



**REPORT OF A GOVERNANCE CONSULTATIVE FORUM OF THE MALAWI-
SCOTLAND PARTNERSHIP HELD AT KAMUZU COLLEGE OF NURSING ON
18th APRIL, 2018**

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1.0. Introduction

This report presents a record of proceedings of a Governance Consultative Forum convened by the Malawi Scotland Partnership (MaSP) on 18th April, 2018 at Kamuzu College of Nursing in Lilongwe, Malawi. The MaSP is an agreement of mutual support and collaboration between the two polities that champions the *people to people* model of engagement. The MaSP has three core result areas, namely, Open Government; Peace, Justice and Strong Institutions (SDG 16); and Democratic Systems for National Elections (2019 for Malawi and 2021 for Scotland).

The main objective of the forum was to acquaint MaSP stakeholders and partners with the scope and areas of cooperation under the MaSP Agreement and to brainstorm and consult on governance issues or problems that could be addressed under each result area through a governance project to be implemented or overseen by the MaSP secretariat.

The Forum was anchored by Dr Henry G. Chingaibe of the Institute for Policy Research & Social Empowerment (IPRSE). The flow of proceedings was as follows:

Table 1: Flow of Forum Proceedings

Item of Business	Lead Person
1. Overview of the Governance Forum	Ms. Vera Kamtukule, CEO, MaSP
2. Opening remarks	Mr. Andrew Namakhoma, MaSP Chairperson
3. Presentation on corporate governance (Open governance, Transparency, Accountability)	Sir Andrew Cubie
4. Presentation on peace, Justice, strong institutions (SDG 16) and elections	Mr. Chizaso Nyirongo, Minister of Justice & Constitutional Affairs
5. Discussion through Q & A session	Moderator, Presenters and participants
6. Group work	Moderator and Participants

2.0. Key Messages from Opening Speeches

2.1. Overview of the Forum

- i. The CEO thanked partners for turning up for the forum. She observed that MaSP had been struggling for about 2 years to bring together stakeholders in

the governance realm. The Forum therefore marked the rejuvenation of the civic governance strand of the MaSP.

- ii. The Scottish Government is interested to support a governance project that will include the sharing of ideas and mutual collaboration between the Malawian and Scottish people.
- iii. Participants were invited and urged to contribute actively by identifying and suggesting project ideas to address governance problems in the three result areas of the MaSP.
- iv. The CEO emphasized the need for organizational credibility for Civil Society Organizations in order for them to acquire and sustain legitimacy especially when they raise questions of accountability and transparency in Government. In other words, good governance must begin with good corporate governance within the CSOs themselves.
The CEO pledged to activate the governance strand and conduct and support more activities towards the achievement of the desired results of the MaSP.

2.2. Opening remarks

- i. The chairperson of MaSP Board expressed excitement and gratitude to the CEO for resuscitating and convening the forum after a long time.
- ii. The presence of Sir Cubie was appreciated as well as the presence of all other participants. Sir Cubie was particularly acknowledged for his personal commitment and interest in the MaSP.
- iii. He informed participants that MaSP was looking for ideas and ways of implementing a project on transparency, accountability and elections in Malawi. He therefore called on participants to be generous with their ideas and suggestions for the project.
- iv. Participants were called upon to interact more and freely because this was key to achieving the goals of the forum. MaSP believes that in coming together as stakeholders to share ideas, leads to success.

There was need to get organized in order to guarantee the success of the interventions. Governance issues should not just solely point figures at government alone. Good governance should be practiced within CSOs.

3.0. Key Messages from Lead Presentations

3.1. Presentation by Sir Andrew Cubie

In the preamble to his presentation, Sir Cubie recognised the close relationship existing between the people of Scotland and Malawi (more than 100,000 people in Scotland were connected to Malawi). He therefore expressed gladness to be in Malawi once more and meeting friends.

Coming from a legal background and with experience in business in public, private and third sector areas¹ he was delighted to be involved in governance issues.

Sir Cubie's presentation focussed on transformative organisational leadership. The following points were some of the key take home messages:

:

- A total of 15 words were identified that strongly associate with good governance. These are integrity, honesty, probity, trust, values, ethics, and rule of law, responsibility, accountability, effectiveness, efficiency, equity, respect, competence and respect.
- The partnership between Malawi and Scotland was interested in promoting good governance and was based on respect and dignity. Specific interests include politics of the day both in Malawi and Scotland. MaSP pays special attention to the cooperation between people of the two countries. The mutual relationship of the two countries will enable sharing of ideas and experiences between the two countries.
- It was also pleasing that the president of Malawi committed towards supporting the implementation of SDG 16, which is the second key result area of the MaSP project when he addressed the Scottish Parliament as this strengthened and further legitimized the work MaSP had embarked on.
- Participants therefore needed to incorporate ideas on what the concerns were that needed to be fixed and develop interventions to address them. Policy is of ultimate importance in regulating the relationship between government, organizations and the people they serve.. Implementers of policy must practice good governance and ensure they serve the people they purport to serve with an adherence to the virtues of good governance that are conveyed through the 15 words. Three examples were highlighted:
 - Outrage in the UK as a result of the sexual scandal in Oxfam because this impacts on the people meant to be served.
 - Corruption scandal of a chip company in UK, USA and Brazil affected their reputation and jobs of many employees were at stake.
 - In the university sector in UK, there was outrage and mistrust because the chancellors were overpaid.
- Observed that Institutions that preach and teach about good governance seemed to be the first to tramp on good governance tenets.
- Some aspects of good governance require that CSOs should have a sound legislative framework. Transparency and accountability standards for CSOs and private sector must be very high and information necessary to achieve transparency and accountability in government, NGO/CSO and private sectors need to be easily accessible.

¹ Besides legal practice and business, Sir Cubie served as Chairperson of Federation of British Industries, Chairperson of the University of Edinburgh, Chairperson of Chairpersons of all Universities, and Chairperson of Charities Board

- The rule of law is an important aspect of governance. Compliance with the law is necessary even when you do not agree with the law itself.
- The role of leadership is fundamentally important. An environment where leaders make sound decisions is surely a good place to be. Respect for leadership does not come from the title or the position itself but the leader's ability to make sound decisions for effectiveness. It was therefore important to elect leaders with the right qualities using constitutionally instituted means. What you are electing or appointing people for must be clear and personnel specification such as qualifications and experience should also be clear. The right persons with integrity and knowledge of the law should be appointed to Boards.
- Another quality of good leadership is to be able to plan for leadership succession.
- Organizations must have a review system for self-assessment of performance. Achieved performance should be discussed between staff and their superiors. It is also important to identify individual or collective training needs.
- In good governance, leaders should observe that the interests of the public should come before personal interests and with clear distinction of responsibility between the Board and the Executive management. The relationship must be based on trust where there is no surprising action between them.

3.2. [Presentation by Mr. C. Nyirongo](#)

The second presentation focused on SDG 16 and elections. The SDG is a pledge to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Key messages from the presentation included the following:

- The essence of elections is to put people in positions who will make the right decisions for the good of those that are to be served. One of the important national documents is the constitution where provisions for holding elections are contained. The constitution has provisions on voting rights, spells out institutions for managing elections and elected positions are also provided for.
- It has been observed that public bodies fight for space in the constitution because they think being a constitutionally established institution gives their body more legitimacy or recognition. Others still consider some institutions or bodies as less important than others to the extent that some changes have been made to the constitution since its adoption in 1994. A good example is the removal of provisions for establishing the senate by the legislature.
- Another important consideration was whether peace was simply the absence of war and whether Malawi was really at peace due to the absence of armed conflict. Were there wars (non armed conflicts) that Malawi was fighting? Were there wars that Malawi needed to fight and was not fighting? Why does our

peace not lead to prosperity and democracy? Barriers to peace must be recognized and eliminated.

Malawians must become more conscious and reflect on how the country can be peaceful, resource –rich but wallows in excruciating poverty while countries that have been at war and survived debilitating armed conflicts around us are doing much better in poverty reduction and improved service delivery and governance?

- Concern for future generations is important. The SDGs talk about sustainable development. The environment should be managed with due consideration for future generations.
- It is also important to be concerned with whether institutions that are created for particular purposes are serving their intended purposes. Institutions need to be accountable but there are some that have shown resistance.
- How does governance account for the fact that Malawi has many good institutions with the right forms and legislative frameworks but their functionality is very sub-optimal and their effectiveness is very low? Oversight or accountability institutions are particularly affected.
- Another question that needs to be addressed was whether the 5 year election cycle is the only way public or elected officials can be held to account through an election. How can citizens and organized groups enforce accountability between elections?
- How can Parliament be held to account between elections? The law making process is fraught with interests and at different points in time Parliamentarians make decisions that reinforce narrow interests of one group against the interests of another. For example, during the review of the Public Health Act one set of actors (health professionals) advocated for the use of a pesticide called DDT for control or possible elimination of the malaria vector, the mosquito. The tobacco sector argued that allowing the use of DDT would be against Good Agricultural Practices (GAP) that would disqualify Malawi's tobacco on the international market and significantly affect the country's economy as tobacco is its leading foreign exchange earner. The health sector argued that all the money realized from the tobacco industry would in turn be used to treat malaria. Parliament banned the use of DDT.
- The SDGs also talk about access to justice. Is access to justice about how accessible or far off are the courts to the people or is it about efforts towards harmony among people being made before courts are consulted?

Rule of law is very important and needs to be followed. However, sometimes what the law is, is not sufficiently clear. For example, in 2019 Malawi will conduct sixth multiparty general election after the transition in 1993/94. However, conflicts still exist in the electoral laws.

Malawi has enacted many laws. However compliance with laws is low and effectiveness of institutions that implement specific statutes is sub-optimal. The implementation gap is significant. Why is this a perennial case? We need a system that enables auditing of laws over time to determine their impact.

3.3. Question and answer session

Q.1. How can a relationship of trust be developed between the Board and the Executive Management especially in the context of CSOs/NGOs?

A.1. The relationship should be governed by a framework of rules approved by the Board. Constructive dialogue is necessary for the business plan to work or to be implemented effectively. Approved plans are plans of the board and any CEO will have to largely follow its key principles if changes take place in the course of implementation.

Q.2. Both UK and Malawi have constitutions although for the UK, it is largely unwritten and therefore flexible. This suggests that the constitution in the UK is less difficult to amend or change than it is in Malawi. What is the significance of the constitution as far as governance is concerned? Again, how do you make people understand the importance of rules or why rules are there? Lastly, what is the role of education in ensuring that people understand the importance of the rule of law?

A.2. The need to define specific terms used in legislation was important for common understanding. Misconceptions are made if we have different understandings of the terms used such as peace. Perhaps peace should be understood differently as not merely the absence of physical fighting or strife, but other wars on poverty for example, needed to be fought.

On the difficulty in amending the constitution, the constitution of Malawi was not difficult to change. So far about 21 amendments had been made; section 64 was removed essentially because parliament wanted the provision removed. The changes are made based on the desires of the people making the changes and not because it is written or not. The question is about how we protect the constitution from personal interests and when we take time to review it. The last review was done about 10 years ago whose recommendations were not implemented. In the UK the constitution is largely unwritten although Scotland has a written constitution.

The role of education was not only limited to the understanding of laws. There is need to determine at what level rules or laws are introduced to the learner right from Early Child Development Centres (ECDCs). Furthermore, every legislation should be accompanied by a narrative of that law for clear understanding.

Q.3. The effectiveness of institutions is affected because technically qualified personnel are deployed away from the relevant institutions to institutions whose work does not correspond with their training. Inefficient allocation of human resources. Why is this the case and how can it be addressed in order to improve the functioning of institutions?

A.3. *The practice is common across countries including the UK. Some of these decisions serve political interests but in most cases such people are often bright and of outstanding intellect and are therefore expected to quickly learn and adapt to the new roles.*

Q.4. How can the culture of questioning or demanding accountability within organisations be instilled to improve the effectiveness of the institutions?

A.4. *Facilities through which people lodge their complaints should be provided. Questions like, “where do people complain about the conduct of a judge who skips court hearing, for example, are important questions to answer. In addition, the social media has become an important source of public pressure and expression of displeasure with the performance of some institutions.*

Q.5. How can accountability of Members of Parliament be ensured given that the recall provision was struck out of the constitution by Parliament? What then was the replacement of the recall provision? Who holds MPs accountable or how are MPs held accountable particularly between elections?

A.5. *Although one of the reason given for the scrapping off of the recall provision for MPs was that its implementation framework was not clear and therefore prone to abuse, this did not justify getting rid of it in totality. It merely required making the necessary changes. The recall provision needed not be struck out completely from the constitution. Just as the constitution still has the provision for impeaching the president (which parliament did not get rid of, but came up with standing orders), it merely needed addressing the shortfalls. That is why the review process of the law is necessary. Laws should be audited over time to assess the implementation itself, much as the drafting may comply with the required standards. Now it is difficult if not impossible to hold MPs accountable whilst in office.*

Q.6. To what extent is it true that the Laws of Malawi largely benefit the rich and powerful?

A.6. *Indeed certain laws explicitly or implicitly favour certain groups or categories of citizens. However, the skewed effects arise mostly in the application of the law as this depends on many factors related to those who enforce and apply the laws and those who benefit or are victimised by the application of the laws.*

4.0. [Group work](#)

The group work was meant to brainstorm on possible ideas for a governance project in view of current governance concerns at government and corporate levels and guided by three key result areas. The key result areas were open government, peace justice and elections.

The Forum Facilitator made a brief power point presentation that focussed on unpacking the key result areas of the MASP and explaining the matrix that was going to be used to facilitate group work.

The participants were divided into three groups. Each group worked on one of the key result areas of the MasP i.e. open government, SDG 16 and elections. Participants were required to identify problematic issues, carry out a synopsis of problem analysis, identify desired results and suggest strategies/activities that could be undertaken to deliver the desired results.

4.1. Group Reports

1. Group 1: Open Government

No	Issues to be addressed	Desired results	Activities/ strategies
1	Lack of access to information on economic management or public finance management and how corruption or mismanagement affects peoples welfare	Public has access to information that is clear and user friendly to motivate them to protest or act against public mismanagement and abuse of resources.	Develop a communication strategy for spreading information to the communities including simplifying complicated information and make it available to the public through local structures to raise consciousness of how the malpractice impacts them..
2	Secrecy in government – Government not open enough to disclose information.	More and better transparency leading to opportunities for accountability	Advocacy on better ways of operationalising accountability rules including checks and balances between branches of government and the work of oversight institutions.
3	Communities not engaged on formulation policies.	Increased citizen participation in development planning , implementation and oversight through local governance structures	Facilitate interface meetings between government officials and communities

4	Mistrust between government and NGOs – no synergy in interventions.	Increased trust and synergies between NGO and government	Transparency initiatives: NGOs should comply with government's requirements for reporting. There is synergy between Government and NGO interventions on the basis of MGDS and especially District Development Plans.
5	Low citizen empowerment or civic engagement	Critical citizenship	Mainstreaming Civic education Civic education for communities is institutionalized and not based on elections. Civics is made prominent in school curriculum.
6	Lack of synergy among NGOs due to competition.	Increased collaboration and partnerships among NGOs.	NGOs comply with government set rules of conduct.
7	Poor communication about the enforcement and implementation of public reforms.	Increased knowledge of public sector reforms by the public to enable their effective engagement	Collaborate with Public Sector Reforms Office and others to package information, track reforms and publicise through print and electronic media
8	Independence of key institutions to promote good governance e.g. ACB, Ombudsman, MHRC	Key institutions are fully independent.	Generate public demand and lobby for the review of the laws that govern the appointment of Directors for such oversight institutions.

2. Group 2: SDG 16 Peace Justice and Strong Institutions

No	Issues to be addressed	Desired results	Activities/ strategies
1	Increased incidence of violence against children	Reduced cases of violence against children	Raise awareness on forms of child abuse on all levels; Train community based structures; Orient teachers and learners and school structures on child rights and protection; Increase number of community child protection officers; Promote 116 child helpline Promote creation of safe homes for children at community level
2	Increased incidence of gender based violence	Reduced number of gender based violence cases	Awareness against GBV Train community based structures creation of safe homes
3	Attacks on people with albinism	Prevent attacks on people with albinism	Sensitization on attacks o people with albinism Stiffer punishments to people involved in attacks
4	Discrimination against people with disability	Prevent discrimination against people with disability	Sensitization on discrimination against people with disability
5	Inadequate access to formal and primary justice	Improved access to primary and formal justice	Make shift courts Train more magistrates Disability friendly courts Train more lay magistrates and para legal
6	Increased level of corruption	Eliminate tolerance to corruption on all levels	Awareness on corruption on all levels

			<p>Integrate issues of corruption into school curricular</p> <p>Increase and protect whistle blowers</p> <p>Lobby for stiffer punishments for people arrested for corruption</p>
7	Non effective and unaccountable institutions at all levels	Improved functionality of accountability institutions	<p>Train and empower local structures</p> <p>Intensify community forums with duty bearers and the people</p>

3. Group 3: Elections

No	Issues to be addressed	Desired results	Activities/ strategies
1	Electoral Violence	Peaceful 2019 Tripartite General Elections	<p>Workshop on electoral violence involving electoral stakeholders and law enforcement agencies</p> <p>Tracking and documenting incidents of electoral violence</p> <p>Supporting the Malawi Police to address electoral violence differently from criminal acts</p> <p>Train Political party groups on how to maintain peace and avoid electoral violence within and between political parties.</p> <p>Lobby for strict and impartial enforcement of the law</p>

2	Voter apathy	Increased/ more turnout	A campaign on political participation to get out voters; Activities aimed at creating a peaceful environment for elections
3	Too many political parties – an open-ended section 40 of the constitution Lowering of standard (bringing poor standards)	Constitution amended and reviewed (S 40)	Advocacy initiatives
4	Political parties manifestos not shared or publicised	Political ideals and manifestos shared, used as KPIs and in line with national development strategies	Public debates on contents of manifestos
5	Access to voting is difficult for the elderly and disabled	All community members have access to voting using the most appropriate materials and means	Develop informative materials
6	Intolerance in political parties (lack of intra-party democracy)	Community forums that are active	Awareness campaigns
7	Political appointments for heads of public institutions	National and impartial composition of Electoral Commission	Lobby for change in criteria or authority for appointment of Commissioners.

4.2. Questions from plenary

Group 2 was asked to be specific on who was tolerating corruption.

In response, it was said everyone was practicing and tolerating or encouraging corruption. Examples were given showing that corruption is in all spheres of life and at all levels of society. There is need for a holistic approach to tackling corruption..

Group 3 was asked to clarify on the amendment aimed at limiting too many political parties. What was the recommended number? What incentives would be put in place to dissuade politicians given that most of them have livelihoods around the political parties? In addition, how best should political party manifestos be formulated in line with national agenda? And how can public access to political party manifestoes be improved given high illiteracy rates and limited access to electronic gadgets for mass communication?

In response it was agreed that political party manifestos should be aligned to the national agenda and parties should articulate their strategies for delivering on the political agenda. . In order to reduce the number of political parties, laws should be put in place or there should be advocacy to implement the Political Parties Act to ensure that political parties that do not field candidates in elections should be struck off the register of political parties.

4.3. Closing remarks

The Forum was formally closed by Sir Andrew Cubie. In his closing remarks, he reminded participants of the importance of the meeting and pointed out that the next step was to use the ideas and suggestions provided to come up with a project. He emphasised that it was the responsibility of the present generation to leave the planet better than we found it and hoped that through the efforts of the project, governance in both Scotland and Malawi will be better than before.

Lastly he expressed gratitude to MaSP CEO, the Board, the fellow presenter, moderator, and participants for accepting the invitation and for their contributions and the host, Kamuzu College of Nursing.

A closing prayer was offered by a volunteer and the forum closed at 14:26 hrs followed by lunch.

Annex: List of participants

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