

The Role of the Ombudsman in Promoting Good Governance in Malawi: A View from Public Accountability

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ABSTRACT

In Malawi, the Ombudsman is one of the governance institutions that provide oversight over other public agencies. A plethora of institutions addressing governmental accountability not only has direct implications on the separation of powers, but also raises important questions about their institutional authority, role and place in the governance mechanism. The present study endeavours to determine and contextualise the scope, role, functions and challenges of the Ombudsman institution in promoting good governance, specifically public accountability. The study adopted the mixed method of research. Using data from documents, 40 questionnaires and 6 interviews, the study finds that even though the institution faces challenges including poor funding, a lacking mandate and poor accessibility, it plays a huge role in promoting public accountability through its investigations and recommendations. The study recommends that the Ombudsman find ways to get stable funding, improve its visibility, remit, accessibility as well as relations with other oversight actors.

Keywords: Ombudsman, Public Accountability, Good Governance, Malawi, Oversight

INTRODUCTION

The public sector in Malawi is characterised by widespread allegations of unethical conduct and practices and this generates widespread concern. Notwithstanding, Malawi has several oversight institutions such as the Auditor General's Office, the Office of the Ombudsman, the Human Rights Commission and the Law Commission to tackle issues of human rights, maladministration and legitimacy of the government [1]. A plethora of institutions addressing governmental accountability not only has direct implications on the separation of powers, but also raises important questions about their institutional authority, role and place in the constitutional system and governance mechanism [2]. The present study aims at determining and contextualising the scope, role, functions and challenges of the Ombudsman institution in Malawi.

Research from elsewhere has shown that the Ombudsman has a role to play in promoting good governance. For instance, the Ombudsmen in Bosnia and Herzegovina, Uganda and Ethiopia have an explicit role to promote good governance in public offices as this is reiterated in their governing statutes [3]. Furthermore, a Resolution adopted by the United Nations General Assembly on the 16th of December 2020 during the seventy-fifth session under agenda item 72 (b), on *the role of Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law*, considers the Ombudsman and other mediator institutions as having a huge role to play in promoting good governance in public administrations, improving government's relations with its citizens, promoting the respect for human rights and fundamental freedoms as well as strengthening the delivery of public services. The resolution concludes that the Ombudsman institution is well positioned to promote good governance by promoting the rule of

law, transparency, accountability and fairness [4].

In Malawi, the Ombudsman is not given an explicit role to promote good governance. Besides, there is little empirical clarity about the role of the Ombudsman and other oversight institutions in Malawi. In theory, the Office of the Ombudsman can help improve accountability. The question is whether this is achieved in practice and how. It is with this line of questioning that the researcher seeks to assess the role of the Ombudsman institution in Malawi in promoting good governance, with particular emphasis on public accountability.

CONCEPTUAL FRAMEWORK

This section provides definitions for key concepts and how they have been used in this paper.

A. Ombudsman

The etymological origin of the word ‘Ombudsman’ can be traced back to 1809 in Sweden and it means “agent or representative of the people or group of people” [5]. Some are of the view that the traditional term “Ombudsman” bears the connotation of a male office holder and thus opt to use gender-neutral terms such as Parliamentary Commissioner for Administration (United Kingdom and Sri Lanka), Public Protector (South Africa), *Protecteur du Citoyen* (Protector of the Citizen, Quebec) and Citizens’ Aide (several U.S. states) [3]. Notwithstanding, the words *umbuðsmann* and *umbuds man*, from which we derive the present term, are not gendered in the Swedish language [6]. In this study the term Ombudsman has been adopted because that is how the Constitution of Malawi and the Ombudsman Act refer to the Office.

The Ombudsman in Malawi is commonly referred to as the Office of the Ombudsman. It is a public office that is established and guided by the Constitution of Malawi as well as the Ombudsman Act. The appointment of the Ombudsman is guided by section 122 of the Constitution of Malawi. Generally, the post is supposed to be advertised publicly by the Clerk of the National Assembly and interested candidates are to apply. The successful candidate is supposed to be formally appointed by the Public Appointments Committee of Parliament (PAC). Some of the most important traits for one to be an Ombudsman in Malawi are that the person must have sufficient knowledge of the law and not be the President, Vice-President, Minister or Deputy Minister, or a serving public officer in any public office other than that of the Ombudsman. Removal from office is guided by section 128 of the Constitution. Essentially, an individual appointed to the Ombudsman position holds the position for a maximum of five years and cannot be removed, not even by the PAC, unless there are specific circumstances that would make the individual not eligible for appointment if they had not been the Ombudsman, such as if they had committed grave misconduct or attained the age of 65.

According to Section 123 of the Constitution of Malawi, the office of the Ombudsman may investigate all cases where it is claimed that someone has been the victim of injustice and there does not seem to be any reasonable way to seek redress through court proceedings, court appeals, or other practicable remedy. However, the powers granted to the Ombudsman’s office by this section do not supersede the jurisdiction of the courts and the High Court may review the Ombudsman’s decisions and use of power upon request from any individual who has a sufficient stake in a case that the Ombudsman has determined. According to Section 126 of the Constitution, the Ombudsman has the authority to order the taking of suitable administrative measures to address complaints. The Attorney General or the Director of Public Prosecutions (DPP) may be referred to by the Office of the Ombudsman to continue cases as per Section 8(1) (b) (iii) of the Ombudsman Act.

Furthermore, the Ombudsman may subpoena anyone reasonably connected to an inquiry, demand urgent information disclosure, examine anyone connected to an investigation, and start contempt proceedings under

Section 124 of the Constitution. The Constitution safeguards the independence of the Ombudsman. “In the exercise of his or her powers, functions and duties the Ombudsman shall be completely independent of the interference or direction of any other person or authority,” reads Section 121 of the Malawian Constitution.

B. Governance and Good Governance

The word “governance” is often believed to have originated from the Latin word “*gubernare*,” and from the Greek word “*kubernaein*,” meaning to steer and to pilot, or be at the helm of things. In modern times, the origin of the term “governance” has its roots in the international development debate of the late 1980 s [7]. It was after the 1980 s, once economic structural reforms came to be regarded as essential for development that the limited success of liberal economic policies led to the consideration of the capacity of governments as an important factor for development. International organisations concluded that structural adjustment programmes failed because of institutional weakness [7]. The main argument was that economic policy cannot be separated from the political environment in which it takes place. Therefore, the development agenda became not only a question of promoting economic growth but also one of “getting politics right” [8]. The getting of politics right is what is considered as governance.

Good governance adds the word “good”, to governance, an adjective that differentiates that which is desirable from the undesirable. Without governance, good governance would not have been part of the parlance of contemporary development discourse. Governance does not owe its conceptual existence to good governance and the conception of governance without good governance is logically possible [9].

According to the World Bank, governance is considered good if it encompasses the following four dimensions: an efficient public service, an accountable administration, a reliable judicial system and a balance between the governed and government [3]. The African Development Bank defines good governance in terms of accountability, transparency, participation, combating corruption and the promotion of an enabling legal and judicial framework [3]. Some scholars have defined good governance as being characterised by strong oversight that puts pressure on the public sector to perform better, be more transparent and effectively combat corruption [10]. Others argue that good governance is exemplified by predictable, transparent and enlightened policy making, a vibrant civil society involved in public affairs, an executive branch of government responsible for its actions, a bureaucracy exuding a professional culture, and everyone operating within the bounds of the law [11]. Thus, the challenge of good governance is to build an efficient democratic culture within the machinery of government; one which respects human rights and is accountable to the civic culture in society [12]. Hence, it can be concluded that although there seems to be no exhaustive definition of good governance, because it is dependent on what characteristics or attributes the researcher perceives as significant, one can infer from several definitions that transparency and accountability are underscored as some of key principles of good governance.

The notion of good governance is often criticised as a standard unilaterally imposed by developed states and donors on developing nations, not altruistic and that the relationship between democracy and development is too complex to be successfully captured in one notion like good governance [13]. Despite these criticisms, the concept has been adopted by the United Nations General Assembly and its agencies, the African Union and individual donor states. In July 2001, the African Union adopted a plan called the New Partnership for Africa’s Development (NEPAD). Paragraph 79 of the plan considers that development is impossible in the absence of true democracy, respect for human rights, peace and good governance [14]. The Constitutive Act of the African Union also contains several references to good governance. It is mentioned in its preamble, objectives and principles that the African Union aims at the promotion of democratic principles and institutions, popular participation and good governance [15].

C. Accountability and Public Accountability

Accountability is a dynamic and evasive concept with multiple contexts, meanings and dimensions

constantly emerging. Perhaps one thing that is for sure about accountability is that it is one of the principles of good governance [17]. Although the concept of accountability is generally very broad and can thus be defined differently, it has come to be considered as an umbrella term covering different concepts that bear the image of trustworthiness, answerability, responsibility and transparency [16]. The concept is primarily associated with power delegation and openness in the relationship between and among actors. Accountability has been defined as the simplest requirement to give an account of how responsibility has been conferred or has been carried out by an institution or fulfilled by a person delegated to do so [18]. Some scholars argue that accountability cannot be achieved without transparency and the rule of law [19]. In addition, accountability requires that certain objectives are given; there is a reliable way of assessing whether objectives have been met; and consequences exist for whatever outcome [20]. This implies that accountability alludes to an existing relationship between two groups of individuals or organisations with one as an ‘account or’ and the other an ‘accountee’. Some do not use accountability but speak of ‘control’, meaning the periodic checking and examination of the activities of public officials by external actors possessing formal or constitutional authority to investigate, grant redress or censure [21]. For some, accountability goes beyond answer ability and transparency to include sanction and reward as a way of formalising it [22].

Public accountability on the other hand can generally be regarded as an extension of accountability. It is mainly considered as public transparency, meaning that the government and its employees are accountable and their activities are transparent to the public [16]. Hence, in specific terms, public accountability means the unwavering acknowledgement and acceptance of the fact that all public servants serve the people and are appointed to their posts based on trust. This is often considered to imply that those who render public services must account for their work to the people they are expected to serve [23].

METHODOLOGY

The study employed a mixed method, specifically the explanatory sequential design. This approach involves collecting and analysing quantitative data and then qualitative data in two consecutive phases within one study [24]. With this strategy, initial exploration of the data on the role of the Office of the Ombudsman on accountability was collected and analysed using the quantitative approach which was then followed with qualitative research approach. The quantitative approach was mainly descriptive as it only described the basic features of the data and did not seek to determine causal relationships. Sequential mixed method is suitable where a phenomenon is yet to be adequately explored in the literature and as mentioned earlier the Ombudsman in Malawi has not been studied extensively [25]. The other reason for using this method is that the combination of qualitative and quantitative approaches provides a complete understanding of a research problem from different angles than either approach alone [26]. The quantitative methods generated numerical data which was statistically manipulated to meet required objectives through descriptive statistics (frequencies and percentages). The qualitative side of the study was based on interviews and documentary analysis encompassing academic literature, analysis of legislation and Office of the Ombudsman’s reports.

The study population targeted in this study comprised of Malawian citizens from academia, government institutions and civil society organisations. These were Ombudsman officers, legal experts, public administrators and governance experts in both the academic and corporate world who came from civil society organisations, the University of Malawi, the judiciary and government agencies. The institutions targeted are the ones that actively involved in activities that aim at promoting good governance or has dealt with the Office of the Ombudsman in one way or another.

FINDINGS AND DISCUSSION

Section 12(1) (c) of the Constitution of the Republic of Malawi identifies accountability as one of the fundamental principles. The same constitution provides for the establishment of the Ombudsman. Without

the Constitution explicitly mentioning which institutions are responsible for ensuring the adherence to constitutional principles like accountability, this study finds that the underlying principles of accountability and openness in the exercise of state power enshrined in the Constitution are the responsibility of institutions like the Office of the Ombudsman. Most of those who responded to the questionnaires and interviews agreed that the Ombudsman in Malawi has and plays a role in ensuring public accountability thereby promoting good governance. The Ombudsman's work is mainly investigating public officials' misconduct, providing remedies and reporting its findings.

A. Investigating Public Officials' Misconduct

Public officers make decisions and determinations in the course of exercising their duties and they are expected to conduct themselves, make their decisions and determinations in a fair and non-oppressive manner for the benefit of members of the public. The study found that the mandate of the Ombudsman in Malawi, according to Section 123 of the Constitution of Malawi, is to investigate any and all instances in which it is claimed that an individual has been subjected to injustice and there seems to be no any other appropriate recourse through judicial procedures, an appeal from a court, or any other workable solution. Section 5(1) of the Ombudsman Act provides that the cases the Office of the Ombudsman may investigate are alleged instances or matters concerning abuse of power or unfair treatment of any person by an official in the employment of any organ of Government, or manifest of injustice or conduct by such official which would properly be regarded as oppressive or unfair in an open and democratic society. The study found that the Ombudsman in Malawi can initiate investigation proceedings on its own but often the office does so when a case is brought to its attention by the media or other parties including victims.

Section 6 of the Ombudsman Act gives the Ombudsman powers to determine the nature and extent of any referred inquiry or investigation, and upon issuance of a warrant by a magistrate have access to premises and documents, summon persons to appear before him or her, administer an oath and take evidence. Under Section 124 Constitution of Malawi the Ombudsman has powers to summon and interrogate anyone who is reasonably linked to an investigation, demand information be released, and start contempt procedures. These powers enable the Ombudsman to do its work of investigating thereby opening up public administration to scrutiny. In 2022 alone the Office of the Ombudsman reported to parliament in report REF NO. OMB/CONF/54 that it handled a total of 1,947 complaints of which 106 were resolved.

The kind of investigations the Ombudsman is involved in can be divided as follows:

- **Recruitment**

The institution conducts a considerable number of investigations and make determinations on allegations of acts of bias, nepotism, unfair treatment, unfair dismissals, tribalism and irregularities in recruitment in order to establish whether they are in accordance with the applicable laws, procedures, policies and existing good practices. The Ombudsman gives directives that remedy any irregularities, maladministration and injustices including nullifying employment contracts, reinstatement and compensation. For instance, in 2021 the Ombudsman handled a case of Malawi Communications Regulatory Authority (MACRA) where it was alleged that there were instances of nepotism, cronyism, tribalism and abuse of power in the recruitment of the Director General and some members of staff at Malawi Communications Regulatory Authority. After an analysis of gathered evidence and applicable laws, the Ombudsman found that the employment of the Director General and other members of staff was illegal and it was nullified.

- **Public Spending**

The Ombudsman also investigates and provides remedies on issues of public spending. For instance, in

December of 2020, the Ombudsman conducted an investigation on COVID-19 response funds management and released a report titled *Misplaced Priorities*. The investigation uncovered incidences of acts of maladministration, including abuse of funds by public officials, limited accountability and transparency and non-adherence to procurement laws and procedures. Directives included public officials paying back misused funds.

- **Public procurement**

Public Procurement in Malawi is one of the major areas that are prone to corruption [27]. The Ombudsman in Malawi investigates allegations of maladministration and related irregularities on the purchase and disposal of public goods and services. For instance, in 2021 the office investigated complaints against the procurement of a team of South African lawyers to handle a crucial election appeal by the government of Malawi in 2020. The procurement was found to amount to maladministration and abuse of power with ‘all the elements of corruption’. The Office of the Ombudsman orders of tough remedial action were issued including ordering those involved to repay the costs.

Good and proper administration as well as good governance standards set the framework of the Ombudsman’s evaluations [28]. Investigations can and have uncovered instances of abuse of funds by public officials in the course of implementing projects and policies; limited accountability and transparency by implementing agencies; and non-adherence to procurement laws and/or procedures. The fact that the Office of the Ombudsman can be able to call public officials to answer for their conduct corresponds to the answer ability part of accountability. The notion of answer ability indicates being accountable to somebody by fulfilling the obligation to respond to questions pertaining to one’s conduct [29]. Furthermore, review of administrative acts has its impact on governance for it guarantees the application of good public administration policies and principles. This goes a long way in bringing about accountability in the public sector and for some authors this serves to alert officials to be accountable and responsible [1]. By handling complaints the Ombudsman informs the public authorities on the benefits of acting in accordance with the general principles of good governance [30]. The Office of the Ombudsman itself concluded that investigative and remedial powers position the office as an agent of good administrative practices, institutionalization of ethics in public institutions, as well as administrative and legal reforms in good governance [31].

Some have argued that the Ombudsman should not only be considered as a watchdog for the public but as an independent and impartial upholder of the highest standards of efficient, effective, just and fair public administration. They contend that the Ombudsman not only protects members of the public, but also endeavours to protect public officials from unfounded criticism and false accusations [32]. This means that the Ombudsman is not anti-public administration. This is true in the case of the office in Malawi for in cases where the Ombudsman has not found any wrong doing, the public official is vindicated.

B. Normative Function of the Ombudsman Institution

Public accountability and good governance are ensured only if all parties draw and learn from their errors. This remains the fundamental principle behind the work of the Ombudsman for without redressing wrongs there is no way this office can make a real difference. The Office of the Ombudsman does not only investigate cases, but it also gives directives, recommendations and ask other agencies to continue with cases. These recommendations and directives are aimed at getting law provisions clarified, practices codified or procedures amended to ensure better observance of fundamental principles [8]. This means that the Ombudsman through its remedies puts in place reforms, laws and policies that promote good administration which is characterised by being accountable. This makes the Ombudsman a real tool of

reform.

The power of recommendation was cited as one of the strongest weapons the Ombudsman has. Indeed, the Office of the Ombudsman has tried to put things right by directing public officials to do certain things including refunding misused money. The Ombudsman also directs public agencies to come up with policies and bylaws that aim at preventing similar wrongs from happening again. Thus, in its investigations, reports and recommendations, the Ombudsman plays a role of a developer of legal norms and administrative principles. This is what is called the normative role and it contributes to promoting quality in public administration and enhances legitimacy of government [8].

However, the normative function is weakened by the fact that the recommendations are really non-binding. Institutions comply with the recommendations and implement them on a voluntary basis and sometimes through the mercy of other governmental structures. If they choose to ignore them, the whole purpose for which the Office of the Ombudsman is established would have little effect. For instance, in October, 2016 the Office of the Ombudsman released a report entitled *'The present toiling, the future overburdened'* in which an investigation into allegations of maladministration and other irregularities on the purchase and disposal of farm machinery under India line of credit worth U\$50 million was done. The report made findings of maladministration and provided remedies including that the officials must issue an apology and also called for the prosecution of the officials, who were members of the internal procurement committee and presided over the sale of the farm machinery and those who benefitted from the sale. In 2017 the AG went to court for judicial review arguing that the Ombudsman overstepped her power and the court agreed with the AG's position. It took an appeal in the Supreme Court in 2019 for the Ministry of Agriculture, Irrigation and Water Development to issue a public apology for the flawed procurement and disposal of archaic farm equipment initially purchased using \$50 million borrowed in 2012 [33].

As discussed earlier, some have argued that accountability is the processes by which actors provide reasons for their actions under the pain of sanctions [34]; [29]. This means that the recommendations of the Ombudsman have minimal effect in promoting accountability, if any, because no sanctions are involved. However, some have argued that it is more accurate to classify Ombudsmen as providing a third, intermediate form of accountability that lies between answer ability and enforcement [3]. This is because the powers of the ombudsman to investigate and make recommendations to government for changes in law, policy and public reporting go beyond the concept of answer ability but do not satisfy the requirement for punishment. In order to make up for the lack of direct revision authority, an Ombudsman uses political independence and objectivity as a persuasive tool in negotiations and discussions with officials. If these methods are unsuccessful, he or she will primarily use publicity through reports to the legislature and the media to secure corrective action [35]. Thus, the power to recommend still constitutes a real tool for reform and is an important aspect of the ombudsman's normative task.

C. Providing Civic Education

The study uncovered that the Office of the Ombudsman conducts public rallies, sensitisation meetings and radio as well as television programmes aimed at reaching the masses with messages on roles of the Office of the Ombudsman, how to access the services of the office and on how to report maladministration and hold duty bearers accountable [31]. Most participants indicated that this broadens the knowledge of the public as well as the avenues of representation for it informs the people of the representational role of the Ombudsman which ensures that citizens and other stakeholders have a voice at the national level and are therefore involved in national governance issues.

D. Networking Umbrella

The study also found that the Ombudsman holds regular meetings with NGOs and other bodies, including

ministries and lawyers' associations. The Office of the Ombudsman also signs a lot of Mo Us with other oversight actors including CSOs. The need for networking in promoting good governance cannot be over emphasised. As indicated earlier, others have argued that an Ombudsman main weapon to secure remedial action is publicity-through reports to the legislature and the press [35]. Thus, networking not only strengthens the governance mechanism, but also acts as the substitution of institutional deficiencies through the exchange of resources and providing pressure for the implementation of recommendations.

E. People's Perception of the Ombudsman Institution in Malawi

Public perception of the Ombudsman is very important because if members of the public develop a negative perception about the institution, they may be disinclined to use the institution [3]. The study found that generally the Ombudsman institution is seen in a positive light by the populace. However, problems arise when it comes to accessibility and independence of the institution. Many participants were of the view that the institution is not accessible enough as it has few offices and most of its services are provided online and at regional offices. Indeed the study revealed that the Office of the Ombudsman whose headquarters is situated in Lilongwe has only four offices in Lilongwe, Blantyre, Balaka and Mzuzu Districts. There are plans to establish four more additional district offices in Karonga, Mangochi Nkhotakota and Nsanje, however this may not be enough in a country that has 28 districts.

On independence of the institution, participants were divided. About half the respondents were of the view that the office is not fully independent. Thus, it can be said that a good number of the participants had their doubts about the independence of the institution. They feel that the Ombudsman may easily be influenced by political forces some of which are in the public sector. Efforts to confirm these allegations were futile. The closest instance found was that in 2016 the then Ombudsman, Martha Chizuma, received death threats after the case of tractors discussed above [36]. Nonetheless, it goes without saying that if the Office of the Ombudsman is to deliver results, it must be independent from the actors or agencies it holds accountable [29]. Furthermore, financial dependence on the government was also cited as having a detrimental impact on the perception of Ombudsman.

These findings are consistent with a study done in 2009 by the Royal Norwegian Embassy in Malawi which found that there are highly conflicting views on the performance of the Office of the Ombudsman as some complain that the results of the institution are not visible and hard to see [37]. Another study also found that the general public, especially those in urban areas, have high regard for the Office of the Ombudsman as an institution that promotes accountability and transparency and checks corruption in government institutions [1].

The findings also showed that most Malawians consider the Office of the Ombudsman as being purely a monitor of administrative actions. This is not entirely true as the Office of the Ombudsman also has the mandate of protecting human rights. This mandate is not really known and because of this and other reasons, the Office of the Ombudsman mostly handles administration issues especially labour-related cases [31].

F. Challenges the Ombudsman Institution Faces In Carrying Out Its Functions

The study found that the office is faced with significant challenges. The following are the main challenges that were uncovered:

- **Funding**

Insufficient funding is the major challenge facing the Office of the Ombudsman in Malawi. In its 2022

report, the Office of the Ombudsman reported to have received from the government of Malawi a total sum of around \$1,000,000.00 meant for personal emoluments and for other recurrent transactions. The office also received around \$100,000.00 from Open Society Initiative for Southern Africa (OSISA), around \$50,000.00 from GIZ and the European Union (EU) through Chilungamo Programme made available to the Office of the Ombudsman around \$200,000.00 [31]. These funds are not enough for the office to address issues of maladministration across the country. Recently, the office has asked the treasury to increase its operations budget in the 2023-2024 financial year with around \$64,000.00. The treasury has allocated \$460,000.00 for the office, out of its realistic budget of \$715,000.00 [38].

These findings are consistent with findings with another study which found that the Office of the Ombudsman is poorly funded a phenomenon which affects both operations and the human resource capacity [1]. It is imperative, therefore, that the office must have freedom in budget and personnel matters.

- **Mandate-Related Challenges**

The unique thing with the Office of the Ombudsman is that the holder of the office has power to investigate and pass judgement, but has no power to enforce determinations. As discussed earlier, some consider accountability to be the process by which actors provide reasons for their actions under the pain of sanctions [34]. The Ombudsman in Malawi makes investigations and reports the findings publicly, but it does not have adjudicative powers and statutory authority to enforce its findings [1]. This means that the acceptance of the recommendations by the department or authority against which complaints are directed is not guaranteed. Some participants indicated that this is not enough to bring about change and that although the Office of the Ombudsman can direct the DPP to prosecute, most times administrative wrongs are not necessarily legal wrongs.

The other challenge linked to mandate arises from the fact that the Ombudsman's decisions can be challenged in the courts by way of judicial review. As such, the findings of the Office of the Ombudsman are often met with court challenges by the organs of the state that use public funds to institute court cases. This undermines the work of the Office of the Ombudsman and makes the implementation of changes take long as in the case of the tractors discussed above.

- **Problems of increased control and accountability mechanisms**

The study found that playing an activist role may bring about accountability overload. This is so because the practice of always ensuring accountability may give rise to dense web of material and procedural laws specifying criteria for administrative conduct. This may lead to controlling practices that are minute thereby making administrative action time-consuming and paralytic. This may further stifle innovation in the public service.

The other challenges that were cited during the study were lack of accessibility, political interference and weak institutions. The challenge of accessibility has been extensively discussed under public perception of the Office of the Ombudsman above. The challenge of political interference, albeit ostensibly plausible, could not be substantiated by evidence. The challenge of weak institutions is indirect. For instance, when the public sector employs unqualified and unprofessional employees for political reasons, cases of maladministration rise. It is self-explanatory that when the workforce is incompetent mistakes will be rampant. These findings on challenges are consistent with a study in Nigeria which found that lack of legal powers to punish offenders; insufficiency of financial resources; inadequate awareness about the existence and activities of the institution; illiteracy and ignorance are the main challenges affecting the work of the

Ombudsman [39].

CONCLUSION

This study unravelled the role that the Office of the Ombudsman in Malawi plays in the promotion of good governance. The main focus of the study was on the role of the Ombudsman in promoting public accountability. The study also tackles the challenges the Ombudsman in Malawi faces in its work. Using data collected using questionnaires, interviews and various documents, the study finds that the Ombudsman institution is an integral part of the model of good governance in Malawi. The office is crucial to increasing accountability and openness in the public sector. It accomplishes this by allowing citizens to file complaints alleging that the government has not behaved justly or lawfully; looking into the way public administrators have operated; suggesting legal, policy or practice reforms when illegal or improper administration is uncovered; reporting to the legislature and the public; and directing relevant authorities to remedy improper conduct. Such work goes a long way in enhancing and strengthening public participation, the rule of law, public accountability and other values and principles associated with good governance. The research additionally reveals that although the institution is well-designed to ensure increased accountability from people in positions of public authority, it encounters numerous obstacles when carrying out its responsibilities. Some of the challenges are poor funding, lack of enforcement powers as well as poor visibility and accessibility. Notwithstanding, the Ombudsman plays a huge role in promoting good governance in Malawi, specifically public accountability. However, it seems very difficult for an Ombudsman to operate with any success in a state that does not have some form of democratic governance. Hence, existence of a certain level of democratic governance is one of the primary conditions that have to be met before the Ombudsman can function effectively. The absence of any democratic system with controls on the exercise of powers makes it almost impossible for the Ombudsman to function.

RECOMMENDATIONS

Based on the findings and conclusions of the study, the following recommendations are offered:

- **To The Government of Malawi**

The government must ensure that the Office of the Ombudsman is sufficiently funded, independent and also its recommendations and directives are implemented. The government has to recognise that supporting the work of the Office of the Ombudsman is not an admission that public officials are failing but a sign that it is committed to protecting both the citizens and public officials from abuses and unfair accusations. If the expectations of the public are not met, there could be a loss of credibility and people may look for other alternatives, such as violent protests.

- **To The Ombudsman**

For the good functioning of the Office of the Ombudsman it is important to foster networking with other institutions. In addition, to be respected, the institution must itself be accountable. In this sense, the Office of the Ombudsman must put in place measures to manage risks of conflict of interest and manage its employees' conduct during investigations.

Furthermore, the Office of the Ombudsman must diversify its reach and work because most of the cases reported to the Office of the Ombudsman are mostly labour related cases. This threatens to reduce the Office of the Ombudsman to a human resource office. The institution must also improve its visibility and accessibility by among other things working with partners like CSOs in rural areas and sensitising the masses on how to access its services.

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