



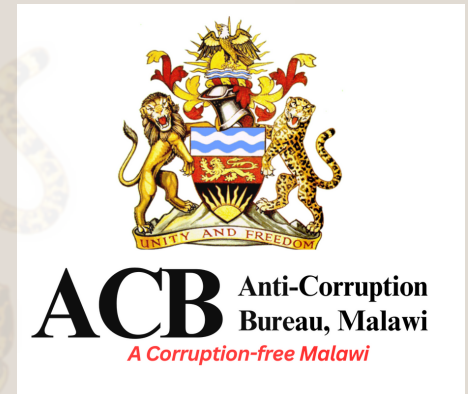
Editorial

Welcome to ACB Update, the official monthly news bulletin of the Anticorruption Bureau (ACB) in Malawi. The ACB was established in 1995 through the Corrupt Practices Act. Among others, its role is to help in corruption prevention through awareness building, behavioral change and to punish corruption through legal prosecution.

Corruption is a very delicate type of crime. It involves people who are ready to hide traces of their criminal acts through elimination of evidence, witnesses and engaging in further corruption by bribing witnesses and other stakeholders to delay the cases.

Corruption cases are complex. Issues of justice require thorough investigation and the processes take time. Even after investigations, they meet several challenges as the updates in this bulletin show.

The ACB Update is a transparency tool for Malawians to be in the loop of different activities done by the ACB in the fight against corruption. ACB assures Malawians that it remains optimistic that the fight against corruption will be won in our lifetime as long as all stakeholders continue to work together.



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UPDATES ON ONGOING CASES

Republic vs Kezzie Msukwa and Ashok Nair

The first Zuneth Sattar related case was that of Kezzie Msukwa, former Minister of Lands and Ashok Nair Criminal proceedings were stayed by the Supreme Court pending a full appeal hearing.

Msukwa alleged, in his high court challenge that the evidence used to prosecute his case was obtained from the National Crime Agency (NCA) illegally. The Court ruled in favour of ACB holding that ACB received the evidence legally.

Not satisfied with the High Court, Hon Msukwa appealed to the Supreme Court which has since stayed the ruling of the High Court pending a full appeal. The ACB is ready and is only waiting for a date to be set by the Supreme Court.

Republic vs George Kainja and others

The second Sattar related case involves the Former Inspector General of Police, George Kainja and others whose arrests took place in Mzuzu, Lilongwe, Zomba, and Blantyre. Following the arrests, the Bureau applied to the courts for transfer of the files to Lilongwe. Almost all of the files have since been transferred.

Later Dr George Kainja also filed an application for leave for judicial review largely based on the same issues on the receipt of NCA evidence by the Bureau. of how the ACB received evidence from NCA.

In its ruling of 5th May 2023, the Court dismissed the application in its entirety. Following the dismissal, the Chief Resident Magistrate Court has set the matter for 5th July 2023 for mention.

Republic Vs Saulos Chilima

Vice President Saulos Chilima was arrested on 25 November 2022. The Court has since committed the case to the Financial Crimes Court on 19 May 2023. The Financial Crimes Court has since set down the matter for hearing on 3rd July, 2023.

Republic Vs Bakili Muluzi

The case of Dr Bakili Muluzi was discontinued by the office of the Director of Public Prosecutions (DPP) on 29th May, 2023.

Abuse of APM TPIN case

The ACB concluded its investigation into the TPIN case. It arrested some of the suspects. However, the operation had to be suspended when it was noted that there were clashes with the cement gate issue which was investigated by Malawi Police and prosecuted by the DPP.

The public may be aware that both the cement issue, which was investigated by the Police, and other matters that the Bureau investigations focused on, arose from the same TPIN belonging to former President Arthur Peter Mutharika.

The case is awaiting the DPP to invite all the relevant Law Enforcement Agencies to discuss the way forward.

Republic Vs. Batatawala

The hearing of the case started in April 2022. The case is still at prosecution stage. ACB has presented eight witnesses and eleven are remaining. The matter was last set down for hearing in the week of 23 to 27 January 2023.

The ACB prepared to parade six witnesses but none of them testified. On 23 and 24 January 2023, the court could not sit because one of the defence counsels was bereaved.

On 25 January 2023, the lawyer for Mr. Batatawala raised a number of objections to the charges and prayed for discharges of some counts. This was dismissed by the Courts. Later on, the Defence raised an issue on the constitutionality of some of the charges and this matter was referred to the Honourable Chief Justice.

The Chief Justice has since certified this as a constitutional matter and is awaiting hearing by the Constitutional Court.

Republic Vs. Newton Kambala and Others

The matter was last heard in July 2022 and is still at prosecution stage. Since July 2022 the matter has suffered a number of adjournments due to various reasons last one being the changes in the judicial officer hearing the matter.

The matter was set down for mention to set dates for continued hearing on 15th June 2023. On the day of mention, the defense applied for discharge of the accused from the case. Since the application was made without notice to the state, the court gave the state a chance to respond upon which the Court will make its ruling.

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UPDATES ON COMPLETED CASES

Republic vs Viola and Chingola

This is a case of corruption related to a contract to procure maize at the NFRA. The suspects were convicted and sentence was suspended.

The ACB being dissatisfied with the sentence has filed an appeal in the High Court.

Republic vs Elida Mambewe

This was a case where Bureau investigations established that Elida Kumbewe, while working as a Data Entry Clerk at the DRTSS in Lilongwe, extorted money amounting to K64,000.00 from a service seeker. This was to help him process category PG driver's license.

She was convicted on 15th March, 2023 the sentence was suspended.

Republic vs Jack Ngulube and others

The Court in Mangochi acquitted former DC Jack Ngulube and Michael Khoko but convicted Monica Mazuwa Kagwira, Arnold Chitenjere and Cyprian Kagwira.

Ms Kagwira and Mr Chitenjere were sentenced to eighteen months' imprisonment with hard labour. Cyprian Kagwira was fined K400,000.

This is a case involving procurement of fingerings using Local Development Fund.

Rep vs Mbandambanda

This was an allegation that Criminal Investigations Detective Police Officer, Margaret Mbandambanda of Limbe Police Station demanded between MK100,000.00 and MK150,000,00 from a relation of a suspect in order to release the suspect on police bail.

Police officer Mbandambanda was convicted and sentenced to 20 months' imprisonment with hard labour On 21st March, 2023.

Rep vs Mlenga Mvula and Rev Daniel Mhone

Mlenga Mvula was convicted and sentenced to 30 months imprisonment with hard labour while Rev Daniel Mhone's sentence was suspended.

Rep vs Hannif Muhammad and others

This is a Court case where the Bureau was prosecuting suspects for corrupt practices and deliberately presenting a false victim in a defilement case whose suspect was Hannif Muhammad in order for the case to be withdrawn in favour of the suspect.

The Bureau investigated the corruption matter and found that the suspect paid some money to Cecilia Kananji in order for her to go to Court and pose like the victim and that she was not raped but consented to the act.

The Bureau arrested Hannif Muhammad, Cagetan Singano, Victim Support Coordinator at Limbe Police Station, Ishmael Abubas a Police Prosecutor and Cecila Kananji for the offence.

They were taken to Limbe Magistrate Court where they were found with no case to answer, The Bureau filed an appeal against the ruling as it is of the view that Court was did not consider the evidence that was tendered by the prosecution.

Other updates...

Corrupt Practices Amendment Act 2022 Speeds up Prosecution

The amendment to the Corrupt Practices Act has shortened the time it takes for the Bureau to start prosecuting corruption cases after investigations have been concluded.

Already suspects are being taken to Court and charged immediately.

ACB Monitors AIP implementation

As per its mandate, the ACB was involved in monitoring the Affordable Input Programme (AIP) to minimise the risk of corruption and ensure that the programme achieves its objectives. The Bureau noted a number of challenges and addressed some in the course of its work.

There were other issues which were investigated and are being prosecuted. So far, the Bureau arrested four chiefs, one agricultural officer and two others. A comprehensive report has been released.

ACB Investigates UBR Survey

The Bureau received complaints of alleged irregularities in the recruitment of enumerators to conduct the Universal Beneficiary Register (UBR)

survey in the three councils. The Bureau later restricted all District Councils from continuing with the processes.

The investigations did not establish prosecutable offenses for all the complained districts but found that there were serious irregularities in Karonga District.

Accordingly, on 22nd June 2023 the Bureau uplifted the Restriction Notice and granted the Consent to Deal for Mchinji, Ntchisi, Dowa and Kasungu Districts. The Bureau however directed that the recruitment in Karonga has to restart all over again and has not lifted the restriction notice.

ACB conducts Anti-Corruption Clinics in Dowa and Ntcheu

The Anti-Corruption Bureau conducted Anti-Corruption Clinics in Dowa and Ntcheu Districts in the months of April and May. This is an initiative which was introduced to bring Bureau services closer to the people right in their areas.

During this initiative, members of the Bureau operate in the district conducting sensitization programs through mass rallies, trainings, radio programmes and procurement audits. Members of the public in the area are given a chance to lodge complaints with the Bureau through the report centre officers present.

The Bureau also solicits issues which affect access to public services in the district. The issues are consolidated, and a public forum is conducted where duty bearers are invited to respond to issues raised by the citizens. This initiative empowers the citizens to hold duty bearers to account for their actions.

It is hoped that this initiative will lead to reduced corruption and improved service delivery.



ACB Optimistic Despite Slip on TI CPI

Transparency International (TI)'s 2022 Corruption Perception Index (CPI) report ranks Malawi at position 110 against 180 other countries globally.

Despite maintaining last year's position, the percentage score for Malawi is thirty-four from thirty-five last year. Despite the 1-point slip, the ACB remains optimistic that the fight against corruption will be won if all stakeholders continue to work together.

Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Score (%)	37	37	33	31	31	31	32	31	30	35	34
Rank	88	91	110	112	120	122	120	123	129	110	110

Factsheet on cases, 2021-2022

- 📌 361 cases investigated
- 📌 193 brought forward from previous years
- 📌 168 commenced in 2021 -2022
- 📌 151 cases completed representing 111%
- 📌 83 prosecuted (69 from previous years)
- 📌 16 prosecuted against target of 28 or 57%
- 📌 10 (3 criminal; 7 civil) completed cases had judgment delivered
- 📌 70% recommended for closure for lack of evidence
- 📌 6% referred to other institutions

Continuing Cases, 2021-2022

- 📌 9% at hearing stage
- 📌 67% at prosecution.
- 📌 3 awaiting ruling of case to answer
- 📌 2% at mediation
- 📌 6% hearing
- 📌 13% at filing stage

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