Journal of Development and Communication Studies, Vol. 9. No.1, January-June, 2025
ISSN (Online & Print): 2305-7432. http://www.devcomsjournalmw.org

Courts and Freedom of the Press in Malawi 1994-2008

Emmanuel BZ Kondowe, Foundation for Information and Communication Technology and Media Literacy (FICTMEL), Malawi. Email: ezumanikondowe@gmail.com

Abstract

The media are an integral part of functioning democracies. They provide information that citizens need to make informed decisions. Unfortunately, the environment in which they operate is fraught with challenges. On occasions they have been taken to court by individuals and institutions on allegations of defamation. Courts have usually sided with the plaintiffs and awarded them damages that have led to the crippling or folding of media enterprises. This article examines the role the courts have played in Malawi as the last line of defence for the promotion and defence of press freedom since the advent of multiparty democracy in 1994. The findings show that, except in very isolated instances, the courts in Malawi have not been able to strike a proper balance between freedom of the press and private individual or corporate rights. Courts have mostly tended to view the media negatively and the intention of some judicial officers seems to have been to teach the media lessons.

Keywords: *democracy, freedom of the press, defamation*

© 2025. The authors. This work is licensed under the Creative Commons Attribution 4.0 International License (CC-By-NC-ND). Users may freely share and redistribute this work provided that the author and the Journal of Development and Communication Studies are fully acknowledged. Users may not tweak or remix and offer this work for sale. The full license may be accessed at https://creativecommons.org/licenses/by-nc-nd/4.0/

To cite this article: Kondowe, E.B.Z. (2025), **Courts and Freedom of the Press in Malawi 1994-2008**, *Journal of Development and Communication Studies, 9(1)*

Introduction

Like many other constitutions that are a product of changes relating to governance which have taken place in Africa over the past fifteen years, the Constitution of the Republic of Malawi guarantees press freedom[1]. In addition to the guarantee of freedom of the press, the Constitution also guarantees every person the right to freedom of expression[2].

---

[1] Section 36 provides that: *The press shall have the right to report and publish freely within Malawi and abroad and to be accorded the fullest possible facilities for access to public information.*

[2] Section 35 states that: *Every person shall have the right to freedom of expression.* However, freedom of expression is not one of the rights under s.44. That section lists rights to which the only limitations and restrictions are:

Press freedom is however not an absolute right. The implication is that its exercise can be challenged by those who feel that their rights have been violated by journalists or a media house. Such challenges are usually made through the courts which then have to make decisions based on law. Some of these decisions have led to the folding or shutting down of newspapers or radio stations.[3] Ultimately, this has had a negative impact on democratisation and good governance.

Background

The fact that Malawi is a multiparty democracy means that the way people are governed has to be in line with democratic standards. These standards are reiterated by the supreme law of the land, the 1995 Constitution of the Republic of Malawi[4].

As stated in the introduction, one of the standards set down by the Constitution is freedom of expression. The media is one way through which citizens exercise freedom of expression. It is generally accepted that the media is a torch-bearer of democracy. Its mission is to report everything that happens and reveal violations of the fundamental principles of humanity. The media reports on what it has seen and learned in order to fulfil citizens' basic need for information.

Freedom of expression implies unhindered communication. Nature, whether considered from the scientific point of view relating to evolution or from the point of view of creation by the Christian God, is a convenient starting point when discussing unhindered communication. Nature has not set down any regulations as to what one can say or not say or even how he or she can say it. Section 36 of the Constitution could thus be seen as one way consolidating unhindered communication in Malawi.

Emerson (1977) states that in life a person looks forward to the realisation of his character and potential. In that quest, a free mind is a very important component of self-realisation. Furthermore, man needs to be able to search for truth and express it so as to fulfil his right of sharing the common decisions that affect him in society.

Freedom of expression is essential for advancing knowledge and discovering truth (Emerson, 1977). In that connection, to enhance intelligent individual judgement and rational social judgement, individuals and society need to be exposed to both sides of any argument, to consider all possibilities and weigh their views against those of others and benefit from the same community (Emerson, 1977). Individuals, Emerson, argues further, must have freedom of expression in order to exercise their right of consent to be governed since governments derive their just powers from the consent of the governed. Chanda (1998) advances similar thinking. He observes that freedom of expression serves the following broad purposes: it enables an individual to attain self-fulfilment; it aids in the discovery of truth; it improves the ability of an individual to effectively take part in the discussion,

---

Those prescribed by the law, which are reasonable, recognised by international human rights standards and necessary in an open and democratic society.

[3] One of the reasons *The Democrat*, among other newspapers, went out of publication was probably the defamation suit brought against it by Sam Mpasu then Minister of Education, Science and Technology.

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

implementation and planning of activities in a democratic society and provides a mechanism for establishing an acceptable balance between stability and social change.

UNESCO (2002) argue that information and communication are major issues in the world today. They are central to socio-political discourse not only because they affect development and peace but also because they contribute to the construction of a more just society by empowering communities and citizens so that they participate effectively in the democratic process.

The issues outlined above serve to emphasise the importance of press freedom in society. When people are adequately informed they understand issues that affect their lives better. Not only that, people can also better participate in the discourse of their society and thus contribute to positive social, economic and political development of those societies. Safeguarding and promoting that freedom thus needs to concern all institutions whose mandate relates to creating an environment that is conducive to the safeguard of human rights, and social, economic and political development. One such institution is the Judiciary through the courts.

Problem statement

The nature of the work of a journalist is such that he or she might easily find himself or herself in conflict with different people, including, politicians, and other people in positions of authority. Since such conflicts usually lead to litigation, the courts have had to be the last line of defence for press freedom. An examination of their performance in that role would be one way of assessing the extent to which they have contributed to the promotion of freedom of the press.

Questions

The central question that the study sought to answer pertains to the impact the courts have had on freedom of the press in Malawi. Answering this question required that the study address the following specific questions:

- What type of cases have been brought against journalists or news media organisations?
- What kind of views have been expressed by the courts, in their judgements, regarding the media?
- To what extent does compensation to plaintiffs show appreciation by the courts of the importance of freedom of the press?
- To what extent do journalists and other people in the media appreciate the role the courts have played in promoting freedom of the press?

Objectives

The objectives were to:

- Analyse judgements that have been made in cases relating to freedom of the press.
- Establish the extent to which courts have contributed to the promotion of freedom of the press.
- Make recommendations for strengthening the role of the courts in promoting freedom of the press.

Methodology

The principal method of gathering data was legal research. Decided cases were examined from the point of view of promotion of freedom of the press. In addition to that, views of some senior journalists and managers in the media industry were sought regarding the role the courts have played in promoting press freedom. Individuals were emailed a question on the issue. Follow-up emails were sent where responses had not been received.

It is important to assess how the courts have dealt with cases that have been brought against the media or what the courts think about the media because the media in Malawi has played an important role in shaping Malawi's democracy.

Also worth noting is the fact that there is not much that has been done in Malawi to examine the impact of decisions of the courts on freedom of the press. The study therefore intended to contribute to addressing a need in this particular area.

Scope of the Study

The cases that were analysed are those that went before the courts between 1994 and 2008. The rationale for restricting the study to that timeframe was that it covered the period during which Malawi had been in a multi-party system of government. One of the benchmarks of such a system is the extent to which there is respect and promotion of various freedoms and freedom of the press is one such freedom.

Limitation

This research was limited by the number of decided cases that the author was able to access. There are probably a good number of decided cases that have not been discussed in this dissertation because they could not be accessed due to the fact that they have not yet been published in the *Malawi Law Reports* or they are difficult to obtain from the courts where they were decided. The difficulties of accessing legal information generally is well documented (see Africa Governance Monitoring Programme, 2006). In that connection, it should also be stated that the findings in this study are necessarily confined to the cases that have been examined here.

Freedom of the press is provided for in the Constitution of Malawi but does not fall under those rights to which there can be no derogation. Thus journalists or news media that have found themselves in conflict with private or public individuals or institutions due to the exercise of freedom of the press have had the courts as their last line of defence. The study sought to assess the performance of the courts in that role by answering questions relating to the type of cases brought against the media, the views expressed by the courts regarding the media, the compensation to plaintiffs and the views of the media fraternity regarding performance of the courts.

Literature review

As will become apparent when decided cases are examined later in the discussion, most of the litigation relating to press freedom in Malawi involves suits for defamation. While literature on the question of defamation is available, there is paucity regarding literature specifically examining the

role of the courts in promoting press freedom. The little that the study has been able to identify is reported here.

Acknowledgement of the importance of freedom of the press

Discussing the depiction of the press by the US Supreme Court, Jones (2014) observes that during the Glory Days of the 1960s, 1970s and early 1980s, the Court went to great lengths to speak about the press and praised the media in its opinions. During that time the press was presented as an educator, a dialogue builder and a watchdog. The characterisation was such that even when presented with evidence of unethical press behaviour, the Court would always overwhelmingly positively characterise the press. A few decades down the line the state of affairs had changed as while the earlier era featured a Court that appeared to be going out of its way to hear cases implicating the press and then going out of its way to engage in lengthy positive characterisations of the press, the era that followed showed the opposite. Jones (2014:261) notes that "When the Court does reach out to speak of the press and to offer a characterization of it, the tone and quality are in diametric opposition to what was seen in the earlier era.

In a discussion of the role of the organised press such as daily newspapers and other established media in the system of government created by the Constitution of the United States of America, Stewart (1975:636) observes that while it is true that the media are sometimes outrageously abusive, untruthful, arrogant, and hypocritical "it hardly follows that elimination of a strong and independent press is the way to eliminate abusiveness, untruth, arrogance, or hypocrisy from government itself."

Commenting on the Zambian case of *Sata v Post Newspapers Ltd*[1] Evan Ruth of Article 19 observes that:

The distinction which the court purported to draw, between public conduct and private behaviour, is also potentially problematic as it is not always easy to draw such a line; and even if it was, experience shows that the private behaviour of public officials can adversely impact on the performance of their public role, making it imperative for the media to be able to comment freely on public officials as long as it is in the public interest.

Litigation against the news media

Regarding the common law offence of defamation, Hanekom observed that in some of the judgements plaintiffs were awarded huge amounts of damages and that in none of the cases in which the judiciary had held the virtues of freedom of speech in high regard was the issue of press freedom specifically addressed.

Discussing the issue of imposition of sanctions in defamation cases, Docherty (2008) observes that in some cases where the courts have found a defendant guilty of defamation, they have recognised that imposition of sanctions would be near detrimental to freedom of expression. The author cites the case of *Tolstoy Miloslavsky v the United Kingdom*[2] in which the European Court of Human Rights (ECHR) ruled that excessive damages violated Article 10 of the Convention. The facts of the case were that Count Nikolai Tolstoy Miloslavsky had published and distributed pamphlets that accused a school warden of war crimes because he had transferred Yugoslavian prisoners of war to Soviet and Titoist forces after World War II where they were subsequently massacred or sent to labour camps. The ECHR ruled that an award of £1.5 million pounds did not meet the test of proportionality and unnecessarily interfered with freedom of expression.

Manda (2007) argues that the spirit of crusading journalism is no longer there in the media in Malawi due to court cases the media have had to answer during the first five years of Malawi's multiparty democracy. He notes that newspapers such as *The Democrat* and the *Chronicle,* who had tried to practice meaningful investigative journalism, found themselves facing the wrath of the law of defamation.

There is a marked paucity of literature on the role of courts in promoting freedom of the press. The little that has been cited here gives the picture that there is a general understanding that the courts need to do more in order to promote freedom of the press.

Case Law

It is worthwhile, before proceeding, to review decided cases in Malawi in which the media was pitted against individuals, organisations or indeed government, to briefly look at how courts in other democracies deal or have dealt with freedom of the press.

Foreign Case Law

In the English case of *Keays v Guardian*[3] Newspapers the plaintiff filed a suit for libel against the defendants following the publication of a comment in the *Observer* newspaper to the effect that the plaintiff had craftily, calculatingly and callously used her vulnerable and handicapped daughter to exact revenge on the daughter's father Lord Cecil Parkinson.

The brief facts of the case were that Miss Sara Keays gave birth to a daughter, Flora, whose father was Mr Cecil Parkinson as he was known then. Unfortunately, Flora suffered brain damage at a very tender age. Her father, who she had never met, had always provided for her financially. At one point an injunction was granted against Miss Keays restraining her from discussing or communicating information about Flora. Such remained the state of affairs until the daughter's 18th birthday when Keays, on several occasions, engaged in a lot of publicity about her child. The *Observer* published a comment on the issue surrounding Miss Keays and her daughter and it was because of the comment that she had filed a suit against the paper. The court's view was to the effect that Miss Keays should have known that by widely publicising issues relating to her child and Lord Parkinson, she had also exposed herself to public comment and scrutiny. The court stated that:

Anyone who chooses to enter the public arena invites comment and often this will include scrutiny of and comment about motives. Such persons cannot expect as of right to be taken at face value. It is sufficient protection in such circumstances for personal reputation that any adverse comments should be made in good faith, and that the words should be subjected, at the appropriate stage, to the objective test of whether the inferences or deductions could be drawn by an honest person with the knowledge of the facts.

In the English case of *Mosley v News Group Newspapers Ltd*[4] the court was unwilling to extend the application of exemplary damages. In that case the plaintiff sued the defendants over the publication of a story and pictures which conveyed the message that he was an amoral individual who liked to play sex games. The articles was titled "F1 Boss has sick Nazi Orgy with 5 Hookers". The court stated that:

It is necessary, therefore, to afford an adequate financial remedy for the purpose of acknowledging the infringement and compensating, to some extent, for the injury to feelings, the embarrassment and distress caused. I am not persuaded that it is right to extend the application of exemplary (or punitive) damages into this field or to include an additional

element specifically directed towards "deterrence". That does not seem to me to be a legitimate exercise in awarding compensatory damages.

In the South African case of *Fred Khumalo and others*,[5] the appellants applied for leave of appeal against the dismissal of an exception by the Transvaal High Court. The respondent was a well-known South African politician and leader of a political party, who was suing the applicants, publishers of the *Sunday World,* for defamation. An article in that paper had reported that the respondent had been involved with a gang of bank robbers and that he was under police investigation. The importance of the media was firmly stated as follows:

The importance of the right of freedom of expression in a democracy has been acknowledged on many occasions by this Court, and other South African courts. Freedom of expression is integral to a democratic society for many reasons. It is constitutive of the dignity and autonomy of human beings. Moreover, without it, the ability of citizens to make responsible political decisions and to participate effectively in public life would be stifled.

The print, broadcast and electronic media have a particular role in the protection of freedom of expression in our society. Every citizen has the right to freedom of the press and the media and the right to receive information and ideas. The media are key agents in ensuring that these aspects of the right to freedom of information are respected.

The court laid emphasis on the fact that in a democratic society the importance of the role of the mass media was undeniable. The information and the platform which they provide for the exchange of ideas is crucial to the development of a democratic culture. The court observed that scrupulous and reliable media in the performance of their constitutional obligations invigorate and strengthen fledgling democracies while unscrupulous and unreliable media imperil constitutional goals.

The court however observed that *"although freedom of expression is fundamental to our democratic society, it is not a paramount value. It must be constructed in the context of the other values enshrined in our Constitution. In particular, the values of human dignity, freedom and equality".*

The Court in the Khumalo Case also drew attention to the following issues:

- The need to strike a balance between constitutional interests of both plaintiffs and defendants.
- That persons in public office have a 'compromised' right to privacy.
- The defence of reasonable publication encourages editors and journalists to act with due care while not preventing them from publishing when it is right to do so.

Apart from the English case of *Mosley v News Group Newspapers* (see 3.2) where the court was unwilling to grant exemplary damages, there have been other triumphs for the media. For example on April 28, 2004 the Lagos Magistrate Court sitting in Yaba in Nigeria struck out the case of conspiracy, sedition, and criminal defamation preferred against three editors of *Insider Weekly* Magazine brought by the Lagos State Commissioner of Police.

The editors, and 'others at large', were accused of conspiring to effect an unlawful purpose, namely the publication of a seditious matter against the Vice President Atiku Abubakar and the National Security Adviser, General Aliyu Muhammed Gusua, Rtd. They were thereby deemed to have committed an offence punishable under Section 518 (6) of the criminal code, Cap. 77, Laws of the Federation of Nigeria, 1990.

They were also accused of publishing a seditious publication and thereby committing an offence punishable under Section 51 (1) (C) of the criminal Code, Cap. 77, Laws of the Federation of Nigeria.

The third count stated that they published a defamatory matter in the form of a Magazine against the Vice President of the Federal Republic of Nigeria, His Excellency, Alhaji Atiku Abubakar and the National Security Adviser, General Aliyu Mohammed Gusau, Rtd. knowing the same to be false. They were deemed to have committed an offence punishable under Section 375 of the Criminal Code, Cap. 77, Laws of the Federation of Nigeria, 1990.

Following 4 adjournments occasioned by the absence of prosecution counsel and prosecution witnesses, the court struck out the case for lack of diligent prosecution.

Malawi Case Law

Like elsewhere, as shown by the cases reviewed in section 12.2 above, the media in Malawi have been sued and will most likely continue being sued. The decisions in most Malawian cases have been against the media.

Negative outcomes against the media

In *Rev. L Chikhwaza and others v Now Publications*[6] the defendant published an article titled "Pastors in money scam. Crusade Brings Greed in Pastors" on the front page of the defendant's paper, *The Independent* of 8 – 14th May, 1998. The news item alleged that the three plaintiffs had split K20, 000.00 among themselves, money which was meant to be shared by all Pastors who had participated in the crusades. The money was said to have been donated by Rev. Earnest Angley of Global Ministries in Kansas in the United States of America.

The plaintiffs had obtained an interlocutory default judgement. The claim was for general & exemplary damages for libel. The plaintiffs averments were not challenged neither was the letter from the Director of Earnest Angley Crusade which was tendered as an exhibit in court.

The evidence in relation to the assessment was also not challenged. The Court found the paper liable and awarded damages of K50, 000.00 each to the three plaintiffs.

In *Viva Nyimba v UDF News*[7] the plaintiff made a claim against the defendants for damages for libel published in the *UDF News* of May 1996. The plaintiff was at the time a legal practitioner and a legal advisor to the President of the Alliance for Democracy (a political party) who was also a former Second Vice President of the Republic of Malawi, Mr Chakufwa Chihana.

The paper is alleged to have published news on its front page to the effect that the plaintiff was aiding Chakufwa Chihana in his plans to destabilise the country. The defendants, through their legal practitioners, conceded liability consequently a consent judgment was entered for the plaintiff. Damages of K80, 000.00 were awarded to the plaintiff.

In *Ziliro Chibambo v Editor-in-Chief of the Daily Times and others*[8], the plaintiff, then Minister of Natural Resources in the Malawi Government, brought a suit against the defendants alleging that they had published an article in the *Daily Times* of 11 December 1996 to the effect that he had been involved in a fight with a Mr Thupi, a prominent businessman whom he owed money.

Based on the evidence adduced, the Court was convinced that it was Mr Thupi who had been provocative and who had behaved in a dishonourable manner and the defendants had gone out of their way to please Mr Thupi and at the same time, had hurt Mr Chibambo who was innocent. It was the view of the court that the defendants had not successfully established the defence of justification.

In passing judgement the court stated that: " *...a newspaper which writes a story that tends to damage the character or reputation of a person holding public office, must, just like any other ordinary person justify it or successfully establish the a defence of fair comment. Failure to do so will undoubtedly attract liability".*

In the case of *Rev. Emmanuel Chinkwita v News Day*[9] the subject matter of the action was libel which the defendant allegedly published in his newspaper of August 15 – 21, 1996 Volume 1 Number 4 in an article headed "Interpol Investigates Chinkwita's drug deal." It was stated in that article that Interpol were investigating allegations concerning Reverend Emmanuel Chinkwita's drug deals in Mozambique.

In passing judgement the court stated as follows:

"*There has been a spate of actions against newspapers for libel in recent months and newspaper editors and their reporters must be wondering what freedom of the press, of expression and of opinion which is guaranteed under Chapter IV of the constitution really mean. It is clear that freedom of the press, the right to a free flow of information and the public's right to know, imports freedom to, publish without pre-censorship but subject always to the laws relating to libel, official secrets, sedition and other recognized inhibitions"* .

The court further stated that:

- The law does not prevent publication of material that exposes wrongs in society.
- Reporters and editors, being men of judgement and sense, would be able to recognise the boundary beyond which they cannot go.
- The principle of a free press cannot be countenanced by the law of defamation.
- Newspapers that publish irresponsibly would destroy themselves.

In concluding the case the court stated as follows:

"I must say at once that this was a grave libel perpetrated deliberately and without regard to its truth. The defendant did not care what distress, grief and annoyance they caused to the plaintiff. He is a clergyman and a diplomat and the defendant's conduct, no doubt, was designed to disparage him in his calling and office. They acted with impunity and in a malicious manner".

The court then went on to state that in its opinion the case justified a large award of compensation as damages.

In *Khembo v Weekly Chronicle Newspaper*[10] the plaintiffs claim against the defendant was for damages for libel contained in an article entitled "NASME swindles over K250,000" published by the defendant on page 1 of *The Weekly Chronicle* Volume 3, Number 65 of November 13 to November 19, 1995. The plaintiff had also claimed costs of this action. The plaintiff obtained an interlocutory default judgement against the defendant on 5 December 2001 for damages to be assessed and for costs of the action. Thus hearing was for the assessment of damages. Only one witness testified, the plaintiff himself. The defendants, despite being duly served, were not in attendance. The assessment therefore, proceeded in the absence of the defendants.

The evidence of the plaintiff, which the court said was undisputed, was that he was the founding Chairman of the National Association of Small and Medium Enterprises (NASME) the subject of the alleged libellous article and that because of that article his reputation went down and his picture changed among the donor community where he used to source funds for the organisation as well as the banks with which he interacted because of his personal business. It was his further testimony that even the President of the country had invited him twice to discuss the said article and that all his friends looked at him as a swindler.

In *Ngwira v the Editor of the Daily Times*[11] the plaintiff claimed for exemplary damages for libel arising from material published in the *Daily Times* of 21 September 1999. The plaintiff was at the material time the Regional Commissioner for Lands and Valuation for the Central Region. The first defendant was Editor of the *Daily Times* newspaper and the 2nd defendant was the printer of paper.

The plaintiff was alleged to have connived with a contractor to inflate the value on an invoice so that the contractor would share the money with plaintiff. The defendants pleaded fair comment on a matter of public interest. The defendants and their lawyer did not come to court to continue the case. So, judgement was entered on behalf of the plaintiff.

In *Ndovi v UDF News Ltd*[12] the plaintiff sued the defendant for damages for libel for publication contained in the *UDF News* of February 27 – March 1997. The defendants were publishers of *UDF News* and on page 6 of the issue in question the defendants allegedly published the article titled "The Real Victor Ndovi" whose content was defamatory of the plaintiff.

The judge restated what he had stated in *FA Mlombwa, t/a Umodzi Transport v Gotani Transport,* namely that:

"*...the right of each man, during his lifetime to the unimpaired possession of his reputation and good name is recognised by law. Reputation depends on opinion, and opinion in the main depends on the communication of thought and information from one man to another. He, therefore, who directly communicates to the mind of another, untrue and likely in the natural course of things substantially to disparage the reputation of a third person is, on the face of it, guilty of a legal wrong, for which the remedy is an action of defamation".*

In *Sam Mpasu v The Democrat and others*[13] the plaintiff, Sam Mpasu alleged that he had been defamed by articles which appeared in *The Democrat* issues of 7 October 1994, 21 October 1994 and 26 May 1995. The defendants denied having defamed the plaintiff in anyway arguing that what they had published about and concerning the plaintiff had been entirely true and justified. The facts of the case were that following the newly elected government's pledge to introduce free primary education, Sam Mpasu, as Minister of Education had purchased very expensive notebooks from Fieldyork International thereby making government lose millions of Malawi Kwacha.

In deciding the case for the plaintiff Justice Kumitsonyo stated that:

"*I am convinced that, in the instant case, the defendants published the articles conscious of the fact that the contents were false and that they had no solid foundation in the truths of the publications. I am further convinced that the articles were published with the cynical and calculated intention to use them for what they were worth, on the footing that they would produce more profit than any possible penalty in damages was likely to be".*

As it turned out, the so-called profit was unable to keep the paper in circulation and it was forced to close for lack of resources perhaps indicating that the issue of profit stated by the judge was probably a mirage.

In the case of *Malawi Housing Corporation and others v Tribute Newspapers and others*[14] the plaintiffs commenced an action against the defendants for libel. They averred that the defendants published a series of articles that falsely and maliciously accused them of impropriety, maladministration, dishonesty, criminal activities, receiving kickbacks, misuse and abuse of official motor vehicles.

It was alleged by the plaintiff that the defendants had published a news item to the effect that after their investigations, which investigations were prompted by a letter of complaint by the Staff Representative Council at Malawi Housing Corporation (MHC), had revealed that the General Manager was renting out his house to the Corporation instead allocating a Corporation house to a certain employee. The investigations were also said to have revealed that a Corporation Mercedes Benz had been sold at a giveaway price. The Corporation had denied these allegations among others hence the suit.

The Deputy Registrar awarded damages of varying amounts to all three plaintiffs.

In Brown *Mpinganjira v Gwanda Chakuamba and Blantyre Print and Packaging Ltd.,*[15] the applicants, Gwanda Chakuamba and Blantyre Print and Packaging sought to have an interlocutory injunction obtained by the plaintiff vacated on the ground that the alleged defamation would be justified at the trial. The injunction was to restrain the applicants from publishing certain statements defamatory of Brown Mpinganjira. The statement related to a government audit report whose aim was to establish the use to which the Migrant Labour Funds received from South Africa had been put. The report alleged abuse of the funds. The plaintiff contended that the contents of the report were not true and added that nowhere in the report was it mentioned that the plaintiff had misappropriated the funds. Justice Hanjahanja dismissed the application to set aside the interlocutory injunction.

Positive outcomes for the media

Not every issue that has gone through the courts has been a loss to the media. There are cases that have been decided in favour of the media or individual journalists. According to the Media Institute of Southern Africa (MISA) Joy FM, a private radio station, which had its licence suspended, resumed broadcasting after a High Court Injunction restrained Malawi Communications Regulatory Authority (MACRA) from revoking its license. MACRA had ordered the station to cease broadcasting on allegations of not complying with the licence agreement and Section 48(7) of the Communications Act which states that:

No broadcasting licence shall be issued to any party, movement, organisation, body or alliance which is of a party-political nature.

The station's lawyer, told MISA Malawi that the High Court judge felt that closing down the station could deprive Malawians of their right to information, which the radio station, as a component of the media, champions. The Director of Broadcasting for MACRA, had told a local newspaper that the station had been closed because it transferred ownership and was effectively in the hands of politicians, contrary to section 48(7) of the Communications Act. According to MACRA, the station was now owned by former Malawian President and national chairman of the opposition United Democratic Front (UDF) Bakili Muluzi; his wife, Patricia Shanil Muluzi; his son, Atupele Muluzi; and a Tanzanian investor.

In another case reported by MISA the Magistrate's Court in Lilongwe acquitted Nation Publications journalist Maxwell Ng'ambi of the charge of providing false information to a public officer. Ng'ambi was arrested on May 17, 2008 at a prison where he was suspected of planning to interview

a former Speaker of Parliament and Minister of Education, Sam Mpasu. The prison authorities handed him over to the police and he was charged with providing false information to a public servant whereby he had allegedly lied that he was related to Mpasu. Senior Resident Magistrate Kettie Nthara said she could not convict Ng'ambi because the Police did not have enough evidence to support the charge.

MISA also reported that on February, 9, 2007, Dickshon Kashoti, a journalist working for Blantyre Newspapers Limited (BNL) was assaulted by a Member of Parliament, Joseph Njobvuyalema, over a story he published about the MP's young brother, Harvey Njobvuyalema. The Lilongwe Magistrate's Court convicted Njobvuyalema for assault.

In yet another case, MISA reported that two journalists Mabvuto Banda and Horace Somanje, who were arrested in 1999 for quoting opposition supporters as encouraging the army to take over the government, were awarded compensation by the Ombudsman for unlawful detention. They were each awarded the equivalent of US$395.

It is apparent from the cases reviewed so far that journalists and the media have sailed in rough waters. Except in very few instances, the courts have invariably found for the plaintiffs.

Issues Emerging from Case Law

The study set out to answer the following questions in order to determine the role of courts in the promotion of press freedom in Malawi since 1994:

- What type of cases have been brought against journalists or news media organisations?
- What kind of views have been expressed by the courts, in their judgements, regarding the media?
- To what extent does compensation to plaintiffs show appreciation by the courts of the importance of freedom of the press?
- To what extent do journalists and other people in the media appreciate the role the courts have played in promoting press freedom?

The type of cases that have been brought against the media

The first question sought to establish the type of cases that have been brought against journalists or the news media?

Based on the 14 Malawian cases analysed in this study, the majority, 10 representing 71.42% of the cases brought against the media concerned a politician, an institution or an ordinary individual claiming to have been defamed by a newspaper. All the 10 cases went against the media. The remainder of the cases concerned arrest of journalists, closure of a radio station and assault on a journalist. In cases relating to arrest of journalists judgement was invariably in the favour of the media. Such was the case mostly because they were instances which violated provisions of some statutes. For example Ng'ambi (see 3.3.2) was not convicted for lack of enough evidence in line with Section 270 of the Criminal Procedure and Evidence Code which states that:

If, at the close of the case for the prosecution or after hearing any evidence in defence, the court considers that the evidence against the accused is not sufficient to put him on his trial, the court shall forthwith order him to be discharged

as to the particular charge under inquiry; but such discharge shall not be a bar to any subsequent charge in respect of the same facts:

It is also noteworthy that some blame needs to be apportioned to the media itself which, to borrow Lwanda's argument, exposed itself to litigation because of inexperience and lack of editorial expertise.

Views of the courts regarding the media

The second question which the dissertation sought to answer was about the kind of views have been expressed by the courts, in their judgements, regarding the media.

The primary aim of this question was to determine the degree of appreciation for the importance of freedom of the press. The picture that emerges is that the judicial officers in the various Malawian cases reviewed above hardly acknowledge the fact that freedom of the press is an important issue in a democratic political dispensation. One is inclined to reach this conclusion not only from what is said but also from what is not said. In the fourteen cases reviewed above, only in the case of *Rev. Emmanuel Chinkwita v News Day* (see under 3.3.1) is any kind of reference made to the Section 36 and Section 35 of the Constitution of Malawi.

In contrast, in the *South African case of Fred Khumalo and others* (see under 3.2) the judge acknowledged the fact that without freedom of expression the ability of citizens to make responsible political decisions and to participate effectively in public life would be negatively affected. Such a statement serves to demonstrate that while indeed the publication by the defendants might have injured the plaintiff's reputation or any other such aspect of his personality, there is also the issue of the importance of freedom of the press to be taken into consideration. In the majority of the Malawian cases it is as if that right is none-existent.

In *Keays v Guardian Newspapers* (see under 3.2) it was stated that the fact that someone enters the public arena means that he or she naturally invites comments and this often includes scrutiny of and comment about motives. This aspect does not come out in any of the Malawian cases cited above.

An interesting comparison could perhaps be drawn between the case of *Derbyshire County Council v Times Newspapers Ltd*[16] and that of Malawi *Housing Corporation and others v Tribute Newspapers and* others (see under 3.3.1). The Malawi Housing Corporation is a statutory corporation established by Government. In other words it is for all intents and purposes a government body. The corporation was allowed to sue and was awarded K20,000 in damages even though it is a governmental body.

In *Derbyshire County Council v Times Newspapers Ltd* the House of Lords emphasised the fact that public bodies had to be exposed to public scrutiny because being governmental bodies, it was of great importance for the public to be adequately aware of the operations of such bodies. In that case *The Sunday Times* newspaper published on 17 and 24 September 1989, articles concerning share deals involving the superannuation fund of the Derbyshire County Council. The articles questioned the propriety of certain investments made by the council of moneys in its superannuation fund.

Counsel for the plaintiff had argued that there was a real and pressing need for a local authority to be able to sue for libel to protect its reputation because a damaged reputation had implications on the authority's ability to borrow money or tender for contracts.

The House of Lords held that: "...*the threat of civil actions for defamation would place an undesirable fetter on the freedom to express such criticism, it would be contrary to the public interest for institutions of central or local government to have any right at common law to maintain an action for damages for defamation;...*"

If there is lack of eloquence for appreciation of the importance of freedom of the press as can be surmised from the absence of relevant pronouncements, the opposite is true regarding the rights of the plaintiffs in the various cases. There seem to be a drive to put the media 'in its right place'. This is apparent in the case of *Ziliro Chibambo v The Editor-in-Chief of the Daily Times* (see under 3.3.1). In that case the court stated that: "*In passing let me touch on a misconception of the law which the press in Malawi may have. There is sometimes a belief that one aspect of the freedom of the press is that newspapers are free to write stories which damage the character and reputation of persons holding public office in society without incurring liability. The reason for this intruanity is said to be the public's interest in the character and conduct of persons entrusted to perform public duties. This belief is wrong and it has no basis in the law of this country*".

This is a very strong statement against the media. One would be excused to conclude that the court had an axe to grind against journalists in general and this particular paper specifically. Such a statement ought to have been balanced with an acknowledgement for example, as stated in *Keays v Guardian Newspapers,* of the fact that once a person enters the public arena, he or she exposes himself or herself to scrutiny.

In the *Mpasu v the Democrat* (see 3.3.1) case Justice Kumitsonyo, if his prejudgement remarks are anything to go by, placed great emphasis on giving the background to the political/ Government situation at that time. In fact he just fell short of singing praises to the United Democrat Front Government as illustrated by the following statement:

"One could imagine the situation here, where there was a brand new President of a brand new party…appointing a brand new Minister, among other brand new ones, to run a brand new Ministry of Education, Science and Technology…It can be appreciated therefore, that everything about the brand new Minister of Education, Science and Technology was brand new. He had to prove to be a success among his peers. Hence the enthusiasm and excitement".

This statement can hardly be said to have given any hope to the other party to the proceedings. Again here one could be excused for sympathising with the paper especially in view of the judgement in *The State v Sam John Lemos Mpasu*.[17] In that case the accused faced three charges of abuse of office contrary to section 95 of the penal code which states that:

Any person who, being employed in the public service, does or directs to be done, in abuse of authority of his office, any arbitrary act prejudicial to the rights of another shall be guilty of misdemeanour.

If the act is done and directed to be done for purposes of gain he shall be guilty of a felony and shall be liable to imprisonment for three years.

The charges arose from the very issues that were reported by *The Democrat* in 1994 and for which Sam Mpasu was awarded damages namely matters surrounding the procurement of learning materials from Fieldyork International. The court found the accused guilty on all three charges. Two of the counts in the alternative referred to personal gain. The two charges are reproduced here for purposes of emphasis.

The first count was stated as follows:

> Sam John Lemos Mpasu, between August and September 1994, at the Ministry of Education in the City of Lilongwe, being a person employed in the public service as Minister of Education in abuse of the authority of his office did an arbitrary act, namely concluding an arrangement for the supply of exercise books and pencils with Fieldyork International, which act was prejudicial to the rights of the Malawi Government (or in the alternative for the accused's gain).

The third count was stated as follows:

> Sam John Lemos Mpasu, between August and September 1994, at the Ministry of Education in the City of Lilongwe, being a person employed in the public service as Minister of Education in abuse of the authority of his office directed Sam Safuli to do an arbitrary act namely to issue a letter of intent to Fieldyork International, which act was prejudicial to the rights of the Malawi Government (or in the alternative for the accused's gain).

Granted the evidence available to Chief Resident Magistrate Chifundo Jairus Kachale was not available to Justice Kumitsonyo hence, probably, his decision but his decision did show a lack of appreciation for the role of the media which he thought was out to demonise the good efforts of a brand new party, in a brand new government, with a brand new Minister of Education trying to prove his credentials among other brand new government peers. The judge gave the brand new media in a brand new democracy no benefit of doubt.

Quantity of damages

As stated earlier, the level of damages awarded to the plaintiffs can also be an indicator of how much appreciation the courts have had for the role of the media in a democracy which in turn has implications on the role of the courts in promoting freedom of the press. Statements in two of the Malawian judgments will be used as a point of departure in discussing this aspect of the issue.

The first statement is in *Malawi Housing Corporation and others v Tribute Newspapers and others* (see under 3.3.1). In that case, Qoto, presiding, stated that "*The assessment of damages is not an exact science*". In other words the determination of damages, reference to case authorities notwithstanding, is subjectively made by the magistrate or judge who is presiding. Qoto repeated this statement in a later case, *Viva Nyimba v UDF News* (see under 3.3.1) where he said "…*there can never be any precise arithmetical formula to govern the assessment of general damages in defamation*".

In *Mpasu v The Democrat* (see under 3.3.1), Kumitsonyo J also makes the same point when he observes that:

"*What is awarded is a figure which cannot be arrived at by any purely objective computation. This is what is meant when damages in defamation are described as being at large*".

This serves to illustrate the fact that judicial officers have a lot of latitude when determining the level of damages they can award a plaintiff. In most cases such latitude seems to have been used to the advantage of the plaintiff at the expense of the defendant. Table 1 shows some of the cases where damages have been awarded since 1994.

Table 1: Level of damages awarded

Case/News organization/newspaper	**Year**	**Amount of Damages**	
		USD *	**Malawi Kwacha**
Malawi News	1994	3,571	25,000
United Printers (Chronicle)	1994	2,142	15,000
Malawi Housing Corporation and others v Tribute Newspaper and others	1996	14,464	220,000
Mpasu v The Democrat and others	1997	143,037	200,000
The Mirror	1997	1,955	30,000
Viva Nyimba v UDF News	1998	3,404	80,000
Ziliro Chibambo v Editor-in-Chief of Daily Times and others	1998	3,829	90,000
Rev. Chikhwaza and others v Now Publications Ltd t/a The Independent	1998	6,382	150,000
Moto Publications (Mirror)	1998	6,382	150,000
Khembo v Weekly Chronicle	2003	3,108	280,000
Ngwira v The Editor Daily Times	2003	1,665	150,000

** Based on data from the US Department of the Treasury Financial Management Service for the respective years.*

In the current context, it is noteworthy that out of the ten entities cited in Table 1 (the Daily Times being cited twice), eight (representing 80%) were out of circulation at the time of the study. It can be argued with reasonable confidence that the damages contributed to the "death" of the entities. It can be further argued that the courts contributed to the demise of the entities and by extension to denting of freedom of the press. The point being that it was reasonably within the power of the courts to award damages that might have had little impact on the survival of the entities had they appreciated the importance of freedom of the press in promotion of not only democracy but development as well.

In the Zambian case of *Zambia Daily Mail Limited v Banda*[18] the court set aside the damages that had been appealed against. In that case the plaintiff had been awarded 30 million Zambian Kwacha general damages and 30 million Zambian Kwacha exemplary damages by the High Court. After observing that there were strong mitigating factors, the Supreme Court awarded 15 million general damages and 15 million exemplary damages. The power of the court was used to the advantage of the media.

The sanctions arising from defamation are a concern for freedom of the press for other reasons as well. As Dorcherty observes, such sanctions tend to discourage the defendant from publishing in the future and other authors would be inclined to shy away from expressing themselves freely. Apart from anything else, this really deals a mortal blow to freedom of the press.

Also noteworthy from the point of view of the media in Malawi is that suing the media is a practice that has become fashionable among politicians bent on constraining the media. On that aspect Lwanda states that:

"Even though political and commercial barons owned most of the papers, the politicians were still eager to find other ways of constraining the media. This they found at first by capitalising on the legitimate use of recourse to law by citizens starting from the end of 1992. Once suing papers for libel had become common, politicians simply made the process more expensive or costly. Unlike the libelled citizen who wanted to clear his name, the politician wanted to cripple the paper".

It would appear that in Malawi politicians found a willing partner in the courts.

Views from the media industry

The fourth question the study sought to answer was on the extent to which journalists and other people in the media appreciate the role the courts have played in promoting freedom of the press?

Views from people in the media industry on the role of the courts in the promotion of freedom of the press were also sought. Unfortunately, out of the 5 persons who were emailed the request, only one person replied; a lecturer from the Malawi Polytechnic, a constituent college of the University of Malawi. His view was that the courts have not been very friendly to the media especially in cases of defamation where they have punished the media too harshly.

The above analysis has shown that most of the cases brought against the media in Malawi were defamation cases. The analysis has also shown that courts have a negatively biased view of the work of journalists and the media and that damages are awarded without taking into consideration their effect on the media.

Conclusion

The study set out to examine the following issues as a way of determining the role the courts have played in promoting freedom of the press in Malawi since 1994 when the country changed back to a multiparty system of government after voting for the same in a national referendum in 1993:

- the type of cases that have been brought against journalists or news media organisations;
- the kind of views that have been expressed by the courts in their judgements regarding the media;
- the extent to which compensation to plaintiffs indicates appreciation for the importance of freedom of the press; and
- the extent to which journalists and other people in the media appreciate the role the courts have played in promoting freedom of the press.

This concluding section looks at the above issues in the context of the discussion in the preceding sections.

Defamation: A Difficult Balancing Act

As observed in section 4.2, 71.42% of the Malawian cases discussed in this study were defamation cases. That category of cases seems to be the one that infringes most on freedom of expression. The courts do not appear to have been of great assistance in promoting freedom of the press from the point of view of defamation cases. This state of affairs, namely that defamation is popular litigation against the media, is not unique to Malawi. According to Docherty, for some years now national and international courts have developed a body of case law that seeks to reduce defamation's infringement on freedom of expression because of the realisation that, though intended to serve a legitimate purpose, defamation law is often abused to silence those with dissenting views. Journalists in Malawi have borne the brunt of the conflict between the law of defamation and freedom of expression as the pendulum has mostly swung in favour of those who litigate against the media.

According to Article 19, in SADC countries if a journalist or a paper criticises a public official it is considered to have abused the right to free speech and this state of affairs means that journalists and other media workers are deprived of their right to receive and disseminate information and the public is deprived of its right to know. Article 19 observes that it is not easy to strike a reasonable balance between the right to freedom of expression and the protection of reputation but that balance is necessary in any democratic society that recognises the role of the press.

Courts' perception of the media

The perception the courts have regarding the media seems to have done very little for the promotion of press freedom in Malawi. The general perception is that the media is a wayward child who needs to be punished. This has made freedom of the press play second fiddle to other rights especially those relating to the protection of personal rights. Views expressed by some presiding officers of the court in Malawi tend to leave very little doubt about what they understand the media to be. A good example is statement made by Qoto Registrar of the High Court in *Viva Nyimba v UDF News* (see under 3.3.1). In that case, though Qoto concedes that there was no evidence that what the paper did was done with the view to increasing sales of the newspaper, he does give the impression of focussing only on one aspect of the newspaper industry when the states that:

"I am aware that all newspapers are run for profit and that everything that is published in newspapers is published, in a sense, with the view to profit".

This statement can be faulted on three fronts. Firstly, though it could be conceded that good reporting increases the credibility of a newspaper and therefore its circulation and ultimately its appeal to advertisers, sensational reporting tends to have the opposite effect as a newspaper's credibility is lowered. Sensational reporting is what is likely to attract litigation.

Secondly, the effect of consistently publishing credible stories does increase the number of readers but may not necessarily increase the number of buyers especially in Malawi. A copy bought by one person is usually read by several other individuals. Again, from the Malawi point of view, even if the number of those buying increased, cover price contributes very little to the income of a newspaper.

Thirdly, informing, educating and entertaining readers is an equally important reason why newspapers are established. This is particularly so with newspapers like the UDF News which were for party propaganda rather than profit. One of the age old in-house conflicts in the newspaper or indeed radio and television industries is competition for space between the advertising departments

and the news department. In that regard, Handley observes that in newspaper organisations the advertising and editorial departments rarely fraternise but exist as worlds into themselves.

The point being made here is that lack of appreciation by judicial officers of the fact that a newspaper is not established solely for profit has implications on his appreciation of its role in advancing freedom of expression and ultimately freedom of the media.

Punishing the media

While as, as stated by Rogers referring to the case of *Gleaves v Deakin,* it is a fact that libel can be a criminal offence, and therefore the defendant can be punished, there appears, in the cases examined, too much gravitation towards punishment even though the cases are civil ones. For example, in the case of *Mpasu v The Democrat and others* (see under 3.3.1) Justice Kumitsonyo stated as follows:

"My impression is that the plaintiff should be awarded damages to the figure of K200, 000. This figure will adequately compensate the plaintiff and ***punish*** *the defendants* (own emphasis)".

This seems to be the general thinking in the award of damages in the cases examined. The decisions of the courts can therefore not be said to have had any intention, deliberate or accidental, to promote freedom of the press.

Appreciation by journalists and other players

If the view of one person who has worked with and for the media for a long time is anything to by, the courts have not contributed anything to the promotion of freedom of the press. This might however be a rather exaggerated point of view. There have been instances where the courts have come to the rescue of the media. Examples of such instances have been outlined in section 3.3.2 relating to Joy FM radio, Nation Publications journalist Maxwell Ng'ambi and journalists Mabvuto Banda and Horace Somanje.

As was observed in section 4.4, even in some cases that have gone against the media, there has been reluctance to award exemplary damages. A case in point is that of *Viva Nyimba v The UDF News* (see under 3.3.1) in which Qoto said:

"But this mere fact does not automatically bring newspaper defendants into the category of those who may have to pay exemplary damages on the footing that what they have done has been done with a view to profit".

In the case of *Rev. L Chikhwaza and others v Now Publications t/a The Independent*, (see under 3.3.1) Qoto was again equally reluctant to award exemplary damages, he stated that:

"There is no evidence that they knew the story to be false or that they published it recklessly careless whether it was true or not and on the calculated basis that any damages would be less than the profit. As such, the claim for exemplary damages fails and I make no award with regard to it".

Recommendations

Most of the judgements against the media show an apparent lack of appreciation on the part of judges regarding the work of the media. The following actions could be taken to improve the situation:

- Organising forums where the media can sensitise the judiciary on the various aspects of their work that usually bring them into conflict with individuals and institutions.
- Production of a guide detailing the main aspects of the work of the media.
- Organising forums where the judiciary can explain any land mark judgements that may have been made regarding the media.

On its part the media should start fighting for reform of the law of defamation so that that law does not lead to the subordination of freedom of the press to other rights that can be derogated.

On the whole the courts cannot be said to have contributed to the promotion of freedom of the press in Malawi. This conclusion has been arrived at firstly in view of the fact that the courts do not seem to have been able to strike a proper balance between freedom of the press and private individual rights especially those leading to defamation litigation. Secondly it is in view of the negative perception the courts have had towards the media. Finally, it is in view of the fact that the intention by some judicial officers seems to have been to teach the media lessons.

End Notes

---

[1] Michael Chilufya Sata v Post Newspaper Ltd
[2] *Tolstoy Miloslavsky v the United Kingdom*
[3] Keays v *Guardian Newspapers* [2003] EWHC 1565 QB
[4] Mosley v *News Group Newspapers* [2008] EWHC 1777 QB
[5] Fred Khumalo and others [2002] Case CCT 53/01
[6] Rev. L Chikhwaza and others v Now Publications Civil Cause No. 1975 of 1998
[7] Viva Nyimba v *UDF News* Civil Cause No. 987 of 1996
[8] Ziliro Chibambo v Editor-in-Chief of the *Daily Times* Civil Cause No. 77 of 1996
[9] Rev.Emmanuel Chinkwita v *News Day* Civil Cause No. 1660 of 1996
[10] Khembo v *Weekly Chronicle* Newspaper Civil Cause No. 3670 of 1998
[11] Ngwira v the Editor of the *Daily Times* Civil Cause No. 325 of 1999
[12] Ndovi v *UDF News* Ltd Civil Cause No. 683 of 1997
[13] Sam Mpasu v *The Democrat* and others [1997] 1 MLR
[14] Malawi Housing Corporation and others v *Tribute Newspapers* and others [1996] MLR 514
[15] Brown Mpinganjira v Gwanda Chakuamba and Blantyre Print and Packaging Ltd Civil of 1997
[16] Derbyshire County Council v *Times Newspapers* Ltd [1993] 1 ALLER 1011
[17] The State v Sam John Lemos Mpasu Criminal Cause no. 17 of 2005
[18] *Zambia Daily Mail Ltd* v Banda Supreme Court of Zambia Judgement No. 35 of 1999

REFERENCES

Africa Governance Monitoring Programme. (2006), Malawi: Justice Sector and the Rule of Law.

Article 19 Africa Programme. (2002), 'Defamation and Insult Laws in SADC Overview. https://www.article19.org/pdfs/tools/def-campaigns-sadc-overview.pdf.

Chanda, A.W. (1998), 'Freedom of Expression and the Law in Zambia'. Zambia Law Journal. Vol. 30 Available at https://www.africabib.org/rec.php?RID=189618353

Department of the Treasury Financial Management Service. (1994), Treasury Reporting Rates of Exchange as of March 31, 1994.
https://www.govinfo.gov/content/pkg/GOVPUB-T63_100-d76dceb12c3da467a628389acb709b6b/pdf/GOVPUB-T63_100-d76dceb12c3da467a628389acb709b6b.pdf.

Department of the Treasury Financial Management Service. (1996), Treasury Reporting Rates of Exchange as of March 31, 1996. https://www.govinfo.gov/content/pkg/GOVPUB-T63_100-a9fb2133b189b0db2dba133a75202203/pdf/GOVPUB-T63_100-a9fb2133b189b0db2dba133a75202203.pdf.

Department of the Treasury Financial Management Service. (1997), Treasury Reporting Rates of Exchange as of March 31, 1997. https://www.govinfo.gov/content/pkg/GOVPUB-T63_100-df6e98d19bcf6ba2d231a10f6c9d5260/pdf/GOVPUB-T63_100-df6e98d19bcf6ba2d231a10f6c9d5260.pdf.

Department of the Treasury Financial Management Service. (1998), Treasury Reporting Rates of Exchange as of March 31, 1998. https://www.govinfo.gov/content/pkg/GOVPUB-T63_100-35141809945353cd5a2c6d3565d5d460/pdf/GOVPUB-T63_100-35141809945353cd5a2c6d3565d5d460.pdf

Department of the Treasury Financial Management Service. (2003), Treasury Reporting Rates of Exchange as of March 31, 2003. https://www.govinfo.gov/content/pkg/GOVPUB-T63_100-4e5d4869545cc364844e61ab4b90ee2e/pdf/GOVPUB-T63_100-4e5d4869545cc364844e61ab4b90ee2e.pdf

Docherty, B. (2008), 'Defamation Law: Positive Jurisprudence.' *Harvard Human Rights Journal.* Issue 13.

Emerson, T.I. (1977), 'The System of Freedom of Expression' in Franklin M.A, (Ed) *Mass Media Law*, New York: The Foundation Press.

Handley, A. (2001), 'The Dance Between Editorial and Advertising'. http://www.clickz.com/news.

Jones, RA. (2014), 'What the Supreme Court Thinks of the Press and Why It Matters.' *Alabama Law Review*. Issue 66(2).
https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1006&context=faculty_scholarship

Stewart, P. (1975), 'Or of the Press.' *Hastings Law Journal*. Issue 26(3. https://repository.uchastings.edu/hastings_law_journal/vol26/iss3/1

Lwanda, J.L.C. (1996), *Promises, Power, Politics & Poverty Democratic Transition in Malawi (1961-1991)*. (1996). Glasgow: Dudu Nsomba Publications.

Manda, L.Z. (2007), "Media in the Political Process", in Nadin Patel & Lars Svasand (Eds) Government and Politics in Malawi. Centre for Social Research/Chr Michelson Institute/Kachere Series.

Media Rights Agenda (2009), 'Court Strikes Out Case Against Insider Weekly Magazine Editors.' http://www.mediarightsagenda.org

Media Institute of Southern Africa (MISA). (2008), 'So this is Democracy? State of Media Freedom in Southern Africa.' Windhoek.

Media Institute of Southern Africa (MISA). (2007), 'So this is Democracy? State of Media Freedom in Southern Africa.' Windhoek.

Rogers, W.V.V.H. (1984), 'Winfield & Jolowicz on Tort.' (12th Edition) Sweet and Maxwell, London.

The Government of Malawi. (2004), Constitution of the Republic of Malawi. Lilongwe: Government Printer.

UNESCO. (2002), '2002-2003 Approved Programme and Budget.' Paris: UNESCO.