



A NOTE ON THE POLITICAL ECONOMY OF ACCESS TO INFORMATION IN MALAWI

Introduction

Access to information is critical to the realisation of voice accountability, citizen participation and transparency. The degree of access available in any country is a function of a number of factors on both the demand and supply side which are determined by the configuration and interaction of the various interests prevalent in the particular political, economic and social context in which they subsist.

This note identifies such interests in the context of Malawi, discusses how they affect access to information and identifies opportunities for reform that may result in improved access. With respect to the opportunities for reform, the note does not prescribe specific interventions but merely outlines the broad features of reforms that have the best chances of success in enhancing access to information in the context of the Malawian political economy.

The institutional landscape of access to information in Malawi

The normative basis of claims for access to information in Malawi is the constitutional right of every person to have “access to information held by the State and any of its organs if such information is required for the exercise of his or her rights.” Enhanced access to information depends on the willingness and ability of the state institutions to grant demands for access, on the supply side, and the willingness and ability of people to make those demands. In turn, such willingness and ability on the part of the state and its organs, on the one hand, and individuals, on the other, depend on whether they view access to particular information as promoting or undermining their vested interests. Any reforms that seek to enhance the extent to which access to information is realised in practice must, therefore, be informed by informed understanding of the institutional dynamics that result from the interplay of interests.

Analysis of the institutional landscape of access to information in Malawi must be predicated on the realities of the Malawian political economy, including the conflation of state and party interests; differentiation of the political and technical components of the government; clientele relations between citizens and community leaders, including MPs and traditional authorities, low; business-politics relations that skew the market; the absence of functional formal local government structures and influence of civil society advocacy groups. It is in this context that the institutional framework for access to information in Malawi must be located. Exploratory research revealed the network of incentives and disincentives that influence each stakeholder to support or oppose access within that context.

The research established various barriers that currently impede access to information. Understanding the underlying causes for the barriers requires an appreciation of the reasons that

incline individual institutions to facilitate or impede access to information. A summary of the reasons is presented in the table below.

Table 1: Stakeholder interests

	Reasons for supporting access	Reasons for opposing access
Government (political)	-Gain public support/sympathy (“positive” info.) -improve “good governance” record (for donors)	-generate public criticism and loss of public support/sympathy (“negative” info.) -loss of anonymity of “higher authorities” behind decisions - empower “the opposition” -increase the burden on budgetary resources -compromise national strategic interests e.g. national security.
Government (technical)	-forestall allegations of inefficiency and corruption.	- increased bureaucratic burden -loss of corruption opportunities -loss of anonymity of civil servants behind decisions
Individuals	-enforcement of individual rights -	-protect privacy -avoid legal liability
Communities	-enhance effectiveness of demands for public services and goods	-loss of the power that exclusive access confers to current information brokers (chiefs, MPs, Councillors)
Civil society organisations	-improve quality of advocacy activities -	- loss of “market” advantage (for CSOs that currently have informal access)
Private sector	- gain knowledge of business environment -level business playing field -	-loss of market advantage (for those that currently have informal access)
Media	-reduce legal risks of informal access to information (breaches of Official Secrets Act etc)	-loss of exclusivity of access (for those who currently have informal links) -

The degree of access to information in Malawi depends on the interplay of the institutional incentives and disincentives produced by the reasons outlined above for opposing or supporting access. Overall, greater access is likely to be achieved where there are the fewest incentives to block access and most disincentives to facilitate it. The research evidence summarised in the table above indicates that the institution with the most incentives to oppose access to information are politicians and technocrats in the executive branch of the government, although some opposition can also be expected from current information brokers in communities as well as those civil society organisations and private sector entities that currently access information through their informal contacts.

On the other hand, the research found that all sectors of Malawian society, including the executive branch of government, do have some incentives to support access to information. The incentives exist with respect to information disclosures which maintain public confidence in the government and civil servants; enable citizens to improve their access to public goods and services; enhance evidence-based advocacy by civil society organisations; allow media to avoid legal liability; contribute to the increased availability of general market information to the private sector and the levelling of the playing field for private sector business.

In addition to the various stakeholder interests that determine the framework of incentives and disincentives for granting access to information, other critical determinants of access established by the research are social factors that directly affect the mechanics of access. These include low language literacy levels, low levels of ICT availability and literacy, centralised bureaucratic arrangements, the predominance of a culture of deference towards authority and poor public record management systems.

Towards realistic and effective reforms

The importance of access to information to governance and development is acknowledged by almost all stakeholders and reforms aimed at improving access to information are underway, including the campaign for the enactment of an Access to Information Act which is at an advanced stage. However, the enactment of the law is unlikely to result in improved access to information unless it is accompanied by institutional reforms that address the vested interests that are likely to be threatened by increased access to information held by state organs.

In order for the reforms to be realistic and effective, they must first be capable of mobilising the maximum amount of support for access to information from the stakeholders identified above. Based on the map of interests outlined in the table above, this suggests that the reforms with the best chances of success are measures which: do not directly undermine public sympathy and support for the government and civil servants; improves quality of demands for improved delivery of public goods and services; provides evidence for legislative oversight and civil society advocacy; and levels the playing field for private sector business interests.

Secondly, realistic reforms must take full account of the varying degrees of power and influence of the various institutional actors involved in determining the degree of permissible access to information. In Malawi, the most powerful and influential of these is the political component of the executive branch of government which can use its power to protect its interests in maintaining public sympathy and support, preserve the anonymity of “higher authorities” behind decisions, maintain its advantage over “the opposition,” avoid increases in the burden on budgetary resources and protect national strategic interests e.g. national security. Reforms that directly threaten these interests are likely to be blocked by the executive’s use of its power and influence. However, it is important to note that the incentive to preserve those interests is not uniform throughout the government and it is possible for reforms to garner support from those actors within government who have no strong incentive to protect the interests because they do not directly benefit from them.

Thirdly, the reforms must optimise the synergies among those various stakeholders which the research identified to have a shared interest in increased access to information, including sections of the private sector, civil society organisations and the media which currently lack informal access to information held by the state. Reforms that involve collaboration among these stakeholders will

facilitate the synergising of financial influence, advocacy skills and mobilisation of public opinion resulting into an effective counterweight to the opposing influence and power of the executive branch of government. This entails coalition-building based on an informed identification of common interests and strategic combination of the respective strengths of the coalition partners.

Fourthly, reforms aimed at improving access to information must be inclusiveness. Inclusive reforms entail taking sufficient account of social realities that impede access to information for marginalised sections of the population. Based on the barriers to access to information identified by the research, such sections include people with low or no literacy and limited or no access to information and communication technology, and those who live in the relative geographic isolation of rural areas. This entails that reforms must focus on not only the improvement of formal access to information, but also the enhancement of substantive access by promoting the translation of public information into local languages, the storage and dissemination of information in user-friendly forms that require minimum or no literacy.

Fifthly, reforms must be designed to ensure their sustainability. This can be achieved by anchoring them in existing institutional frameworks and processes. As far as possible, therefore, reforms must be linked to on-going reforms aimed at enhancing accountability, transparency, citizen participation and service delivery.

Conclusion

The ongoing campaign for the enactment of access to information legislation is important for the realisation of access to information. However, that effort must be accompanied by reforms in institutional practices. This requires a clear understanding of the drivers for the behaviour of institutions that determine the willingness and ability of citizens to demand access to information and state institutions which hold information to grant access. Analysis of the interests that shape the incentives scheme is essential for not only the conceptualisation of interventions that are realistic and effective, but also for designing coalitions of actors to mobilise the momentum for the reforms.