1 Case Study

In Creswell (2014) case studies are a design of inquiry in which a researcher develops an in-depth analysis of a case under study. Creswell (2014, p. 14) in citing Stake, (1995) and Yin, (2012) states that case studies are bounded by time and activity; thus, researchers collect detailed information using a variety of data collection methods over a sustained period. The objective of this research design is to gather and analyse evidence in order to test the hypotheses as well as generate new understanding and knowledge about the Malawi Parliament (Gillham, 2000).

Sarantakos (1998), in quoting Yin (1991) and Hartfield (1982), argued that case studies are different from other forms of research because they demonstrate the study of whole units in their totality and not aspects of variables. Furthermore, they employ several methods to avoid error and distortion and perceive the respondent as an expert and not just a source of data. Bell (1999) also argued in support of the use of case studies as effective research method that they provide both for the reader and researcher with a three-dimensional picture of a particular case as well as illustrated relationships, micro-political issues and patterns of influence in a particular context. Yin (2003); Walliman (2006); Marsh and Stoker (1995) agree that as a research strategy, case studies are used in many situations to contribute to our knowledge of individual, group, organisational, social, political and related phenomena.

In this particular case (The Malawi Parliament Study), as pointed out by Walliman (2006), that commonly, in case study designs, no claim is made for generalisation, but rather, it is about the quality of theoretical analysis allowed by intensive investigation into one case and how well hypotheses were generated and tested using both inductive and deductive reasoning. In addition, Gillham (2000) states that a case study is one which investigates

specific research questions and one that sought a different range of evidence in order to get the best possible answers to the research questions.

4.11.2 Strengths and Weaknesses: Case Study

A case study as stated by Yin (2003) is a comprehensive research strategy that copes with the technically distinctive situations in which there are multiple variables of interest. Furthermore, it relies on multiple source of evidence with data needing to converge in triangulation. Burnham, et al., (2004) argue that the strengths of case studies are that they generate a wealth of data relating to one specific case, thus, providing deeper dimensions into the case study being investigated. It was observed from the literature that case studies have become a popular methodological research tool in political science since the 1960s (Freedman, 2013, McKinnon, 2012). However, case study methods are not without weaknesses. For instance, in most case studies, no claim can be made for generalisation because no one case can be exactly the same as the other. In addition, case studies tend to lean more on qualitative than quantitative research methodology, (Walliman, 2006; Yin, 2003; Burnham, et al., 2004). Therefore, rendering quantifiable evidence difficult to generate. As argued by Mathison (2005) regardless of which philosophical, epistemological or methodological perspectives a researcher may use, it is vital to use a variety of methods and sources in data mining as a triangulation strategy for the purposes of achieving validity.

4.11.3 Triangulation

Creswell (2014, p.201) in citing Creswell and Miller (2000), states that achieving validity through triangulation is one of the strengths in qualitative research that is based on determining whether the findings were accurate from the researcher, participant or readers' stand points. Burnham, et al., (2004) argue that triangulation can overcome the problems associated with single-method, single-investigator, single-data and single-theory study. Furthermore, triangulation is another form of testing reliability and validity of data. Thus, this research has utilised triangulation through multiple sources

and methods. Validation was achieved through triangulation at every stage during the research process (Creswell, 2014).

4.11.4 Pilot Study

The research was designed to utilise interviews, focus groups and questionnaires in collecting data. It was therefore necessary that the data collection tools were tested and refined during the pilot study. Yin (2003) argues that pilot studies help refine content of data and methods pursued. The other advantage of a pilot study as suggested by Burnham, et al., (2004) is that it can reveal ambiguous, meaningless or embarrassing questions and also discover whether it raises new issues. For the purpose of this study, five participants were involved in the pilot for testing the questionnaire for MPs, semi-structured questions for interviews as well as discussion themes for focus groups. Members of the test group comprised two retired Members of Parliament, two political party officials (government and opposition); one from the NGO/CSO. Suggestions and relevant revisions emanating from the test pilot were incorporated in the reviewed research instruments: (i) Questionnaires for MPs, (ii) Semi-structured Questions for Interviews and (iii) Discussion topics for Focus Groups, (See Appendices:1 and 2).

- a. That in all the three instruments, questions were grouped under each of the three main categories, viz., Politics, Democratisation, and Governance and each category was clearly sign-posted
- b. Twenty-two responses were generated in the questionnaire for MPs. 64% and 36% of responses were quantitative and qualitative respectively due to time constraints that MPs had in responding to the questionnaire.

4.12 Access to Respondents, Participants and Documents

Bell (1999, p.46) advises, *“Never assume, it will be all right...”* Furthermore, she states that negotiating access is an important stage in the investigation. Similarly, Creswell (2014, p.98), advises that prior to the study, researchers need to obtain approval from gate keepers, thus, individuals with authority to

grant access to study areas and materials. In order to maximise accessibility, this project secured a work-station through the Clerk of Parliament (COP) in the Library section at the Malawi Parliament buildings. Working within the confines of parliament gave increase accessibility to Members of parliament, Parliament staff, political leaders and cabinet ministers as well as parliament resource materials such as Hansards, Data Base, Bills and Acts. It also enhanced a close working relationship with the parliament administration and the research department. For instance, most interpersonal interviews (face-to-face) were conducted during tea time or lunch break with Members of Parliament and Cabinet Ministers during the sitting of Parliament. Networking and rapport was built during social functions.

4.13 Data Collection

Multiple-methods were used in data collection involving interviews, focus groups, observations and questionnaires. Creswell (2003) suggests that data collection strategies also include setting boundaries for the study as well as establishing the protocol for recording information. Creswell (2014, p.97) advises researchers to respect the study sites and disrupt as little as possible. In endeavouring to achieve this objective, the researcher worked very closely with the assistant librarians, the COP and the office of the Speakers, (usually through their personal assistants and secretaries).

For the purpose of this study, three data collection principles were employed as recommended by Yin (2009, pp.114-124); Creswell, (2014; 2003); Teddlie, et al., (2009) and Vogt, (2007).

4.13.1 Using multiple sources of evidence

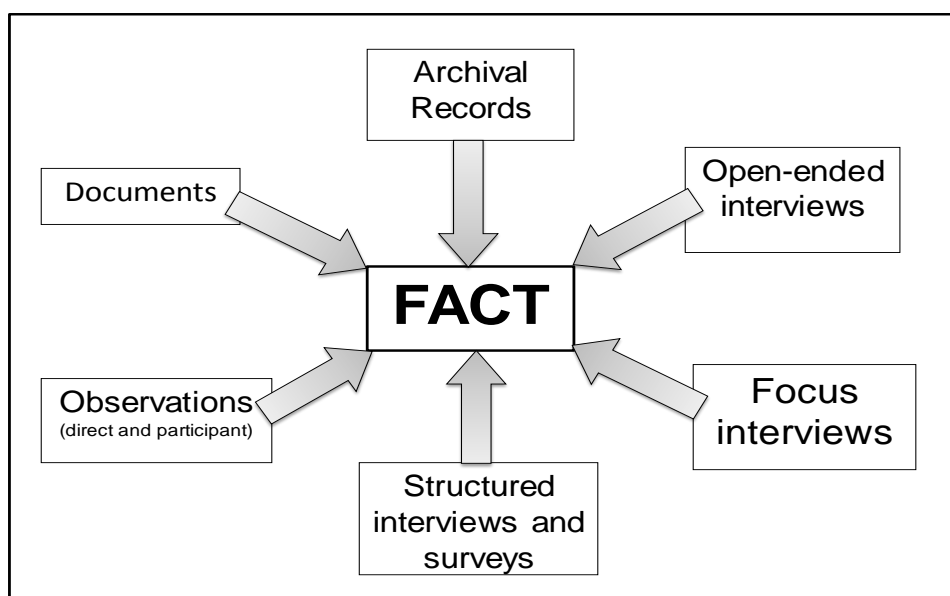
The rationale behind the use of multiple sources of evidence in the study was to facilitate in achieving the principle of triangulation as suggested by Yin (2003, p.97). He also argues that the need to use multiple sources of evidence in mixed methodologies far exceeds that in other research

strategies in acting as a means of ensuring authenticity and reliability of data. In this case, evidence was collected from government documents, academic papers, archival collections, electronic and print-media to mention a few, questionnaires, face-to-face interviews, and focus discussions (Rowley, 2002; Johnson, et al., 2007).

4.13.2 Maintaining a chain of evidence

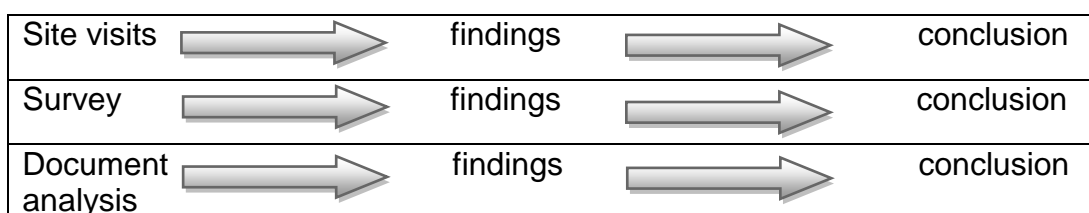
Maintaining a chain of evidence increases the reliability of the information in the case study research as argued by Walliman (2006, p.60) that maintaining a chain of evidence enables researcher to come to overall conclusions about the abstract concepts in the research based on evidence rooted in detailed data at a more concrete level. Yin (2003, p.100) suggests two approaches to achieve this objective. (1) The use of convergence and (2) non-convergence, the former being recommended for the single-case studies and the latter, for the separate sub-studies respectively. Figure 4:4 and 4:5 helps to illustrate the point (also supported by Creswell, 2014; 2003; Teddlie and Tashakkori, 2009; Rowley, 2002). However, for the purpose of this study, the convergence approach was preferred in triangulating data from archival records, interviews, focus groups, documents, observations and literature survey (Figure 4:4).

Figure 4: 4 Convergence of Evidence



Sources: Yin (2003, p.100)

Figure 4:5 Non- Convergence of Evidence (Separate sub-studies)



Sources: Yin (2003, p.100)

4.13.3 Creating a case study database

For the purposes of confidentiality and safe keeping of the research project material such as questionnaires used and guide semi-structured questions for interviews, video recorded and transcribed interviews; relevant documents, data sets, raw and analysed data, a database was created. Denzin (2009); and Yin (2003, p.102), strongly recommend that every case study project should strive to develop a formal presentable database so that other investigators can review data directly and not be limited by the written case study report. However, access to the data base cannot be without limitations to respect the privacy of some respondents, (Creswell, 2014; 2003).

4.14 Selecting methods for data collection

In Bell (1999, p.101) methods of collecting data are selected because they provide the data required to produce a complete piece of research. Thereafter, decisions have to be made about which methods are best for particular purposes before designing data collection instruments to do the job. In this case, an integrated use of strategies for collecting primary and secondary data were used involving interviews, focus groups, observations, questionnaires as well as from a wide range of secondary sources (Yin, 2003, p.58).

4.14.1 Interviews

Qualitative data was collected through semi-structured *face-to-face* interviews because it is the most effective method in following up ideas, probe responses and investigate motives and feelings that the questionnaire may not be able to bring out, (Bell, 1999; Patten, 2005; Yin, 2003; Trochim and Donnelly, 2007; Walliman, 2006; Rathbun, 2008). The advantages of interviews, are that they provide an effective substitute where participants cannot be observed directly. They allow researchers control over the line of questioning and participants can provide a historical perspective to the subject under discussion. To maintain an authentic record of interviews, Bell (1999) recommends that interviews should be tape recorded with permission from the respondents (with the exception if respondents do not wish to be identified). In this study, thirty interviews in addition to three focus-groups were video recorded with permission from participants. However, the limitations of interviews were that they provided indirect information filtered through the views of interviewees, provided information in designated place rather than the natural field setting, they provided a variety of responses to the same question because people were not equally articulate and cannot have equal perceptions on similar issues. In addition, the presence of a researcher may bias responses, (Creswell, 2003; 2014). In order to avoid a strict regime of written question-and-answers as the case may be in structured interviews, semi-structured and un-structured strategies were

used because they provided flexibility and freedom to both the interviewer and the interviewee to fully express themselves. It also provided room to follow 'lead ideas' and probes by the interviewer, (Walliman, 2006, p.92). The downside of interviews according to Bell (1999, p.135) are that they can be time-consuming and in some instances highly subjective. However, interviews can yield rich material and put flesh on the bones of questionnaire responses, (Bell, 1999, p.135).

4.14.2 Focus Group

The significance of using focus groups in this research was to obtain detailed information about attitudes, opinions and preferences of selected groups in order to achieve consensus (Trochim and Donnelly, 2007).

The project initially planned for seven focused group sessions. However, after the pilot, it was revised to three major political players. The DPP focus group (representing the party in government); the NGO/CSO and one for the opposition parties (with members from different political parties). The rationale for selecting these groups was to solicit information from different points of view based on similar questions (see Appendix: 2). It is also a form of triangulating data and information as well as a means of validation and authentication of data. In support of the use of FG as a data collection strategy, Burnham, et al., (2008) argue that it provides an unrestricted platform for respondents to talk about a topic of interest and to express the strength of their feelings and priorities. However, if not carefully managed, dominant personalities can suppress the opinions of other people (Burnham, et al., 2008, p.131; Trochim and Donnelly, 2007). Marsh and Stoker (1995) observed that the presence of moderator may influence the responses especially in situations where rapport was not properly built between the moderator and respondents. Other risks associated with focus groups are that respondents tend to reflect popular rather than personal views (Gomm, et al., 2000).

4.14.3 Non-participant observation

During the sitting of parliament that took place from 14th November to 9th December 2011, the researcher had full access to parliamentary proceedings on a non-participatory observation ¹¹⁷ basis from the visitor's gallery. The rational was to observe MPs' general conduct in plenary in terms of rhetoric and rigour of debate. Creswell (2003; 2014) encourages the use of observation as a strategy of data mining because the researcher record information as it unfolds and that unusual aspects can be captured as they unfold unlike in a questionnaire or interview. A case in point, on 24th November 2011, the researcher witnessed a physical fight that ensued between the Minister of Home Affairs and National Defence and the Independent Member for the Thyolo North Constituency on the *Statement by the Minister of Home Affairs and National Defence on the death of Robert Chasowa* (Appendix 6).¹¹⁸ The other dates of observations that were of interest to this study were 15th November 2011 (*Questions on Notice to Ministers for Oral Replies*) and the 30th November 2011 [*Bill No. 20 of 2011: OPEC Fund for International Development (Supplementary Loan for the Zomba-Jali-Chitakale Road Project) Loan (Authorization)*]. Scholars such as Creswell, 2003; Bell, 2010; Burnham, et al., 2008; Trochim and Donnelly, 2007 warn that the challenges of using observation strategy in collecting data might emanate from the researcher's observational skills, thus, missing valuable collectable data in the process and in some instances, the researcher may be seen as intrusive agent. However, in direct observation, the researcher should strive to be as unobtrusive as possible to avoid bias in the process of observation, (Marsh, and Stoker, 2010; Gunnell, 2011).

4.14.4 Questionnaire

The questionnaire is a critical methodological tool for collecting data in social and political science (Behling, 2000). A good questionnaire is one that is understandable, unambiguous, unbiased and relevant (Burnham, et al.,

¹¹⁷ In non-participant observation, Researcher is not involved in the activities of the observed (participants), Bell,(2010)

¹¹⁸ Handard NO. 9 of Thursday 24th November, 2011

2008). The rationale for using this method in this research was to translate the researcher's hypotheses into a series of questions designed to elicit the information needed to test them rigorously not only qualitatively but also quantitatively. In designing the questionnaire, ambiguity, imprecision, assumptions and 'double-questions' in a single statement were avoided (Bell, 2010). In order to mitigate these challenges, the questionnaires were tested in the pilot study to ensure that they yield the aims and objectives of the research project. The questionnaire was given to a hundred (n=100) MPs, excluding those that took part in the pilot group. From the distributed questionnaires, sixty (n=60) were completed and returned for further analysis. Table 4:2 illustrates the criteria followed in the distribution of questionnaire to MPs (see questionnaire sample in Appendix: 3)

Table 4:2 Distribution of Questionnaire

Distribution of Questionnaires Based on 2009 Parliamentary Results of Seats in Parliament

	Party	Seats in Parliament	Representation % Parliament	Ratio of Questionnaire
Government	DPP	112	58.03	16
Parties in Opposition	MCP	28	14.5	5
	UDF	17	8.8	3
	Independents	32	16.6	3
	Others	4	2.07	3
Totals		193	100	30

Source: Researcher, (2011), data from MEC, (2009)

4.14.5 Document Analysis

The relevance of the arguments of Teddie and Tashakkori (2009), Vogt (2007), Mogalakwe (2006), and Ratcliff (1995) are that the significance of document analysis reveals what people did or did not do as well as what they

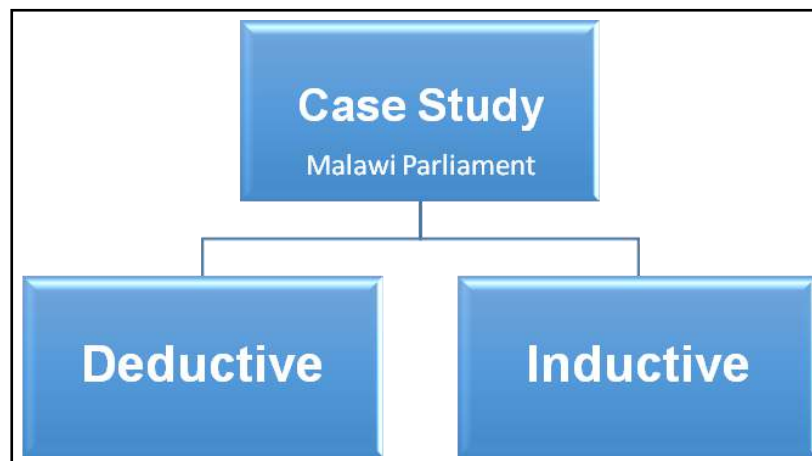
valued; all recorded in some document format. Furthermore, they state that document analysis data has strong validity and reliability because it occurs in a natural setting. Wesley (2010) also strongly supports the use of document analysis in political science research by stating that as standards of academic rigour, both validity and reliability are rooted in the assumption that the information contained in documents is inherent and that the evidence embedded in the text is objectively identifiable. For the purpose of this study, several documents were analysed such as Hansards, ministerial statements, press releases by various organisations, presidential speeches, *Parliamentary Strategic Plans (2010 to 2015)* as well as bills, motions and acts of parliament relevant to the study. Creswell (2014, p.190; 2003) also encourages the use of document analysis as a credible source of data mining.

4.15 Data Analysis

4.15.1 Inductive and Deductive Reasoning: Case Study

According to Bitektine (2007) and Thomas (2006), *deductive analysis* refers to data analyses that set out to test whether data were consistent with prior assumptions, theories, hypotheses identified or constructed by the researcher. In Thomas, (2003, p.2) inductive analysis, “*allows research findings to emerge from the frequent, dominant or significant themes inherent in raw data, without the restraints imposed by structured methodologies.*” Furthermore, Burney (2008), states that in research, we often refer to two broad methods of reasoning as the deductive and inductive approaches as in Figure 4:6. In this research therefore the holistic reasoning approach is deductive although in some circumstances sub-set specific studies, inductive reasoning was employed.

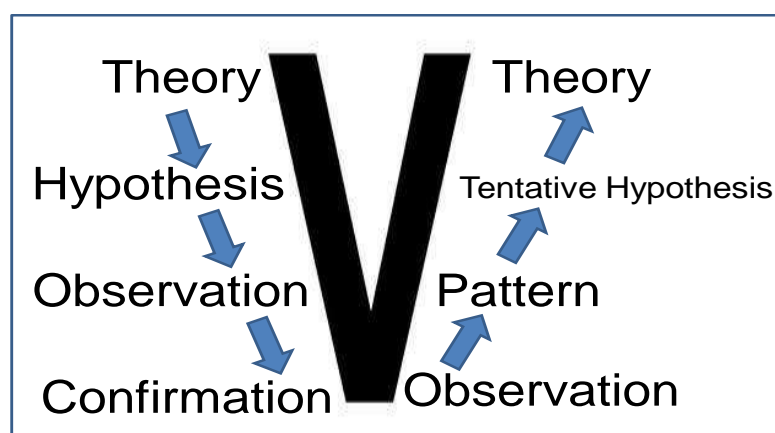
Figure 4:6 Methods of Reasoning



Source: Burney, (2008)

The deductive reasoning approach was appropriate in this case because the study aimed at confirming a hypothesis that since independence, the Malawi Parliament had not delivered on national development as expected by its constituents due to deficiencies in democracy and good-governance. Which, as elaborated by Burney, (2008), the approach works from more general to more specific ideologies and that conclusions follow logically from premises and available facts. Whereas, in inductive reasoning researchers tend to work in reverse order. That is, moving from specific observations to broader generalisations and theories and that conclusions were likely based on premises. Figure 4:7 summarises the reasoning trajectory in both cases.

Figure 4: 7 Deductive and Induction Approach



Source: Burney, (2008)

4.15.2 Critical Discourse Analysis (CDA)

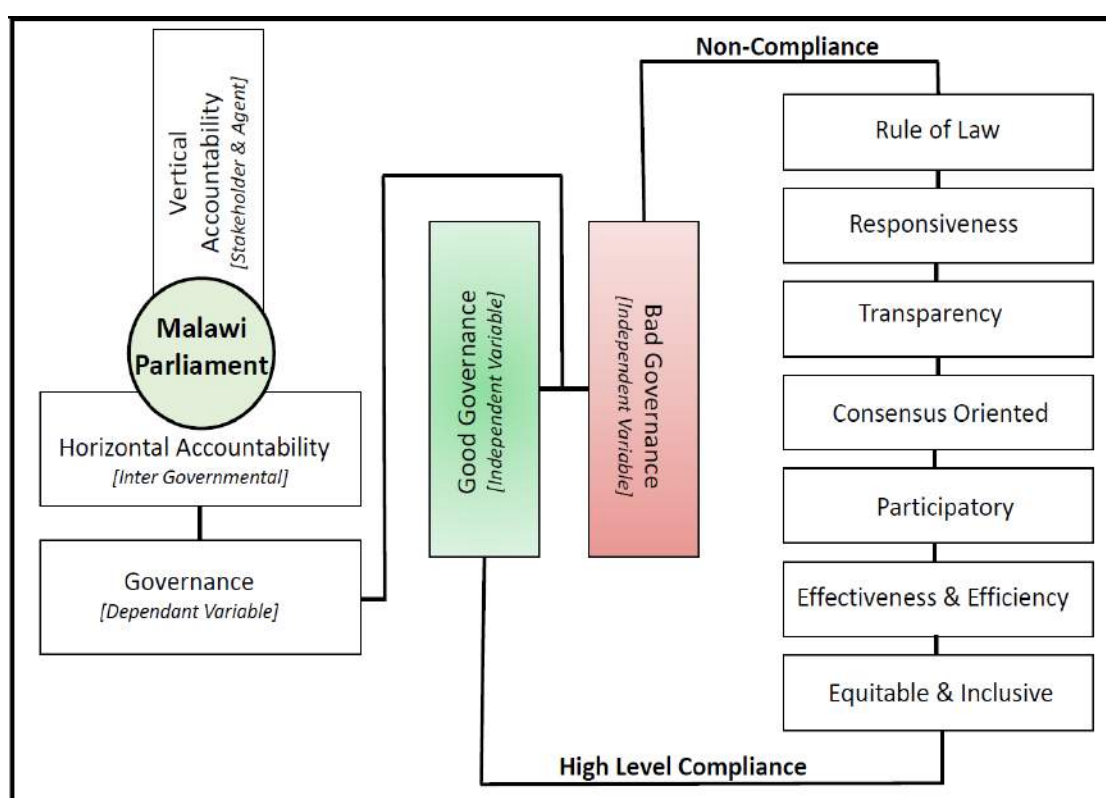
This study adopted Van-Dijk's (2001, p.352) critical discourse analysis (CDA) that seeks to *"analyse research that primarily studies the way social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social, [economic]¹¹⁹ and political context."* Justifying its effectiveness and popularity as a critical theory of analysis Van-Dijk (2001, p.352) states that its usage dates back from before the Second World War and was popularised in the 1970s. Furthermore, CDA had since been effective in sociology, psychology and social sciences, (Fairclough, 2010; Bloor, M., and T., 2007). In this research, the relevance of CDA is fourfold. Firstly, it focuses on contemporary socio-political and economic challenges faced by Malawians. Secondly, the study benefits from its multidisciplinary approach (mixed methodologies) to critical analysis of socio-political problems. Thirdly, using CDA the researcher has endeavoured to not only *describe* discourse structures, but also analyse properties of socio-political interactions, structures and systems and fourthly, CDA assists in the analysis and synthesis of power relations among various political players such as the executive, judiciary, the legislature, civil society, media, donor community and electorates. The CDA utilises both quantitative and qualitative methodologies that provide statistical evidence and essentially narrative and inferential in character respectively. In quantitative research, facts do not speak for themselves, but rather the quantitative methods make meaning of the quantitative data (Gillham, 2000). Furthermore, the qualitative provide evidence based on what people say, while the quantitative provides statistical evidence. Therefore, as suggested by Sarantakos (1998), a four sequence in qualitative data analysis is pursued, viz: generating meaning; testing and confirming findings; establishing standards for the quality of conclusions and proper documentation of the findings.

¹¹⁹ [-] Insertion by researcher.

4.16 Variables

An independent variable is one that is manipulated by the researcher. Gomm, et al., (2000) said it was like the knob on a dial that the researcher turns. In graphs, it is on the X-axis. It also referred to as treatment, manipulated, antecedents or predictor variables (Creswell, 2014, p.52). A dependent variable is one that reciprocates on the variations of the independent variable and is on the Y-axis on the graphs, Gomm, et al., (2000, p.204). It is sometimes called, criterion, outcome, effect or response variable. In this study parliament is at the apex of both the vertical and horizontal accountability in ensuring government and its agent's compliance with the rule of law, responsiveness, participatory, transparency, consensus orientation, effectiveness and efficiency in its delivery of goods and services. Furthermore, parliament is also accountable to its electorates through its elected representatives (MPs) as analysed in Chapter Two in the theoretical framework on accountability paradigm. Figure 4:8 illustrates the dependent and independent variable as well as their correlations within the study.

Figure 4:8 Dependent, Independent and Correlations



Source: Author, (2014)

4.17 Coding

Coding as defined by Creswell (2014, pp.197-200; 2003) is a process of organising data by bracketing or placing text or image segments into categories. Holton (2007, p.265) stresses that it is through coding that conceptual abstraction of data and its reintegration as theory occurs.

4.17.1 Coding: Qualitative and Quantitative Data

Walliman (2006), observed that as the data accumulates, a valuable step is to organise it into typologies and taxonomies. He suggests that one way of achieving this is by using the coding system. Furthermore, Trochim and Donnelly (2007) argue that anything that is qualitative can be assigned meaningful numerical value that can in turn be manipulated numerically to achieve greater insights into the meaning of data to examine specifics

hypotheses. In coding qualitative data, it was categorised in terms of common (similar) categories (themes) qualitatively as indicated in Table 4:3. The transcribed interviews and focus discussions were analysed quantitatively (numerically) as in illustration Table: 4:4.

Table 4:3 Coding Questions (QC) and Responses (A-C)

Main Theme: Politics (Questions 1-5)		Q.7	Qualitative Statement
Question Code (Q-C)	Answer Code (A-C)	Q.8	Qualitative Statement
Q.1	1,2,3,4,5	Q.9	1,2,3,4,5
Q.2(i)	1,2,3,4,5,	Q.10	Qualitative Statement
Q.2(ii)	1,2,3,4,5,		
Q.2(iii)	1,2,3,4,5,	Main Theme: Governance (Questions 11-15)	
Question Code (Q-C)	Answer Code (A-C)	Question Code (Q-C)	Answer Code (A-C)
Q.3(i)	1,2,3,4,5,	Q.11.i	1,2,3,4,5
Q.3(ii)	1,2,3,4,5,	Q.11.ii	1,2,3,4,5
Q.4	1,2,3,4,5,	Q.11.iii	1,2,3,4,5
Q.5	Qualitative Statement	Q.11.vi	1,2,3,4,5
		Q.11.v	1,2,3,4,5
Main Theme: Democracy (Questions 6-10)		Q.12	1,2,3,4,5
Question Code (Q-C)	Answer Code (A-C)	Q.13	1,2,3
Q.6(i)	1,2,3,4,5,	Q.14	Qualitative Statement
Q.6(ii)	1,2,3,4,5,	Q.15	Qualitative Statement
Q.6(iii)	1,2,3,4,5,		

Source: Researcher, (2011) (Adapted from Trochim, 2007)

Table 4: 4 Inventory of Qualitative Responses from Questionnaire

Respondents	Question 5	Question 7	Question 10	Question 14	Question 15
R.1	✓	✓			✓
R.2	✓			✓	
R.3	✓	✓			✓
R.4	✓				
R.5	✓	✓	✓	✓	
Total Number of Respondents answering each Question	5	3	1	2	2

Source: Researcher, (2011) (Adapted from Trochim, 2007)

4.17.2 Coding: Interviewees and Focus groups

There were four interviewees on the study sample that opted anonymity. They were thus, coded as follows:

- Participant 1: was given letter – K
- Participant 2: letters - SPK
- Participant 3: letters - BM
- Participant 4: letter - GP

There were also three Focused Groups and MP questionnaire that were coded as follows:

- Opposition coded: FG-1
- NGO/CSO: FG-2
- DPP: FG-3
- MP Questionnaire: MP 1-30

4.17.3 Likert Response Format

Trochim and Donnelly (2007) suggest that the use of Likert scales in surveys and interviews can be effective in measuring a respondent's emotions, values, priorities and personal opinions. In questionnaires and interviews the '1 to 5' bipolar¹²⁰ scales were used as illustrated in Table 4:5 below (Appendix: 4; questionnaire).

Table 4:5 The Likert Bipolar Scale

Statement: <i>Malawi Parliament is meeting your expectations</i>				
1	2	3	4	5
Strongly disagree	Disagree	Neutral	Agree	Strongly agree

Source: Trochim and Donnelly, (2007, p.102)

4.18 Quality Control

Quality control in data mining, analysis and write-up was partly achieved through the keeping of verifiable records of research participants as well as adapting methods for checking accuracy in data through constant triangulation by the use of multiple sources. Teddlie, et al., (2009, p.212) in citing Lincoln and Guba (1985) argue that data trustworthiness was an important element of quality control, thereby, confirming its validity and reliability. Donnelly and Trochim (2007) observed that researchers should pay increasing attention to the integrity and quality of research. Arguably, due to current information overload because of technological advancement that have come with most unverifiable data.

¹²⁰ Bipolar Scale: Is one that has a neutral position.

4.18.1 Validity and Reliability

Burnham, et al., (2008) and Trochim and Donnelly (2007) state that validity is the best available approximation to the truth of a given proposition, inference or conclusion. However, the arguments about validity by most social and political researchers are that measures, samples and designs do not have validity but that only propositions can be said to be valid (Trochim and Donnelly, 2007, p.20). However, technically measurements, samples and designs can lead to valid conclusions. Reliability is said to be the consistency of measurement on the assumption that the underlying phenomenon is not changing (Trochim and Donnelly, 2007, p.80). Trochim and Donnelly, however, admit that reliability cannot be measured in social and political sciences, it can only be estimated based on the *True Score Theory*,¹²¹ which is defined as a measurement additive composite of two components of the true ability of the respondent on that measurement and the random error. Thomas (2011) argues that in a single case study, validity and reliability were less significant because there can be no assumption from the outset that if the enquiry were to be repeated by different people at different time similar findings would result. A common approach however, is to use validity and reliability as lowest common factors for the assessment of data towards reliable and valid conclusions.

4.18.2 Transferability

Chow, et al., (2006, p.3) argue that although results and knowledge gathered from a specific case study may not necessarily be generalised [because every case is unique in its own way], it can be transferable; meaning that knowledge gained from one case study can be passed on to others in similar settings. Furthermore, Chow and colleagues suggests that design knowledge understood in this way is not able to predict, but it allowed implications to be

¹²¹ **True Score Theory:** Assumes the 'Observed Score' (OS) as an aggregate of the 'True Ability' (TA) and 'Random Error' (RE). Thus, $[OS = TA + RE]$.

drawn for others to anticipate what would reasonably be expected to arise in other but similar contexts.

4.18.3 Ethical Considerations

Since the Malawi Parliament is an independent and autonomous body, permission and clearance were sought from the office of the Speaker of Parliament to conduct the research within the organisation. There was no need for seeking further permission from the National Research Council of Malawi (NRCM, 2003). A copy of the University of Hull ethics clearance was provided to the Speaker's office. Furthermore, the general research ethical framework was guided in principle by four main obligations to society, funder/employer, university and respondents/subjects in accordance with the *Ethical Guidance*¹²² (see, Iphofen, 2003)' as provided for in England and Wales. In brief, ethical consideration were taken at every stage of the research (Crewell, 2008; 2003). For instance, no minors (under 18 years) and vulnerable persons were recruited as participants or respondents to this study.

4.19 Identifiable Limitation in the research

In this study, although it yielded research findings as expected, it was not without its limitations. These limitations were identified in research design, data collection and analyses.

4.19.1 Limitation in Research Design

Some researchers argue that case studies by design lack rigour and are not always generalisable as stated by Neale, et al., (2006), "*A common complaint about case studies is that it is difficult to generalise from one case to another...*" However, hardliners of case studies such as Gomm, et al., (2000), in quoting the words of William Blake (1808) said, "*To generalise is to*

¹²² Social Research Association provides four obligations to the researchers: Obligations to Society, funder or employer, college or university as well as the respond(s)

be an idiot. To particularise is the lone distinction of merit,” arguing that every case study is different from the other. However, the foreseen limitation in the design may have been lack of participation in the research by constituents at a local level such as the district, the ward and village who may be on the receiving end of the parliamentary services and members’ representation. Nevertheless, this limitation was mitigated using data sets from previous surveys by other organisations such as the Afro-barometer, National Statistics Office, Malawi Electoral Commission and the Electoral Institute for Sustainable Democracy in Africa (EISA).

4.19.2 Limitation in Data mining and Analysis

Creswell (2008), states that missing data may occur because of respondents skipping questions or refusing to answer a sensitive question. However, Creswell, (2008), in quoting George and Malley (2001), contends that for ethical reasons the research must explain to the readers how missing data were reported. In the study, they were questions that respondents opted not to answer. In such circumstances, the researcher explained in the footnotes how such data were handled during analysis. Although, analysing quantitative data may seem less challenging, on the contrary, it may have been possible to miss some crucial cues in quantitative analysis.

4.20 Dissemination of Findings

Modern parliaments in Africa receive little attention in the scholarly literature...our knowledge about Africa's current parliaments remains limited... (Nijzink, 2006).

True to Nijzink’s assertion, any professionally research piece of scholarly literature makes a significant contribution to the knowledge about Africa’s current parliaments in general and the Malawi Parliament in particular.

The first point of dissemination of the findings of this research is the bound and electronic copies of the PhD thesis submitted to the University of Hull. This is an added contribution to the scholarly literature. Furthermore, it preceded a series of publications and journal articles, seminar and conference presentations on the findings. Policy makers may also find this piece of research valuable as suggested by Oliver and Peersman (2002) that evidence-informed policy and practice makes decisions based on the best available research evidence.

4.21 Conclusion

The methodological framework for this research was based on the use of both the qualitative and quantitative research methods that complemented each other in data collection as well as tools for purposes of triangulating the results from the methodological vintage point. The framework was set to achieve three objectives. Firstly was to design the most effective and efficient methodology in collecting empirical data to addressing the research questions towards testing the aim of the hypotheses. Secondly as a trajectory for qualitative and quantitative data collection and analysis and thirdly it formed a foundation on which the research thesis was constructed. The following chapter unveils the data presentation and analysis.

CHAPTER: FIVE

Presentation and Analysis of Data

5.0 Introduction

This chapter presents data gathered from field research conducted between September and November of 2011¹²³ at the Malawi Parliament. A variety of data collection methods were used (see methodology Chapter Four) such as face-to-face interviews, observations, documents and focus groups. The sample for this project included the following: serving and retired Speakers of Parliament, Serving and retired State Vice Presidents, Members of Parliament, Cabinet Ministers, academics, representatives of Civil Society Organisations and Faith Groups. A total of 30 interviews were put on video, in addition 60 questionnaires for members of parliament were completed, collected on the ratios of (16:5:3:3:3) among the DPP¹²⁴, MCP¹²⁵, UDF¹²⁶, Independents¹²⁷ and Others¹²⁸ according to their numerical representation in Parliament. Furthermore, three focus groups of five participants each were conducted. The researcher also conducted three non-participatory observations during the seating of parliament. The first was aimed at observing the rigour of question and answer session between Cabinet ministers and back-benchers. The second was to observe members contribution to ministerial statements on issues of national importance and the third was to observe general debate in the Parliament chamber. Document such as Hansards, Bills, Motions, Acts of Parliament, Presidents Speeches and Ministerial Statements were analysed as a method of data collection and triangulation.

¹²³ During the period of the study the DPP was the governing political party under President Bingu wa Mutharika. His sudden death triggered a vacancy that the Vice President Joyce Banda filled on the 7th April 2010 under the People's Party (PP) that did not have MPs in Parliament at the time.

¹²⁴ Democratic Progressive Party (DPP)

¹²⁵ Malawi Congress Party (MCP)

¹²⁶ United Democratic Front (UDF)

¹²⁷ Independent Members of Parliament

¹²⁸ Others: All other smaller parties in Parliament

This chapter is divided into four categories as follows:

- Part A: Challenges of vertical and horizontal accountability
- Part B: Constraints faced by Members of Parliament
- Part C: Challenges in the Parliamentary Secretariat
- Part D: The role of political parties in parliamentary accountability

5.1 The central role of parliamentary vertical and horizontal accountability

The central accountability role of parliament is twofold. The first is *political*, thus, to check the abuse of power by the executive. The second is *operational*; to ensure the effective functioning of government (UNDP, 2010, p.8). Furthermore, in order for accountability to be effective, it must be backed by *answerability* and *enforceability*. The former being the obligation to provide an account and the right to get a response while the latter is to ensure that action is taken or sanctions applied when accountability fails, (UNDP, 2013; Burnell, 2008). Therefore, parliament plays a dual role in vertical and horizontal answerability as well as enforceability (Acosta, et al., 2013). On the vertical paradigm, parliament acts on behalf of electorates (constituents), civil society, NGO's and the press. On the horizontal paradigm, it provides government oversight of checks and balances (Claasen, et al., 2010). While parliament provides institutional oversight, members of parliament are also vertically accountable to their constituents, (IPU, 2006, p.96). Holistically, a democratic parliament is one that is accountable; representative, open and transparent, accessible as well as effective at both national and international levels (Stapenhurst, 2006; IPU, 2006).

In Part 'A' of this chapter, opinions were sought from respondents and participants on the challenges of vertical and horizontal accountability from the Malawi parliament perspective in legislation, representation and oversight.

Part: A

Challenges of vertical and horizontal accountability

5.2 Challenges of vertical accountability: UDF and DPP Governance

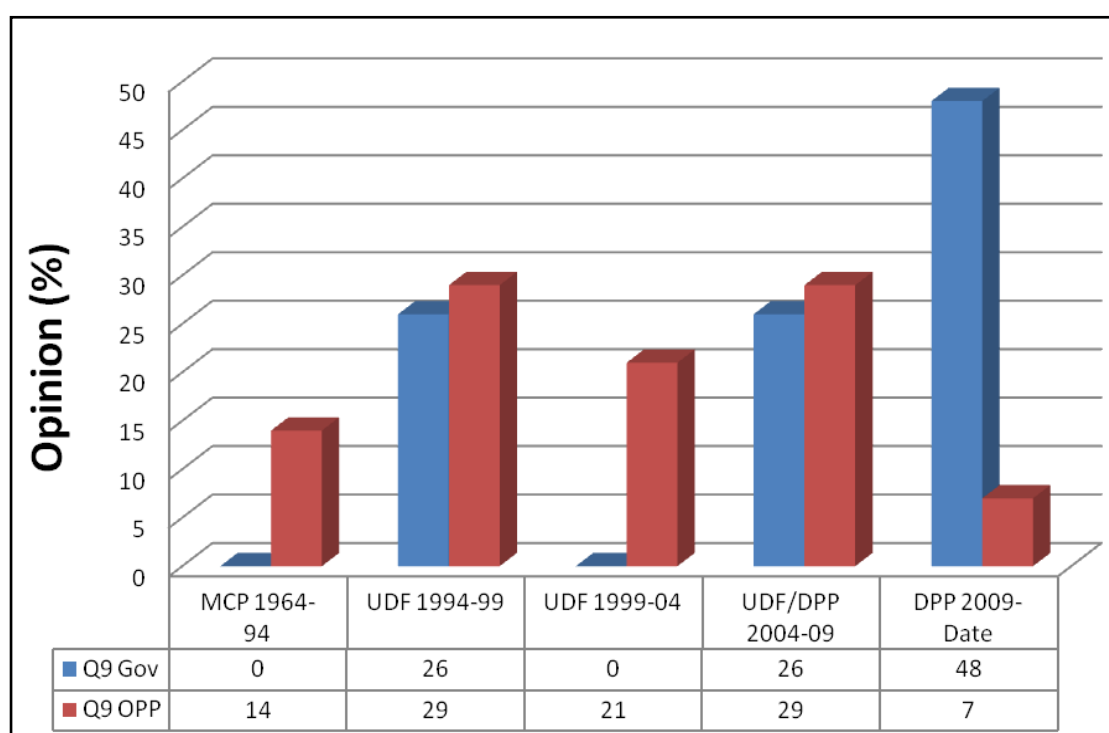
The UDF party ruled Malawi between 1994 and 2005. This period can be divided into three distinctive 'term of rule.' viz., first term 1994-1999; second term 1999-2004; and third term from 2004 to 5th February 2005, when president Bingu wa Mutharika resigned from the UDF to form his DPP; and shortly afterwards the UDF was relegated into an opposition party. This categorisation is important because it signifies political changes and accountability dynamics in the Malawi parliament as also reflected by participants and respondents.

Participants (MPs) were asked to rate the first term of UDF in office (1994-1999) in terms of its overall vertical and horizontal accountability. It was noted that 26% of government (DPP-MPs) and 29% of opposition MPs thought that the UDF-led government was accountable in its first term as compared to 0% of government and 21% from opposition during its second term and 26% and 29% of Government and opposition respectively thought that UDF more accountable in its third term. By analysing the pattern of respondents in Figure 5:1 suggest that both the opposition and government agree that UDF was more accountable between 1994-1999 and 2004-2009. On the contrary, government respondents did not think UDF was democratic during 1999-2004. The reasons given were that President Bakili Muluzi imposed Bingu wa Mutharika as the UDF presidential candidate for the 2004 general elections and that through the opposition AFORD was determined to amend Section 83:3 to extend his term of office without the due process of adhering to the democratic values and principles. It was also interesting to note that about 14% members of the opposition thought the MCP dictatorial government was accountable, although it was only to the President.

Using the good governance indicators, an accountable government is one that is transparent, follow the rule of law; responsive, equitable and inclusive; effective and efficient; participatory as well as being consensus oriented, (UN- ESCAP, 2009)

Question: *Using the governance indicators [given above], in your opinion, which one of the following government regimes can be said to be accountable?*

Figure 5:1 MPs Perceptions on Government Accountability



Source: Author, 2012 (data from primary source)

Arguably, although the UDF did not have a clear majority¹²⁹ in Parliament during its three terms, it clearly benefited from MPs crossing the floor from

¹²⁹ 1994-1999: UDF MPs were 84 against 93 Opposition Members

1999-2004: UDF MPs were 93 against 100 Opposition Members

2004-2009: UDF MPs were 49 against 144 Opposition Members

It should be noted that Government thrived on the utilisation of independent Members and defectors from other political parties.

opposition parties as well as independents because of controversies surrounding Section 65 that it could not be effectively implemented. It was argued by participants that although Section 65 had never been successfully invoked in the Malawi parliament, it may have at times been used selectively. For instance it was noted that as long as MPs were defecting to the ruling party, Speakers of parliament seemed reluctant to invoke Section 65 as opposed to MPs leaving the governing party. It was further argued that the section was amended in 2001 to target Brown Mpinganjira and others, who had left UDF to form a pressure group the National Democratic Alliance, (NDA). It should be noted between the two versions of Section 65 that the amended 2001 had an extension stating that one would lose his or her seat after leaving the party that sponsored him or her to parliament and had either joined any other political party, association and organisation whose objectives or activities were political in nature.

Although it was successfully argued in the High Court in the case of *the Registered Trustees of Public Affairs Committee versus the Attorney General and Others* in 2003, that section 65 as amended (2001) was inconsistent with other provisions of the Malawi Constitution such as Sections 32¹³⁰ and 38,¹³¹ the ruling was overturned by the Supreme Court on 15th June, 2007 in the presidential reference case of 2006; arguing that “...*the High Court had no jurisdiction to invalidate any of the provisions of the amended section after the amendment was effected following due parliamentary procedures,*” (Chigawa, 2008 in Maganga, 2011., p.16). Therefore, Section 65 stands as amended in 2001.

In the final analysis, respondents argued that in its current form, Section 65 continues to be a hindrance in the vertical accountability paradigm especially between the MPs and the electorates. Most respondents agreed that

¹³⁰ **Section (32):** States that every person shall have the right to freedom of association, which shall include the freedom to form associations...

¹³¹ **Section, (38):** States that every person shall have the right to assemble and demonstrate with others peacefully and unarmed.

although Justice Twea (2006)¹³² declared that Sectional 65 was valid as amended in 2001, he was right to acknowledge that there was need for an amendment because it was “*discriminatory.*”

I agree with my Brother Judge Kapanda and the friends of the Court that this [Section 65] is discriminatory and consequently, does not protect the interest of the electorate in respect of such members of the National Assembly. I call the Attorney General and the Law Commission to amend it accordingly. (Judge Twea, J., Tue, 11/07/2006)

Arguably, contrary to the notion created by the media (*Panapress*, 2001) that Section 65 was an ‘anti-defection Act;’ but rather that the ‘interest of the electorate’ be protected in respect of defecting members of the National Assembly. It can be further argued that if well defined (without ambiguities and conflicting with other provisions of the constitution) should provide the means of empowering ‘Migrating’ Members of Parliament to seek a fresh mandate in a by-election from their constituents. It was therefore suggested during the study by participants that a comprehensive constitutional review of Section 65 could effectively resolve inconsistencies.

5.3 MPs assessment of Government oversight role

Members of Parliament were asked to rate the role of parliamentary oversight and of checks and balances during the following periods: MCP (1964-1994), UDF (1994-2004), UDF/DPP¹³³ (2004-2009) to DPP/PP¹³⁴ (2009-2014) on a scale (1-5) (1=least, 2=below average, 3=average, 4=above average and 5=most). The following were the results in Table 5:1 (%):

¹³² **Judge, Twea, J., (2006)**, In the Presidential Referral No 2 of 2005 in the matter of Section 65 and Crossing of the Floor by Members of Parliament.

¹³³ Although UDF won the 2004 Presidential elections, its president Bingu wa Mutharika resigned from the party on February 5, 2005, to form his DPP. UDF was relegated to the opposition

¹³⁴ After the death of DPP president Bingu wa Mutharika on 5th April 2012, Constitutionally the Vice President Joyce Banda and her People’s Party took over presidency and DPP was relegated to opposition party

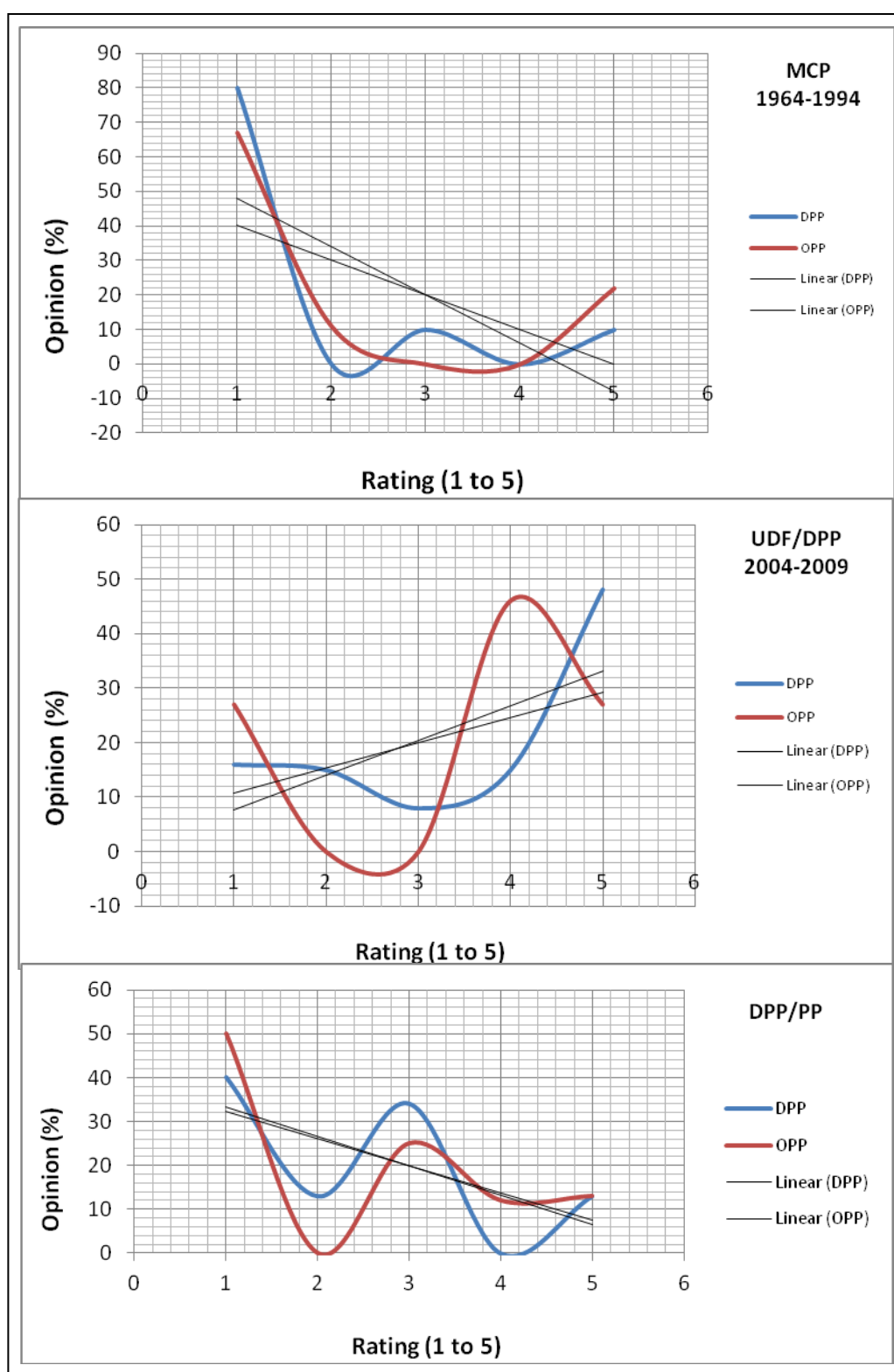
Table 5:1 Government Oversight

	1 Least	2 Below average	3 Average	4 Above Average	5 Most
MCP 1964-1994					
DPP	80	0	10	0	10
OPP	67	11	0	0	22
UDF 1994-1999					
DPP	50	10	30	0	10
OPP	15	14	57	14	0
UDF 1999-2004					
DPP	50	20	30	0	0
OPP	37	25	25	13	0
UDF/DPP 2004-2009					
DPP	16	15	8	15	48
OPP	27	0	0	46	27
DPP/PP 2009-2012					
DPP	40	13	34	0	13
OPP	50	0	25	12	13

Source: Researcher, 2011 (Data from Malawi Parliament (2007))

From Table 5:1 and the subsequent, pattern graphics below (Fig.5:2), the general impression is that of a less effective parliament in the role of government oversight and in checks and balances. It was further noted that during the MCP regime, there was hardly any parliamentary scrutiny of the executive or its agents arguably because it was a one party rubber stamping parliament. However, after a return to political pluralism in 1994, parliament was becoming effective in both vertical and horizontal accountability paradigms. The level of scrutiny to a large degree in the Malawi Parliament depended on the balance of numerical power between government MPs versus opposition. This is supported by the MPs opinion pattern in Figure 5:2, in which majority of MPs agree that a higher level of legislative viscosity and of executive scrutiny was tangible when members of the opposition MPs were in a majority in Parliament and the reverse order was equally true.

Figure 5:2 Trajectory of Parliamentary Oversight



Source: Resercher, (2011) based on [Table 5:1 data]

It is also important to note that in addition to parliamentary oversight, the 1995 constitution added auxiliary autonomous governance agencies such as the Electoral commission (Ch.7:75), The Ombudsman (Ch.10:120), the Human Rights Commission (Ch.11:129), the Law Commission (Ch.12:132) and the Anti-Corruption Bureau established under a Parliamentary Act of 1995 (Amend, 2004). However, Respondents argued that the independence of these agencies had been compromised because of the presidential appointments of the controlling officers.

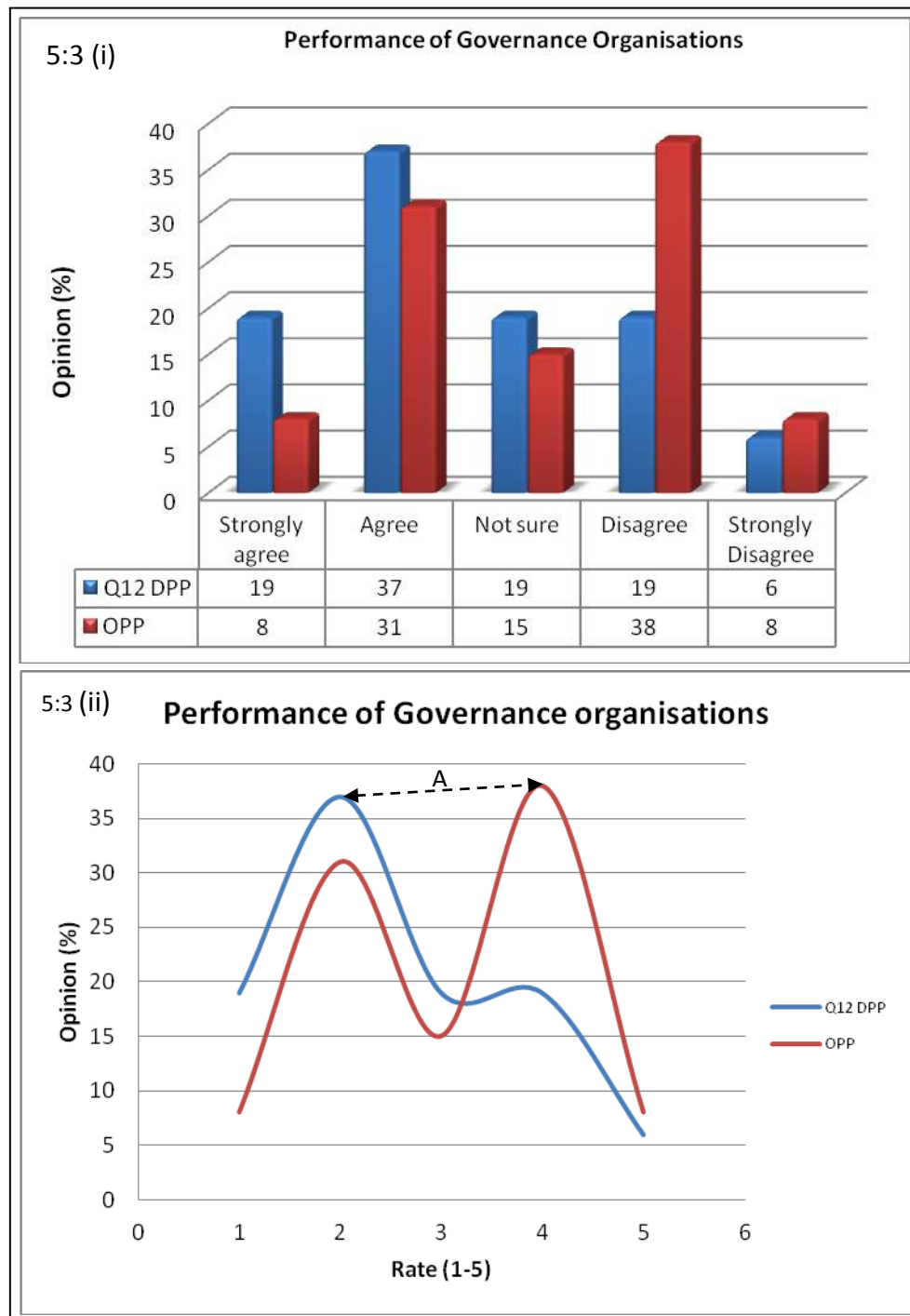
5.4 Government accountability from governance agencies

Members of Parliament were asked to rate (on a scale of 1-5, from strongly agree to strongly disagree) the performance of governance agencies as governance ‘watchdogs’ as well justify their scores. The study noted that 19% and 18% of the ruling DPP and the opposition MPs respectively, strongly agreed that the governance organisation were performing as they should. On the contrary, 38% of opposition MPs disagreed that the governance organisations were meeting peoples’ expectations and a total of 14% strongly disagreed that these organisations were performing at all as indicated in Diagrams Figure 5:3 (i, ii) on the respondents gauged opinions. Figure 5:3 (ii) indicated by line A, shows that almost an equal percentage of 37% and 38% of government DPP and the Opposition respectively had divided opinion on whether or not made government and its agencies accountable. A wide range of reasons were advanced for those who agreed and those that did not based on the following question:

Question: *In your opinion, would you say the governance organisations such as the Anti-Corruption Bureau, Malawi Law Commission, Ombudsman and Malawi Electoral Commission are adequately meeting the expectation of Parliament and the general public?*

1 Strongly Agree	2 Agree	3 Not sure	4 Disagree	5 Strongly Disagree
------------------------	------------	---------------	---------------	---------------------------

Figure 5: 3 (i, ii) Rating Governance Organisations



Source: Author, (2011)

The following (Table 5:2) were the justifications from the governing DPP and the Opposition respondent MPs:

Table 5:1 MPs Reasons for Rating Governance Agencies

Rating	Governing DPP Respondents (MPs)	All Opposition Respondents (MPs)
1	<ul style="list-style-type: none"> Governance agencies regularly send their annual including audited financial reports to parliament for scrutiny They are visible and independent in their roles 	<ul style="list-style-type: none"> To have the governance agencies constitutionally instituted was a success in itself in a country that lived under a brutal dictatorship for 30 years. Malawians are now able to talk about corrupt official
2	<ul style="list-style-type: none"> Citizens have confidence in governance organisations such as the Melawi electoral Commission, the Anti-corruption and others Given the meagre financial and human resources, the agencies are giving the best services they can under such circumstances 	<ul style="list-style-type: none"> MEC conducted a free and fair presidential and parliamentary elections in 2009 Some corrupt officials have been successfully convicted and many more are in the court of laws
3	<ul style="list-style-type: none"> Not sure if governance organisations are performing because they are characterised by corruption and politicisation 	<ul style="list-style-type: none"> Organisations such as the Anti-Corruption have recorded more failures than the few convictions secures since 1994 to prosecute and convict senior government officials suspected of corrupt practices
4	<ul style="list-style-type: none"> Organisations such as the Anti-Corruption apply partisan justice in which, suspected members of the opposition are seen to be targeted as opposed to those in the ruling elite political parties or connections 	<ul style="list-style-type: none"> MEC and ACB are politically corrupted. There is urgent need for overall reform in these two organisations Appointments of these organisations should be left to parliament and not in the hands of the State President
5	<ul style="list-style-type: none"> Lack of independence from the executive has renders these organisations less elective and more of political tool to oppress the opponents 	<ul style="list-style-type: none"> ACB cases take too long and in many cases left inconclusively

Source: Author (2012)

Respondents that were interviewed on whether or not the governance organisations have performed to their expectations gave varying arguments among the different respondents. For instance those from the ruling DPP argued that the State President has the constitutional (Corrupt Practices Act NO.18 of 1995)¹³⁵ mandate to 'appoint' subject to confirmation by the Public Appointment Committee of Parliament the heads of these organisations.

¹³⁵ Corrupt Practices Act No.18 of 1995. The Act under Section 4(1) establishes the Anti-Corruption Bureau, which is headed by a Director. The Director and the Deputy Director are both appointed by the President subject to confirmation by the Public Appointment Committee of Parliament

There seemed to be a corroborative observation from the ruling party respondents that the problem was not with the organisations but rather with the law as observed by one of the respondent thus:

“The problem is not with administration but with the law. Therefore, unless and until there has been such a change; the status quo remains.” (SPK)

The status quo was defended by the government that it was not their making but had been there since the advent of the new era of multiparty politics in Malawi;

“The appointments of heads of these governance organisations has not started with this regime, it was there since 1994.” (SPK)

They however suggested that the logical way of ensuring the independence of the heads of these organisations is by allowing a process of vetting candidates at both entry and exit points by the Public Appointment Committee of Parliament as stated below.

“The only safeguard is that before the President would fire, Parliament should be involved just like when they were being hired, they have to appear before a parliamentary committee.” (SPK)

Member of the opposition parties, the faith groups, civil society and these in academia corroborated observed the executive and influential members of the ruling political party exert enormous pressure on these organisations to force them to comply with the demands and expectations of the ruling elite.

“Not only had the President, but also other influential ruling politician instilled fear of dismissal. Any one of them would come to you and say who do you think you are? Why are you doing this? It is that man [president] who gave you this job...so these officers are threatened by many people.” (BM)

They singled out poverty as one of the main causes for the trend of rent-seeking behaviour among officials in these organisations stating that Malawi has many people that are poor. They further observed that even those who are ministers go into their jobs with nothing. One respondent said,

“When they get there they have great privileges. Do you expect a minister to speak in opposition of his head?” (BM)

It was also stated that because these officers have personal gains from the political system even if their leaders make mistakes they tend not to see anything going wrong. One respondent noted as follows:

“This state of affairs can hardly be seen as democratic! It visibly favours the appointing side.” (K)

Most respondents observed that organisations that were seen to be critical of the ruling regime were either starved of funding if they were funded by government or their leaders threatened with imprisonment as well as sending death messages if they dared continue being critical. John Kapito who headed the Human Rights Commission was singled out as a typical example of government’s persecution of its critics, according to ‘*Malawi Today*’, (2012) news. In reaction to Kapito’s arrest, one respondent said, *“The head of the organisation (HRC) is being persecuted in the opinion of many Malawians.”* (K)

The respondent’s assertions were supported by the changing political climate on the ground as reported by one of the press sources as cited.

...the country’s President Bingu Wa Mutharika, has instructed police to secure warrants of arrests for civil rights activists Undule Mwakasungula and Rev. Sembereka along with the country’s Vice President, Joyce Banda, accusing them of plotting a coup against the government. Mutharika’s government has come under increasing pressure from activists who claim that human rights abuses in the country has become extremely rampant and corruption in high places has now become endemic. (News Time Africa, 2011),

Respondents also mentioned the arson attack on the Offices of the Institute for Policy Interaction in February and the House of the Reverend Sembereka, the Acting National Coordinator of the Human Rights Consultative Committee in September of 2011. Furthermore, respondents argued about the circumstances surrounding the death of the Polytechnic University of Malawi student Robert Chasowa¹³⁶ on 24th September of the same year as not ordinary incidents but could have been 'state sanctioned.'

The Anti-Corruption Bureau was another organisation that was mentioned by opposition, faith groups and civil society respondents as not meeting the expectations of the Malawians in general because they claimed that it was being used as a shield for the ruling elite from their own corrupt practices while at the same time targeting the insignificant cases as expressed by one of the respondents as thus:

"Anti-Corruption Bureau, Yes, we have that indeed, but is it working? In this case I can only say that the law is only strong on the weaker and very weak on the strong..." (Loveness Gondwe)

The expulsion by the DPP administration of commissioners at the Electoral Commission without due process of the law was viewed by many participants as an assault on the already fragile democratic apparatus in Malawi. Chapter vii: 75(4) of the Malawi Constitution States:

A member of the Electoral Commission may be removed from office by the President on the recommendation of the Public Appointments Committee on the grounds of incapacity or incompetence in the performance of the duties of that office.

Respondents observed that the State President flouted procedure by making a unilateral discussion in dismissing the commissioners. One of the respondents stated that the president was flouting laws because the constitution already has loopholes on matters of procedure on how

¹³⁶ Robert Chasowa Commission of Enquiry was instituted by the new President Joyce Banda administration on the 20th April 2012 to investigate the cause of his death.

Commissioners can be hired and fired. Most respondents reiterated that the power of appointing and dismissing commissioners to the Malawi Electoral Commission should not be at the pleasure of the President.

Almost all interviewees apart from those in the ruling DPP strongly argued that the biggest stumbling-block on why these organisations do not seem to be delivering is because officers were appointed by the President. They stressed that this needed to be reviewed by parliament. Furthermore, the study noted that there were accountability challenges during a minority and majority governments in Malawi between 1994 and 2012.

5.5 Challenges of accountability from the minority governance point of view

During 2004-2009, the DPP led Government was in a minority in the National Assembly. It thrived on public sympathy (Chinsinga and Kayuni, 2010). They also observed that the government's "*survival skill*" was to go on a propaganda campaign through the public media to mobilise public support. Government highlighted the fact that opposition was only keen to frustrate the development agenda by refusing or delaying to pass the budget in preference to the invocation of Section 65 on MPs crossing the floor in Parliament (Patel, et al., 2008). During most of this period, the opposition had 61% (n=118) of the seats in Parliament, against 39% (n=75) for the government. Participants (MPs) stated that it was probably the most challenging period in the history of parliamentary democracy in the post MCP regime. The Speaker (Banda, H.C.) who was leader of Government Business in Parliament at the time said,

...It was a nasty experience to be in minority as government..., nasty experience; survival was because of the support that the regime received from outside parliament. Myself as Leader of the House, my tactic was not to address the Members that I was facing on the other side [in the Chamber], but to address the masses outside the House. I think it gave us the strength to soldier on to complete that term.
(Banda, H.C.)

The Speaker alluded to the fact that without a comfortable working majority in the House, the experiences for the minority government were extremely tough because the main agenda of the opposition was that of a vendetta led by UDF to remove the President. He recalled that during the first meeting after the President's resignation from the UDF, the government side had only about 60 members against 133 on the opposition side. He strongly felt that the main aim of the opposition was to break down government. He gave an instance of the budget that even before the Minister of Finance would table it, the opposition will have already pronounced to reject it. He also recalled that the mood in the Business Committee was very confrontational.

Well, mood in the Business Committee? Ahaa! Well, I think the 'wars' that people saw in the Chamber there were a fraction of the wars in the Business Committee. The Speaker Rt. Hon. Munyenyembe suffered heart attack, collapsed in the chamber and died. That is how serious it was! (Banda, H.C.)

Furthermore, the Speaker stated that in Malawi, the minority government would suffer not on the basis of its programmes but to remove it from power. He revealed that in order to survive for instance, they used *give-and-take* tactics. He said, *"We used to give fairly generously and take whatever little we could get just to make some progress."* He elaborated that because of that stance taken by the opposition, DPP got a massive 'sympathy' vote in the 2009 general election.

In addition to what the Speaker stated, the First Deputy Speaker alluded to the fact that even presiding over the House became a major challenge. He also stated that nearly all select committees were headed and dominated by the opposition thereby making it difficult for instance, in appointing personnel in strategic government portfolios. When asked of his personal assessment of parliament as First Deputy Speaker at the time, he said,

It was a problem to preside over parliament. Soon after Morning Prayer, the chair could even fail to make announcements. No Bills passed; No appointments went through; nothing could pass without Government asking opposition for some kind of mercy; it was politics of retribution. (First Deputy Speaker, 2011)

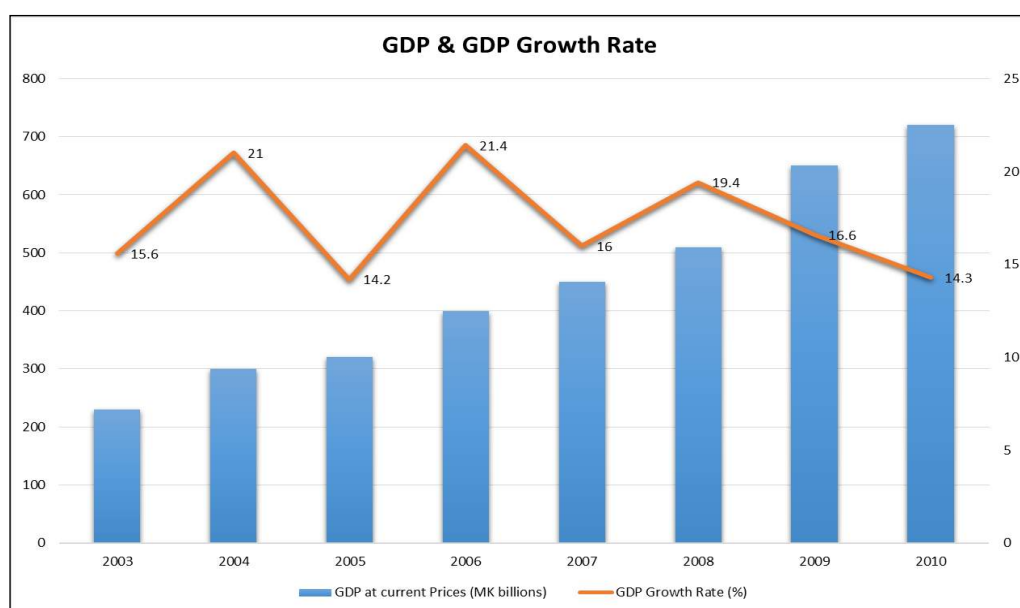
Furthermore, participants (MPs) from the ruling DPP believed that their Government delivered to the nation as expected under the difficult financial and political circumstances it found itself in. Dausi (2011) in the interview, argued that President Bingu wa Mutharika did what he could at the time to encourage Malawians to be self-reliant by quoting his favourite statement that Malawi was not poor; but that it was the people who were poor. In defining President Bingu's national development agenda, Dausi said,

I think President Bingu wa Mutharika encouraged Malawians to do away with lethargy, incompetence, profligate, maladministration and corruption. I believe he was building on Kamuzu's spirit of patriotism, hard work in the field as well as encouraging people to be productive and move away from annotated lethargy, and incompetence. (Nicholas Dausi, 2011)

Respondents from the opposition argued with passion and strong conviction on three points. Firstly, that when President Bingu resigned from UDF, a party that sponsored him into office, either the vice should have taken over or made a call for a general election. They observed that it was erroneous for UDF to go into opposition because it was an individual (President) leaving the party. Therefore, as far as the party was concerned, it should have remained in government. Secondly, MPs who had joined the DPP from UDF had crossed the floor. Therefore, the Speaker should have instituted an invocation of Section 65 of the republican constitution and declared the seats vacant.

Thirdly, they argued that Government registered economic success when it was in minority (2004-2009) because of the strong opposition that provided oversight. They pointed out a double-digit GDP Growth (Figure: 5:4) rate during the said time and a sharp decline from 2008 just before the next general election in 2009 that continued on a steep descent thereafter.

Figure 5:4 Malawi GDP Growth Rate (2003-2010)



Source: Euro-money Country Risk: Malawi (2012)

In addition, Daniel Msowoya stated that because of the stiff opposition, government made the populace believe that the opposition was the hindrance to national development, consequently the opposition lost support in the 2009 elections giving the DPP a two-thirds majority. He deplored that with the overall majority, government was displaying its *“full madness in corruption, human, power and public office abuses.”*

The Faith based organisations, stated that the negative aspects of the 2004-09 government was a high rate of the power imbalance (39% to 61%) between the ruling and the opposition in parliament. They argued that it became clear that those members who remained in the UDF as opposition felt betrayed by the resignation of the President who after being sponsored on UDF party ticket decided to resign and formed his own political party. Therefore, they seized every available opportunity to frustrate him as an individual and his government. Participants recounted that the opposition demanded that the Speaker invoke Section 65 to declare vacant, seats of Members of Parliament who had defected from their original parties to join the newly formed ruling DPP. Pastor Vincent Chirwa stated that at that time the President must have been very insecure in his office considering the

looming impeachment procedures that was tabled in Parliament coupled with the massive block of opposition Members of Parliament. Pastor Chirwa said, *"I think it is also by the grace of God that he [the president] survived that long in office. Otherwise, everything was leading to his impeachment"* and Bishop Matoga described the time during Bingu's minority government as having been so *"Horrible!"* that Parliament could not even pass the budget because of the *"in-house fighting"* between government and the opposition.

Bishop Matoga stressed that it was civil society that assisted President Bingu to remain in power. He stated that people went out on the streets to demonstrate against the opposition so that they can pass the National Budget before prioritising Section 65 of the Constitution. He further observed that the Speaker of the National Assembly at the time Louise Chimango also contributed significantly to the President's continued stay in power by not invoking Section 65 on members that were deemed to have crossed the floor; a move that could have seen more than 50 percent of the parliamentary seats falling vacant. To emphasise the point Matoga said, *"If Hon. Chimango, the Speaker at that time could have acted on Section 65, there would have been no government and I think it was going to be a dangerous move."*

However in comparison to the current DPP government, the Faith groups said that although opposition were frustrating whatever effort, whether good or bad, they felt that what was happening with the DPP majority government was worse than then. For instance, very unpopular laws are being passed unopposed regardless of the wishes of the populace. Pastor Chirwa summarised thus,

What has happened now that DPP is a majority in parliament is that things have now gone worse. Bad laws are being passed and the sense of abuse of power and arrogance is unbelievable. (Pastor Vincent Chirwa)

The Public Affairs Committee (PAC) stated that although it had been instrumental in supporting the DPP led government at the time had now

realised that supporting President Bingu and his DPP Government must have been a big mistake. PAC stressed that lessons should have been learnt from the UDF regime that had done fairly well in their first term but the second term saw a major departure from all democratic and good-governance values and principles. In their statement of regret, PAC said, *“We actually missed a point because we built a monster [in Bingu wa Mutharika].¹³⁷ So yes, we have contributed to the dictatorial tendencies in our leaders. I think that we can’t deny.”* PAC like other civil society organisation and Faith Groups also alluded that most successes achieved in the first term of the DPP led government can be attributed to a strong opposition in Parliament that provided the necessary government oversight.

Loveness Gondwe argued that the challenges that the Bingu Administration encountered in the first term of office was in a way their own making. She stated that prior to the 2004 General Election, the UDF and AFORD signed a Memorandum of Understanding (MOU) at Sanjika on the understanding that they would go into an electoral alliance and subsequently form a coalition government. Gondwe contended that from the onset after winning the elections, President Bingu wa Mutharika did not honour the MOU in its totality.

On the first day of swearing-in ceremony, President Bingu never honoured the MUO because they were supposed to be sworn-in together with Chilumpha and Chakufwa Chihana of AFORD as President, Vice President, and Second Vice President respectively. That did not happen. (Loveness Gondwe)

She further argued that what followed after that swearing-in was that President Bingu resigned from UDF to lead government with his party that never participated in the election. She also stated that the same trend had repeated itself with the Joyce Banda’s People’s Party in government without having gone through an election. She observed that this trend suggested that there was a serious lack of succession policies and appropriate legislation and political models that would arrest this undemocratic trends. She stated

¹³⁷ [...] Words in brackets are authors’

that when she heard that Bingu had resigned from UDF she simply said, “*chani? Waba boma uyu!*” (*What? He has stolen Government!*). It was unfortunate that most people at the time supported the Bingu’s decision. For instance, when making his resignation statement Bingu said, “*Iero ndasiya chipani cha UDF*” (*Today I have resigned from UDF*) “*azimayi akuimba mawu kuti, a Bingu amati akalankhula zonse zimachitika,*” (*Women were singing in support, ‘When Bingu speaks things happen’*). She condemned President Bingu’s move in the strongest of terms. In her words she said, “*Bingu anaba Boma. Anabera anthu a UDF ndi AFORD. Anabela mtundu wa a Malawi*” (Bingu ‘robbed’ government, not only from UDF and AFORD, but also from the Malawian electorates)

In the final analysis, PAC argued that when parliaments have a strong presence of the opposition members, governments seem to be doing better than in countries where governments tend to have what the Vice President (Joyce Banda) called “*a blank cheque.*” Therefore, participants concluded that the citizenry tend to benefit more in countries where there were equitable balance of political power in Parliament.

5.6 Challenges of accountability from the majority governance point of view

In the 2009 General Election, the DPP won a comfortable majority of seats (supported by most independent MPs) in Parliament.¹³⁸ Addressing Parliament on 23rd June 2009, the State President said, “*I assure the Malawian nation that my government will not use our numerical strength in the House irresponsibly.*” In giving the background, the First Deputy Speaker of Parliament stated that the origin of the DPP majority government emanated from the campaign promise of giving needy farmers fertiliser and seed subsidies. Thus, the majority of the country population voted overwhelmingly for the DPP. He further argued that when opposition resisted

¹³⁸ In 2009 General Elections, DPP won 113; Independent MPs, 32; MCP, 27; UDF, 17 and 4 seats went to other parties.

passing the 2005-2006 budget for the subsidy, Government found sympathy from the public that subsequently translated into votes.

The study sought to investigate if the DPP led government had used its majority in the house 'irresponsibly.' Participants observed that the DPP Government had indeed used its majority in the House 'irresponsibly' by passing bills with minimal or no amendments regardless of resistance from various stakeholders. Participants argued that legislation lacked rigour of scrutiny as well as consultations with stakeholders. Furthermore, they expressed concern that debate in the House had been reduced to mean nothing but "*praise and worship*" by members of the ruling party; reminiscent of the days of the one party state of Kamuzu Banda as expressed by Msowoya.

We are now going through very similar trends like those during Kamuzu Banda's because of the majority government. Malawians are suffering in silence. Enactment of unpopular laws using majority numbers in Parliament only to its advantage. In Malawi now, it seems the 'President is Government' and Government is president. (Daniel Msowoya)

Similar sentiments were also expressed from participants on the government side. They stated that they felt very uncomfortable with the manner in which Governments Bills were being presented and passed in Parliament, suggesting that if the trend continued Malawi would no doubt find itself back into the days of one party dictatorship as stated by participant (G.P).

The challenge with the majority government is that anything can pass without scrutiny. The challenge is allowing unpopular bills to pass. Government consulted chiefs on the change of the flag. Change of the flag should have been put to a referendum. (G.P)

There was a sharp contrast with some members of the ruling party who argued that when elected into government the ruling party had the mandate to rule the way it saw it fit as expressed by one of them in the following statement; "*Democracy entails that those that win should rule.*" They argued

that government bills were given adequate consultation through the Law Commission before presenting to parliament for further debate and vote.

However, when asked for his opinion on the legislative process in the Parliament, the Speaker (Banda, H.C., 2011) stated that in his views the challenge lay in defining what constituted 'responsible and irresponsible' use of the numerical advantage in the Parliament by the DPP government. He argued that what may be considered 'responsible' by government might be deemed 'irresponsible' by the opposition and vice versa. He articulated that his role as Speaker was not to be judge in determine which bills were in the best interest of Malawians and which bills were not, but rather to play a natural role in facilitating the process of legislation ensuring that proper procedures were followed as stipulated in the statute books.

My role as Speaker of the National Assembly, is to ensure that this piece of proposed legislation was consistent with the other laws. Have people been given time to express themselves. What would have been an issue in my view was where corners were being cut. For instance, that debate was rushed through a day or two because government or opposition wanted it passed simply because they had the numbers on their side. (Banda, H.C.)

However, the Presidential spokesperson argued that current laws were being made in the best interest of Malawians and if any piece of legislation was not in their best interest, the citizenry were free to raise it through their members of parliament in order to be re-examined and possibly amendments made. He thus argued:

Laws are made for Malawians; it does not mean that they [the laws] must stay there until Jesus comes. They can be amended at any given time if that is what the people of Malawi want. This is what the State President has always said. (Nicholas Dausi-MP, 2011)

Contrary to Dausi's arguments the Vice President (Joyce Banda) strongly felt that Malawians were let down by the Majority Government because having been given a clear mandate to develop the country the government seems to

be using its majority to pass repressive legislation to oppress the same people that voted the govern into power. She argued that although she was in government by virtues invested in her by the constitution, her ideology and party (PP) policies were opposed to those of the DPP led government.

...yes of course. We have let down Malawians. That's my most serious problem and that's why I find myself where I am. People have asked that why does she talk against the same government which she is a part of? I say no, I am not even opposing this government. I think I am just exercising my mandate because it is only the President and I who have that mandate and if he is going the wrong direction the only other person who can say that's wrong, is me. Yeah!... (Joyce Banda)

The opposition parties, faith groups, PAC and academics all seemed to suggest that government had indeed used its numerical advantage in Parliament to pass contentious pieces of legislation for its own political gains. For instance, participants identified the following four bills passed so far as the most controversial.

- **Section 46 Penal Code**

Section 46 of the Penal Code was amended to empower a cabinet minister to close down media outlets deemed not serving the interest of the public. This they argued was government's effort in impinging on the peoples' freedoms of expression was therefore inconsistent with the fundamental Bill of Rights¹³⁹ as provided in the National Constitution.

- **Civil Procedure (Suits by or against the Government or Public Officers) (Amendment) Bill of 2010, (Injunctions Bill)**

The amendments allowed courts not to grant ex-parte injunctions against government or public officers. The new amendments state that where an inter-party application is made, the court shall hear the

¹³⁹ Malawi Constitution: Chapter 4:15-46 Bill of Rights

application within three days from the date the application and the evidence in support of the application served on the Attorney General. Participants argued that this piece of legislation disadvantages the individuals from exercising their right to access justice; their right to injunctions and other forms of relief against government.



- **Police Bill**

This Bill gives powers to police officers to carry out searches on the country's citizens without a court warrant. The bill that was passed on 2nd December 2009, only allows the law enforcers to make a recording of such an exercise. Participants contended that the bill could be abused by conducting arbitrary searches and interference with individual liberties and privacy by security urgent in harassing political opponents by searching their property without Court Warrants as had been experienced by the pattern of searches since its introduction.

- **Change of Flag**

The DPP dominated Parliament changed the national flag in 2010, to red, black and green with a full sun in white to symbolise what authorities argued was due to unprecedented development. However, most participants argued that the government's justification for the change of flag could not be substantiated with 'reality' in a country where more than 52 percent (2010, World Bank Est.) of the population was living below the One-Dollar a day poverty line. Furthermore, they argued that change of the flag should have been put to a referendum rather than use the two thirds parliamentary vote that DPP already had any way. Figure 5:5 is an illustration of the changes to the Malawian flag during this period.

Figure 5:5 Change of the National Flag

	
<p>Malawi Flag from 6th July 1964 to 29th July 2010 PP Government reverted to it after 25th May 2012</p>	<p>Malawi Flag from 29th July 2010 to 25th May 2012</p>

Source: Malawi Parliament, 2012

It was also argued by respondents that in its consultative mechanisms, government only approached pro-government elements such as party cadres and traditional leaders, a move that was perceived by the opponents as biased, inadequate, and unjustifiable. Most respondents argued that by giving majority vote to the DPP was like giving them a ‘blank cheque’ on which they were signing their wishes; as expressed by Loveness Gondwe.

The fears that some of us raised in giving DPP a majority vote was like giving them a blank cheques. This is what we are reaping [maladministration] now as Malawians. (Loveness Gondwe)

Some respondents from the opposition parties argued that then DPP MPs had developed a “blind eye” and “deaf ear” to the ills of Government; while the PAC contended that during the DPP majority Government, the National Assembly was rendered a ‘rubber stamp’ for the wishes of the President. Consequently, it no longer became a representative body for the views of the constituents as articulated in Cassim Chilumpas’ statement.

Well..., I mean, as a Member of Parliament myself, honestly, I can say that they [DPP] are not using their majority responsibly because all these controversial bills that we are talking about here, the Police Bill, change of the flag, injunction bill and the rest of them were indeed very controversial. We argued about it but still because of their numerical supremacy in Parliament, those bills still passed. (Cassim Chilumpha-MP, 2012)

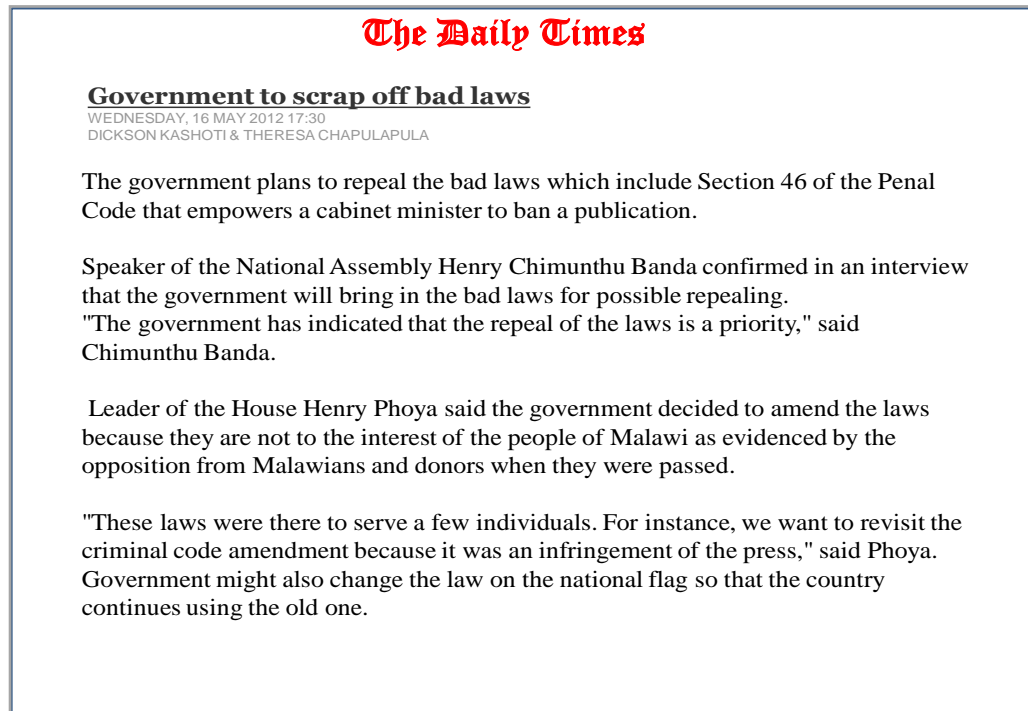
It was observed by AFORD that the DPP majority parliament passed legislation without due diligence to scrutiny more or less showing opposition that it was “*payback time*.” This, they said was a “*national disaster*” in the democratisation project. As a result, they stated that parliament had lost two of its fundamental function of oversight and representation.

5.7 People’s Party (PP) responsive accountability

I am calling on parliament to repeal all repressive laws that were enacted in the previous regime. Such laws have tarnished the image of our country to the outside world. (President Joyce Banda, 18th May 2012)

When the People’s Party came into power on the 7th April 2012, it stated that one of its priorities was to repeal all the so called “*Bad Laws*” as reported by the press, (Kashoti and Chapulapula, 2012) in Figure: 5:6.

Figure 5:6 People's Party Government Press statement on Bad Laws



Source: The Daily Times [Malawi] (2012)

Since the Presidential declaration on the repeal of repressive laws, Parliament repealed the Injunction Act on 24th of May 2012; voted to revert to the original flag on the 29th of May 2012 and Section 46 of the Penal Code was repealed on the 30th May 2012, (Malawi Parliament Hansards, 2012).

Part: B

Constraints faced by Members of Parliament

If democracy must be true; then you can't hold people; you can't zip people's mouths forever. At some point they will express their feelings and views openly. (Pastor Chirwa, 2011)

Part B concentrates on political, knowledge and skills gaps as some of the major constraints face by MPs in the Malawi Parliament that can be directly or indirectly attributed to the overall performance of the institution in providing effective oversight role in holding the government and its agencies accountable (Rondinelli, et al., 2007).

5.8 Political space for members of Parliament

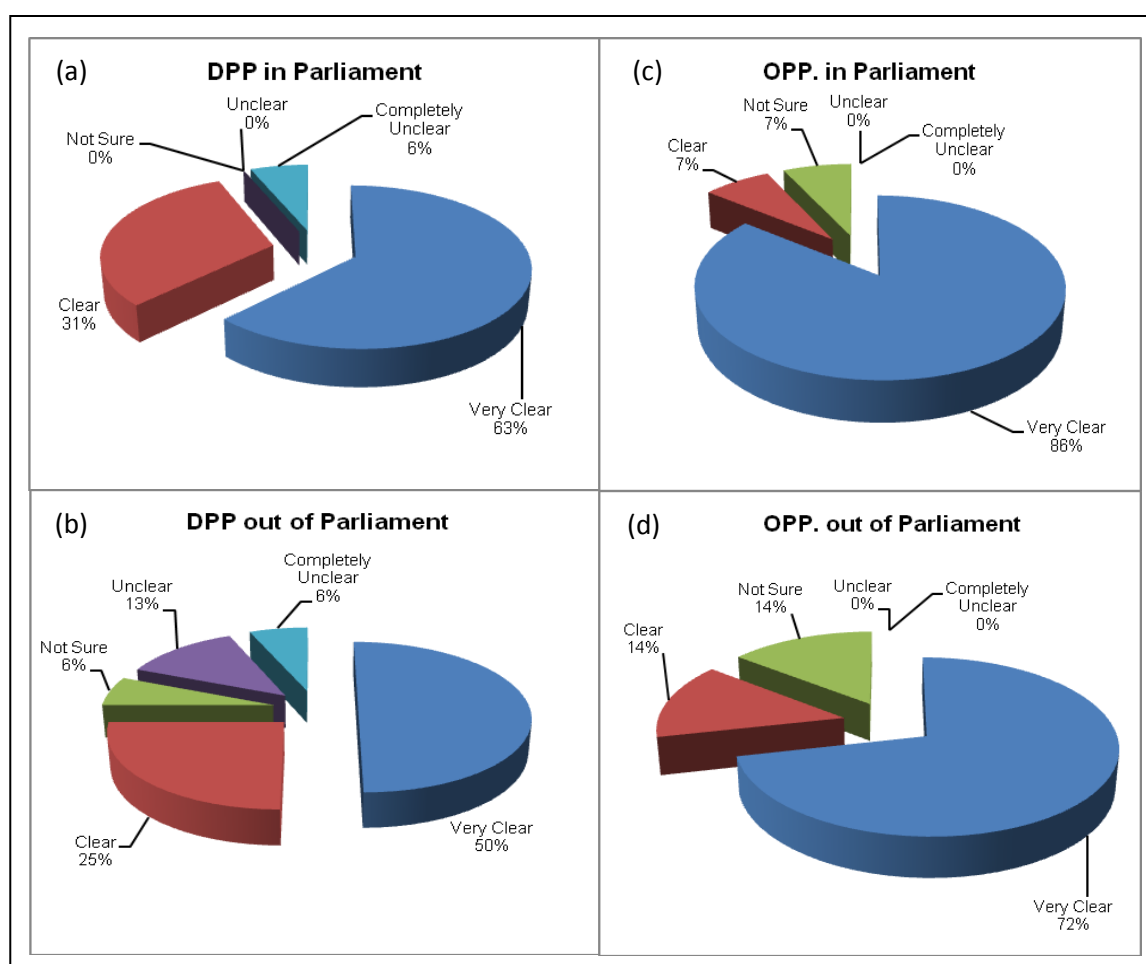
5.8.1 Independence of MPs in executing their duties in and outside of Parliament

Section 60:(1-3) of the Malawi constitution, provides immunities and privileges for MPs while they are on parliamentary duties from prosecution. Urguably, to allow members carry out their duties effectively. However, emperical data suggests that Malawian MPs were constanly under political pressure to almost all the time comply with the dictates of their political parties at the expense of their constituents.

MPs were asked to score (on a scale 1 to 5), their levels of understaning of their parliamentary roles both within and without parliament. The statistics from the study suggests that on average (Figures: 30 a,b,c,d) 68% of MPs in the Malawi Parliament understood 'very clearly' that although they could be members of political parties, they also had parliamentary privileges to carry out their duties in the best interest of their constituents and the nation. However, 6% of DPP members said were completely unclear of their roles outside parliament (Figure 30, b), while none from the opposition in (Figure 30, d. Opp) seemed to hold similar views. It may be important to note that

there was almost twice as much uncertainty within the opposition (Figure: 5:7. d) of 14% to that of the ruling 6%. MPs argued that this was partly because political party leaders tend to prescribe with no opportunity for consensus decision making process hence, the dictatorial tendencies develop among party leaders. They argue that this was the case in almost all political parties in Malawi. Figure 5:7 helps to illustrate the levels of understanding of parliamentary roles by MPs both in and outside of parliament.

Figure 5:7 (a, b, c, d) Understanding Parliamentary Roles by MPs



Source: Researcher (2011)

5.9 MP's Parliamentary role at Constituency Level

A host of literature and also as discussed in Chapter 3, MPs in developing democracies including Malawi, dedicate much of their parliamentary work to constituency service than legislation and oversight, (Baskin, 2013; Fox and Shotts, 2007; Matlosa, 2007; Young, 2009). In constituency representation, the role of the MP may include but not limited to the five summarised themes:

- MP is a representative of a geographical constituency. Thus, representing all interests within the domain such as ethnic, business interests and ideology
- MP acts as delegate by representing views of his/her constituents
- MP acts as a trustee in which they develop their own views and convictions on certain issues
- If not independent MPs are the embodiment of their political parties and manifestoes
- Involved in social responsibility and political clientelism in providing private goods in the form of favours, personal assistance and cash hand-outs

In fulfilling these roles MPs were asked to give their opinion on whether or not they would execute their representative roles without external influence such as that from their political parties.

This study found that although most MPs said they did not engage or consult their constituents enough, a majority of them indicate that they had more political freedom¹⁴⁰ at constituency level than they did at party or parliamentary levels as indicated in the following statistics (Figure: 5:8 a,b). The following opinion was put to the Members of Parliament.

Opinion: *I can fully participate in the political process as a member of the Malawi Parliament at constituency level to the best of my ability without external interference.*

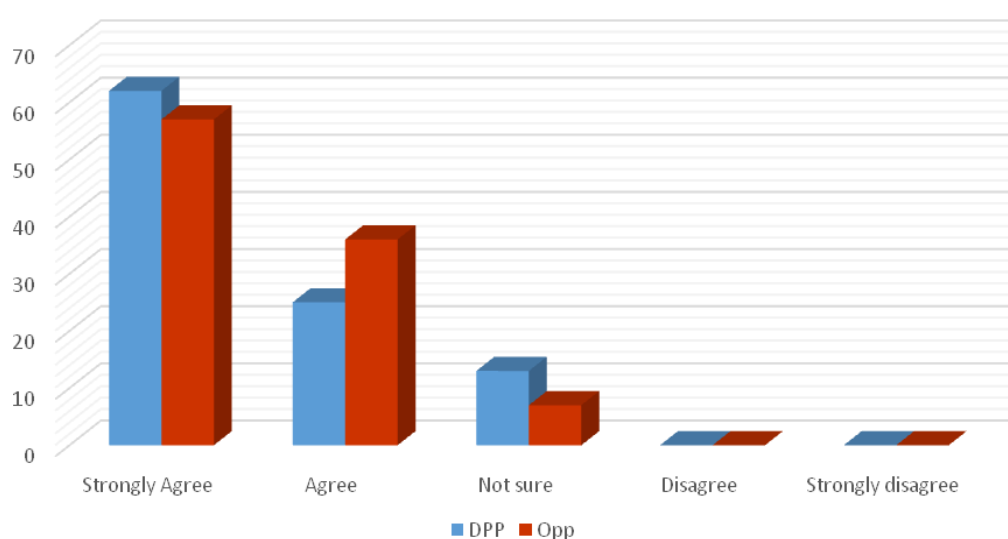
¹⁴⁰ **Political Freedoms:** Refers to relationships free of oppression or coercion; the absence of disabling conditions for an individual and the fulfilment of enabling conditions within the political space.

Figure 5:8 (a, b) MPs Role at Constituency Level

a- (Percentages)

	Strongly Agree	Agree	Not sure	Disagree	Strongly Disagree	Total %
DPP	62	25	13	0	0	100%
OPP	57	36	7	0	0	100%

b- (Graphics representation) MPs Participation at constituency level



Source: Researcher, (2011); (Key: DPP-Government, OPP-Opposition)

At constituency level majority 62% and 57% of government and opposition MPs respectively strongly agreed that they actively participated in the political process with minimal or no external interference. Furthermore, a total of 20% from both were not sure (Figure: 5:8 a, b).

5.10 Intra-Party Democracy

Participants and respondents also stated as it was noted in the literature review that lack of intra-party democracy had been at the centre of Malawi's political instability since independence. For instance, the first Cabinet of Kamuzu Banda only lasted for two months after independence in 1964 before policy differences turned into leadership crisis. According to Chirwa, (2001),

Anybody with personal, professional and blood connections with these people [rebels] was also in danger of being branded a 'rebel', and risked deportation or arrest and detention without trial. (Chirwa, 2001, p.8)

Participants observed that the legacy of the MCP regime of branding dissenting views as 'rebels' and enemies of the establishment seemed to overflow into post Kamuzu Banda era and manifesting itself in various forms in almost all political parties. For instance, during the UDF government the trend of political intolerance and non-accommodation of dissenting views seemed to have been continued. Participants argued that daring MPs, ministers and members of the party were subjected to intimidation abuse and expulsion to deter them from expressing their personal political views either in the party, parliament or executive. They cited the expulsion of MPs that were seen opposed to the third term bid of Bakili Muluzi as one typical example that was also widely covered by the media.

Malawi's ruling party [UDF] expels four "Rebel" MPs; Brown Mpinganjira and his wife, Lizzie, Peter Chupa and Gresham Naura from its ranks for 'disloyalty' to the party. (All-Africa News, 2001)

Furthermore, the study noted that the second term of the DPP regime (2009-2012) had many similarities in governance with the former MCP regime in dealing with its critics. There were many victims of the regime that were expelled from the DPP for expressing their contrary political opinions.

Notable among them were the State Vice President Joyce Banda, and the party's vice president Khumbo Kachali. Many others followed later.

President Joyce Banda was along with her Vice President Khumbo Kachali expelled from the then ruling Democratic Progressive Party (DPP) on an allegation that they were forming parallel structures within the DPP. Other quarters however said that the two, who were first and second DPP Presidents respectively, did not endorse Peter Mutharika, younger brother to later Bingu as the party's torch bearer in the 2014 Presidential race. (All-Voices, 2012)

In this study, although most MPs (43.5% from DPP and 46.5 from Opposition with a total of 10% being neutral) indicated that they had political freedom in their constituency, a lower percentage, (40.5% DPP, 43% Opposition, 16.5% neutral) had similar freedoms in their respective political parties. Furthermore, 44% DPP, 36.5% Opposition and 13% neutral MPs indicated that they could freely exercise their political freedom in Parliament. Participants cited lack intraparty democracy within the political systems and a highly partisan parliament as among some of the contributory factors towards a diminished democratic vibrance in Malawi in general and the Parliament in particular. The pattern also reveals a much more freedom from the opposition MPs than government, citing government's intimidation and sanctions on perceived controversial DPP MPs.

5.11 Democracy in Political parties

Table 5:3 presents statistics from participants on their personal experiences in their political parties from both the party in government (DPP) as well as from the opposition. MPs were asked to rate the levels of intraparty democracy in their parties on a scale of 1-5 ranging from 'very strong' to 'very weak.'

Question: *On a scale of 1-5, rate the level of intraparty democracy in your political party.*

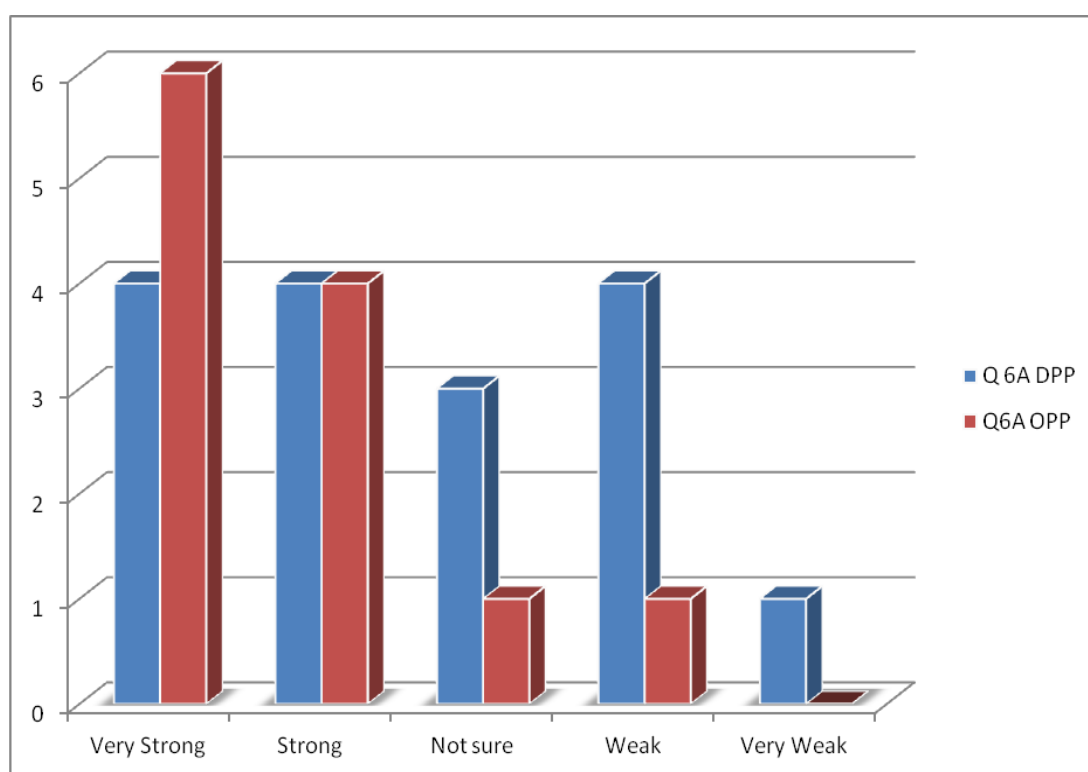
Table 5:2 Intra-Party Democracy (%)

Group	Very Strong	Strong	Not Sure	Weak	Very Weak
DPP	25	25	19	25	6
OPP	50	34	8	8	0

Source: Author, (2011)

It may be important to note the general observation of MPs regarding the level of democracy in their political parties. For instance, 25% of ruling DPP members thought that democracy in their party was very strong, while 19% were not sure and 6% thought it was very weak. In comparison, 50% of members of opposition indicated that democracy in their political parties was very strong while 8% were not sure and none said it was very weak. However, both the DPP (25%) and the opposition (34%) agreed that democracy was relatively strong in their political parties as indicated in diagram [Figure: 5:9].

Figure 5:9 Perceptions on Intraparty Democracy: DPP (Gov.) and Opposition Parties



Source: Author (2011)

Furthermore, this study found that MPs had a much more diminished independent role as MPs within their political parties as well as in parliament as indicated in Figures: 5:10 (a, b).

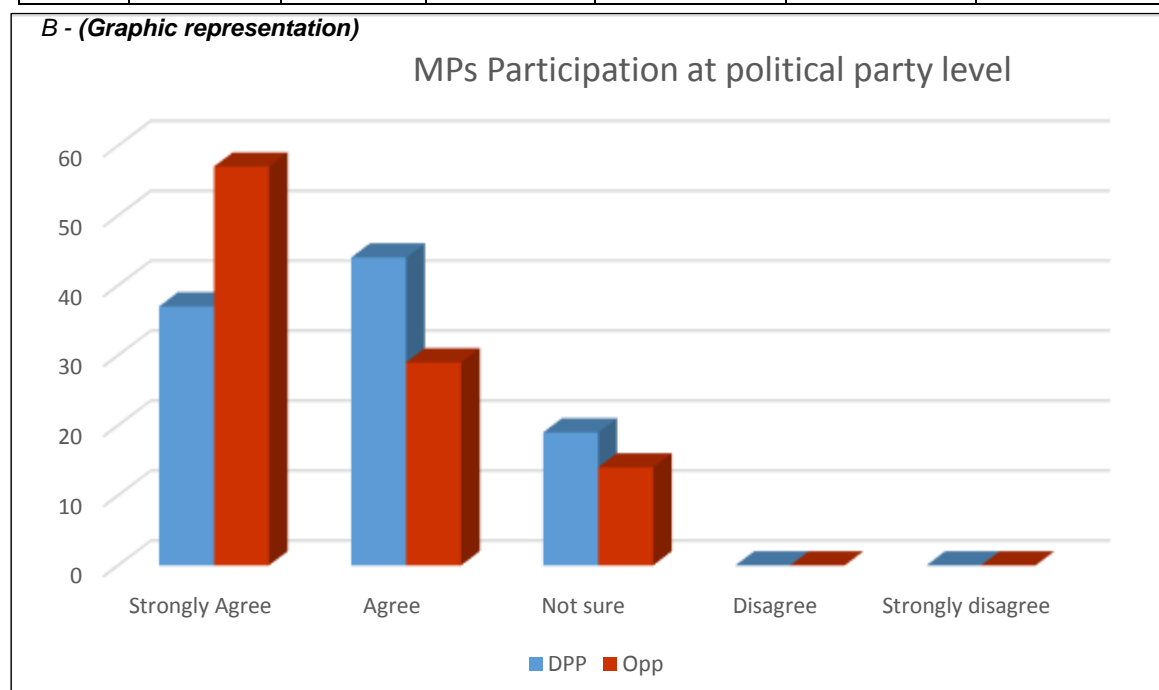
The following opinion was put to the Members of Parliament for their response.

Opinion: *I can fully participate in the political process as a member of the Malawi Parliament at political party level to the best of my ability without external interference.*

Figure 5:10 (a, b) MPs Participation at Political Party Level

a- (Percentages)

	Strongly Agree	Agree	Not sure	Disagree	Strongly Disagree	Total %
DPP	37	44	19	0	0	100%
OPP	57	29	14	0	0	100%



Source: Researcher, (2011); (Key: DPP-Government, OPP-Opposition)

In Figure: 5:10, a, b, 37% and 57% of MPs in the ruling DPP and the Opposition respectively strongly agreed that they freely participated in the political process; while a total 33% were not sure. They cited lack of intra-party democracy as one of the causes. The following opinion was put to the Members of Parliament.

Opinion: *I can fully participate in the political process as an MP in the Malawi Parliament without external interference.*

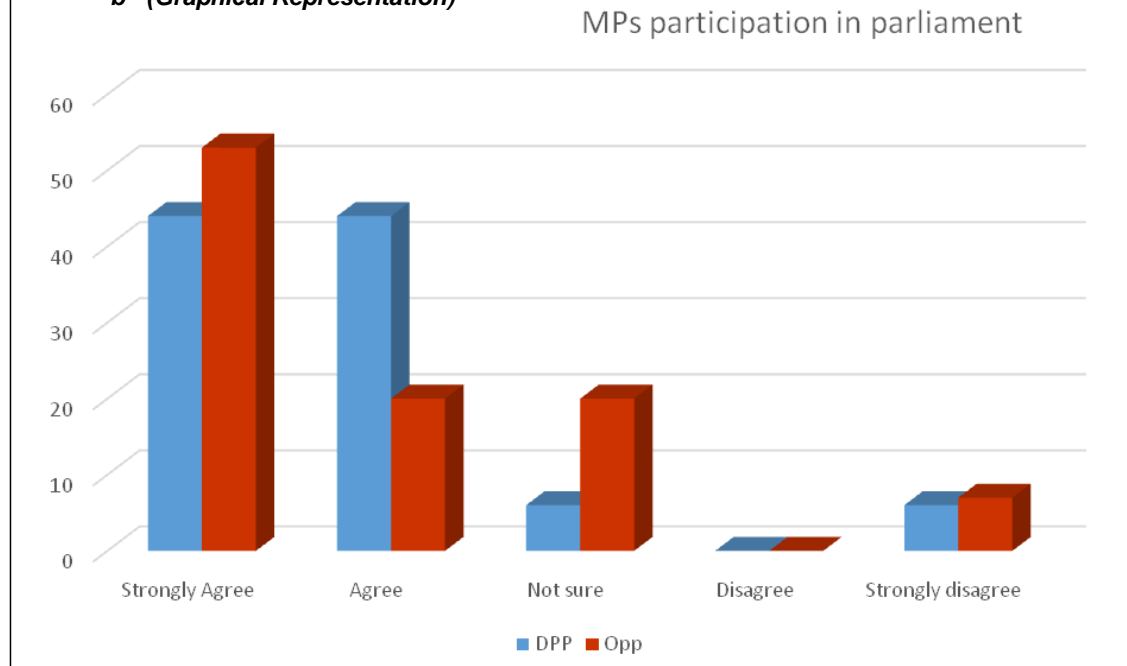
5.12 MPs Participation in Parliament

Figure 5:11 (a, b) MPs Participation in Parliament

a- (Percentages)

	Strongly Agree	Agree	Not sure	Disagree	Strongly Disagree	Total %
DPP	44	44	6	0	6	100%
OPP	53	20	20	0	7	100%

b - (Graphical Representation)



Source: Researcher, (2011); (Key: DPP-Government, OPP-Opposition)

Furthermore, in the table (Figure: 5:11 a, b), less than 50% of the ruling and 53% of the opposition stated that they were able to exercise their political freedoms in Parliament; while 13% of members strongly disagreed.

Figures 5:10 and 5:11 serves to illustrate the divergence in opinions between government and opposition Members of Parliament. It may be important to state that while MPs generally noted that there was political freedom in their respective constituencies, their political independence was far more diminished in political parties and parliament. They argued that their freedom

was more prohibitive in parliament due to party caucuses, block voting and towing party-lines.

5.13 MP's challenges in independent voting in Parliament

The common assumption was that parliament ought to be an epicentre of democracy. However, recent trends in the Malawi Parliament suggest that some members had been expelled from their parties for either expressing or acting contrary to the views of their political parties. Media reports confirm that members of Parliament from the ruling DPP were subjected to one form of such political harassment or the other as reported by Lungu, (2012) in Simbanimedia on Phoya- (MP).

Malawi President Bingu wa Mutharika is mad with his ruling Democratic Progressive Party (DPP) lawmaker, Henry Duncan Phoya (HDP), for speaking against undemocratic decision in the party and has since ordered his removal as chairperson of Legal Affairs Committee. But Phoya, the former Justice Minister, is on record saying he will not be hurt if he is expelled for defending democracy and fighting for the ordinary people. (Lungu, 2012)

Furthermore, the study found that there were many other members of the DPP who were expelled under similar circumstances such as Kalinde-MP of Thyolo North; Nawena-MP of Thyolo Thava; and Kachali-MP of Mzimba South West constituencies.

A question was put to respondents on whether Malawi Parliament can be regarded as an epicentre of democracy or an institution used by the executive branch of government to rubberstamp legislation. The following were the responses.

Within our Parliamentary Standing Orders (Order, 93:a)¹⁴¹including the Constitution (Sec. 60:1,2,3)¹⁴², an Honourable Members of Parliament cannot be victimised on the basis of his or her voting pattern in the House. One is given all the freedom to vote according to their conscience on any issue in the House. (Banda, H.C.)¹⁴³

The Speaker argued that as far as his office and Parliament were concerned, there were enough instruments and structures to protect the independence of Members of Parliament to vote in Parliament according to their consciences. However, he stressed that an MP belongs to many entities such as party affiliations, or independent member as well as his or her constituency. Therefore, he stated that whatever happened in the caucuses outside the jurisdiction of Parliament, there was not much that his office or Parliament could do. Furthermore, he stated that sometimes there could be a very “*thin link*” to establish how MPs had been handled by the party in relation to his or her voting pattern in the House. He argued that even in such circumstances, the challenge is that the Speaker’s office and Parliament cannot act unless it is brought in the House through a private member’s or government bill.

However, when the same question was put to the Presidential Spokesperson Dausi-MP, he defended the system, arguing that there were not any reprisals for members of Parliament in the DDP who voted against the dictates of his party. He argued to the contrary that it was democratic and honourable for members who did not agree to the binding agreements of the party caucuses to resign. He thus stated.

¹⁴¹ Standing order 93:a A member may vote in a division although he/she did not hear the question put no members shall be obliged to vote.

¹⁴² *Constitution Sec. 60: (1,2,3) MPs are protected by absolute privilege during parliamentary seating.*

¹⁴³ Rt. Hon. Henry C. Banda, (2011) Speaker of Malawi Parliament (2009-2014)

Political parties are medium of communication of its ideals. You can't go against; you must go within its dictates. If you differ, differ at the caucus. If you differ with the party's rank and file, the honourable thing to do is to resign. That's the morality of democracy. Surely that is what is supposed to happen and it happens all over the world of democracy. Otherwise, there are no reprisals on members of parliament. (Nicholas Dausi, 2011)

However, respondents from the faith groups, civil societies, academia and the opposition took a rather different view from that of the members of the ruling party, arguing that Malawi Parliament was 'suffocating' democracy it is supposed to uphold and protect as argued by Pastor Chirwa.

It is true Members have been expelled from their parties because they had been seen to be against their party. To have different views against your party is not a sign of disloyalty, No! Parties that have done that are only sewing bad seed to reap the fruits later because you can't sustain that system. (Pastor Vincent Chirwa).

Pastor Chirwa further argued that wanting to silence MPs in Parliament was one of the unfortunate things in the Malawian political system that contradicts the freedoms that were enshrined within the Constitution. He concluded by stating that personal freedoms should not be violated and that a person should be respected for his or her personal views and convictions. In addition, Bishop Matoga argued that President Bingu wa Mutharika concentrated too much political and economic power around himself as a 'power control'. He argued that President Bingu's word alone would form policy for both his party as well as government. He argued thus,

The President, the man who is at the helm of ruling party, doesn't want anyone else to express any views that are different from his. These things revolve around the issue of personal fame. It is not right that people must toe the party idea, the party ideology. If they don't then they face dismissals and expulsion from the party. It is this sort of thing that clearly demonstrates that there is no democracy and one cannot say that parliament is the epicentre of democracy at all. (Bishop Matoga)

In addition to Bishop Matoga's observation, Loveness Gondwe stated that parliamentarians especially those on government side, did not vote according to their consciences because most politicians sought after government favours such as business deals and also that some had pending court cases for various offences. Therefore, they could not vote against government for fear of their cases being reopened at the courts. Furthermore, she argued that the partial manner in which Sec.65. (Crossing the floor) had been applied was eroding democracy in Parliament. She observed that with the government in the majority in the House, there was no separation of power as was the case when the same government was in the minority in the (2005-09) Parliament. She said,

When opposition was in majority, we saw a clear separation of powers among the three branches of Government. Now parliament is not independent but controlled by the executive. Parliament has become subsidiary of the Executive. MPs are also playing politics of poverty; wanting to get from Government. (Loveness Gondwe)

Participant 'K' emphasised that civic education and economic empowerment lay at the heart of the deficiencies in Malawi's democracy. In addition he argued that although the Malawi parliament was relatively new to democracy there was hope for an improved system of democratisation. He argued thus,

Our Parliament is a day old baby compared to the 400 Year plus House of Commons. This is not to imply that Malawi Parliament should wait for 300 years before improving on its democratic credentials, but rather, to give ourselves hope that we can do better and soon, despite the hurdles which our House may continue to face from time to time. (K, 2011)

The study found that although partisan politics is still playing a significant role in the legislative process in the Malawi Parliament, it is also true that the level of viscosity is equally increasing. This paradigm shift becomes more apparent with the increasing members of the opposition MP as demonstrated in the following sub-topic, (Rotberg and Salahub, 2013).

5.14 Legislative viscosity and parliamentary accountability

Legislative viscosity as alluded to in Chapter One, can be an effective unit of analysis in classifying legislatures (Blondel, et al., 1970; Polsby, 1975; Mezey, 1979 and Norton, 1984; 1990). It was noted in the Malawi Parliament context, the level of viscosity was at its highest between 2004 and 2009; it was at its lowest between 2009 and 2012 (Figure 5:13). The former being the DPP's minority government and the latter during its majority government. Using Lewin's Force Field Analysis Model, (Lewin, 1951) this study was able to determine a positive correlation¹⁴⁴ between viscosity and the MPs configuration in Parliament, inspired by motivation and intention (Bozal, 2003). For instance, the study noted that a higher number of opposition members in Parliament increased the level of legislative viscosity and vice-versa (Figure 5:12). Furthermore, the study found that between 1964 and 2012 the Malawi Parliament passed more 'controversial Government Bills' with little or no amendments during the periods when government had clear majority in the House, suggesting a low level of viscosity. In addition, every government had serious challenges in passing legislation during the periods it had minority membership, suggesting high levels of viscosity. Nearly all participants in the study corroborated these assumptions.

In Figure 5:12, 'A' is government MPs; 'B' the Status Quo; 'C' the opposition MPs and 'D' Passing of Legislation. The data showed that by 1964, President Kamuzu Band and the MCP regime had managed to completely eliminate any form of opposition in the Malawi Parliament and thus continued to rule until 1994. During this period Parliament was merely a legitimatisation and rubber stamping institution through a One-party Chamber, (Figure 5:12 and 5:13). However, after the 1994 elections in a situation of political pluralism, government could no longer take passage of legislation through parliament for granted, unless it had adequate numbers to support the bills or

¹⁴⁴ Positive Correlation: Although it was noted in this study that since 1961 to 2012, there seems to be a direct relationship between the configuration of membership in parliament and the level of viscosity, it must be noted that this relationship was not a mathematically calculated perfect linear progression. It also depends on other factors such as voting along party line, and MPs personal conscious and well as other external factors such as the press, civil society, donor partners and constituents.

get outright defeat. The study further noted that when government was in minority, the legislative viscosity was high and when it was in absolute majority, the level of viscosity was low or non-existent. Consequently, governments could easily pass controversial legislations through parliament with minimal or no amendments. A few examples are given below.

Figure 5:12 illustrates the relationship between the levels of legislative viscosity and the magnitude of members of the opposition in Parliament. It demonstrates that during the 30 years of MCP one party dictatorship regime (1964-1994) any proposed legislation went through parliament unopposed. However, there was a sharp rise of viscosity soon after the introduction of political pluralism in Malawi Parliament (1994-2009), during the UDF and first term of DPP. It was further observed that after the 2009 elections with the absolute DPP majority (2009-2012), the level of viscosity began to decline, coming with it authoritarian and dictatorial tendencies.

Figure 5:12 Legislative Viscosity versus Parliamentary Configuration

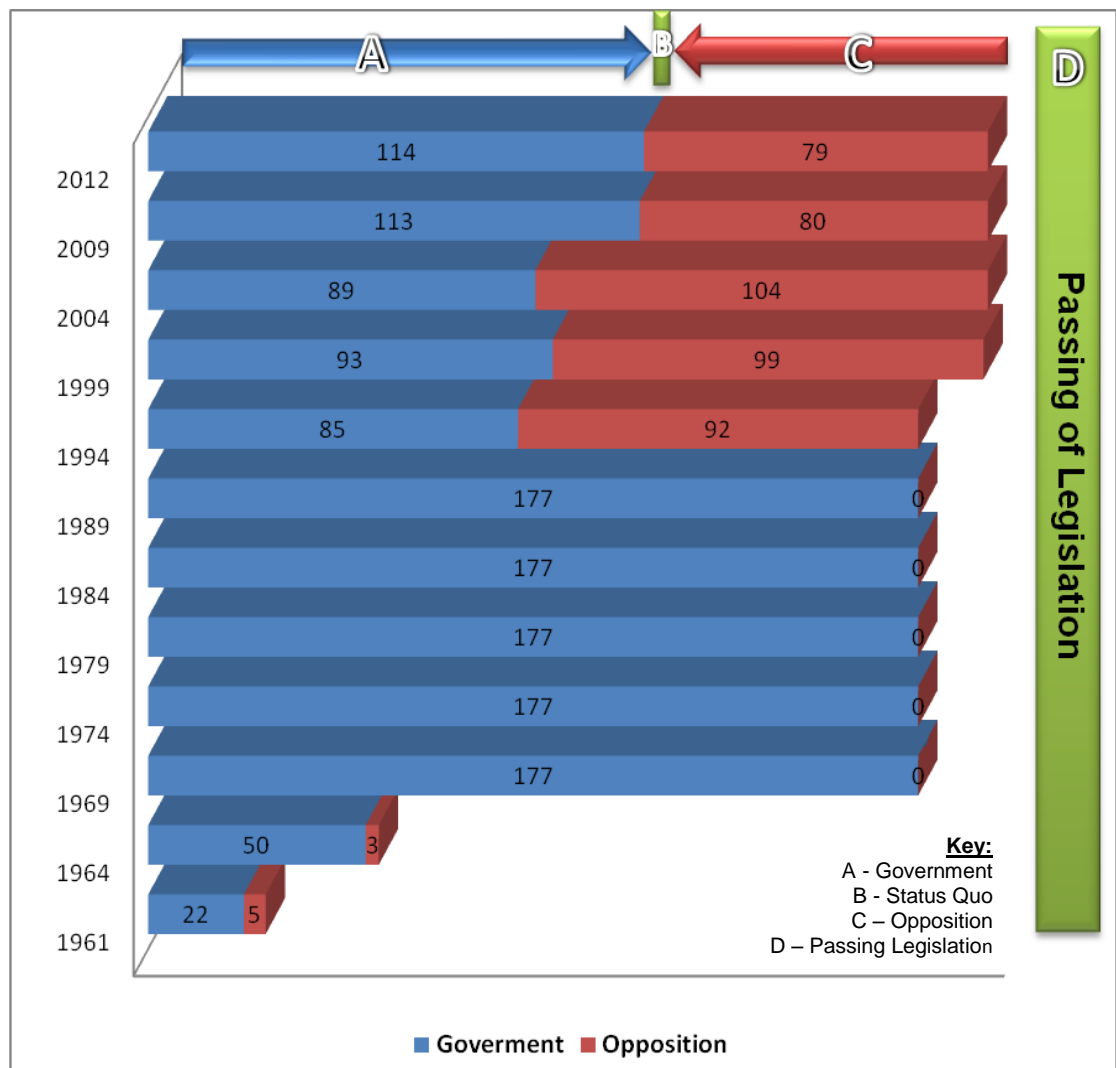
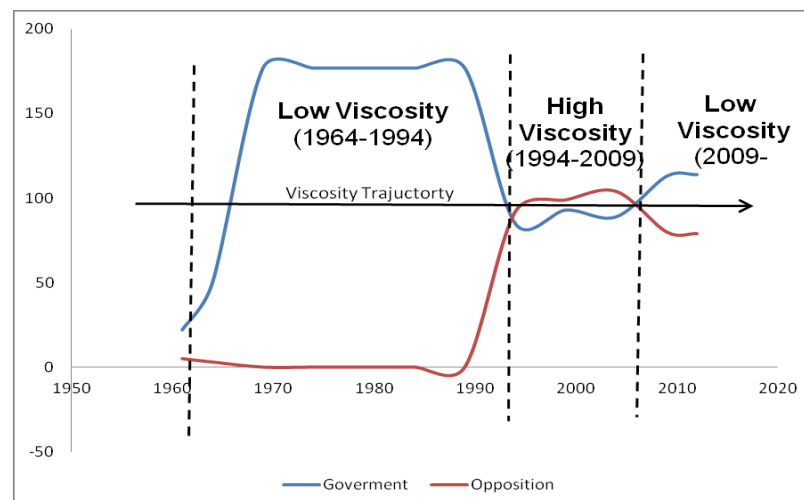


Figure 5:13 Trajectory of Viscosity



Sources (Fig.5:12 and 13): Researcher, 2012 (Data from MEC 2009)

For the purpose of this study a few samples of bills were selected for analysis; especially those that had a direct impact on accountability. These amendments are significant in illustrating that viscosity can also be a dependable variable on the configuration of membership in parliament. A case in point was the 2002 constitutional amendment of Section 83 (3) whose objective was to remove the term limits of the Head of State. The Bill was defeated by a narrow margin of three votes.

Tables 5:4 and 5:5, help to summarises such Bills in each case. It should be noted that it was beyond the scope of this study to analyse the cause-and-effect for each of the bills listed.

Table 5:3 Sample of Controversial Legislation (1964-1994)

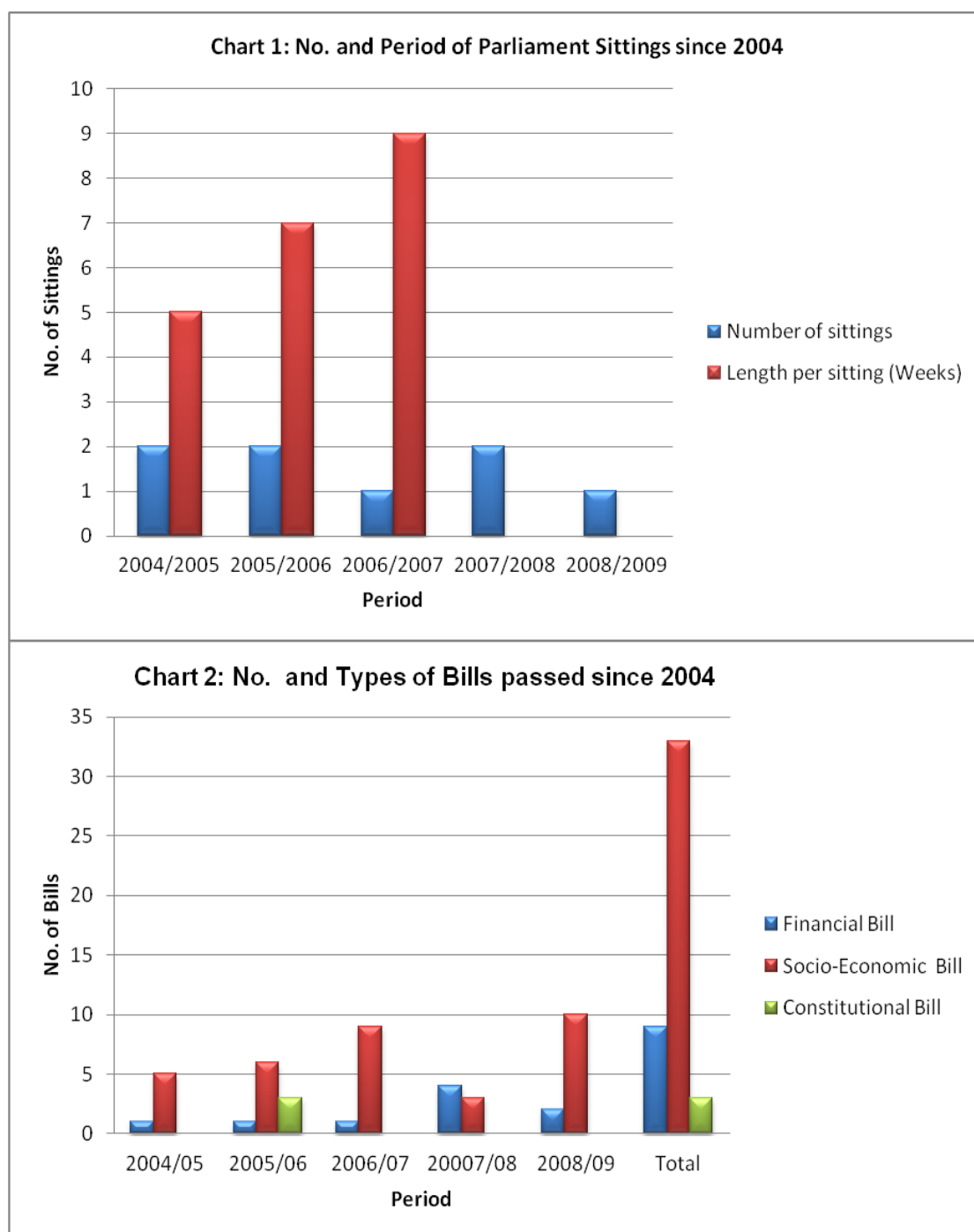
Short Title of Bill	Date Passed	Date Assented
Preventive detention Bill 1964	26 th August 1964	1964
Preservation of public Security (amendment) Act 1965	26 th January 1965	6 th February 1965
Young Pioneers Act, 1965	13 th March 1965	8 th April 1965
Constitutional (Amendment) Act 1965	13 th April 1965	3 rd May 1965
Forfeiture Act, 1966	19 th January 1966	25 th January 1966
Presidential Elections Act, 1966	18 th May 1966	14 th June 1966
Local Courts (Amendment) Act, 1966	21 December 1966	29 th December 1966
Censorship and Control of Entertainment	28 th March 1968	2 nd April 1968
Nacala Rail Link Loan Guarantee (Authorisation)	28 th June 1968	18 th July 1968
Adjudication of Title (Life President)	23 rd July 1971	6 th August 1971
South African Government Loan (Authorisation)	1 st March 1972	21 st March 1972
South African Government Loan (Authorisation and Ratification)	11 th December 1979	December 1979
Young Pioneers (Amendment) 9 of 1992	15 th April 1992	4 th May 1992
Political Parties (registration and regulation)	29 th June 1993	2 nd July 1993
Forfeiture (Repealed)	16 th November 1993	13 th December 1993
Decency in Dress (Repealed)	16 November 1993	13 th December 1993
Parliamentary and Presidential Elections	18 th November 1993	13 th December 1993

Source; Malawi Parliament, (2011)

It is important to note that the recall provision of Section 64 and the Senate Section 68 of the Constitution of Malawi were repealed in Act 6 of 1995 and Act No. 4 of 2001 respectively for the possible reasons that are discussed in the next chapter.

It should also be noted that Parliament met only thrice between 2007 and 2009 (Figures 5:14) because the State President used Section 59:1.a of the Constitution that states as follows: “*The President may, in consultation with the Speaker of the relevant Chamber, prorogue the National Assembly.*” It was argued by the government that it had exhausted its parliamentary sitting budget that formed part of the National budget which Members of the opposition had not supported because they insisted that the Speaker of Parliament evoke Section 65 on all members who had crossed-the-floor as a matter of first priority before considering the National Budget. Consequently, not much progress was made in terms of legislation during the said period. Furthermore, it was noted that government could not introduce any constitutional amendment between 2006 and 2009 (Chart 2) because it did not have the numbers to pass legislation since most of the constitutional amendments required a two-thirds majority.

Figure 5:14 Parliament Sitting 2004-2009 (graphs 1, 2)



Source: CCPJ; (2004-2009)

Table 5:4 Controversial Legislation (2009-2013)

Short Title of Bill	Date Passed	Repealed
Crossing the Floor Act 4 of 2001 (amendment)	Amendment 2001	Still part of the Constitution
Bill No. 10 of 2010 Protected Flag, Emblems and names (Constitutional Amendment)	29 th July 2010	25 th May 2012
Sec 46 Penal code Press freedom	January 2011	29 th May 2012
Act 30 of 2010 Local Courts Bill	January 2011	Still part of the Constitution
Police Bill	2 nd December 2009	Still part of the Constitution
Injunction Bill	16 th June	25 th May 2012

Source: Malawi Parliament Data Base (2011)

Given the parliamentary numerous political challenges and instability since the return to political pluralism in Malawi (1994) as also demonstrated in the empirical data presented in this study, participants and respondents were asked whether these were early warning signs of another failed democratic project as the case was in 1964. The hallmark of the MCP one-party state was violations of human rights. The carry-overs from the one-party regime are manifesting in adversarial politics within inter and intra-party systems in Malawi (Musuva, 2009).

5.15 Challenges of Accountability and Governmental Responsiveness

In his book, *The African Dream* (2010, p.183), President Bingu wa Mutharika emphasised that accountability in good governance implies that those that govern must have the capacity to accept different and sometimes conflicting

views and learn to adjust if things were not working well for the people. However, the study observed that since the advent of the multi-party politics in 1994, incumbent governments did not seem responsive to the social political and economic trends to adjust policies accordingly. There was a clear distinction between participants from the ruling DPP led government arguing that their administration was sensitive to the need of the people and acted accordingly. In sharp contrast, members of the opposition and civil societies including faith groups argued that DPP like the former UDF regime displayed a *“disconnect between the government and the governed.”* The rhetoric cited below illustrates the sharp contrast between the two sides.

Oh, yes! Responsiveness in the DPP government has been applied extensively. For instance, when government goes wrong, citizens are free to criticise without the fear of being arrested. That is why in our Malawian jails there are no prisoners of conscience. I think we are moving in the right direction. It's the principle that the State President upholds dearly. It's a principle that the government upholds and I believe that it's a principle that Malawi as a nation, should uphold. (Nicolas Dausi, 2011)¹⁴⁵

However, other respondents observed that the state president and his DPP regime *“did not walk the talk.”* They argued that more often than not, the president acted contrary to his rhetoric.

It sounds very good words from the president, but completely empty; Hypocrisy! For instance, the DPP now has 'Youth Cadets.' These are teams put together to threaten and beat up (even murder) opponents. There are 'bad laws' being passed using the ruling party's huge majority in Parliament. There have been many, many opposing views from CSO, opposition parties and the general public, has he listened? Not once! (K, 2011)

The Speaker Banda, H.C (2011), however stated that he had difficulties in coming up with what he called *“very glaring examples”* where the DPP majority government listened to the opposition or civil society and amended

¹⁴⁵ Presidential Spokes Person: Hon. Nicholas Dausi-MP, responding to a question from The African Dream, (2010, p.183) Authored by President Bingu wa Mutharika on Good Governance

bills. Therefore, it becomes a challenge to substantiate the president's statement that democracy entails that the views of the majority ought to be given space in the formulation of policies and implementation of projects.

Participants from civil society argued that since the dawn of political pluralism United Democratic Front (UDF) and the DPP governments had not shown any tolerance to opposing views, in their own parties or to those who dared oppose them in government. They cited two major classical examples during the UDF government where it failed to respond to the wishes of the people. The first was President Muluzi's bid for the open and third bids for the extension of his term of office. The second was what they called the imposition of Bingu wa Mutharika as his successor. The former was defeated by a narrow margin of three in a parliamentary vote and the latter caused deep divisions within the ruling UDF party. During the DPP minority government (2004-2009) the DPP government seemed responsive because there was a strong block of opposition members in Parliament, while, during the majority government (2009-2012) President Bingu was said to be dictatorial: among many other dictatorial tendencies, he handpicked his brother Peter Mutharika as his successor, violated human rights and was at the centre of mismanagement of public resources; a scenario that compelled the donor community to suspend budget support to Malawi. The following is a caption of participants' observation of the UDF led Government (1994-2005).

The UDF, during Muluzi's attempted to change the Constitution so he could run for a third-term; there were many opposition views which he did not take on board. He then brought in Bingu from outside the party to be a UDF presidential Candidate; a lot of people, some of them ministers opposed this and were fired. After staying out of power for five years he attempted a come-back which was thwarted by the courts. (PAC)

During the DPP led government, participants cited that many critics of the party and its government including Joyce Banda-MP and Khumbo Kachali-MP were expelled from the party simply for voicing an opposing view about the candidacy of Peter Mutharika for the presidency. Bishop Matoga said, "If

I had read Bingu's book, I could have quoted it in my letter to him to say this is what you said in your book, are you near enough to be practising it?" Also in response to the same question, Loveness Gondwe stated that President Bingu wa Mutharika had become a self-centred dictator who did not listen to any voice of reason. In part she said,

'The African Dream' is a very good book in ideas on good governance, but the one who wrote it doesn't practice what he writes. We are in this political and economic mess because he did not practice any of those things he stated in the book. He is simply anti-criticism! He does not adjust things that are not working for Malawi. I don't know whether somebody wrote it on his behalf. (Loveness Gondwe)

In the final analysis, participants observed that that since the return to multi-party democracy in 1994 Malawi, incumbent government did not seem to have the capacity to accept different and sometimes conflicting views and learned to adjust where things did not seem to work well for the people.

Furthermore, participants and respondents identified a number of key factors that had either directly or indirectly adversely affected the project of democratisation in Malawi. These were identified under generic themes of socio-political, economic and cultural factors. Weak political structures at grassroots level; manipulation of the constitution by incumbent regimes and politicisation of traditional leaders were some of the socio-political factors. Furthermore, academic deficiencies among most politicians; high illiteracy and poverty levels among Malawians were identified among major socio-economic factors, while, nepotism, tribalism, regionalism and religious affiliation were said to be deeply entrenched in the Malawian political system, thus, retarding effective accountability towards good governance.

5.16 Committee System and the challenges of governmental accountability

According to IPU (2007, p.15), *“A parliamentary committee is a group of parliamentarians appointed by one chamber (or both chambers, in the case of joint committees in a bicameral parliament) to undertake certain specified tasks.”* Contemporary democratic legislative institutions are shifting emphasis on the bulk of parliamentary work to be conducted in committees rather than in the plenary chamber, NDI (1996). Therefore, committees are increasingly getting specialised component of the parliamentary system. They provide a platform for detailed scrutiny of draft legislation, government oversight of activities and interaction with the public and external actors (Levy, 2009). However, the Malawi parliamentary committee system is not without challenges, ranging from lack of funding of committee activities, inadequate skilled personnel including among Members of Parliament to less frequent meetings for committees. In the case of the Malawi Parliament, two challenges were outstanding; viz., lack of funding for comprehensive committee meetings and adequately qualified members of parliament as well as parliamentary staff. In order to mitigate these gaps, parliament through its *“Strategic Plan: 2010-2015”* Had put in place five main objectives to be achieved by 2015:

- *Increase the institutional capacity to MPs and staff for efficiency and effectiveness through education and training*
- *Improve legislative process in parliament through manuals and training on legislative processes*
- *Improve parliamentary capacity to provide effective government oversight*
- *Strengthen the leadership and representation skills for all MPs*
- *Increase the outreach of parliament in order to bring parliament to the people.*

Furthermore, the study noted that the Malawi Law Commission (MLC) recommended in the 2006 Constitutional Review for the consideration of raising the academic qualification entry point for Members of Parliament referred to Section 51:6 of 1995.

The requirement that a person must be 'able to speak and to read the English language well enough to take an active part in the proceedings of Parliament' has come under scrutiny. A like requirement was provided under the Constitution of Malawi of 1964 and that of 1966. It has been argued that due to the nature of legislative functions as envisaged under the Constitution, the Constitution must make provision for a minimum academic qualification which a person must possess before they qualify for election as a Member of the National Assembly. (Constitutional Review, MLC, 2006)

The MLS cited countries such as South Africa¹⁴⁶, Nigeria¹⁴⁷ and Uganda¹⁴⁸ whose constitutions clearly state the minimum academic requirement for Members of Parliament. However, for Malawi after the MLC recommendation, the constitution was not amended accordingly but the Malawi Electoral Commission (MEC) provided for aptitude tests for candidates who would not have accredited academic credentials. However, the study noted that societal pressure seems to be exerting on MPs to earn credible academic credentials. For instance, one MP was successfully prosecuted in 2006 and jailed to 21 month custodial sentence and consequently lost his seat for presenting a forged School Leavers Certificate to the Electoral commission. In passing his judgement the Magistrate said,

You are supposed to be a role model for the youth and Malawians take education seriously and by forging the Malawi School Certificate for Education you betrayed the trust of many. (Magistrate, Luke Mabowoza, 2006)

Most participants argued that lack of strong academic credentials for Members of Parliament could be responsible for the lack of professionalism

¹⁴⁶ South Africa: Section 47 of the Constitution of South Africa

¹⁴⁷ Nigeria: Section 65(2)(a) of the Constitution

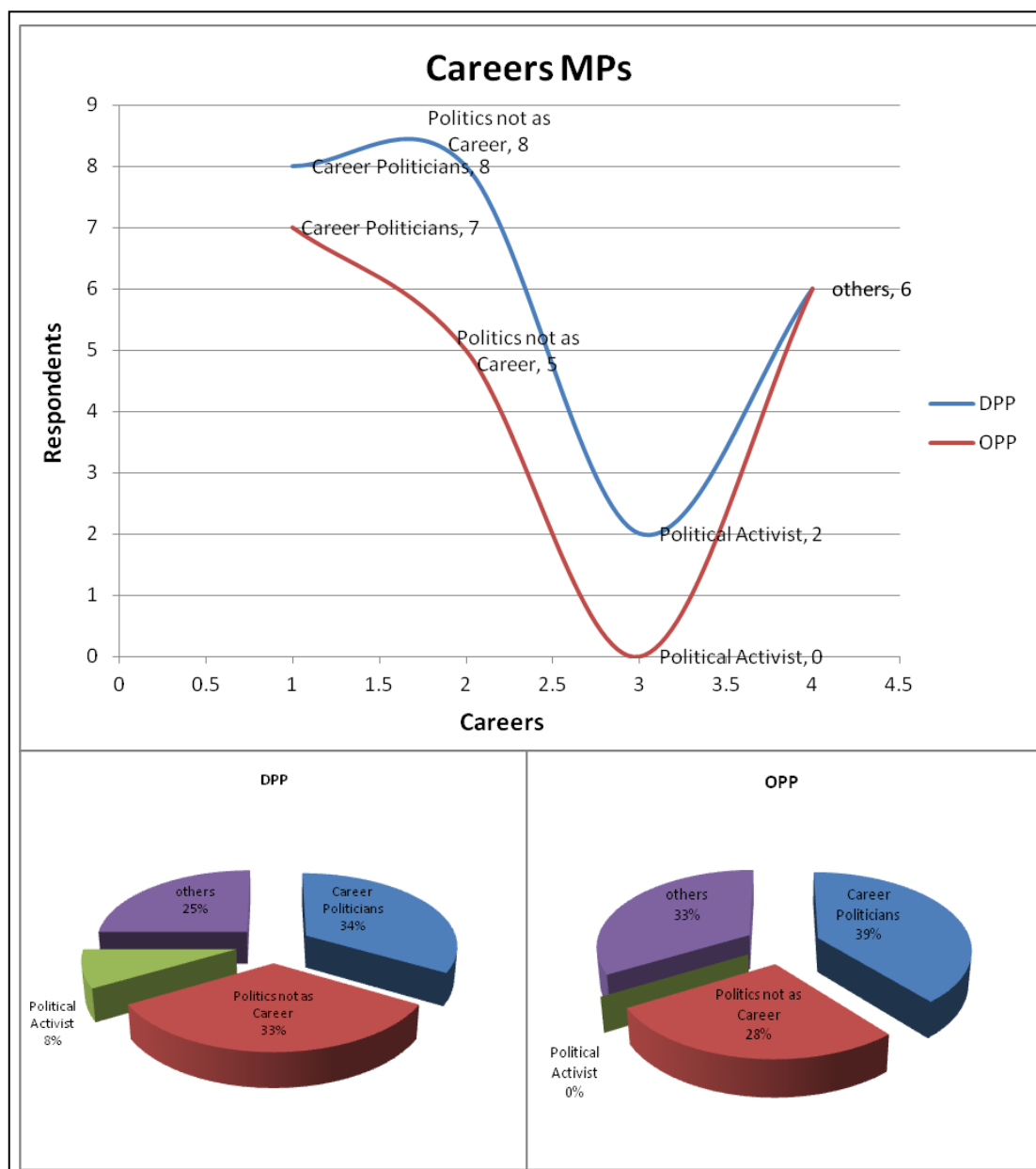
¹⁴⁸ Uganda: Section 80(1) (c) of the Constitution

in executing their representative, legislative and oversight function in Parliament.

In an attempt to match MPs' previous academic and professional attainment before they joined parliament, the study sought to identify the careers and areas of expertise. The study used codes (1-4) on the following categories: Career politicians, politics as part time job, political activist and other professions. From the sample of MPs studied, about 36% identified politics as their main career, 30% considered politics as their part time occupation, 8% indicated that they were in politics as political activists while the rest were professionals in 'other' disciplines such as teachers, economists, bankers, farmers, business personalities, engineer, religious leader and medical practitioner.

Figure 5:15, illustrates the career configurations within the Malawi Parliament based on the sample as well as between the DPP (ruling party then) and the opposition parties in the legislature, (Woods and Baranowski, 2006).

Figure 5:15 Specialisation and Careerism in the Malawi Parliament (2009-2014)



Source: Author(2011)

In Figure 5:15, 30.5% of MPs have academic qualification qualifications other than politics. Furthermore, it was noted that respondents that indicated to be carrer politicians did not have academic qualifications in politics or its related fields. This low level of academic attainment for members can be attributed to

the entry point based on the constitutional provisions for members of parliament as aforementioned in citing Section 51: ii (6 of 1995). Furthermore, it was realised during the study that although the office of an MP of parliament was a public elective position, knowledge of MPs' qualifications still remained classified information to the general public. Participants wondered whether or not the electorate had the right to know their MPs academic and professional qualifications.

Part C

Challenges in the Parliamentary Secretariat

5.17 Constraints faced by Secretariat

The secretariat of the Malawi Parliament, like its mother body, is also metamorphosing to align itself with the demands of a contemporary, progressive and democratic legislature. After a return to political plurality, there was a major operational realignment within the secretariat from the culture of a one-party parliament to multipartism. The Clerk of Parliament (COP) is the Chief Executive Officer (CEO) of the Malawi National Assembly, (Section 55 of the Malawi Constitution; Standing Order 10).

The Malawi Parliament is progressively developing capacities for its committee systems and structures. Parliament has 18 parliamentary committees. Four of these (Legal Affairs, Public Appointments, Budget as well as Defence and Security) have their functions provided by the Constitution and the rest by standing orders (Standing Orders: 139,140,141). However, the progress has been retarded by multiple challenges as highlighted by the former Clerk of Parliament (Katopola, 2011) and the clerk of the Public Accounts Committee (Manzi, 2013). During the study, five main problem areas were identified as follows:

i. Inadequate financial resources

Treasury funding is almost always inadequate for the committees. Thus, making it difficult to implement programmes for its Members and the Secretariat. There is also funding from donors targeted towards their specific objectives.

ii. Lack of institutional capacity of Parliament to support parliamentary reform efforts i.e. professional and technical expertise

The study noted that the Malawi Parliament had a critical shortage of professional and technical experts in almost all departments. This was exacerbated by the fact that although the Parliamentary Service Commission (PSC), has the mandate to recruit its own staff, it requires approval from the Department of Human Resource Management (DHRMD) of the Executive Branch of government to fill the position. This can be problematic in terms of delays and sometimes turning down or politicising appointment by the Executive.

iii. Parliamentary workload versus time and resources

According to Standing Order 177 states: *“Each [parliamentary] Committee shall have committee staff including a committee clerk and a parliamentary researcher and may engage the services of technical consultants.”* This poses a challenge in terms of adequately staffing all the 18 committees in a poor resource setting.

iv. Frequent changes of the Committee membership

The study noted that frequent changes to the committee membership had negative impact in terms of lack of continuity and orientation of the new committee members.

v. Communication technological gap

The technology gap was one of the major challenges of the Malawi parliament both in terms of resources such as lack of computing facilities and the technical knowhow especially by MPs. Furthermore, parliament relies on the good will of the public broadcaster and private radio and television stations to disseminate its information.

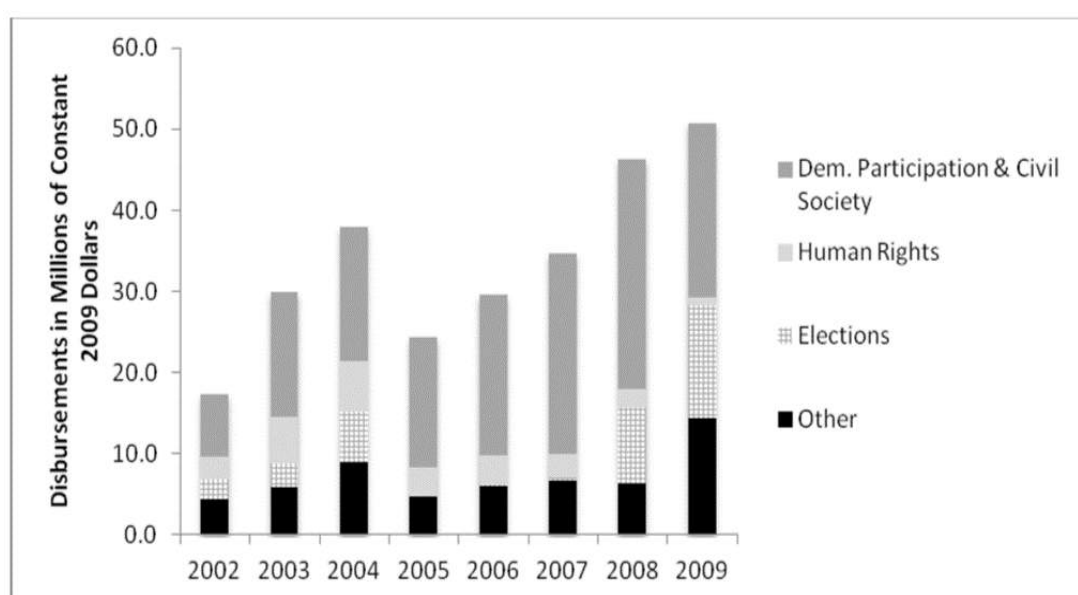
5.18 Role of external donor funding to Parliament

Malawi Parliament has been a generous recipient of donor funds for most of its programmes especially in the capacity building and consolidation of democracy portfolio (Resnick, 2012). The donor community have played a significant role in shaping the Malawi political land scape. For instance, Kamuzu Banda was forced to give in to political pluralism through a referendum when the donor community starved his administration of US\$ 874 Million in balance of payments assistance, citing human rights abuses (Brown, 2004; Roessler, 2005; Ihonvbere, 1997 in Resnick, 2012, pp.2-3). However, during Bakili Muluzi and Bingu wa Mutharika's regimes the donor funding was erratic responding according to the satisfactory performance of the good governance indicators including corrupt practices (Booth, 2006). It was noted that during the same period, the Malawi Parliament benefited significantly under *Democratic Consolidation Programmes* (DCP) from foreign aid such as the UNPD, Gesellschaft fur Zusammenarbeit (GIZ); NORAD, DfID, AfDB and USAID, (Resnick, 2012, p.7). Apart from funding parliament programmes, the donor community was also interested in funding elections and the private media in areas such as civic education, materials and logistical arrangements to ensure that elections reflected the true will of the people, (Svasand, 2011, pp.420-421). Respondents, like Svasand were concerned with the Malawian continued donor funding dependence syndrome to finance its democratisation project.

Malawi's elections continue to be heavily dependent on financial contributions from the international community. To the extent that elections constitute an important part of democratic consolidation, it is clearly of concern that Malawi is unable to finance elections on its own. (Svasand, 2011, pp.426)

Figure 5:16 helps to illustrate the trend and distribution of democracy and governance foreign aid to Malawi between 2002 and 2009.

Figure 5: 16 Trend and Distribution of Democracy and Governance Aid



Source: Resnick, (2012)

Note: *Other refers to: - media, legal, judicial system, legislatures, decentralisation and parties.*

Participants observed that although foreign donor funding was necessary for the success of elections and consolidation of democracy in Malawi, it was the conditionality package that shrouds it that was of concern for two main reasons. Firstly, that the success or failure of an election depended on the good-will of the donor community. Secondly, the funding also comes with implied or intended objectives. These two factors are critical because *“electoral outcomes are largely shaped by the electoral system and the way elections are administered,”* (Sebudubudu and Osei-Hwedie, 2005, p.33).

Part: D

The role of political parties in parliamentary accountability

5.19 Why party caucuses are not effective in providing parliamentary accountability.

...Yes MCP is democratic. It would not have survived if it was not for that. These other parties are very busy punishing each other. Malawi Congress Party is not at the same level, No! MCP Secretary General, why he was expelled from the party? He was not democratic. He [Chris Daza] was expelled for his ambition to stand for presidency of the party. He was not in this country for a while. He was somewhere in Europe and when he came to see me, he didn't mention about his political ambition. (J.Z.U. Tembo, 2011)

The quote by J.Z.U. Tembo (2011) is perhaps a typical example of the mismatch between rhetoric and political reality in almost all political parties in Malawi, (Chinsinga and Chigona, 2010). Political parties in parliament form political caucuses. The governing party members support government Bills and policies, while those on the opposition provide government oversight as well as checks and balances, Maiyo (2008, p.1). However, the study noted that there were several factors that contributed toward the inability of party caucuses in providing a robust government oversight through parliament as also observed in Patel and Tostensen (2004, p.15),

The primary function of the party caucuses is perceived to be an instrument for the party leadership to bully the ordinary MPs into submission on sensitive issues whenever there is discord in the ranks or when vital matters are at stake. (Patel and Tostensen, 2004, p.15)

Seven key factors were identified during the study:

i. Lack of the intra-party democracy is the biggest challenge in Malawi's democracy

In responding to the question on whether there was lack of intra-party democracy in most political parties in Malawi, Loveness Gondwe said, *"It's true that all political parties lack intra-party democracy and I don't expect that these people can provide able leadership in democratising their political parties."* In addition, Bishop Matoga and the Vice President stated that almost all political parties lacked vibrant system that would support its members to freely participate in the process of providing effective government oversight. Joyce Banda said, *"...that's why I find myself out of DPP. It was due to lack of democracy in political parties in Malawi."* She argued that she was expelled from DPP for asking the leadership to allow democracy to prevail in the party.

The question that I was asking this time was that why can't you just allow democracy to flow Your Excellency and allow people to elect their leaders or their torch bearer at the next convention. That's the first crime I committed. (Joyce Banda)

Bishop Matoga also said,

Lack of intra-party democracy is one of the biggest challenges that threaten democracy in Malawi. Just to cite a case, recently, where Chris Daza who was Secretary General of the Malawi Congress Party was expelled by making a statement that he would like to stand against the incumbent President of the Party J.Z.U Tembo. (Bishop Matoga)

Furthermore, Bishop Matoga expressed concern that the Vice President Joyce Banda and others were expelled from the ruling DPP for expressing their political ambitions and that the same thing was happening to UDF's,

Atupele Muluzi for aspiring to be the presidential candidate for the party in the 2014 general elections.

Pastor Vincent Chirwa wondered how one can be a dictator in his or her party on one hand and on other claim to be a democrat at national stage. He said, *“It is harmful because charity begins at home.”*

In the final analysis Bishop Matoga wondered how party caucuses can be effective in proving government oversight in Parliament when they were not able to promote such within their political parties. Pastor Chirwa observed that it had become almost a cliché where politicians claimed to be democrats and yet displayed clear dictatorial tendencies through their actions.

ii. Financial constraints

The study noted an absence of viable sources of funding for political parties. It was further noted that political parties in Malawi were exclusively or substantively funded by party presidents. Consequently, those who provided funding also wielded considerable power and influence often at the expense of intra-party democracy (Chinsinga and Chigona, 2010, p.6).

When asked why the ruling DPP had failed to hold conventions since its establishment in 2005, Banda, H.C., (Speaker of Parliament) said,

I don't think DPP is spared from the financial woes that affect all political parties because it is only now that it is recognised as being present in the House and warranting government funding. (Banda, H.C.)

However, the Party's Secretary General Wakuda Kamanga contradicted the Speaker in the press (Malawi Voice, 2012) when he said that it was not a crime not to hold a convention because according to him, the Party had already endorsed Peter Mutharika as its presidential candidate for 2014.

iii. Conventions can be divisive and disintegrate parties rather than uniting

Most party leaders interviewed expressed concern that conventions were divisive and tend to disintegrate political parties rather than uniting especially with the losing candidates. The trend they said suggests that divisions start before, during and after conventions with the party membership splitting into party factions depending on their candidacy preferences. In other cases, these factions became irreconcilable as was the case between Gwanda Chakwamba and John Tembo in the MCP; Joyce Banda and Bingu wa Mutharika in DPP and between Jumbe and Atupele in UDF. Almost all political parties had been affected by such splits.

iv. Conventions can be receipt for breakaway parties and spinster groups

May be lack of general conference in DPP has helped in keeping the party together. I believe if we had the general conference, the party could have disintegrated with those losing elections leaving the party. (First Deputy Speaker, 2011)

You will find out that these political parties are being born or formed through frustrations. People are forming other political parties because intra-party democracy has failed. I am happy really you have been in the same shoes¹⁴⁹ so you understand. (Loveness Gondwe)

v. Timing for convention is crucial. Not too early or too late towards the next election

Sometimes when parties delay to the extent that there is just a year or so before the elections, parties have felt it might not be the best of times to hold a convention for fear of jeopardising the unity of the party. Therefore, they would rather have such unfortunate development away from the election period. (Banda, H.C.)

¹⁴⁹ “*have been in the same shoes*,” refers to the author who was among Members of Parliament that were expelled from AFORD for opposing the Open and Third term Amendment Bills of Section 83:3 of the Constitution.

vi. Not a Priority for Political Parties

Although we acknowledge the significance of conventions, we also understand that the activities in the political parties do not just depend on conventions. (Banda, H.C.)

Well..., I am only saying that there has been an argument in the public domain that you can only have a democracy when people go to a convention, I beg to differ. Democracy can be achieved through many other means. (Nicholas Dausi, 2011)

vii. Malawi is a young democracy. Therefore, will take a little longer to fully democratise

Democracy is a process. We have to get through the process. We have been in one party dictatorship for 31 years and just about 17 years of democracy. Why don't we be given time so that with the advice and lessons learnt from the international global village, we will be able to implement. Malawians we may be in a hurry. We want to be like Britain today. (Nicholas Dausi, 2011)

It was argued from the respondent's point of view that in the presence of the aforementioned challenges, political parties were not expect to effectively provide government oversight.

5.20 Self-centred politics an impediment to parliamentary accountability

It was noted that self-centred politics were an impediment to parliamentary accountability (Chiraw, 2014). The notion of 'politics' (Ndale) in Malawi, seems to be construed to denote manipulating and dishonest act for self-enrichment or personal political gain. Hence, the lack of trust for politicians (*anthu a ndale*) by the general public. This may go to explain among other factors to justify in Chinsinga and Tsoka's (2008) survey that more than 42% of the respondents would not trust their MPs, while, 21% and 32% indicated that they would somewhat trust and trust a lot respectively.

In defining 'Politics' (Ndale), one of the respondents said, "*Ndale, n'kuthana basi*"¹⁵⁰ other respondents defined 'politics' thus (Valle, 2000).

Being manipulative in dealing with electorates to gain [political] power in order to achieve your objectives and then abuse them. (MP-5)

It is the art of getting votes from the poor and funds from the rich by promising to protect each from the other. (MP-6)

However, most MPs defined politics from the positive point of view as illustrated in the selected samples:

A process of sharing resources while making sure there is accountability, rule of law and good governance. (MP-1)

The art of running government for the social and economic benefits of its citizens. (MP-2)

A process of power play in distribution and utilisation of national resources. (MP-3)

A process by which people elect their representatives in parliament and any other form of government. (MP-4)

In MP,1, 2, 3 and 4, respondents observed that politics involved a formulation of representative democracy through the election of various offices to carry out roles on behalf of the electorate and that it also entails being accountable for own actions. However, Kanyama Chiume, (1982, p.234) noted that there will always be political opportunists who care less about accountability.

...they were the self-centred who used it [independence] as platform for sel-glorification; they were the lazy ones who looked at independence as a step to easy life; the capitalists and potential exploiters whoes objectives were to exploite the people and the country. (Kanyama Chiume, 1982, p.234)

¹⁵⁰ **Politics:** As explained by the respondent in local language Chichewa, 'The meaning of 'Politics' in the Malawian context was a way of eliminating each politically and in some cases physically.' [paraphrased in translation by researcher]

It was argued that most politicians in Malawi may have joined politics for self-enrichment and not for the service or development of the nation. Thus, have little or nothing to do government accountability if it does not bring personal gains.

5.21 Adversarial politics and political accountability

Participants and respondents in this study argued that the Malawi political landscape had been for the most part associated with adversarial politics (usually associated with physical, verbal or psychological assaults) especially during the one party era of the Malawi Congress party regime under Kamuzu Banda, the regime had adopted the reign-by-terror as a means to the political end. It was against this background that the Malawi Young Pioneers(MYP) metamorphosised from a youth development programme into an MCP 'militia' organisation. The study noted that the trend seems to be recurring post Kamuzu Banda era with the '*young democrats*' during the UDF, '*youth morale*' during the DPP. The state also had an added advantage by using the state security apparatus such as the National Intelligence Bureau (NIB) whose object in the eyes of many participants to this study was to serve the interests of the regime. A case in point: Peter Banda¹⁵¹ (SAIIA, 2008) a journalist who was assaulted by a band of UDF youth militias while working on a story in 2001, caught up with one of his assailants at a later stage and asked him on his involvements within the UDF Young Democrats and asked him a question:

Question: *(Journalist)*

What were some of the operations you conducted as a Young Democrat?

¹⁵¹ **Peter Banda:** was one of the Malawian Journalists beaten by the UDF Young Democrats in 2001

Response: (UDF Young Democrat)

I burnt a Land-rover belonging to Malawi Congress Party in Chiradzulu District. I took part in the razing down of an office belonging to National Democratic Alliance in Mulanje District. I have beaten up more 15 journalists. Don't you even know that I was among the people who beat you up at Chileka Airport? I have been involved in disrupting more than 50 opposition rallies. (UDF-Young Democrat, 2004)

Respondents in this study observed that since independence, politics of violence as a political tool had extensively been used by the ruling elite with counter violence from the opposition. Intelligence Service whose motives as observed by the respondents, was to be used in surveillance of its opponents, planning and executing atrocities.

Respondents (MPs) were asked on whether or not they thought adversarial politics were part of the political process in Malawi. They responded as follows in Figures 5: 17 a,b in (%).

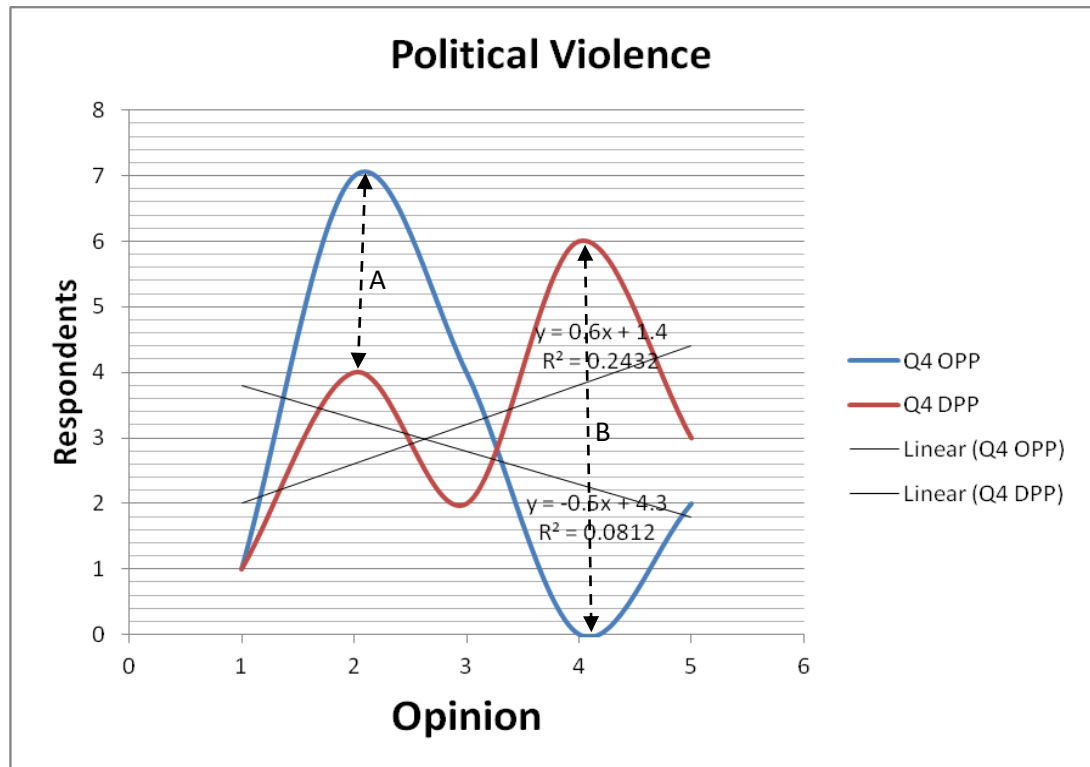
Question: *Do you view adversarial [politically motivated violence] in Malawi as part of the political process?*

Figure 5:17 (a, b) MPs Opinion on Political Violence in Malawi (%)

a- [Percentages on Tolerance Levels]

	<i>Strongly Agree</i>	<i>Agree</i>	<i>Not Sure</i>	<i>Disagree</i>	<i>Strongly Disagree</i>
DPP	6	25	12	38	19
OPP	7	50	29	0	14

b- [Graphical Representation]



Source: Author, (2011)

In Figure 5:17,b dotted lines indicated 'A' and 'B' were the differences in opinion between those that agree and those that disagree among the opposition and the ruling DPP that politically motivated violence was part of the political process in Malawi. It was noted that 25% of the DPP agree that political violence was part of the process, while 50% from the opposition held the same opinion. However, no one from the opposition disagreed that it was not; while 38% of the ruling DPP disagreed that politically motivated violence was indeed part of the political process. The latter dichotomy was associated with the DPP's human rights record that had put the ruling DPP at odds with the Human rights organisations, donors and the civil society as further discussed in the next chapter.

A case in point as observed by the researcher in the Chambers of the Malawi Parliament on Thursday the 24th of November, 2011 from 9:35 a.m. to 12.00 noon- (refer to Appendix: 6) in which, Minister of Home Affairs and National

Defence (Aaron Sangala-MP) was physically assaulted by Kalinde (Independent-Thyolo North) during a ministerial statement on the death of Robert Chasowa, a fourth year Engineering Student of the Polytechnic, of the University of Malawi who was found dead on the morning of 24th September, 2011 at the Polytechnic Campus in Blantyre. It was observed during this particular session, that the Speaker might have not adequately protected the member of opposition in question when she raised a point-of-order. Consequently, she decided to settle the score physically with the Minister during the tea break.¹⁵² It was further noted that although, rigorous and heated-debate during plenary were a welcome development, participants argued that the unparliamentary language that was often times used without being checked by the Speaker compromised the seriousness and trust of the Malawi Parliament to its constituents. For instance, it was reported that members exchanged ridiculous insults (often times in vernacular) ‘*Agalu inu*’ (You dogs); ‘*Mahule*’ (prostitutes); ‘*mbava*’ or ‘*okuba*’ (Robbers and thieves), to mention a few. All this dishonourable behaviour by MPs gave a negative public image and lack of effective government accountability.

5.22 Strengthening parliamentary accountability

A question was put to the respondents to state in their views on what could be done differently to increase parliamentary accountability:

- *What could be done differently to increase parliamentary accountability in Malawi?*

The following ten points were raised as summarised in Table 5:6:

¹⁵² In subsequent seating, the Motion was moved by parliament to suspend Hon. Kalinde (Independent—Thyolo North) for 30 Parliamentary Seating. The decision was rescinded soon after the fall of the DPP government in April of 2012.

Table 5:5 Making Reforms in Parliamentary Accountability

DPP/Opposition
<ul style="list-style-type: none">• There must be a strict adherence to the code of debate and parliamentary ethics• Allow a wider stakeholder consultations during the legislative process• Upscale entry into parliament in two ways:<ul style="list-style-type: none">• Raise minimum academic entry qualifications• Assess 'asset base' for entering MPs and regulate it• The general public should access parliament more• Increase power to the legislature• Ministers should be appointed from outside parliament with no voting rights• Increase capacity building for members of Parliament• Civic education should be given to the public on the roles of the members of parliament• Voting in Parliament should be done by secret ballot on constitutional amendments• Reduce presidential and executive powers on Parliament

Source: Author, 2012

Opinions were sought from the respondents interviewed on strengthening and improving the process of democratisation and good-governance in Malawi among other avenues by reintroducing the repealed 'Recall Provision' for members of Parliament, the reinstatement of the Senate, instituting Regional Parliaments and the possibility of introducing a federation system.

5.22.1 The Recall Provision

The Draft Malawi Constitution of 1994 as presented to the first Multi-party Parliament, post-MCP regime, in 1995 provided [Section: 64] for a recall of non-performing Members of Parliament. It read in part as quoted below.

Section: 64. — (Draft Malawi Constitution of 1994)¹⁵³

- (1) *Every member of the National Assembly shall be liable to be recalled by his or her constituency in accordance with this section.*
- (2) *A member of the National Assembly shall be subject to recall by his or her constituency where a petition has been upheld by the Electoral Commission, where the petitioner-*
 - (a) *is a registered voter in the constituency that the member being recalled has been elected to represent*
 - (b) *has proved, on a balance of probabilities, that there is a sufficient proportion of the electorate within that constituency, being not less than half the total of registered voters, who desire that the seat representing that constituency should be contested in a by-election.*
- (3) *Where there has been a successful petition of recall in accordance with subsection (1), the decision of the Electoral Commission shall be notified to the Speaker of the National Assembly who shall, on such notification, declare the seat vacant and a by-election shall be announced.*

This provision was repealed by Act No. 6 of 1995 in the first sitting of the first parliament in the multiparty democracy against a fierce resistance from civil society, faith groups and the general public. Respondents were clearly divided between those who were ‘for’ and others ‘against’ the reintroduction of the recall provision in the Malawi Constitution. It was noted how each side argued with emotion and passion in defence of their position. Those who were ‘for’ argued that it was necessary to keep the recall provision to avoid a disconnection between the MP and their constituents as the case is now in most cases where soon after elections most MPs in rural constituencies migrate to live in urban cities leaving their constituents unattended until the next campaign season after five years. This in respondents’ views is a

¹⁵³ Source: May 1994 Malawi Draft Constitution

violation of the people's rights to politics of representation. One of the respondents said,

The recall provision was necessary in my view, because it was aimed at putting a Member of Parliament on his or her toes all the time to make sure that there is no disconnection between him and his constituents. (SPK, 2011)

The Vice President (Current State President) also said, "Yes I would recommend for a recall provision," [VP]. The Civil society and faith groups through PAC said that they have always campaigned for the recall provision. One respondent said,

I think as PAC, we already initiated something towards that by way of litigation. Our position was very clear to say that particular provision was very important. It was not necessary for the Members of Parliament when they were just elected to repeal it. Instead, they were arguing to say there were jealousies and whatever but we didn't test it to see that particular mischief. (PAC)

Furthermore, the PAC argued that the element of jealousy was more theoretical than practical because the provision had not been tested for anyone to conclude that the provision was attainable due to 'jealousies.' PAC stated that they intended to continue with their campaign for the recall provision.

They just came in at first sitting and repealed it. One wonders which jealousy they are talking about because it had never been tested anyway. So, we didn't buy into that. We will still advocate for that. (PAC)

Other respondents observed that a recall provision can be helpful if properly protected from 'abuse' stating that as it was presented to Parliament it was a vulnerable piece of legislation which could be easily exploited by opponents because it did not seem to provide clear and sufficient procedures to avoid it getting abused in the process. Some of the respondents who were against the provision had this to say;

I don't know. But I don't think that the recall thing would help a lot because with the way Africans work, it will definitely create a lot of confusion. (BM)

I wouldn't advocate for that [recall provision] knowing how Malawians are, full of jealous they will abuse it. (Loveness Gondwe)

5.22.2 The Senate

In January 2001, the UDF-led government managed to repeal the constitutional provision of the senate arguing that it would be costly to run. The BBC carried a report of what happened on that day as follows:

Parliament in Malawi has passed a controversial bill to abolish a constitutional provision for the creation of a senate. Members of the opposition Alliance for Democracy, Aford, walked out of parliament after the bill was passed by a two-thirds majority. The leader of Aford, Chakufwa Chihana, said the passing of the bill meant Malawi was reverting to a one-party state. But the Justice Minister, Peter Fachi, said the country was too poor to afford a second chamber. (BBC: Friday, 12 January, 2001, 11:19 GMT)

The constitution of the Republic of Malawi [Section. 68:1 (Draft Malawi Constitution of 1994)]¹⁵⁴ provided for eighty Senators from various interest groups that would otherwise not be represented in an all elected Parliament as follows:

One Senator from each district elected by the district council; One Senator from each district being a chief and thirty-two other Senators who shall be elected by a two-thirds majority of sitting members of the Senate.

Respondents were asked whether or not they would support the reinstatement of the second chamber, the Senate. Those in favour argued that the second chamber would cater for bringing on board various other interest groups that may not find space in the first-past-the-post electoral system that Malawi uses. Speaker of the Malawi Parliament Banda, H.C.-MP

¹⁵⁴ Source: Malawi Draft Constitution (May 1994)

argued that having a second chamber was important in strengthening the country's democracy. However, he observed that if not properly managed it can easily be abused as the case was in Zimbabwe. Quoting the respondent in his own words:

In my view, a senate is important in strengthening democracy, but if you study in the region, look at the Zimbabwe scenario, the senate could also be abused unless really if you put in mechanisms that stop some abuse. (Banda, H.C.)

Furthermore, the Speaker suggested that a proportional representation voting system would give deliberate opportunity to political parties to increase the number of women and other minority interests on their political party lists. He said that Rwanda, South Africa, Uganda and Tanzania with its mixed system were 'good examples' of proportional representation in Sub-Saharan Africa.

With proportional representation it means political parties will be forced to bring on board these other interest groups that would otherwise be marginalised. For instance, the system that we are using doesn't help matters in as far as the promotion of political participation by women in Malawi is concerned. That is my view. (Banda, H.C.)

Other respondents argued that repealing the Senate was to deny a voice from traditional leaders and other minorities that would otherwise never be represented in the National Assembly. Daniel Msowoya¹⁵⁵ contended that leaving traditional leaders from the political process made them vulnerable to the ruling elite that they have been brain washed and often abused to believe that they have to serve the 'Government-of-the-day' regardless of whether or not their policies are right or wrong. Furthermore, Msowoya stressed the significance of a second chamber as follows:

¹⁵⁵ Dan Msowoya: Is an Alliance for Democracy (Aford) executive member responsible for Campaign as well as spokes person of the party.

A senate must be reinstated. This will strengthen the democratic process as well as provide significant government oversight. (Daniel Msowoya)

PAC said the idea of a Senate was brilliant but had a few reservations regarding the economical sustainability as well as its capacity. In their observation, PAC said,

Right now we have one chamber yet we are spending quite a lot. What do we get out of it? Very stupid ideas in terms of bills that come out. (PAC)

PAC also expressed concern with the calibre of senators where traditional leaders will be a part of; whose academic attainment in most of them is extremely weak to effectively provide oversights. To illustrate a point, PAC said that if Senate was akin to computer hardware it would have very weak software in its senators.

The structure would be a very intelligent structure but the software that you may have, may not fit into the hardware. (PAC)

Respondents who were opposed to the Senate argued that it will be costly for the weak economy such as that of Malawi that relies on donor funding for more than 50 percent of its National Budget and also that the senators will be appointed members will make them vulnerable to political abuse by the appointing powers. Loveness Gondwe¹⁵⁶ said this during the interview,

The executive will abuse the Senate Chiefs will be saying, “ife tagwirizana nazo kwathunthu.” (We have all agreed that government ideas are good) I don’t think we need a senate if we have a truly representative parliament. (Loveness Gondwe)

The civil society seemed uncomfortable with the inclusion of traditional leaders in the Senate arguing that the current political system polarises their

¹⁵⁶ Loveness Gondwe: President of National Rainbow Coalition(NRC) and former First Deputy Speaker of Malawi Parliament

independence, impartiality and objectivity. Loveness Gondwe pointed out that traditional chiefs since the advent of independence have always been *“puppets of the government of the day”*

5.23 Conclusion

What this chapter has endeavoured to achieve is bring a comprehensive data analysis of the politics of democracy and governance in Malawi in general and parliament in particular spanning from about 1961 to 2012. The chapter was dedicated to the presentation of data as presented by respondents and document analysis gathered from field research, based at Malawi Parliament. Empirical evidence seem to suggest that Malawi Parliament has not lived up to its expectations by its constituents due to its deficiencies in its political, democratic and governance aspects as measured its output in its legislative, representative and oversight functionalities. Consequently, the study tends to uphold its hypothesis as further discussed in the following chapter.

CHAPTER: SIX

Representational function of parliament in vertical accountability

6.0 Introduction

Chapter Six discusses the representational function of parliament in vertical accountability. Parliamentary representation is by design a chain of delegated democracy in which the principal (voter) delegate to the agent (MP/parliament) to civil service that in turn deliver goods and services to the voters, (Strom, 1999, p.7). Consequently, the delegated representational paradigm demands a vertical accountability, which as discussed in Chapter two (theoretical framework), refers to the dynamics in relationship between the Members of Parliament and their constituents. It also entails answerability, responsiveness and possible sanctions, (Pelizzo and Stapenhurst, 2014; Lindberg, 2009; Newell and Bolloar, 2002). Busia (2010, p.12) argues that vertical accountability “*strengthens citizen’s voice and restores to institutions of governance the sovereignty and authority to make decisions on behalf of their constituents.*” The chapter is discussed under the following three sub hypotheses:

i. Hypothesis

That the vertical accountability in the Malawi Parliament has been less effective due to MPs self-centredness.

ii. Hypothesis

That the Malawi Parliament continues to be dominated by the Executive Branch (the Presidency). Therefore, not effective in government oversight.

iii. Hypothesis

That the Malawi Parliament has lapsed in vertical and horizontal accountability to nurture good governance.

Empirical data suggests that most Members of Parliament did not adequately represent their constituents largely due to lack of stakeholder engagements through consultations, lack of information and communication compounded by MPs that were not domicile in their constituencies. A synopsis of hypothetical arguments are analysed in the following sections.

6.1 Vertical political accountability

6.1.1 Hypothesis One [vertical accountability]

That the vertical accountability in the Malawi Parliament has been less effective due to MPs self-centredness.

Shuaibu, (2012) Edo State governor (Nigeria), urged politicians not to see politics as a means of self-enrichment. He also said, *“For society to be better off, politicians must fulfil electoral promises to the people.”* In similar rhetoric, Sosten Gwengwe (MP) addressing traditional leaders in the Northern Region of Malawi said,

Politics should be a vehicle to development ...it should not be abused by greedy and selfish individuals. The noble duty of a politician is to serve his/her constituents and nothing else. The tendency of joining politics to make money is failing our country. (Gwengwe, 2014)¹⁵⁷

The observations by Shuaibu and Gwengwe as well as a host of political scholars and analyses, can be summed-up in Gyimah-Boadi (1998)¹⁵⁸ who

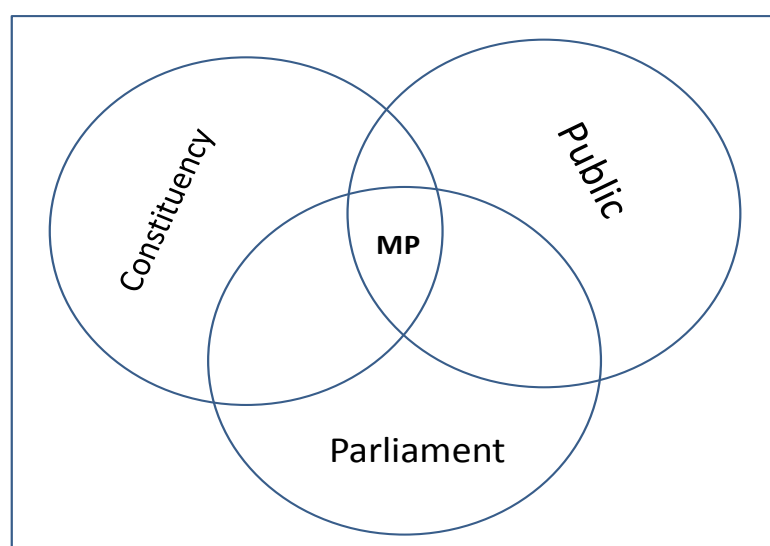
¹⁵⁷ Gwengwe, S., (2014) was Presidential running mate to the State President of the Republic of Malawi Dr. Joyce Banda in the 2014 General Elections.

¹⁵⁸ Gyimah-Boadi, E. (1998), Democratisation of African Parliaments and Political Parties, Presented at the International Conference in Botswana under the auspices of the World Bank Institute

said, *“The claim to unity by Malawian [political] elite all along, in their quest for power and dominance, is not intrinsic but extrinsic.”* Perhaps Gyimah-Boadi’s observations can be argued further that both in one-party and multiparty state politics in Malawi, it was the inner-circle of the ruling elite that had the socio-political and economic prowess. Downs (2002, p.137) argues that each political party is a team of individuals who seek office solely in order to enjoy the income, prestige and power that go with the running of the governing apparatus. However, the study noted that constituents in Malawi are demanding more accountability from their legislator more than ever before. This has been evident by the rate of MP’s turn over in parliament since 1999 general election, (Ohman, 2006).

Jewell (1983, p.306) in quoting Pitkin’s (1967, p.221) argues that although the assertion that ‘representation’ is *“primarily a public, institutionalised arrangement,”* literature seems to suggest that most research on representation has focused on the liaison between the individual legislator and the constituency. However, for the purpose of this discussion, a holistic approach is taken by examining the relationship between the MP and the Constituency on one hand and on the other hand, the Malawi Parliament and the general public as illustrated in the Figure (6:1).

Figure 6: 1 A Holistic Representative Role of an MP



Source: Author (2012)

A holistic representative role for an MP is one that places the member at the intersection of a constituency, the parliament and the general public (including and not limited to national and global issues) (Jewell, 1983). Pitkin, (1967, pp.209-210) says,

Representation means acting in the interest of the represented, in a manner responsive to them. The representative must act independently; his action must involve discretion and judgement; he must be the one who acts. and, despite the resulting potential for conflict between representative and represented about what is to be done, that conflict must not normally take place. The representative must act in such a way that there is no conflict, or if it occurs an explanation is called for. (Pitkin, 1967, pp.209-210).

There are a number of relevant issues Pitkin is raising that are fundamental to the concept of representative democracy. Firstly, that 'representation' means acting in the interest of the 'represented.' Secondly, that the representative's actions must involve 'discretion and judgement.' Furthermore, she suggests that the representative must be the one acting and also points out that in the process of representation, there could be a possibility of conflict between the representative and the represented. Therefore, it can be argued that a more effective holistic representative role for MPs is one that minimises the conflict between the representative and the represented while increasing the participatory roles of stakeholders as well as balancing the representative equilibrium between the MP and the constituency and that of Parliament and the general public.

In the first instance, the study found from the participants' general opinion that Members of Parliament were only interested in serving their personal interests before that of the constituents as was suggested in one of the focus group discussions, (in Chichewa language).

Ma MP tikawasanka amayiwala malonjezo awo. Amafuna a bweze kaye ndalama anawononga ntawi ya kam'peni. Amayamba kuganizira za chikukuko ntawi wayo itatha khale! (FG-3)

[Literal translation]

After we elect our MPs, they want to recover their campaign costs. By the time they start thinking of developing their constituencies, it would be time for the next round of elections.

The views expressed by the focus group discussion during the study corroborated the findings of the survey done by the Catholic Commission for Justice and Peace (CCJP, 2009) in their “*Parliamentary Audit of the First Hundred Days*” of the DPP government after the 2009 elections that the majority of MP did not act in the best interest of their constituents. Their arguments were also supported by a survey conducted by *The Daily Times* in its report of 22nd June, 2009 that carried this comment from a respondent when it sought views from the public on the people’s expectations of their MPs:

My only appeal to MPs is not to take us, Malawians, as fools. If some of them think that we are useless people they better think twice. Just imagine some have already defected to other parties without consultations. How can you just be sworn today and the same day you announce your defection? Who have you consulted? Most of these MPs will pay a heavy price of rushing to make such decisions without consulting us. (Edward Munthali, 2009)

It was emphasised by participants that parliamentary political participation also entails electorates not only being consulted but also given feedback by their elected member (ECFA, 2004). Participants argued that it was common practice for their MPs to come back from a parliamentary session without giving constituents an official feedback of what had transpired in Parliament. They noted that getting feedback from the media outlets was not the best way of enhancing accountability between MPs and constituents.

Perhaps one of the most important indicators of political accountability is the quality and quantity of responsiveness of MPs to the need of their constituents. Thus, it deserves further analysis in terms of service, allocation,

policy and symbolic responses, (Eulau and Karps 1977, pp.242-245) in Jewell (1983, p.304).

- **Service responsiveness:**

This according to Jewell (1983, p.304) refers to advantages and benefits that the representative is able to obtain for their constituencies. However, participants from the opposition expressed concern that it had become almost a tradition in Malawian politics for the political parties in government of abusing state resources and awarding government contracts, jobs and government initiated loan facilities only to their party supporters; while at the same time imposing various social and economic sanctions on members of the opposition. For instance, participants cited the DPP's Government of a MK3 billion Youth Development Fund (YEDF) in which President Bingu wa Mutharika announced on its launch that the loans should prioritise DPP 'youth cadets'¹⁵⁹ before any other. In response to the presidential decree the Centre for Human Rights and Rehabilitation (CHRR) protested in a press statement as follows:

We at CHRR are shocked and worried with the utterance by the State president Dr. Bingu wa Mutharika during the inauguration of the fund suggesting that preference to access the loans will be given to Democratic Progressive Party (DPP) supporters. The utterance by the President is not only discriminatory against non DPP youths but is also in direct conflict to the basic tenets of multiparty democracy which allow citizen to belong to any party of their choice without threats of facing discrimination of any kind. (CHRR, 2010)

Furthermore, CHRR and the opposition argued that the strategy of 'DPP first' was aimed at weakening other political parties using loans as a bait to entice youths from other parties to join the DPP. In addition, they observed that political parties and individual Members of

¹⁵⁹ DPP Youth Cadets: A name given to the Youth Branch of the Democratic Progressive Party by President Bingu wa Mutharika. In later days, they became synonymous with politically motivated violence and criminal activities.

Parliament did not seem to appreciate that collective political bargains for development far outweighed either individual or political parties self-gratification. To this end, participants felt that most Members of Parliament have not fulfilled their service to the constituency and nation respectively.

- **Allocation responsiveness:**

Ah, for me, I am a strong advocate of federal government in Malawi because it empowers local populations to decide and take ownership of their development agenda. This thing has worked in South Africa, Mozambique, Nigeria, and other parts of the world. Bakili Muluzi and Bingu both said that no development for opposition MPs. In Federal Government this would not be possible. (Loveness Gondwe)

Legislative allocation responsiveness by definition can refer to public projects and benefits presumably accruing to a representative's either constituency or district as a whole, (Jewell, 1983, p.304). Although there was a clear division on the mitigation factors on the uneven distribution of the national wealth among the three regions of the country, there was however a common understanding that since independence, the national wealth had not been equitably distributed in the country. Some participants such as Gondwe (2011) quoted above argued that the Northern Region has been the least developed of the three regions. Gondwe argued that during the thirty years of MCP regime under Kamuzu Banda, the Northern region was referred to as the *"Dead North"* due to economic underdevelopment (New African, January 1989). In addition, there was institutionalised repression of Northerners in social political, and economic spheres, for instance civil servants especially teachers from the North were confined to live and work in their regions, selection to secondary and university places was on a quota system; a system that was condemned by Northerners as targeted sanctions for northern region students (Sturges, 1998). Participants also observed that Bakili Muluzi and Bingu made it clear during political rallies that there would be no

development in constituencies belong to opposition MPs. Participants also noted that there was a growing tendency among aspiring members of parliament and their political parties to raise the expectations of constituents above the rest in order to win the vote and one elected only to perform far below the expectations of their voters. In terms of legislative allocation responsiveness, participants expressed concern that the electorates were receiving a 'raw deal' from their members of parliament, political parties as well as from parliament as legislative body charged with responsibility of legislation, representation and oversight.

- **Policy responsiveness:**

Policy responsiveness is the interaction between the 'representative' and the 'represented' with respect to the making of public policy (Jewell, 1983, p.304). It was stated by participants that during the thirty years of the MCP regime's rule, Kamuzu had absolute power to decide on every policy. They pointed out that 'Kamuzu was policy and policy was Kamuzu.' Participants' observations were in corroboration with What Kanyama Chiume (1975)¹⁶⁰ who said, *"The cabinet had by now become a rubber stamp for Kamuzu Banda's ideas... we were made to feel that we were robots unable to work on our own without our 'great' leader."* Participants also stated that during Bakili Muluzi's UDF rule and carried over by his successor Bingu wa Mutharika, traditional leaders were paraded to demonstrate in support of some controversial Bills that could otherwise not have been supported by Members of Parliament and the general public. For instance, Chiefs were used to support Muluzi's open term bid as well as Bingu's change of the national flag and the endorsement of Peter wa Mutharika as his successor in the DPP and presidential candidate for the 2014 elections. Participants' arguments about the politicisation of the chieftaincy were congruent with that of Chinsinga (2010) who said,

¹⁶⁰ Kanyama Chiume: Was at the material time, Member of Kamuzu Banda's Cabinet.

Traditional chiefs have continued to function as handmaidens for promoting the selfish interests of the political elite. They hide under the cloak of serving the government of the day. This is sheer abuse of the concept of serving the government of the day. The main drawback for chiefs is that they have abused the trust that their subjects bestow upon them in search for short-term self-aggrandisement. (Chinsinga, 2010)

Participants argued that continued engagement and politicisation of traditional leaders in Malawi has not only eroded their hereditary functions as custodians of culture and traditional values devoid of political pollution but also stripped off the representative functionality of elected Members of Parliament.

- **Symbolic responsiveness**

Jewell (1983, p.304) defines 'Symbolic responsiveness' as a relationship built on trust and confidence expressed in the support that the represented give to the representative. In this definition, Jewell raises two fundamental issues of 'trust' and 'confidence' in the representative by the represented. In a study conducted in Israel and translated from Hebrew to English by Rolef (2006), empirical evidence suggested that the level of trust that the public has in parliament does not necessarily correspond to that in members of the parliament. It was observed in the study that there were countries in which members of parliament enjoyed greater trust than parliament. It was argued from the study that the constituents' expectations of their Members of Parliament were different from those of Parliament as an institution. However, the Malawi case seems to suggest otherwise. Based on the study it emerged that three factors were at play regarding trust and confidence in the Malawi political system; viz., constituents' trust and confidence in their Members of Parliaments; in Political Parties and in Parliament as an institution. For instance, participants argued that due to lack of trust and confidence in their

elected representatives and political parties, there has been an unprecedented turnover of parliamentarians in the legislative Assembly since the 1994 elections. This argument is in concordance with the finding of Chirwa (2009) in Table 6:1. In 1994 and 1999, MCP had a 65% turnover of its Members of Parliament, AFORD more than 70%, and UDF about 50%. Furthermore, from 1999 to 2004 elections, MCP, AFORD, and UDF had a turnover of 52%, 90%, and 76% respectively. Chirwa, (2009, p.97) states that the turnover was even higher in the 2009 election as only 48 of the sitting MPs were re-elected, representing 24.9% of 193 members in the Parliament.

Table 6:1 Parliamentary Turnover of MPs (1994-2009)

Party	Seats by 1994 election out of 177	Re-elected in 1999		
MCP	55	19		
AFORD	35	10		
UDF	86	43		
Party	Seats by 1999 election out of 177	Re-elected in 2004		
MCP	64	31 (one not consecutively)		
AFORD	29	3		
UDF	93	22		
Source: Research Department, Malawi National Assembly (MP Turnover 2009)				
Region	Retained Seat	New MPs	Total seats	% Retained
North	7	26	33	21.2
Centre	17	56	73	23.3
South	24	62	87	25.6
Total	48	145	193	24.9

Source: Chirwa, (2009)

These outcomes are a clear illustration that electoral sanctions have been effectively utilised in Malawi towards non-performing MPs especially in the absence of any other accountability sanction mechanism for MPs since the repeal of Section 64 (Recall Provision) of 1995.

6.1.2 Hypothesis Two [Horizontal Accountability]

That the Malawi Parliament continues to be dominated by the Executive Branch (the Presidency). Therefore, not effective in government oversight.

In a presidential system such as that of Malawi, the balance of power between the executive and the legislature is fostered against the backdrop of three main factors. Firstly, that both the president and the Members of Parliament are elected simultaneously in a separate parallel popular vote governed by the Constitution and the Parliamentary and Presidential Elections Act, (Sections, 67:1 and 80:1-4 of the Malawi Constitution), (MLC, 2006, p.21). This arrangement has caused competing rather than complementary balance of power between the executive and the legislature in Malawi, rendering horizontal accountability an unsurmountable challenge. For instance, in Bingu wa Mutharika's first term (2004-2009) of presidency, parliament was prorogued over the controversial Section 65 (Floor crossing) while parliament refused to pass the Budget before invocation of the floor crossing bill, (Chinsinga and Kayuni, 2010). Secondly, is the holding of a constitutionally fixed term of office, (Section 83)¹⁶¹ that is protected by a host of immunities, (Section 91:1-3)¹⁶². The opposition found it difficult to impeach President Bingu wa Mutharika because of the safety nets provided to the office of the presidency, unless otherwise in the case of a serious criminal offence, (Kanyongolo, 2006). Thirdly, the president has the constitutional mandate (Chapter 8, Malawi Constitution) to execute laws made by parliament in the way she/he sees it fit. Thus, parliament cannot apply sanctions or remove the president on mere political differences (Chirwa, 2014). In the study by Khaila and Chibwana (2005), 30% of Malawians believed that the president often ignored the constitution by omission or commission with little or no consequences. Participants constantly pointed out that the executive almost always had its way through the legislature because of the connection between the two institutions through the cabinet membership which also comprises majority Members of Parliament that

¹⁶¹ Malawi Constitution

¹⁶² Malawi Constitution

double as ministers (discussed in Chapter 3.7.2), (see Patel, 2007, pp.26-27).

In December 2012, the Public Affairs Committee (PAC) released a communiqué arguing that the duality of members belonging to two branches of government was tantamount to conflict of interest. In part, the communiqué stated:

End doubling up of Members of Parliament as ministers since it creates a serious conflict of interest in the manner that such ministers discharge their duties. Collective and concerted efforts are needed to ensure that Malawi moves out of the current quagmire. (PAC)

PAC's sentiments were also reiterated in all the focus group discussions in which members argued that MPs who double as ministers tend to dedicate most of their time to ministerial roles more than the constituency since the former comes with more personal benefits than the latter. A summary of one of the statements from the focus group states:

When we elect our representatives, we elect Members of Parliament and not ministers. What annoys most of us electorates is that most of our MPs once appointed as ministers forget their primary roles as MPs and relocate to live in Lilongwe [the capital]. The only other time we see them is when they come to seek a re-election. This is not acceptable! (FG-3)

The rationale for the separated operationalisation of government is to protect liberties; facilitate accountability for good governance as well as giving independence to the judiciary and the legislature to function without external interference (Carnery, 1993). However, the overlaps were not only always inevitable but also some times necessary. The distinction however, becomes evident depending on the magnitude of the overlap. Miller (2007) states that although the three branches are separate and independent, they must cooperate with each other to run government. The underlying principle of the historic background of the doctrine of separation when it first emerged in the 1700s in America, (Sirico, Jr., 2008) was to separate a state's governmental

branches in order to curb the executive power so that it could not corrupt the legislative and judicial branches. Carney (1993) in Table 6:2 illustrates the American model of separation of power whose fundamental principles have not changes much since the 1787 Constitution. However, Carney argues that some American States and the French Constitution of 1791 that tried to strictly give effect to the doctrine did not succeed because in order to smoothly run government, the three branches must work in harmony although they are independent of each other.

Table 6:2 Separated Power in the USA Government

The **United States Constitution of 1787** incorporates the doctrine of separation of powers with a system of checks and balances as the following table illustrates:

Institution	Power	Personnel	Control
Congress	Power to make laws	Elected representatives	Presidential veto; Supreme Court review of validity
President	Executive power	Elected. Cannot be a Member of Congress	Senate ratification necessary for cabinet and diplomatic appointments, and treaties; Judicial review; Impeachment by removal by Congress.
Supreme Court	Judicial power including judicial review of legislative and executive activity	Appointed by President with Senate ratification	Impeachment by Congress

Source: Carney (1993)

Participants to this study observed that there is currently a contentious debate on this paradigm in developing democracies (including Malawi) as to how much each one of the branch should influence the other; if at all. This was also highlighted by Aderinwale and Alabi (1998) at the '*Africa Leadership Forum*' as follows:

There is total confusion in Africa on the role and function of parliament. Whoever controls 'the executive' has absolute power to mangle the system and exaggerate the power of his/her office. By personalising the executive and the whole governmental system, the balanced constitution is dead and buried. The principle of mixed government and the entire separation of the executive powers also wither away. (Aderinwale and Alabi July 13-15, 1998)

In South Africa however, the National Constitution (Constitutional Principle VI) clearly stipulates that there shall be a separation of powers between the legislature, executive and judiciary, with separate check and balances to ensure accountability, responsiveness and openness (O'Regan, 2005). The South African Constitutional Court when attesting the 1996 Constitution, argued that the doctrine focuses on the principles of checks and balances ensuring the desirability of the constitutional order and in its totality, to preventing the branches of government from usurping power from one another. Manning, (2010) in quoting Professor William Van Alstyne writes, *"The separation of powers to be respected is that which the Constitution itself establishes."* Technically, in all arguments it is probably clear that the doctrine is underpinned by the Constitution provision as observed by Saunders Cheryl (2007) in quoting Goodhalt (2006), *"A society in which the observance of the law is not assured, nor the separation of powers defined, has no constitution at all."* Section (5) of the Malawi Constitution states that any act of either government or any law that is inconsistent with the provisions of the Malawi Constitution shall to the extent of such inconsistency, be invalid. This implies that the Malawi Constitution remains the 'supreme law' of the nation. Therefore, those that take the oath of office to protect the constitution should be personally held responsible when they fail to do so.

When asked the implications of the oath of office during the interview with the researcher, Joyce Banda seemed quite aware that it was to preserve and uphold the Republican Constitution as she stated in her words.

I believe that I took an oath to 'preserve' and 'uphold' the 'Constitution' of this land. I know that in this whole country, the only two people that took that oath [of presidency] are the President and I as Vice President of this country. Then I believe that I have the authority and obligation to question [the president] when other things are not happening. (Joyce Banda)

Joyce Banda further argued that she was better placed as vice president to provide the much needed checks and balances especially when parliament was not capable of playing its oversight role. Mojapelo (2013, p.40) states that the purpose of checks and balances was to ensure that the three branches of government regulate each other internally (*checks*) and serve as counter weights to the power wielded by the other branches (*balances*). The study noted that the constitutional framework was probably adequate in the provisions on the separated powers and functions of the three branches of government. However, it was noted that there was lack of affirmative political will in its implementation. Table 6:3, is an illustrative matrix of the three branches in terms of their responsibilities, personnel as well as their controlling mechanisms in the horizontal accountability paradigm as provided for in the Malawi Constitution, (Chapter 1: 7, 8, 9; Chapters 6,8 and 9).

Table 6:3 Checks and Balance Control Mechanisms in Malawi

Institution	Responsibilities	Personnel	Control
Legislature	The legislature when enacting laws shall reflect in its deliberations the interests of all the people of Malawi and shall further the values explicit or implicit in this Constitution.	Elected Members	Presidential Veto
Executive	Responsible for the initiation of policies and legislation and for the implementation of all laws which embody the will, of the executive express wishes of the people of Malawi and which promote the principles of this Constitution.	President (Elected) Ministers (Appointed)	- Impeachment - Ratification of senior government officials (Apart from Ministers)
Judiciary	Shall have the responsibility of interpreting, protecting and enforcing this Constitution and all laws and in accordance with this Constitution in an independent and impartial manner with regard only to legally relevant facts and the prescriptions of law.	Appointed	- Impeachment

Source: Data Sources, Malawi Constitution (2012)

6.1.3 Hypothesis Three

That the Malawi Parliament has lapsed in vertical and horizontal accountability to nurture good governance.

6.1.3.1 Accountability as means towards Good-governance

In the last two decades, the measurement of good governance among donor-recipient had gathered unprecedented momentum. Several data sets have been designed to achieve this objective such as the Worldwide Governance Indicators (WGI) of the World Bank Institute; Freedom House's 'Freedom in World' scores; Transparency International's Corruption Perceptions Index (CPI) and Global Corruption Barometer; the Bertelsmann Transformation Index and Ibrahim Index of African Governance among others (DFID, 2011, p.5). It is important to note that each of these datasets has methodological weaknesses. However, they all generate useful data for

analysis in the measurement of governance utilising measurable variable such as accountability, transparency, participation, responsiveness, rule of law; efficiency and effectiveness; equitable, inclusiveness as well as consensus. The study noted that by 2006, the donor community adopted a Common Approach to Budgetary Support (CABS) on the basis of *“the fundamental principles of poverty reduction, sound macroeconomic management and good governance, including sound financial management, accountability and effective anti-corruption programmes,”* as observed by Patel and Hajat (2007, p.2). Participants argued that while the donor community was spearheading the good governance agenda, the Malawi Parliament was getting less effective in its oversight role being engrossed in trying to resolve Section 65 (Floor-crossing) and the impeachment of the president for the most part of the multi-party era.

Accountability in good governance (Torfing, et al., 2012) is the capacity of actors to set and pursue collective goals that involves *answerability* and *enforceability* with a possibility of sanctions in case of failure (Ocampo and Arteaga, 2014). Although the notion advanced by Torfing may be useful that governing was about the *“pursuit of goals”* and that to be able to ‘measure governance’ there was need to specify the goals being pursued, the approach would not only be simplistic in the case of Malawi but also misleading for two reasons. Firstly, there is a question of setting measurable governance ‘goals’ because autocratic regimes seem to have a tendency of setting and pursuing their own goals. Secondly, because the concept of ‘governance’ has numerous facets to its definition in terms of scientifically approved measurement benchmarks. Furthermore, variables may also be different from country to country and from one continent to the other. However, Adetula (2011, p.20) argued that there was an increasing global consensus on the legitimacy of such western values as individualism, liberty, human rights, equality before the law, free markets, the rule of law and, most significantly, liberal democracy. In addition, Adetula observed that in Africa sources of data for several evaluations and assessments of democracy and

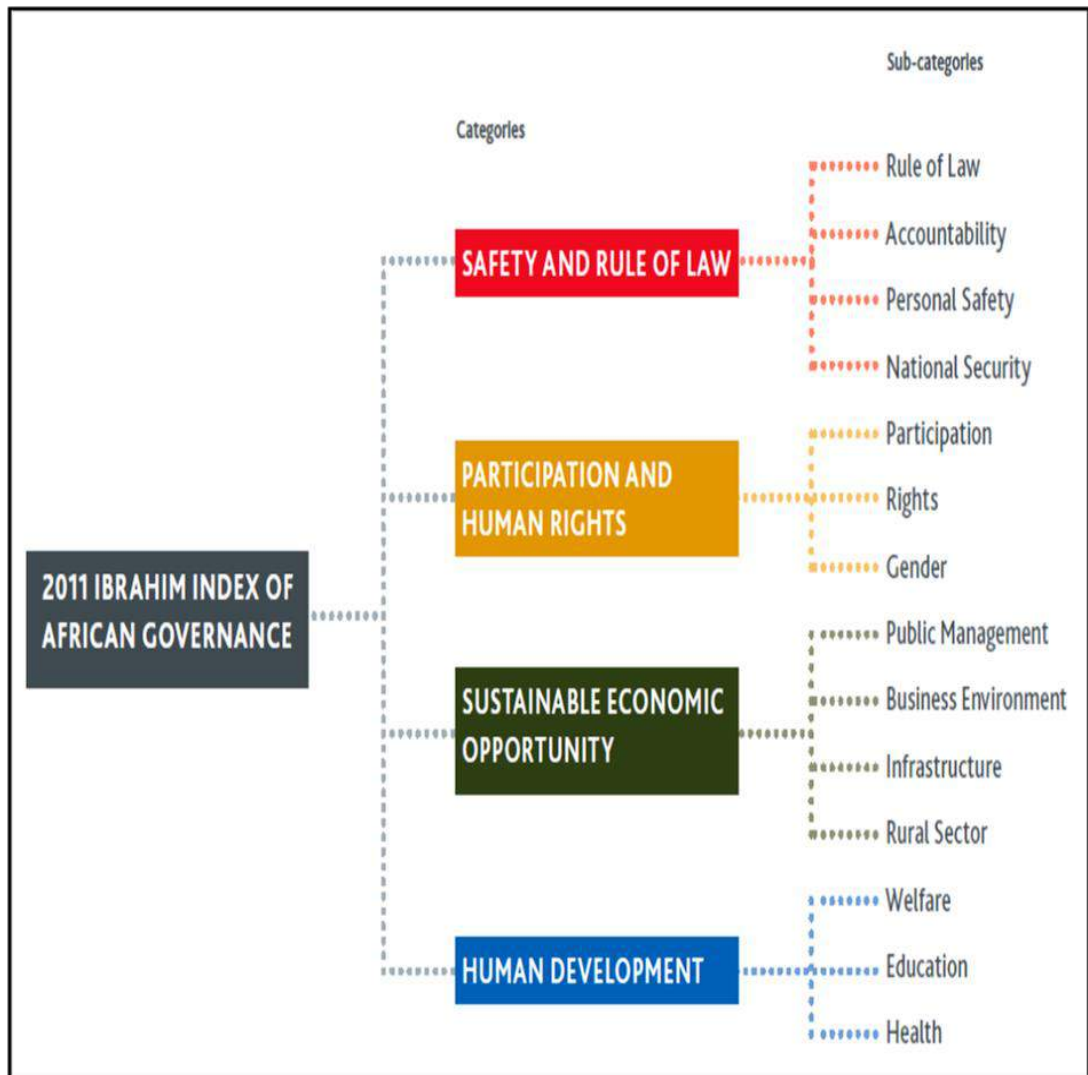
good governance ranged from the desk study approach, to multiple country impact assessments by bilateral and multilateral donor agencies.¹⁶³

It was not until 30th January 2007 when the Africa Union (AU) adopted the *African Charter on Democracy, Elections, and Governance* that contains fifty three articles providing benchmarks in three aforementioned categories. Before the charter, the AU relied on isolated declarations¹⁶⁴ as terms of reference in the measurement of democracy and good governance, (AU, 2007). Arguably, these declarations fell short of specific indicators for rigorous scientific measurements for scholarly work. It was probably against this backdrop that the Mo Ibrahim Foundation (MIF) established in 2006 aimed at providing a framework and tools by which citizens and governments can assess and measure progress in governance (MIF, 2012). The Mo Ibrahim index (Figure 6:2) becomes useful to this study in providing the general framework of analysis accountability for good governance by way of categorisation of the main and sub-categories as units of analysis.

¹⁶³United Kingdom's Department for International Development; Canadian International Development Agency; USAID; Swedish International Development Cooperation Agency; European Commission and other development assistance providers whose mandate includes promoting democracy and good governance in the non-European world.

¹⁶⁴ 1990 Declaration on the political and socio-economic situation in Africa; 1995 Cairo Agenda for the Re-launch of Africa's Economic and Social Development; 1999 Algiers Declaration on Unconstitutional Changes of Government; 2000 Lomé Declaration for an OAU Response to Unconstitutional Changes of Government; 2002 OAU/AU Declaration on Principles Governing Democratic Elections in Africa; 2003 Protocol Relating to the Establishment of the Peace and Security Council of the African Union

Figure 6: 2 Ibrahim Index of African Governance



Source: Ibrahim Index of African Governance (2013)

Adopting the Mo Ibrahim Measurement model, it can be argued that accountability for good governance ought to embrace an open, participatory society with transparent systems of governance (Matlhaku and Molomo, 2007, p.10). Furthermore, it entails a political system that offers opportunities for all its citizens; participation that ensures wider contribution in government and development decision-making as well as an electoral system that is competitive, free, fair and transparent (Hofmeister and Grabow, 2011).

In testing the third sub-hypothesis that '*The Malawi Parliament has lapsed in vertical and horizontal accountability to nurture good governance,*' it may be important to analyse governance shortfalls in parliamentary legislation, representation and oversight by each ruling political party. Although the MCP (1964-1994) era of dictatorship does not fall into this paradigm, it is analysed in contrast to the parliamentary functionality of the multi-party democracy during the UDF (1994-2004) and the DPP (2004-2012) leadership.

6.2 Legislation, Representation, Oversight (MCP, 1964-1994)

After the 1964 cabinet crisis, President Kamuzu Banda ultimately became the axis with such a centripetal force that legislation, parliamentary representation, and oversight of government machinery revolved around the presidency. In fact, Chirambo (2004) argued that hegemony in Malawi was presented as 'Kamuzuism.' Phiri (2000) defined Kamuzuism as an ideology that was being inculcated in every Malawian citizen that Kamuzu Banda was a 'God-sent' saviour, omnipotent, and omniscient (all powerful and all knowing). Appreciating this background is important in understanding why Kamuzu Banda single handily controlled the executive, legislature, judiciary the party and its government for such a long time. Kanyama, (1982) for instance, argued that during the cabinet crisis, Kamuzu Banda summoned all the other Members of Parliament besides the so called rebels and demanded a statement of loyalty from every one of them. Arguably, the calling of parliament¹⁶⁵ thereafter to decide on the no-confidence vote on him as president of Malawi was merely a political manoeuvre to exert total control over the legislature. Participants argued that during the MCP regime that the government was subservient to the people in the party as was pointed out by one of the participants as follows:

¹⁶⁵ Parliament was convened from 8th to 9th September 1964 to debate and vote on a no-confidence motion on President Kamuzu Banda. The predetermined outcome was that the President was given a hundred percent confidence vote and the so called rebels were denounced and demonised.

... at some point they [MCP] even twisted facts that the party is supreme. Instruction would come from the party and government had to implement. Such a notion found fertile ground amongst people who had very little education. (SPK, 2011)

Furthermore, participants argued that the Presidency that comprised of Kamuzu Banda, JZU Tembo and Mama T. Kadzamira as an inner circle, more often than not used the party machinery to impose their will. However, when the question was put to JZU Tembo, he vehemently denied allegations arguing that the inner circle was neither involved in the decisions of the Party, the Parliament, nor the Executive. Nevertheless, participants contended that the endorsement of Life Presidency for Kamuzu Banda in July of 1971 by Parliament might have been a direct influence from the 6-12th September, 1970 MCP Mzuzu convention in which he was 'anointed' MCP's president for life (Schoeman, et al., 1999). While both the Vice President and JZU Tembo agreed that the rationale behind the life presidency and one party polices were not necessarily to foster national unity, they differed on the 'real' objectives of such polices. JZU Tembo argued that the ordinary people had wanted Kamuzu to be life president of both the party and its Government. In sharp contrast, the Vice President contested that Kamuzu's use of 'National Unity' as justification for claiming the life-presidency and one-party state was not only political deception but also a means of suffocating democracy she argued.

No, no, no! National unity was an excuse because when dictatorship is stepping in, people want to have a free ride; people want to rule as they wish; people want to commit atrocities. (Joyce Banda)

Arguably, Kamuzu had become the government and the law (Chirwa, 2001, p.9). Furthermore, Chirwa, in quoting (Lwanda, 1993, p.29), stated that Kamuzu boasted in one of his speeches, *"the Malawi system, the Malawi style is that Kamuzu says, it's just that, and then it's finished...Everything I say is law."* One of the participants observed that the MCP regime wielded so much power that they did not even care about what ordinary citizens wanted. In addition, the participants observed that even more dangerous was

that all the national resources of the country had become available to the party as an institution and the few that wielded power in the political establishment thereby economically disenfranchising people who were already politically disenfranchised. For instance, it was noted that appointments to state enterprises were dictated by the political system and that the few individuals who had political power also had complete control of the economic power. It was argued by participants that during the MCP regime, Malawi ceased being a country which was for all Malawians and became a country for the few that had immense power that was used to oppress others. It was further argued that the representation and oversight functions of the Malawi Parliament were technically taken over by Kamuzu Banda after the 1964 Cabinet Crisis. The selection of Members of Parliament was carefully choreographed by the party machinery and personally endorsed by the president. Since independence, there were five parliamentary elections held at irregular intervals (1971, 1976, 1978, 1983 and 1987); Lodge, (2002).

Semu (2002) in quoting (Lwanda, 1993) argued that when the Women's League was formed as an extension of the MCP in 1958 under the leadership of Rose Chibambo it was meant to advance women's interests. In contrast, she observed that Kamuzu Banda's idea of the movement was that he personally would use it as a means of appropriating gender concerns for national development and [personal] political gains. Semu (2002) went further to suggest that in order to attain his goals, Kamuzu Banda appropriated the matrilineal concept of *mbumba*¹⁶⁶ and subsequently created a "*Mbumba* culture" (Lwanda 1996, p.203). Arguably, when he declared himself "*Nkhoswe*¹⁶⁷ *number one*" in 1963, he was probably changing the representative paradigm. This meant that the representative functionality of Members of Parliament became less significant instead; their roles were that

¹⁶⁶ '*Mbumba*' in Chichewa Culture: A traditional sorority relationship between women and their offspring under their male guardianship known as '*nkhoswe*.'

¹⁶⁷ **Nkhoswe:** In Chichewa Culture is an elder family member who bears responsibility for siblings, nieces, nephews, and such extended family members in the matrilineal settings. In almost all cases he is a male figure (god-father). He also acts as advocate and spokes person on family issues.

of eulogising their purported 'wise and dynamic' leader. As argued by Chirambo (2007) by becoming 'Nkhoswe number one,' Kamuzu Banda adopted and extended his authority of *Nkhoswe* over all women in Malawi whom he called his *Mbumba* and by extension of every Malawian. Furthermore, Chirambo (2007, p.142) states that the President worked towards total dominance over the country.

Kamuzu Banda regarded Malawi as one big village in which he was the paramount Chief and father, guardian, and protector of all people and went so far as to call Malawi, his tribe . . . the whole nation, the tribe of Malawi. (Chirambo, 2007, p.142)

6.3 Legislation, Representation, Oversight (DPP, 2004-2012)

It must be noted that President Bingu wa Mutharika ascended to presidency on 20th May 2004 as President of the United Democratic Front (UDF). He resigned from UDF on February 5th 2005 (Sonani, 2005) and led his newly founded DPP minority government to the 2009 General Elections. After the 2009 elections, the DPP led a majority Government until the 7th April 2012 when President Joyce Banda was sworn into office after a sudden death of President Bingu wa Mutharika on 5th April 2012 (BBC, 2012).

It was noted during the study that the DPP-led Government seemed to have registered economic success in its first term (2004-2009) because of the strong opposition as claimed by participants from the opposition. However, participants from government argued that the 'success story'¹⁶⁸ of the first term of government was due to good fiscal policies and their implementation. Furthermore, they argued that the opposition was determined to wrestle power through the 'politics of retribution.' There seemed to be four major factors that created a political and legislative stalemate during this period, viz., lack of the Speaker of Parliament to invoke Section 65 on defecting members; opposition prioritising Section 65 to Budget; Impeachment procedures, purportedly designed to impeach the Sate President as well as Presidential appointees that were being rejected by the Parliamentary

¹⁶⁸ GDP Growth rate on average between 2004 and 2010 grew by 6.4%

Appointments Committee. Participants noted that there were instances when the opposition would make pronouncements on not supporting the budget even before it was presented to parliament before a set of conditions were met by government. This they argued, did not only threaten the credibility of Parliament but also the livelihood of the nation. For instance, without passing the budget its ramifications were far reaching; it meant lack of salaries for civil servants, the army and the police, no medical, education, and agriculture supplies including the entire supply chain was suffocated with the prolonged delays in passing the budget.

The matrix in Table 6:4 summarises key stakeholders in the budget processes in Malawi from public sector, civil society and the donor community linking to their interests in influence and interest of the budget process. It can be argued that in the 2005/06 Budget Session of Parliament, the opposition used the budget as a bargaining chip with the executive to have Section 65 evoked on members who had crossed the floor. Furthermore, the opposition seemed determined to torment the president in particular for having defected from the United Democratic Front to form his DPP with a prospect of impeachment.

Table 6:4 Influence and Interest Matrix

Influence and interests Matrix of stakeholders in the budget process in Malawi

	High Interests	Low Interests
High Influence	President Cabinet (Cabinet Committee on Economy) Minister of Finance PSs and top civil servants on contract CABS donors Multilateral donors (the Fund and the Bank) Reserve Bank MRA	MPs Media Public Appointments Committee Church Dem & Gov NGOs (civic education)
Low Influence	Budget and Finance Committee Public Accounts Committee (PAC) Auditor General Professionals in the Ministry of Finance Line ministries ACB NAG NGOs, prof. assoc. (ECAMA, SOCAM, MEJN) Non-CABS donors (USAID) Civil service Internal audit units	Taxpayers Public at large MCCCCI Sector-specific NGOs Sector prof. assoc. Financial services sector

Source: Lise Rakner, (2004), Chr. Michelsen Institute, Norway (retrieved on 21/08/2012)

The conduct of the opposition in parliament seemed to have created a lot of anger among the general public and various stake holders whose livelihoods depended on the positive outcome of the budget such as civil servants, the police and the army including the network of the supply chain. Consequently, public anger was expressed in various formats such as petitions, vigils at the Parliament building as well as public demonstrations. One of the participants to the study argued that government gained popular support against the opposition because it made the populace believe that the opposition was the hindrance to national development.

In the 2004/05 budget presentation to Parliament, the opposition insisted on the prioritisation of Section 65 against the Budget as recalled by Munthali when a similar trend almost repeated in the 2012/13 budget with the DPP demanding the invocation of the section before the budget was discussed

and passed. Munthali argues that the opposition's misplaced priorities might have contributed to their dismal performance in the 2009 general election.

It is just very irritating to go back to the debate which saw MCP and UDF lose their majorities [in 2009 elections]. They equated section 65 to the basic needs of Malawians. (Munthali, 2012)

Arguably, as pointed out in the preceding chapter, the level of viscosity in the Legislative Assembly during the first term of the DPP in government was so high making it almost unattainable for parliament to make meaningful gains in enacting any legislation. However, the domination of opposition in parliamentary committees (Parliament, 2007) that were entirely chaired by the opposition members was advantageous in providing government oversight. Paradoxically, regardless of the numerical advantage the opposition had in parliament, it was not able to provide alternative policies largely because they were "highly fragmented" (Mathisen and Svasand, 2002). Wondwosen (2009, p.287) also noted that the opposition parties in Malawi, either within or without parliament, have probably not provided the kind of alternative government to mitigate the incumbent shortfalls. Wondwosen (2009) argued that political parties promote vital competition on policy and ideological alternatives, and play essential roles in a representative democracy. In sharp contrast to Wondwosen's argument, Svasand, (2011, p.4) states that unlike in the Western democracies where parties can be considered as unitary actors that are held together by a combination of ideological cohesiveness and accepted organisational procedures, the party system in Malawi and the individual parties fit less elegantly into the government-opposition dichotomy. Chabal and Daloz, (1999) Carroll (1999) and Ake (1996) indicate that many of the political parties in Africa are established around individual personalities. Consequently, policy and ideological phenomena are modelled as well as revolve around individualism. Walle and Butler (1999) remarked, "African political parties are plagued by weak organisations, low level of institutionalisation, and weak links to the society they are supposed to represent." Effectively, a combination of these factors has rendered the

opposition in Malawi in general and Parliament in particular ineffective in its legislative, oversight and representational functionalities. It is thus argued that an effective democracy is one where the ruling party has an effective opposition (Dolo, 2006; Schmitz, 1988). Political opposition parties provide alternative policies and governance models (Reitzes, et al., 2010).

However, it was noted that although there was a revolutionary departure in governance principles from the entrenched dictatorship of the MCP regime, the subsequent regimes of UDF and DPP had the following four main governance similarities.

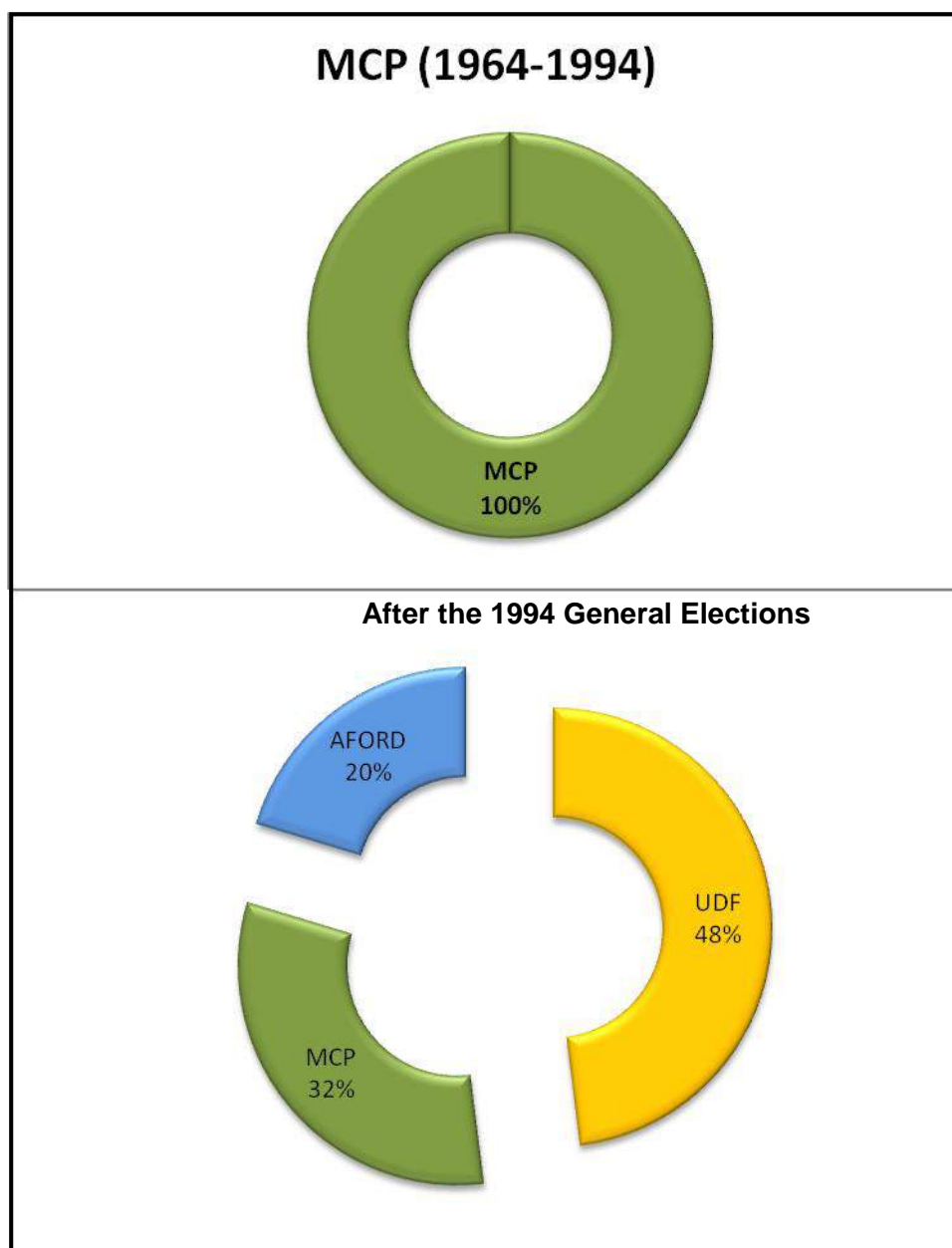
- Each regime attempted to utilise its numerical advantage in parliament to manipulate the National Constitution to its political advantage
- Political parties and individual politicians patronised on the politics of patrimonialism
- Both the UDF and the DPP seemed to make positive progress in good governance during their first term of office but went into a sharp decline during their second terms
- A diminished numerical configuration in opposition benches was synonymous with lack of robust government oversight.

6.4 Numerical Advantages/Disadvantages and parliamentary accountability

Furthermore, the study noted that the overarching consequences of numerical advantage in parliament, either by opposition or governing party, was the urge to pass legislation without the due process of rigorous scrutiny, wider consultation, and robust debate as the case was during the era of the MCP dictatorship, the second terms of office of the UDF and DPP respectively. Consequently, diminishing parliamentary government accountability and of checks and balances. For instance, Msowoya in describing the reign of Kamuzu Banda and the MCP regime said,

Instead of being free from the crutches of colonialism, now we were crutched by our own fellow blacks. 1964 to 1994, Malawians remember it as a period of death and Darkness. (Daniel Msowoya, 2011)¹⁶⁹

Figure 6: 3 One Party Parliamentary Membership



Source: Author; Data from Parliament (2007), MEC Results 1994

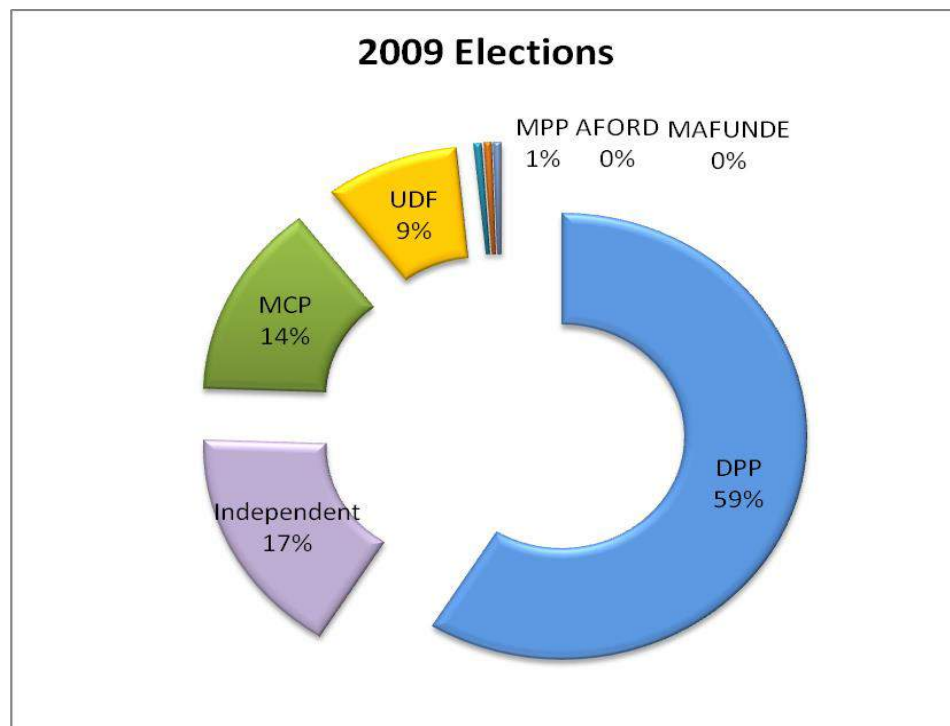
¹⁶⁹ Msowoya, (2011) was quoting Chakufwa Chihana, who described the Malawi Congress party as a party of “Death and Darkness”

Two distinct instances among others can be cited when the opposition successfully opposed government moves during the UDF regime. The first was in November of 2001 when a motion was moved by the UDF back-bencher Bernard Chisale-MP to impeach three High Court judges; Dunstain Mwaungulu, George Chimasula Phiri, and Anaclet Chipeta from the Judicial Service Commission for alleged incompetence, misbehaviour, misconduct as well as being partisan in their operations (Ligomeka, 2001). The second notable attempt by the UDF Government to circumvent the wishes of the general public by improvising its will through parliament was to amend Section 83(3) by removing the presidential term limits. The Bill was defeated by a thin margin. According to Piliran Phiri (2012) in the interview with Kwauli Msiska-MP who moved the motion in 2002, had this to say,

My position on that has not changed. It was a mistake and I am happy that the wishes of the people won. It was a mistake and I regret it. I appeal to my fellow politicians that we should always serve the interests of the people. (Khwauli Msiska, 2012)

It was observed that the executive branch of government's defeat by the legislature and the independence of the Judiciary could not have been possible in a defunct one party state. It was also observed during the study that the incumbent government with overall majority in parliament was prone to take advantage of its numerical supremacy for its own gain as the case was during the DPP second term of office (2009-April 2012) as indicated in Figure 6:4. Arguably, [although refuted by the DPP] the incumbent government utilised its majority in parliament to pass the most controversial Bills ever since the return to political pluralism. In comparative terms, it can be argued that the level of legislative viscosity during the DPP (2009-2012) was reminiscent of the one party state of the Malawi Congress Party.

Figure 6:4 Parliamentary configuration: 2009 General Election



Source: Author; Data from Parliament (2010), MEC Results 2009

It was also noted that during the DPP's majority Government (2009-2012), the executive exploited its numerical advantage in parliament to pass legislation without amendments despite political assurances from the DPP ruling party when President Bingu wa Mutharika on 23rd of June 2009 addressing Parliament said, *"I assure the Malawian nation that my government will not use our numerical strength in the House irresponsibly."* During the study, participants argued that contrary to the proclamations made by the president, reality seem to suggest that government has continued to enact unpopular bills. It was also observed that because of majority membership in Parliament, the DPP led government was no longer responsive to public opinion as stated by one of the participants Msowoya (2011), *"Malawians have realised that the DPP led government is abusing the powers given them by majority vote."* In addition, the State Vice President Joyce Banda reaffirmed to the researcher that she boycotted attending some of the Government functions if in her opinion they were perceived to be in contradictions with the values and principles of democracy

and good governance. For instance, she stated that she did not agree in the undemocratic manner in which the National Flag was changed and also the inauguration of the Nsanje inland port.¹⁷⁰

...at the flag-event I wasn't there; even at the port-event I wasn't there. The reason why I stayed away is that I just didn't agree with what was going on. It was wrong. (Joyce Banda)

It was argued in many quarters during the study that the DPP led government had become increasingly despotic because of its political hegemony both inside and outside of parliament. Many political analysts and journalists also expressed the same sentiments as those of Smith, et al., (2012), warning that Malawi was heading towards an authoritarian era under the 'dictatorial whims of one man' Bingu wa Mutharika.

From the study, there emerged four main factors that contributed to lack of trust by constituents in some members of Parliament and political parties. Key factors ranging from MP's self-centredness, over marketing themselves but underperforming when elected to lacking of intra-party democracy. This may go to partly explain why Downs (2002, pp.135-150), argued that governors are inherently motivated by personal gratification in their pursuit of representative roles and not by any desire to benefit others.

1. It was observed that most aspiring candidates overpromise their constituents and once elected to parliament, fail to honour their promises. Consequently most of the MPs do not get re-elected.
2. Participants also observed that most MPs once elected move out of their constituencies to live in urban areas especially those from rural constituencies thereby either reducing or avoiding contact with their constituents all together until the following campaign season when they start seeking for a re-election.

¹⁷⁰ **Nsanje inland Port:** The construction of the Port by President Wa Mutharika should have meant connecting Malawi to the Indian Ocean through the 238 Kilometre of the Shire-Zambezi Rivers. However, the Malawi Government (Bingu) made a unilateral decision for the project ignoring other key stakeholders such as the Mozambican Government through which most of the Shire River passes through to the Ocean. Therefor Mozambique did not buy into the project.

3. It was also pointed out by participants that once political parties were elected into power they tended to abandon their party manifestoes and pursued an agenda different from what was initially presented to the electorates during the campaign period.
4. Participants observed that one of the causes for a high rate of independent MPs in the 2009 and the following parliamentary elections were due to lack of intra-party democracy. More often than not, it was argued that political parties tended to favour the incumbent MPs regardless of their popularity as long as they were well connected with some senior members of the party and also if the serving member was a senior members of the party. Consequently, primary elections were fraudulent and designed to favour the incumbent.

6.5 Conclusion

The chapter has endeavoured to demonstrate the representational function of parliament in vertical accountability arguing that parliamentary representation is by design a chain of delegated democracy in which the principal (voter) delegate to the agent (MP/parliament). Thus, the former demands accountability by the later and has power to sanction (through the vote) if the later fails to account for their action or lack of it. Through this study, empirical data supports the hypotheses:

- *That the vertical accountability in the Malawi Parliament has been less effective due to MPs self-centredness.*
- *That the Malawi Parliament continues to be dominated by the Executive Branch (the Presidency). Therefore, not effective in government oversight.*
- *That the Malawi Parliament has lapsed in vertical and horizontal accountability to nurture good governance.*

CHAPTER: SEVEN

Summary of Findings

7.0 Introduction

In addition to the findings from the reviewed relevant literature in chapter three, this chapter is a synopsis of the thesis. It stipulates the impact of the findings in an attempt to appreciate the prevailing factors that have contributed towards the Malawi Parliament's lack of effective vertical and horizontal accountability in its primary roles of representation, legislation and oversight. It highlights the acme of the legacy of colonialism on contemporary Malawian Politics; the performance gaps of post-independence with emphasis on the multiparty parliamentary democracy since the 1994 general election (Southall and Melber, 2006) Thus, covering the first and second terms of the United Democratic Front (1994-2004) as well as the 'first'¹⁷¹ and second terms of the Democratic Progressive Party (2004-2012). Furthermore, the chapter, synchronises the legislative viscosity and the horizontal accountability in Malawi Parliament during the majority and minority governments; the balance in political power among the executive, the legislature as well as the judiciary. In the final analysis, it exposes the strengths and opportunities within the structures and systems that can be positively exploited by parliament including its weakness in the governance structures whose gaps can arguably be effectively closed.

7.1 Significance of the findings

The significance of the findings from this project is three fold. Firstly, they are empirical evidence in support of the hypothetical argument 'that the Malawi Parliament's vertical and horizontal accountability towards good governance in legislation, representation and oversight roles have not been effective due to MPs self-centredness; that the Malawi Parliament continues to be

¹⁷¹ 'First Term' of DPP (2004-2009). Note that DPP was a breakaway party from the UDF in 2005 when it formed Government under the Leadership of Bingu wa Mutharika relegating the UDF party into opposition. This term, was arguably, a third term of UDF in Government.

dominated by the executive branch as well as deficiencies in human, financial and infrastructure capacities.'

In endeavouring to achieve this objective, the study identifies the existing gaps within the parliamentary service delivery systems and structures. Secondly, based on the findings, recommendations are advanced aimed at strengthening both the horizontal and vertical accountability and of checks and balance by the Malawi Parliament. Thirdly, the study makes a significant contribution to the body of scholarly literature on parliamentary democracy in general and in particular the vertical and horizontal accountability towards good-governance in the case of the Malawi Parliament.

It is worth mentioning that the bulk of this research project was based on empirical evidence. The study gathered both qualitative and quantitative data to support its hypothetical and the thesis arguments. In (7.2) is a summary of the key findings from relevant literature and (7.3-14) from primary as supported by secondary data.

7.2 Summary of results from relevant literature

The study noted that the 30 years of dictatorship under the leadership of the MCP, Malawi parliament was a subsidiary of the executive branch of government and a legislative wing of the party as outlined in (7.7), Chirwa (2001).

It was also noted by a host of literature (Patel, et al., 2007; Barkan, et al., 2010 and Maganga, 2011) that after the 1994 multiparty election, the relations between the executive and the legislature had generally been tense and often acrimonious. For instance, the legislature could deliberately block the passage of a bill to flex its muscles, while the executive refuse to fund a sitting of parliament.

Furthermore, as observed by Patel, et al., (2007) that although Malawi had a detailed and well-written constitution, the past decade had seen a tendency

to deviate from the constitution or to amend it hastily for some short-term political gains.

Given the demographics and history of African countries, Barkan, et al., (2010) stated that both citizens and MPs place a much higher emphasis on representation and constituency service for vertical accountability than on legislating and oversight in the horizontal accountability paradigms. It was argued, (Maganga, 2011) that the MP/constituency as well as the legislature/executive relationships in most African parliaments, to a greater degree depends on the form of electoral system through which a country selects its members of the legislature. For instance, it was noted that in the direct first past the post system tend to have a high affinity in the vertical accountability where as in the proportional representation political parties rather than individual MPs will ensure that government is held responsible for its policies in the horizontal accountability (Acosta, 2010).

It was evident that although in most African legislatures legislative scrutiny was still weak, the findings also revealed that bills introduced by the executive for passage by the legislature were no longer simply being 'rubber stamped' but increasingly scrutinised and often amended before being passed into law (see, Warren, 2008; Koep, 2009; Azevedo, 2008; Brierley, 2010; Barkan, et al., 2009, pp.33-72)

Literature (Mattes and Shaheen, 2011) suggests that highly educated [academic] MPs brought with them important social and political characteristics and experiences that enhanced their performance as effective legislators. However, it was noted that lack of partisan background reduced their effectiveness by isolating them politically.

7.3 The past legacy on the contemporary Malawi parliament

This study indicates that the past legacies of both colonialism and of MCP regimes continued to have a salient impact on the conduct of the Malawian Parliament. Four areas were identified as the main contributory factors:

1. That the colonial government, in its seven decades (1891 to 1964) of administration may not have made deliberate policies to adequately prepare Malawians in running an independent legislature
2. That although Malawians may have been politically ready for independence, many had not been adequately prepared economically and academically to manage the three arms of government and its agencies effectively
3. That at independence in 1964, the Malawi parliament adopted the colonial parliamentary systems and structure with no major parliamentary reforms through the years of dictatorship under the MCP regime
4. That Kamuzu Banda¹⁷² like many other African dictator¹⁷³ were partly 'made' by the former colonising powers during the Cold War period based on the assumption that leaders that were perceived to be pro-west were allowed to thrive on the expense of atrocious human rights and bad-governance

The study found that although Malawians may have been politically ready for independence by 1964, the challenges of managing an effective administration many have been unsurmountable. For instance, the study found that at independence, the literacy levels among African Malawians was only at 10%. It can therefore be argued that at independence in 1964, there

¹⁷² Kamuzu Banda of Malawi (1964-1994)

¹⁷³ Mabutu Sese Seko of Zaire/DR Congo (1965-1997)

Jeen-Bedel Bokasa of Central African Republic (1966-1976)

Robert Mugabe of Zimbabwe (1987-date)

was not enough critical mass of people who had acquired formal education to be entrusted with positions of leadership to play various roles in government and public sector. Consequently, the low rate of education attainment among African Malawians may have partly contributed to the slower pace of 'Africanisation'¹⁷⁴ of the public sector by the MCP Administration. Participants argued that colonisers failed to facilitate proper democratic governments in Africa in general and Malawi in particular because they did not leave the continent by choice; they were forced to surrender political power.

7.4 Parliamentary Performance in Post-independence

A number of factors seem to emerge from the review of relevant literature that support the hypothetical argument of this thesis as summarised in the following paragraphs:

1. The study found that during the one party dictatorship, the parliamentary agenda was set by the president either directly presented to parliament or through the endorsement by the convention of the Malawi Congress Party to be rubberstamped by Parliament. In describing the parliamentary proceeding during this period, one of the respondents said, *"The one party state brought in its own disadvantages. Such as lack of freedoms of expression and speech inside and outside of parliament..."* (Dausi, 2011).
2. It was noted during the study that the relationship between the legislature and executive continues to be precarious as also reported in the studies by Patel, et al., (2007); Barkan, et al., (2010) and Maganga (2011) as well as reiterated by the Speaker of the Malawi Parliament (Banda, H.C., 2011) said, *"The experience of being a minority government, I would say, it was extremely tough because in*

¹⁷⁴ Baker, (1972) *The Administrative Service of Malawi- A Case Study in Africanisation*. This was a deliberate policy by most Independent states including Malawi of replacing foreign mostly white employs from the civil service

the case of Malawi, the main agenda of the opposition in parliament was that of a vendetta..." However, the executive continued its dominance over the legislature through various instruments such as the cabinet whose members also doubled as MPs, Parliament cannot convene without presidential consent as well as presidential authority to prorogue.

3. The study found that although Malawi had adequate democratic structures and system such as the constitution the electoral systems and governance structures, it however had systemic weakness in parliamentary government oversight as well as that of checks and balance compounded by financial infrastructural and human resources deficits. One of the respondents argued, *"I really believe that we need good leadership...that is what we are lacking. In Malawi, we have individuals with political power, not leadership,"* (Pastor Chirwa, 2011).
4. The study found that when a ruling party was in a majority, parliamentary horizontal accountability significantly diminished as was also observed by one of the respondents, *"The challenge with the majority governments in Malawi was that any Bill from government passed without scrutiny,"* (DS, 2011). Consequently, MPs tend to place a much higher emphasis on representation and constituency service (vertical accountability).
5. Most Members of Parliament once elected into office tended to cut-off contact and communication with constituents until the next round of elections. This was arguably one of the main reasons the Malawi Parliament had a very high percentage of MP turn-over at an average of 60%. It was argued that this trend created a disconnection in relationship between the MP and constituents thereby creating gaps in the vertical accountability paradigm.
6. It was observed during the study that a higher emphasis be placed on academic attainment for MPs. The rationale was similar to that found in the study by Mattes and Shaheen (2011) that highly educated MPs

brought with them important social and political characteristics and experiences that may enhance their performance as effective legislators.

7.5 Performance Gaps in Malawi Parliament

The study identified six 'Performance Gaps' as the main factors responsible for the lack of effective vertical and horizontal parliamentary accountability and of government's checks and balance:

[i] Lack of parliamentary capacity (financial, infrastructure and personnel)

It was noted that the often acrimonious relationship between the Executive and the Legislature could have created a lack of political will in strengthening structures and systems of the latter by the former. It was also clear from the study that the Malawi Parliament was often times, starved of financial resources to allow most select committees to meet and effectively carry out their duties. Furthermore, library, IT services, office space and equipment was far from adequate as stated by both MPs and parliamentary staff. At the pinnacle of human resource, there was a critical shortage of adequately qualified staff, compounded by low academic attainment by a majority of MPs.

[ii] Too much constitutional power vested in the Presidency

The Constitution of the Republic of Malawi confers almost all executive powers of government on the Presidency. For instance, Chapters 8 and 9 of the Constitution empower the president to hire and dismiss the ministers, appoint senior members of the Judiciary as well as heads of governance organs such as the Anti-corruption Bureau; The Malawi Electoral Commission; the Malawi Human Rights Commission and the Ombudsman. Furthermore, the president's authority is also enshrined in Sections 88, 89, and 91 of responsibilities; powers and duties and immunity, respectively.

[iii] Separation and balance of power

It was noted during the study that the duality in function by Members of Parliament who served as cabinet ministers as well as the presidential appointments for senior members of the Judiciary may have been responsible for lack of clear operations of sphere and independence among the three organs of government, consequently negatively impacting on accountability governance.

[iv] Partisan politics and lack of intraparty democracy

Although it is acceptable as conventional for partisan politics in parliamentary democracy, the study observed that most MPs were rather political party than policy oriented in their deliberation and voting patterns in parliament. This factor was also made clear from almost all respondents and participants as stated by Enoch Chihana,

“Most MPs in our Parliament have stopped thinking when debating or voting even on crucial issues of national importance. They have just become ‘Vuvuzera’ to say yes, to anything from Government; and those that oppose, just oppose because they are on the opposition side...” (Chihana, 2011).

[v] Rent-seeking behaviour among members of Parliament

It was argued that because of ‘politics of poverty’ among Malawian politicians in general and MPs, Cabinet Ministers as well as State Presidents in particular, they have all fallen prey to self-enrichment once elected or appointed into office at the expense of the common good. Consequently, political leadership may have compromised in accountability, transparency, responsiveness as well as adhering to the rule of law. Thus, negatively affecting the efficiency and effectiveness of parliament.

[vi] Low academic attainment for most members

In an ever increasing highly technologically and specialised 21st century legislature, it becomes undeniable that its membership also ought to reflect accordingly. It was observed that performance of individual members may have been impaired in their effectiveness in the specialised committee system operating in a complex institutional and political setting largely due to lack of professionalism among its membership.

In addition to the aforementioned performance gaps, the study also noted that adversarial politics within and without the confines of Parliament was a negative trend in the efficiency and effectiveness of parliamentary democracy.

7.6 The negative trends of adversarial politics in the Malawi Parliament

According to this research, about 44% against 36% MPs perceived adversarial politics as part of the Malawian political system, while, about 21% remained undecided. A case in point as observed by the researcher in the Chambers of the Malawi Parliament on Thursday the 24th of November, 2011 from 9:35 a.m. to 12.00 noon- (refer to Appendix: 6) in which, Minister of Home Affairs and National Defence (Aaron Sangala-MP) was physically assaulted by Anita Kalinde-MP (Independent-Thyolo North) during a ministerial statement on the death of Robert Chasowa, a fourth year Engineering Student of the Polytechnic, of the University of Malawi who was found dead on the morning of 24th September, 2011 at the Polytechnic Campus in Blantyre. It was observed during this particular session, that the Speaker might have not adequately protected the member of opposition in question when she raised a point-of-order. Consequently, she decided to settle the score physically with the Minister during the tea break.¹⁷⁵ It was further noted that although, rigorous and heated-debate during plenary were

¹⁷⁵ In subsequent seating, the Motion was moved by parliament to suspend Hon. Kalinde (Independent—Thyolo North) for 30 Parliamentary Seating. The decision was rescinded soon after the fall of the DPP government in April of 2012.

a welcome development, participants argued that the unparliamentarily language that was often times used without being checked by the Speaker compromised the seriousness and trust of the Malawi Parliament to its constituents. For instance, it was reported that members exchanged ridiculous insults (often times in vernacular) '*Agalu inu*' (You dogs); '*Mahule*' (prostitutes); '*mbava*' or '*okuba*' (Robbers and thieves), to mention a few. All this dishonourable behaviour by MPs gave a negative public image of the institution of Parliament.

It was further noted that the Malawi Parliament played a major role in legitimising the MCP administration through legislation of its Bills without amendments. The UDF and the DPP also attempted to take advantage of their numerical strength in Parliament to enact legislation for personal political gain as summarised in the following selected samples of legislation.

7.7 Role of parliament in legitimising the MCP administration

After the 1964 cabinet crisis Kamuzu Banda, was determined to create a rubber-stamping parliament as observed from Chiume's¹⁷⁶ personal experience that all decision making and legislation did not originate from the executive but Kamuzu as an individual. This argument was also collaborated by almost all respondents except the Leader of MCP JZU Tembo.¹⁷⁷

Although politically and legislatively it had been rendered impotent, Parliament was instrumental as Kamuzu Banda's endorsement machinery for his oppressive policies. To this effect, parliament was used to enact various pieces of legislation to protect the interests of the regime. The following are a few controversial samples of legislation enacted during the one party rule.

¹⁷⁶ **Chiume, Kanyama:** Was one of the founding fathers of the Malawi Congress Party and the first victim of the 1964 Cabinet Crisis of Dr. Banda. He fled the country and lived the rest of his life in exile while majority of his colleagues paid with their lives under the 30 year reign of MCP.

¹⁷⁷ **JZU Tembo:** President of the Malawi Congress Party, (MCP), and current leader of Opposition in Malawi Parliament was part of the President K. Banda's regime from 1964 to 1994.

Preventive Detention Bill of 26th August 1964, whose objective was to allow the state to arrest and detain any citizen suspected of harbouring dissenting views. True to the fears of some suspecting 1964 Cabinet¹⁷⁸ ministers and other nationals, the Act was extensively used for arbitrary arrests and detentions without trial in order to silence opposition to the regime in its 30 year rule.

Malawi Young Pioneers (MYP) Act, 1965: The MYP was established in 1964 as a vocational training programme for the country's youths. However, it quickly metamorphosed into the MCP militia organisation. Chirambo (2004) corroborated by Chirwa (1994), Cammack and Chirwa (1997) and Phiri (2000), states that over the years, the MYP became the most dreaded agent of MCP's brutality exacted overtly and covertly. It was only to be disarmed by force of arms by the Malawi Army in 1992.

One-Party Dictatorship: In 1966, (Malawi Parliament, 2007), the constitution was amended to allow Malawi Congress Party (MCP) as the only officially recognised political party both inside and outside of Parliament. The act marked the demise of political pluralism in Malawi.

Forfeiture Act, 1966: The principal aim of the Act was to enable the government to confiscate property belonging to persons [dissidents] who had fled the country into exile after the 1964 Cabinet Crisis as well as to disqualify such persons from initiating legal actions in the Malawi courts. However, it was sooner rather than later used against any individual¹⁷⁹ or organisations¹⁸⁰ perceived as a threat to the establishment.

¹⁷⁸ Some of the Ministers in the 1964 Cabinet: Kanyama Chiume, Orton Chirwa, Yatuta Chisiza, Rose Chibambo, Henry Masauko Chipembere and others.

¹⁷⁹ After the 1964 Cabinet Crisis, most of President Kamuzu Banda's opponents who managed to escape imprisonment were exiled as rebels and dissidents. Some of the notable names were those of Kanyama Chiume, Orton Chirwa, Chakufwa Chihana, Attati Mpakati and many others.

¹⁸⁰ The Jehovah Witnesses Sect suffered state persecution. Individuals were tortured and most killed, property destroyed and the rest confiscated by the state under this ACT, (Jehovah Witness Research, 2009-2011)

Censorship and Control of Entertainment of 28th March 1968: The main essence of the Act was to regulate the pre-approval of content that was distributed to the public as well as provide for the regulation of entertainment productions. However the study suggests that the MCP regime extended the invocation to every form of publication in print or electronic media, musical, theatrical and any form that was perceived anti-establishment. Under this act many artists, writers; journalists were jailed under the pretext of possession, production, or propagation of seditious materials.

Adjudication of Title (Life President) 23rd July 1971: Subsequent to the endorsement by the MCP leadership of Kamuzu Banda's life presidency in 1970 for the party, the Malawi Parliament that had on all MCP membership at the time was also obliged to endorse him as State Life President. Brown (2008) summarises his leadership style as follows: *"Kamuzu Banda ruled through a highly arbitrary and personalised system. 'Life President' Banda was the supreme authority; his word had the force of law and was ruthlessly enforced"*.

The Kamuzu Banda regime exploited popular culture through the party's league of Malawi Women (fondly called: *Mbumba za Kamuzu*) the MYP and the MCP Youth League to inculcate *"the Banda-Centred Political Culture,"* (Chirwa, 2001., p.7). This culture was further enhanced by the regime's absolute control of the Police and the Judiciary through Traditional Courts.

There was lack of separation of administrative and decision making powers between the ruling party and its government during the three previous regimes. Although it seemed more pronounced during the MCP and DPP regimes, the UDF regime also had its own fair share. The study observed that political party functionaries were effectively wielding powers that should have been exclusively for government. One of the participants articulated as thus;

People acting purely from a political party point of view took actions that could not be distinguished from the actions of government. There must be that separation; that government as an institution must be distinct from their political parties. (Cassim Chilumpha, 2011)

7.8 The UDF Administration (1994-2004)

7.8.1 UDF First Term (1994-1999)

Like the MCP regime, the UDF is equally responsible for its own fair share in issues of bad-governance. It was noted that during the very first times of meeting of parliament after a return to multiparty politics, the UDF regime presided over the repeal of the Recall Provision¹⁸¹ of Section 64 of the Republican Constitution (Repealed by Act No.6 of 1995). The Public Affairs Committee has persistently campaigned for its reinstatement since then as expressed in the statement below during interview with the researcher.

They [MPs] just came in at first sitting and repealed the Recall Provision. One wonders which jealousy they were talking about because it had never been tested anyway to confirm that one would be removed out of petty jealousy... so, we didn't buy into that. We will still advocate for that. (PAC)

Furthermore, in January of 2001, the UDF led government managed to repeal the Senate (Section. 68:1) constitutional provision; arguing that it would be costly to run. It was argued by respondents that repealing the Senate was to deny a voice from traditional leaders and other minorities that would otherwise never be represented in the National Assembly.

7.8.2 UDF Second Term (1999-2004)

The study found that the second term of UDF led government was characterised by undemocratic tendencies within its ranks. For instance, from the respondents' point of view, about 26 percent government (DPP) and 29 percent of (all) opposition members of parliament seemed to suggest that

¹⁸¹ **Recall Provision:** stated that a member of the National Assembly shall be subject to recall by his or her the constituency in order to contest another by- election, if a petition of recall has been upheld by the Electoral Commission, where the petitioner: (a) Is a registered voter in the constituency that the member being recalled has been elected to represent; (b) Has proved, on a balance of probabilities, that there is a sufficient proportion of the electorate within that constituency, being not less than half the total of registered voters, who desire that the seat representing that constituency should be contested in a by-election.

the UDF led government was more democratic in the first term of office (1994-1999). Furthermore, the same percentage of (DPP) government respondents did not think UDF was democratic during its second term (1999-2004) while 21 percent of opposition indicated that it was. The decline in the democratisation project was said to be attributed to the absence of intraparty democracy that could have contributed to the attempted amendment to Section 83:3 of the Constitution and the subsequent imposition of the UDF Presidential candidate in the 2004 general elections. It was also observed that there was a lack of transparency in the UDF primary elections for Members of parliament contributing to the rise of independent¹⁸² candidates.

Perhaps the single piece of legislation that contributed most to the major weakening of the UDF administration was the introduction, through the private member's motion¹⁸³ of the Open Term Bill¹⁸⁴ that fell short of the required two thirds majorities by three votes. The final parliamentary vote on the 4th July 2002 went against the motion; the required two thirds was 128 votes of 193 members representing 66.6%. However, 59 votes went against the motion and 125 were for the motion representing 30.7% and 65.1% respectively, (Malawi Parliament 2007).

7.9 The DPP Administration (2004-2012)

The economy of Malawi during the DPP led government: It was noted during the study that the DPP-led Government seemed to have registered economic success in its first term (2004-2009) because of the strong opposition that could have provided government oversight as claimed by participants from the opposition. This positive indication was witnessed by a decline in the inflationary rate from 15.4% in 2004/05 down to 7.4% towards the end of 2010 as indicated in Figure 56. However, the study observed that there was a significant increase in inflation by over 26% between 2009 and

¹⁸² Independent MPs at National Level: 1994 = 0; 1999 = 4; 2004 = 40; and in 2009 = 32

¹⁸³ Kwauli Msiska- AFORD: Karonga-Nyungwe Constituency tabled the motion in Parliament

¹⁸⁴ Open Term Bill: Seeking an amendment to Section 83:3 of the Constitution that limits the incumbent from 'two consecutive terms' to 'unlimited term.'

July of 2012; rising from about 8% to 31%, arguably, because government was in a majority in parliament after the 2009 general elections that had significantly diminished government oversight by the opposition parties.

It was argued from the opposition point of view that the economic improvement that the DPP government seemed to register between 2004 and 2009 was to a large extent because it was a minority government. Thus, a strong opposition in parliament provided effective government oversight, check and balances for better economic performance. It was further observed that no sooner than DPP led government got its majority membership in parliament after the 2009 elections, than the Malawi economy went into a fast decline mode (Figure.56, b) with inflation rising in excess of 28% between 2009 and 2012. It came out clear from the study that the minority government of the DPP performed well economically in the presence of strong opposition in Parliament. It was also observed that the same government when in majority performed dismally both in governance and economic indicators. Furthermore, it was noted that a strong opposition in parliament created a high-level of legislative viscosity.

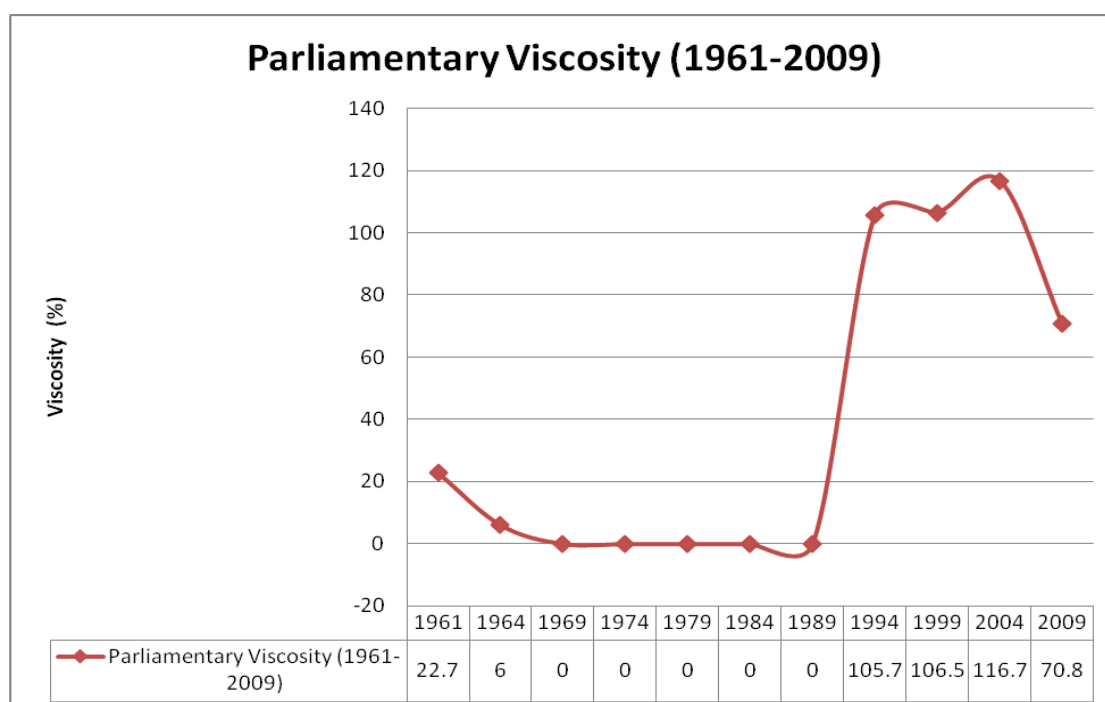
7.10 Legislative viscosity in the Malawi Parliament

Viscosity according to Blondel (1970) as cited by Norton and Leston-Bandeira (2005) is said to be on a *higher level* where parliament has the ability and resources to constrain government in the process of passing legislation. The *low level viscosity* occurs when government takes total control of the process of legislation.

This study observed a systematic direct correlation between the level of viscosity and the parliamentary configuration of its membership. Thus, the more members of opposition in parliament, the more rigorous the legislative process with possible amendments and sometimes rejection of Bills. It was observed in the study as indicated in Figure 7:1, that between 1964 and 1994, during the MCP single party state regime when they were no

opposition members of parliament, almost all government Bills passed through parliament with no amendments. In other words, the level of viscosity during this period can be said to have been at its lowest level of zero percentage. However, the study also observed that after a return to multi-party politics and the subsequent general election in 1994, the viscosity paradigms significantly shifted from a zero percentage to a hundred percentage, resulting into government failing to pass legislation (see Figure 7:1). The trend continued up until the 2009 general elections. During this period, the ruling parties in Parliament were either in a minority or had a simple majority (50+1%). As discussed in previous chapters, most controversial Government Bills that were brought to parliament were either significantly amended or rejected. A typical example was the rejection of the amendments of Section 83:3 (Presidential Term limits)¹⁸⁵ that sought the removal of term limits.

Figure 7:1 Legislative Viscosity in the Malawi Parliament



Source: Author 2012 (Data from respondents)

¹⁸⁵ **Section 83:3 (31 of 1994, 1998)** that the President, the First Vice-President and the Second Vice-President may serve in their respective capacities a maximum of two consecutive terms, but when a person is elected or appointed to fill a vacancy in the office of President or Vice- President, the period between that election or appointment and the next election of a President shall not be regarded as a term.

However, the study further observed that after the 2009 general elections when the Ruling DPP government got more than two-thirds majority in Parliament, the level of viscosity in the passage of legislation significantly reduced as indicated in Figure 54. This study observed that within a short space of time (2009 to April of 2012) the DPP led government managed to pass through parliament several controversial Bills such as the change of the National Flag,¹⁸⁶ The Police Bill,¹⁸⁷ the Injection Bill¹⁸⁸ and Section 46 of the Penal Code (Media Bill).¹⁸⁹

7.11 The Speaker in the role of parliamentary accountability

Making government accountable is a task undertaken by parliament on behalf of electorates. Thus, parliament is at the apex of a system of accountability under the leadership of the Speaker (Braintree, 2001). Chapter 6 (Section 53:6 of 1994) of the Malawi Constitution provides the framework for the basic minimum in the operational sphere of the office of the Speaker:

Notwithstanding that the Speaker or a person acting as Speaker has been elected as a member of a political party to the Chamber in which he or she sits; he or she shall not be subject to the control, discipline, authority or direction of that political party or any other political party in the discharge of the functions and duties of that office and in the exercise of the powers of that office. (Malawi constitution, 1994)

Based on this assumption, respondents were asked for their opinion on whether the office the Speaker of the Malawi Parliament had executed its duties above party politics or played party politics since 1994.

¹⁸⁶ **Change of the National Flag:** The respondents and Participants to this study argued that the Ruling powers erred by Amending the Constitution to change the Flag without putting it to the Referendum as enshrined in the Constitution.

¹⁸⁷ **Police Bill:** In general terms it allowed police officers to search their suspects without a 'search warrant'. The opponents of the Bill argued that such legislation would be prone to abuse by authorities and thus abuse people's rights.

¹⁸⁸ **Injection Bill:** Court injunctions against the Government and its agents could not be granted or denied 'Ex-parte.' The legal implication for such a legislation would be to delay or deny the application of injunctions to the accused or the aggrieved to seek temporally judicial relief with the 48 Hour constitutional provision.

¹⁸⁹ **Media Bill:** The Bill allowed the government to ban any publication deemed contrary to public interest for an unspecified period of time. This, the opponents argued that it was tantamount to institutionalised political censorship of the press.

Notwithstanding that the office of the Speaker itself is 'political' in nature, the Speaker (Banda, H.C.) argued that his office endeavoured to be impartial and professional. He said,

When the Speaker looks at the 193 Members, they are one and the same people. They are Members representing their various constituencies. But when they get outside the bounds of Parliament, yes they are Honourable Members, honourable representatives who belong to particular [political] parties. (Banda, H.C.)

However, other respondents argued that the office of the Speaker of Malawi Parliament had been politicised to such an extent that parliament was no longer effectively able to facilitate the horizontal and vertical parliamentary accountability. A case in point, was the failure by the Speakers to invoke Section 65 in cases where members had 'crossed the floor' from the opposition to the ruling party. It was noted that trend was consistent from UDF, DPP to PP ruling parties. In response to the question, *'To what extent do you agree or disagree that the office of the Speaker has been non-partisan in the new era of multiparty democracy in Malawi?'* It was noted that 13% of government (DPP) and 13% opposition MPs strongly agreed, while 3% each from government and opposition MPs strongly disagreed. Although the pattern is a clear slip of opinion between government and opposition respondents, it is important to note that a total of 20% neither agreed nor disagreed. This result is important in explaining why the office of the speaker has been controversial that depending on which vintage point one comes from, it has been viewed partisan or nonpartisan. Opinion results as summarised in Table 7:1.

Question: *'To what extent do you agree or disagree that the office of the Speaker has been non-partisan in the new era of multiparty democracy in Malawi?'*

Table 7:1 MPs Opinions on the Office of the Speaker

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
Scale:	1	2	3	4	5
Gov. MPs (%)	13	17	13	17	3
OPP. MPs (%)	13	7	7	7	3

Source: Author

In more specific terms, 14% of government and 16% opposition respondents indicated that the office of the Speaker was less non-partisan in the first term of UDF than in the second term with 1% of government and 12% opposition respondents. Furthermore, 14% and 15% indicated that it must have been during the UDF/DPP transition period. While, 24% and 4% of government and opposition indicated in the second term of DPP (Table 7:2) respectively.

Table 7:2 DPP (Ruling Party) MPs Opinion on the Office of the Speaker

Governing Party	UDF 1994-99	UDF 1999-04	UDF/DPP 2004-09	DPP 2009-12
Gov. MPs (%)	14	1	14	24
OPP. MPs (%)	16	12	15	4

Source: Author, 2012

The pattern emerging from the aforementioned statistics seems to suggest a consistence in partisan politics. For instance, that only 1% government MP indicated that the office of the Speaker was non-partisan during the second term of UDF regimes. In the same vein 4% of opposition indicated that the office was nonpartisan during the second term of DPP government.

In order to fully appreciate the extent to which respondents' perceptions¹⁹⁰ were regarding horizontal and vertical accountability, eight governance indicators (*Participation, Rule of law, Transparency, Responsiveness, Consensus oriented, Equity and inclusiveness, Effectiveness and efficiency, Accountability*) were presented for categorisation on the continuum from democratic, authoritarian to dictatorial governance, (Figure 35).

7.12 Governance indicators in horizontal and vertical parliamentary accountability

The governance indicators summarised in Table 7:3 confirms results of the findings that regimes that fell within the right category were by their characteristics dictatorial¹⁹¹; those in the centre tended to exhibit authoritarianism¹⁹² tendencies and those on the left were said to be more democratic in comparison to the other two categories. For instance, the Malawi Congress Party; the second terms of the United Democratic Front and the Democratic Progressive Party were associated with dictatorial tendencies at varied magnitudes. Furthermore, the study, noted that the first term of UDF (1994-1999) and that of DPP (2004-2009) seemed to incorporate a wide range of democratic principles. Participant's opinions were that the UDF/DPP (2004-2009) was probably the most democratic period in which the minority led government was being held accountable by the strong membership of opposition in parliament.

¹⁹⁰ **Perceptions** are used because some variables such as corruption is to a great extent a hidden activity that is often difficult to measure. Over time, perceptions have proved to be a reliable unit of analysis for corruption, (Transparency International, 2012)

¹⁹¹ Dictatorial: As defined by Civil liberties is a system in which the state has, or pretends to have, total control over all entities, including human beings, operating within its jurisdiction

¹⁹² Authoritarian: As defined by free dictionary, is characterised by or favouring absolute obedience to authority, as against individual freedom

Table 7: 3 Participants' Perceptions on Governance Indicators

Number	Regime	Period of Rule
1	MCP	1964-1994
2	UDF	1994-1999
3	UDF	1999-2004
4	UDF/DPP	2004-2009
5	DPP	2009-2012

Governance indicator	Availability											
	Democratic (left)				Authoritarian (centre)				Dictatorship (right)			
Participation		2		4			3		1			5
Rule of law		2		4			3		1			5
Transparency		2					3	4	1			5
Responsiveness				4		2			1		3	5
Consensus oriented				4		2			1		3	5
Equity and inclusiveness				4		2			1		3	5
Effectiveness and efficiency	1			4		2					3	5
Accountability				4		2			1		3	5

Corruption	1	100%
	2	45.4%
	3	62.0%
	4	45.4%
	5	50.0%

Notes:

- Corruption measured in Global ranking in (%)
- The author indicates 100% for MCP because of the non-separation between Government, political or Para-state organisation under the 'policy' of Kamuzuism (That Malawi belonged to Kamuzu as Head of State)¹⁹³

Corruption measured in Global ranking in (%)

Regime	Period of Rule	Corruption measured in Global ranking in (%)
MCP	1964-1994	100
UDF	1994-1999	45.4
UDF	1999-2004	62
UDF/DPP	2004-2009	45.4
DPP	2009-2012	50

Sources: Transparency International (CPI)¹⁹⁴, (1999, 2004, 2009, 2012)

¹⁹³ *Zonse zimene za Kamuzu Banda* (Everything belongs to Kamuzu Banda) was a common slogan used by MCP party as 'definition' of state wealth. Thus, under the Forfeiture Act of 1966, Government was at liberty to confiscate private property at will.

¹⁹⁴ CPI: Corruption Perception Index (1999, 2004, 2009, 2012)

7.13 The State of Democracy in Malawi: Reflections from Respondents

When the Orton Chirwa's, Yatuta Chisiza's and Kanyama Chiume's invited Kamuzu to come, the mistake was to give him a 'blank cheque' to say that yeah, you rule us as you wish. So that's how dictatorship stepped in. (Joyce Banda)

Instead of being free from the clutches of colonialism, now we were crutched by our own fellow blacks. 1964 to 1994, Malawians remember it as a period of death and Darkness. (Daniel Msowoya)¹⁹⁵

...if you look at Muluzi what he did in first term... [Lots of] good policies. Second term things changed, it was third term constitution amendment, beating up people and intimidation. One other thing that we are lacking in these political parties is intraparty democracy, there is weak [if not none] intraparty democracy. (PAC)

What has happened now that DPP is a majority in parliament is that things have now gone worse. Bad laws are being passed and the sense of abuse of power and arrogance is unbelievable. (Pastor Vincent Chirwa)

Malawians have realised that the DPP led Government is abusing the powers given them by majority vote. (Daniel Msowoya)

Malawi President Bingu wa Mutharika is mad with his ruling Democratic Progressive Party (DPP) lawmaker, Henry Duncan Phoya (HDP), for speaking against undemocratic decision in the party and has since ordered his removal as chairperson of Legal Affairs Committee. But Phoya, the former Justice Minister, is on record saying he will not be hurt if he is expelled for defending democracy and fighting for the ordinarily people, (Lungu, 2012)

¹⁹⁵ Msowoya, (2011) was also quoting Chakufwa Chihana, who described the Malawi Congress party as a party of "Death and Darkness"

7.14 Conclusion

This chapter was set to summaries the thesis. It highlighted the impact of colonialism on contemporary Malawian politics; the parliamentary performance in post-independence; the performance gaps in Malawi Parliament; the effects of adversarial politics; the legislative, representative, and oversights during each phase of the regimes (MCP: 1964-1994), (UDF: 1994-2004) and (DPP: 2004-2012). Furthermore, it was indicated that the viscosity in the legislative process in the Malawi Parliament seemed to oscillate according to parliamentary configuration of membership. The excessive powers of the executive presidency coupled with the role of the Speaker(s) of parliament and the general conduct of MPs as confirmed by a selection of a few reflections from respondents, all seemed to justify the initial hypothetical assumption that the Malawi Parliament's vertical and horizontal accountability in legislation, representation and oversight roles have not been effective due to MPs self-centredness; that the Malawi Parliament continues to be dominated by the executive branch as well as deficiencies in human, financial and infrastructure capacity.

Chapter: Eight

Recommendations

8.0 Introduction

The aggregate from the empirical evidence, both qualitative and quantitative as analysed and presented in this thesis forms the basis on which recommendations were advanced in order to *improve the legislative process; enhance representative role [Vertical Accountability]; improve in oversight horizontal accountability for good-governance; MPs to take greater account in donor and government funded development projects*. Furthermore, the study recommends that apart from strengthening the committee system, appointed cabinet ministers, like all other presidential appointees should be subjected to a robust parliamentary vetting. Furthermore, appointments to governance organs should be left to independent organisations and Parliament. It is the assumption of this study that the three proposals advanced in this chapter, if implemented effectively by the Malawi Parliament, can be a strong basis on which to peg its reforms if it was to remain a relevant, progressive and democratic institution. Based on this study, the following are the recommendations:

8.1 Improving the Legislative Process

8.1.1 Capacity Building (Human and Infrastructure Resources)

This study recommends that in order for the Malawi Parliament to improve its legislative process, there is a need to invest its resources in building human, technological and infrastructural capacities within its parliamentary system.

Human Resource: Parliament to institute a strategic sustainable human resource development programme in order to improve the technical capacity

of legislative staff, committee secretaries, as well as MPs to be effective in processing appropriation bills and policy oversight. The programmes can be effectively delivered through in-house training workshops, exchange programmes, study tours as well as private academic studies facilitated and sponsored by parliament.

Information and Technology: There is need for improved ICT strategies and infrastructure. MPs and Staff need training in the use of ICT to access information and inter/intranet document. It is important to develop strategies to raise awareness within parliaments and the general public on practical benefits of ICT for development. The study also noted that the Malawi Parliament needed to develop a robust and interactive website. Furthermore, the study recommends that parliament should run its own uncontrolled and uncensored radio and television network as a means of reaching out to its stakeholders and constituents. Parliament has relied on the good-will of private and public broadcasters.

Infrastructure: Only in May 2010, did Malawi Parliament move into its own Chinese funded, purpose-built parliament building in the capital city Lilongwe after temporarily using the Presidential State-House since 1994 when parliament moved from its buildings in the city of Zomba. However, the study noted that the new building did not have sufficient capacity for instance to cater for office accommodation for all MPs. The library and research facilities were far from being adequate. It was also noted that MPs operated from their private or party offices in their respective constituencies. The study therefore recommends, a continuous parliamentary infrastructure development to bridge this gap.

8.1.2 Develop specialised committee system

As stated in the NASP, (2010-15, p.16)¹⁹⁶, *“the National Assembly recognises that parliamentary committees should be developed to ensure that they are in a position to play a key role in the legislative process...”* this recognition however, will require a financial commitment and political will to make them relevant and operate at their full potential. The study recommends that budget allocation for committees be treated as protected to allow for uninterrupted operationalisation due to lack of adequate and timely funding. Most democratic parliaments are dedicating more parliamentary work to committees in the spirit of division of labour and specialisation for rigorous in-depth scrutiny of legislation that would be done in the plenary (Martin, 2010).

8.1.3 Raise the minimum academic requirement for recruitment of MPs

Specialisation is the only way for a legislature to keep pace with the demands made upon it. The most efficient way to meet the requirements of specialisation is to divide the legislature into a number of standing committees according to specific subject matter. It is only by ‘parcelling’ out the legislative work load that the Assembly can begin to do the job that it has been elected to do. (Wayne, 1984)

While the researcher agrees with Wayne (1984) that *“The most efficient way to meet the requirements of specialisation is to divide the legislature into a number of standing committees according to specific subject matter,”* it becomes a futile exercise if the Membership that composed these committees were themselves not specialised. For instance, in a research conducted by Mattes and Shaheen (2011) *‘Higher Education Research and Advocacy Network in Africa’* it was observed that about 70% of Malawian Members of Parliament had no University qualification and only 11% had some university qualification, while 2% had an Honorary Degree and 17% had either Masters or PhD qualification. This study therefore, recommends that the minimum entry point for MPs be adjusted accordingly to correspond

¹⁹⁶ National Assembly Strategic Plan (2010-2015)

with the complexities of the contemporary legislature in its structures and systems.

8.2 Enhancing Representative role [Vertical Accountability]

8.2.1 *Strategic responses to constituency service.*

Constituency service is increasingly becoming an important element of the representative role. Therefore, parliaments and individual MPs need to develop much more strategic responses toward this objective (Power, 2012). Thus, the study recommends that MPs play an increasing role in conjunction with local councillors at the District Assembly to ensure that projects are done at ‘*value-for-money*’ basis.

8.2.2 *Accessibility and channels of communication [MP, Constituency and Parliament relation]*

It was established during the study that there was a systemic disconnection in accessibility and channels of communication from constituents through their elected representatives (MPs) to Parliament and vice-versa. A host of factors were responsible for this trend, ranging from duo-portfolios of MPs that were appointed into cabinet¹⁹⁷ to migratory MPs who after being elected relocated to live in urban areas. Therefore, in order to create a permanent physical presence in the constituencies, the study recommends that Parliament should establish and subsidise constituency offices that would have their sustainability from the Constituency Development Fund (CDF). The study assumes that through this initiative, constituents will have a point of contact not only with their MPs but also with Parliament.

¹⁹⁷ Cabinet Ministers: By nature of their jobs are required to relocated to the administrative seat of Government in the Capital City of Lilongwe

8.2.3 Recall Provision and Floor-crossing

It was observed during the study that constituents had little or no jurisdiction over their MPs beyond the ballot box. This study therefore, further makes two recommendations. Firstly, that the Recall Provision in Section 64 [Repealed Act. 6 of 1995] be restored into the National Constitution in order to empower electorates recall their non performing MPs. Secondly, that Members who cross-the-floor must automatically lose their seats in accordance with Section 65 (Crossing the Floor); consequently seek a fresh mandate from constituents in a by-election.

8.3 Improving in oversight horizontal accountability for good-governance

According to the IPU (2007), *“Government oversight is the review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation.”* The IPU emphasises that this definition should include but not be limited to the working of parliamentary committees, plenary sittings, as well as hearings during the parliamentary stage of bills and the budgetary cycle. It therefore presupposes that the oversight role of parliament is to hold the executive branch of government and its agencies as well as individual public officers accountable for their actions or lack of it. Therefore, the following two suggestions are advanced.

8.3.1 Vetting Policy

Malawi like many other African emerging democracies¹⁹⁸, should develop and implement a robust vetting policy¹⁹⁹ by Parliament to include all senior public servants including Cabinet Ministers and not as a presidential privilege as is the status quo.

¹⁹⁸ Vetting of appointments of Cabinet Ministers for instance already take place in countries such as Ghana, Uganda, Kenya, Liberia, to name a few.

¹⁹⁹ Vetting: UNDP, (2006), Vetting is a process of assessment and evaluation of the integrity of a person to determine the sustainability of the requirements for holding a public office, while Integrity refers to a person's adherence to relevant international standards of human rights and professional conduct including financial propriety

8.3.2 Presidential Appointments

It was observed during the study that the reluctance and in some instances, failure by the Anti-Corruption Bureau to investigate suspected cases of fraud and corrupt practices for individuals connected to the ruling elite could have had a bearing on the fact that the director(s) was a presidential appointee. For instance, one participant observed thus:

There are corruption cases today involving government ministers who have not gone to court; not because of lack of evidence but rather, lack of a political will. Senior anti-corruption officers are appointed by the President – this need to be reviewed, [Participant, K, 2011]

This study therefore recommends that appointments of directors in governance organs such as the Anti-Corruption Bureau, the Electoral Commission of Malawi, and the Human Rights Commission be left to an independent appointing body, vetted as well as being directly answerable to the Public Appointments Committee of Parliament.

8.4 Take greater account in donor and government funded development projects

The executive and development partners must proactively make available timely, transparent and full information on aid flows and negotiations in order that parliaments can play their role in ensuring that all public resources are used efficiently, effectively and accountably.

8.5 Role of the Researcher in Effecting Change

“We have the means and the capacity to deal with our problems, if only we can find the political will.”²⁰⁰ (Kofi Annan, 1997-2006)

The study of Malawi Parliament has not only manifested the performance gaps within its systems and structures as well as its failures in the

²⁰⁰ Kofi Annan, UN Secretary General (1997-2006) and UN Special Envoy to Syria (2012)

consolidation of the democratisation project, but also unsurmountable challenges in the delivery of effective and efficient legislative, representative and oversight roles. To this end, the researcher shall continue to positively contribute towards building the parliamentary capacities for legislative institution in general and those of Malawi in particular. Furthermore, it seeks to increase public awareness on the virtues of democracy and good-governance. In order to achieve this objective, the following initiatives will be undertaken by the researcher.

- i. Publication of this thesis in a book-format and made available to stakeholders such as researchers, academics, students, politicians, legislatures, donors, civil societies and the general public.
- ii. The findings from this thesis shall be disseminated through academic journals, conferences, seminars and workshops.
- iii. Plans are at an advanced stage in establishing a Centre of Excellence in capacity building for legislative institution in emerging democracies.

8.6 Conclusion

There probably could be no reason to doubt that the suggestions advance in this chapter, if implemented, can turn Malawi Parliament into a kind of institution that the citizenry would aspire to support as well as develop confidence and trust in its delivery systems as it continues to be an epicentre in the vertical and horizontal accountability towards good governance.

Appendices

Content

Appendix: 1	Sample of Semi-structured interviews.....	282-285
Appendix: 2	Guide Questions Focus Group Discussion.....	286
Appendix: 3	Questionnaire for Members of Parliament.....	287-290
Appendix: 4	Caption Likert's Scale Response.....	291
Appendix: 5	Impeaching Bingu wa Mutharika.....	292
Appendix: 6	Adversarial Politics in Malawi Parliament.....	293

Appendix (1) Sample of Semi-structured interviews

Researcher: Webster Siame Kameme

Theme: THE VERTICAL AND HORIZONTAL ACCOUNTABILITY IN THE MALAWI PARLIAMENTARY DEMOCRACY

C/O Malawi Parliament Library, Bag B 362, Lilongwe 3, Malawi, Tel: +(265) 01773 008, Fax: +(265) 01774196

Emails: w.s.kameme@2010.hull.ac.uk, ch_fbon@yahoo.co.uk



Reference: In/SP/003/.....

Date:/...../2011

Interviews for...

The Rt. Hon. State Vice President and
Former Vice presidents

Salutation

The Rt. Hon. VP, allow me to convey my sincere gratitude for granting me this rare opportunity to learn from your vast wealth of knowledge and experience in politics, democracy and governance; issues around which our discussions shall hinge.

Self-introduction

Rt. Hon. VP, My name is Webster Siame Kameme. I am a full time research student at the University of Hull carrying out a Case Study Research Project on the theme; *'The Politics of Democracy and Good Governance in the Malawi Parliament'* for a PhD Thesis to be submitted at the University in the Department of Politics and International Studies, Centre for Legislative Studies, United Kingdom. The project is supervised by Professor the Lord Norton of Louth; a member of the British House of Lords and Dr. Cristina Leston-Bandeira a Senior Lecturer in the Department of Politics at the university of Hull.

The order of Questions

Rt. Hon. VP, the questions are divided into three parts; the first part is about **Political** issues in and around Parliament, Second part is about the process of **Democratisation** and third part is on **Governance**.

Part A: Politics

De-colonisation

1. Rt. Hon. VP, Literature suggests that among other things, colonial masters argued that Black Africans (Malawians inclusive) were not yet ready to govern themselves. Few years after independence Malawi became a one party dictatorship.

In your view, would you say their argument was exonerated? (Probe: If you think so, Why? And if it is otherwise, Why not?)

Leadership Paradigms

2. Democracy, Authoritarianism and Dictatorship. Kamuzu Banda's leadership seem to have progressed in that trajectory. Dr Muluzi had his own leadership style, so is the Ngwazi Professor Bingu wa Mutharika.

Politically, what do you think is the best way to govern this county? (Probe: Why?)

Re-Democratising Malawi

3. The role of faith groups, the Academia, Civil Societies, Donor community and later political parties all played a vital role in ushering multiparty politics in Malawi. History seems to suggest that there has always been a mismatch between the '*Agenda*' of the Government of the Day and such organisations.

Rt. Hon. VP, Why do you think this has become a recurrent situation in Malawi? (Probe....)

The Minority Government

4. President Bingu wa Mutharika (2004 to 2009) was elected on a UDF ticket. He resigned and led a minority Government.

What were some of the challenges that Parliament faced in having a Minority Government? (Probe...)

The Future for democracy in Malawi

5. Rt. Hon. VP, what do you envisage is the future of politics of democracy in Malawi?

Part B: Democracy

Intra- party Democracy

6. Rt. Hon. VP, one of the issues the Catholic Bishops in their epistle, 'Reading the Signs of the Time' of 2010 bemoaned in almost all political parties in the country is what they called lack of 'intra-party democracy.' Almost all political parties hardly organise National Conventions (Conferences) to elect Leadership in their parties.

How can you justify that these (so called democratic organisations) are indeed still democratic? (Probe...)

Parliamentary Democracy

7. My assumption is that in a democratic setting, Parliament is the epicentre of Democracy. Recent trends seems to suggest that some members of the Malawi Parliament have argued that they have been persecuted or expelled from their political parties because they either did not supported or voted against their political parties in Parliament.

Rt. Hon. VP, How can it be argued that Malawi Parliament is still a place where democracy can be put to test by individual members without fear of reprisal outside its perimeters? (Probe...)

Relationship between Democracy and Good-governance

8. Rt. Hon. VP, if I said that there is a direct correlation in Malawi between our democracy and good-governance, what would be your argument?

(Probe: **cause and effect**, Is it bad-governance that causes lack of democracy or vice versa?)

Malawi Culture verses Democracy

9. Literature on Africa both oral and written such as Bingu wa Mutharika's 'The African Dream', (2010) seem to suggest that the concept of democracy is not new to the African culture in which its blue print can be traced as far back as the ancient times of the Egyptian Pharaohs to the present day kingdoms such as those of Swaziland, Morocco and Lesotho.

What is the probability, (if any) of the cultural values such as those that do not allow 'subjects' to question or openly disagree with the powers that would be with the core values of democracy such as those of the universal suffrage, inclusivity, participatory and accountability? (to mention a few) (Probe...)

The African Democracy

10. Would you argue for or against Africa evolving its own model of democracy, based on African culture and values; different from that of the west? (Probe...)

Part C: Governance

Elements of good-governance

11. In 'The African Dream', (2010:183), The Ngwazi Prof. Bingu wa Mutharika emphasise that good governance implies that those who govern must have the capacity to accept different and sometimes conflicting views and learn to adjust if things are not working well for the people.
To what extent do you think this principle has been applied since the return to multiparty politics in Malawi? (Probe... Do you have any examples we can refer to?)
12. On Human Rights issues, the Faith groups, the Civil Societies, the Academia, and Trade Unions have all voiced concerns and the donor community has suspended the budgetary support.

What is '*not happening*' to clearly demonstrate that Government is committed to upholding Human Rights as it has consistently claimed? (Probe...)

Governance Organs of Government

13. The Malawi constitution provides for the existence of the Anti-Corruption Bureau, Ombudsman, Human rights Commission, and the Electoral Commission as government safety-nets on governance.

If the appointments of heads and in some cases commissioners of such organisations continue to be the prerogative of the Head of State and Government. How impartial have these organisations been in their execution of duty? (Probe...)

Majority Government

14. In the 2009 General Elections, DPP won a landslide victory with a clear majority. Addressing the National Assembly on 23rd June 2009, The State President said, "*I assure the Malawi nation that my government will not use our numerical strength in the House irresponsibly.*"

Since then, a number of 'controversial' Bills have passed through Parliament, such as Press Freedom, Change of flag, Police Bill, Injunction Bill to mention some. What is your observation about Government's use of its majority strength in Parliament?

What can be done differently?

15. The recall provision for MPs and the Senate were repealed by parliament.

Which one of the following can you recommend as a means of strengthening and improving the process of democratisation and good-governance in Malawi? (please state reason for your recommendation)

- a. Reintroducing the recall provision for MPs
- b. The Senate
- c. Federalism
- d. Regional Parliaments
- e. Other..... (please specify)

End of interview.

Once again, thank you for honouring me for sparing your precious time to discuss these issues with you.

Appendix (2)

Guide Questions Focus Group Discussion

Introduction

Welcome the group

My name is..... and with us is our assistant(s).....

Purpose

The purpose of our discussion today is to consider the service delivery of Malawi parliament since independence in terms of its political conduct, democracy and governance.

To stimulate our debate we hypothesise that, *‘Since independence, the Malawi Parliament has not delivered genuine politics, democracy and good governance as expected by its constituents because of lack of political will to empower the electorates by the political elite.’*

Procedure

- ✓ There are four themes under discussion and each them will not take more than 15 minutes.
- ✓ Every member is encouraged to make a contribution on every theme
- ✓ Members are encouraged to express themselves as freely and as much as they possibly can

In reference to the above hypothesis, argue ‘FOR’ or ‘AGAINST’ as you discuss the following questions:

- Discuss what you think have been strengths and weaknesses in the Malawian Parliamentary system and how that has impacted on good governance in general.
- Has multi-party politics created a democratic culture and good governance in Malawi?
- What are the opportunities and challenges that have either hindered or supported the development of democracy, genuine politics and good governance in Malawi?
- What can be done differently to enable Parliament meet the expectations of the majority of Malawians?

Appendix (3) Questionnaire

Researcher: Webster Siame Kameme

C/O Malawi Parliament Library, Bag B 362, Lilongwe 3, Malawi, Tel: +(265) 01773 008, Fax: +(265) 01774196
Emails: w.s.kameme@2010.hull.ac.uk, ch_fbon@yahoo.co.uk



Reference: Qsn/mp/001/.....

Date:/...../2011

Questionnaire for Members of Parliament

Self-Introduction

My name is Webster Siame Kameme. I am a full time research student at the University of Hull carrying out a Case Study Research Project on the theme; '*The Politics of Democracy and Governance in the Malawi Parliament*' for a PhD Thesis to be submitted at the University in the Department of Politics and International Studies, Centre for Legislative Studies, United Kingdom. The project is supervised by Professor the Lord Norton of Louth; a member of the British House of Lords and Dr. Cristina Leston-Bandeira a Senior Lecturer in the Department of Politics at the university of Hull.

I will appreciate if you took a few moments of your time to complete this questionnaire and return it by means indicated at the end. You are free to tell us who you are or remain anonymous.

The Questionnaire

The questionnaire is divided into three parts; the first part is about **Political** issues in and around Parliament, Second part is about the process of **Democratisation** and third part is on **Governance**.

May we know you? (Optional Section)

My Name is:

My Gender is: Male/Female

My Constituency is:

I have been an MP for: Years

My Political Party is:

Part A: Politics

1. I can best identify myself as

A career politician

☐

I do politics but I have another career

☐

State the career:

A political activist

☐

State what you advocate:

Other

☐

Specify:

2. I can fully participate in the political process to the best of my ability

➤ At Constituency level

Strongly agree	Agree	Not sure	Disagree	Strongly disagree

➤ In my Political Party

Strongly agree	Agree	Not sure	Disagree	Strongly disagree

➤ In Parliament

Strongly agree	Agree	Not sure	Disagree	Strongly disagree

3. As an MP, my understanding of politics

i, Inside parliament

Very clear	clear	Not sure	unclear	Completely unclear

ii, outside parliament

Very clear	clear	Not sure	unclear	Completely unclear

4. Politically motivated violence is part of the political process in Malawi

Strongly agree	Agree	Not sure	disagree	Totally disagree

5. My definition of politics is.....
.....
.....

Part B: Democracy

6. i, Democracy in my political party

1 Very Strong	2 Strong	3 Not sure	4 weak	5 Very weak

ii, Democracy in Parliament

1 Very Strong	2 Strong	3 Not sure	4 weak	5 Very weak

iii, Multiparty politics created a democratic culture in Malawi

1 Strongly Agree	2 Agree	3 Not sure	4 Disagree	5 Strongly Disagree

7. The process of democratisation has been supported by the following factors inside and outside Parliament
-
 -
 -
8. The challenges that have hindered the process of democratisation inside and outside parliament are as follows:
-
 -
 -
9. Which one of the following periods of Government would you say had a higher level of democracy in and outside parliament?

MCP	UDF	UDF	UDF/DPP	DPP
1964-1994	1994-1999	1999-2004	2004-2009	2009-Now

10. My definition of Democracy is:

.....

.....

.....

Governance

11. In rating the role of the opposition in parliament in providing the Government oversight, checks and balance on a scale of 1 to 5 (one being minimum and five maximum); circle your rating.

MCP	UDF	UDF	UDF/DPP	DPP
1964-1994	1994-1999	1999-2004	2004-2009	2009-Now
1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5

12. The governance organisations such as the Anti-Corruption Bureau, Malawi Law Commission, Ombudsman and Malawi Electoral Commission are adequately meeting the expectation of Parliament and the general public.

1 Strongly Agree	2 Agree	3 Not sure	4 Disagree	5 Strongly Disagree

Give reasons for your choice above.

.....

.....

.....

..

13. Is it achievable to have an authoritarian regime in government without being dictatorial?

Yes	Not sure	NO

Give reasons for your choice above.

.....

.....

.....

14. What could be done different to increase public confidence in Malawi Parliament?

.....

.....

.....

15. My definition of Good Governance:

.....

.....

.....

Thank you for attempting to answer all the questions.

The questionnaire will be collected by hand or can be returned to Parliament Library.

Appendix: (4) Caption Likert's Scale Response

From Questionnaire

iii. *State of Government to select party leaders*

9. Which one of the following periods of Government would you say had a higher level of democracy in and outside parliament?

MCP	UDF	UDF	UDF/DPP	DPP
1964-1994	1994-1999	1999-2004	2004-2009	2009-Now

10. My definition of Democracy is:

Democracy is a political environment in which people are allowed freedom to freely participate in politics and find any organization of their choice.

Governance

11. In rating the role of the opposition in parliament in providing the Government oversight, checks and balance on a scale of 1 to 5 (one being minimum and five maximum); circle your rating.

MCP	UDF	UDF	UDF/DPP	DPP
1964-1994	1994-1999	1999-2004	2004-2009	2009-Now
1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5

Source: Author

(2011)

Appendix (5) Impeaching Bingu wa Mutharika

Grounds for Bingu's Impeachment as Drawn by the UDF Party

Financial Corruption

1. Mutharika, in contravention of his oath to defend the Constitution of the Republic, unlawfully secured use of public funds to promote interests or affairs of a political party.
2. he caused government to pay tuition and living expenses of his grand children who are pursuing academic studies at Mount Sinai International School in Lilongwe.
3. unlawfully purchased a Mercedes Benz Maybach vehicle through an unauthorised expenditure and thereby occasioning a failure to sustain public trust in public institutions and a lack of financial probity.

Governance

1. Fourth ground is that he maintains two state residences in Lilongwe, and yet the National Assembly was evicted and rendered homeless thereby making that institution not perform optimally or effectively.
2. Mutharika has failed to provide executive leadership through his constant interference in other political parties and using public funds to destabilise them.
3. The sixth ground is that the President terminated the appointment of Fahad Assani as Director of Public Prosecutions without complying with requirements of and the procedures laid down in the constitution.
4. Terminated the appointment of Joseph Aironi as Inspector General of the Malawi Police Service
5. Terminated the appointment of Joseph Chimbayo as Commander of the Malawi Defence Force
6. Terminated the appointment of principal secretaries without complying with the requirement of the Constitution and procedures laid down by the Employment Act.
7. The tenth ground is that President unlawfully created the post of Chief Secretary for Public Service contrary to the Constitution and the Public Service Act.

Constitutional violation

1. The eleventh ground is that Mutharika violated section 12 (ii) of the Constitution by unceremoniously resigning from a political party that sponsored him during presidential elections and has thereby failed to sustain the trust of the people that put him into power.

Source: Munthali, G., (20th July 2005); Grounds for Bingu's removal.

Appendix (06)

(Adversarial Politics in Malawi Parliament)

[Excerpts]

The House met on Thursday, 24th November, 2011 at 9:35 a.m. and the Speaker was in the Chair. The Clerks-at-the-Table were: Messrs H.H. Njolomole, M. J. Makande and L. Tilingamawa.

The Government Chief Whip (Hon. Vuwa Kaunda): Mr. Speaker, Sir, before we go to the next agenda item, we on the government side would like to report to you, Sir, the incident that happened immediately after you left your chair for tea break. Mr. Speaker, Sir, the Member of Parliament for Thyolo North.

The Speaker: Order Members! Order!

The Government Chief Whip (Hon. Vuwa Kaunda): Mr. Speaker, Sir, the issue is involving the Member of Parliament for Thyolo North who left her place coming to the government side and she moved to manhandle the Honourable Minister of Home Affairs and National Defence. She assaulted him. She embarrassed him. The Honourable Minister had his shirt torn. Mr. Speaker, Sir, that's the more reason why he is covering his jacket. In other words, all the clothes inside, they have been torn. Mr. Speaker, Sir, this is a matter of grave disorder and we would like you, Right Honourable Speaker, Sir, to take an action on this one.

Note:

In the subsequent seating, the Motion was moved by parliament to suspend Hon. Kalinde (Independent—Thyolo North) for 30 Parliamentary Seating. The decision was rescinded soon after the fall of the DPP government.

Bibliography

Acosta, A.M., 2010. *Democratic accountability and service delivery*. [pdf]. Available at: <https://www.ids.ac.uk/files/dmfile/IDEADASDDeskreviewv10>. [Accessed 18 March 2015]

Acosta, A.M., Joshi, A., and Ramshaw, G., 2013. *Democratic accountability and service delivery* [pdf]: A Desk Review. Available at: [http://www.idea.int/resources/analysis/loader.cfm?csModule=security/getfileandpageID=55694\(26/02/2015\)](http://www.idea.int/resources/analysis/loader.cfm?csModule=security/getfileandpageID=55694(26/02/2015)). [Accessed 19 March 2015]

Aderinwale, A., and Alabi, N., 1998. *Proceedings of an international conference organised by the Africa leadership Forum*. [pdf] Africa. Available at: <http://www.africaleadership.org/rc/Democratisation%20of%20African%20Parliaments%20and%20Political%20Parties>. [Accessed 12 May 2011]

AED, 2011. *Elections in Malawi*. [Online] Available at: http://africanelections.tripod.com/mw.html#1978_National_Assembly_Election. [Accessed 18 May 2011]

Africa Guide, Malawi (1996-2010), 2010. *People and culture*. [Online] Available at: <http://www.africaguide.com/country/malawi/culture> [Accessed 05 October 2010]

African Election Database, 2009. *Elections in Malawi*. [Online] Available at: http://www.africanelections.tripod.com/mw.html#2009_Presidential_Election. [Accessed 10 October 2011]

African Elections Database, 2011. *Elections in Malawi*. [Online] Available at: http://www.africanelections.tripod.com/mw.html#1999_National_Assembly_Election. [Accessed 09 June 2012]

African Union, 2007. *African charter on democracy, elections and governance*, [pdf]. Available at: [Accessed 05 August 2012]

Agere, S., 2000. *Promoting good governance: Principles, practices and perspectives*. London: Commonwealth Secretariat.

Alemazung, J.A., 2010. Post-Colonial colonialism: An analysis of international factors and actors marring African socio-economic and political development. *The Journal of Pan African Studies*, 3(10), [Pdf] Available at: http://www.jpnafrican.com/docs/vol3_no10/3.10Post-Colonial. [Accessed 07 February 2015]

Alkire, S., 2009. *Conceptual overview of human development: Definitions, critiques, and related concepts background paper for the 2010*. Human Development Report. [pdf] Available at: www.ophi.org.uk/wp-content/uploads/OPHI-RP15a. [Accessed 19 February 2015]

All Voices, (May 07, 2012), 2012. *Malawi Has New Leader Of The House, Chief Whip*. [Online] Available at: <http://www.allvoices.com/contributed-news/12103181-malawi-has-new-leader-of-the-house-chief-whip> [Accessed 18 June 2012]

Alpers, E. A., 1969. Trade, state, and society among the Yao in the nineteenth century. *The Journal of African History*, 10(3), pp. 405-420. [Online] Available at: <http://www.jstor.org/stable/179674> [Accessed 13 June 2011]

Amnesty International-UK, 2008. *Poverty and Human Rights*. [Online] Available at: <http://www.amnesty.org.uk/> [Accessed 19 November 2012]

Andrew, M.W., 2006. Measuring democracy and human rights in Southern Africa. *Comparative Studies of South Asia, Africa and the Middle East*, 26(1), pp. 153-154. [Online] Available at: <http://muse.jhu.edu/journals/cst/summary/v026/26.1munro> [Accessed 19 March 2012]

Ankersmit, F.R., 2002. *Political Representation*. Stanford, California; Stanford University Press.

Anti-corrupted Bureau (ACB), 2013. *Anti-corruption bureau Malawi background*. [Online] Available at: http://www.acbmw.com/?page_id=279. [Accessed 09 February 2015]

ARB, 2006. *Mozambique provincial legislatures*. [pdf] Available at: <http://onlinelibrary.wiley.com> [Accessed 11 August 2013]

Arblaster, A., 2002. *Democracy*. Milton Keynes: Open University Press.

Aten, H., 2009. *Competing informed principals and representative democracy*. [pdf] Available at: <http://www.ucl.ac.uk/economics/seminarpapers/january10/>. [Accessed 16 August 2012]

Athorbei, D.D., 2011. *South Sudan Development Plan 2011-2013: [pdf] Realising freedom, equality, justice, peace and prosperity for all*. [Online] Available at: <http://www.jdt-juba.org/wp-content/uploads/2012/02/South-Sudan-Development-Plan-2011-13>. [Accessed 27 March 2015]

Azevedo, E., 2008. ALP Mozambique Report, *Centre for Social Research*, [Online] Available at: <http://www.cssr.uct.ac.za/sites/cssr.uct.ac.za/files/Mozambique%20Report%20final.pdf> [Accessed 11 March 2012]

Baber, B.R., 1984. *Strong democracy: Participatory politics for the new age*. Berkely, Los Angeles, London: University of California Press.

Baker, C., 1997. *The state of emergency: Crisis in central Africa, Nyasaland 1959*. London, New York, I.B: Tauris Publishers.

Baker, C., 2001. *The Revolt of the ministers: The cabinet crisis (1964-1965)*. London, New York, I.B: Tauris Publishers.

Bamber, G., 2001. History of democracy. *History World*. [Online] Available at: <http://www.historyworld.net>. [Accessed 11 March 2011]

Banda, H.F.C., 2010. Bringing the Malawi parliament to the people. *Parliamentary Strategic Plan-2010-2015*. [pdf] Available at: http://www.parliament.gov.mw/docs/strategic_plan. [Accessed 6 August 2013]

Banda, H.K., 1960. *Return to Nyasaland*, [Online] Available at: <http://www.aboutmalawi.net/2011/06/return-to-nyasaland-by-dr-hastings.html>. [Accessed 27 March 2012]

Banda, P., 2004. Southern Africa institute of international affairs. *Africa*, 2(4) [Online] Available at: <http://www.saiia.org.za/archive-eafrica/malawi-s-young-democrats-a-view-from-inside-the-ranks.html> [Accessed 19 November 2011]

Bangura, Y., 1991. Authoritarian rule and democracy in Africa: A theoretical discourse' Discussion Paper No. 18, [pdf] Available at: <http://www.ssrnetwork.net> [Accessed 12 March 2012]

Barkan, J.D., Mattes, R., Mozaffar, S., and Smiddy, K., 2010. The African Legislatures Project: First Findings. *CSSR Working Paper*, 277. [pdf] Available at: <http://www.cssr.uct.ac.za/sites/cssr.uct.ac.za/files/pubs/WP277>. [Accessed 13 March 2012]

Basedau, M., Stroh, A., and Nelson, M., 2008. *Measuring Party Institutionalisation in Developing Countries: A New Research Instrument Applied to 28 African Political Parties*. [pdf] Available at: <http://www.giga-hamburg.de/dl/download/basedau-stroh>. [Accessed 02 August 2012]

Baskin, M., 2013. *Parliamentary Representation: A Core Function*. [pdf] Available at: www.cid.suny.edu/publications1/Baskin%20Representation. [Accessed 03 March 2015]

BBC Report, 2001, *Suspension of Senate*. [Online] Available at: <http://news.bbc.co.uk/1/hi/world/Africa/1113585.stm> [Accessed 20 August 2012]

BBC Report, 2011. *Malawi army deployed over anti-Mutharika protests*. [Online] Available at: <http://www.bbc.co.uk/news/world-africa-14231251>. [Accessed 13 July 2013]

BBC, 2004. *Malawi president 'a bad choice'*, BBC Report 5th April, 2005. [Online] Available at: <http://news.bbc.co.uk/1/hi/world/africa/4411831.stm>. [Accessed 20 October 2012]

BBC, 2011. *UK and Malawi in tit-for-tat diplomatic expulsions-BBC Report 27th April 2011*. [Online] Available at: <http://www.bbc.co.uk/news/world-africa-13205729>. [Accessed 16 August 2014]

BBC, 2012. *Joyce Banda sworn in as new Malawi president; BBC Report of 7th April 2012*. [Online] Available at: <http://www.bbc.co.uk/news/world-africa-17644009>. [Accessed 20 August 2012]

Beall, J., Mkhize, S., and Vawda, S., 2005. Emergent democracy and 'Resurgent' tradition: institutions, chieftaincy and transition in KwaZulu-Natal. *Journal of South Africa Studies*, 31 (4) [Online] Available at: <http://www.jstor.org/stable/10.2307/25065045> [Accessed 09 July 2012]

Bechler, R., 2010. *Moving on from winner-takes-all*. [Online] Available at: <http://www.opendemocracy.net/ourkingdom/rosemary-bechler/against-power-mongering-moving-on-from-winner-takes-all>. [Accessed 25 October 2010]

Beekers, D., Gool, B.V., 2012. From patronage to neopatrimonialism: Postcolonial governance in Sub-Saharan Africa and beyond. *ASC Working Paper* 101 / 2012. [pdf] Available at: <https://openaccess.leidenuniv.nl/bitstream/handle/1887/19547/WP101>. [Accessed 06 February 2015]

Beetham, D., 1994. *Defining and measuring democracy*. ed. London: Thousand Oaks, New Delhi, Sage Publication

Beetham, D., 1999. *Democracy and the human rights*. Oxford: Polity Press.

Beetham, D., 2006. *Parliament and Democracy in the Twenty-First Century: A guide to Good Practice*. [pdf] Available at: <http://www.ipu.org/PDF/publications/democracy.en>. [Accessed 20 February 2015]

Behling, O., 2000. *Translating questionnaires and other research instruments: problems and solutions*. Thousand Oaks: Sage Publications

Bell, J., 1999. *Doing your research project: A guide for first time researchers in education and social sciences*. 3rd ed. Buckingham and Philadelphia: Open University Press

Bell, J., 2010. *Doing your research project: A guide for first time researchers in education, health and social sciences*. 5th ed. New York: Open University Press

Bevir, M., 2009. *Key concepts in governance*. London: SAGE Publication Limited.

Beyle L.T., 2002. *State and local government 2002-2003*.ed. Washington: DC, CQ Press.

Bingham, L. B.; Nabatchi, T., and O'Leary, R., 2005. *The New Governance: Practices and Processes for Stakeholder and Citizen Participation in the Work of Government*. [Online] Available at: <http://citeseerx.ist.psu.edu/viewdoc/download;jsessionid=1FC514D4AF89F08B95C7C6507715B11C?doi=10.1.1.455.8574&rep=rep1&type=pdf> [Accessed 03 June 2015]

Bingham, T., 2007. The Rule of Law. *The Cambridge Law Journal*, Vol. 66, No. 1 (Mar., 2007), pp. 67-85. [Online] Available at: <http://hcraj.nic.in/joc2014/1.pdf>, [Accessed 03 June 2015]

Bloor, M., and Bloor, T., 2007. *The practice of critical discourse analysis: an introduction*. London: Hodder Arnold

Blond, B., 2013. *Africa's long serving presidents*. [Online] Available at: <http://www.myweku.com/2011/03/list-of-african-dictators-and-longest-serving> [Accessed 13 February 2015]

Blondel, J., 1970. Legislative behaviour: Some steps towards a cross-national measurement. *International Journal of Comparative Politics*. Vol. 5(1), pp. 67-85.

Blondel, J., 1973. *Comparative legislatures*. New Jersey: Englewood Cliffs, Prentice-Hall

Blondel, J., 1973. *Comparing political systems*. London: Weidenfeld and Nicolson

Bogaards, M., 2007. *Measuring Democracy through Election Outcomes: A Critique with African Data*. Germany: Jacobs University Bremen, Sage Publications.

Booth, D., Cammack, D., Harrigan, J., Kanyongolo, E., Mataure, M., and Ngwira, N., 2006. *Drivers of Change and Development in Malawi*. [pdf]

Available at: <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/1957>. [Accessed 05 March 2015]

Bovens, M., 2005. Public Accountability: A framework for the analysis and assessment of accountability arrangements in the public domain. [Online] Available at: www.qub.ac.uk/Bovens_Public%20Accountability.connex2.doc. [Accessed 29 March 2015]

Braintree, N., 2001. *The challenge for parliament: Making parliament accountable*. [pdf] Available at: <http://www.hansardsociety.org.uk/wpcontent/uploads/2012/10/The-Challenge-for-Parliament-Making-Government-Accountable-2001>. [Accessed 19 March 2015]

Bratton, M. and Logan, C., 2014. From elections to accountability in Africa? *Governance in Africa*, 1(1). [Online] Available at: [http://www.govafricajournal.org/rt/printer Friendly/gia.ad/6](http://www.govafricajournal.org/rt/printerFriendly/gia.ad/6). [Accessed 09 February 2015]

Bratton, M., and Walle, N.V.D., 1994. Neopatrimonial Regimes and Political Transitions in Africa. *World Politics*, 46(4), pp: 453-489. [pdf] Available at: <http://chenry.webhost.utexas.edu/core/course%20materials/brattonafrwp94/0>. [Accessed 05 February 2015]

Bratton, M., and Walle, N.V.D., 1997. *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*. Cambridge: Cambridge University Press

Brierley, S., 2010. Ghana Country Report, *Centre for Social Research*, [Online] Available at: <http://www.cssr.uct.ac.za/sites/cssr.uct.ac.za/files/Ghana%20Country%20Report%20final.pdf> [Accessed 07 May 2012]

Brown, S., 2008. The Transition from a Personal Dictatorship: Democratisation and the Legacy of the Past in Malawi. *The African Search for Stable Forms of Statehood: Essays in Political Criticism*. [pdf] Available at: http://aix1.uottawa.ca/~brown/pages/Stephen_Brown_Malawi. [Accessed 07 May 2012]

Browne, E.C., and Dreijmanis, J., 1982. *Government coalitions in western democracies*. ed. London: Longman

Bryman, A., and Burgess, R.G., 1994. *Analyzing qualitative data*. ed. [pdf] Available at: <http://www.tlu.ee/~katrinka/gigapeedia/data%20analysis>. [Accessed 07 May 2012]

Budge, I., 2006. *The Oxford handbook of political institutions*. New York: Oxford University Press.

Bunham, P., Lutz, K.G., Grant, W., and Lyton-Henry, Z., 2008. *Research methods in politics*. 2nd ed. New York: Palgrave MacMillan

Burke, E., 1774. *Representation, Speech to the Electors of Bristol* (3rd November, 1774). [Online] Available at: <http://pressubs.uchicago.edu/founders/documents/.html>, [Accessed 10 October 2012]

Burnell, P., 2008. *The relationship of accountable governance and constitutional implementation with reference to Africa*, *Journal of Politics and Law*. [Online] Available at: <http://www.ccsenet.org/journal/index.php/jpl/article/download/715/686>. [Accessed 26 February 2015]. [Accessed 12 September 2012]

Burney, S.M.A., 2008. Deductive and inductive reasoning. [pdf] Available at: <http://www.drburney.net>. [Accessed 24 March 2011]

Burns, D., Hambleton, R., and Hoggett, P., 1994. *The politics of decentralisation: Revitalising local democracy*. Basingstoke: Macmillan.

Burns, J.M., 2010. *Leadership*. New York: Harper Collins Publishers.

Busia, K., 2010. *The APRM and Domestic Accountability in the National Governance System: The Role of Parliaments, CSO and the Media*, (PPT). [Online] Available at: www.uneca.org/sites/default/APRM/Role/session-3_presentation.ppt. [Accessed 12 March 2015]

Buell, C., 2005. *Malawi lawmakers adopt impeachment, procedures*. [Online] Available at: <http://jurist.org/paperchase/2005/10/malawi-lawmakers-adopt-impeachment.php>. [Accessed 16 September 2012]

Butler, D., 1983. *Governing Without a Majority: Dilemmas for Hung Parliaments in Britain*. 2nd ed. Southampton: Macmillan Press Limited.

Bwalya, E., Rakner, L., Tostensen, S.A, and Tsoka, M., 2004. *Poverty reduction strategy processes in Malawi and Zambia*. [pdf] Available at: <http://www.cmi.no/publications/file/1829-poverty-reduction-strategy-processes-in-malawi-and>. [Accessed 10 February 2015]

Cammack, D., 2011. *Malawi's political settlement in crisis*. [Online] Available at: <http://www.institutions-africa.org/filestream>. [Accessed 07 February 2015]

Carroll, B., and Carroll, T., 1999. The consolidation of democracy in Mauritius, in: P. Burnell ed. 1999 *The Resilience of Democracy. Persistent Practice, Durable Idea*. London: Frank Cass,

Cartwright, J., 1983. *Political leadership in Africa*. New York: St. Martin's Press.

Catt, H., 1999. *Democracy in practice*. London, New York: Routledge.

CCJP, 2009. Parliamentary audit of the first hundred days of the 2009-2014 Parliament. [Online] Available at: <http://episcopalconferencemalawi.files.wordpress.com/parliamentary-audit> [Accessed 26 March 2014]

Centre for Constitutional Rights (CCR), 2006. *Government abuse of power* [Online] Available at: <http://ccrjustice.org> [Accessed 25 December 2011]

Chabal, P., 2009. *Africa: The politics of suffering and smiling*. Pietermaritzberg: Natal Press.

Chabal, P., and Daloz, J.P., 1999. *Africa works: Disorder as political instrument*. Oxford: James Currey.

Chakwantha, P.L.O., 2014. *Malawi: MPs tell APM to reduce presidential powers*. [Online] Available at: <http://uncova.com/malawi-mps-want-apm-to-reduce-presidential-powers>. [Accessed 07 February 2015]

Charron, N., and Lapuente, V., 2010. *Measuring the quality of government and subnational Variations*, [pdf] Available at: http://ec.europa.eu/regional_policy/sources/docgener/studies [Accessed 22 February 2015]

Chava, F.N., and Nachmias, D., 2008. *Research method in the social science*. 7th ed. New York: Worth Publication.

Chazan, N., Mortimer, R., Ravenhill, J., and Rothchild, D., 1992. *Politics and society in contemporary Africa*. 2nd ed. Boulder, Colorado: Lynne Rienner Publishers.

Cheema, G.S., 2013. *Democracy, governance and development: A conceptual framework*. [Online] Available at: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan>. [Accessed 19 February 2015]

Chigava, M., 2008. The concept of crossing the floor under Malawi Constitutional law. *Malawi Law Society Journal*. [Online] Available at: <http://heinonline.org> [Accessed 21 February 2015]

Chihana, T.C., 2006. Chakufwa Chihana, [Online] Available at: <http://news.scotsman.com/obituaries/Chakufwa-Chihana.2788494>. [Accessed 06 March 2011]

Chimango, L.J., 2012. Section 65 of the Malawi constitution: The role of the speaker, 2005-2009. *Malawi Law Society Journal*. [Online] Available at: <http://heinonline.org>. [Accessed 21 February 2015]

Chinsinga, B., 2010. *No More Chiefs in Malawi*, *On Dulani Boni's Blog*. [Online] Available at: <http://ntwee.blogspot.co.uk/2010/09/no-more-chiefs-in-malawi-withquest> [Accessed 06 April 2011]

Chinsinga, B., and Chigona, G., 2010. *The State of intra-party democracy in Malawi: A comparative audit of selected party constitutions*. [pdf] Available at: <http://community.eldis.org/.59ee456c/Intra%20party%20democracy>. [Accessed 10 March 2015]

Chinsinga, B., and Tsoka, M., 2008. *Malawi Round Four Afro Barometer: 2008 Survey*. [Online] Available at: <https://docs.google.com/viewer?a=vandq=cache:ZSimQ4yvjLkJ:www.afrobarometer.org> [Accessed 12 July 2011]

Chinsinga, B., Hajat, R., Lembani, S., and Patel, N., 2008. *Towards a Consolidation of Malawi's Democracy*. [pdf] Available at: http://www.kas.de/wf/doc/kas_13979-544-2-30. [Accessed 26 March 2011]

Chinsinga, B., Kayuni, H., 2010. *The Contemporary Political Context in Malawi: Challenges, Opportunities and Prospects*. [pdf] Available at: <http://www.eldis.Org/vfile/upload/1/document/1106/The%20contemporary%20Political%20Context%20in%20malawi>. [Accessed 26 March 2011]

Chiorwa, W.C., 2001. Dancing towards dictatorship: Political songs and popular culture in Malawi. *Nordic Journal of African Studies*, 10(1) pp: 1-27. [pdf] Available at: <http://www.njas.helsinki.fi/pdf-files/vol10num1/chirwa>. [Accessed 18 June 2012]

Chirambo, R., 2004. Operation Bwezani: The army, political change, and Kamuzu Banda's hegemony in Malawi. *Nordic Journal of African Studies* 13(2) pp: 146–163. [pdf] Available at: <http://www.njas.helsinki.fi/pdf-files/vol13num2/chirambo>. [Accessed 26 August 2011]

Chirambo, R., M., 2009. Democracy as a limiting factor for politicised cultural populism in Malawi. *Africa Spectrum*, 44(2), pp: 77-94. [Online] Available at: <http://www.jstor.org/discover/10.2307/40607812?uid=2134anduid=2anduid=70anduid=4andsid=21101939555043>. [Accessed 20 March 2012]

Chirwa W.C., 2014. *Malawi: Democracy and political participation*. [pdf] Available at: file:///F:/afrimap_malawi_democracy_political_participation. [Accessed 18 June 2014]

Chirwa, D.M., and Nijzink, L., 2012. *Accountable government in Africa: Perspectives from public law and political studies*, (edts). [pdf] Available at: [www.file:///F:/Post %20Viva%20Literature/accountable-gov-sample-chapter](http://www.file:///F:/Post%20Viva%20Literature/accountable-gov-sample-chapter). [Accessed 28 January 2015]

Chirwa, W.C, Patel, N., and Kanyongolo, F., 2000. *Democracy report for Malawi*. [pdf] Available at: <http://www.idea.int/publications/sod/upload/Malawi>. [Accessed 25 October 2014]

Chirwa, W.C., 2014. *Malawi democracy and political participation*. [pdf] Available at: <http://www.afrimap.org/english/images/report/Malawi%20Main%20Web>. [Accessed 31 January 2015]

Chiume, K., 2007. *Kanyama Chiume 1929-2007*. [Online] Available at: <http://www.Kanya machiume.com/about.html> [Accessed 28 March 2012]

Chiweza, A. L., 2010. *A Review of the Malawi decentralisation process: Lessons from selected districts*. [pdf] Available at: [http://www.concern-universal.org/files/decentr-alisation report molgrd and cu final](http://www.concern-universal.org/files/decentr-alisation_report_molgrd_and_cu_final). [Accessed 17 August 2014]

Claasen, M., Alpin-Lardies, C., and Ayer, V., 2010. *Social accountability in Africa: Practitioners' experiences and lessons*. [pdf] Available at: [http://www.rmchsa.org/wp-content/resources/resources_by theme/DemandandAccountability/SocialAccountability PractitionersExperiencesandLessons 2010](http://www.rmchsa.org/wp-content/resources/resources_by_theme/DemandandAccountability/SocialAccountabilityPractitionersExperiencesandLessons2010). [Accessed 26 February 2015]

Claude, A., 1996. *Democracy and Development in Africa*. Washington: Brookings

Commonwealth Secretariat, 2009. *Malawi parliamentary and presidential elections; Report of the commonwealth observer group*. [pdf] Available at: [http://www.thecommonwealth.org/files/211206 /FileName/FINALREPORT](http://www.thecommonwealth.org/files/211206/FileName/FINALREPORT). [Accessed 13 April 2011]

Coppedge, M. and Gerring, J., 2011. Conceptualizing and measuring democracy: A new approach, *Research Articles journals*. 9(2), pp: 247-267. [Online] Available at: <http://www.journals.cambridge.org> [Accessed 20 February 2012]

Corbin, J., and Strauss, A., 2008. *Basics of qualitative research: Techniques and procedures for developing grounded theory*. London: Sage Publications

Crawford, G., and Kearton, I., 2001. *Evaluating Democracy and Governance Assistance*, ESCOR Research Report No. 7894 [pdf] Available at: <http://www.dfid.gov.uk/r4d/PDF/Outputs/MisSPC/R7894-FinRep>. [Accessed 27 May 2011]

Creswell, J.W., 2003. *Research design: Qualitative, quantitative and mixed methods approaches*. 2nd ed. London: Sage Publication

Creswell, J.W., 2008. *Education research: Planning conducting and evaluating quantitative and qualitative research*. 3rd ed. New Jersey: Pearson.

Cronin E.T., 1999. *Direct democracy: The politics of initiative, referendum and recall*, Cambridge, Mass: Harvard University Press.

Cross, S., and Kutengule, M., 2001. *Decentralisation and rural livelihoods in Malawi*. [pdf] Available at: <http://r4d.dfid.gov.uk/PDF/Outputs/Livelihoodsresearch/Ladder-wp4>. [Accessed 16 August 2014]

Cullen, T., 1994. *Malawi: A turning point*. Edinburgh, Cambridge and Durham: The Pentland Press.

Curtice, J., 2010. What went wrong with the electoral system? The 2010 election result and the debate about electoral reform. *Parliamentary Affairs*. 63(4), pp: 623–638 [pdf] Available at: http://www.oxfordjournals.org/our_journals/parlii/gsq018. [Accessed 03 May 2011]

Curtin, P.D. and Vansina, J., 1964. Sources of the nineteenth century atlantic slave trade. *The Journal of African History*. 5(2), pp.185-208 [pdf] Available at: <http://unesdoc.unesco.org/images/0003/000388/038840eo>. [Accessed 15 September 2012]

Dalton, R.J., 2008. *Citizen politics: The opinion and political parties in advanced industrial democracies*. 5th ed. Washington, DC: CQ Press.

Denzin, N.K., 2009. *The research act: a theoretical introduction to sociological methods*. London: Eurospan

DFID, 2008. *Justice and Accountability*, *DFID Practice Paper, May 2008*. [Online] Available at: <http://www.enhancing+the+democratic+vertical+and+horizontal+accountability/HPDTDFJS> [Accessed 28 January 2015]

DFID, 2011. *Indicators and VFM in Governance Programming*. [pdf] Available at: <https://www.dfid.gov.uk/60797GovernanceIndicatorsVFMNoteFINAL>. [Accessed 20 August 2014]

DFID, 2013. *DFID's anti-corruption strategy for Malawi*. [pdf] Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213920/anti-corruption-strategy-mw. [Accessed 16 August 2014]

Diamond, L.J., 2008. *Democratization in Africa: What progress toward institutionalisation?* [Online] Available at: http://fas.org/irp/nic/african_democ_2008.pdf. [Accessed 16 August 2014]

Dilworth, D., 2006. *The Four Legs of Democracy*. [Online] Available at: <http://www.1hope.org/democrac.htm>. [Accessed 13 December 2010]

Dionne, K.Y., Kramon, E., and Roberts, T., 2013. *Aid effectiveness and allocation: Evidence from Malawi*. [pdf] Available at: <http://www.princeton.edu/~pcglobal/conferences/aid2013/papers/DionneetalMalawiAidPaper>. [Accessed 16 August 2014]

Dolo, E., 2006. *Building democracy: The perspective*. Atlanta, pp: 1-8, 20 October 2006. [Online] Available at: <http://www.theperspective.org/articles/1020200602.html>. [Accessed 23 August 2012]

Donnelly, J., 2003. *Universal human rights: In theory and practice*. 2nd ed. Ithaca and London: Cornell University Press.

Downs, A., 2002. An Economic theory of political action in a democracy. *The Journal of Political Economy*. 63(2), pp: 135-150. [pdf] Available at: <http://www.hec.unil.ch/ocadot/ECOPDocs/cadot2>. [Accessed 23 August 2012]

Du-Bois, E.C., 1987. Outgrowing the Compact of the Fathers: Equal Rights, Woman Suffrage, and the United States Constitution, 1820-1878. *The Journal of American History*. 74(3), pp. 836-862. [pdf] Available at: <http://faculty.washington.edu/acs22/SinklerSite/HS%20260-2/DuBois%201987%20Outgrowing%20the%20Compact%20of%20the%20Fathers>. [Accessed 22 November 2012]

Eberlei, W., 2007. *Stakeholder participation in poverty reduction*. [pdf] Available at: <http://edoc.vifapol.de/opus/volltexte/2011/3481/pdf/report86>. [Accessed 10 February 2015]

ECFA, 2004. *The role of parliament in promoting good governance*. [pdf] Available at: <http://www.uneca.org/sites/default/files/publications/role-of-parliament-in-promoting-good-governance>. [Accessed 12 March 2015]

ECFA, 2007. *The Role of parliament in promoting good governance*. [pdf] Available at: <http://www.uneca.org/sites/default/files/publications/role-of-parliament-inpromoting-good-governance>. [Accessed 20 February 2015]

Eldridge F. A., 1977. *Legislatures in rural societies*. Ed. North Carolina: Duke University Press.

Englund, H., and Mapanje, J., 2000. *A democracy of chameleons: Politics and culture in the New Malawi*. eds. Stockholm: Elaners Gotab.

Erkkila, T., 2004. *Governance and accountability: A shift in conceptualisation*. [pdf] Available at: [http://faculty.cbpp.uaa.alaska.edu/afgjp/PADM601%20Fall%202007/Governance %20 and %20Accountability](http://faculty.cbpp.uaa.alaska.edu/afgjp/PADM601%20Fall%202007/Governance%20and%20Accountability). [Accessed 31 January 2015]

Esaiaasson, P., and Holmberg, S., 1996. *Representation from above: Members of parliament and representative democracy in Sweden*. Brookfield: Dartmouth Publishing Company

Escamilla, M., 2008. *Rights and utilitarianism: John Stuart Mill's role in its history*. [pdf] Available at: http://www.centrebentham.fr/Revue/Numero_4/MEscamilla. [Accessed 13 July 2010]

Eulall, H., and Wahlke J.C., 1978. *The Politics of Representation*. ed. London: Sage Publication.

Eulau, H., and Wahlke, J.C., 1978. *The politics of representation: Continuities in theory and research*. London: Sage Publications.

Fairclough, N., 2nd ed. 2010. *Critical discourse analysis: the critical study of language*. Harlow: Longman

Ferguson, A.E., and Mulwafu, W.O., 2004. *Decentralisation, participation and access to water resources in Malawi*. [pdf] Available at: [mportal.net/nriclib/1000-1999/1049](http://portal.net/nriclib/1000-1999/1049). [Accessed 10 February 2015]

Fish, M.S., 1996. *Stronger legislatures, stronger democracies* [pdf] Available at: [http:// www.rushkolnik.ru/tw_files2/urls_2/328/d-327670/7z-docs/4](http://www.rushkolnik.ru/tw_files2/urls_2/328/d-327670/7z-docs/4). [Accessed 13 July 2013]

Fox, J., 2000. *Civil society and political accountability: Propositions for discussion*. [pdf] Available at: [www.CTORANDGOVERNANCE%2FResources%2FAccountability Governance](http://www.CTORANDGOVERNANCE%2FResources%2FAccountabilityGovernance). [Accessed 13 February 2015]

Fox, J., and Shotts, K.W., 2007. *Delegates or trustees? A theory of political accountability*. [pdf] Available at: [http://www.yale-university.com/leitner/resources /docs/delegates](http://www.yale-university.com/leitner/resources/docs/delegates). [Accessed 03 March 2015]

Freedon, M., 2013. *The political theory of political thinking: The anatomy of a practice*, [E-Book]. Oxford: Oxford University Press.

Gaventa, J., 2002. *Introduction: Exploring citizenship, participation and accountability*. [pdf] Available at: www.ids.ac.uk/files/dmfile/gaventa332. [Accessed 14 February 2015]

Gay, O., and White, I., 2010. *The parliamentary voting system and constituencies bill, [Bill No 63 of 2010-11]* Research Paper 10/55, 01 September 2010. [pdf] Available at: www.parliament.uk/briefing-papers/RP10-55. [Accessed 13 June 2011]

Ghaus-Pasha, A., 2005. *Role of civil society organisations in governance*. [pdf] Available at: http://storage.globalcitizen.net/data/topic/knowledge/uploads/unpan_019594.Tor. [Accessed 05 February 2015]

Gilbert, P., 2000. *Peoples, cultures and nations in political philosophy*. Edinburgh: Edinburgh University Press

Gillham, B., 2000. *Case Study Research Methods*. London: Continuum

Gomm, R., Hammersley, M., and Foster, P., 2000. *Case study methods*. ed. London, New York: Sage Publications.

Gomm, R., Hammersley, M., and Foster, P., 2000. *Case study methods*. ed. London, New Delhi: Sage Publication.

Goodwin-Gill, G.S., 2006. *Free and fair elections: New expanded edition*. [pdf] Available at: <http://www.ipu.org/pdf/publications/freeandfair06-e>. [Accessed 05 February 2015]

Graham, J., Amos, B., and Plumptre, T., 2003. *Principles for good governance in the 21st century policy brief No.15*. [pdf] Available at: <http://www.growourregion.ca/images/file/governance/policybrief150>. [Accessed 17 August 2011]

Grant, R., and Keohane, R.O., 2005. Accountability and abuses of power in world, politics. *American Political Science Review*. 99(1) [pdf] Available at: <https://www.princeton.edu/rkeohane/publications/apsrabuses>. [Accessed 31 January 2015]

Greene, J.C., Shaw, I.F., and Mark, M.M., 2006. *The sage handbook of evaluation: Evaluation, democracy and social change*. ed. [pdf] Available at: http://www.corwin.com/upm-data/11788_Chapter05. [Accessed 13 May 2011]

Griffin, J., 2008. On human rights Oxford scholarship. *Oxford Journals*. [pdf] Available at: <http://analysis.oxfordjournals.org/content/early/2010/10/07/analys.ancq093>. [Accessed 10 November 2010]

Gross, M.L., 1992. *The government racket: Washington waste from A to Z*. New York: Bantam Books.

Gunnell, J.G., 2011. *Political theory and social science: cutting against the grain*. [E-Book] New York: Palgrave Macmillan

Gwengwe, S., 2014. Gwengwe against politics of self enrichment. *Maravi Express*. [Online] Available at: <http://news.maraviexpress.com/2014/02/25/gwengwe-against-politics-of-self-enrichment>. [Accessed 02 April 2014]

Gyimah-Boadi, E., 1998. *Democratisation of African parliaments and political parties*. [pdf] Available at: <http://www.africaleadership.org> [Accessed 28 July 2012]

Hajat, J., 2007. *Malawi and its minerals: Are Malawians benefiting? Resource insight issue NO. 2 June 2007*. [pdf] Available at: <http://archive.revenuewatch.org/reports/MalawiFinal>. [Accessed 08 June 2013]

Hajat, R., and Milanzi, D., 2008. *Analytical presentation of the second meeting (BUDGET) of the 40TH Session of Parliament*. [Online] Available at: <https://www.ipimalawi.org/reports/reports/Parliament> [Accessed 16 June 2012]

Hall, J., 2003. *Swaziland the only sub-sahara monarch*. [Online] Available at: <http://www.globalpolicy.org/component/content/article/211/44571>. [Accessed 20 December 2013]

Hansard Society, 2011. *Parliaments and public engagement: Innovation and good practice from around the world*. [Online] Available at: <http://www.hansardsociety.org.uk/wp-content/uploads/2012/10/Parliaments-and-Public-Engagement-2012.pdf> [Accessed 03 July 2013]

Hansard Society, 2011. *Written evidence submitted*. [Online] Available at: <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmproced/330/330vw09.htm>, [Accessed 03 July 2013]

Hara, M.H., 2007. *Negotiated constitution; popular involvement in constitution-making: the experience of Malawi*, [pdf] Available at: <http://www.enelsyn.gr/papers/w1/Paper%20by%20Mabvuto%20Herbert%20Hara>. [Accessed 05 March 2012]

Harrigan, J., 2001. *From dictatorship to democracy: Economic policy in Malawi 1984-2000*. Buckingham: Ashgate Aldershot.

Hartmann, C., Patel, N., Kayuni, H., Chingaipe, and H., Lembani, 2014. *Malawi before the 2014 tripartite elections: Actors, issues, prospects and pitfalls; an analytical stocktaking.* [pdf] Available at: http://www.fes.de/afrika/content/downloads/IPI_FES_Booklet_final. [Accessed 27 January 2015]

Hill, W., 2004. 'Blair not ready to stand down', *BBC Report*, 16th May. [Online] Available at: http://news.bbc.co.uk/1/hi/uk_politics/3718749.stm. [Accessed 26 March 2012]

Hirschfield, R.S., 1974. The problem of presidential power. University of Hull Library Pamphlet. *Dialogue*. 7(3), pp: 3-12.

Hix, S., and Jun, H.W., 2009. *Party behaviour in the parliamentary arena: The case of the Korean national assembly.* [pdf] Available at: http://personal.lse.ac.uk/hix/Working_Papers/Hix-Jun-PPols09. [Accessed 15 August 2012]

Hofmeister, W., and Grabow, K., 2011. *Political parties: Functions and organisation in democratic societies.* [Online] Available at: http://www.kas.de/wf/doc/kas_7671-1442-2-30.pdf?120920114650. [Accessed 16 March 2015]

Huckfeldt, R., 2004. *Political disagreements: The survival of diverse opinions with communication network.* Cambridge: Cambridge University Press.

Hudson, A., and Wren, C., 2007. *Parliamentary strengthening in developing countries.* [pdf] Available at: <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files> [Accessed 28 January 2015]

Human Rights Watch, 2012. *World Report 2012: Malawi, events of 2011.* [Online] Available at: <http://www.hrw.org/world-report-2012/malawi>. [Accessed 13 July 2013]

Hussein, M., 2004. *Strengthening parliamentary democracy in SADC countries Malawi country report,* [pdf] Available at: <http://dspace.africaportal.org/jspui/bitstream/123456789/31419/1/SAIIA%20MALAWI%20COUNTRY%20REPORT>. [Accessed 08 February 2015]

Hussein, M., 2005. *Combating Corruption in Malawi: An assessment of the enforcing mechanisms* [pdf] Available at: <http://community.eldis.org/.59ee456c/COMBATING%20CORRUPTION%20IN%20MALAWI>. [Accessed 07 February 2015]

Hyden, G., Deng, M. F., and Lyons, T., 1998. *Africa reckoning: A quest for good governance.* ed. Washington DC: Brookings Institution Press.

IDEA, 2007. *Political parties in East Africa: Diversity in political systems*, Stockholm. [pdf] Available at: http://www.ozeabap.org/biblio/pdf/Africa_report_inlay_final. [Accessed 26 March 2014]

Idris, A.; Odoyo, N.; Maruga, P.; Kariuki, N.; Maxwell, D.; Marshak, A.; and Richards, S., 2013. *Conflict management and disaster risk reduction: A Case study of Kenya*, [Online] Available at: [http://www.npi-africa.org/pages/admin/publications/upload/CONFLICT_MANAGEMENT AND DISASTER RISK REDUCTION: A CASE STUDY OF KENYA JULY, 2013_1375968339.pdf](http://www.npi-africa.org/pages/admin/publications/upload/CONFLICT_MANAGEMENT_AND_DISASTER_RISK_REDUCTION_A_CASE_STUDY_OF_KENYA_JULY_2013_1375968339.pdf) [Accessed 30 May 2015]

ILO, 2007. *Strategies for skills acquisition and work for persons with disabilities*. [pdf] Available at: <http://www.ilo.org/wcmsp5/groups/public/edemp/ifpskills/documents/publication>. [Accessed 21 June 2011]

Inter-Parliamentary Forum, 2010. *Promoting inclusive parliaments: The representation of minorities and indigenous people in parliament*. [Online] Available at: <http://www.ipu.org/dem-e/minorities/overview.htm> [Accessed 16 September 2012]

Ipohfen, R., 2003. *Ethical Guidance*. [pdf] Available at: <http://the-sra.org.uk/wp-content/uploads/ethics03>. [Accessed 09 February 2012]

IPU, 2006. *Parliament and democracy in the Twenty-First century: A guide to good practice*, [Online] Available at: <http://www.ipu.org/dem-e/guide/guide-5.htm> [Accessed 28 January 2015]

IRIN, 2007. *Malawi: Political bickering takes priority over poverty*. [Online] Available at: <http://www.irinnews.org/report/73100/malawi-political-bickering-takes-priority-over-poverty>. [Accessed 09 August 2014]

Jordan, E., 1930. *Theory of legislation: An essay on the dynamics of public mind*. Illinois: University of Chicago Press.

Joshi, A., and Ramshaw, G., 2010. *Democratic accountability and service delivery*. [pdf] Available at: <https://www.ids.ac.uk/files/dmfile/IDEADASDDeskreviewv10>. [Accessed 31 January 2015]

Kalinga, O.J.M., 2010. The 1959 Nyasaland state of emergency in old Karonga district. *Journal of Southern African Studies*. [pdf] Available at: <http://www.tandfonline.com/doi/pdf/10.1080/03057070.2010.527633> [Accessed 04 August 2011]

Kalinga, O.J.M., 2011. *Historical dictionary of Malawi*. 4th ed. Plymouth: Scarecrow, Press Inc.

Kalinga, O.J.M., 2012. *Mkwapatira Mhango*. [pdf] Available at: <http://www.tandfonline.com/doi/pdf/10.1080/03057070.2012.749611> [Accessed 04 August 2013]

Kalipeni, E., 1997. Regional polarisation in voting pattern: Malawi 1994 elections. *Africa Journal of Political Science*. 2(1), pp: 152-167. [pdf] Available at: <https://netfiles.uiuc.edu/kalipeni/www/kalipeni%201997%20Voting%20Pattern%20Malawi>. [Accessed 03 September 2012]

Kameme, W.S., 2011. *Politics, democracy and governance in independent Malawi: The dichotomy between promises and reality*. (e-thesis) [pdf] Available at: http://etheses.bham.ac.uk/2898/2/Kameme_MPhil_11. [Accessed 03 June 2011]

Kanji, N., 2001. *Poverty reduction and policy dialogue: The World Bank and the state in Zimbabwe, Zambia and Malawi*. [Online] Available at: <http://www.crop.org/viewfile.aspx?id=232>. [Accessed 25 March 2014]

Kaspin, D., 2008. The politics of ethnicity in Malawi's democratic transition. *The Journal of Modern African Studies*. 33(4), pp: 595 -620. [Online] Available at: <http://www.journals.cambridge.org/abstract/S0022278X00021455>. [Accessed 14 August 2013]

Katigbak, K., 2006. *Presidential and Parliamentary system: A comparison*. [Online] Available at: <http://bpspolitics.wordpress.com/2006/11/23/presidential-and-parliamentary-system-a-comparison> [Accessed 03 July 2012]

Katopola, M.M., 2011. *The Role of Law Reform in Strengthening Legislative Processes: The Malawi Experience*, [pdf] Available at: http://www.justice.gov.za/alraesa/conferences/2011malawi/role-of-law-reform_katopola. [Accessed 10 February 2015]

Kaunda, J.M., 1995. Malawi: The post-colonial state, development and democracy. *Istituto Italiano per l'Africa e l'Oriente (IsIAO) Anno*. 50(3), pp: 305-324. [Online] Available at: <http://www.jstor.org/stable/40761017>. [Accessed 12 April 2012]

Kayuni, H.M. and Tambulasi, R.I.C., 2010. The Malawi 1964 cabinet crisis and its legacy of 'perpetual regression of trust' amongst contemporary Malawian politicians. *Social Dynamics*, 36(2), pp: 410-42. [pdf] Available at: <http://www.ndr.mw:8080/xmlui/bitstream/handle/perpetual>. [Accessed 16 August 2014]

Kayuni, H.M., and Tambulasi, R.C., 2011. *Thriving on the Edge of Chaos: An Alternative Explanation to the Management of Crisis in Malawi's Decentralization Program*. [pdf] Available at: <http://www.tandfonline.com/doi/>. [Accessed 21 February 2015]

Kazembe, P., and Namizinga, N., 2007. *The Impact of foreign direct investment on Kenya Department of Parliamentary Research Services*, (2008). *The role of Members of Parliament*. [Online] Available at: http://www.infotrackea.co.ke/Services/Leadership/Articles/MP_Roles [Accessed 20 July 2011]

Kedzia, Z., and Hauser, A., 2011. *The impact of political party control over the exercise of the parliamentary mandate*. [Online] Available at: <http://www.ipu.org/conf-e/129/control-study.pdf> [Accessed 02 June 2015]

Key, J.P., 1997. *Qualitative research. Research design in occupational education*. [pdf] Available at: <http://www.okstate.edu/ag/agedcm4h/academic/aged5980a/5980/newpage21.htm> [Accessed 21 February 2012]

Khaila, S., and Chibwana, C., 2005. Ten Years of Democracy in Malawi: Are Malawians getting what they Voted for? *Afro Barometer Working Paper*. 46. [Online] Available at: <http://41.87.6.35:8080/xmlui/bitstream/handle/123456789/192/Ten>. [Accessed 21 February 2012]

Khoury, R.G., 2011. *Tunisia's message to the Arab world*. [Online] Available at: <http://www.thestar.com/opinion/editorialopinion/article/923366--tunisia-s-message-to-the-arab-world>. [Accessed 18 January 2011]

Kirsti., M., 2001. Qualitative research: Standards, challenges and guidelines. *The Lancet*. 358. [Online] Available at: www.dmcgpal.dk/files/malterud_lancet2001. [Accessed 21 February 2012]

Klein, A., Kiranda, Y., and Bafaki, R., 2011. *Concepts and principles of democratic governance and accountability*. [pdf] Available at: http://www.kas.de/wf/doc/kas_29779-1522-2-30. [Accessed 21 February 2015]

Koep, M.M.M.C, 2009. Namibia Country Report, *Centre for Social Research*, [Online] Available at: <http://www.cssr.uct.ac.za/sites/cssr.uct.ac.za/files/Namibia%20Country%20Report%20final.pdf> [Accessed 21 February 2012]

Kroon, C., and Stapenhurst, R., 2008. *Parliament's role in poverty reduction strategies*, *World Bank Institute*. [pdf] Available at: <http://siteresources.worldbank.org/INTCDRC/Resources/CDBrief>. [Accessed 10 February 2015]

Kurland, P.B., 1986. The rise and fall of the doctrine of separation of powers. *Michigan Law Review*. 85(3), pp: 592-613. [Online] Available at: <http://www.jstor.org/stable/1288758> [Accessed 11 March 2012]

Kurland, P.B., 1986. *Structuring the separation of powers*. [Online] Available at: <http://www.auilr.org/pdf/8/8-23-12>. [Accessed 11 March 2012]

La Ver, M., and Shepsle, A. K., 1996. *Making and braking governments: Cabinet and instruments in parliamentary democracy*. New York: Cambridge University Press.

Leemk, J., 2007. Parliamentary or presidential? [Online] Available at: <http://www.infernalramblings.com/articles/Law/611/> [Accessed 18 April 2011]

Lembani, S., 2007. *The impact of floor crossing on party systems and representative democracy: The case of Malawi*. [pdf] Available at: www.kas.de/wf/doc/kas_11847-1522-2-30.pdf?070914092715. [Accessed 21 February 2015]

Levy, J., 2009. *Strengthening parliament's powers of scrutiny? An assessment of the introduction of Public Bill Committee*. [pdf] Available at: <http://www.ucl.ac.uk/spp/publications/unit-publications/145-FINAL>. [Accessed 11 February 2015]

Lewin, K., 1951. *Force field analysis*. [Online] Available at: <http://www.ifm.eng.cam.ac.uk/research/dstools/force-field-analysis>. [Accessed 26 October 2012]

Lewis, D., and Kanji, N., 2011. *Non-governmental organizations and development*. [pdf] Available at: <http://personal.lse.ac.uk/lewisd/images/Non-Governmental%20Organizations%20and%20Development%20vouchers>. [Accessed 11 February 2015]

Lewis, L., D., 2007. Definition of democracy. [Online] Available at: <http://www.illuminati-news.com/Articles/44.html>. [Accessed 31 August 2012]

Ligomeka, B., 2001. *Malawi: Legislators impeach three rebel judges, All Africa*. [Online] Available at: <http://allafrica.com/stories/200111261044.html> [Accessed 13 September 2012]

Lijphart, A., 1992. *Parliamentary versus presidential government*. New York: Oxford Press

Linberg, S.I., 2010. What accountability pressures do MPs in Africa face and how do they respond? Evidence from Ghana. *Journal of Modern African Studies*. 48(1), pp. 117-142. [pdf] Available at: http://www.agora-parl.org/sites/default/files/lindberg_10_mpsinghana. [Accessed 03 March 2015]

Linda, S., 2002. Kamuzu's Mbumba: Malawi women's embeddedness to culture in the face of international political pressure and internal legal change. *Africa Today*. 49(2), pp. 77-99. [pdf] Available at: http://muse.jhu.edu/journals/africa_today/v049/49.2semu. [Accessed 02 February 2013]

Linden, M., 2010. *Unanticipated consequences of humanitarian intervention: The British campaign to abolish the slave trade, 1807–1900*. [pdf] Available at: http://socialhistory.org/sites/default/files/docs/publications/theoryand_society. [Accessed 13 June 2011]

Livingstone, D., 1865. *A Popular Account of Dr. Livingstone's Expedition to the Zambesi and Its Tributaries and the discovery of Lakes Shirwa and Nyassa 1858–1864*, (Published on line, 2005). [pdf] Available at: http://www.viaggidelgeco.saharaland.net/ebookslivne/Apopular_Account_of_Dr_Livingstone-s_Expedition_to_the_Zambesi. [Accessed 13 June 2011]

Lodge, T., Kadima, D., and Pottie, D., 2002. *Compendium of elections in Southern Africa*, EISA. ed. [Online] Available at: http://www.eisa.org.za/WEP/mal1993_referendum.htm. [Accessed 03 September 2012]

Loewenberg, G., and Patterson, S.C., 1997. *Comparing legislatures*. Lenham, New York, London: University Press of America.

Logan, C., 2008. *Traditional leaders in Modern Africa: Can democracy and the chief co-exist?* [pdf] Available at: <file:///C:/Users/412903/Downloads/AfropaperNo93>. [Accessed 23 February 2015]

Loquai, C., 2011. *Supporting domestic accountability in developing countries Taking stock of the approaches and experiences of German development cooperation in Mali*. [Online] Available at: www.ecdpm.org/dp115. [Accessed 14 February 2015]

Lukes, S., 2005. *Power: A radical View*. 2nd ed. New York: Palgrave Macmillan.

Lungu, M., 2012. *Mutharika orders removal of Phoya*. [Online] Available at: <http://www.simbanimedia.com/component/content/article/43-malawi-political/156-mutharika-orders-removal-of-phoya.html>. [Accessed 06 July 2012]

Lunn, J., Beale, E., and Townsend, I., 2008. *Malawi: A political and economic profile, Standard Note: SN/IA/4806*. [pdf] Available at: <file:///C:/Users/412903/Downloads/SN04806>. [Accessed 09 February 2015]

Lupia, A., and McCubbins, M.D., 1999. *When is Delegation Abdication? How citizens use institutions to help delegation succeed*. [pdf] Available at: <file:///C:/Users/412903/Downloads/SSRN-id1002958>. [Accessed 26 March 2015]

Madison, J., 1997. Separation of power and political accountability. *The Quarterly Journal of Economics*. [pdf] Available at: <http://homepage.univie.ac.at/karin.mayr/teaching>. [Accessed 23 July 2011]

Magolowondo, A., 2009. *Developmental dividends of democratisation in Malawi: A country report*, centre for policy studies Johannesburg. [pdf] Available at: <http://cps.org.za/cps%20pdf/RR117>. [Accessed 13 June 2012]

Mail and Guardian, 2003, *Malawi bars demos against Muluzi's third term bid*, [Online] Available at: <http://mg.co.za/article/2003-02-17-malawi-bars-demos-against-muluzis-third-term-bid>. [Accessed 18 June 2012]

Mainwaring, S., and Welna, C., 2003. *Democratic accountability in the Latin America*. ed. Oxford New York: Oxford University Press

Maiyo, J., 2008. *Preaching water, drinking wine? Political parties and intra-party democracy in East Africa: Considerations for democratic consolidation*. [pdf] Available at: <file:///D:/Post%20Viva%20Literature/Intra%20party%20Democracy>. [Accessed 10 March 2015]

Majola, X., Saptoe, E., and Silkstone, C., 2007. *Floor crossing: Germany, United Kingdom, Canada, Brazil, Lesotho and Kenya*. [Online] Available at: <https://pmg.org.za/docs/2007/070130floorcross.doc>. [Accessed 21 February 2015]

Makondesa, P., 2006. *The church history of the providential industrial mission (PIM) 1900-1940*. Zomba: Kachere Books.

Malawi Constitution, 1994. *Final draft*. [Online] Available at: http://www.africa.upenn.edu/Govern/Political/mlwi_const.html. Accessed 05 June 2012]

Malawi Country Profile, 2010. *Inflation rates (2001-2010)*. [Online] Available at: <http://www.euromoneycountryrisk.com/Wiki/Malawi>. [Accessed 15 December 2012]

Malawi Country Profile, 2012. *Inflation rates (2011-2012)*. [Online] Available at: <http://www.tradingeconomics.com/malawi/inflation-cpi>. [Accessed 15 December 2012]

Malawi Law Commission, 2006. *The Constitution and the executive branch of government: discussion paper NO. 4*. [pdf] Available at: www.file:///D:/Post%20Viva%20Literature/discussion_paper4constitution_executive. [Accessed 08 February 2015]

Malawi National Assembly, 2007. *Malawi national assembly: Strategic plan, (2010-2015)*. [pdf] Available at: http://www.parliament.gov.mw/docs/strategic_plan/StrategicPlan_2010_2015. [Accessed 29 July 2013]

Malawi Today, 2011. *Bingu overlooks court injunction, signs Injunctions Bill* [On line] Available at: <http://www.malawitoday.com/news/871-bingu-overlooks-court-injunction-signs-injunctions-bill>. [Accessed 13 July 2013]

Malawi Today, 2012. *The Chairperson of the Malawi Human Rights Commission, John Kapito arrested*, [on line] Available at: <http://www.malawitoday.com/news/124090-malawi-human-rights-activist-john-kapito-arrested>. [Accessed July 2012]

Malawi Voice, 2012. *DPP may not hold Conversion*, [on line] Available at: <http://www.malawivoice.com/2012/03/30/dpp-might-not-hold-a-convention-76864/> [retrieved on 05 July 2012]

Malawi Voices, 2012. *Section 65, Numbalawani, Budget numbala Two*, [on line] Available at: <http://www.malawivoice.com/2012/06/14/section-65-nambala-wani-budget-nambala-2> [Accessed 29 July 2013]

Malawi Watch, 2012. *Malawi President Joyce Banda under fire for bloating despite economic crisis*, [on line] Available at: <http://malawivoice.com/2012/12/07/malawis-president-joyce-banda-under-fire-for-bloating-cabinet-despite-economic-crisis-this-govt-is-not-listening-malawi-watch-41667/>, [Accessed 07 February 2015]

Malena, C., Forster, R., and Singh, J., 2004. *The role of civil society in holding government accountable: A perspective from the World Bank on the concept and emerging practice of social accountability*. [pdf] Available at: <http://c.ymcdn.com/sites/www.istr.org/resource/resmgr/workingpaperstoront/o/malena.carmen>. [Accessed 10 February 2015]

Mandela, N., 1964. *"I am Prepared to Die" statement from the dock at the opening of the defence case in the Rivonia Trial Pretoria Supreme Court*. [Online] Available at: <http://www.anc.org.za/ancdocs/history/rivonia.html> [Accessed 03 June 2012]

Manning, J.F., 2010. Separation of power as ordinary interpretation. *Harvard Law Review*. 124(1939). [pdf] Available at: http://harvardlawreview.org/wp-content/uploads/pdfs/vol124_manning. [Accessed 03 June 2012]

Mapanje, J., 1981. *Of Chameleons and Gods*. London: Heinemann.
Mapanje, J., 1993. *Death of Orton Chirwa*. [Online] Available at: <http://www.tandfonline.com/doi/abs/10.1080/03064229308535485>. [Accessed 03 June 2012]

Martin, L.S., 2000. *Democratic commitments: Legislatures and national cooperation*. New Jersey: Princeton University Press.

Martin, S., 2010. *The committee system*. [Online] Available at: <https://www2.le.ac.uk/departments/politics/people/dr-shane-martin/pdfs/the-committee-system>. [Accessed 19 March 2015]

Marsh, D., and Stoker, G., 2010. *Theory and methods in political science*. Basingstoke; New York: Palgrave Macmillan

Mathisen, H., and Svasand, L., 2002. *Funding political parties in emerging African democracies: What role for Norway? Bergen: Chr. Michelsen Institute-Development Studies and Human Rights*. [pdf] Available at: http://www.cmi.no/publications/policy_brief/2002/cmipolicybrief2002-sept. [Accessed 23 September 2012]

Mathison, S., 2005. *Encyclopaedia of evaluation*. Thousand Oaks, California: Sage

Matlhaku, A., and Molomo, M., 2007. *Measuring and monitoring progress towards good governance in Africa: The African governance report (II)*, [pdf] Available at: <http://www.dspace.africaportal.org/jspui/bitstream/MeasuringProgress>. [Accessed 16 March 2015]

Matlosa, K., 2005. *Governance research agenda: Towards A democracy assessment framework for Southern Africa*. [Online] Available at: <http://www.eisa.org.za/EISA/publications/publications.htm>, [Accessed 22 October 2012]

Matlosa, K., 2007. *Political parties in Southern Africa: The state of parties and their role in democratisation*. [pdf] Available at: <http://www.idea.int/publications/ppsouthernafrica/upload/PPSouthernAfricaWeb>. [Accessed 03 March 2015]

Mattes, R.B., 2002. South Africa: Democracy without the People? *Journal of Democracy*. 13(1), pp. 22-36. [Online] Available at: <http://muse.jhu.edu/journals/jod/summary/v013/13.1mattes.html>. [Accessed 02 April 2012]

McCandless, E., and Karbo, T., 2011. *Peace, conflict, and development in Africa: A reader*. [pdf] Available at: http://www.upeace.org/pdf%5CREADER_webpages. [Accessed 11 February 2015]

McCracken, J., 1977. *Politics and Christianity in Malawi 1875-1940: The impact of the Livingstonia Mission in the Northern Province*. London, New York: Melbourne, Cambridge University Press.

McKinnon, C., 2nd ed., 2012. *Issues in political theory*. Oxford: Oxford University Press

Malawi Electoral Commission, 2009. *Parliamentary results*. [Online] Available at: <http://www.mec.org.mw>. [Accessed 13 August 2011]

Malawi Human Rights, 2012. *Malawi human rights report*. [pdf] Available at: <http://www.state.gov/documents/organization/204351>. [Accessed 25 November 2013]

Miers, D.R., and Page, A.C., 1982. *Legislation*. London: Sweet and Maxwell.

Miller, G.J., 2005. *The Political evolution of principal-agent model*. [pdf] Available at: <http://faculty.washington.edu/jwilker/571/571readings/Miller>. [Accessed 22 February 2015]

Malawi Law Commission, 2006. *Electoral systems and management of elections-Malawi*. [pdf] Available at: http://www.lawcom.mw/docs/discussion_paper3_electoral_systems. [Accessed 12 March 2015]

Mohamed, S. M. A., 2005. *African parliaments : Between governance and government*. ed. Gordonsville, VA, USA: Palgrave Macmillan

Mojapelo, P.M, 2013. *The doctrine of separation of powers: A South African perspective*. [pdf] Available at: <http://www.sabar.co.za/law-journals/2013/april/2013-april-vol026-no1-pp37-46>. [Accessed 13 March 2015]

Momba, J.C., 2005. *Evaluation of parliament-executive relations in Zambia*. In: M.A.M. Salih, ed. *African parliaments: Between governance and government*. New York: Palgrave, Macmillan. pp. 101-119.

Morlino, L., 2002. *What is a "Good" democracy? Theory and empirical analysis*. [pdf] Available at: http://ies.berkeley.edu/research/files/CP02/CP02_WhatIsGood_Democracy [Accessed 06 July 2013]

MSCA, 2007. *In the matter of the question of the crossing the floor by members of the national assembly, Malawi Legal Information Institute*, [Online] Available at: <http://www.malawilii.org/mw/judgment/supreme-court-appeal/2007/1>. [Accessed 21 February 2015]

Mtewa, M., 1986. *Malawi democratic theory and public policy*. Cambridge, Massachusetts: Schenkman Books Inc.

Mthinda, C., and Khaila, S., 2006. *Responsiveness and accountability in Malawi*. [pdf] Available at: http://www.afrobarometer.org/files/documents/briefing_papers/AfrobriefNo31. [Accessed 10 September 2012]

Munck, L., and Verkuilen, J., 2002. Conceptualizing and measuring democracy: Evaluating alternative indices gerardo. *Comparative Political Studies*. [Online] Available at: <http://cps.sagepub.com/cgi/content/abstract/35/1/5>. [Accessed 17 May 2013]

Munro, W. A., 2006. Measuring democracy and human rights in Southern Africa (review) *Comparative Studies of South Asia, Africa and the Middle East*. 26(1), pp. 153-154. [pdf] Available at: <http://cssaame.dukejournals.org/content/26/1/153.full>. [Accessed 24 June 2013]

Musuva, C., 2009. *Malawi: Political violence, intra-party and inter-party conflict*. [Online] Available at: <http://www.eisa.org.za/WEP/malpartiesconflict>. [Accessed 21 November 2011]

Nash, K., 2000. *Contemporary political sociology: Globalisation, politics and power*. Oxford: Blackwell Publishers.

National Democratic Institute, 1996. *Committees in legislatures: A division of labour*. [Online] Available: https://www.ndi.org/files/030_ww_committees.pdf. [Accessed 3 March 2015]

National Democratic Institute, 2008. *Traditional authority and democratic governance in Malawi*. [Online] Available: https://www.ndi.org/files/1306m_constitut_conf.pdf. [Accessed 23 February 2015]

National Research Council of Malawi, 2003. *Procedures and guidelines for the conduct of research in Malawi*. [Online] Available: <http://www.sdn.org.mw/nrcm/policies/guideline3.htm>. [Accessed 9 February 2012]

National Statistical Office, (2008). *2008 Population and housing census: Preliminary report*. [pdf] [Online] Available: <http://unstats.un.org/unsd/demographic/sources/.pdf>. [Accessed 13 December 2010]

Neale, P., Thapa, S., Boyce, C., 2006. *Preparing a case study: A guide for designing and conducting a case study for evaluation input*. [pdf] Available: http://www.pathfind.org/site/DocServer/m_e_tool_series_case_study.pdf. [Accessed 20 February 2012]

Newell, P.; Bolloar, S., 2002. *Mapping accountability: Origins context and implications for development*. [pdf] Available: <http://www.ids.ac.uk/files/Wp168.pdf>. [Accessed 11 March 2015]

News Time Africa, 2011. *President Bingu wa Mutharika of Malawi orders the arrests of civil rights activists and the country's vice president*. [Online] Available: <http://www.newstimeafrica.com/archives/21425>. [Accessed 21 November 2012]

News-24., 2010. *Change of national flag*. Available: <http://www.news24.com/Africa/News/Malawi-changes-national-flag-20100808>. [Online] [Accessed 21 November 2011]

News-24., 2011. *I am not a dictator, says Mutharika*. [Online] Available: <http://www.news24.com/Africa/News/I-am-not-a-dictator-says-Mutharika-20110719>. [Accessed 21 November 2012]

Nihorowa, P., 2014. *When trust is betrayed: The case of Malawian presidents*. Available: <http://www.malawivoice.com/2014/02/25/when-trust-is-betrayed-the-case-of-malawian-presidents>. [Online] [Accessed 26 March 2014]

Nijizink, L., Mozaffar, S., Azevedo, E., 2006. Can parliaments enhance the quality of democracy on the African continent? An analysis of institutional capacity and public perceptions. *The Journal of Legislative Studies*. Vol. 12 (3 and 4), pp.311-335.

Nkhata, M.J., 2006. *Origins and historical development of the constitution*. [pdf] Available: http://www.icla.up.ac.za/images/country_reports/malawi_country_report.pdf. [Accessed 19 May 2013]

Norton, P. Leston-Bandeira, C., 2005. *Parliamentary Institutions Basic Concepts: Strengthening the Capacity of People's Elected Bodies in Viet Nam*. [Online] Available: <http://www.undp.org.vn/projects/vie02007/library.htm>. [Accessed 19 May 2013]

Norton, P., 1987. *Parliament in perspective: an inaugural lecture-15th October 1987*. Hull: University of Hull.

Norton, P., 1990. *Legislatures*. New York: Oxford University Press.

Norton, P., 1993. *Does Parliament matter?* Hemel Hempstead: Harvester Wheatsheaf.

Norton, P., 1998. *Legislatures and legislators*. Aldershot, Brookfield, Singapore, Sydney: Ashgate Dartmouth.

Norton, P., 1998. *The consequences of devolution*. London: Hansard Society.

Norwegian Council for Africa, 2004. *The recall provision, Section 64, national constitution*. [Online] Available: <http://www.afrika.no/Detailed/5712.html>. [Accessed 13 July 2012]

Nyamongo, C.K., 2010. *The politics of poverty reduction and why elites matter: evidence from Malawi*. [pdf] Available: <http://community.eldis.org/.59ee456c/Elites.pdf>. [Accessed 26 February 2014]

Nzunda, M.S., Ross, K.R., 1995. *Church, law and political transition in Malawi 1992-94*. Gweru: Mambo Press.

O'Regan, K., 2005. *Checks and balances reflections on the development of the doctrine of separation of power under the South African constitution*. [pdf] Available: http://www.puk.ac.za/opencms/export/PUK/html/fakulteite/regte/per/issuepages/2005Volume8no1/2005x1x_ORegan_art_tdp.pdf. [Accessed 21 February 2012]

Ober, J., 2008. *The original meaning of democracy: Capacity to do things, not majority rule*. [pdf] Available: http://www.stanfordalumni.org/leadingmatters/los_angeles/documents/OriginalMeaningDemocracy.pdf. [Accessed 23 April 2013]

Ocampo, J.A., Arteaga, N.G., 2014. *Accountable and effective development cooperation in a post-2015 era: Accountability for development cooperation*. [pdf] Available: http://www.un.org/en/ecosoc/newfunct/pdf13/dcf_germany_bkgd_study_3_global_accountability.pdf. [Accessed 14 March 2015]

Ohman, M., 2006. *Incumbency versus change: The influence of candidate selection on the turnover of MPs in emerging democracies*. [Online] Available: http://paperroom.ipsa.org/papers/paper_5173. [Accessed 12 March 2015]

Olsson, O., 2009. On the democratic legacy of colonialism. *Journal of Comparative Economics*. Vol. 37 (4), pp.534–551.

Olukoshi, A. O., 1998. *The politics of opposition in contemporary Africa*. Uppsala: Nordiska Afrikainstitutet.

Osiatynski, W., 2009. *Human rights and their limits*. Cambridge: Cambridge University Press.

Ott, M., 2013. *Malawi between internal factionalism and external pressure: Coping with critical junctures*. [pdf] Available: http://www.uni-leipzig.de/~ral/gchuman/fileadmin/media/publikationen/Working_Papers/RAL_WP_11_Ott_130108.pdf. [Accessed 16 August 2014]

Ouziel, P., 2009. *Crisis of legitimacy in Canada's parliamentary federation: A case for participatory democracy*. [pdf] Available: <http://www.pabloouziel.com/AcademicEssay/pdf>. [Accessed 8 October 2012]

Page, M.E., 1974. The Manyema hordes of Tippu Tip: A case study in social stratification and the slave trade in Eastern Africa. *The International Journal of African Historical Studies*. vol. 7 (1), pp. 69-84.

Pana Press., 2001. *Muluzi approves anti-defection bill*, [Online] Available: <http://www.parliament.gov.mw/history>. [Accessed 7 October 2011]

Pana Press., 2006. *Mozambican parliament passes bill on provincial assemblies*. [Online] Available: <http://www.panapress.com/Mozambican-parliament-passes-bill-on-provincial-assemblies--13-501258-18-lang2-index.html>. [Accessed 11 August 2013]

Parliamentary Centre, 2004. *The Ghana parliamentary committee support project phase 2 (GPCSPII)*. [Online] Available: http://www.parlcent.ca/africa/ghana_desc_e.php. [Accessed 16 August 2012]

Patel, N., 2005. *Political parties: Development and change in Malawi*. [pdf] Available: <http://www.eisa.org.za/PDF/rr21.pdf>. [Accessed 12 September 2012]

Patel, N., 2010. *Malawi's 2009 elections: A critical evaluation*. [Online] Available: www.cmi.no/file/?1014. [Accessed 12 September 2012]

Patel, N., Hajat, R. (2007). *Governance assessments and the Paris declaration opportunities and challenges for inclusive participation and national ownership: The Malawi scenario*, [pdf] Available: http://www.afri-gap.org/IMG/pdf/being_assessed_the_case_of_malawi.pdf. [Accessed 14 March 2015]

Patel, N., Tambulasi, R., Molande, B., Mpesi, A., 2007. *Consolidating democratic governance in the SADC region*. [pdf] Available: <http://www.eisa.org.za/PDF/rr33.pdf>. [Accessed 11 September 2012]

Patel, N., Tostensen, A., 2006. *Parliamentary-Executive relations in Malawi 1994–2004*. [pdf] Available: <http://www.cmi.no/publications/file/2336-parliamentary-executive-relations-in-malawi-1994.pdf>. [Accessed 8 February 2015]

Patten, M.L., 2005. *Understanding research methods: An overview of the essentials*. 5th ed. Glendale: Pyczak Publishing.

Patterson, C.H., 1985. The Nature of self-actualisation. In: Cole, B., *The therapeutic relationship*. London: Sage Publications. Chapter 3.

Pelizzo, R., Stapenhurst, R.F., 2007. *The role of parliament in promoting good governance in Africa*. [pdf] Available: <http://www.uneca.org/sites/default/files/publications/role-of-parliament-in-promoting-good-governance.pdf>. [Accessed 28 March 2015]

Pelizzo, R., Stapenhurst, R.F., 2014. *Government accountability and legislative oversight*. New York: Taylor and Francis.

Phiri, K, M., 2000. *A case of revolutionary change in contemporary Malawi: The Malawi Army and the disarming of the Malawi Young Pioneers*. [Online] Available: <http://malawi.freehosting.net/article3.html>. [Accessed 6 June 2012]

Phiri, P., 2012. *Khwauli Msiska regrets Moving 'Open Term Bill': Advises overzealous politicians*. [Online] Available: <http://www.malawidemocrat.com/politics/khwauli-regrets-moving-open-term-bill-advises-overzealous-politicians/>. [Accessed 13 September 2013]

Phoya, H.D., 2012. *Exodus of MPs confusing*. [Online] Available: <http://www.nyasatimes.com/malawi/2012/06/19/phoya-says-mps-exodus-confusing-to-stabilise/>. [Accessed 20 June 2012]

Pitkin, H.F., 1967. *The concept of representation*. Berkeley, Los Angeles, London: University of California Press.

Power, G., 2012. *Global parliamentary report: The changing nature of parliamentary representation*. [pdf] Available: <http://www.ipu.org/pdf/publications/gpr2012-full-e.pdf>. [Accessed 19 March 2015]

Powers, J., 2001. *Early African nationalism and Pan-Africanism*. [Online] Available: http://www.suite101.com/african_history. [Accessed 14 September 2011]

Prasojo, E., 2009. *Transparency and accountability of Parliament*. [Online] Available at: <http://www.agora-parl.org/sites/default/files/UNDP%20-%20Transparency%20and%20Accountability%20of%20Parliament%20-%20EN%20-%202009.pdf> [Accessed 03 June 2015]

Press Corporation, 2006. *History of Press Corporation*. [Online] Available: <http://www.presscorp.com>. [Accessed 17 November 2013]

Przeworski, A., 2009. *Conquered or granted? A history of suffrage extensions*. [pdf] Available: http://clacs.as.nyu.edu/docs/IO/2800/suffrage_ext.pdf. [Accessed 17 November 2013]

Putnam, D.R., 1993. *Making democracy work: Civic traditions in modern Italy*. New Jersey: Princeton University Press.

Randal, V.I., Svasand, L., 2002. Party institutionalisation in new democracies. [pdf] Available: <http://www.yorku.ca/sbohn/20Svasand.pdf>. [Accessed 02 August 2012]

Ratcliff, D., 1995. 15 Methods of data analysis in qualitative research. [pdf] Available: <http://qualitative-research.net/15methods.pdf>. [Accessed 02 August 2012]

Reitzes, M.N.; Larsen, J.K.; Fakir, E., 2010. *Setting benchmarks for enhanced political party performance for democratic governance in Africa*. [pdf] Available: <http://www.content.eisa.org.za/pdf/symp10cp.pdf>. [Accessed 16 March 2015]

Renton, D., 1999. *Fascism: Theory and practice*. [Online] Available: [http://www.e-reading.ws/bookreader.php/135772/Fascism - theory and practice](http://www.e-reading.ws/bookreader.php/135772/Fascism_-_theory_and_practice). [Accessed 23 June 2012]

Resnick, D., 2012. *Two steps forward, one step back: The limits of foreign aid on Malawi's democratic consolidation, Working Paper No. 2012/28*. [Online] Available: http://www.wider.unu.edu/publications/working-papers/2012/en_GB/wp2012-028/. [Accessed 5 March 2015]

Rhodes, R.A.W., Binder, S.A., Rockman, B.A., 2006. *The Oxford handbook of political institutions*. New York: Oxford University Press.

Rolef, S.H., 2006. *Public trust in parliament: A comparative study*. [Online] Available: <http://www.knesset.gov.il/mmm/data/pdf/me01417>. [Accessed 22 September 2012]

Rondinelli, D.A., 2007. Public administration and democracy governance: Governments serving citizens. [pdf] Available: <http://www.Dennis.A.Rondinelli/pdf>. [Accessed 11 February 2015]

Ross, C. A., 1996. *God, people and power in Malawi: Democratisation in theological perspective*. Blantyre: CLAIM.

Ross, C. A., Thompson, J., 2009. *Colonialism to cabinet crisis: A political history of Malawi*. Zomba: Malawi, Kachere Books.

Ross, C.A., 1996. *Blantyre Mission and the making of modern Malawi*. Blantyre: CLAIM.

Rotberg, R.I., Salahub, J.E., 2013. *African legislative effectiveness*. [Online] Available: <http://www.nsi-ins.ca/wp-content/uploads/2013/10/2013-African-Legislative-Effectiveness1>. [Accessed 12 March 2015].

Rothstein, B., 2012. *Defining and measuring quality of government*. [pdf] Available: <http://iis-db.stanford.edu/docs/623/Rothstein%26Teorell2012>. [Accessed 22 February 2015]

Sabina, A.; Santos, M.E., 2010. *Oxford poverty and human development initiative (OPHI)*. [Online] Available: <http://www.ophi.org.uk/wp-content/uploads/Malawi>. [Accessed 06 October 2012]

Sahni, P., Vayunandan, E., 2010. *Administrative theory*. New Delhi: PHI Learning Private Limited.

Salih, M.A.M., 2005. *African parliaments: Between governance and government*. New York: Palgrave, Macmillan.

Santiso, C., 2001. Good governance and aid effectiveness: The World Bank and conditionality. *The Georgetown Public Policy Review*. vol. 7 (1), pp.1-22.

Sarantakos, S., 2013. *Social research*. 4th ed. London: Macmillan Press.

Saunders, C., 2007. *Declaration of the rights of man and of the citizen*. [Online] Available: <http://www.hrcr.org/docs/frenchdec.html>. [Accessed 16 June 2013]

Schedler, A., Diamond, L.J, Plattner, M.F., 1999. *Power and accountability in new democracies: The self-restraining state*. London: Lynne Rienner Publishers.

Schmeitter, P.C., Karl, T.L., 1991. *What democracy is and is not*. [pdf] Available: <http://home.comcast.net/~lionelingram/WhatisDemocracy>. [Accessed 11 September 2012]

Schmitter, P.C., 2007. *Political accountability in 'real-existing' democracies: Meaning and mechanisms*. [pdf] Available: <http://www.eui.eu/Documents/DepartmentsCentres/SPS/Profiles/Schmitter/PCSPoliticalAccountabilityJan07.pdf>. [Accessed 8 February 2015]

Schmitz, G., 1988. *The opposition in a parliamentary system*. [Online] Available: <http://waset.org/Publications/opposition-parties-and-the-politics-of-opposition-in-africa-a-critical-analysis/315>. [Accessed 11 September. 2012]

Sebudubudu, D., Osei-Hwedie, B., 2005. *Democratic consolidation in SADC: Botswana's 2004 elections*. [pdf] Available: <http://eisa.org.za/PDF/rr11.pdf>. [Accessed 10 March 2015]

Shaffir, W.B., Stebbins, R.A., 1991. *Experiencing field research: An inside view of qualitative research*. London, New Delhi: Sage Publication.

Sharma, B., 2008. *Voice, accountability and civic engagement: A conceptual overview*. [pdf] Available: http://tzhexga.undp.or.id/content/dam/undp/documents/partners/civil_society/publications/2008_UNDP_Voice-Accountability-and-Civic-Engagement_EN.pdf. [Accessed 13 February 2015]

Sherwood, M., 2012. What Did 'Pan-Africanism' mean? Pan-African conferences, 1900-1953. *The Journal of Pan African Studies*. Vol. 4 (10), pp.107-126.

Shija, W., 2012. *Approaches to oversight in parliament: An African Perspective*. [Online] Available at: http://www.parliament.gov.za/content/Topic%201%20-%20Approaches%20to%20Oversight%20in%20Parliament%20Dr%20W%20OF%20Shiya_.pdf [Accessed 25 March 2015]

Shivji, I.G., 2003. *The struggle for democracy*. [Online] Available: <http://www.marxists.org/subject/africa/shivji/struggle-democracy.htm>. [Accessed 25 March 2014]

Shuaibu, P., 2012. *Politics not for self-enrichment*. [Online] Available: <http://www.punchng.com/news/politics-not-for-self-enrichment-oshiomhole>. [Accessed 02 April 2014]

Siaroff, A., 2003. Comparative presidencies: The inadequacy of the presidential, semi-presidential and parliamentary distinction. *European Journal of Political Research*. Vol. 42 (1), pp.287–312.

Silverman, D., 2000. *Doing qualitative research: A practical handbook*. London: Sage Publications.

Sinclair, B., 2000. *Legislators, leaders and law-making: The U.S. house of representatives in the post-reform era*. London: John Hopkins University Press.

Smith, B.C., 1993. *Regionalisation: Resuscitating or restricting the country?* Available: <http://rsj.e-contentmanagement.com/archives/vol/3/issue/2/article/1562/regionalisation>. [Accessed 21 May 2013]

Smith, B.C., 1996. *Understanding Third World politics: Theories of political change and development*. London: MacMillan Press Ltd.

Smith, B.C., 2007. *Good governance and development*. Basingstoke: Palgrave Macmillan.

Smith, D., Sorosel G., 2012. *Malawi president Bingu wa Mutharika condemns Mugabe comparison*. [Online] Available: <http://www.guardian.co.uk/world/2012/feb/15/malawi-leader-denies-new-mugabe>. [Accessed 5 July 2013]

Smith, G., 2009. *Democratic innovations: Designing institutions for citizen participation*. Cambridge, New York: Cambridge University Press.

Smith, R. K. M., 2010. *Textbook on international human rights*. 4th ed. New York: Oxford University Press.

Sonani, B., 2005. Bingu resigns from UDF, Bakili back from Mozambique. [Online] Available: <http://groups.yahoo.com/group/MALAWIANA/message/2024>. [Accessed 20 August 2012]

South African Institute of International Affairs, 2008. *Malawi's Young Democrats: A view from inside the ranks*. [Online] Available: <http://www.saiia.org.za/archive-eafrica/malawis-young-democrats-a-view-from-inside-the-ranks>. [Accessed 8 November 2012]

South African Parliament, 2012. *The oversight role of the two Houses of Parliament*. [pdf] Available: <http://www.parliament.gov.za/live/content.php>? [Accessed 13 August 2013]

Southall, B., Melber, H., 2006. *Legacies of power: Leadership change and former presidents in African politics*. Cape Town: HSRC Press.

Sparrow, A., 2012. *Developing a model of participatory democracy*. [Online] Available: <http://www.democracyinprinciple.com/blog/developing-a-model-of-participatory-democracy>. [Accessed 11 February 2015]

Spratt, C., Walker, R., Robinson, B., 2004. *Mixed research methods*. [pdf] Available: <http://www.col.org/SiteCollectionDocuments/A5.pdf>. [Accessed 20 August 2012]

Stangor, C., 1998. *Research methods for the behavioural sciences*. Boston, New York: Houghton Mifflin Company.

Stanley N.K., 1988. The strange birth and unlikely history of constitutional equality. *The Journal of American History*. Vol. 75 (3), pp. 747-762.

Stapenhurst, R., 2007. *Accountability in governance*. [Online] Available: <http://siteresources.worldbank.org/pubicsectorandgovernance/Resources/AccountabilityGovernance>. [Accessed 21 February 2015]

Stapenhurst, R.; Johnston, N.; Pellizo, R., 2006. *The role of parliament in curbing corruption*. [pdf] Available: <http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/The%20Role%20of%20Parliament%20in%20Curbing%20Corruption.pdf>. [Accessed 26 February 2015]

Still, W.J., 1981. Political equality and election systems. Special Issue: *Symposium on the theory and practice of representation*. vol.91 (3), pp. 375-394.

Stoker, G., 2006. *Why politics matters: Making democracy work*. New York: Palgrave, Macmillan.

Strauss, A.L., 1987. *Qualitative analysis for social scientists*. Cambridge: Cambridge University Press.

Strom, K., Muller, W.C., Bergman, T., 2003. *Delegation and accountability in parliamentary democracy*. Oxford New York: Oxford University Press.

Sturges, P., 1998. The political economy of information: Malawi under Kamuzu Banda, 1964-1994. *International Information and Library Review*. Vol. 30 (1), pp.185-201.

Svasand, L., 2011. *Financing elections in Malawi: Between national progress and the international community*. [Online] Available: <http://www.tandfonline.com/doi/pdf/10.1080/00344893.2011.615548>. [Accessed 05 March 2015]

Tangri, R., 1969. The rise of nationalism in colonial Africa: The case of colonial Malawi; *Comparative studies in society and history*. Vol. 10 (2), pp.142-161.

Tangri, R., 2009. Colonial and settler pressures and the African move to the politics of representation and union in Nyasaland. *The Journal of African History*. Vol. 13 (1), pp.291-304.

Teddlie, C. and Tashakkori, 2009. *Foundations of mixed methods research: integrating quantitative and qualitative approaches in the social and behavioral sciences*. London: Sage

The Guardian, 2011. *Malawi protesters killed during anti-regime riots*. [Online] Available: <http://www.guardian.co.uk/world/2011/jul/21/malawi-protesters-killed-anti-regime-riots>. [Accessed 13 July 2013]

Thindwa, E., 2014. *Analyst calls for presidential powers cut*. Available: <http://www.capitalradiomalawi.com/index.php/component/k2/item/738-analyst-calls-for-presidential-powers-cut>. [Accessed 3 April 2014]

Thomas, J., 1784. *Separation of powers: Notes on the state of Virginia*. [Online] Available: <http://press-pubs.uchicago.edu/founders/documents/v1ch10s9.html>. [Accessed 13 October 2011]

Thomassen, J., 1994. *Empirical research into political representation: Failing democracy or failing models?* [pdf] Available: <http://doc.utwente.nl/3536/1/K3536.PDF>. [Accessed 16 June 2012]

Thomson, H., 2014. *Thomson to advocate for the reduction of presidential powers*. [Online] Available: <http://www.nyasatimes.com/2014/03/21/thomson-to-advocate-for-reduction-of-presidential-powers>. [Accessed 3 April 2014]

Thomson, S., 2006. *Government corruption in criminal law*. [Online] Available: <http://voices.yahoo.com/government-corruption-criminal-law-95875.html>. [Accessed 11 September 2012]

Torfin, J.B., Peters, G., Pierre, J., Sorensen, E., 2012. *Interactive governance: Advancing the paradigm, measuring governance*. Oxford: Oxford University Press.

Transparency International, 2013. *Corruption Perception Index-Malawi*. [pdf] Available: [www.ey.com/Publication/vwLUAssets/2012_TI_CPI/\\$FILE/2012%20TI%20CPI.pdf](http://www.ey.com/Publication/vwLUAssets/2012_TI_CPI/$FILE/2012%20TI%20CPI.pdf). [Accessed 26 March 2014]

Transparency International, 2013. *Malawi: National Integrity System Assessment Report*. [pdf] Available: http://aiccafrica.org/downloads/Malawi_National_Integrity_System_Assessment_Report_2013.pdf. [Accessed 26 March 2014]

Transparency International, 2014. *Corruption Perception Index*. [Online] Available: <http://www.transparency.org/country#MWI>. [Accessed 8 February 2015]

Trochim, W.M., Donnelly J.P., 2007. *Research methods knowledge based*. 3rd ed. New York: Custom Publishing.

Tulchin, J.S., Brown, A., 2002. *Democratic governance and social inequality*. London: Lynne Rienner Publishers.

Turley, J., 2011. First past the post. *The Journal*. Issue 47 (1), p.1. Available: <http://www.journal-online.co.uk/article/7639-av-a-closer-look>. [Accessed 17 June 2012]

Turner, M., Hulme, D., 1997. *Governance, administration and development: Making the state work*. London: MacMillan Press Limited.

Unifem, 2015. *Vertical and horizontal dimensions of accountability*. [Online] Available: http://www.unifem.org/progress/2008/vs_who2.html#vstats. [Accessed 29 January 2015]

United Nations Development Programme, 2010. *Fostering Social Accountability: From Principle to Practice*. [PDF] at: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/OGC/dg-ogc-Fostering%20Social%20Accountability-Guidance%20Note.pdf> [Accessed 08 June 2015]

United Nations Development Programme, 2013. *Reflections on accountability: Catalysing democratic governance to accelerate progress towards the Millennium Development Goals*. [pdf] Available: http://www.undp.org/content/dam/undp/documents/partners/civil_society/publications/2013_UNDP_Reflections-on-Social-Accountability_EN.pdf.

[Accessed 26 February 2015]

United Nations Development Programme, 2014. *Fostering social accountability: From Principle to Practice*. [pdf] Available: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/OGC/dg-ogc-Fostering%20Social%20Accountability-Guidance%20Note.pdf>.

[Accessed 05 February 2015]

United Nations, 1948. *Human Rights Charter*. [Online] Available: <http://www.un.org/en/documents/udhr/index.shtml>. [Accessed 25 August 2012]

United Nations, 2000. *Human Rights Index*. [Online] Available: <http://www.universalhumanrightsindex.org>. [Accessed 21 November 2010]

United Nations-ESC., 2006. *Definition of basic concepts and terminologies in governance and public administration*. [pdf] Available: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan022332.pdf>.

[Accessed 23 February 2015]

United Nations-ESCAP., 2013. *What is Good Governance?* [Online] Available: <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>. [Accessed 25 July 2012]

Vail, L., White, L., 1983. Forms of resistance: Songs and perceptions of power in colonial Mozambique. *The American historical review*. Vol. 88 (4), pp.883-919.

Vanhanen, T., 2000. A New dataset for measuring democracy. *Journal of Peace Research*. Vol. 37 (2), pp.251-265.

Verkuilen, J., Munck, G.L., 2002. *Conceptualising and measuring democracy: Evaluating alternative indices*. [Online] Available: <http://cps.sagepub.com/cgi/content/abstract/35/1/5>. [Accessed 06 May 2011]

Virmani, K.K., 1992. *Dr. Banda: In the making of Malawi*. Dehli: Kalinga Publications.

Vogt, W.P., 2011. *Quantitative research methods*. [E-Book] London: SAGE

Voice of America, 2009. *Malawi Ex-President Muluzi gives up comeback bid, backs another candidate*. [Online] Available: <http://www.voanews.com/content/a-13-2009-04-27-voa2-68823682/413695.html>. [Accessed 17 November 2012]

Wahman, M., Chapman, D., 2015. *The persistent and increasing problem of unequal representation in Malawi: A statistical argument for redistricting*. [Online] Available: <https://www.academia.edu/8305927/>. [Accessed 19 March 2015]

Waldner, D., 2004. *Democracy and dictatorship in post-colonial world*. [pdf] Available: <http://people.virginia.edu/~daw4h/Waldner%20PandS%20Manuscript.pdf>. [Accessed 06 February 2015].

Walker, E.A., 1928. *A history of South Africa*. [pdf] Available: <http://dspace.gipe.ac.in/jspui/bitstream/1/9223/2/GIPE-007615-Contents.pdf>. [Accessed 29 Jun 2012]

Walle Van den, N., Butler, K., 1999. Political parties and party systems in Africa's illiberal democracies. *Cambridge Review of International Affairs*. Vol. XIII (1), pp.1-25.

Walliman, N., 2006. *Social research method*. London: Routledge.

Walsh, T., 2009. *Building a Culture of Accountability*, [pdf] Available: http://www.grenell.com/pdfs/articles/Aug09_Accountability.pdf. [Accessed 02 Jun 2015]

Wamala, E., 1980. *The social-political philosophy of traditional Buganda society: Braeks and continuity into the present*. [Online] Available: http://www.crvp.org/book/Series02/II-2/chapter_ii.htm. [Accessed 14 June 2013]

Warren, S., 2008. ALP Country Report – Zambia, *African Legislatures Project*, [Online] Available: <http://www.cssr.uct.ac.za/sites/cssr.uct.ac.za/files/Zambia%20Country%20Report%20Final.pdf> [Accessed 14 June 2012]

Wayne, R.S., 1984. *Law-making in Connecticut: The General Assembly*. [Online] Available: <http://www.cslib.org/legtutorial/onw03/01onw03d.htm>. [Accessed 22 May 2013]

Weiwei, A., 2009. *Our duty is to remember Sichuan*. [Online] Available: <http://www.theguardian.com/commentisfree/2009/may/25/china-earthquake-cover-up>. [Accessed 20 February 2015]

Wesley, J.J., 2010. *Qualitative document analysis in political science*. [pdf] Available: <http://home.cc.umanitoba.ca/~wesley/Wesley3.pdf>. [Accessed 27 February 2012]

Whaites, A.; Flecha, N.N., 2015. *Building more effective, accountable, and inclusive institutions for all*. [Online] Available:

<http://www.oecd.org/dac/ POST-2015%20effective%20and%20accountable%20institutions>. [Accessed 29 March 2015]

William, P., 1778. *Unlimited power is apt to corrupt the minds of those who possess it*. [Online] Available: <http://www.phrases.org.uk/meanings/absolute-power-corrupts-absolutely.html>. [Accessed 10 October 2012]

William, R.H., 2002. *Knowledge and power: the essential connection between research and the work of legislature*. Brussels: European Centre for Parliamentary Research and Documentation.

Williams, T. D., 1978. *Malawi the politics of despair*. Ithaca and London: Cornell University Press.

Willimon, B., 2013. *Screenwriter Beau Willimon talks House Of Cards: The screenwriter on his political drama*. [Online] Available: <http://www.empireonline.com/interviews/interview.asp?IID=1639>. [Accessed 10 February 2015]

Wiseman, J.A., 1999. *Assessing the outcomes of the democratic transition in Malawi*. [pdf] Available: <http://ecpr.eu/Filestore/PaperProposal/6f8edc09-6370-49c4-8929-47b0891985d7.pdf>. [Accessed 08 February 2015]

Wishlade, R.L., 1961. Chieftainship and Politics in the Mlanje District of Southern Nyasaland. *Africa: Journal of the International African Institute*. Vol. 31 (1), pp.36-45.

Wolfgan, C., Muller T.B., Kaare, S., 2000. *Parliamentary democracy: Promises and problems*. [Online] Available: <http://fds.oup.com/www.oup.com/pdf/13/9780198297840.pdf>. [Accessed 14 June 2011]

Wondwosen, T., 2009. Opposition parties and the politics of opposition in Africa: A critical analysis. *International Journal of Human and Social Sciences*. 4 (5), p.287.

Woods, N.D., Baranowski, M., 2006. Legislative professionalism and influence on state agencies: The effects of resource and careerism. *Legislative Studies Quarterly*. 31 (4), pp.585-609.

World Bank, 2013. *Demand for good governance*. [pdf] Available: http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1193949504055/DFGG_WB_Conceptual_Evolution.pdf. [Accessed 23 February 2015]

World Governance Index, 2011. *Africa Regional Index*. [Online] Available: http://www.worldgovernance.org/IMG/pdf_WGI_short_version_EN_web-2. [Accessed 27 July 2013]

Wright, M., 1969. German East Africa Tanganyika under German rule. *The Journal of African History*. 10 (3), pp.499-501.

Yamamoto, H., 2007. *Tools for parliamentary oversight: A comparative study of eight national parliaments*. [pdf] Available: <http://www.ipu.org/PDF/publications/oversight08-e.pdf>. [Accessed 16 March 2012]

Yin, R.K., 2009. *Case study research: Design and methods*. 4th ed. London: Sage Publications.

Young, D.J., 2009. *Is clientelism at work in African elections? A study of voting behaviour in Kenya and Zambia*. [Online] Available: http://www.afrobarometer.org/files/documents/working_papers/AfropaperNo106. [Accessed 03 Mar 2015]

Yuliani, E.L., 2004. *Decentralization, deconcentration and devolution: what do they mean?* [Online] Available: <http://www.cifor.cgiar.org/publications/pdf>. [Accessed 21 December 2012]