**INTRODUCTION**

Four landmark developments, during the course of 2016, will shape media research and discourse in Malawi, for decades to come. The first development is the Mount Soche Declaration, named after the venue where media leaders met to discuss government attempts to silence the private media. The declaration spelled out eight points including media blackout of news regarding the president and cabinet ministers. Although the declaration lacked an effective implementation strategy, it signified strong resolve on the part of the media to defend media freedom.

Secondly, 2016 saw Parliament limiting presidential powers in the appointment of members of the Malawi Communications Regulatory Authority (MACRA) and state funded Malawi Broadcasting Corporation (MBC). Parliament amended the Communications Act (1998) to subject presidential appointments to a Parliamentary screening. This amendment is envisaged to reduce perennial political interference at both MACRA and MBC and to provide a semblance of independence.

It is also the year when Parliament, despite spirited resistance from government, passed the much awaited Access to Information (ATI) Bill, concluding a 12-year process that MISA consistently and vigorously spearheaded. The passage of the Bill is a momentous occasion for MISA and access to information advocates in the region. Implementation may however be systematically delayed looking at the resistance and delaying tactics government employed prior to the passage of the Bill.

Efforts to control online expression also gained momentum in 2016. Government managed to enact the E-Transactions Bill (2016) to regulate online transactions, including online communication. The enactment of the E-Transactions Bill generated mixed reactions but what is clear is that government now has the tool to police and restrict online expression as the Act contains several broad provisions open to abuse.

Overall, 2016 registered positive policy and legislative reforms that have the potential to improve the work of the media as well as citizen participation in governance processes. Threats and strategic attempts to silence the media and foil implementation of the laws is however a big challenge for both media and human rights defenders.

4 landmark developments will shape media research and discourse in Malawi.
Media-Government Relationship

The relationship between government and the media was sour, antagonistic and characterised by suspicion. Most media gurus viewed the Democratic Progressive Party (DPP) led government as intolerant and ‘belligerent.’ On its part, government, including President Peter Mutharika, labelled the private media as ‘disgusting’ and purveyors of ‘nonsense’ and ‘garbage’ when he addressed a rally at Bua Primary School in Mchinji on October 27, 2016. President Mutharikas’ description of the media followed a series of reports on his health and prolonged stay in the USA where he had gone to attend the United Nations General Assembly (UNGA).

Conflict between government and the media climaxed with the Mount Soche Declaration. During a meeting at Mount Soche Hotel in Blantyre on November 7, 2016, media managers developed eight action points which included:

- boycotting conferences of the Head of State;
- blackout on presidential and cabinet minister’s news and activities;
- respecting and implementing decisions and guidelines of MISA and Media Council of Malawi;
- engaging the courts to seek interpretation on the role of MACRA which acts as a police, prosecutor, juror and judge in regulating and policing private electronic media;
- regarding attacks on one as an attack on all and rejecting divide and rule tactics by the State.

Unfortunately one media outlet quickly fell victim to the State’s divide and rule tactic. Barely a day after the declaration was publicized, Chancellor College, which runs Chanco radio and television, issued a press statement distancing the two entities from the declaration. The statement, signed by Chancellor College Principal Professor Richard Tambulasi, indicated that Chanco Radio and Chanco Television were categorically distancing themselves from the Mount Soche Declaration and “… did not authorize the signing of the communiqué and are not part and parcel of the communiqué.” MISA Malawi however received reports that “senior government officials” allegedly threatened staff with dismissal at the station.

Strong resolve on the part of the media to defend media freedom.

Most commentators argue that attempts to silence critical voices started in February with the arrest of opposition Malawi Congress Party (MCP) legislators Dr. Jessie Kabwila, Louis Chakwantha, and member, Ulemu Msungama, for alleged WhatsApp discussions that law-enforcers claimed was seditious. Their arrests stirred controversy and almost derailed Parliamentary proceedings. The case has since been dismissed for lack of evidence. The clampdown on dissent however continued and in March, a 19-year-old university student studying information and communications technology (ICT), Patrick Semu, spent 36 hours in custody for criticising President Mutharika.

The reintroduction of 16.5 percent Value Added Tax (VAT) on newsprint is also considered by media experts as an attempt by government to stifle vocal
and critical voices. VAT on newsprint was first introduced in 2011 and later reversed in 2012, following successful lobbying by MISA and its partners. The move in 2011 saw newspaper cover prices increasing by 40%, which made newspapers expensive and unattainable for most Malawians. Government re-introduced the 16.5% VAT on newsprint in the 2016/17 National Budget and MISA Malawi maintains its position that the move is retrogressive and counterproductive in the quest for access to information.

Around August, media reports alleged that State House had embarked on a campaign to silence critics of President Mutharika and the DPP led government. MISA Malawi received reports that renowned writer Stanley Onjezani Kenani; late President Bingu wa Mutharika’s legal advisor, Allan Mtata; Times Group Editor-In-Chief, George Kasakula; talk show host, Brian Banda; and commentator, Henry Kachaje were being targeted with slander by the State for their critical narratives of the president and the ruling DPP.

On Tuesday, August 30th the Daily Times reported that State House was using its blogs malawiindependent.blogspot.com, malawibrief.com, malawivoice.com and blantyrepost.com to circulate false stories “aimed at destroying the reputation...” of the critics.

Around the same time, private broadcaster Zodiak Broadcasting Station (ZBS) was summoned by MACRA for breaching broadcasting license conditions after airing an interview with a vocal Member of Parliament (MP) Kamlepo Kalua. In the interview, Kalua amentioned a number of top government officials whom he alleged were involved in the plunder of government funds. MACRA argued that ZBS was biased for failing to balance the broadcast.

Overall, in 2016, government was aggressive towards the private media and generally intolerant of critical views against the ruling DPP administration. The year saw the media unite and fiercely defend their space.

Free Expression and Law

The legislative environment has remained restrictive. Colonial anti-media and free speech laws still exist in the statute books and each administration continues to employ them to suppress dissent. The laws are inconsistent with the new constitutional order and promote self-censorship.

As stated in our past reports, the most notorious of these laws is Section 181 of the Penal Code. Most recently, the law was enforced by police to arrest ICT university student, Patrick Semu. The Section states that “Every person who in any public place conducts himself in a manner likely to cause a breach of the peace shall be liable to a fine of K50 and to imprisonment for three months.”

Semu spent 36 hours in custody for allegedly insulting President Mutharika. The arrest indirectly silenced other potential critics by instilling fear and stifling free speech in general.

Others laws lurking in the statutes apart from Section 181 of the Penal Code, include the Official Secrets Act (1913), the Printed Publications Act (1947) and the Censorship and Control of Entertainments Act (1968) as well as the Protected Flags, Emblems and Names Act.

Although the DPP administration promised to amend and/or repeal laws that limit freedom of expression, no changes have been made in the past three years.
of President Mutharika’s time in office. The existence of these laws remains a threat to free speech and media freedom.

Access to Information

The year 2016 was a moment of triumph for media freedom and freedom of expression advocates in Malawi and the region as far as access to information is concerned. Despite stiff resistance from government, opposition-dominated Parliament passed the bill and concluded a campaign MISA Malawi spearheaded for 12 years.

Although Malawi currently has legislation on ATI, most critics believe that government will delay implementation based on past tactics used to postpone the passing of the bill.

“Concluding a 12-year process that MISA vigorously spearheaded.”

The bill was tabled in Parliament twice. Members of Parliament referred the bill to the Media and Communications Committee of Parliament when it was first tabled in March. The decision followed an appeal by MISA Malawi requesting MPs to reject changes government had introduced in the bill. Cabinet had made changes including removing the independent oversight body and whistle blower protection, among others, and MISA lobbied the legislators to reject the changes and call for further consultations.

The bill was re-tabled in Parliament in November 2016 after further consultations with key stakeholders including MISA Malawi. The Media and Communications Committee recommended reintroduction of an independent oversight body and whistle blower protection. MISA believes the bill that the August House passed, reflects the views and aspirations of most stakeholders that worked on the bill for 12 years.

State of Broadcasting and Digital Migration

The amendment of the Communications Act (1998) is a key milestone in the push for the transformation of the Malawi Broadcasting Corporation from a state to a public service broadcaster. Parliament amended the Communications Act in June 2016 to subject presidential appointments to approval by the Public Appointments Committee of Parliament. This move is expected to reduce political interference at both MACRA and MBC.

The Communications Act (1998) has been central in MISA Malawi’s efforts to free MBC and MACRA from the ambit of government. In 2015, government had reversed stakeholder’s proposals to free MBC and MACRA and maintained the State President as the sole appointing authority for the boards of MACRA and MBC. MISA Malawi appealed to MPs to reject the changes and ensure that the original version of the Bill, that stakeholders had agreed on, would be tabled in the August House. The MPs amended the Bill on the floor when it was re-tabled in 2016 and managed to amend the law which now provides that board members of MACRA and MBC will be appointed by the President but
Digital Migration

As far as digital migration is concerned, Malawi has managed to migrate from analogue to digital. The country is currently implementing Phase Two of its transition plan, which entails broadening reach and coverage of the digital signal. Phase one of the migration involved outreach to 48% of the population covered by analogue. With digital broadcasting, Malawi has managed to increase coverage to 65-70 percent of the population and intends to reach 90% coverage by September 2017; once, more transmitters are installed in some parts of the south and central regions of the country.

As stated in our 2015 report, Malawi established the Digital Broadcasting Network Limited Company to provide signal distribution services to all licensed broadcasters. The company is currently fully operational and driving the process. Awareness is however still a challenge as most Malawians don’t understand the relevance of digital migration or what it means for the country.

An attempt by government to stifle vocal and critical voices.

New Media and ICTs

Malawi has one of the lowest rates of internet and social media uptake in the region with internet penetration for 2015/16 at 9 percent and mobile phone penetration at 35 percent.

Despite the figures, in July 2016 Parliament passed the E-Transaction Bill to police online transactions, including online communication. MISA Malawi expressed concern on several provisions which the chapter considers retrogressive and open to abuse.

The Act provides that online communication may be restricted in order to ‘promote human dignity and pluralism in the expression of thoughts and opinions,’ ‘protect public order and national security,’ ‘facilitate technical restrictions...’ and ‘enhance compliance with the requirements of any other written law.’

These clauses are overtly broad and fail to provide a framework and definition of what amounts to ‘human dignity...,’ ‘public order and national security’ or ‘technical restrictions.’ In addition, the wording ‘enhance compliance with the requirements of any other written law’ complicates matters as the country has maintained several archaic laws which criminalise free speech and negate constitutional guarantees on media freedom and freedom of expression.

As it stands, low levels of computer literacy, high cost of internet services, poor infrastructure and erratic power supply continue to limit advances in ICTs. The move by government to limit online expression might instill fear in people and further limit access and uptake.

CONCLUSION

Malawi has made commendable progress on the policy and legal environment which have the potential to improve the work of the media as well
as citizen participation in the governance processes. The amendments to the Communications Act (1998) and the enactment of the ATI Bill are key developments that have the potential of changing the media operating environment for decades.

The Mount Soche Declaration is also a landmark document that reinforces the media sector’s resolve and dedication to media freedom, independence, and professionalism. The declaration and its eight action points will go down in the annals of media history as a moment the private media fraternity united against government to defend independent and private media in Malawi.

The enactment of the E-Transaction Bill and continued cat and mouse game between government and the private media remain areas of concern for the country. Media outlets, journalists and citizens deemed critical of the ruling DPP were openly castigated and labeled as ‘liars,’ ‘agents of the opposition,’ and purveyors of ‘nonsense’ and ‘garbage.’ Threats and strategic attempts to silence the private media and foil implementation of positive laws require serious attention by both media and human rights defenders.
Malawi 2016 violations & victories

March 15
**Arrested**
Patrick Semu, a 19-Year old information and communication Technology student at Daeyang Luke University in Lilongwe spent 36 hours in Police custody for allegedly criticizing President Peter Mutharika. The student allegedly said that Mutharika was failing to run the affairs of government. The student made the remarks whilst in a minibus. Semu was arrested based on Section 181 of the Penal Code and charged with conduct likely to cause breach of peace.

May 31
**Government introduces VAT on newsprint**
Malawi government has re-introduced 16.5 percent Value Added Tax (VAT) on newsprint, which is the main raw material in the printing of newspapers in the country. VAT on newsprint was first introduced in 2011 and later reversed in 2012 following successful lobbying by the media industry. The move in 2011 saw newspaper cover prices going up by 40 percent which made newspapers expensive for most Malawians. Government has re-introduced the 16.5% import VAT on newsprints in the 2016/17 National Budget presented to Parliament Friday, May 27, 2016.

July 5
**Amendment to Legislation**
Malawi Parliament limits presidential powers on MACRA, MBC board appointments
Malawi Parliament on Tuesday, July 5, reduced Presidential powers on the appointment of board members to the Malawi Com-

July 14
**Parliament passes bill to regulate online transactions**
Malawi Parliament has passed the E-Transactions Bill to regulate online transactions. Most online users fear the Bill, once signed into law, will limit media freedom and freedom of expression online as it contains several provisions which are broad and open to abuse. Among other things, the Bill allows for online communication to be restricted to ‘safeguard public order and national security.’ MISA Malawi believes that open and overtly broad provisions can be abused for political or personal interest.

August 30
**State house silencing critics**
Malawi State House allegedly embarked on a campaign to silence critics of President Peter Mutharika. Reports indicated that critics including renowned writer Stanley Onjezani Kenani, late President Bingu wa Mutharika’s Legal Ad-
visor Allan Mtata, Times Group Editor-In chief George Kasakula, Talk Show Host Brian Banda and commentator Henry Kachaje were being targeted by the State for their critical narratives of the president and the ruling Democratic Progressive Party (DPP).

October 21
Intimidated
DPP cadets intimidate journalists
Ruling Democratic Progressive Party (DPP) youth cadets, on Friday, October 21, 2016, intimidated journalists during a press conference President Professor Author Peter Mutharika held after returning from the United Nations General Assembly (UNGA) in the USA.
The cadets booed and chanted threateningly and created an intimidatory atmosphere for journalists at the conference.
The Peter Mutharika administration scored highly when it barred party supporters from attending presidential press conferences. The October 21 conference was however different and risky for journalists.
Mutharika also lashed out at some private media outlets whom he accused of perpetuating lies about his health.

November 3
Summoned
MACRA Summons ZBS over radio interview
The Malawi Communications Regulatory Authority (MACRA) summoned Zodiak Broadcasting Station (ZBS) to a disciplinary hearing over an interview the radio had with legislator for Rumphi East constituency Hon Kamlepo Kalua. MACRA argued that the interview was in contravention of ZBS's broadcasting license conditions.
Zodiak aired an interview with Kalua, in August this year in which Kalua alleged that a number of top government officials were involved in the plunder of government funds.

November 7
Boycott
Private media to boycott presidential press conferences
Private media owners and media managers have resolved to boycott all press conferences and activities of Malawi cabinet ministers in retaliation against President Mutharika and the Democratic Progressive Party (DPP) administration’s aggressive stand towards the private media.
President Mutharika recently labelled the private media as ‘disgusting’ who write ‘nonsense’ and ‘garbage.’
The media gurus agreed to respect and implement guidelines and decisions of watchdog the Media Council of Malawi and MISA, boycotting press conferences of the Head of State, blackouts of all news of the Head of State and Cabinet Ministers and to present a united front as a media and regard attacks on one as an attack on all.

December 14
Parliament passes the ATI Bill
Malawi Members of Parliament on Wednesday, December 14, 2016, passed the much awaited Access to Information Bill (ATI) after a heated debate.
The next hurdle is for President Professor Arthur Peter Mutharika to assent to the Bill and live up to his election campaign promise that the ATI Bill would be enacted once he is elected into office.
The passing of the Bill is a huge step in the 12-year long process in which various stakeholders led by Misa-Malawi campaigned for legislation on access to information.