

By Frank Phiri*

On May 10, at 9:30 a.m., a sleek, big, black Hummer swerves left, leaving the main road. It drives in the direction of a sign marked "The High Court of Malawi." The main road is the Masauko Chipembere Highway, the only divided highway in Blantyre, Malawi's commercial capital.

This highway is one of the recent bitumen roads to be rehabilitated under the administration of President Bingu wa Mutharika. Its recent upgrading has helped ease traffic congestions that hitherto made driving in the commercial city and the adjoining retail town of Limbe a nightmare. Ten years ago, this road, like many others across the poor Southern African country of about 13 million, could not have easily materialized due to incredible levels of red tape and acts of corruption. It would not have mattered that the money for the project came from a donor country, Japan.

Today the Hummer, a product of U.S. automaker General Motors (GM), distinguishes Africa's penniless from the "monied" cruises around the city with so much ease thanks to the divided road. Even the passenger in the polished black SUV, former President Bakili Muluzi, appears to enjoy his ride.

For Muluzi, however, the question is how long this seemingly jolly ride will last.

This morning, the former president is on a routine appearance before the High Court, where he stands accused of diverting 1.7 billion kwacha (US\$12 million) of donor funds meant for the Government Consolidated Account into his personal accounts. Muluzi was initially charged with 86 counts of fraud, which have now been synthesized into six. Prosecutors have included a former Malawi ambassador to Japan, James John Chikago, and a former personal assistant, Lyness Whiskey, as Muluzi's accomplices in the case.

The US\$12 million in question represents a third of the total budget for managing Malawi's HIV/Aids pandemic. At least 10 people die from AIDS-related illnesses every hour in Malawi.

Little progress

The probe against Muluzi is only one of a few high-profile cases of corruption being pursued by the Anti-Corruption Bureau (ACB). On April 8, 2008, a Magistrate's Court in

Lilongwe convicted and sentenced to six years former Education Minister Sam Mpasu for complicity in a textbook deal involving the UK firm Fieldyork International. The case, which has come to be known as the “Fieldyork Scandal”, also implicated Muluzi and some of his former cabinet ministers. Mpasu’s appeal earlier this year was thrown out by the High Court in Blantyre, an emphatic victory for the anti-corruption war front.

There are 488 cases under investigation by the ACB, of which 106 are already in the courts. According to ACB Director Alexious Nampota, the bureau has recommended 58 cases for prosecution, closed 139 and secured two convictions as well as two acquittals.

In recent years, the ACB has had to improve its image, ostensibly to render credence to its efforts in the fight against corruption. The ACB now boasts an interactive website. It is also a regular advertiser on radio and television, where it runs thematic media campaigns to sensitize the public to the evils of corruption. To improve whistle-blowing mechanisms, the bureau has established a toll-free line through which alerts and complaints are reported.

The effect of these public relations tactics is noted in the quality of corruption-related complaints that the ACB receives. “We (ACB) note that there are more complaints to do with corruption, unlike in the past when the bureau registered more complaints that had nothing to do with corruption,” said Public Relations Officer Egrita Ndala.

Malawi’s public procurement departments and quasi-government institutions top the rogue list of the “fat cats.” The ACB is making deliberate efforts to reach out to these entities. Among other initiatives, the bureau has entered into agreements providing for joint implementation of fraud-prevention efforts. Memorandums of Understanding (MOUs) for these joint initiatives have so far been signed with the Electricity Supply Corporation of Malawi (Escom), a state-owned electricity provider, and the Immigration Department. The 2005 Malawi Governance and Corruption Baseline Survey Report listed the Immigration Department as one of the fertile grounds for corruption in the Malawi public sector. The department issues passports and residency or work permits.

For its part, the state-owned power utility company is a staple diet for banner headlines on fraud and corruption in the daily newspapers. The company’s former CEO Kandi, stood trial after he was accused of unilaterally awarding contracts to dubious companies and bypassing proper

procedures. He was acquitted, but the ACB appealed. At present, Escom is under the ACB's probe after its management allegedly squandered 80 million kwacha (US\$552,000) on a Christmas party and gifts in December 2008.¹⁴ Many ordinary staff members at Escom do not remember being invited to said party. "We just read it in the papers. It's scandalous," said one technician, speaking on condition of anonymity.

To the chagrin of the public, Escom's performance is appalling. Unable to meet the country's electricity demand due to inadequate generation capacity, both industrial and residential consumers have to endure prolonged hours of power rationing. Local newspapers seem to be profiting from the situation because they run full-page advertisements featuring an endless outpouring of apologies along with "load-shedding" timetables. Irked with the pathetic state of affairs, the Consumers of Malawi (Cama), a consumer-rights watchdog, sued Escom, calling on the utility to change its slogan of "Power all day, everyday." The company ended up changing its logo.

Questions and doubts linger

Malawians went to the fourth multi-party general elections on May 19, 2009. President Bingu wa Mutharika won 2.7 million votes, more than twice as many as his main challenger, John Tembo. Former President Bakili Muluzi, who had been expected to pose the greatest challenge to Mutharika, was barred by the High Court from contesting three days before polling day. Analysts attributed Mutharika's landslide victory to his tough anti-corruption stance. They also noted that during his first five-year term from 2004, he pushed through a number of reforms that restored donor confidence and persuaded the G8 to cancel the bulk of the country's foreign debt of US\$1.7 billion.

On Feb. 5, 2009, Mutharika led the country in unveiling a new graft-busting blueprint, the National Anti-Corruption Strategy (NACS). Crafters of the strategy include a cross-section of stakeholders from government, business, media and civil society. It is lauded as a holistic tool for combating corruption.

However, these efforts seem not to have had the desired effect of staving off what appears to be a growing wave of sophisticated corruption in Mutharika's own administration. Malawi's corruption perception ratings have not improved much, according to Transparency International (TI). TI's Corruption Perceptions Index (CPI) ranks Malawi at 115 in 2008, up from 90 in 2004. The 2008 rating is a slight

improvement from 118 the previous year. These ratings have been a source of anger by the president, who, in 2007, spewed venom on TI by accusing the Berlin-based independent corruption watchdog of “cooking up” its figures.

But Mutharika now seems to have reversed that view. On Aug. 26, 2009, he publicly admitted that corruption has become rampant in the country and looked askance at his own inner circle, which he suspects of corrupt dealings. The president warned that he would “not protect” any of his ministers from prosecution. “I am aware that some of you think of nothing but to get money which you’re not entitled to ... All those that use corrupt contractors to get commissions, I will prosecute, jail and fire you,” he said at the opening of a minister’s orientation workshop in the administrative capital, Lilongwe.

Selective prosecution?

The President’s outbursts follow accusations from the opposition that he is shielding some corrupt cabinet ministers from prosecution. In particular, the opposition has queried why the ACB has failed to formally charge outspoken Children and Women Affairs Minister, Patricia Kaliati, accused of receiving “gratification” from a United Arab Emirates firm that allegedly sought her influence to award it a tourism concession at a picturesque plateau in Northern Malawi.

The opposition has also questioned the president’s decision to reinstate Clerk of Parliament Matilda Katopola, despite an audit report revealing she had written a check to herself to supply stationary services to Parliament. Question marks also hang on the source of funding for a mansion the president is building on his reclusive Ndata farm, in the tea-growing district of Thyolo in Southern Malawi. The Portuguese company Mota-Engil is constructing the mansion near the spot where the late former first lady Ethel Mutharika is buried. She died in May, 2007.

The ACB blames the slow process for prosecuting corruption on inadequate human capacity. Currently, the bureau has 25 investigators handling 500 cases every month.

The anti-corruption director Nampota, a lawyer by profession, openly voiced his frustration over the insecurity of tenure for the director of ACB and has asked Parliament to find a permanent solution. The position of the ACB director is crucial in the fight against corruption in Malawi

because he is the only one mandated to give consent to investigate or prosecute such cases. As someone with institutional memory, having been a one-time deputy director of ACB, Nampota's fears are well-founded.

For three years, the ACB had no permanent director. Two of Nampota's predecessors, Gustav Kaliwo and the late Tumalisye Ndovi, left office under a political cloud. Kaliwo was fired for allegedly defying Mutharika's order not to arrest Muluzi on July 18, 2006, while Ndovi, despite blessings of the president who nominated him, was twice rejected by the then authoritative, opposition-led Public Appointments Committee (PAC) of Parliament. Afterward, filling the vacancy for the post of director became a precondition for continued aid to Malawi by Britain, one of the country's major donors.

Media muzzled

The media have been instrumental in investigating and exposing corrupt dealings in Malawi. While the National Anti-Corruption Strategy recognizes the media as a one of the pillars in the fight against corruption, the law does not. Since 2003, the National Media Institute of Southern Africa (NAMISA), a local media freedom watchdog, has been pushing for the enactment of its draft of the Access to Information Bill into law, without success. Without this piece of legislation, journalists have to circumvent red tape to access vital information, a situation that tends to limit their accuracy and put them at risk for lawsuits.

"Without this law, our ability to probe and expose corruption is limited and we often find our freedoms threatened," said Brian Ligomeka, the chairperson of NAMISA. He suspects that ruling DPP legislators, who now enjoy a majority representation in the 193-seat Malawi Parliament, are reluctant to pass the bill for fear of being exposed.

"At present, the MPs have declared their assets to the speaker. Ironically, we're not allowed to get or use this information for public consumption. There's the 'it's our time to eat' attitude in the current Parliament. The proposed law would smash all that," he said, referring to journalist Michela Wrong's book that exposes patronage system and the use of the state as a source of loot.

**Frank Phiri is a public relations strategist with ZK Advertising & Public Relations, a pan-African media agency, and a financial freelance journalist. He writes for Reuters from Blantyre and has corresponded for Inter Press Service (IPS) and was a business editor at Blantyre*

Newspapers Limited, Malawi's largest print media house. He was named Business & Economics Journalist of the Year by the National Media Institute of Southern Africa in 2006 and was nominated for the IPS' Richard de Zoysa Award for Excellence in Independent Journalism in 2004.