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University of Glasgow

**The Impact of Administrative Change on Record
Keeping in Malawi**

Paul Lihoma

**Submitted in fulfilment of the requirements for the Degree of Doctor of
Philosophy**

**College of Arts
Department of Humanities Advanced Technology and Information Institute
(HATII)**

DECLARATION

I, the undersigned, hereby declare that the work contained in this thesis is my own original work and has not previously in its entirety, or in part, been submitted at any university for a degree.

Paul Lihoma

August 2012.

Abstract

This research traces the development of public administration in Malawi from the pre-colonial period to the post-colonial period up to 2012, and finds that public administration in Malawi has spanned four epochs: the pre-colonial traditional African administration; the British Colonial Administration from 1891 to 1964; the post-colonial administration under the one party regime from 1964 to 1994; and the post-colonial administration under the multiparty democracy from 1994 to the present period, 2012. Of particular interest to the research are the major factors that have led to administrative change through this public administration spectrum, and how the changes have affected information and record keeping. The research seeks to establish the relationship that exists between administrative change and record keeping.

The research finds that colonialism was a change factor which transformed the pre-colonial administrative set-up and its information keeping systems, and led to the establishment of the Western bureaucracy and record keeping systems modelled on those in Britain. The enactment of the Native Authority Ordinance in 1933 established Native Authorities, which comprised local chiefs and their councillors, as part of the local government. The establishment of the Native Authorities resulted in the establishment of record keeping systems that captured and maintained official records at local levels of government throughout the country. The Federation of Rhodesia and Nyasaland as one of the remarkable administrative developments during the colonial period promoted records management programmes and led to the establishment of the National Archives in Malawi. As part of the administrative change in preparation for the transfer of power, the Treasury's Organisation and

Methods Unit reviewed and instituted new record keeping systems for government departments. Before the transfer of power, the research finds that the Colonial Administration exported some categories of records to London and ordered the destruction of certain categories of records held by District Commissioners throughout the country.

Furthermore, the research finds that soon after the transfer of power, the new administration disregarded record keeping by repealing the Records Management regulations from the Malawi Public Service Regulations. This has been detrimental to public sector record keeping. Additionally, the one party government imposed controls on access to public archives by frequently closing the Archives, imposing lengthy and difficult access procedures, limiting areas for research, and using the Archives for intelligence surveillance. This thesis finds that, towards the end of the one party regime, some sensitive records were destroyed by the outgoing regime.

After the attainment of democracy, the research finds that public archives were made widely and easily accessible, and that the public archives assumed a new meaning for ordinary people who had suffered from widespread atrocities during the one party regime. A number of governance reforms that have been undertaken have on the one hand, resulted in the promotion of records management and on the other hand, relied heavily on good record keeping for their successful implementation. Additionally, the research finds that technological developments have shaped the way in which the public sector generates and manages records today. Last, but not least, the research finds that implementation of some of the International Monetary Fund/World Bank policy reforms, such as privatisation of public enterprises, downsizing, and freeze in public service employment, have impacted both positively and negatively on record keeping in Malawi. Likewise, implementation of the New

Public Management policy reforms, such as commercialisation of the Staff Development Institute of Malawi, and compulsory competitive bidding in the public service, have had both positive and negative effects on record keeping.

The research concludes that the developments that have taken place during all the four administrative epochs have had an immense bearing on record keeping, and therefore a direct relationship exists between administrative change and record keeping. Administrative change is responsible for shaping record keeping over a period of time and as long as administrative change occurs, record keeping will keep on developing in response. Although this is the case, good record keeping plays an important role in facilitating effective implementation of public sector reforms that result from administrative change. Citing Malawi as a case study, this thesis concludes that administrative change and public sector reforms provide a better context for understanding the history and development of record keeping in a country, than any other context because administrative change and public sector reforms are necessitated by the interaction of socio-political, economic and technological factors.

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List of ACRONYMS

CO	COLONIAL OFFICE
DA	DISTRICT ADMINISTRATION
DC	DISTRICT COMMISSIONER
DGP	DEMOCRATIC GOVERNANCE PROGRAMME
DHRMD	DEPARTMENT OF HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT
DISTMS	DEPARTMENT OF INFORMATION SYSTEMS AND TECHNOLOGY MANAGEMENT SERVICES
EU	EUROPEAN UNION
GO	GENERAL ORDERS
IMF	INTERNATIONAL MONETARY FUND
MCP	MALAWI CONGRESS PARTY
MGDS	MALAWI GROWTH AND DEVELOPMENT STRATEGY
MPSR	MALAWI PUBLIC SERVICE REGULATIONS
NA	NATIVE AUTHORITY
NAM	NATIONAL ARCHIVES OF MALAWI
NPM	NEW PUBLIC MANAGEMENT
ODPP	OFFICE OF THE DIRECTOR OF PUBLIC PROCUREMENT
OPC	OFFICE OF THE PRESIDENT AND CABINET
O&M	ORGANISATION AND METHODS
PC	PROVINCIAL COMMISSIONER
PRIV COMM	PRIVATISATION COMMISSION
PE	PUBLIC ENTERPRISE
PS	PRINCIPAL SECRETARY
PSMD	PUBLIC SERVICE MANAGEMENT DEPARTMENT
P&DA	PROVINCIAL AND DISTRICT ADMINISTRATION
SAP	STRUCTURAL ADJUSTMENT POLICY
RK	RECORD KEEPING

SDI **STAFF DEVELOPMENT INSTITUTE**

UK **UNITED KINGDOM**

WB **WORLD BANK**

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DEDICATION

To Lydia my dear mother for bringing me up with love

Sarah my beloved wife

My wonderful children Timothy, Joy and Jonathan

Cindy Hagar Jadayel my dear friend of 24 years

*Now unto the King eternal, immortal, invisible, the only wise God, be
honour and glory for ever and ever. Amen*

(1Timothy 1:17)

Chapter 1: Introduction: The impact of administrative change on record keeping in Malawi

1.1 Introduction

This chapter will lay the foundation for the study by highlighting the stages which public administration, as the main approach to the interpretation of the state or government (Lane, 2000), has developed in Malawi while at the same time identifying the essential record keeping features that characterised each stage. Since a number of factors have shaped the nature of public administration into what it is today, the rationale for administrative reform will be discussed, generally. This discussion will be necessary in order to: situate the study in the wider context of scholarship on administrative reform and record keeping; generate assumptions for the study; justify the research; and limit the scope of the study. A summary of research methods that have been employed in the study and an outline of the thesis will precede the chapter summary.

1.2 Overview of public administration and record keeping in Malawi

Historically, Malawi has experienced three administrative epochs – the pre-colonial, colonial and post-colonial administrations. The pre-colonial administrative system existed until 1891 when the Nyasaland territory was declared a British Protectorate. During this period, people were governed along tribal lines and Africans themselves were responsible for government and administration (Baker, 1978). At the apex of the tribal government was a chief who was assisted by a team of councillors. In Malawi, like in most parts of Africa, writing was not known during the pre-European era, as observed by Curtin (1960), Mair (1962), Franklin (1963), Chanock (1985) and

many others. Due to the absence of literacy, the pre-colonial culture in Malawi was predominantly oral and for this reason, the traditional administrative machinery transacted and captured societal business orally.

From 1891 up to 1964, Nyasaland was administered as a British Protectorate. In this colonial administrative set-up, the pre-colonial 'record keeping system' was altered and replaced by record keeping systems that were modelled on the British system and were established at all levels of the government. Interestingly, the traditional chiefs, who never used written records during the pre-colonial era when they were in charge of their tribal government affairs, were required to transact and capture official business on records in their capacity as Native Authorities in the colonial administration.

In 1964, Malawi gained independence from Britain and was ruled under a one party system of government up to 1994 when multiparty democracy was introduced. Soon after independence, and in response to people's expectation that independence meant greater economic well-being for all (Adu, 1968), the country witnessed an accelerated pace of economic and social development. This resulted in an expanded public service through the creation of many public enterprises. While the post-colonial administration adopted and maintained the colonial record keeping systems, the creation of many publicly funded enterprises, in order to satisfy the needs of the people, meant that more public records were being generated than ever before. This trend continued into the late 1970s when the number of public enterprises increased from fewer than fifteen in the 1960s to more than 300.

Following the transition from a one party system of government to a democratic one in 1994, Malawi has undertaken a number of governance reforms aimed at

consolidating the multiparty democracy. These reforms have given archives a new meaning for many ordinary Malawians in several ways, while at the same time the reforms raised the profile of record keeping in the country. As a result of the economic crisis of the 1980s and the subsequent implementation of the International Monetary Fund/World Bank policy reforms, the country has experienced a reduction in the size of the public sector through privatisation of public enterprises, among other measures. The post-colonial democratic era has also seen the public sector experiencing a digital revolution, which has replaced the type-writer with information and communication technologies (ICT) as the main means of generating records. These and other developments have had, and continue to have, a bearing on record keeping in the Malawi public sector.

1.3 Rationale for public sector reform

The point of departure for any discussion of the public sector should be the understanding of what the public sector itself is. Peters (2001, p.1) considers the public sector to be a vast array of institutions that governments have created in order 'to exercise collective control and influence over societies and economies for which they have responsibility.' Lane (2003) agrees with Peters that the influence of the public sector on societies is 'enormous' (2003, p.1), and so do Windrum and Koch (2008, p.59), who observe that public institutions 'affect people's everyday lives in a myriad of ways.' It is, for instance, the public sector that is largely responsible for provision of such basic social and public services as health, education and security. Fundamentally, Lane (2003, p. vii) argues, the public sector is a system of public institutions 'that coordinate the interests of different groups that ask in a variety of ways for public activities of different kinds.'

The environment in which the public sector operates is dynamic because of a number of factors, such as economic, political, social and technological developments, which all impact in different ways. As a 'living organism', the public sector must therefore 'adapt itself to an almost infinite variety of conditions' (Sir Charles Jeffries, 1938, p. xvi), which range from 'incrementally changing environment ... to an environment of turbulence, complexity and transformational change' (Nolan, 2001, p. xix). Due to the nature of the environment in which the public sector operates, 'the organisation and management of public services is moving through an intriguing and even disorienting period across the world' (Ferlie, et al, 2005, p. 65). As a result of challenges of technological change, globalisation and international competitiveness, for instance, Hughes (1998, p. 1) observes that 'a transformation in the management of public sectors of advanced countries' has taken place since the mid-1980s. This transformation, has not spared the public sector of even developing countries, as noted by Lane (1997, p. 12) 'public sector reform has become one of those things that no government can do without.' Throughout this study, these reform programmes will interchangeably be referred to as public sector reforms or administrative reforms.

Although public sector reforms are a prominent feature of governments owing to the complexity of the prevailing environment today, it is important to realise that 'whatever their provenance, reforms ...were adopted in several medieval regimes' (Lynn, in Ferlie, et al, 2005, p.30), suggesting that administrative reforms are not a new phenomenon, but have been there as long as governments have been in place. Among instances where administrative reform has been applied, Caiden (1969, p. 43) cites five of them. These include: improvements in administration; general administrative overhauls in difficult circumstances; specific remedies for

maladministration; any suggestion for better government; and lastly, the intentions of self-styled administrative reformers. Many other instances can be added to this list.

As one way of responding effectively to the changing environment, over the years, governments have adopted at least three models of public administration. The first model that existed until the mid-19th century in western countries was the pre-modern model. The model was practical during the early period when administration was personal and based on loyalty to a particular individual such as a king or minister rather than on loyalty to the state (Hughes, 1998; Peters, 2001). Employment in the administrative system was through relatives or friends or payment for the right to work as, for instance, a customs or tax collector. In the United States of America in what was known as the spoils system during the 19th century, 'every administrative job from the top to the bottom was open to be filled by an appointee from the winning party' (Hughes, 1998, p. 24). This mode of employment did not take competence and qualifications into account and consequently, the pre-modern bureaucratic system was neither efficient nor effective as it was simply 'personal, traditional, diffuse, ascriptive and particularistic' (Kamenka, in Hughes, 1998, p. 25).

The weaknesses of the pre-modern bureaucratic model, coupled with the rise of industrialisation in Europe, gave rise to the public administration model. The public administration model was founded on theories propagated by the United Kingdom's Northcote-Traveleyan Report of 1854, which recommended the recruitment into the public service of carefully selected young men through a proper examination system, abolition of patronage, and substitution of recruitment by open competitive examinations, filling higher posts by promotion from inside based on merit, and reorganisation of office staff of central departments in broad classes to deal with

intellectual and mechanical work (Hughes, 1998, p. 25). According to Lane (2000, p. 2), the basic principles of the traditional public administration model upon which the public sector is structured are as follows:

1. The tasks of public institutions are to be decided by politicians but executed by administrators in order to satisfy the model of rational decision-making.
2. Administration is based on written documents and this tends to make the office (bureau) the heart of modern government.
3. Public tasks are organised on a continuous, rule-governed basis.
4. The rules according to which work is conducted may be either technical or legal. In both cases trained individuals are necessary.
5. The tasks or functions are divided into functionally distinct spheres, each furnished with requisite authority and sanctions.
6. Officers as well as tasks are arranged hierarchically, the rights of control and complaint being specified. There is preference for centralisation, all other things being equal.
7. The resources of the organisation are quite distinct from those of the members as private individuals.
8. The office holder cannot appropriate his or her office for private aims.
9. Public employees orient towards the tasks within the public sector in terms of vocation or sense of duty to fulfil the obligations of their roles.
10. In the public sector, there is one dominating interest, the public interest, which sets limit to the influence of self-interests in politics and administration.

In its day, Hughes (1998, p. 22) argues, the public administration model was 'a major reform movement' because the task of administering public organisations 'became a professional occupation, one which could be most efficiently carried out by a distinct merit-based public service', instead of being carried out by amateurs who were bound by personal loyalties to leaders. Peters (2001) agrees that the public administration model was once thought to be the way in which the public sector should be organised. He further notes that the model persisted for decades and was, on the whole, extremely successful adding that 'it fought several world wars,

produced and administered a massive expansion of social programmes, instituted large-scale economic management for the public sector, and did a host of other remarkable things' (2001, p. 13).

However, experiences of the 1980s-1990s have led to a 'large-scale re-thinking of governance' (Peters, 2001, p. 13), such that the traditional public administration model has been seriously questioned and rendered irrelevant for managing the public sector in the 21st century. Four reasons why governments questioned the ability of the traditional public administration to effectively manage their public services are cited by commentators and summarised by Nolan (2001, p. xx). These are:

1. Tax revenues declined and governments faced severe resource constraints and at the same time politically could not reduce services provided to the public, meaning that the public service was asked to provide the same or increased services with reduced finance and fewer staff.
2. New governments such as those in Britain, Canada, New Zealand and Australia in the late 1970s and 1980s had their own detailed ideas on how to change the management of the public service and these ideas were generally similar.
3. There is an explicit link between restructuring economies and improving public sector management. Governments could not be seen to be asking the business community to improve competitively without being seen to improve its own apparatus, and
4. There was an intellectual climate that favoured a reduction in the public sector and/or to make it more efficient.

Following the shortcomings of the traditional public administration model, developed countries have moved away from the model and adopted the New Public Management (NPM) model, which emphasises managerial improvement and organizational restructuring on the one hand and markets and competition within the public service (Economic Commission for Africa, 2003) on the other. Although there

is no single model of NPM reform (Polidano et al, in Martin, 2002), Martin (2002, p. 130) holds that typically, NPM consists of the following elements. Cost cutting, capping budgets and seeking greater transparency in resource allocation; the disaggregating of traditional bureaucratic organisations into separate agencies; the decentralisation of management authority within public agencies; a clear separation of purchaser and providers roles; the introduction of market and quasi-market mechanisms; the introduction of performance targets, performance indicators and output objectives; increasing flexibility of pay and conditions, the break-up of national pay scales and conditions and the growth of performance related pay linked to improvements in service outcomes; and increasing emphasis on the quality of services, setting standards for quality and responding to customer's priorities.

Although the NPM has dominated the public sector reform agenda in the Western industrial societies since the late 1970s, developing countries have also adopted the NPM model mainly through multilateral cooperating partners such as the World Bank and IMF, which export these ideas to the developing countries as part of the development assistance programmes.

During the pre-colonial period in Malawi, some aspects of the pre-modern administrative model were exhibited, while the traditional public administration model was prominent during the colonial period up to about 1994. Since 1994, the Malawi public sector has been managed largely on the basis of the traditional public administration model with some NPM elements.

1.4 Assumptions, key research questions and scope of the study

This study is premised on four assumptions. The first assumption is that record keeping is a product of activities taking place within an organisation. Evidence of the

activities is captured by a record keeping system in the organisation. Since governments have been experiencing administrative changes from the time men organised themselves (Caiden, 1969; Peters, 2001), another assumption is that the public sector is a 'living organism' (Jeffries, 1938, p. ix) that grows and develops in relation to the contingencies of its environment. Given the dependent nature of record keeping on an organisation, for it to exist, record keeping in the public sector evolves in response to the growth and development of the public sector in a given country, such as Malawi. The notion of public sector reform ('re-engineering, re-inventing and re-positioning established functions and business processes' (Lipchak, 2002, p. 35)) connotes a quest for a better way for public service delivery. As Pollit and Bouckaert (2004, p. 12) point out, public sector reform is a means to multiple ends such as making savings in public expenditure, improving the quality of public services and making the operations of government more efficient, among other ends. As established functions and business processes are affected during the reform processes, another assumption is that since improved services are at the core of any public sector reform, all public sector reform programmes will lead to improvements in record keeping systems. The last assumption is that where autocratic governments deny the public access to public archives, under democratic governments public archives, where they exist, are made freely accessible to the general public.

From the foregoing assumptions, and on the basis of the findings that are presented in the following chapters on administrative change and record keeping in Malawi, the main line of argument of this study is that a direct relationship exists between administrative change and record keeping. Administrative change and reforms are largely responsible for shaping the nature of record keeping over a given period of

time. While administrative change and reforms influence record keeping in this manner, reciprocally as Ndenje-Sichalwe's recent study (2010) has demonstrated, effective implementation of any Public Sector reform programme depends on many factors, the most important of which is good record keeping. Although good record keeping plays this enabling role, it does not in itself provide an impetus for administrative change.

In order to address the theme of this study more thoroughly, a number of key research questions will be considered throughout. First, what are some of notable administrative changes and reforms that have been undertaken over the period under investigation? Second, did the administrative change and reforms have any impact at all on record keeping? Third, was record keeping expressly part of the agenda in all the administrative change and reform programmes? Fourth, if all the administrative changes and reform programmes affected record keeping, was the impact always positive? Fifth, what were the factors that were behind successful implementation of the record keeping improvement programmes within the context of the administrative change and reform? Sixth, can it be concluded that understanding record keeping in the context of administrative change over a given period of time offers us a better understanding of record keeping in a particular country considering that administrative change is necessitated by a variety of factors?

This study focuses on notable administrative changes that successive governments in Malawi have gone through. This is so because it would not be possible to discuss all the changes that have ever been undertaken within the scope of the study. As this study primarily focuses on the impact of the administrative change on record keeping, in discussing administrative change and reform programmes, it will not attempt to make any assessment of the successes or failures of the actual

administrative changes or reform programmes, because such discussions would merit a study of its own.

1.5 Justification for the research

Writing at the turn of the 20th century Duff expressed his discontent with the tendency by students engaged in meditation of the perfect state paying scarcely any attention to 'rude and savage' societies. He went on to compare 'the reluctance of political scientists to trace modern systems of government to their humble origin in the tribe ... [with] biological disputants who long repudiated ... and still repudiate in the face of overwhelming proof, the physical tie between humanity and the lower animals' (Duff, 1903, p. 187). Taking Duff's view in the context of this study and by tracing record keeping from the pre-colonial period to the present era through administrative developments, the study will offer a detailed history of record keeping in Malawi. Apart from being a pioneering study of such depth and detail on the subject, the study is timely and will make a significant contribution to the developing scholarship on archives and records management in Malawi.¹ Archivists, records managers, and students of archives and records management will, for instance, use this dissertation to trace the history and development of archives and records management in Malawi. Other researchers can also expand this research by either filling its gaps or venturing into other research areas, as suggested in the 'Areas for Further Research' section, in Chapter 7.

¹ Until recently, no higher learning institution in Malawi offered any courses on archives and records management. However, Mzuzu University has started offering courses in Archives and Records Management as part of the Bachelor of Science in Library and Information Studies. The University is in the process of building its own staff capacity to offer full courses in Archives and Records Management to postgraduate level. There are also prospects that the University of Malawi will start offering a postgraduate programme in Library and Information Studies, of which Archives and Records Management will form a part.

Other contributors have offered an understanding of record keeping in Malawi. Mazikana (1986) presents the development of archival services in Central Africa (Zimbabwe, Zambia and Malawi) from about the 1920s to the 1960s, while Lovering (2010) discusses the development of Secretariat registry systems in Zambia and Malawi from the early colonial period to the early 1960s. From Tough's (2009) discussion of record keeping and accountability in the Sub-Saharan Africa half a century after independence, we get some insights into the status of record keeping in Malawi after independence. While this particular study builds on the works of these contributors, it discusses record keeping during the pre-colonial period which no one else does, and offers a more detailed account of the developments of record keeping during both the colonial period and the post-colonial period up to 2012 than anyone else.

Generally, literature on administrative reform scarcely mentions record keeping as one of the objectives of the reforms. This is understandable because when administrative reform takes place, many units and aspects within the system, where the reforms are taking place, are affected in different ways (Caiden, 1969). This study is also an attempt to demonstrate that record keeping is one of the key aspects that is persistently affected by any administrative reform but sadly remains overlooked in the public sector reform literature.

Additionally, the study makes a number of important recommendations which, once implemented, will go a long way to improve several aspects of record keeping in the short, medium and long term.

1.6. Thesis overview

Apart from this Chapter, this thesis has six other chapters. Chapter 2 reviews literature for the study by narrowing that review to Africa, which has a direct relevance to Malawi because developments that have taken place in the Sub-Saharan African continent over the period covered by this study have had similar effects on Malawi. The chapter seeks to justify the need for understanding public sector reforms in Africa in order to appreciate the state of record keeping in the continent. Importantly, the chapter discusses major reforms in public administrations in Africa and the extent to which the reforms have had an impact on record keeping in the continent.

Chapter 3 discusses government and administration in pre-colonial Malawi and focuses on record keeping systems of the tribal governments. One pertinent question that the chapter seeks to address is whether any administrative reforms took place during the period under review and the extent to which, if any, those reforms affected systems of capturing and preserving information.

Chapter 4 provides a detailed historical background to the growth, development and end of the Colonial Administration in Malawi and critically analyses the impact of those developments on record keeping in Malawi.

Chapter 5 assesses the impact of transfer of power from the British to the indigenous Malawians on record keeping. As the autocratic one party regime was quick to exert control on government information soon after independence, the

chapter dwells on analysing the extent to which the government's actions had virtually closed archival services to the research community.

Chapter 6 takes a critical analysis of some of the public sector reform programmes to gauge their positive and negative impact on record keeping, with a view to objectively addressing the question of whether all public sector reforms lead to positive outputs or improvements in record keeping systems.

Chapter 7 brings together the findings from the previous chapters and provides conclusions about the impact of administrative reforms on record keeping in Malawi. Finally, the chapter provides recommendations on possible courses of action that can be taken in order to address some of the existing problems in record keeping as reflected in the previous chapters, more especially chapters 5 and 6. The chapter also makes some suggestions too tentative for further investigations from the findings of the research.

1.7. Research methods

In order to gather relevant data for accomplishing this research, a number of methods have been employed. Chief among them is literature review, of which chapter 2 is particularly noteworthy.

The other research method that has helped me to address Chapter 3 in particular and the other chapters in general, is the organisation of an international Symposium on *Literacy in oral cultures: conflicts, compromises and complications*. Through awards made to me from the Arts and Humanities Research Council's Beyond Text's Student-Led Initiative Programme and the University of Glasgow's Arts School's

Postgraduate Student Collaborative Initiative, together with fellow postgraduate students, I organised this Symposium which discussed a range of critical issues surrounding media and memory in pre-colonial, colonial and post-colonial Africa. Details of the Symposium are contained in Appendix 1.

In order to get colonial administrators who served in Nyasaland, to shed more light on record keeping practices during the colonial period, a questionnaire was administered to five surviving former British officers who served in the Nyasaland Government and who are presently in different parts of the United Kingdom. Information gathered from the questionnaire (see Appendix 2) was critical to addressing issues in Chapter 5. Additional detailed information was gathered from a two-day personal interview with Ian Strachan and a day's interview with William Dewer in Perth, Scotland. Ian Strachan and William Dewer served the Nyasaland Government in different senior positions, including those of District Commissioners.

Another important method for data gathering is archival research. I have been privileged to consult both open archival material and records that are yet to be open to the public (after due processes have been completed) in the National Archives of Malawi. From these primary sources, I have been able to glean valuable information that has enabled me to complete chapter five.

In 2007, I led a team of the National Archives staff in conducting a country-wide records management survey. From the findings of the survey, which have since been published locally by the Department and together with other Departmental project reports, I have obtained useful information that is reflected in Chapter 6.

Apart from these research methods, other relevant information has been gathered through interaction with my colleagues at the National Archives and numerous others, during the period of my research.

All references to the archival material which I have consulted in this research have been indicated as footnotes while publications are presented at the end of the thesis in the bibliography.

1.8 Summary

By outlining Malawi's administrative history from the pre-colonial period to the present period and highlighting the essential record keeping features at each stage of the administrative epoch, this chapter has demonstrated that the development of the public sector is influenced by different factors within the environment where it exists. Importantly, curiosity raised by corresponding record keeping developments with administrative reforms has given rise to the research assumptions, questions and development of the main argument of the thesis. This chapter has also defined what the public sector is, provided the rationale for public sector reform, and discussed briefly the three models of public sector management which have been applied to the public administrations in Malawi at different periods. The chapter has spelt out the scope of the research and identified areas in which the research makes a contribution.

CHAPTER 2: Public Sector Reforms and Records Management in Africa

2.1 Introduction

A number of studies (Nangodi-Gubi in ESARBICA, 1972; Obatre and Kukubo in Mwiyeriwa, 1976; Musembi in Kukubo, 1986; Wamukoya, 1995; International Records Management Trust/World Bank, 2003; Mnjama, 1993; Mnjama, 2003; Mnjama, 2006; Ngulube and Tafor, 2006; Kemon and Ngulube, 2008; Mazikana in Lovering, 2010) have indicated that record keeping in Sub-Saharan Africa is generally poor. Some of the evidence of this situation as cited in the literature includes poor or a lack of records management policies and standards, a low calibre of records personnel, poor registry management that results in loss of important records, poor record storage and retrieval systems, archaic records/archival legislation, and low recognition by policy makers of the role of records management. However, while the situation has not been fully addressed, unprecedented attention to record keeping has emerged, which has led to the design and implementation of records management programmes aimed at reversing the situation.

The attention that records management has received and the subsequent improvement programmes in this area that have occurred over the last few years have led one commentator to describe this period as 'a decade of transformation for national archives and records services' (Mnjama in Tough, 2009: p. 194) in the Sub-Saharan Africa. Thurston (1996) and Tough (2009) rightly attribute the progress in record keeping that has been recorded during this 'decade of transformation' to the Structural Adjustment Programmes (SAPs) of the World Bank. Since the SAPs have

been overtaken by the New Public Management phenomenon, under which current record keeping improvement programmes are being undertaken in some countries, we can attribute the remarkable progress in record keeping currently underway in the continent to two waves of public sector reforms – the Washington Consensus (SAPs) and post-Washington Consensus (New Public Management) reforms (Wescott, 1999; Economic Commission for Africa, 2003; Sandbrook, 2005; McCourt, 1998).

2.2 Rationale for understanding public sector reforms in Africa

The transformation of national archives and records services which Sub-Saharan Africa has experienced in the 1990s raises a number of questions which help to illuminate our understanding of archives in this part of the continent. The undeniable fact that public sector reform programmes have led to improvements in the area of records management, is important in itself because it points to a special relationship between public sector reforms and records management. What is the nature of this relationship? Does it follow that reforms in the public sector always lead to improvements in record keeping? Has Sub-Saharan Africa experienced any other public sector reforms before those of the 1980s-1990s? Did such reforms lead to any record keeping programmes and what was the effectiveness of the programmes? In order to address these pertinent questions it is worthwhile identifying and analysing the major reforms that have occurred in the public services in Sub-Saharan Africa prior to the reforms of the 1980s and assess their implications for record keeping.

2.3 Public sector reforms in Africa

The literature on public sector reforms in Sub-Saharan Africa mostly focuses on the reforms that have taken place since the 1980s. This is not surprising because the public sector reform agenda has been the major preoccupation of governments and

their development partners over the last three decades and also, as Svendsen (in Engberg-Pedesen et al, 1996, p. 401) notes, 'the role of external forces in Sub-Saharan Africa's economic and social development...became stronger and more pervasive'. However, the 1980s' public sector reforms are not the first ones in the history of public administration in Africa. In '*Public sector reform in sub-Saharan Africa: what can be learnt from the civil service performance improvement programme in Ghana?*' Antwi, Analoui and Nana-Agyekum (2008, pp.255-256) present a timeline of the role of the government in the economy from the 1770s up to the present period, marked by three epochs. The first era covers the period from the mercantilism era to laissez-faire capitalism (1770s–1830s—60 years), the second period from the laissez-faire capitalism era to modern mixed economies (1830s–1970s—140 years), while the last epoch is marked by a transformation with a significant change in the scope, culture, management and economic roles of governments (1975s–1995s—20 years). It is not difficult to associate Sub-Saharan Africa with at least the third epoch of this timeline. While the timeline roughly reflects the changes that have taken place over the past few centuries in the old bureaucracies in Europe and North America, the case is not the same for the whole of Africa because before the 1880s, governments of the Sub-Saharan African states could fit in neither of the first two epochs of this model with the possible exception of the Cape.

Notable among the contributors to the discourse on public sector reform in Africa, Wescott (1999), van Nieuwaal (1987), Skalnik (1983 and 1996) and von Trotha

(1996)², cite colonialism as a major agent of public sector reforms that Africa has experienced. As will be discussed in greater detail in section 2.3.2, colonialism was revolutionary in nature and resulted in the transformation of the original indigenous public institutions in Africa. Caiden (1969), Baker, (1978), Olowu, 1999, Therkildsen, (2000 and 2001), and the Economic Commission for Africa (2003) are among those who allude to decolonisation as another important factor which led to public sector reforms in the newly independent African states during the early 1960s.

Although public institutions have been adjusting incrementally, and at various times, in response to a number of factors in their different environments, it can be argued that the history of public sector reforms in Sub-Saharan Africa has spanned three distinct eras. These are:

- (1) The period around the late 1880s (colonisation) when original African institutions were radically altered and replaced by the Western bureaucratic models.
- (2) The 1960s (decolonisation) when the colonial bureaucracy was redefined and expanded after independence.
- (3) The period from the 1980s and beyond (structural adjustment and New Public Management programmes) when Africa's economic situation tumbled to its lowest ebb and needed major interventions for recovery and growth. At the same time, efficient and effective public service delivery and good governance took the centre stage, which have all necessitated public sector reform measures.

² Except Wescott (1999) who specifically writes about the civil service reforms in Africa, the other three authors do not discuss public sector *per se*. They discuss African indigenous institutions in the legal, anthropological context. Although this is the case, their works offer insightful understanding of the dynamics of the original indigenous public institutions in Africa.

2.3.1 Indigenous African public service

The existence of governments in Africa before the period of colonialism has been acknowledged by many. For instance, Baker (1978, p. 147) states that

‘Prior to the colonial era, Africans were responsible for government and administration ... [and] decolonisation and Africanisation meant that Africa was expected to take back and run efficiently that which was taken from her three-quarters of a century earlier.’

European visitors to Africa and the early colonial administrators in Africa testified to having found forms of governments in the territories where they had visited or had gone to set up colonial administrations. Hollis (1901, p.104) talks about a decentralised form of government that existed during the 19th century among the Teveta people of East Africa, while Wallis (1905, p. 399) reports to have found out that the Mendiland in West Africa had been parcelled out and for centuries was under definite laws and government. In British Central Africa, Duff (1903, p. 18) also reports finding ‘a form of government which, although rude, [was] still perfectly definite and intelligible, and [exhibited] certain machinery substantially identical with that of much more advanced forms’. Davidson (1993, p. 11) argues that Africans were capable of developing themselves such that the national-building policy as justification for British colonialism in Africa was just a supposition in London ‘that the task had been beyond the capacity of Africans themselves’. This view is an acknowledgement on the part of Davidson that Africans were indeed responsible for government and administration prior to colonialism.

The basic concept of ‘government’ that comes to the mind of an average person today is a state that has an executive, a legislature and a judiciary that together make up a government. However, in order to understand ‘government’ in Africa

before colonialism, Mair (1962, p. 16) argues that the question that ought to be addressed is: 'What does a government do?' and not: 'what ought a government to look like?' The argument here is that the basic, yet fundamental services that governments of today render to their people might have some similarities with those which indigenous African governments rendered to their peoples. Elsewhere, Mair (1977, p. 1) makes a statement that the world first learnt from Africa how the necessary minimum 'rule of law' could be secured in a large population. The period being referred to here is that of pre-colonial Africa, and if Mair's statement can go unchallenged, then one is left with the impression that governments in Africa were more or less similar to governments today, although as Wallis (1905, p. 366) notes, their 'plane of civilization was far removed from a European standard.' European civilisation was more advanced in terms, for instance, of literacy and industrialisation than its African counterpart.

The three branches of government – the executive, the legislature and the judiciary – together with other institutions that constitute the public service were represented in pre-colonial Africa by chiefs or traditional leaders, who were the representatives of the original African public institutions (Skalnik, 1996, p. 110; van Rouveroy van Nieuwaal, 1987, p. 24). His Royal Majesty Otumfuo Osei Tutu II, Asantehene (in Economic Commission for Africa, 2004, p. 33) elucidates this point when he says that:

Before the advent of colonialism, the traditional leader's role encompassed numerous functions which revolved around the cardinal theme of guiding, protecting, defending and providing for the needs of the society he served. He was the intermediary between the departed ancestors, the living and the yet unborn. These holistic approaches involved religious, military, legislative, executive, judicial, social and cultural features.

Skalnik (1996, p. 109) explains that the populations over which traditional rulers administered varied in size from a few villages to several hundred thousands of people. Importantly, in administering and defending their territories, the incumbents of the original African public institutions were supported and controlled by their people. His Royal Majesty Otumfuo Osei Tutu II, Asantehene (in Economic Commission for Africa, 2004) concurs with Skalnik by saying that in conducting their functions, the traditional leaders had to ensure that the welfare of their people, paramount as it was, was safeguarded otherwise they risked the forfeiture of the people's trust with consequent deposition from a position of authority.

It must be pointed out that the pre-colonial governments were largely based on tribes, and each tribe maintained its own sovereignty. Ortiz (2002, p. 460) holds that at the heart of tribal existence is the question of a tribe's sovereignty. Without this right of self-government, a tribe could not exist independently and be regarded as a sovereign government. It was on account of the tribal sovereignty that Europeans made treaties with individual tribal governments through the chiefs – 'always treaties were made with tribal chiefs' (Lugard, 1929, p. 15). There is enough evidence (Lugard, 1929; Pretorius, in Pachai, 1972; Wallis, 1905) to suggest that unless treaties were made with the tribal chiefs, the European missionaries, administrators and others could not carry out their missions successfully in the areas, which fell under the jurisdiction of those independent chiefs. Cohen (in Ortiz, 2002, p. 461) defines a treaty as a contract between two nations. This definition gives some sense that the undertaking to always make treaties with tribal chiefs signified the recognition of and respect for tribal sovereignty that Europeans had come to hold by the late nineteenth century. However, it can also be argued that rather than

recognition and respect, making treaties with tribal chiefs was simply a necessary process on the part of Europeans.

It would appear that some tribal governments were able to create an effective regulatory environment, which made it possible for fair trade and commerce to flourish – ‘before the English rule, there were trading laws which no trader dared to break. If any persons or towns did not carry on their trading according to law, they were punished’ (Chief Obanikoro in Stopford, 1903, p. 310). There were also established traditional institutions for the delivery of the health services for the well-being of the communities.³

The major aspects with which commentators have faulted this system of government are mostly its brutal justice system (Duff, 1903; Shepperson and Price in Jones, 1964; Jones, 1964; Skalnik, 1978) but also the contention that some of the chiefs were corrupt and involved in slave trading (Jones, 1964; Linden, 1972; Johnston in Jones, 1964). Generally, the effectiveness of the pre-colonial governments in Africa was assessed positively by outsiders who experienced and analysed the system. In Duff’s (1903, p. 195) view, the governments in British Central Africa were ‘in the main honest. ...the headmen were careful to see that justice was fairly administered, and that their subjects showed a proper respect for each other’s rights.’ At a later

³ See: Forbes, J.G. (1904) ‘Native methods of treatment in West Africa’, *African Affairs*, Vol. 3, pp. 361-380. During the visit of the Anglo-French Boundary Commission to the Gold and Ivory Coast Colonies in 1902 and the first half of 1903, as medical officer to the Commission, J. Graham Forbes, M.D., investigated the interesting subject of medicine and surgery as known to the West African native. He catalogued diseases and their prescription and found that native doctors were able to treat the following ailments: fractures, dislocations, wounds, inflammatory swellings, ulcers, skin diseases, granulomata, guinea-worm, venereal diseases, snake bites, constipation, headache, eye disorders, epistaxis and nasal catarrh, earache and otorrhoea, caries of the teeth, stomatitis and glossitis, tonsillitis, chest diseases, abnormal disorders, diarrhoea and colic, dysentery and black water fever, among other diseases. He noted that surgery among Gold Coast natives was ‘in as primitive a state as among most African tribes’, meaning that most African tribes, which were governments in their own right, had similar health systems as those of the Gold Coast natives.

stage, when the system was no longer effective, after it had been transformed and was operating under the colonial bureaucracy, Stopford (1903, p. 310) confessed that the best means for governing the people was through the original traditional institutions that existed before the Western intervention. Perhaps the effectiveness of the original African system of public administration is best summed up by “A Native Yoruba” (1902, p.313) who says;

Now, if this system be examined it will be found to be a simple, easy and uncomplicated system. It is workable, because it is simple, and is in keeping with the genius of the people. They understand it; they live and thrive under it. The power and authority of a chief is never questioned, nor can any chief dispute the paramountcy of the King. The equilibrium of the people is maintained.

Statements like these would appear to confirm that governments and administration based on pre-colonial traditional African lines existed and through a system of institutions – something akin to the modern public sector- within those governments, people lived, thrived and their equilibrium was maintained. Governments today strive to create an environment where their citizens and others who come under their jurisdiction, can thrive and develop. This anecdote vindicates Mair’s claim that a government is better understood through its functions and ambition for its citizens than through its structures.

2.3.1.1 Indigenous public service and record keeping

An interesting aspect of the pre-colonial African governments is its system of capturing and documenting evidence of official business transactions and decisions. One basic principle of public administration is that ‘administration is based on written documents [as] this tends to make office (bureau) the heart of modern government’ (Lane, 2003; p. 2). What made the heart of pre-colonial bureaucracy in Africa? Mair

(1962, p. 9) points out that writing was not known during the pre-European era in Africa, and this is corroborated by Curtin (1960, p. 145) who states that in most of Africa with a few exceptions such as Ethiopia and those parts controlled by the Arabs, the keeping of records began no earlier than the 1880s. From Mair's perspective, it follows that where writing is unknown, written records cannot be kept since the records are never created in the first place. As a result of the lack of written records during the pre-European era in Africa, the challenge of writing pre-colonial African history has been recognised by historians (Phiri, 1984; p, 214; Trevor-Roper [later Lord Dacre] in Tough, 2009). The underlying reason for the non-availability of written records has been explained by others (Tough, 2009; Keakopa, 1998). The culture of the pre-European era in African societies was predominantly oral and therefore everything including official business was transacted orally. Wallis' (1905; pp. 403, 409) personal experience among the officials of a tribal government in West Africa gives a picture of the predominance of the oral culture in Africa.

The memory of these people is sometimes marvellous, and they are capable of relating in minute detail events which perhaps took place many years before. The absence of literature is, no doubt, responsible for this. Every man is his own historian, and events are committed to memory and handed down from father to son through many generations.

I sat amongst the Judges, who consisted of seven Paramount-Chiefs ... I was assisted with notes, which I had been taking during the proceedings. The Chiefs had no notes, but relied upon their memory.

Almost sixty years after Wallis had published his experiential encounter with the oral culture in which he demonstrated the long memory of the African people, Franklin (1963; p. 14) confirmed that 'the African memory, as yet unimpaired by the recently acquired arts of reading and writing, is long.' The predominance of the oral culture in Africa is also affirmed by the great explorer and missionary to Africa, Dr. David Livingstone who once said, 'as a boy I remember listening to [my grandfather] with

delight, for his memory was stored with a never-ending stock of stories, many of which were wonderful like those I have since heard while sitting by the African evening fire' (Ross, 2002; p. 2). Through oral tradition, medical practitioners obtained the knowledge of methods of treating diseases and passed it on to other generations (Forbes, 1904; p. 361). In addition to chiefs' messengers, drums were used as an effective means of transmitting important messages to the community (Cole-King in Pachai, 1972). Keakopa (1998; p. 87) cites some practical uses of the oral tradition in African societies when she explains that 'some tales were meant to warn against disobedience and disrespect towards elders, while songs like lullabies played a role in the care of babies whose mothers might be returning late from the farmlands.' In these cultures people 'read' from tales told by elders who are regarded as 'libraries and moving archival repositories' (Hampate Ba in Keakopa, 1998; p. 87) and from songs sung by the community in order to learn about societal values and other issues.

Although no written records were kept, tribal governments recognised the importance of preserving information, especially the information that related to important events in the history of the society. A system for preserving such important information was devised by identifying reliable people whose memories were often sharper than most people and designating them as official custodians of government information.⁴ The availability of official information in these societies was guaranteed

⁴ See Hartwig, G. W. (1974) 'Oral data and its historical function in East Africa,' *The International Journal of African Historical Studies*, 7:6, p. 469. Bahitwa's position in society was that of the *Omwanzuzi* (an individual officially recognised by the Kerebe *omukama* (Chief), and therefore by the community, as someone possessing reliable historical information about all Kerebe clans). Buyazi was a member of the royal clan who simply had acquired an interest in the Kerebe history. The history of the Kerebe clan as told by these two individuals was accepted and treated differently by the Kerebe clan.

as long as the information keepers were alive. It would appear that the main threat to oral information was death of the information keepers.

2.3.2 Colonial public service

From the end of the November 1884, to February 1885, the Berlin Africa Conference, 'rules which were to be used in 'taking possession' of lands in Africa, insisting on 'effective occupation' of the territories claimed by various powers', (Kaponen, 1993, p. 131) had been drawn up and agreed by the imperial powers. The resolutions of the Berlin conference led to the formal partition and colonization of African territories by the European colonial powers because 'very soon [after the Conference] European states had to take full responsibility for the translation of the paper partition and 'spheres of influence' into effective colonization on the ground' (Kaponen, 1993, p. 134).

The primary task for the European powers was to secure the peace of the territories over which the colonial administrations were to be established. This task was achieved by either pacifying the warring tribal groups within the territory, since 'inter-tribal war was an ever-present condition of native life' (Lugard, 1929, p. 5), or using military force to subdue resistant tribal groups. As there was no Colonial civil service to speak of to draw from, the first public officers in Colonial Africa were mostly military personnel, who were drawn from the colonial regiments and occupation forces (Adu, 1969, p. 17).

In Malawi as late as 1972, the Ngoni paramount chief, Inkosi Willard Gomani III maintained a court historian in the person of Bambo (Mr.) Kaizokaya Dolozi. The function of the court historian was that of the custodian of official history of the Ngoni people, similar to the functions of the *Omwanzuzi* of the Kerebe tribe. Pachai attributes to this court historian for details of the Ngoni history for his book chapter, 'Ngoni politics and diplomacy in Malawi: 1848-1904' in Pachai, B. (ed). (1972). *The Early History of Malawi*. London: Longman Group Limited.

The colonial administrative structure, which subsumed all the pre-existing tribal forms of government within a given territory, was modelled on 'the mind and methods of Europe' (Lugard, 1929, p. 5) and became an important unifying agent for divergent and sometimes warring tribes (von Trotha, 1996). While the original African institutions had been designed and were conditioned to safeguard the interests and welfare of the African peoples, the Western bureaucracy 'was constructed to prosecute the imperial policies in Africa, and its orientation and personnel were, therefore, suited to this purpose' (Adu, 1969, p. 17). This is why the pre-existing African institutions in their original form could not be used to prosecute the imperial policies and, consequently, had to be replaced. However, when it became apparent that the imported bureaucratic structure could not effectively achieve the full implementation of the imperial policies, the pre-existing African institutions were 'tamed' (Skalnik, 1996, p. 110) and restructured to fit the Western bureaucracy and became part of the colonial administrative set-up (von Trotha, 1996).

According to Curtin (1960), the four major European powers (Belgium, Britain, France and Portugal) that administered colonies in Africa had similar administrative structures with three distinct levels. The first level of this administrative structure was the central organs of the government, which consisted of the Governor, the Secretariat, the executive and the legislative councils. The central government specialist departments, such as the judiciary, treasury, police, agriculture and others, formed the second tier, and the third tier was local government, which comprised provincial and district administrations and native authorities.

2.3.2.1 Colonial public service and record keeping

The colonial state was in many respects different from the indigenous African state because, as Fieldhouse (1986, p. 55) puts it, the former was alien as it 'did not grow from the soil but was built on the surface of the indigenous societies'. While positions of authority in the indigenous institutions were obtained through inheritance, at least in principle, the colonial state was bureaucratic and meritocratic (Fieldhouse, 1986), with authority based on a complex chain of command. One key characteristic of bureaucracies is that 'information is stored in files and all transactions are recorded' (Doherty and Horne, 2002, p. 16; Lane, 2003; p. 2). The establishment of the Western bureaucracy in 'African cultures [which] were overwhelmingly oral' (Tough, 2009, p. 1), marked the genesis of record keeping in Africa. Record keeping systems within the colonial state were an essential feature at all levels of the administration.

Philip D. Curtin (1960) carried out a research survey of the archives of tropical Africa, and his research is important for our understanding of the beginning of archival services in Africa and some of the challenges that were faced in organising and preserving the archives that are available today in the archival institutions in the continent. From Curtin's findings, a picture is painted of record keeping activities at different levels of the colonial administration.

2.3.2.1 (a) Central government: the Secretariat, the executive and the legislative councils

Curtin (1960, p. 129) states that the colonial government, through the Governor, was responsible for maintaining correspondence with the metropolitan authorities. This correspondence was mainly in the form of dispatches, which originated from either side (Baker, 2010). This fact means that copies of the correspondence that were

exchanged between the colonial office and the metropolitan head office should be available in the archival institutions of either place. Apart from the correspondence with the metropolitan authorities, the Secretariat and the legislative councils generated records that documented higher-level decisions of the government, correspondence with government establishments within the colony, and correspondence with other organisations and individuals within and outside the colony; these took the form of case files, minute books, legislative and administrative orders (Curtin, 1960. pp. 129-130). From Tough's (2009) work on the "Oral culture, written records and understanding the colonial archive", we learn that although the proceedings of the Legislative Council and *ad hoc* commissions of enquiry were oral, written versions in the form of Hansard and reports, respectively, were produced.

Lovering (2010) has conducted a detailed study of colonial Secretariat record keeping in Nyasaland (Malawi) and Northern Rhodesia (Zambia), and this work casts some light on record keeping at the highest level of the colonial administration in British East Africa. According to this pioneering study, it is apparent that out of the recognition that 'the efficient and prompt transaction of business in a Secretariat largely [depended] upon the efficiency of its Registry' (Hall (Acting Governor) in Lovering, 2010, p. 13), the Secretariat established a registry system that was manned by Registry Clerks who served under the head of the registry, the Chief Clerk (later, Office Superintendent). Each clerk was assigned record keeping responsibilities, which included registering incoming correspondence, reading every minute and letter, retrieving and distributing required documents to action officers, minuting, posting outgoing correspondence, and proper maintenance of files. The assignment of record keeping responsibilities to individual registry clerks was an

important acknowledgement that records do not 'manage themselves' (Shepherd and Yeo, 2003, p. 247) and mimicked practice in the home civil service.

From Lovering's study, we also learn that the Governor and the Chief Secretary, representing the colony's highest authority of government and the Secretariat, respectively, were enthusiastic about record keeping issues. The Secretariat developed regulations that were applicable to all areas of government for the management of public records, and one provision of the regulations was 'that no records should be destroyed without the sanction of the Governor'. This is confirmation of the colonial government's efforts to set standards for public records management.

Section four, *benefits of records management*, of the 2001 International Standard for Records Management, the ISO 15489, explains the components of records management in an organisation and the value of records to an organisation. Records management comprises a number of well-planned activities involving top management, records and information management personnel and other categories of staff. These activities include; 'setting policies and standards, assigning responsibilities and authorities, establishing and promulgating procedures and guidelines, designing, implementing and administering specialized systems for managing records and integrating records management into business systems and processes, (ISO 15489, 2001, p. 4).

According to the ISO 15489, successful records management in any organisation depends on top management commitment to and support for the records

management activities, and without that commitment and support, records and information personnel alone cannot maintain good record keeping systems in an organisation. It is remarkable that the colonial government's approach to records management perfectly fits the provisions of Section Four of the ISO 15489, a standard that the international community agreed upon over three-quarters of a century after the colonial governments had already designed and applied equivalent provisions.

A few challenges that affected the Secretariat registry system are cited in Lovering's work. During the early years of establishing the colonial governments, there were very few personnel to conduct government business. This forced the Governor to attend to registry work himself despite his multiple obligations. It is doubtful therefore, that record keeping was systematic during the early colonial days, especially taking into account that until the beginning of the 20th century as a whole 'colonial administration was still in the stage of tentative endeavour, if not of rule of thumb' (Jeffries, 1938, p. viii). In the early twentieth century the situation changed with rapid developments, which necessitated proper documentation and staff. The majority of registry clerks at the Secretariat were Africans, who were supervised by European clerks. However, given their poor education African clerks required close supervision to function adequately.

While some European clerks were experienced in records related work, others were not, and the latter were still expected to run the Secretariat registry well. Frequent postings away from the Secretariat registry of experienced staff and their replacement by inexperienced officers affected the smooth operations of the registry.

The African clerks, who were permanently stationed at the Secretariat, could not run the registry because they always looked to the European clerks for guidance. Despite these and other problems, a workable system was in place and on the whole it functioned well.

Moss (2005, p. 583) asserts that the filing system that was adopted at the beginning of the 20th century across the whole Civil Service in the United Kingdom was imposed on imperial and colonial governments. At the end of his study, Lovering (2010, p. 20) arrives at a conclusion: 'the core practices adopted in colonial registries broadly followed the patterns established in the British civil service', thereby confirming Moss' assertion.

2.3.2.1 (b) *Central government: specialised departments*

Part of the central government structure consisted of government departments, which carried out specific functions such as health, transport and public works, police, finance, agriculture, the judiciary, forestry and lands. Each department was in most cases headed by a director, who was answerable to the Chief Secretary at the Secretariat. Both Curtin (1960) and Lovering (2010) agree that departmental records were dealt with separately from those of the Secretariat as in the home civil service.

While the Secretariat records covered such topics as foreign policy, internal security, colonial administration and almost any subject matter, departmental records largely documented specific activities of individual departments. Curtin's (1960, p. 130) survey revealed that departmental records were greater in volume than Secretariat records and that records of some departments had been lost or destroyed, while

those that survived did so due to chance factors, such as availability of storage rooms and usefulness in current administration. In Malawi, which was then Nyasaland, the Secretariat carried out records disposal systematically, and a record of all the files disposed of was kept. Systematic disposal of records at the Secretariat appears to have started in 1919 (National Archives of Malawi, 1967), but there appears to be no indication that a department ever disposed of its records. Where a department never disposed of any of its records, coupled with the passage of time during which more records were generated due to increased activities, bulky accumulations of the records were most likely to result. The fact that the Secretariat in some colonies developed regulations for public records management, which were applicable to all government institutions, meant that although the departments were independently generating their own records, they were guided by regulations that were developed by the Secretariat.

2.3.2.1 (c) Local Government

Local government consisted of provincial and district administrations and native authorities.

2.3.2.1 (c) (i) Provincial administration

Where territories were divided into administrative provinces, each province was headed by a Provincial Commissioner, who coordinated and supervised the work of District Commissioners within the province. The Provincial Commissioners were answerable to the Chief Secretary at the Secretariat. District Commissioners submitted monthly reports to the provincial commissioners (Harvey, 2010) who later consolidated all the district reports into provincial reports. It would appear that most

of the provincial records largely consisted of Provincial books, reports and correspondence with the Secretariat and district offices.

Insight into the quality of record keeping at the Provincial Commissioners' offices can be gained from the quality of the Provincial Commissioners' reports. Because of its gross lack of essential details, the 1932 annual report of the Provincial Commissioners on Native Administration for the Tanganyika Territory was described as 'a masterpiece of tactful omission' (House of Commons Parliamentary Papers Online, 2006, pp. 373-4, p. 376). It was only hoped that 'future Reports [would] perhaps be more informative'. Some of the report's short-comings were identified as follows.

In view of the very large amount of European enterprise in the country, surprise must be felt at the virtual disregard of its effect upon native society; plantations are hardly mentioned, and only very casual references are made to the immense numbers employed in such work, and the change of outlook which may be expected, to follow, with consequent effect upon the native administrations. The importance of this tendency is indicated by numerous allusions, and the Report as a whole is in consequence distinctly disquieting.

Again, except for incidental references such as those already quoted, there is no indication of the success or failure of the Native Authorities in dealing with the detribalised native, or the stranger from some other area; no account is given of the system which obtains in this connection on the plantations, and no details of the method of controlling the mass of wandering labour are furnished.

Evidence from former colonial civil servants suggests this was by no means an unusual state of affairs. Annual Provincial Commissioners' reports were compiled from all reports submitted by district officers from time to time during a particular year. Ineffective systems for the management of the district reports and other records in provincial offices could lead to loss of and failure to retrieve the reports at a later date. Consequently, the likelihood would be high of compiling annual reports which lacked essential details since the Provincial Commissioners might have been forced ironically to compile their reports from memory in the absence of relevant

records. Some former colonial District Commissioners (Baker, 2010; Strachan, 2010) have explained that because of poor record keeping at the Provincial Offices, district officers became frustrated whenever they failed to obtain information from the provincial offices due to loss of or failure to locate files.

2.3.2.1 (c) (ii) District administration

The colonies were divided into administrative districts or '*territoires*' (Curtin, 1960), which were headed by administrators, who were designated either as District Residents, District Officers or District Commissioners. The District Commissioners (DCs) were answerable to the provincial commissioners and had multiple roles in ensuring the smooth operations of district administration (Adu, 1969; Kirk-Green, 2006). Some of the functions performed by the DCs included implementation of government policy and legislation; supervision and control of the executive and judicial organs of the native administration to ensure conformity to policy and legislation; attainment of standards of security, justice and efficiency in daily administrative business; and advice, direction and supervision of Native Authority affairs (Brown and Hutt, 1935).

One of the factors that affected good record keeping in the district offices was the fact that the DCs, who were responsible for creation and maintenance of the records, were too preoccupied with their day-to-day functions to allow themselves time to attend to records. A DC in Northern Rhodesia once explained his job in the following manner.

But the work here is essentially one of a Jack-of-all-trades, and not half of it is done in the office. Among other diversities, I have vaccinated some hundreds in a week. I drill the police, build bridges, and make roads, but the general work is the administration of the district, tax collecting, transport, accounts, and generally gathering information about the district, hearing of native cases among others (Editor, African Affairs, 1903, p.393).

While some DCs were genuinely unable to document some official activities on account of work overload, others simply 'never bothered to file anything, preferring instead to answer important letters by writing on the back ... and throwing everything else away not interested in keeping records' (Heussler in Tough, 2009, p. 10).

Harvey (2010, p. 2) confesses that 'office administration was somewhat primitive and the spoken word probably counted for more at that time'. This fact is corroborated by Tough (2009, p. 10) who observes that occasionally, 'British officers became so immersed in conducting official business by oral means'. This inevitably impacted negatively on record keeping, because the British officers 'either refused to keep any records or kept only the bare minimum'. Where records had not been created or had been kept to a bare minimum, bureaucratic continuity by new officers was made possible through the African staff whose good memories were helpful in 'turning up something from many months, or even years, earlier' (Dennis in Kirk-Green, 2006, p. 102). The messengers were equally helpful to the District Officers because they were said to be 'guides, philosophers and friends with memories which were worth of books and files' (Herbert in Kirk-Green, 2006, p. 103).

Because of their casual approach to the requirement for creating accurate records, some DCs ended up generating falsified records. This point is illustrated by a former colonial assistant DC.

My first DO was departing not because his wife was about to have a baby, but because he had too much to drink. As he handed over to me, he said, "Write the annual report, old boy." I said, "I have only been here a week. What am I going to say?" He said, "Quite simple. Same as last year add ten per cent for good measure – and don't forget to change the date" (Baker, 1978, p. 176).

The nature of records of the district offices in the British African Protectorates varied but generally each district kept its District Books or Political Notebooks and its Native

Court files (Colonial Office, 1939) besides 'a range of correspondence files and other records, including annual reports' (Tough, 2009, p. 7). The system of district notebooks, termed as *Registres de renseignements politiques*, was also used in the Belgian Congo and the French territories. The native court files were kept by district magistrates, and from the evidence recorded in the case files the native court records were significantly important in helping the administration to understand the principles of native law (Colonial Office, 1939).

Although the subjects dealt with in the district notebooks varied from one territory to another, the common ones included tribal history, notes on population and vital statistics, succession and inheritance, native beliefs and customs, health and sanitation, economics, labour, natural history and metrology (Colonial Office, 1939; Tough, 2009). The idea of district notebooks came about out of the realisation during the inter-war years that the knowledge of European officials in Africa constituted a vast reservoir of detailed information regarding local institutions and changes which they were undergoing (Colonial Office, 1939). Since this knowledge had not been recorded before, it was deemed important to record it in order to serve the interests of governments, anthropologists and others.

The Colonial Office (1939, p. 5) noted that district notebooks in the Belgian Congo were 'more systematically maintained than many of the British district note-books ... and no systematic record of this nature [appeared] to be maintained in the French territories'. Curtin's (1960, p.130) survey of archives in tropical Africa revealed that nowhere had local government records, the majority of which were district records, survived completely.

2.3.2.1 (c) (iii) Native authorities

In all respects, Western intervention, through colonialism, was the most modernising factor in Sub-Saharan Africa. Eisenstadt (1966, p. 41) holds that the inherent tendency to transform systems is probably the most central feature of modernisation. Halpern (in Eisenstadt, 1966) expands Eisenstadt's view by stating that 'modernization involves transformation – the transformation of all systems by which man organises his society, that is, his political, social, economic, intellectual, religious, and psychological systems'. In French territories, the pre-colonial indigenous institutions were altered and restructured to form part of the central administrative machinery in Paris. This followed the French view that 'there [were] not two authorities within the district, one French, the other indigenous ...the indigenous chief is only an instrument, an auxiliary' (Gonidec in van Rouveroy van Nieuwaal, 1987, p. 7). The chiefs now became paid employees of the government in the local government and reported to District Officers. French colonies were and are treated just like any department at home. In British territories, modernisation resulted in the disintegration of societies, because the indigenous institutions were overrun. It was only later realised that the problem of societal disintegration that led to difficulties in governing the people of the new territories was that:

...when a foreign power steps in, an established principle is rudely upset, and a once wholly united people disintegrated. A new and complicated and wholly foreign system is introduced, at variance with the best traditions of the people, entirely unsuited to their genius, and in the end productive of confusion and subversive of good order and discipline ("A Native Yoruba", 1902, p. 313).

This realisation led to the reorganisation of small tribes or sections of a tribe that were grouped together to form a single administrative unit, known as the Native Authority, which was headed by a traditional chief, assisted by a council of his

advisors (Pachai, 1973). Through a number of legislative enactments in British East Africa such as the Native Courts Ordinance and Hut and Poll Tax Ordinance, Native Authorities were entrusted with significant responsibilities, while at the same time they were empowered to undertake different social activities for the improvement of their communities.⁵

The introduction of the Native Authorities as part of local government marked a historic chapter in the history of record keeping in Sub-Saharan Africa. It must be recalled that societies in this part of the world were illiterate and relied on oral means to transact social and official business. Under the Native Court Ordinance, Native Courts were presided over by the chiefs, who were the customary law judges. Court clerks were supposed to record cases that were heard by the judges, and native courts were required to keep their records for inspection by District Officers and to help with appeals. This was a complete opposite of the pre-colonial order, where the customary law judges did not require the services of a court clerk since everything was recorded in minute detail, mentally. Apart from court records, Native Authority records consisted of books of accounts (ledgers, registers and simple financial reports).

Because the native authorities had been empowered to raise revenue through the levy of different taxes and allowed to make authorised payments out of the revenue,

⁵ See Brown, G. and Hutt, A.M.B. (1935) *Anthropology in action: An experiment in the Iringa district of the Iringa Province Tanganyika Territory*. London: Oxford University Press. The Hehe Native Authority of Tanganyika was, among other important functions, responsible for making and enforcing rules for the peace, good order and welfare of the people within its areas. Such rules included those for brewing beer, registration of birth and deaths, registration of non-Christian marriages and the control over markets and fishing. In addition to this, the Native Administration had its own treasury which it managed to run successfully. For instance, the financial statement of the Uhehe Native Treasury of 1933 recorded a surplus balance of £1 068 on 1st January 1933 and a total revenue of £2 392.12 was collected from different sources such as share of the hut and poll tax, court fees and fines, local fees and dues (liquor licences, school fees, ferry fees, marriage and divorce fees, miscellaneous), sale of gunpowder and caps and interest on fixed deposits. The revenue thus collected was used for running the tribal administration, maintaining roads, bridges and ferries, assisting scholars and paying for school fees and paying for personal emoluments for the tribal administration, teachers, tribal elders, tribal dressers and agricultural instructors. Part of the revenue was also used for procurement of drugs and equipment, purchase of seed, purchase of gunpowder and caps and for re-forestation.

native treasuries were established. Instead of committing to their sharp memories the amount of revenue that their Native Authorities had collected on particular dates, how much had been paid out, who had been or not been paid, how much had been banked, how much had been withdrawn from the bank, how much interest had accrued to their capital, what was said and who said what at the last committee meeting etc., the native authority officials were forced to document the transactions on paper. This naturally introduced the basics of official record keeping to those Africans who participated in the Native Authority (NA) affairs and had by definition to be literate, a skill that could only be acquired in mission schools. District Officers relied on the information contained in the Native Authority books of accounts in order to compile their reports which eventually reached the Governor.

One of the outstanding problems that affected the operations of the native treasuries was that those who had oversight of them did not always have a grasp of the practical aspects of their management. For some chiefs in Northern Rhodesia, it required 'long and patient illustrations with piles of stones to represent money which was carried in by taxpayers and carefully rationed out for various purposes' (Hailey, 1950, p. 143) by District Officers.

Native Authorities in urban areas had the advantage of having qualified court clerks for the maintenance of their court records (Hailey, 1950). It would be expected that where this was the case, the Native Authority's record keeping would be fairly good. However, in the majority of rural areas, native authority clerical staff was often of a poor standard, and the records were very summary (Hailey, 1950). In some cases, the records were not kept at all, while in other cases the records were scanty, and where records were kept, in most cases these were in vernacular languages that

posed great difficulties for District Officers to understand (Hailey, 1950, Harvey, 2010).

It is not known how many of the Native Authority records have survived to date owing to the general fluctuating weather conditions, which pose challenges for record keeping in Africa, compounded by the prevailing poor record storage conditions in the Native Authorities.⁶

2.3.3 Decolonisation

The period following the end of the Second World War marked the era of decolonisation in tropical Africa. However, due largely to economic factors, the transfer of power could not occur immediately. After the economic recovery of the imperial nations, political considerations and the change in imperial policies led to the transfer of power to African nations, which had been colonised for a number of decades.

Fieldhouse (1984, p. 98) estimates that for a period of about six years, between 1945 and 1951 under the Colonial Development and Welfare Acts, Britain spent about £40 million worth of aid on her colonies in Africa. However, out of this estimated aid investment, Britain reaped approximately £140 million (representing a 250 per cent return on capital) from the colonies through a number of administrative controls, such as hard currency earnings converted into sterling and currency pools to channel all colonial dollar earnings to London (Fieldhouse, 1986). During World War II Britain needed as much hard currency as she could find to pay for American

⁶ Several applications for grants are being received by the British Library's Endangered Archives Programme for researchers to carry out preliminary surveys to locate and assess the condition of records held by native authorities in different African countries with a view to relocating them to safe archival repositories, where they will be conserved through digitisation in order to provide wider access to these important documents to the research community world-wide.

equipment to prosecute the campaign against the Axis powers. With the coming of peace, the colonial powers needed to rebuild their war shattered infra-structure. Britain in particular had huge debts to the United States and still urgently needed the dollar earnings of its colonies.

After 1952, the world economy experienced an unprecedented and largely unexpected boom, and there were pressures to grant independence to colonies and to respect the need for financial stability, 'France made large and unprecedented... transfers' (Fieldhouse, 1986, p. 12) of sums of money to her colonies in Africa after the 1952 economic recovery. Continued colonisation after the economic recovery would therefore have to depend on the cost-benefit analysis of expenditure on running the colonies against the benefits accrued from the colonies. In 1961, de Gaulle said:

The least one can say is that Africa costs us more than it benefits us ...Our own progress has now become our great national ambition and is the real source of our power and influence. It is a fact that decolonization is in our own interest and is therefore our policy (Marseille, in Fieldhouse, 1986, p. 17).

Economic factors were clearly not a primary factor for decolonisation, but as de Gaulle explained, it had become France's policy to hand over power for France's own progress. This was to have unanticipated repercussions that still affect France to this day. Decolonisation had similarly become Britain's policy on the 'underlying assumption ... that government ought to be by consent of the governed' (Jones, 1964, p. 259), which allowed nationalism in Africa to take root. The statement of policy, *Reorganisation of the Colonial Service – Colonial No. 306*, which the Government of the United Kingdom published in 1954, was in fact the 'government's declared policy of furthering advance towards self-government' (Younger, 1960, p. 4) in Africa. Having been satisfied that the will of the majority of Africans was to be

governed by their own leaders, the next steps towards independence varied from country to country depending on the circumstances. One key factor was the capability of potential African leaders to govern their countries. In British Africa, colonies in West Africa, had a number of extremely able men (Poynton, in Kirk-Green, 1978, p. 23). This explains why Ghana and Nigeria were the first countries to gain their independence. Both countries had demonstrated that the potential successor African rulers were 'more competent than had been expected (with the aid of continuing European administrative support) to run their countries efficiently' (Fieldhouse, 1986, p. 3), Britain was quickly satisfied that power could safely be transferred to the other countries in the continent.

An explanation of why decolonisation became the imperial policy in London, Paris and other metropolitan capitals in the two decades following the end of the second World War, can be found in the words of Sir Roger Stevens; 'in spite of our substantial commercial and other interests in Africa, the latter's chief political importance for the West derived from the Cold War' (Morgan, 1980, p. 108). In order to win the Cold War, imperial governments had to do all they possibly could in order to ensure that the colonies sided with them through maintenance of cordial relations and continued financial support. Fieldhouse (1986, pp. 5, 22) holds that prolonged resistance to nationalist movements in the colonies had the potential to breed bitter relations with the nationalist leaders, who would become embittered by years of friction and waiting. Such poor relations would then give Russia the opportunity to become influential or even dominant in Africa.

Although there are a number of factors that led to the transfer of power to African rulers after decades of colonial rule, decolonisation can also be understood in the light of the primary objective for British colonisation in Africa. Britain arguably established colonial rule in African territories in good faith and as trustees for the people of those territories (Jeffries, 1938). In conjunction with the Colonial Office, the main objective of the colonial governments was nation-building of the colonies by developing the economic, social, political and administrative aspects of each territory (Poynton, in Kirk-Green, 1978, p. 20). In the 1950s-1960s, after decades of investment in building to satisfactory levels the social, political, economic and administrative capacities of Africa, Britain felt that with further administrative and financial support, power could safely be handed back to the Africans.

2.3.3.1 Decolonisation and records management

One of the key aspects of the decolonisation process was constitutional reform, which aimed at, among other important provisions, changing a territory from a colonial status to an independent status, with the Prime Minister, later President, as the head of the executive instead of the Governor. The new constitutional order meant that 'the traditional colonial pattern of the Secretariat being the apex of the Government, with field political administration and service departments working to it [had] to give way to a ministerial structure of government and a cabinet system' (Adu, 1968, p. 33). This constitutional development and many other institutional reforms that had taken place in the public service to reflect the new order, resulted in a number of consequences for record keeping activities. For instance, the records of some departments that were phased out had to be properly managed. All the colonial government stationery and letterheads had to be changed to reflect the

newly independent government symbols. Newly created ministries reflecting the change from the Secretariat to Cabinet system, had to design and adopt appropriate filing systems, while government departments had to review their filing systems to reflect their affiliation to their ministries. A number of questions arise. Were new filing systems designed in the first place? Who designed them and what was the quality of the systems? What training was given to the users of the new systems and how long did it take for the ministries and various departments to design and start using their new filing systems? What monitoring and support mechanisms were put in place to ensure effective implementation of the new systems?

In the British Protectorates in Africa, two separate staff establishments, one for the British expatriates and the other for the local staff, existed within the public service, although it should be kept in mind that some British staff were recruited locally and did not enjoy the home leave privileges of those recruited via the Colonial Office. After independence, the two staff establishments were abolished and consolidated into one, according to each country's circumstances. With the British expatriates set to leave after independence, Africans were expected to take over all the responsibilities for running their governments including all the public services. This was the dilemma that the newly independent states in Africa faced, because 'the political evolution in almost all dependent territories [tended]...to outstrip the speed at which the educational system [could] meet the new demand ... for routine administration ...and for the implementation of new and ambitious development plans' (Younger, 1960, pp. 1-2).

One important aspect for which the African staff would be fully responsible after independence was records management. Lovering's findings and the discussion in section 2.3.2.1, above, have indicated that during the colonial era, European clerks assisted by African clerks were responsible for records management in the Secretariat, central government departments, and the provincial and district administration offices. However, the African clerks were poorly educated and could not carry out significant records work without the supervision of their European superiors. Independence would mean that either this category of African staff, since they were already familiar with registry work, or other staff to whom records management was a new phenomenon, would be fully responsible for the management of public records.

The institutional developments in the African public services as a result of independence constitutional and administrative changes, offered a defining moment for the future status of record keeping in Africa, and this depended on the attention that governments would give to records management at this time. However, it would appear that only very few countries paid particular attention to records management during the constitutional and administrative changes during the independence period as Obatre and Kukubo (in Mwiyeriwa, 1976, p. 22) observe:

... the countries in the Region could not possibly attach great importance to these field [i.e. records management] activities and leave areas of greater priority like rural development, education, health, and other infrastructures which formed the basis for the fight for independence and embark on programmes like records management and archives administration.

Few countries in Sub-Saharan Africa managed to undertake records management programmes in response to changes in the public service that resulted from independence constitutional and administrative developments. Kukubo (1986) gives

an account of the records management programmes that took place in Botswana between 1964 and 1966, under the auspices of the British Department of Technical Cooperation (Organisation & Methods Division). In this programme, an expert in registry systems development was seconded to Botswana in order to develop the records systems of the new administrative order (the government ministries and departments). While the registry systems expert's mission was to deal with current records management issues, it became apparent that historical non-current records management issues had to be tackled as well. This need prompted the government to request from the British Ministry of Overseas Development, the services of an archivist under the Special Commonwealth African Assistance Programme. With respect to the registry systems development programme, Kukubo notes that the programme enabled the smooth administrative continuity between the two administrative regimes. However, apart from this short term benefit, the long term benefit of the programme was that the new administration built a strong records management foundation upon which the country would continue building good record keeping practices. Judging from Thurston's remarks approximately two decades after Botswana had undertaken the records reform programmes, the impression is that record keeping in Botswana remained strong and impressive.

Botswana has taken the greatest leap into the new world of managing records and has probably gone farther than any western country. The Government intends to reorganise and centralise registries under the control of the Archives (Thurston, in Kukubo, 1986, p. 230).⁷

Lovering (2010) indicates that in Zambia, the Organisation and Methods Section under the Personnel Division designed a new registry system and issued registry systems instructions in 1967. The instructions, which were to be followed by all

⁷ However, there has been a good deal of experience since 1986 that demonstrates a gap between stated intentions and actual achievements.

public servants when dealing with public records, acknowledged the importance of records in public administration and the fundamental importance of the registry system in bringing about good record keeping. The registry instructions provided 'a detailed account of registry functions, including the classification and filing of correspondence, the distribution and circulation of files for action, maintaining a system of bringing up files for future reference and disposing of 'dormant' files by destruction or transfer to the archives' (Lovering, 2010, p. 35). It is remarkable that the registry instructions were issued a few years after independence as a way of dealing with the problem of haphazard record keeping practices that various ministries and departments were following in the absence of any policy guidelines. Had the registry instructions not been developed to provide guidance and uniformity in the management of public records, one would assume that the problems that had been experienced in a few years after the restructuring of the public institutions would have continued in the years that followed.

Thurston (1986, p. 225) presents a gloomy picture of record keeping in the East and Southern African region by 1986.

'...papers are misfiled or sent to the wrong action officer, ephemeral papers (many of which need never be registered) are mixed with policy papers on registered files, too many 'general' files are opened and files tend to run on for long periods (which delays their opening when they reach the Archives); files are allowed to become overfull and unwieldy (endangering the contents) and they often pass from office to office without movement control, which results in their being lost or misplaced and large numbers of temporary jackets being opened.'

Lack of understanding of the significance of records management on the part of the registry staff, their supervisors and the administrative officers is cited as one major contributing factor. To understand this problem, it should be remembered that the calibre of the African registry clerks during the colonial period was very low, and they

usually depended on their European supervisors for advice. Now, when their former supervisors had returned to their homelands, the clerks took over their former supervisors' responsibilities, but unfortunately, the shoes were too big for them. As Tough (2009) has already pointed out, the culture of African societies is overwhelmingly oral and as such, after independence it took time for the African supervisors and administrative officers to appreciate fully the value of written records. Another explanation of the dwindling record keeping standards after independence could be that many countries did not develop appropriate record keeping systems, publish instruction manuals and provide regular record management training programmes. For the countries that had all these in place but still experienced poor records management, the problem could have been either weak enforcement mechanism or poor implementation monitoring system.

2.3.4 Structural Adjustment Programmes

Many changes that African public services went through in the 1960s led to an expanded public service (Olowu, 1999; Cohen, 1993; Therkildsen, 2000). The African nationalist leaders viewed colonialism as a hindrance to rapid social-economic development, such that once they obtained self-government they would, as Kwame Nkrumah prophesied (Killick, in Fieldhouse, 1986), transform their countries into paradise within a short period of time. In order to attain rapid economic progress, the government and not free market forces would have to control the economy, while at the same time embarking on fanciful development schemes (World Bank, 1997).

One of the development strategies that the newly independent African states adopted was the establishment of public enterprises. The state-owned enterprises were seen as a solution to the weaknesses of the private sector in stimulating economic growth (Hirschmann, 1993; Nwokedi, 2000). Importantly, through the public enterprises, the new African leaders would be able to prevent foreign companies from controlling the vital sectors of the economy (Nwokedi, 2000). The exploitative nature of the foreign companies in Latin America in the 1950s, such as externalising profits instead of investing them locally, buying less locally and exporting more products and employing few local managers and other senior staff (Fieldhouse, 1986; Preston, 1996), may well have warned African leaders about the dangers of uncontrolled foreign direct investment by multi-national companies.

At the time they had gained their political independence, most African governments held the view that 'letting the market take care of itself is not good governance but the abandonment of responsibility' (Foy and Goldstein, 1996, p. 26). Guided by this view, the governments controlled almost all critical aspects of their economies: exchange rates were controlled, which resulted in overvaluing of the domestic currencies; central banks and credit institutions were controlled and used for financing deficits; prices of commodities were fixed; trade controls in form of import and export licences and tariffs were imposed; governments monopolised foreign borrowing; and subsidies on agricultural inputs such as fertilizer were provided (Fieldhouse, 1986; Lensink, 1996). In order to speed up infrastructural development, governments embarked on numerous projects, which were financed by tax revenues and loans from international financial institutions, mostly from the World Bank and other governments. However, ambitious investment programmes, which relied

mainly on external loans increased the countries' foreign debts, were a key factor that later led to one of the continent's chronic economic problems.

Toye (1994, p. 26) quotes part of the address delivered by the World Bank's outgoing President, Robert McNamara in 1980, as saying that there had occurred a 'permanent change in the world economy, not ... some temporary phenomenon which [would] later automatically reverse itself'. This permanent change in the world economy manifested itself in 'monetary, fiscal and balance-of-payments deficits, rising inflation, greater rigidity in trade regimes and also in the functioning of domestic markets' (Wapenhans, 1994, p. 38) and was responsible for altering Africa's development economic policies. In order to respond effectively to such global economic turbulence, which had adversely affected the Sub-Saharan African region, the International Monetary Fund (IMF) and the World Bank designed new economic policies that were deemed suitable for Africa's economic recovery and growth. From the 1980s, most of the Sub-Saharan African countries were therefore forced to abandon the development economic policies, which they had been pursuing since independence. Instead, strict economic policies prescribed by the IMF and the World Bank were adopted and implemented up to the early 1990s.

Toye (1994) and Wapenhans (1994) mention the Berg Report on Sub-Saharan Africa as being influential to the World Bank and the IMF in formulating the policy-conditioned structural adjustment lending for Africa. The report had indicated that Africa's economic problems were a result of faulty government policies: continued funding to large loss making public enterprises, which contributed significantly to budget deficits; monetary expansion to repay unsustainable domestic deficits that resulted in rapid inflation; overvalued exchange rates, negative real interest rates and price controls were giving rise to extensive corruption (Cassen, 1994).

Prior to the economic crisis of the 1980s, the IMF was primarily responsible for providing short term credit facilities to countries that had experienced temporary problems with their balance of payments, while the World Bank was traditionally responsible for provision of long term loans for investment capacity and infrastructural projects (Lensink, 1996; Bakker, in Lensink 1996). Since the early 1980s, the distinct roles of the two institutions in Africa have been overlapping, as both institutions have equally been involved in the structural adjustment programmes (SAPs), and this is why others have labelled the SAPs 'the Washington Consensus' (Wescott, 1999; Taylor, 1993; Sandbrook, 2005; McCourt, 1998). Among other objectives, the SAPs aimed at reducing the spending and direct economic involvement by the state, moving towards market allocation of resources and providing an enabling environment for private enterprise (Engberg-Pedersen et al, 1996).

When the Sub-Saharan Africa's debt crisis had reached its peak in the early 1980s, there was desperate need for foreign exchange for imports and continued development programmes. The IMF therefore provided credit facilities that aimed at macroeconomic stabilisation before structural reform programmes funded by the World Bank could be undertaken. A number of policy conditions were attached to any credit facility to which a recipient country was obliged to adhere. Lensink (1994, pp. 57-58) catalogues some of the policy conditions for a standard stabilisation programme. These include: devaluation of the currency; raising taxes and reforming the tax system; restructuring of foreign debts; government borrowing from the capital market rather than from the central bank; increasing interest rates and reducing subsidies; and decreasing salaries for the public service. Once macroeconomic stabilisation had been achieved, a country could apply for loans from the World Bank

for structural reform programmes. Structural reform programmes varied from country to country, and like macroeconomic stabilisation loans, structural reform programme loans had policy conditions attached to them. According to Roemer and Radelet (in Lensink, 1994, p. 58), a standard reform package would comprise: liberalisation of the market in order for prices to be determined by supply and demand; privatisation of public enterprises; creation of new financial markets; and increasing the efficiency of government tasks that were not privatised. Added to these, was downsizing of the civil service.

2.3.4.1 Public Sector Reform

It is important to appreciate that the IMF/World Bank SAPs of the 1980s and early 1990s focused narrowly on achieving the goal of economic recovery and growth. Deficits had to come down by making savings from areas where governments appeared to incur unnecessary expenditure and revenue collection had to be improved. Some of the areas where reforms could be undertaken in order to achieve macroeconomic stabilisation and growth included the tax system, the civil service and privatisation of public enterprises.

The size of the African civil services was considered too big, with a wage bill that contributed significantly to government budget deficits. One of the key reform strategies in this area, therefore, was retrenchment. The underlying assumption was that reducing the size of the civil service through dismissal of redundant staff, introducing a compulsory retirement age and freezing employment (Lensink, 1994; Cohen, 1993) would result in a lean fit for purpose civil service. Besides cutting government costs, the savings gained from such cut backs would be invested in the efforts aimed at making the service more efficient.

The government revenue system that existed before the introduction of the SAPs was deemed ineffective. Income Tax and Customs departments operated under the finance ministry, and inefficiencies and corruption associated with most African public services resulted in under collection of revenues, a factor which contributed to lower Gross Domestic Product (GDP). The Income Tax and Customs Departments were therefore merged and detached from the finance ministry and operated under the newly created autonomous revenue authorities. The statutory provisions that established the revenue authorities provided substantial autonomy, clear lines of responsibilities and remuneration (Olowu, 1993; Caulfield, 2006) to enable the authorities to work much more efficiently and effectively than before. Tax reforms enabled the revenue authorities to identify potential revenue sources, thereby broadening the tax base by, for instance, 'developing user charges, consumption taxes, and taxes on businessmen and those outside the public sector, to supplement their meagre direct revenue sources' (Olowu, 1993, p. 6). Caulfield (2006, p. 22) indicates that the success of the tax reforms in Ghana led to the GDP growth increasing from 4.7 per cent to 17 per cent from 1983 to 1993, while in Uganda the GDP growth rate increased from 2 per cent to 12 per cent in ten years.

The development view of a welfare and enterprising state that most African governments held and pursued, led to an increase in the size of the state through the creation of more public enterprise organisations. Berg (1987) indicates that the number of public enterprises in Tanzania had grown from fifty in the mid-1960s to 400 by the late 1970s. Other countries in the continent had similar experiences and consequently, as Berg (1987, p. 23) states, 'a kind of quiet revolution occurred in the 1970s, shifting resources into the public sector'. However, instead of contributing to

economic growth despite massive government financial investment in them, public enterprises were contributing to the economic malaise by the 1980s. Hope (2002, p. 217) identifies loss-making, diversion of funds, extensive corruption and bureaucratic management structures as the main problems that plagued the state owned enterprises in Africa.

The solution to these problems was found in the privatisation of the parastatal organisations; enormous subsidies that went into maintaining the loss-making enterprises would be saved, private entrepreneurs could manage the industries more effectively and operate services more efficiently and at lower costs to the public than the government (Cowan, 1987), and corruption by public officials would be eliminated. The subvention savings on loss-making organisations and receipts from sale of the enterprises would contribute to the GDP growth. Non-strategic and unviable public enterprises were liquidated (Lensink, 1996), while the strategic and non-strategic but viable ones were privatised through commercialisation (by way of performance contracts with public utilities), exposure to market competition by private companies and divestiture (Engberg-Pedersen et al 1996).

2.3.4.2 SAPs and records management

Owing to their business-public nature, the state owned public enterprises could not fit well in to the structures of the government ministries or departments (Hirschmann, 1993) and therefore operated under their own structure as non-departmental public bodies. The expansion of the public service due to the increase in the number of the public enterprises meant that the countries were generating more public records than ever before. Almost all studies on records management in Africa have focused on records of the government ministries and departments, and one on public

enterprises is yet to be undertaken in order to inform us about the quality of record keeping in the state owned enterprises.

Privatisation of public enterprises must raise important archival issues; does the privatisation legislation cover ownership of records of the public enterprise before and after the privatisation? Who should own non-current historical records of the public enterprise that has changed hands into private ownership and how will this affect the archival principle of *respect des fonds*? What has happened to the records of the public enterprises which have been either liquidated or divested? Kormendy's (2001) study on Privatisation and Archives addresses some of these issues and gives a picture of what has happened in some parts of Europe and Canada. However, due to the paucity of literature on privatisation and records management in Africa, it is difficult to state with certainty how privatisation has impacted on archives in the continent.

Human resource records are a key aspect that helps to facilitate civil service reforms (IRMT, 2003). The need for quality (complete, accurate, up to date and traceable) personnel records was regarded as necessary for the identification of ghost workers, ministerial reviews, hiring, freeze and retrenchment (Olowu, 1993). However, as Thurston's study (as discussed in section 2.3.2.1, above) has indicated, it was almost impossible to obtain quality personnel records. One could argue that perhaps this was the first time that African governments realised that good record keeping is an essential component of any administrative process, and such a realisation transformed their perception of record keeping, which resulted in the adoption of records management as part of the reform agenda.

With financial and technical support from sponsors of the reform programmes, records management reform programmes have been undertaken in a number of countries. Between 1990 and 1999 under the Civil Service Performance Improvement Programme, the International Records Management Trust (IRMT) advised the Government of Ghana on all aspects of records and information management (IRMT webpage). Additionally, the archival legislation was reviewed, the Public Records and Archives Administration Department (PRAAD) was established, a national records centre was constructed and a national co-ordinating body for electronic records policies and practices was established. In Sierra Leone, the IRMT 'advised the Government ... on the introduction of improved records management, including developing a draft law, scheme of service, organisational structure and developed new systems for managing personnel records and subject files for key government agencies' (IRMT webpage).⁸

Under the public sector reform programmes, the National Archives of Tanzania had its legislation, national records management policy and standards and guidelines for the management of personnel records reviewed and developed while in The Gambia, the IRMT assisted in the establishment of the National Records Service and the implementation of records management improvements in all areas of the civil service.

⁸ However, the national coordinating body on electronic records and policies in Ghana never became a reality. In Sierra Leone, the draft documents that should have defined a regulatory framework for records management have not been implemented, although substantial gains have been made in relation to pay and personnel records.

2.3.5 New Public Management (NPM)

Implementation of the Structural Adjustment policy conditions, whose object was to attain macroeconomic recovery and growth, resulted in other social economic problems. It is contended that despite the SAPs, the issue of poverty in most African countries still remained immense and an extremely low priority (Lensink, 1996). Stabilisation measures, such as exchange rate adjustments, led to significant reduction in real terms of the allocations for social services, such as health and education, and consequently, the quantity and quality of public services were reduced (Malima, 2004; Oden, 2005). Devaluation of local currencies resulted in reduction, in real terms, of the wages and salaries of public servants, and coupled with the reduction in the size of the public service through retrenchment and a freeze in employment, ruinous consequences were experienced. These included: increasing corrupt practices and dishonesty among public servants as a means of survival; inability to retain and difficulties to attract highly qualified staff; and inefficiency and low staff morale, all of which contributed to the breakdown of the institutional capacity of the public service (Olowu, 1999; Malima, 2004).

These and other failures of the SAPs led the World Bank to design and adopt the Comprehensive Development Framework, which was 'a less orthodox and more complex strategy' that viewed poverty reduction as a principal goal of the policy interventions (Sandbrook, 2005, p. 1118). The framework, also known as the Post Washington Consensus, had elements that are similar to those of the New Public Management (NPM) paradigm, since the World Bank is a keen advocate of the NPM approach across the world (McLaughlin and Osborn, 2002). The World Bank and other western donors who sponsor the post Washington Consensus public sector

reform programmes in Africa have been advocating these NPM elements. Implementation of the NPM reforms, which has varied from country to country, has led to a small number of records management reform projects in Africa, where improvements have been achieved.

2.4 Summary

The discussion in this chapter has demonstrated that the public sector reforms that have been imposed by the IMF/WB and the accompanying NPM policies from the 1990s to the present have not been the only ones that have occurred in Sub-Saharan Africa. Important developments such as colonialism during the last quarter of the 19th century and decolonisation led to major administrative changes in the public administrations of countries in Sub-Saharan Africa. Although the reforms did not target record keeping *per se*, they affected it in one way or another, much more than the reformers themselves had anticipated.

This chapter has demonstrated the developments of the Sub-Saharan African states from the pre-European era to date, and the centrality of record keeping in the governance process. Although the pre-colonial states in the Sub-Saharan Africa differed markedly from the modern states, one salient feature common to both types of states was their overarching objective – securing the welfare of their peoples through a system of public institutions. Written records were unknown during the pre-colonial era, and although this was the case, systems for capturing official business transactions were well developed and effectively employed. The fact that certain individuals in the community were appointed as keepers of official information in the predominantly oral societies signifies the importance, which the community leadership attached to information management.

Colonialism was a predominant force and an external factor that transformed the original African governance institutions. Record keeping, being one of the central features of the western bureaucracy, was widely introduced in the continent during the colonial period. While this feature was more elaborate at the central government levels, the situation was different at the local government levels, especially at the Native Authorities. Due to the nature of the environment in which the District Officers worked, oral communication had precedence over the written communication, and as such, the officers were compelled to adapt to that environment, which meant that official activities were not always documented. On the other hand, through the Native Authorities and other means, the interaction introduced a written culture to the orally predisposed Africans. Although there were some shortcomings, in general, until the end of colonialism, record keeping was effective in Sub-Saharan Africa largely because those who had introduced it appreciated it and therefore paid detailed attention to ensure that the system worked properly.

Both political and economic factors led to the decolonisation of Africa, and as Baker (1978) has reminded us, this was the time when Africans were expected to rule on their own. When they gained independence, the new rulers in Africa inherited colonial bureaucratic structures, which were modified and expanded through the creation of more public enterprises to reflect the independent status of the countries as well as their social-economic development aspirations. When these changes were taking place, only a few countries considered undertaking necessary record keeping reforms. Because the new administrators did not appreciate record keeping as much as their predecessors, who had introduced it, and because the former were citizens of an oral society, due attention was not paid to record keeping

requirements. No wonder, therefore, that record keeping had almost disintegrated just over two decades after independence.

Faulty African government policies and world economic upheavals resulted in economic crisis in most of Sub-Saharan Africa. As a macroeconomic recovery and growth package, the IMF and World Bank prescribed a set of policy conditions for the continent. During the implementation of the Structural Adjustment Programmes African it became apparent that something had seriously gone wrong with record keeping and this led to some attention being paid to record keeping issues. Post SAP reforms have emphasised effective and efficient service delivery, transparency and accountability, rule of law and citizen participation in the governance process, with the ultimate goal of poverty reduction in Africa. In order to achieve these aspirations good record keeping has been seen to be a critical aspect. This is particularly so in countries such as Ghana, Sierra Leone and Tanzania, where the International Records Management Trust was involved in designing and implementing records management reform programmes. It can therefore be argued that there is a correlation between public sector reforms and records management because the latter is a key component of the administrative processes such that any adjustments in the administrative arrangements will automatically affect it in one way or another. Public sector reforms have led to the improvements in archives and records management services in Africa. It is yet to be seen if African governments will sustain the improved record keeping systems in order to avoid the post-independence experience of overlooking the degeneration of the good record keeping systems left behind by the colonial governments.

Chapter 3: Pre-colonial administration and record keeping in Malawi

3.1 Introduction

Nyasaland, as Malawi was then called, was formally declared a British Protectorate on 14 May 1891 and named The British Central Africa Protectorate on 22 February, 1893 (Twynam, 1948, p. 11). The declaration of the British Protectorate over Nyasaland led to the establishment of the western bureaucracy modelled on the British system in order to effectively carry out the imperial mandate over this territory. Until this date as Baker (1978, p. 162) has argued, 'Africans were responsible for government and administration'. In Malawi, Baker's argument is confirmed by Hector L. Duff, who had arrived in Nyasaland in 1897 to take up a senior government post, and later, in the early 1920s, became Chief Secretary and Acting Governor, respectively. Duff confirms that despite its rudimentary state, a system of government that was perfectly definite, intelligible and was identical with that of much more advanced forms, existed in Nyasaland prior to colonialism (Duff, 1903, p. 194). As assessed by Duff, this system of government was 'in the main honest... [because] the headmen were careful to see that justice was fairly administered' (p. 195).

In the foregoing paragraph, and from Duff's assessment of the pre-colonial system of government in Nyasaland, it can be discerned that such a system was based on tribal chieftainships. For this reason, the discussion in this chapter will centre on government and administration in pre-colonial Nyasaland. The point of departure will be a general discussion of the native system of government, followed by an identification and brief discussion of the dominant tribal groups and their system of governing their respective peoples, up to the time when the territory was declared a

British Protectorate. The central focus of the chapter will be on the discussion of the system of record keeping during the pre-colonial era as adopted and employed by various tribal governments. One of the research questions to be addressed in this chapter is whether different tribal governments adopted similar systems of capturing, disseminating and preserving information. Another question to be addressed is whether there were any administrative changes that took place during the period under consideration and the extent to which, if any, those changes affected systems of capturing and preserving information. In this chapter these and other research questions will be addressed mainly through the use of secondary sources of information on pre-colonial Nyasaland and from inferences from some of the proceedings of and papers presented at the November 2010 Literacy in oral cultures conference held at the University of Glasgow⁹

3.2 Native system of government

From the early to about the mid periods of colonisation in Nyasaland and elsewhere in Africa, there was a general tendency within the European powers that occupied the African territories to use the term 'natives' to refer to the indigenous peoples of the colonised territories. The use of the term was not in any way intended to be disparaging. A trend appears to emerge from about the mid colonial period when such a term was overtaken by the use of the term 'Africans', which carried the same meaning as that of 'natives'. In this chapter, I use the term 'native/natives' to accentuate the period under discussion, when the term was the most appropriate one to use, when referring to the pre-colonial inhabitants of territories such as Nyasaland.

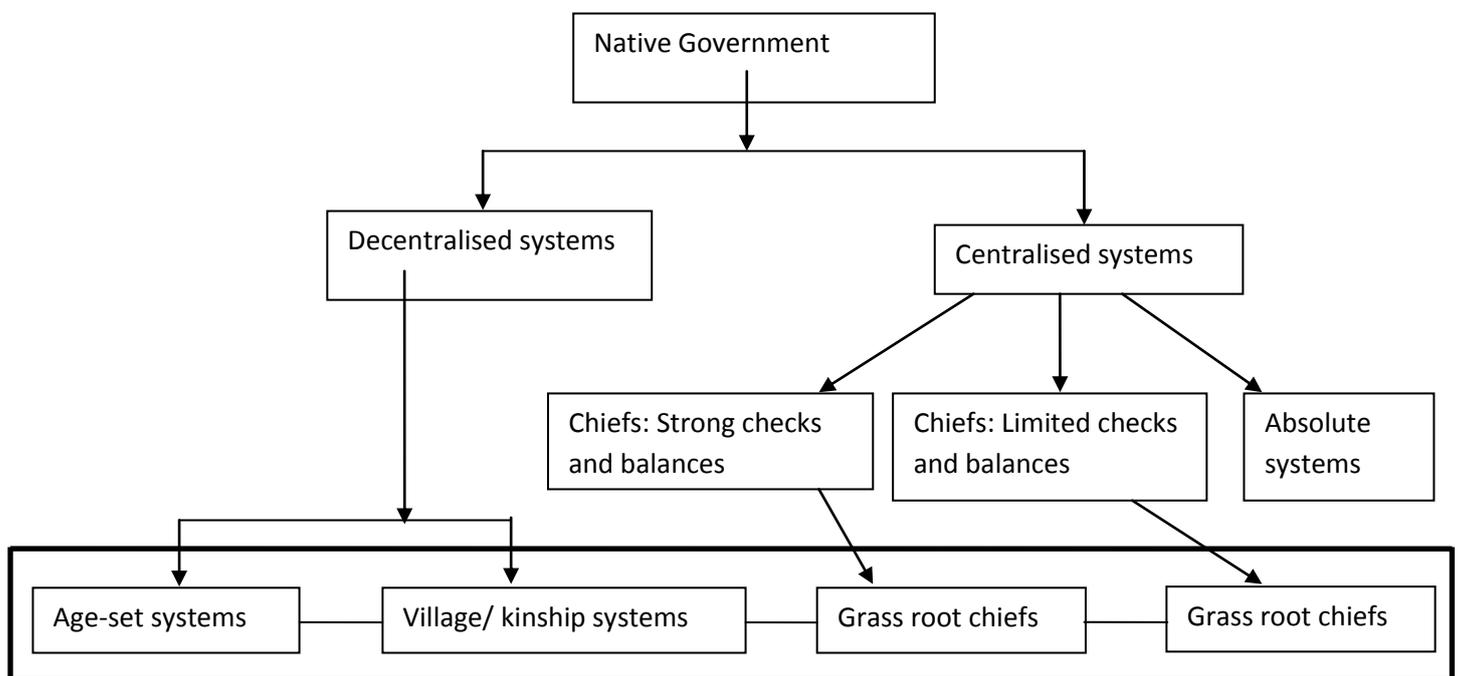
⁹ See <http://www.gla.ac.uk/departments/hatii/news/literacyinoralcultures/>

A description of the native system of government in the Yoruba country by “A Native of Yoruba” (“A Native of Yoruba”, 1902, pp. 316-324) is analogous to most of the pre-colonial tribal governments, such as those of the Chewa, Ngoni and Yao in Nyasaland. According to “A Native of Yoruba”, each tribe in the Yoruba country occupied a particular territory, which was regarded as a country on its own. At the apex of the native government was the supreme ruler, the king of tribe. Different areas of the country were ruled in the name of the king by subordinate chiefs. Under each subordinate chief’s jurisdiction were a number of villages, which were headed by village headmen. The king and the subordinate chiefs constituted the governing council for the native government. This type of native system of governance has been classified as chieftaincy of the centralised political system, as opposed to the consensus-based decentralised political system (Economic Commission for Africa, 2007). The Economic Commission for Africa notes that the centralised chieftaincy system may be categorised into three types: absolute chieftaincies, where the monarchs and chiefs exercised absolute power, chieftaincies with relatively strong systems of checks and balances, and chieftaincies with limited checks and balances (Economic Commission for Africa, 2007, p. 6).

Apart from the centralised pre-colonial political system, other native governments were administered on the lines of the decentralised political system, whose central feature was consensus-based governance by the ruling authorities, which were lineage groups, village communities or age-sets (Economic Commission for Africa, 2007). Comparatively, the decentralised political system was more democratic and representative of the people’s wishes in the communities where the system was practised than the centralised political system, where decision-making for the communities was vested in the hands of a few people. However, since the

centralised system was marked by autonomy at the grassroots level, where decisions were consensus-based, the two systems of pre-colonial governance had a lot in common at the grassroots level (ibid). Figure 1 below illustrates the similarities and differences between the pre-colonial centralised and decentralised governance systems in Africa.

Figure 1: Centralised and decentralised pre-colonial governance systems



Source: adapted and modified from the Economic Commission for Africa's (2007, p.6) Tentative Typology of Traditional Institutions on the Basis of Accountability

In Figure 1 above, the lowest level (age-set systems, village/kinship systems and grass root chiefs) of the governmental hierarchy of both the centralised and decentralised systems illustrates that at this level, the two systems are almost the same with the exception of the centralised, absolute systems. Decision making at the grass root chiefs' level is corporately done by chiefs and their councils of elders, a

feature that to some extent provides for majority representation in the native governance process, similar to the governance style of the age-set, village and kinship systems.

3.3 Native governments in Nyasaland

In his report of the first three years (1891-1894) of the administration of the British Central Africa, Mr. (later Sir) Harry Johnston, the first Commissioner of Nyasaland, singled out the Nyanja, Mang'anja, Yao, Ngoni, Wemba and Tonga tribes as 'worthy of special mention [in the report] for their importance' (Johnston, 1894, p. 22). To these we can also add the Chewa, Nyakusya-Ngonde and the Tumbuka as some of the main tribal groups that established individual native governments in their respective states or 'countries' that were spread over the three regions of the Nyasaland territory before the unification of all the tribes under the British rule. Among all the tribes that existed in Nyasaland before colonisation, none took the form of the centralised absolute system with a monarchy. The Nyakusya-Ngonde and Tonga native tribes adopted the decentralised system of government based on the age-set system and village/kinship system, respectively, while the other tribes exhibited different types of the centralised governance system. Native governments of two (one centralised the other decentralised) tribal groups will be discussed briefly in this section in order to demonstrate how the natives of different tribes were governed prior to the British rule in Nyasaland.

3.3.1 The Yao government

The Yao migrated to Malawi from Mozambique in about the 1830s (Rangeley, 1963) in at least three ways. Years of locusts, which had caused famine in the Yao country coupled with the constant internecine war in the Yao country (Johnston, 1894;

Sanderson, 1920; Alpers, 1972) forced the minor Yao chiefs to migrate and settle around the shores of the southern tip of Lake Malawi (formerly Lake Nyasa) and the Shire Highlands in the southern Malawi. Johnston (1894) adds that the Yao migration into Malawi was as a result of trade by the Yao Chiefs who, after years of trade with the Mang'anja of southern Malawi, settled and invited their people from Mozambique to settle in Malawi. Apart from this, Johnston (1894) and Rangeley (1963, p. 12) mention the Yao conquests, which led to the displacement of the Mang'anja peoples, a point with which Alpers (1972, p.171) concurs, as another way in which the Yao settled in Malawi. The Yao in Malawi therefore settled mostly in the southern part of the country and some parts (present-day Salima and Nkhota-Kota districts) of the central Malawi.

Depending on the circumstances in their country of origin, the Yaos migrated to Malawi in separate chiefdoms. After their settlement in Malawi, many Yao chiefs engaged themselves in the slave trade by supplying slaves (those captured in their raids or condemned offenders from other tribes such as the Mang'anja) to the Arab and Portuguese slave traders in exchange for various items such as clothes, beads, guns and gun powder. Rangeley (1963, p. 24) notes that when the other tribes that were preyed upon had been depopulated and slaves were hard to come by, the different Yao chiefdoms turned against one another in bitter fights in order to obtain slaves for the lucrative trade. These factors resulted in the lack of unity among the Yao so much so that each chiefdom was quite distinct from the next and there were often bitter enmities and feuds among them (Rangeley, 1963).

The understanding of the Yao government is informed by the works of Clyde Mitchell¹⁰ who in the early 1950s, was commissioned by the Nyasaland Government to conduct research on the social structure of one of the Yao chiefdoms in the country, the Malemia chiefdom in Zomba. Mitchell (1951) argues that 'the Yaos were never organised into a strong state' because any individual leader could establish his own chiefdom as long as he was able to attract enough followers to form a military force and break away from his chief (Mitchell, 1951, p. 22). Once such a powerful individual had established his chiefdom, his territory was referred to as *chilambo* in the Yao language, which means a 'country'. As a sovereign ruler of his chiefdom, the chief was known as *msyene chilambo* (the owner of the country) and as such, he was able to enjoy the rights of the chief which included 'the monopoly over the ivory from elephants slain or found dead in the area under [his] command' (ibid) and his country was named after him (Mitchell, 1949).

The citizens of a Yao country consisted of different groups that all pledged allegiance to the Chief. As the Yao were a matrilineal people (i.e. people whose tradition is that men come to live in their wives' home villages), the Chief's matrilineal relatives, who had followed him when he was founding the chiefdom, were the first group of the citizens of the chiefdom. Closely linked to the chief's matrilineal relatives were the chief's domestic slaves and their children, because some of the female slaves were the chief's concubines (Mitchell, 1951). Powerful chiefs attracted other groups of people who were led by their clan leaders or village headmen to live under them for protection and the more powerful a chief was, the more people he attracted into his

¹⁰ See Mitchell, J. Clyde (1949) 'The political organization of the Yao of Southern Nyasaland', *African Studies*, 8: 3, 141 — 159; Mitchell, J. Clyde (1951) 'An outline of the social structure of Malemia area', *The Nyasaland Journal*, IV: 2, 15-47.

country. Some of the people who submitted either willingly or unwillingly during tribal feuds also formed part of a chief's community (Mitchell, 1951).

The country's administrative capital, from where 'the government was effected' (ibid, p. 24) was the chief's own village, which had a court for the administration of the executive, legislative and judicial functions, presided over by the head of the state and government, the tribal chief (Rangeley, 1948, p. 7). Different officials, among whom were governors, were involved in the running of the affairs of the native government. Various regions of the chief's country were under the jurisdiction of the chief's trusted men, who were also village headmen. The governors were the chief's councillors, whose functions included daily visits to the chief for submission of reports, advising the chief in connection with the expansion of the chiefdom through raids, settling of minor disputes, arbitrating in the domestic affairs of the chief, administration of villages under them and their own villages (Mitchell, 1949, p. 144) and 'if the chief lost his temper and wanted to destroy those around him, it was the duty of the [councillors] to pacify him' (Phiri, Vaughan, Makuluni, 1977, p. 4).

Unlike the councillors who held office through inheritance, other officials who worked at the chief's court, the assessors, held office through appointment by the chief on the basis of their 'sagacity and oratory' as well as ability to sift 'the evidence of witnesses in disputes'. The primary duties of the assessors included receiving visitors who came to meet the chief, interviewing complainants, who sought justice from the chief's court, sifting the evidence of witnesses and acting as intermediaries between the complainants and the chief (Mitchell, 1949, 1951). It is worth noting that not all village headmen served as the chief's councillors since these positions were given only to those 'who had been closely connected with [the chief] long enough to be considered trustworthy' (Mitchell, 1951, p. 24).

Below the chief's trusted village headmen, who served as councillors, were ordinary village headmen who administered individual villages that ranged in size from a few huts to over two hundred huts per village. Although a village was headed by a village head assisted by his councillors, the affairs of the village were handled by the village corporately. Mitchell (1951, p. 27) cites vengeance on other groups for harm inflicted on a village member, slave raiding and punishing representatives of other hostile villages, as instances when the village acted corporately. Rangeley (1962) paints a picture of the prevailing corporate will of the village elders among the Amacinga aYao for the choice of a new village headman among the ruling matrilineal members. Figure 2 below, is a graphic representation of the Yao government, showing that power was concentrated at the top in the hands of the chief and his advisors while the grass root village headmen were far removed from the centre of political power at the apex but closer to the people in their individual villages at the base, where decisions were taken corporately. It was not surprising then, that once the grass root village headmen had wielded more power, they broke away to found their own chiefdom (Rangeley, 1962, p. 23).

Figure 2: The Yao government

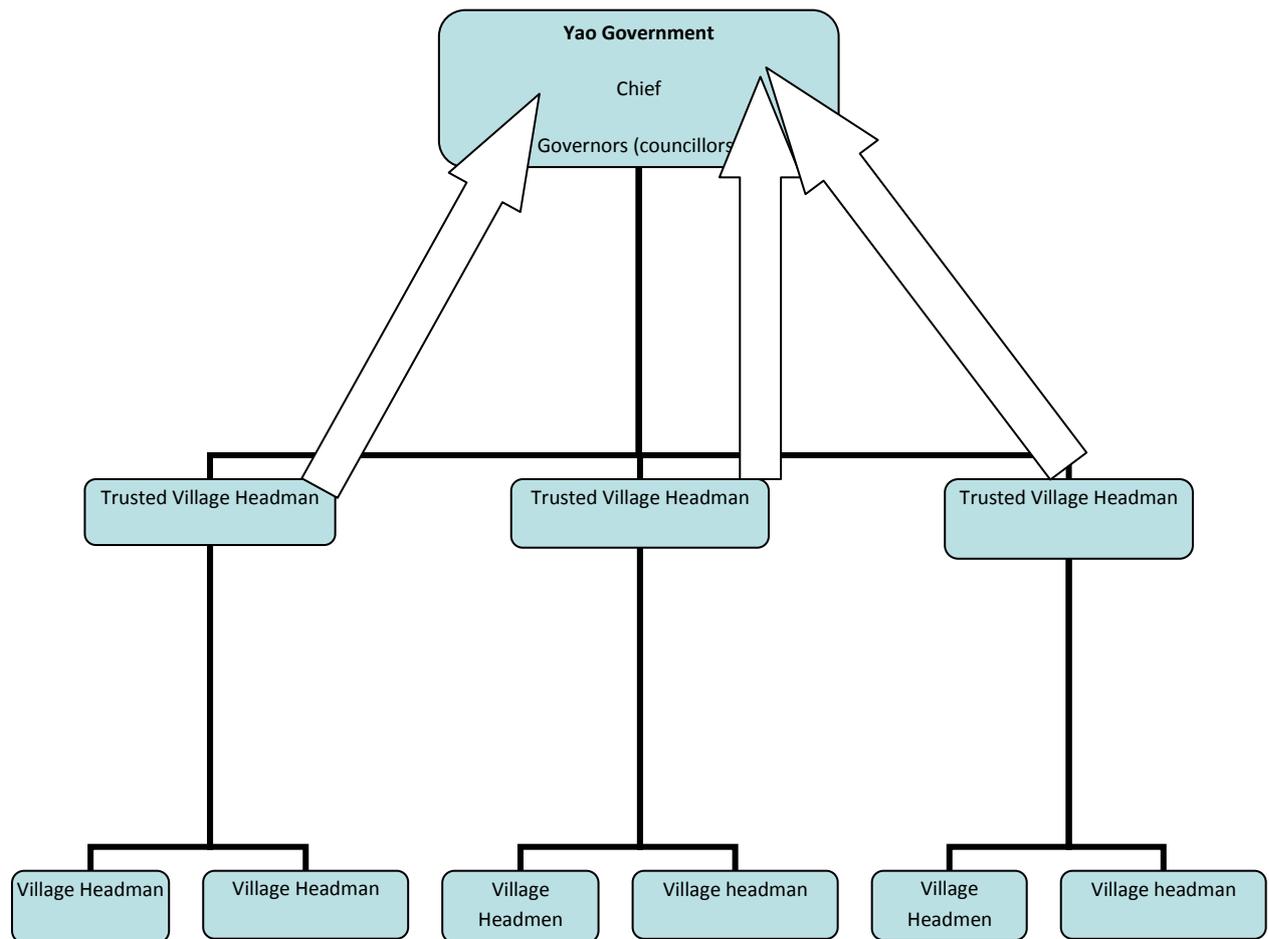


Figure 2 Source: Adapted for this study from Mitchell's (1949, 1951) description of the Yao government.

In return for their allegiance to the chief, as symbolised by the annual payment in form of beer and some food to the chief, the chiefdom citizens expected to obtain protection from attacks from other tribal groups. This entailed the maintenance of a strong tribal army. Otherwise, the weaker and more susceptible to attacks from other rival tribes or chiefdoms a chief became, the more likely to be deserted by his people he was. Aside from the protection, the citizens also expected to obtain fair justice at the chief's court and for the chief to intercede on their behalf to the community's ancestral spirits against any calamities and for good harvests, which were all viewed as characteristics of a prosperous country.

An important social aspect in the Yao culture was the annual initiation ceremonies for boys and girls. The chief played a vital role in the institution of the initiation ceremony by identifying or approving the *michila* and *namkungwi* (those who were in charge of the initiation for boys and girls, respectively) and inaugurating the initiation ceremonies for the boys to spend two months while girls spent two weeks in solitary bush camps (Rangeley, 1962). Chiefs, especially the famous and more powerful ones such as Makanjira (Phiri, 1975), also ensured that markets based on the barter economy within their jurisdictions were regulated and fair exchange rates were in place and adhered to, while at the same time promoting inter-tribal trade by establishing peaceful relations with neighbouring chiefdoms.

3.3.2 The Nyakyusa-Ngonde and Tonga governments

For many years before the arrival of the British in Malawi, the Nyakyusa-Ngonde and Tonga tribes had inhabited lands to the north-west of Lake Malawi in northern Malawi. The works of Godfrey Wilson and Monica Wilson¹¹ are insightful into the political organisation of the Nyakyusa-Ngonde people, while that of the Tonga tribe is well illustrated by Leroy Vail (1972). As opposed to most of the pre-colonial major tribal groups, with different types of the centralised political system in Malawi, the Nyakyusa-Ngonde and Tonga tribal groups were typical examples of the decentralised native government administered along age-set and kinship lines, respectively.

The Nyakyusa-Ngonde and Tonga people were, and still are, patrilineal (people whose marital custom is for women to live in their husbands' home villages) and as

¹¹ See Wilson, G. (1937) 'Introduction to Nyakyusa Law', *Africa*, 10:1 (1937) pp.16-36; Wilson, M (1972) 'Reflections on the Early History of Malawi', pp. 136-147. In Pachai, B (Ed.) (1972) *The Early History of Malawi*. London: Longman Group Ltd.

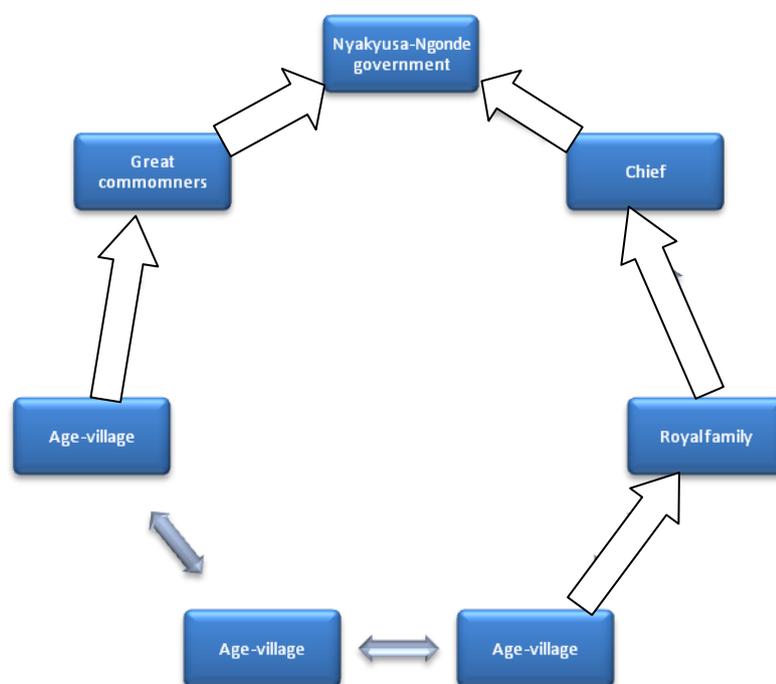
such, there were no clans (Wilson, 1937) among these tribes. The Nyakyusa-Ngonde chiefdom comprised several age-villages and according to Wilson (1937, pp. 20-22), each village was built up by men who were almost of the same age and were therefore contemporaries. One age-village formed a separate organisation and shared one gardening area. When the boys of the age-village reached the age of eleven-twelve, they moved from their fathers' houses to construct their own huts which later turned into a separate age-village when the boys were about eighteen years old and got married. This new village, as with any such village, shared one big gardening plot and was independently administered.

It would appear that within the young age-villages, leaders emerged naturally for decision making and settling of minor differences. However, within the age-village of mature men, a leader referred to as 'the great commoner' was chosen by other great commoners from the senior age-villages within the chiefdom on the basis of the individual's demonstrable qualities, such as wealth, family background, ability to judge cases, courage to lead in warfare and supernatural powers to fight against witchcraft (Wilson, 1937). These qualities were believed to help the great commoner effectively to represent his age-village by competently judging cases, providing hospitality, protecting his village from any spells of witchcraft and during war times, leading his contemporaries from his village.

Within the Nyakyusa-Ngonde chiefdom a chief, who assumed that position through heredity, together with all the great commoners constituted the chiefdom's highest political authority. Decision-making at the chiefdom's highest level was carried out jointly and in turn, each great commoner communicated the decisions of the government to his village. Other activities that took place at the Nyakyusa-Ngonde government level included '[trial] of cases between members of the different age-

villages, and [hearing] appeals from the decision of any particular great commoner' (ibid, p. 22). Wilson (1972, p. 138) observes that the political power of the Nyakyusa-Ngonde government was officially handed over from the retiring great commoners to younger leaders at a great ritual cerebation after the elapse of thirty to thirty-five years. The retired great commoners assumed the new roles of chiefdom priests. The Nyakyusa-Ngonde government can be illustrated by Figure 3, below.

Figure 3: Graphic representation of the Nyakyusa-Ngonde government



Source: adapted for this study from Godfrey Wilson's (1937) description of the Nyakyusa political system

Figure 3 is an illustration of the Nyakyusa-Ngonde government. This graphic representation indicates the relationships among the age-villages, the great commoners, the royal family and the national government. From one of the age-villages a chief from the royal family would emerge, while each age-village produced

its own great commoner, who together with great commoners from other age-villages and the chief, formed the native government.

3.4 Pre-colonial record keeping in Malawi

The discussion in the preceding section of some of the native government systems of the pre-colonial tribes in Malawi has generally confirmed Baker's (1978) assertion about the involvement of Africans in the running of the affairs of their own governments prior to colonisation. The discussion has particularly confirmed Duff's (1903) observation that before the British rule in Malawi, a perfectly definite, intelligible but rude system of government, which resembled that of much more advanced forms, was in place. From the discussion, the image of the pre-colonial native governments in Malawi appears to be that of an uncomplicated and workable one that was understandable by the people.

A pertinent question that must be addressed is the role that records played in this system of government in particular and in general the system of capturing, preserving and utilising information as an essential feature of the administrative process. Similar questions with regard to the pre-colonial African governments have been raised under Section 2.3.1.1 (Indigenous public service and records management), above.

Prior to 1927, when a department of education was established in Malawi, missionaries had started offering some primary education from the early 1880s. The primary beneficiaries of the early mission schools were the younger people and freed slaves,¹² who were not involved in the decision making processes in their respective

¹² Freed slaves were frequently far from home. So they joined mission settlements and were educated – but had no roots amongst the local tribe.

native governments. There are indications that the early mission schools had no impact on the native governments during the 1880s in so far as the adoption of written records and the system of 'record keeping' by the native governments was concerned. Even if the strong influence of the missionaries in the 1880s had radically altered the system of native governments, as evidenced by the adoption of written record keeping system by various native governments, our interest would lie and still lies in the pre-1880 period, when the British influence on the written culture had not yet permeated among the natives of Nyasaland.

In the undocumented and illiterate pre-European environment, where systems of government were uncomplicated and government activities were fewer and routine, it becomes apparent that written records would serve no meaningful purpose as they do today and would therefore be irrelevant. However, such a simple system as existed some centuries past did adopt mechanisms that in some ways parallel the written records in both government and society at large.

The discussion in Section 2.3.1.1 (Indigenous public service and records management) above, has established that the culture of the pre-European era in African societies was predominantly oral and therefore all the societal business was transacted and captured orally. Malawi was no exception.

With the exception of the age-village and kinship systems of native government, in governing his people the chief in the different centralised systems of native government was responsible for allocating land to his people for both cultivation and settlement. This piece of land remained permanently the property of the recipient unless the recipient was banished from the village, chose to leave the village or ceased to cultivate it (Duly, 1948). In this transaction, no documents were produced

and kept to ascertain the allocation of the piece of land to the recipient and the ownership of the land by the recipient. Instead, the transaction was witnessed and always remembered by both the chief or his officials and the recipient and his/her family. As a permanent estate of the recipient, the piece of land was inherited by the recipient's offspring. Different areas allocated to various individuals in the village, as well as boundaries of different villages, were demarcated by such natural boundaries as trees, streams, anthills and rocks (Duly, 1948, p. 26). Besides the natural value and usage of the trees, streams, anthills and rocks, the society ascribed some extra value to these natural features. Individual and societal entitlements to land rights were permanently preserved in the natural features, thereby enabling successive generations to exercise their right to ownership of the land of their ancestors and at the same time '[show] a proper respect for each other's rights', as Duff (1903, p. 195) observes.

A chief usually had friends who were also chiefs of other 'countries' and important communication was exchanged between them. At different important ceremonies a chief invited his/her fellow chiefs who were friendly to him or her. Instead of sending invitation letters to the guests at the special ceremonial celebrations or communicating important matters with other chiefs through letters, it was the chief's tradition to send his own trusted messengers to travel long distances on foot and deliver the messages orally. Besides the messengers, drums were also used as another effective means of transmitting important messages to the community. Cole-King (1972, p. 77) gives some anecdotes where chief Chiwere's warriors in Dowa, Central Malawi, would go to the foot of Mvera hill to 'listen for the summons to arms drummed out from the chief's headquarters' and the first Kyungu of the Ngonde

was able to scatter his enemies by beating his drum from the top of the sacred Mbande hill in Karonga.

Every tribal society had a system of educating its children and inculcating in them the societal norms and traditions. After graduating from the traditional schools, the children were expected to behave as responsible citizens and regarded as mature people who would then preserve the norms and values of the society and pass them on to succeeding generations. Such norms and values were not documented for the benefit of the succeeding generations, but, instead, they were handed down from generation to generation through annual ceremonies, such as the initiation for boys and girls. Through the annual Yao initiation ceremonies for instance, the initiates 'were taught to conform to the values of the Yao society, how to respect the elderly people and how to live peacefully with other people' (Phiri, Vaughan, Makuluni, 1977, p. 5).

As Rangeley (1948, p. 7) states, 'the chief was the state and the government and the treasury of the people' in his country. The tribal customs were preserved in the institution of the tribal chief, ritual and religious ceremonies. Ethical societal norms which were always learnt from childhood, and more especially at approaching puberty when the boys and girls underwent ritual training during the annual initiation ceremonies, eventually turned into tribal customary laws. Gluckman (in Chanock, 1985, p. 30) agrees with this argument in discussing the pre-colonial customary law judges in Malawi and Zambia, he states; 'the judges cite not past court decisions but actual instances of upright behaviour ... law ... is instantly exhibited in the conformity of upright people to norms.' As such, the customary laws needed no written documentation for purposes of wider community awareness and adherence, and remembering and preservation for subsequent generations.

It must be recalled that most of the government business conducted at the chief's headquarters by the government officials – the chief, his councillors (governors) and assessors – consisted of dispensing justice by hearing cases and passing judgments. To carry out this important task effectively, besides the chief's councillors, the chief identified exceptionally talented individuals and appointed them as court assessors, whose primary function, as we have seen in section 3.3.1 above, was to sift the evidence of the witnesses of the complainants and defendants who had come to seek justice at the chief's court. Among the court assessors, one would be appointed to be in charge of the day's court proceedings and report back to the chief. This task demanded outstanding skills, because the head assessor was required to summarise the details of the cases and advise the chief (Rangeley, 1948, p. 12). In appointing skilled men into his service as assessors, the chief disregarded one's status in society, and for this reason, some slaves in the Yao governments served as assessors and these officials 'held office only so long as they were astute in sifting the evidence of witnesses in disputes' (Mitchell, 1951, p. 25).

Later, during the colonial period, when written records were introduced and as part of the process of dispensing fair justice, judicial officers wrote and still write down notes from the statements of the complainants and defendants and their witnesses in order to help them to prepare written judgments. The written judgments serve as precedents to help the future judges in handling different cases. However, no documents were ever produced or relied upon in the customary law courts and yet justice appears to have always been fairly delivered. What Wallis (1905; p. 409) had observed during the native court process in West Africa explains why the native court processes did not require any records. While Wallis took notes during the court proceedings to assist him in arriving at a possible judgment, the chiefs who heard

the case took no notes but relied on their memory but to Wallis' surprise after a long hearing, his judgment matched that of the native judges when he and the chiefs conferred before the judgement was pronounced. As a result of the absence of literature in the predominantly oral societies, the pre-colonial natives of Malawi committed everything to their memories that have been described as 'marvellous' (Wallis, 1905, p. 403) and 'long' (Franklin, 1963, p. 14). For this reason, the assessors, chiefs and councillors had developed sharper memories than those of the average citizens of their country. It is on account of this competence that native judges were able to effectively dispense justice orally without recourse to written records.

In general, public functions within the tribal society were carried out by the chief, the chief's councillors, court assessors, village headmen, messengers, initiation teachers and priests. Since all able bodied men would be called up to fight when war broke out or when a raid had been planned, the men constituting the tribal army would as well be considered as public servants for tribal government. Continuity of the native public service was made possible by a succession of new officials to replace those who had retired or died. Mitchell (1951), Wilson (1972) and Phiri (1975) agree that successors to chiefly or ritual titles and senior advisors to chiefs were given formal instructions orally about their duties and responsibilities by their retiring predecessors. The handing and taking over briefs between the retiring and incoming officials were therefore unwritten but oral and memorised by the incoming officials. In this way, information about various public offices was preserved in the minds of serving public officials and passed on to the succeeding generations.

Biabaku (in Phiri, 1975), Wilson (1972), Pachai (1972) and Phiri (1975) distinguish between official historical information and general community historical information in

the pre-colonial era. These authors appear to agree that the need for the preservation of the former type of historical information was officially acknowledged. The responsibility for the management of vital public information was placed on such officials as the chief's councillors, advisors on community matters and shrine officials. In the Ngonde kingdom, this responsibility was that of 'the notables famous for their knowledge of history and custom' (Wilson, 1972, p. 139), while the chief's court historians performed this task among the Ngoni people in Malawi (Pachai, 1972). Through the succession plan of the public officials, as already noted, tribal information and history were preserved from generation to generation. It is on account of this system that the early European officials were able to compile detailed tribal histories recorded in the District Notebooks by recording oral accounts of the tribal Chiefs, councillors, tribal elders and those who were officially recognised by the Chiefs as keepers of reliable tribal historical information. In so far as preserving pre-colonial African tribal history is concerned, District Notebooks therefore serve as the primary and authentic source of information, because they are the product of the historic encounter between the literate and oral cultures at the dawn of colonisation as the colonial administrators had to learn the local languages in order to administer effectively.

People obtained the general historical information about their tribe through exposure to the stories about the heroic deeds of their immediate ancestors (Phiri, 1975, p. 22) and to the developments during their own time and passed it to their children who in turn passed it on to successor generations through oral tradition. Some aspects of the tribal history and customs were also learnt by the young people and others from the initiation ceremonies at the chief's or village headman's court, where disputes among quarrelling sides were settled, or at special ceremonies, such as sacrificial

offerings at the communal shrines and such other ceremonies. To obtain general historical information about one's own tribe therefore, it was not necessary to have access to written records, since various occasions laden with the information, naturally presented themselves. Although this was the case, those who carried out public functions and those close to the chiefs were likely to be more knowledgeable about 'the development of the royal authority and bureaucratic institutions' (Phiri, 1975, p. 11) of their tribal government than the rest of the citizens.

3.5 Pre-colonial administrative reforms and record keeping

From the preceding discussion on the native governments in pre-colonial Malawi, it has been shown that the inhabitants were governed along the lines of tribes. The more tribes there were, the more and yet distinct tribal governments there were, with each tribe occupying its own independent territory (country) within the larger Malawian territory. Although the earliest group of people to inhabit Malawi were the Akafula people during the Iron Age period, by the late 19th century when the administration of the country came under the British, there were, as already explained, several tribal groups that had migrated to and long settled themselves in Malawi. In discussing the administrative reforms that occurred during the period under review, the particular period of focus will be between 1800 and 1891.

As the next chapter will explore, the establishment of the British administration was so transformational that all the tribal governments that existed in pre-colonial Malawi were unified and brought under the British rule and were made to operate under British rule. During the pre-colonial period, there were some factors that had an impact on the native administrations, but these were not as influential and transformational as was the British colonisation of Nyasaland. While it is clear that

colonisation as a change factor to the native administrations led to the introduction of literacy and record keeping in Malawi among other important developments, what must be established is whether some of the administrative changes that occurred during the pre-colonial period had any bearing on record keeping or rather, on the system of capturing and preserving information by the native governments.

One important factor in pre-colonial Malawi that had some influence on the native social order was the constant inter-tribal wars. The prominent tribes in southern Malawi were the Mang'anja, the Yao, the Nyanja and the Lomwe while in the centre the dominant tribes were the Chewa, the Ngoni, the Ntumba, the Chipeta, the Mbo and the Yao and the north was dominated by the Ngoni, the Tumbuka, the Tonga and the Nkhonde (Jones, 1964; Linden, 1972). These tribes were always at war with each other. Dr. Elmslie (in Jones, 1964, p. 16) a Scottish missionary stationed at Livingstonia Mission in northern Nyasaland paints a picture of the life between the Tonga and Ngoni tribes;

Suddenly a shrill cry was heard in a distance. ... Before many minutes had elapsed hundreds of frantic women carrying their infants, while older children ran frantically by their side, rushed into the station grounds or off to the caverns on the rocky hill near the shore. The men fled for their arms and soon the tumult of battle was heard. A Ngoni army had rushed a village; the peace and quiet of the evening hour now gave place to the wailing of women and the cries of children, as they re-entered their villages to find several of their friends killed or carried away captive.

In central Nyasaland, the powerful Maseko Ngoni 'were raiding mainly in an area to the east of Domwe, extending from Nkhoma in the North to the South of the Shire. Ntumba, Chipeta, Nyanja and Mbo villages were brought under Ngoni rule [and] few Chewa villages managed to withstand the Ngoni onslaughts' (Linden, 1972, p. 238). Inter-tribal wars being fought in all parts of the Nyasaland territory ('the Angoni

fought the Atonga; they also fought the Atumbuka and Achewa, and Ayao fought the Amang'anja, and the Abemba fought the Ankonde') - (Jones, 1964, p. 16) rendered the country in a state of near anarchy as evidenced by tribes 'flying at each other's throats when opportunity offered, to which amputated hands, noses, ears, lips and gauged out eyes [bore] witness' (Laws in Jones, 1964, p. 59).

The impact of these inter-tribal wars on native governments and social order in general, was enormous. Weaker tribal governments fell, and their villages disintegrated unexpectedly under the attack of stronger and ruthless tribes. When a tribe was attacked and its members were killed, captured or scattered, the tribal government fell and its officials, who were the custodians of the government information as discussed above, were forced to cease their operations. Various tribal ceremonies, which provided avenues for societal cohesion and acquisition of knowledge and traditions, were adversely affected. Methods of acquisition and preservation of both the tribal official historical information and general tribal historical information were adversely affected when the tribal government were overrun by another government. Additionally, the villages of one tribe that had been conquered and brought under the rule of a powerful tribe were forced to abide by the rules of the new rulers, whose traditions were normally different. To some extent, the conquered tribes were forced to abandon some of their customs and adopt those of their captors and government officials of the conquered native governments were rendered as ordinary conquered people and had no say in the rule of the new government.¹³

¹³ Yet historians of the Lozi people have argued that the conquerors, having married captive women, ended up with children who spoke their mothers' language and leaned towards the customs of the vanquished. See Gluckman, M. (1943) *Essays on Lozi Land and Royal Property*. Livingstone, Northern Rhodesia: The Rhodes-Livingstone Institute; Caplan, G. (1970) *Lozi Political Elites: The Elites of Barotseland 1878-1969: A Political*

The effects of the inter-tribal wars on native governments and social order were similar to those of the Arab slave trade. Innocent people suffered under the brutal and corrupt Yao chiefs of Mulanje, Zomba, Mangochi and Nkhotakota. These chiefs became profitably involved as middlemen of the 'marauding bands of Arabs and Portuguese half-castes' (Jones, 1964, p. 58), who had penetrated Nyasaland for the slave trade. The Yao chiefs coveted the beautiful cloths, glassware, beads, guns and gun powder that the Arabs offered in exchange for slaves. As section 3.3.1 above has indicated, when the other tribes such as the Mang'anja, whom the Yao chiefs had preyed upon for slaves had been depopulated, the Yaos turned against one another.

While Duff (1903, p. 195) acknowledges that the administration of justice by the native government in Nyasaland was on the whole fair, he observes that the punishment of crime was severe. Shepperson and Price (in Jones, 1964, p. 23) demonstrate that the native justice system of punishing crime was brutal by pointing out that the Ngoni punished obstreperous children by either tying them to branches and lighting fires underneath or placing them in large earthenware pots and boiling them with maize, while other criminals were punished by being fastened to the ground and smeared with honey and left to be eaten alive by red ants. Jones (ibid) states that the Makololo used boiling liquid, while the Tonga cut criminals' body parts as punitive measures for wrong-doing. This practice was to change under the

History of Zambia's Western Province. Berkeley and Los Angeles: University of California Press; Mainga, M. (1973) *The Lozi Kingdom: Bulozhi under the Luyana Kings: Political Evolution and State Formation in Pre-colonial Zambia*. London: Longman.

influence of the missionaries, who had operated in the country for slightly over two decades before the declaration of the Nyasaland Protectorate in 1891.

The Dutch Reformed Church Mission's policy, just like any other mission's policy, was 'to recognise the chiefs and to approach them as independent chiefs' to the effect that 'no mission station was started unless it had permission from or had been invited by the chief within whose area of jurisdiction the station would be sited' (Retief in Pretorius, 1972, p. 366). The courteous approach of the missionaries towards the chiefs led to the establishment of friendly relations between the missionaries and the tribal governments under whose jurisdiction missionary work was carried out.

The missionaries had influence on the power of tribal chiefs in at least two ways. Instead of the brutal methods of punishing crime, which the native judges had practised for a long period of time, the missionaries, such as the Church of Scotland in Blantyre, suggested alternatives such as flogging (Jones, 1964). Before the arrival of the missionaries, the only village schools available to people were the annual bush camps during the initiation of boys and girls where the chiefs played a prominent role in approving the initiation teachers to conduct the initiation ceremonies and inaugurating the ceremonies. For their part, the missionaries conducted 'mass-literacy campaign as well as a comprehensive community development scheme' through village schools and village industries (Pretorius, 1972, pp. 372-3). During this period, the native youths for the first time were introduced to literacy and therefore belonged to two worlds – the new ways of the missionaries and their own traditional customs.

Although not immediate, the lasting effect of the mission schools on record keeping is that the literate natives who had gone through mission education were later to be employed in the public service as clerks whose duties included filing.

The missionaries' policy of recognising the independence of the tribal chiefs, and therefore the need to seek the chiefs' permission for missionary activities in the areas controlled by the chiefs, was equally adopted by the early British administrators so as to win the tribal rulers' favour before establishing the Protectorate or to win their support for certain important policy issues.

In 1889, Sir Harry Johnston declared the Shire Highlands in southern Malawi a British Protectorate by making treaties with the native chiefs who were ruling over this area. As Jones (1964, p. 47) explains, the purpose of the treaties was not to establish British rule but 'provide bargaining counters for the statesmen of Europe [more especially the Portuguese] in case of disputes as to spheres of influence.' The chiefs agreed not to concede their territories to other powers than the British and to be at peace with representatives of the British government (ibid). In 1891 the Yao chiefs Mponda, Msamala and Cingwalungwalu had signed treaties of friendship with the British and promised to cease slave raiding in return for British protection against their enemies (Rangeley, 1962).¹⁴ Although others¹⁵ have questioned the effectiveness of the treaties, which were simple documents, when the chiefs were illiterate and could therefore repudiate them at a later date, our interest lies in the fact that the arrival of the early colonial administrators introduced written documents

¹⁴ This was a critical British Foreign policy which was driven by the war on slavery.

¹⁵ See Baker, C. A. (1975). 'Tax Collection in Malawi: an Administrative History, 1891-1972,' *The International Journal of African Historical Studies*, 8:1, pp. 40-62; Ng'ong'ola, C. (1990). 'The State, Settlers, and Indigenes in the Evolution of Land Law and Policy in Colonial Malawi', *The International Journal of African Historical Studies*, Vol. 23, No. 1, pp. 27-58.

within the native governments. The signing of the treaty documents was a total departure from the native way of ratifying serious agreements between two parties where a ceremonial meal, which included beer served the same purpose, as treaty documents and could be remembered for a long period of time.

3.6 Summary

The discussion in this chapter has demonstrated that decentralised and centralised forms of native government were adopted by all the tribal groups in pre-colonial Malawi. However, most of the tribes adopted different styles of the centralised type. Although this was the case the two systems were similar at the grass root village level, where most of the decisions were carried out corporately. While the pre-colonial period was marked by an oral culture, institutions were put in place for capturing and preserving both official and general tribal information. As long as inter-tribal wars and slave trade did not disturb the communities, the tribal governments were relatively stable, and all of them adopted a similar system of capturing and preserving information. When the wars and slave trade intensified and tribes disintegrated, some of the tribal institutions and traditions for capturing and preserving information were disrupted, but the mode of information management remained as it had always been, oral. There were two major factors that led to the introduction of literacy to the predominantly oral societies. The first factor was the missionaries through the mission schools, which were later to have some effects on record keeping through the employment of educated natives as clerks both in the mission institutions and the public service. The other factor was the arrival of the early British administrators, who introduced the written treaty documents to the illiterate native rulers.

Chapter 4: The colonial administration and record keeping: 1891-1964

4.1 Introduction

This chapter will discuss the factors that led to the declaration of the British Protectorate over Nyasaland on 14 May 1891 and their implications for record keeping in Malawi. The chapter will explore the development of the colonial administration up to the transfer of power to Malawian political leaders in 1964. The focus of the discussion will be such important developments as the establishment of the native authorities, the formation of the Federation of Rhodesia and Nyasaland, and decolonisation, and their bearing on archives and records management. The chapter benefits from extensive use of archival material and other publications, while some valuable data has been gathered through oral interviews with, and questionnaires administered to, a few surviving British former administrators who worked in Nyasaland.

4.2 The Nyasaland Protectorate

The proclamation of Nyasaland as a British Protectorate in 1891 had its origins in Dr. David Livingstone's visit to the Nyasaland territory in 1859 (Foreign Office, 1920). Prior to this visit, the territory was known by the different names of the famous native kingdoms and chiefdoms that existed and spread over the territory at that time. Having reached the southern part of Lake Malawi on 17 September 1859, and upon inquiring the name of the lake from the Yao people who inhabited the lake shore areas, Dr. Livingstone was informed that *nyasa* was the name of the lake. The discovery of this lake led Dr. Livingstone to 'Christen' it Lake Nyasa (literally meaning Lake Lake!), a factor which Kalinga (1998, p. 539) attributes to Livingstone's

misunderstanding of the fact that Nyasa in the Yao language 'referred to the vast expanse of water'. After his discovery of the lake, Dr. Livingstone named the Shire Highlands and the southern Lake Nyasa areas Nyasaland, the name by which the country was known until independence.

Duff (1903, p. 198) asserts that the colonial Administration's 'first and most natural care' for taking charge of Nyasaland was 'to protect the interests of the British settlers.' With regard to Africa, Duff's position is similar to that of Lugard (1929, p. 15), who states that 'the British Government was compelled to declare the greater sphere of influence in Africa Protectorates in order to protect British Companies and volunteers who offered themselves to venture into [the continent].' Hailey (1951, p. 7) holds that the declaration of the Protectorate in Nyasaland was designed on one hand, to limit expansionist ambitions of Britain's continental rivals and on the other hand, to control 'the depredations of the Arab slave raiders.' I will devote the remaining part of this section to discussing the three factors that led to the proclamation of the British Protectorate over Nyasaland in 1891. The section will close with a discussion of the implications of these three factors on record keeping during the embryonic stage of the colonial Administration in Nyasaland.

4.2.1 The British-settler interests factor

Before Dr. Livingstone's visit to Nyasaland, the territory was known to the Portuguese and the Arabs but was obscure to the British. Dr. Livingstone's favourable report to the British Government following his visit to Nyasaland mentioned 'a cotton and sugar producing country of unknown extent ... which really [seemed] to afford reasonable prospects of great commercial benefits' (Wallis in

Smith, Pachai and Tangri, 1971, p. 43) to Britain. Although such a country was plagued by the slave trade, it offered some hope for exterminating the evil trade through lawful commerce and missionary work.

The British settlers, whose interests the Colonial Administration wanted to protect in Nyasaland, as argued by Duff, included the missionaries, traders, planters and hunters. Among these groups, the first to arrive in Nyasaland were the missionaries. In response to Dr. Livingstone's call for missionary work in Nyasaland, the University of Cambridge 'had responded by founding, in association with the Universities of Oxford, Durham, and Dublin, the "Universities" Mission to Central Africa [UMCA]' (Hanna, 1956, p. 9). The UMCA missionary team which comprised eight missionaries led by its first Bishop, Charles Frederick Mackenzie, established its first mission station in 1861 at Magomero in Chiradzulu. The Anglican mission was forced to relocate to Zanzibar in 1863 due to unfavourable conditions at Magomero¹⁶ such as malaria and dysentery which led to the deaths of Bishop Mackenzie and four other missionaries by 1862 and only returned to Nyasaland in 1881 (Pachai, 1971; Hanna, 1956). Nonetheless, the UMCA missionaries were the first Europeans to settle in Malawi. After a period of about fourteen years, the pioneers of the missionary enterprise in Nyasaland were followed by two groups of Scottish missions, the Free Church of Scotland and the Established Church of Scotland. The two missions established their mission stations at Cape Maclear and in the Shire Highlands at a place that was later named Blantyre (after Dr. Livingstone's birthplace) in 1875 and 1876, respectively (Hanna, 1951; Hanna, 1960; Jones, 1964;

¹⁶ The UMCA took sides in a tribal war between the Yao and the Mang'anja in the belief that the latter were the victims of brutal slave raiding.

Pachai, 1971). Missionaries of other nationalities arrived in the country to complement the work of the British missionaries. In 1889, the Dutch Reformed Church from South Africa, established its first mission station at Mvera, in what is now Dowa District, under the chairmanship of Andrew Murray. In the same year, the Catholic Mission, under the auspices of the Portuguese, founded a mission at Mponda's village near Mangochi (Lihoma, 2009).

Apart from the missionaries, other British people settled in Nyasaland through the African Lakes Corporation (ALC). The Livingstonia Central Africa Company, later the African Lakes Company Limited and the African Lakes Corporation, was established in 1878 in Glasgow by a number of philanthropic gentlemen. The founders of the company had been impressed by Dr. David Livingstone's plea for the establishment of regular trade routes and the introduction of lawful commerce whereby the slave trade, dominated by Arab slavers, might be exterminated and security obtained for the life and property of the native inhabitants of Nyasaland (Glasgow Herald, 1938; Powell, 2008). From 1878 throughout the 20th century until 2004, the ALC opened trading centres throughout the country and undertook various trades and activities, such as initiating steamboat and other transport facilities and operating rubber, tea, coffee, cotton and tobacco plantations (Powell, 2008; Lihoma, 2009). The ALC's employees, who were recruited from Britain to work in Nyasaland at various establishments of the company, increased the number of British settlers in the country between 1878 and 1891 when the Protectorate was declared.

Dr. Livingstone's discovery of Lake Malawi opened up the Nyasaland territory to the British such that some British individuals went to Nyasaland to become 'resident

hunters', while others joined parties of English sportsmen who travelled to Nyasaland to shoot Big Game. The British resident hunters and sportsmen in Nyasaland increased the presence of the British people in the territory, and these people required the services of an organised and effective administration to facilitate their movements within the territory.

It would appear that upon learning from Dr. Livingstone of a country that was 'exceedingly fertile, and abounding in running streams' with the 'finest mountains' which were 'all green and well wooded' (Livingstone in Hanna, 1951, p. 4), some British individuals were attracted to Nyasaland, where they settled and opened up estates for coffee and other produce. By the time Nyasaland was declared a British Protectorate, these settlers 'had already acquired large amounts of land and had also developed a coffee culture, which promised to provide Nyasaland with a viable export' (Krishnamurthy, 1972, p. 384). As it will be recalled from the discussion in the preceding chapter, the Nyasaland territories were under the jurisdiction of various native rulers. It is from the native rulers that large amounts of land were acquired by the European planters.

4.2.2 The slave trade factor

The previous chapter has discussed slave trade in Nyasaland that was promoted by the Yao chiefs, who supplied the slaves to the Arab slave traders. Before sending out their missionary teams, both the Free and Established Churches of Scotland were aware that their missionary teams would operate in 'the slave-hunting region.' As such, it was expedient 'that each Church should appoint its own staff of Agents, and have its own stores and supplies as well as its settlement ... [but] the settlements...should not be so far from each other as to render easy intercourse at

all difficult, it being most desirable that they should render each other all possible assistance' (Free Church of Scotland in Hanna, 1951, p. 13). Slave trade in Nyasaland had reached so serious an extent that the slave hunters had set 'one tribe against another' (Livingstone in Jones, 1964, p.19) in their hunger to obtain slaves, thereby rendering the country in a state of anarchy.

The trade in human beings as commodities of trade had interfered with missionary work so much that the UMCA had to close its first mission station at Magomero in 1863, while the Livingstonia Mission of the Free Church of Scotland was forced in 1880 to press the British Government for a Consul to the territory to assist in dealing with the problem (Livingstone in Jones, 1964, p. 26). The Government responded by appointing Captain Foot on 1 October 1883 as Her Majesty's Consul 'in the territories of the African Kings and Chiefs in the districts adjacent to Lake Nyasa.' His primary objective was to suppress the Slave Trade (Hanna, 1951, p. 62). Consul Foot's successors had to deal with the slave trade as their main pre-occupation until the proclamation of the Protectorate in 1891, although the problem continued for about five years thereafter.

Besides interfering with missionary work, slave trade in Nyasaland also posed serious challenges to the trading interests of the African Lakes Company in that 'the company faced strong opposition from [the] Arab slavers, who resented interference with their nefarious traffic' (Powell, 2008: p. 1). The result of this antagonism was a two-year long war with the Swahili Arabs at Karonga, near the company's station, from 1887 to 1889. The Arabs who had also settled in Karonga and were led by Mlozi, 'stormed village after village, plundering, slaughtering and taking captives' before besieging the company's premises on 23 November 1887, a provocation which led to the war (Hanna, 1951, p. 81). Although the war had seriously affected

the company's finances and two company directors, Frederick and John Moir, were wounded in the fighting (Powell, 2008, p.1), the military assistance that the company had received from the British Consul led to a decisive defeat of the Arabs and, therefore, to the ultimate suppression of the slave trade in the northern part of the country.

Sir Harry Johnston, who was serving as a British Consul in Mozambique was, in March 1891, given the extra mandate to, among others, 'check the slave trade' by every legitimate means in his power (Jones, 1964, p. 54) in the territory lying to the north of the Zambezi river. The acknowledgement of the slave trade problem in Nyasaland, and by instructing Sir Harry Johnston to address the problem, was in fact a prelude to the declaration of the Protectorate over Nyasaland. The same mandate had further instructed Johnston to 'supervise the organization of the administration of justice as regards foreigners' and 'to consolidate the protectorate of Her Majesty over the native chiefs' (Jones, 1964, p. 54).

4.2.3 Anglo-Portuguese supremacy factor

Basking in the glory of having been the first to conquer India and creating Brazil, 'a past exceeded by that of no other nation' (Barros in Warhurst, 1971, p. 20), Portugal viewed her possessions in Africa as affording her 'the right to ensure her hopes of a new and brilliant period of her nationality.' Because of this, and owing to the increased activities of the British missionaries, traders and other settlers in Nyasaland, Portugal felt threatened and therefore resolved to assert her sovereignty over the Nyasaland territory by sending her own large and well-equipped expedition to Chiromo in 1889 under Major Serpa Pinto (Hanna, 1951; Withers, 1951; Jones, 1964; Warhurst, 1971; Pachai, 1973). This action prompted the British Government

through John Buchanan the Acting Consul in Nyasaland, to proclaim a Protectorate over the Shire Highlands on 21 September 1889 in Blantyre (Withers, 1951; Jones, 1964). Diplomatic negotiations between Great Britain and Portugal resulted in the Anglo-Portuguese Convention, which drew up the Anglo-Portuguese Treaty that was signed on 11 June 1891 and ratified on 3 July the same year (Foreign Office, 1920; Withers, 1951). The 1891 Treaty settled the spheres of both Great Britain and Portugal in the Portuguese East Africa-Nyasaland regions. Shortly before the Anglo-Portuguese Treaty was signed, on 14 May 1891 a British Protectorate, the British Protectorate of the Nyasaland Districts, was formerly proclaimed. Two years later on February 22 1893, the name of the Protectorate was changed to the British Central Africa Protectorate, until 1907 when this name was changed again to Nyasaland Protectorate.

4.2.4 Implications for record keeping

The developments leading up to the proclamation of the Nyasaland Protectorate had a number of profound implications for record keeping in Malawi.

4.2.4.1 Early missionary work

As the preceding chapter has alluded, the pre-colonial people of Nyasaland had their own native beliefs, especially in spirits, and from time to time they performed religious ceremonies led by their shrine priests. The beliefs and practices of the natives differed from the Christian beliefs and practices promulgated by the early European missionaries. The missionaries' goal was to convert the natives to Christianity through the teachings of the Holy Bible by establishing as many mission stations as possible in order to reach out to as many natives as possible.

In order to achieve this goal, the missionaries had first of all, to learn and master the local languages for better communication with their would-be flocks. Having mastered the languages, the missionaries then had to translate the Biblical scriptures into the local languages. Elston (1972, p. 347), for instance, notes that missionaries of the Universities' Mission to Central Africa, having established their first mission station in July 1861, devoted themselves to mastering the predominant local language, such that by mid-1862, they were able to reduce the language 'to writing, translating the Lord's Prayer and some Scripture passages.' The natives who had converted to Christianity heard and were taught from the Scripture passages of the Holy Bible in their own languages. Through establishment of the village schools, the missionaries were able to carry out 'mass-literacy campaign[s]' (Pretorius, 1972, p. 372). Such campaigns were aimed at teaching the predominantly illiterate people how to read and write so that, in turn, they could promote the spread of Christianity. The Dutch Reformed Church Mission, which was established in Malawi in 1889, had to adopt a policy of no ability to read no Church membership (Pretorius, 1972), in order to promote literacy among the natives who had come under the Mission's influence.

The introduction of literacy among the natives of Nyasaland was an important milestone in the history of record keeping in Malawi. It has been argued in Chapter 2 that because writing was unknown in pre-colonial Sub-Saharan Africa, as observed by Mair and others, it naturally followed that records could not be generated and used by the pre-colonial peoples. However, after the missionaries had introduced literacy, the native pupils and students might have practised some basic record keeping, albeit at a personal and very basic level through the care of their school records.

One of the practices introduced by the missionaries was good record keeping.

Delmus (2011, p. xxiv) explains why this was the case when he states that:

‘Since the 16th century, instructions given to travellers, whether they were discoverers, conquistadors or missionaries, have been clear: everything must be represented in writing. Colonial, commercial or evangelising organisations were rather imaginative regarding the written word, giving it many roles:...religious (the written word as a place of the sacred); and so on.’

Record keeping practices, which were practiced in Britain by the Churches, were maintained by various missionaries in Malawi. An examination of the National Archives of Malawi’s Historical Manuscript Inventories reveals that the Universities’ Mission to Central Africa’s records from 1894 to 1964 were organised into accounts, correspondence, diaries, medical, minutes, nominal rolls and registers (National Archives of Malawi, 1983). Volume 1 of the National Archives’ inventories for Historical Manuscripts indicates that from 1875 when the Livingstonia Mission of the Free Church of Scotland was established in Malawi, the church generated a large volume of records and that such records were professionally handled by the church. The volume of the mission’s records preserved in the National Archives is about 10m³, and its series includes accounts, correspondence, day books, deacon’s diaries, manuscripts, maps, minutes, minute books, miscellaneous, nominal rolls (communicants rolls, baptismal rolls and catechumens rolls), photographs, registers (birth, death, expelled members and village school), reports and statistics. The Blantyre Mission of the Established Church of Scotland, which was established in 1876, has 11m³ of its records, dating from 1884 up to 1964 preserved in the National Archives of Malawi. The series of this collection comprises accounts, copies of reports by government (from 1884), classified and unclassified correspondence, language examinations, minutes, registers and rolls, statistics and returns, and theology training. Similarly, the Dutch Reformed Church Mission’s 16m³ volume of

archives deposited with the National Archives for permanent preservation, indicates that from 1889, when the church was established at Mvera, it generated various categories (accounts, agreements and deeds, circular letters, correspondence, memoranda, minutes, registers, reports and scripture) of records during its church operations in Malawi and that such records were well cared for.

Several other church organisations were established after the Protectorate was proclaimed, and most of them have earlier records, up to 1964, deposited with the National Archives. The record keeping system that the various mission headquarters in the country introduced and practised was replicated and adopted by their outstation churches, which were manned by the local people, although at these places record keeping might have been limited to the maintenance of registers and books of accounts. Although the National Archives of Malawi has not received any record deposits from any church establishment after 1964, the system of keeping records by churches has continued to the present, and one could argue that record keeping in Malawi was introduced and promoted by the British missionaries.

It is remarkable that the manuscripts amongst the Livingstonia Mission records contain valuable information about tribal histories and customs compiled by Dr. Robert Laws in the 1880s, besides his talks, addresses and sermons. Additionally, the manuscripts contain notes on Chitonga grammar, correspondence on Chitonga language, and Dr. Laws' and Mrs. Laws' English translations of Chinyanja, Chitumbuka and Chinkhonde languages as well as Kyinkhonde and Tumbuka dictionaries (National Archives of Malawi, 1983). Dr. Alexander Hetherwick who had become the head of the Blantyre Mission in 1889, translated the New Testament in the Yao language and authored *The Introductory handbook and vocabulary of the Yao language* (1889) and *The Practical Manual of the Nyanja language* (1914)

(National Archives of Malawi, 1983), among other works. All this serves to demonstrate the important role which the missionaries played in the introduction and development of literacy among the natives in Nyasaland. It could be argued that the promotion of literacy by the missionaries was in fact an important foundation upon which record keeping in Malawi was built.

In emphasising the importance of deposited church records, the National Archives of Malawi states that 'the missionaries were one of the influences behind the declaration of the British rule over the country in order to protect it from Portuguese domination.' It also argues 'that the earliest written history of the country can be found in the Mission records' (National Archives of Malawi, 1983, p. 43) This argument appears, in fact, to counter that of Phiri (1983, p. 214), who maintains that 'archival holdings [in East and Central Africa] cannot be of much use in the writing of pre-colonial African history, since written documents only began with the advent of the colonialists in the nineteenth century.' As far as Malawi is concerned, Phiri's argument cannot be sustained because of the fact that between 1859 and 1891 the missionaries generated volumes of valuable primary written records that illuminate Malawi's pre-colonial past more than any other records. Moreover, it would be wrong to assume that all the British missionaries were 'colonialists' and, therefore, whatever written records such missionaries generated were part of the official colonial administrative records.

4.2.4.2 The African Lakes Corporation

As the first commercial company to be established in Malawi in 1878, the African Lakes Corporation (ALC) found itself operating in an environment where trade was based on barter before the introduction of coinage. Winspear (1960, p. 48) recalls

that the principal items used for the barter trade were cloth (grey calico – from England), salt and soap and that ‘the standard measurement was the fathom (2 yards), which was reckoned as being worth 8d.’ The ALC opened stores in many centres throughout the territory and sold the barter items and many others to the natives. Our interest in the interaction through trade between the ALC and the natives in Nyasaland lies in the fact that such intercourse of necessity generated written records. While the barter trade among the natives generated no records, the ALC, a Western commercial company, one of whose characteristics was reliance on business records, issued purchase receipts to the people, who bought various items from the company’s stores even if they could not read them. Whereas such purchase receipts may not have meant much to the natives, the counterpart documents were valuable to the store keepers/managers and the ALC company as a whole for accounting and accountability purposes.

As the first trading company, the ALC will be remembered for introducing commercial and financial record keeping in Malawi. From 1878 to 2004, when the ALC ceased trading and went into liquidation, the company’s transactions had been captured and reflected in the different forms of records that it generated over the 125 or so years it existed. Although the company’s main offices were in Glasgow and two others in Edinburgh and London (Powell, 2008), its field offices were thousands of miles away in Malawi, where a considerable volume of records was generated. An examination of part of the ALC’s records, which were gifted to the University of Glasgow’s

Archives Services in 2008 by Donald Mackenzie, indicates that the ALC maintained a good record keeping system.¹⁷

In Malawi, where the company had operated for more than a century, only 1m³ of the company's records is available in the National Archives of Malawi (National Archives of Malawi, 1983). There are also some records at Mandala House, which were taken over by CFAO, while the rest of the records were transferred to the company's head offices. It is paradoxical that local researchers from Malawi, where the ALC had operated for over a hundred years, who might be interested to research on the company, would have to travel to Scotland where the company was founded in order to consult the company's primary records.

4.2.4.3 The Planters

From Johnston's report of 1897 (Johnston in Baker, 1962), it is possible to calculate that the first planter in Nyasaland arrived in 1875, the second one in 1879, the third one in 1887, and the fourth one in 1888. Others arrived after the Protectorate was declared in 1891. The planters who had arrived before the proclamation of the Protectorate 'had already acquired large amounts of land' (Krishnamurthy, 1972) from the native chiefs. As Johnston (in Hanna, 1951, p. 230) observes, such planters, whom he describes as having 'arrived in Nyasaland rich only in aspirations and with a small stock of calico and powder and a few cheap guns' to pay the native

¹⁷ I was privileged to be able to catalogue the African Lakes Corporation's (ALC) collection at the Glasgow University Archives Services as part of my student placement for the 2008/09 M.Sc. (Information Management & Preservation) Course at the University of Glasgow. The ALC's papers are now available for research in the Glasgow University Archives: (GB 0248) UGC 193 (Lihoma, 2009).

The scope and content of the ALC's collection in the Glasgow University Archives Services whose extent is 3.5m is as follows: Minute books (1878 – 1991), Agenda books (1878 – 1954), Agreements (1889 – 1937), Correspondence and other papers (1906 -1927), Annual reports (1959 – 1984), Financial Records (1878 – 1941), Insurance Registers (1904 – 1954), Shareholders records (1893 – 1958), Prospectus (1893), Staff records (1884 – 1959), Specification and Telegraphic Code Books (1893 – 1949), Photographs (1910 – 1993), Publications (1890 – 1970), Maps and plans (1896 – 1926), Valuations (1935 – 1988), Newspaper cuttings (1904 – 1954) and Deeds and Leases (1889 - 1960).

chiefs for the vast amounts of land, made treaties with the chiefs by inducing the latter 'to put [their] marks on a paper conferring vast territories and sovereign rights on the needy pioneer[s].'

Each of the parties to such treaties had a copy of the treaty. However, it is worth noting that on one hand, since the native chiefs knew neither writing nor reading they had no idea of the contents of the documents, and on the other hand, the purchaser of the land drafted the treaty document himself and could, therefore, legally claim any size of the land as indicated on the document. Johnston (Hanna, 1951) cites the case of Henry Brown who presented a falsified document claiming that he had been sold a vaguely defined but most desirable estate in the Mulanje district by a sub-chief. In actual fact, the chief had refused to sell the land to Brown because the land in question had already been transferred to the Crown. Brown had back-dated the treaty document to six months prior to the transfer of the land to the British Crown and put the sub-chief's mark, and that of the latter's brother as a witness, on the document to appear as if the two had indeed authenticated the document. The error was accordingly corrected by Johnston.

Besides the planters, the native chiefs found themselves being asked by the African Lakes Company and the missionaries to sign by putting their marks on the documents of land sales between 1861 and 1891. Because documents were an alien tradition to the native chiefs, and owing to their inability to comprehend what was written on the documents, it was not unknown for some of the chiefs to repudiate the treaty documents at a later date. Here we see the introduction of written documents in form of titles to land in an illiterate society. Such documents were, however, limited to the custodians of the native lands, the chiefs. Importantly,

while the documents involved two parties, they served the interests of one party, the authors of the documents, more than the other.

Most of the European planters, who started the export trade, arrived in Malawi after the administration had been established (Baker, 1962). In 1892 the planters formed the Nyasaland Planters Association, whose membership was open to all *bona-fide* planters and farmers. Its objective was to represent the views of the planting community (National Archives of Malawi, 1983). The government recognised the association and consulted it on all matters relating to agriculture. The association also dealt with other general matters relating to the development of the country 'such as taxation, communications, appointment of unofficial members of the Legislative Council, closer union in East and Central Africa and the education of both Africans and Europeans' (National Archives of Malawi, 1983). The interest of the Nyasaland Planters Association to this study is that the association kept records of its activities in form of minutes, publications, memoranda and correspondence. The records, which were presented to the National Archives of Malawi by the Malawi Chamber of Commerce and Industry in 1967, are a valuable primary source of information because they portray Malawi's history from the stand-point of an independent commercial organisation, which worked hand-in-hand with the government, and had contributed enormously to the country's export trade.

4.2.4.4 The Slave Trade

It is estimated that the Arab slave traders obtained at least ten thousand slaves a year from Malawi (Hanna, 1951). However, since there was no effective administration to regulate trade and keep track of the volume of the human cargo involved in the slave trade, the number of slaves exported from the Nyasaland

territory per year during the nineteenth century is only estimated. As already noted in the preceding chapter, the Yao chiefs from different parts of the territory supplied the slaves to the Arab slave traders along the shores of Lake Malawi. Upon their arrival at the lake, the live and strong 'trade goods' would be shipped in slave Dhows to different destinations such as Zanzibar and Seychelles. Since the price of each slave fluctuated according to different circumstances and depending on the quality of each slave, the slave suppliers received an assortment of materials such as cloths, beads, guns and gun powder in exchange for each slave. The prevailing price for each slave in 1877 on Lake Malawi was as follows:

- A young unmarried girl 56 yards of calico
- A young woman with baby (32 for the mother, 4 for the baby).....36 yards of calico
- A strong young man40 yards of calico
- A toothless old man2 yards of calico (Young in Hanna, 1951, p. 19).

It is doubtful that the Yao chiefs were issued with any receipts by the Arab slave buyers after the delivery of their merchandise or that they kept any records of the slave trade. This, coupled with the absence of an effective administration to regulate and keep records of the slave trade, has resulted in there being no written documents of slave trade transactions in Malawi.¹⁸ However, when the slaves arrived at the harbours in Zanzibar, Bagamoyo or Seychelles, the authorities recorded the

¹⁸ Although the country was plagued by the slave trade throughout the nineteenth century, there were not any primary records of the slave trade in Malawi until 2005. However, with funding from the European Union/Government of Malawi Rule of Law Project, the National Archives of Malawi's Chief Archivist conducted research in the Zanzibar National Archives and repatriated copies of slave trade records relevant for Malawi. The records, which are now available for research in the National Archives of Malawi consist of slave trade registers, photographs of slaves from Nyasaland arriving at the Zanzibar harbour and some newspaper articles on slaves from Nyasaland. Many such records are available in Bagamoyo, Tanzania and at the Seychelles National Archives and are yet to be repatriated to Malawi.

slaves in registers which indicated such important information as total number of slaves, their origin and arrival date, number of males and females and quality/status of the slaves and sometimes photographed the slave dhows with slaves in the harbours.

4.3 The Colonial Administration

The instructions that mandated Sir Harry Johnston to administer Nyasaland as the country's first Commissioner and Consul-General, were broadly conceived and included the supervision of the organisation of the administration of justice, the consolidation of the Protectorate of Her Majesty over the native chiefs and the security of peace and order in the territory (Jones, 1964, p. 51). Of particular interest to this study because of its direct bearing on record keeping, the Foreign Office further instructed Johnston 'to report to the Secretary of State in all matters of interest; ... and furnish accounts at regular intervals, of [his] receipts and expenditure' (Baker, 1988, p. 35). As was also the case elsewhere in Africa, a bureaucratic machinery, the orientation and personnel of which were suited to the effective attainment of imperial policies, had to be constructed (Adu, 1969, p. 17). However, before such machinery could be fully developed and implemented, the primary task of Johnston's administration was to secure the peace of the territory (Kadzamira, 1971) by either pacifying the warring tribal groups or using military force to subdue resistant tribal chiefs.

Nyasaland chiefs such as Jalasi, Jumbe, Kawinga, Makanjira, Matipwiri, Mlozi and Mponda, were involved in the slave trade and maintained armies that were so well equipped with guns that it required a powerful army to defeat them. Captain Maguire

was actually killed in a fierce gun battle with Mponda's army (Nyasaland Protectorate, 1910; Hanna, 1951; Jones, 1964). As a lasting memory of the military operations during these early years of the Protectorate, such districts as Fort Johnston, Fort Lister, Fort Maguire and Fort Manning were named in honour of different British officers for their outstanding work.¹⁹ These district names were still in use until after independence.

Although many tribal chiefs had initially resisted and fought against the Colonial government for some time after the Protectorate was proclaimed,²⁰ eventually 'the power of the tribal chiefs [had] been wrested from them by the British supremacy' (Duff, 1903, p. 194), and, for the first time, all tribes became subservient to one central government. After the territory was pacified and once the colonial administration had been firmly established, pre-colonial ways of running tribal governments were set aside and gave way to 'the mind and methods of Europe' (Lugard, 1929, p. 5) through the establishment the public service modelled on the British system.

4.3.1 Central government record keeping: the Secretariat, Executive and Legislative Councils

As was the case in most colonial territories, the administration of each territory was placed under the Governor, who was the head of government and state. The Governor was the highest representative of the Crown in the Protectorate, and since

¹⁹ This is in contrast with neighbouring Zambia where settlements such as Abercorn, Fife, Jameson, Rosebery and others, were named after directors and staff of the British South Africa Company.

²⁰ The powerful Ngoni tribe occupying the area covering the west Shire River and south-west of south end of Lake Nyasa (now Lake Malawi) waged war against the Colonial administration and was only subdued in 1896, five years after the declaration of the Protectorate. See Africa. No. 5 (1897) C.8438, *Report by consul and acting commissioner Sharpe on the trade and general condition of the British Central Africa Protectorate, from April 1, 1896, to March 31, 1897*, p. 7.

he was appointed by the Crown, he was answerable to the Colonial Secretary in London (Banton, 2008; Adu, 1969). From 1891 to 1907, Nyasaland was headed by a Commissioner and Consul-General, but after the Nyasaland Order in Council was promulgated in 1907 by the Privy Council, the title of Commissioner and Consul-General was changed to that of Governor until 1966.

Between 1890 and 1893, the colonial administration consisted of seven departments: the administrators' office; police; residents; commercial department; medical department; legal department; and office of works, with a total number of British officers ranging from 20 to 35 (Baker, 1988, p. 42), while that of Europeans in general ranging from 57 in 1891 to 300 in 1896 (Pachai, 1973).

The administrators' office consisted of five officers: the Commissioner/administrator; the Commissioner's Private Secretary; the deputy commissioner; the chief accountant; and botanist and natural history collector. Before the recruitment of the Private Secretary in 1893, correspondence and other clerical work in the administrators' office was carried out by the Commissioner himself or the botanist whenever the Commissioner was away on tour (Baker, 1988), while records of government accounts were handled by the chief accountant, although the Commissioner also handled accounts work before the accountant was recruited. With such a small number of staff and a limited number of important functions to carry out, it is likely that official records generated during this time were far fewer than those generated in later years, when government activities increased and the staff complement was expanded accordingly. Most of the administration's staff, some of whom were 'hardworking, competent and realistic administrators' (Baker, 1972, p. 329), were recruited locally and drawn from the missionary, hunter, estate and business (mostly from the African Lakes Company) communities.

Besides military campaigns to pacify the territory, the administration's other preoccupation during its early years was formalisation of the land claims by European settlers who had arrived years before the establishment of the administration. The Commissioner validated the land claims by scrutinising the treaty documents presented to him that the settlers had signed with various native chiefs. Here, the value of written documents as evidence of personal entitlements was demonstrated in that without production of the treaty document, no settler could make any valid claims to land possession, since the question of land settlement was based on documents. While some of the native chiefs from whom the European settlers had bought land might have been alive during the settlement of the land question by the administration, their oral testimony to verify the authenticity of the treaty documents presented by the settlers might or might not have been sought.

Between 1907, when the Nyasaland Order in Council was promulgated and 1910, the Department of Government Secretary was headed by the Deputy Governor who had an oversight responsibility of the Secretariat (Nyasaland Protectorate, 1908; Nyasaland Protectorate, 1910). However, after 1910 the Department of Government Secretary was not reflected in the official publications, and the Secretariat assumed a prominent position after that of the Governor. During this period (1907-1910), the staff complement of the Secretariat stood at six; Chief Assistant Secretary; Assistant Secretary; three clerks and Superintendent for Native Affairs (Nyasaland Protectorate, 1908; Nyasaland Protectorate, 1910). Headed by the Chief Secretary, who was in effect the head of the Civil Service, the Secretariat was the channel of communication between the Governor and the heads of government departments as well as the general public (Murray, 1932, p. 61). Other major responsibilities of the

Secretariat were definition and control of government policies and supervision of all matters of particular concern to the natives (Murray, 1932, p. 62).

Although the colonial administrators might have understood that 'the administration of public affairs is largely based on papers,' (Government of Zambia, 1967), on the basis of Sir Charles Jeffries' (1938, p. viii) argument that until the beginning of the 20th century 'colonial administration was still in the stage of tentative endeavour, if not of rule of thumb,' it is doubtful if record keeping was systematic during the early colonial days. Remoteness of Nyasaland and its undeveloped communication system must have contributed to sporadic correspondence between the Protectorate and the Foreign Office (from 1904 onwards, the Colonial Office) in London and between it and other colonies. Additionally, officers' preoccupation with military campaigns during the formative years of the administration would have left the administrators with little time in the office to attend to record keeping.

Occasionally, memoranda on record keeping were issued in London to all the colonies. Such memoranda gave the colonial governments through the Secretariat offices, the impetus to design and promote good record keeping systems. One such memorandum was issued by the Colonial Secretary, Sir W. Ormsby Gore in a 1936 colonial despatch to all colonies which emphasised that:

The preservation of its records in a satisfactory state must be regarded as one of the first duties of a colonial government; a duty which derives greater urgency for the delay in the institution of suitable protective measures may and does lead to the inevitable loss of documents of value (Ormsby-Gore in Mwiyeriwa, 1983, p. 221).

Apart from the memoranda on records management issued from London to all the colonies, British Civil Service filing systems were also exported to the colonies. Moss (2005, p. 583) mentions that the filing system which was adopted at the beginning of

the 20th century across the whole Civil Service in the United Kingdom was imposed on imperial and colonial governments.

Apart from this, locally the Nyasaland Government regulated the creation, use, maintenance and disposition and preservation of public records through regulations on records management, which were first issued in 1920 (Lovering, 2010). The regulations, which were revised in 1922, were incorporated as part of the provisions of the Nyasaland Protectorate General Orders, which were revised from time to time and issued to all heads of departments. Among other important aspects, the General Orders required every head of department to be responsible for all aspects of records management in their departments (Nyasaland Orders, 1951).

It would appear that from 1919, the Secretariat instituted systematic disposal and preservation of ephemeral and vital non-current records, respectively, and a record of such disposal and preservation was maintained. Also maintained was a record of all files from different departments that had been completely destroyed by white termites and those (several cubic feet of records) that had been destroyed by fire prior to 1919. Before the establishment of the National Archives in 1947, the Secretariat preserved all the vital non-current records in the 'massive brickwork of the basement of the main [Secretariat] block,'²¹ which had been designated as an area for the preservation of government records. From 1919 to 1938 the annual volume of records disposed of by the Secretariat is indicated by the table below.

²¹ National Archives of Malawi, S1/18/19, Director of Public Works Department's Report to the Acting Governor, 20th February 1919.

Figure 4: Table indicating annual volume of files disposed of by the Secretariat from 1919 to 1938

Year	Number of files disposed of
1919	784
1920	484
1921	1142
1922	1573
1923	1610
1924	935
1925	777
1926	481
1927	511
1928	669
1929	700
1930	530
1931	447
1932	306
1933	401
1934	256
1936	101
1937	121
1938	132

Source: NAM, 15-7-F/11814 Secretariat files destroyed by fire

On the night of 17th February 1919, fire occurred at the Secretariat offices, work to clear bees out of the roof by smoking them had caused the fire. The extent of that fire was so ferocious that 'the whole of the central double storeyed [Secretariat] block, and both the single storey wings [had] been completely gutted, every piece of timber having burnt out.'²² The 'heaviest loss' caused by the fire was that 'all archives and records [had] been burnt.'²³ Apart from housing the Secretariat and government archives, the building that caught fire also housed the Executive Council Chamber, the Treasury, Audit, Post and Public Works, offices of the Attorney-

²² Ibid

²³ NAM. S1/18/19, the Acting Governor to the Secretary of State for the Colonies, 10th March 1919

General and auxiliary audit and Treasury offices. The only block, which was saved housed the offices of the Attorney-General, auxiliary audit and Treasury offices.

Apart from losing most of the government archives from 1891 to 1919, the Secretariat and other government departments also lost records needed for transaction of current government business. In order to reconstruct communication with the Colonial Office, the Acting Governor of Nyasaland requested duplicates of all dispatches that had been transmitted between the Secretary of State for the Colonies and the Governor of Nyasaland between 1918 and February 1919.²⁴

The Nyasaland Order in Council of 6th July 1907, among other important provisions, provided for the establishment of the Legislative and Executive Councils. The Legislative Council, whose primary role was 'to make ordinances for the peace, order and good government of all persons in the Protectorate' (Nyasaland Protectorate, in Kadzamira, 1971, p. 87), comprised the Governor as its president, the Deputy Governor, the Treasurer, the Attorney General and the Clerk to the Council as *ex officio* members and three (six from 1911) unofficial members who were appointed by the Governor (Nyasaland Protectorate, 1908; Pachai, 1973). The Legislative Council was subordinate to the Governor, who initiated legislation for discussion in the Council and appointed anyone he chose into the Council for a period of five years. The unofficial members of the Legislative Council, who were all Europeans drawn from the Church, African Lakes Corporation and other associations, represented the interests of the Europeans and Africans (through the

²⁴ NAM S1/18/19, the Acting Governor to the Secretary of State for the Colonies, 10th March 1919.

missionaries) in Nyasaland. The Legislative Council proceedings were recorded verbatim in form of Hansards, and most of its records were therefore the Hansards.

The Executive Council, something akin to today's Cabinet, was established to assist the Governor in administering the territory. The Governor was the president of the Executive Council, which consisted of the deputy Governor, the Treasurer, the Attorney-General and the Clerk to the Council. The Executive Council chamber was housed within the Secretariat and its records were kept in the chamber in the form of Minutes. As a result of the fire at the Secretariat in 1919, all of the Executive Council Minutes recording the policy decisions of the Nyasaland Government from 1907 up to 1919, were destroyed and could never be replaced as copies were not sent home. The only Executive Council Minutes that are available in the National Archives were generated between 1919 and 1963. All these were transferred to London in 1966 by the outgoing Governor-General. However, some of the records were returned to Malawi in 1967.

4.3.2 Central government: specialised government departments

From 1891 to 1964, the functions of the government were carried out by various government departments, whose heads were commonly designated as directors. The heads of departments reported to the Chief Secretary, who coordinated all the government departments. The departmental heads had specialist training and experience relevant to their respective departments. While the heads of departments had overall responsibilities for their respective departments, record keeping in each department was specifically handled by the registry section, as was the case in the home civil service. The Public Works Department for instance, had a central registry

that was headed by the Superintendent of Registration with senior and junior members of the clerical staff under him to attend to records related functions within the department.²⁵

Out of the seven departments, between 1891 and 1893, only two (Administrators Office and the Legal Department) had a clerk each (Baker, 1988). By 1908, the number of government departments had increased to fourteen: Department of Government Secretary; Printing, Stationary and Gazette; District Administration; Nyasaland Agency (Chinde²⁶); Treasury; Customs; Audit; Transport; Legal Department; Medical Department; Military; Post Office; Forestry and Botanic; and Public Works and Survey (Nyasaland, 1908). Out of these, eight had provisions in their establishment for the posts of clerks, as follows. Department of Government Secretary (3), Nyasaland Agency (1), Treasury (5), Customs (1), Transport (1), Legal Department (2), Military (1) and Public Works and Survey (2). In 1910, the number of the departments remained the same, except for the renaming of the Department of Forestry and Botanic as the Agricultural and Forestry Department. The number of government clerks increased by one in the Department of Government Secretary to serve in the Native Affairs section (Nyasaland Government, 1910). From this analysis, it is debatable whether in 1910 the quality of record keeping in the seven departments which had clerks was better than, or the same as that in the other

²⁵ CO 525/179/11 Public Works Department Staff. Letter from the Acting Governor of Nyasaland, Hall, to the Secretary of State for the Colonies, Malcolm Macdonald, M.P., 21st November, 1939, on the question of filling of the vacant post of Storekeeper

²⁶ See NAM S1/729/23; S1/1364/23; S1/601/20; S1/1387/21; S1/226/22; and S1/1901/24. Chinde was a concession territory at the mouth of the Zambezi River where passengers and goods were transferred from ocean going vessels to river steamers for onward travel to Nyasaland. Following the signing of a treaty between Great Britain and Portugal on 11th July 1891, Portugal leased the land at Chinde to Britain for an initial period of 99 years and subsequently, a Vice-Consul to take charge of the Chinde consulate was appointed. Due to a cyclone, which damaged property and interests at Chinde in February 1921, and the opening of the Trans-Zambesi Railway and the purchase of river steamers by the railway company, which practically displaced all transport of the Nyasaland Protectorate through Chinde, the Chinde Concession was formerly cancelled on 19th May 1925 and the offices were closed. Although some records were destroyed by the cyclone in 1921, the last Vice-Consul shipped three boxes of records (correspondence files which he considered most important but destroyed all unfiled correspondence prior 1904 and all copies of accounts prior to August 1920) belonging to the Nyasaland government.

seven departments that had no registry clerks. It would not be surprising if the quality of record keeping was lower in the departments that had no clerks to handle filing and other record keeping activities, because the very few administrative officers, who already had too many assignments to attend to, would have had little time to attend to record keeping.

Perhaps because of such inequalities in the systematic management of public records among the departments, in 1920, as Lovering (2010) has observed, the Secretariat reviewed its registry system. It may also have reflected parallel reviews that were taking place in the home civil service. This review led to the release, on 1st March 1922, of the Regulations for the conduct of official correspondence, to all government institutions by the Chief Secretary. The Regulations,²⁷ which had been approved by the Governor, remained in force as the guiding principles for standardising record keeping within government until 1932, when they were revised and incorporated in the first edition of the Nyasaland Protectorate General Orders. The 1922 Regulations had thirty-eight sections, which covered handling of official correspondence, capturing and filing of records and other aspects, in detail.

Among provisions, the Regulations instructed that all communication to the Governor, as well as departmental monthly, quarterly and yearly reports should pass through the Chief Secretary. In order to discourage orality, particularly unminuted telephone conversations, in carrying out official duties, the Regulations instructed all public officers to commit to writing verbal instructions given by the Governor or his authorised representative and to forward the written instructions to him for confirmation. When corresponding on official matters with the public, public officers

²⁷ Central African Archives, NC/1/1/3, Regulations for the conduct of official correspondence. From R. Rankie, Chief Secretary to all government institutions, 1st March 1922.

were instructed to do so in an impersonal and formal manner. The Regulations further instructed all public officers to use minutes or letters when addressing the Chief Secretary and noted that communication with the Secretariat was to be typewritten, with each letter confined to one subject. All official letters were to be dated and numbered consecutively before being issued and copies of original letters were to be maintained by a department. Official documents and publications such as the Resident's Handbook, Regulations for His Majesty's Colonial Service, Orders in Council, Ordinances and Rules, were to be kept up-to-date, and each department was to maintain approved registers of correspondence.

Besides the correspondence registers, each department was to keep, update and properly index 'guide or precedent books' in which all decisions, rulings and any other developments taking place in the department were to be recorded. Apart from detailing the use of Minute Papers for communication between departments and the Secretariat, between departments and between departments and other Crown Agents, the Regulations placed the responsibility for implementing the provisions of the Regulations on the heads of departments. One other important provision of the Regulations was that 'on no account may any official records be destroyed without the previous sanction of the Governor' (Section 32 of the 1922 Regulations, M.P. No. 193/1920). However, the Regulations did not state the condition under which official records could be deemed ready for disposition, and hence clearance from the Governor before destruction was required. Due to this lack of clarity, it would appear that departments transferred their non-current records to the Secretariat, where in practice disposition and preservation of ephemeral and valuable non-current records from all the departments respectively took place.

4.3.3 Local government

Local government was administered at three levels, the provincial, district and native authority levels.

4.3.3. 1 Provincial administration

In June 1921, the Nyasaland Protectorate was divided into three provinces, the southern, central and northern provinces. Each province was administered by a Provincial Commissioner, who was a medium of communication between the District Residents in the province and the Secretariat. The Provincial Commissioners communicated policy instructions they had received from the Secretariat to the District Residents (Murray, 1922). By 1929 the provinces had been increased to four, the Southern Province, Zomba Province, Central Province and Northern Province. In 1931 they were combined into two; the Southern and Zomba Provinces became the Southern Province, while Central and Northern Provinces became the Northern Province (Colonial Office, 1928).

A few years later, the provinces were again divided into three, the Northern, Central and Southern Provinces, and the situation has remained the same until the present, except that the provinces have been renamed as regions. The frequent changes in the status of provinces might have had some slight implications for record keeping in the Provincial Commissioners' offices in that when the number of provinces increased from three to four, the new Provincial Commissioner (PC) had to obtain records of the districts in his new province from the PC who administered the districts previously in order for the new PC to appraise himself of the past developments. Likewise, when the provinces were amalgamated into two, the two

PCs had to obtain records from the other two phased-out provincial offices. Since the provincial offices were a link between the Secretariat and the District offices, the offices did not generate a lot of records, but their record keeping had to be up-to-date. The Provincial Commissioners received monthly, quarterly and annual reports from the District Commissioners in their provinces and in turn reported to the Chief Secretary. Any poor record keeping in the PCs' offices might result in ill-informed and inaccurate reports. However, the personal experience of Baker (2010) and Strachan (2010) both DCs in the late 1950s in Malawi, would seem to indicate that record keeping in the Provincial Commissioners' offices was problematic because the two admit to their frustrations when they failed to obtain copies of important correspondence from the PCs' offices.

4.3.3.2 District administration

At the beginning of 1891, Johnston recruited eight political officers in order to effect the consolidation of the Protectorate of Her Majesty over the native chiefs, advise the native chiefs on their external relations with each other and with foreigners, and secure peace and order in Nyasaland, as he had been instructed. The officers, who were officially entitled Collectors of Revenue, were deployed in eight administrative stations at Mpimbi, Liwonde, Fort Johnston, Nkhotakota, Deep Bay, Zomba, Blantyre and Port Herald. The primary task of the Revenue Collectors was collection of revenue, three quarters of which was generated through postal duties, poll tax (later, hut tax), customs duty, licence fees (fire-arms, big game hunting, importation and sale of alcohol, etc.) and sale of Crown land. Other duties included magisterial functions, postal, customs and excise duties, road-making and building and regulation of importation of spirituous liquor (Baker, 1988, p. 39). Cardew (1948, p.

52) recalls that until 1894, the District Officers (same as Collectors of Revenue) at Mpimbi, Liwonde, Fort Johnston, Nkhotakota and Deep Bay had little influence beyond their near neighbourhood because of inter-tribal conflicts, since the administration had not yet been firmly established over the whole territory. However, when peace had been secured throughout the Protectorate, the District Officers had far reaching influence in their respective districts. The number of administrative districts was increased from eight to twelve in 1894, and when in 1895 the Colonial administration took over the administration of central and northern regions, which had been administered by Cecil Rhodes' British South African Company, more districts were established.

The introduction of hut tax in 1891 as a major source of revenue for running the Protectorate, resulted from lack of a direct grant-in-aid from the British Treasury and insufficient funds provided by Cecil Rhodes (Baker, 1988; Jones, 1964). Since tax collection was one of the preoccupations of the District Officers, the issue of taxation merits more discussion since it had implications for record keeping.

Although a system of government based on principles and practices of modern administration had been established in an environment whose roots had for centuries been embedded in native tradition and an oral culture, for the colonial administration to succeed in that alien environment, some of its principles and practices 'had to be twisted from their European forms by the pressures of the tribal society' (Jones, 1964, p. 61). When currency in form of coins (shillings and florins) was introduced in the country, it circulated in a few areas in southern Nyasaland owing to its limited supply, and since everyone could not afford to pay the tax in

cash, the government devised appropriate mechanisms for receiving the tax in kind at the district offices. Such measures had their own challenges, as Duff (1903, 352) points out.

In those days a Government station must have presented very much the appearance of a farmyard; for beside grain, fruit, eggs, and other produce, quantities of livestock were brought in by taxpayers, including many thousands of fowls. These latter were turned wholesale into runs built for their reception, from which naturally many escaped or were stolen while others died from overcrowding and similar causes.

After paying his annual hut tax, the tax payer was issued with 'a hut tax receipt' (Duff, 1903, p. 355). Alongside receipts given after purchasing goods from the ALC stores, taxation brought many people in touch with written documents for the first time. The tax receipt, which, as simple as it might have looked, proved so valuable that people, despite their lack of familiarity with any principles of record keeping, adopted elaborate security measures for keeping them, so that they were readily available.

The government adopted different methods of punishing tax defaulters, such as burning huts and holding hostage wives and children (Palmer, 1972, p. 306). However, the common method of punishment was compelling the defaulters to work for the government (in Blantyre) for a period of one month, at the rate of 3 shillings, which was also the annual hut tax, per adult male from the age of 14, later increased to 16 (Duff, 1903; Pretorius, 1972). Observing the maltreatment of the tax defaulters by the government, Dr. William H. Murray (in Pretorius, 1972, pp. 370-71) the then head of the Dutch Reformed Church Mission stationed at Mvera, remarked in November 1900:

...Things have lately taken place that might shame any Savage, if committed by him, and that in the name and by the instruments of the Govt. Because

men refuse to pay their taxes (on account of the hardships entailed in going to work 200 miles away from their homes, where there is a great scarcity of food) women and little children have been ruthlessly shot down by native policemen, and we've still to see what's going to become of it.

Upon their return from the forced migrant labour in Blantyre, the tax defaulters were a sorry sight, for they looked like 'walking skeletons' (Rev. T.C.B. Vlok in Pretorius, 1972, p. 371). Not wishing to suffer these traumatic consequences, the natives became 'well aware that the possession of a hut tax receipt exempted them from requisition as defaulters' (Duff, 1903, p. 355). The value of the tax receipt became priceless to the natives. Their dignity, rights, peace and the confidence which could enable them to stay at home and not run away and hide in the mountains and bushes at the sight of government officials were all imbedded in the tax receipt. Everything possible was done to pay the tax and keep the tax receipts safely, only producing them when demanded to do so by government agents, who viewed the receipt as the only evidence of having paid the tax (although tax books contained details of tax payers). Because the natives had seen the terrible consequences of tax evasion, the majority of them faithfully paid their tax and once they obtained their tax receipts, they kept them so safely that one District Officer at the beginning of the 20th century observed that:

... the number of those who could be legitimately compelled to work, even for the space of a single month in the year, grew smaller and smaller, until at last Collectors of districts found themselves placed between Scylla and Charybdis – between a European community clamouring for labour, and a native population who did not wish to work, and who knew themselves to be under no obligation to do so (Duff, 1903, p. 355).

In terms of record keeping, and unlike the Secretariat and other government departments that had registries, it would appear that during the early period of the colonial administration, the district offices did not have registries of an elaborate

nature. The nature of records of the district offices in Nyasaland varied, but generally each district kept its District Books or Political Notebooks, district census and Native Court files besides 'a range of correspondence files and other records, including annual reports' (Tough, 2009, p. 9).

Before the establishment of the offices of the Provincial Commissioners in 1921, District Commissioners corresponded with and submitted reports directly to the Secretariat. The District Commissioners were assisted by African clerks and messengers in carrying out records-related work, and as there appear to have been no formal policy guidelines stipulating the management of district office records until 1922, record keeping at the district offices depended on the competence and interest in record keeping of individual officers, who were in charge at a particular time, and those who succeeded them (Curtin, 1960; Baker, 2010; Harvey, 2010; Strachan, 2010). Owing to this fact, the quality of record keeping in district offices varied over time in the same district, depending on who was the DC, and from one district to another, within the same Protectorate. Tough (2009, p. 7), for instance, finds that 'the Residents, Administrative Officers and District Commissioners in charge at Dowa created and used a relatively sophisticated record keeping system,' while 'Residents, Administrative Officers and District Commissioners in other districts were not all equally enthusiastic about record keeping.'

Before the Secretariat released the Regulations for the conduct of official correspondence in 1922, it would appear that District Commissioners, who were then called Residents, used their own different systems of filing correspondence that they deemed convenient. After the Regulations had been issued, the District Residents reacted differently to the instructions, as the Regulations differed from the systems that the Residents were familiar with. The District Resident for Chintheche had to

seek the permission of the Provincial Commissioner (which was granted) to be allowed to apply the Minute Paper system 'only to letters from the Secretariat, Provincial Commissioner and Treasurer and to any letters from Departments which [appeared] to warrant the use of Minute Paper'²⁸ but to maintain the practice of settling 'a very large proportion of District correspondence,' by one letter and a reply. The Resident for Mzimba District sought clarification from the Chief Secretary as to whether the system of conducting official correspondence, which the Regulations had directed all government establishments to adopt, was also to be adopted by District Residents. He expressed the view that the Regulations applied 'to Departments only and were not meant to apply to outstations in charge of Residents,'²⁹ to which the Chief Secretary responded by emphasising that the Regulations applied to the districts as well.

A year after the Regulations had been issued, the District Resident for Kasungu informed the Provincial Commissioner that he had not adopted the filing system that the Regulations had recommended but had continued with the 'pilot file' system, arguing that the Minute Paper system was not appropriate to his office.³⁰ In reply, the Provincial Commissioner observed that the Chief Secretary's instructions were quite definite that all stations adopt the Minute Paper system, and since the Kasungu District Resident could not be an exception, he was therefore advised to institute the new system of filing as from the 1st January 1923.³¹

²⁸ Central African Archives, NC 1/1/3. The Resident, Chintcheche, to the Provincial Commissioner, Northern Province, 6th June 1922

²⁹ Central African Archives, NC 1/1/3. The Resident, Mzimba, to the Chief Secretary, 15th December, 1922

³⁰ Central African Archives, NC 1/1/3. The District Resident, Kasungu to the Provincial Commissioner, Northern Region, 23rd April 1923

³¹ Central African Archives, NC 1/1/3. The Provincial Commissioner, Northern Province to the District Resident, Kasungu, 1st May, 1923

By 1932, the district filing systems, based on the 1922 Regulations for the conduct of official correspondence, had proved problematic, 'thoroughly bad and in need of overhauling and standardisation'³² because it had degenerated 'in a chaotic state'³³ such that most of the District Residents, who were now called District Commissioners, expressed their frustrations with it. While some District Commissioners praised the Pilot File system and others remembered the old system of 'Departments' 'In' and 'Out', the District Commissioner for Lilongwe had suggested the standardised district filing system.

Prior to 1932, the district filing system commonly in place was governed by subject heads that were sub-divided by either numbers or letters. For instance, a fourth subject such as Judicial being dealt with by the district office in the year 2012 could be indicated as 'No. 4 of 2012' and the first sub-heading of No. 4 of 2012 could be indicated as either 4/1/2012 or 4/A/2012 and so on. The Lilongwe District Commissioner's suggestion was that the subject number should be the same in every district and that instead of numbers the subheadings should be represented by letters. For the standardisation to work, District Commissioners would have to submit to the Provincial Commissioners their subjects, and, in turn, the PCs would prepare a list of all subjects in general use in their provinces and finally each subject would be assigned a number that would be retained permanently.³⁴ When the proposed system was circulated to the DCs for their comments, after several criticisms, suggestions and support, the Provincial Commissioner observed that there was 'too

³² Central African Archives, NC 1/1/2. Filing of Correspondence. Memo from the Provincial Commissioner, Northern Province to all District Commissioners, 7th July, 1932.

³³ Central African Archives, NC 1/1/2. Filing of Correspondence. Comments of District Commissioner, Dedza to the Provincial Commissioner's Memo, 8th August, 1932.

³⁴ Central African Archives, NC 1/1/2. Proposal for system of filing for District Offices from the District Commissioner, Lilongwe to the Provincial Commissioner, Northern Province, 21st July, 1932. This form of Dewey Decimal was used by the Foreign Office.

great a variety in different systems in use, with the result that it [was] often extremely difficult for an in-coming officer or filing Clerk to follow the system used by his predecessor.³⁵ He therefore issued a new standardised filing system and index, developed with the assistance of Captain Bingham, DC West Nyasa, which all District Commissioners were asked to adopt with effect from 1st January 1934.³⁶

As Tough (2009) has noted, not all DCs were equally enthusiastic about record keeping, when the revised standardised filing system came into force on 1st January 1934, and not all DCs succeeded in implementing the system. By about 1937, the DCs experienced some breakdown in their filing systems. However, one of the DCs who maintained an outstanding record keeping system was the DC for Mzimba. From time to time he compiled and updated notes on filing and office routine for the Mzimba District, circulated them to his staff and ensured that all his staff adhered to the notes in their operations. News of the efficient record keeping system at Mzimba led other DCs to seek advice from the Mzimba DC on improvements of the system in their respective districts.³⁷

Baker (2010), Harvey (2010) and Strachan (2010), Assistant DCs and later District Commissioners in the mid-1950s in Nyasaland, provide a picture of record keeping at the district level between 1950 and 1960.³⁸ The three appear to agree that the situation in urban districts such as Blantyre and Zomba was much better than in

³⁵ Central African Archives, NNM 1/1/1. Provincial Commissioner, Lilongwe, to District Commissioner, Mzimba, 11th October, 1933

³⁶ Central African Archives, NNM 1/1/1. Provincial Commissioner, Lilongwe, to District Commissioner, Mzimba, 11th October, 1933

³⁷ Central African Archives, NNM 1/1/1. District Commissioners Lilongwe and Karonga to District Commissioner Mzimba on filing systems, 5th August 1937 and 11th July 1938, respectively

³⁸ Colin Baker, Personal correspondence, 26th February, 2010; Noel Harvey, Response to a questionnaire, 'Records management in colonial Nyasaland', March, 2010; Ian Strachan. Oral interview, 13th March, Perth, Scotland.

remotest districts such as Karonga. In remote districts, formal records were in the form of letters, reports, statistics and tax returns, and office administration was somewhat primitive. As Harvey confesses, 'the spoken word probably counted for more at that time.' There is agreement among the three former DCs that during the 1950-1960 period there were no formal instructions about retaining files for archival purposes, and as such, proper preservation of past records in the districts was left to the discretion and initiative of the administrator in charge. For instance, Jones (1964, p. 278) mentions that in 1954 in Mzimba District, there was one confidential file into which everything was put. In remote districts, past files, some going back many years, could be found in dusty cupboards (with bats overhead) but not much attention was paid to them apart from historical documents that the administrator deemed worth careful preservation.

From the district offices, past files were not transferred to an official archival repository, and according to Harvey (2010), 'certainly in the D.C.'s Boma [they] would burn out-of-date old files when they no longer had any value, simply to make space for the more recent ones.' As far as record keeping at the district level was concerned, Harvey's experience was that it was reduced to essential official communications, pointing out that funding, staffing and even the sense of longer-term history did not allow for developing archives in district work. However, Baker (2010), Harvey (2010) and Strachan (2010) agree that at higher official levels – the Secretariat, the Registrar, Provincial and Legislative Councils and the Law Courts – better record keeping systems were maintained.

4.3.3.3 Native administration

Lord Hailey (1951, p. 8) makes an important statement that helps us to understand the varying nature of native administration as part of the British colonial bureaucracy in Africa. He observes that due to the diversity of circumstances in each colony, the development of the native administration during the earlier British rule 'did not follow part of any considered principle of colonial policy,' and as such this task was 'left to the initiative of the various Colonial Governments and the officers of their Administrative Services.' However, following Lord Lugard's Political Memoranda of 1916, which expounded the principles of indirect rule, the question of native administration was systematically considered and the system of indirect rule was adopted by many colonial governments from the 1920s.

Against the backdrop of inter-tribal wars and some powerful tribal chiefs who resisted and fought against the British at the beginning of the colonial rule in Nyasaland, once the territory was firmly under the colonial administration, a policy of 'checking the natural development of native politics, and of forcing them back from the third or tribal stage into the second stage – that of the village community – out of which they had already emerged' (Duff, 1903, p. 195) was adopted. This policy meant that traditional chiefs, who had governed their people through the native administrative machinery prior to the colonial administration 'were officially regarded as ineffectual, incapable and unnecessary' (Pachai, 1973, p. 181) in the new administrative set-up and because of this, it had become 'necessary...to shatter the fabric of native government' (Baker in Kirk-Green, 1978, p. 163). Instead, a direct rule system was adopted in which the colonial administrative officers administered the territory and performed magisterial functions, the primary functions that the tribal chiefs used to perform. In 1896, the native judicial system under the colonial administration was

described by Johnston (in Hanna, 1951, p. 202) in the following manner: 'the native courts are practically held by British magistrates in the name of the local chief or his representative.' The significance of this was that the colonial government had effectively rendered the traditional chiefs powerless and without standing or influence among their own people, a total departure from the pre-colonial order.

After the taxation system was introduced throughout the country, collection of the tax by the Tax Collectors was a big challenge, owing to the inability of too few British officers to penetrate African society (Pachai, 1973, p. 182). Another governance problem that the Administration faced was the disintegration of the tribal societies into family groups throughout the Protectorate. This challenge, coupled with the understanding that 'the best means of governing the people is through their own chiefs' (Stopford, 1903, p. 310), led to the enactment of the Native Village Regulation Ordinance in 1910. The primary objective of the Ordinance was to 'revive among the natives something of a fast-decaying powers of local government [by appointing Native Headmen to act] as media of communication between the mass of native populace on the one hand and the District Administration on the other' (Colonial Office in Jones, 1964, p. 73). Among other duties, the headmen were to assist in the collection of tax from their villagers. For this service, the chiefs were given a subsidy of ten per cent of the hut tax collected from their areas (Lord Hailey, 1957; Baker, 1972; Pachai, 1973). In 1912 the Legislative Council enacted the District Administration (Native) Ordinance, which provided for the establishment of Sectional Councils of principal village headmen in order to assist the government in local administration (Jones, 1964; Pachai, 1973). The Provincial Commissioners'

conference of July 1928 proposed the establishment of principal headmen's courts to have jurisdiction over the civil matters throughout the Protectorate.³⁹

Although the government had officially recognised that the local chiefs should play an important role in local administration, this recognition did not mean full indirect rule. From 1910 to about 1930, the government did not enforce record keeping measures at the local administrative level, nor did it expect any records to be maintained at this level. The 1928 Provincial Commissioners' conference,⁴⁰ for instance, had recommended that no records should be called for from village courts. However, the situation changed in the early 1930s when the Principal Headmen were required to maintain records. The 1930 District Administration (Native) Ordinance had stipulated that among other duties, principal headmen should 'record and report all births, marriages by native law and custom, and deaths and other statistical data which [might] occur in or refer to his section' (District Administration Ordinance, 1930, 4(e)).

In his annual report for 1932, the Provincial Commissioner (South)⁴¹ observed that in several districts in his province, a start was made with the keeping by Principal Headmen of records of cases dealt with by them during that particular year. On the basis of the quality of such records, which was described as only fair, the Provincial Commissioner was of the view that with more experience and the assistance of native court scribes, Principal Headmen's records would be satisfactory.⁴²

It is worth noting that although the Government had recognised the position of principal headmen in local administration, and since the headmen were appointed by

³⁹ NAM, S1/523/28 Conference of Provincial Commissioner July 1928

⁴⁰ NAM, S1/523/28 Conference of Provincial Commissioner July 1928

⁴¹ NAM, S1/43/33 Provincial Commissioner Annual Report 1932 (Southern Province)

⁴² NAM, S1/43/33 Provincial Commissioner Annual Report 1932 (Southern Province)

the administration rather than from the chiefly families, and therefore not generally accepted by the people, lack of discipline developed into a norm, and villages continued to disintegrate into small ungovernable family groups. The 1929 Nyasaland Government annual report had cited 'the decay of the power of native chiefs and the tendency all over the Protectorate to the splitting up of villages into small family groups' (Pachai, 1973, p. 183) as one of that year's challenges.

In 1933, two important Ordinances, the Native Authority Ordinance and the Native Courts Ordinance, were enacted, which marked the introduction of indirect rule in Nyasaland. Through these ordinances, the administration established Native Authorities which consisted of small tribes or sections of a tribe that were grouped together to form a single administrative unit (Pachai, 1973). Under the Native Authority Ordinance, the chiefs were no longer appointed by the administration but only those who held positions according to the laws of the tribe and the wishes of the people were recognised by government as Native Authorities, either as individuals or as chiefs-in-council (Pachai, 1973). A Native Authority (NA) comprised a chief as the superior Native Authority, and the chief's advisors and sub-chiefs. The sub chiefs were appointed by the chief and were responsible for ruling over a certain well defined area within the Native Authority (Brown and Hutt, 1935, p.11).

The advent of indirect rule had interesting consequences for record keeping. Through the Native Courts Ordinance, each NA, with the assistance of his advisors, presided over the NA court. As a requirement, the NA courts were supposed to maintain court records of the case judgements passed, and for this reason, native authorities employed scribes or clerks for the maintenance of court records. Hall (1938, p. 412) observes that as a minimum, native court records indicated the names of parties, a brief statement of the subject matter and a short judgement, signed by

the holder of the court, who was usually the NA himself. Judgements from the NA court could be appealed to the District Magistrate. A District Magistrate and District Commissioner occasionally inspected the NA court records.

Before the promulgation of the Native Courts Ordinance in 1933, principal headmen conducted their court sessions orally without any requirement to document their judgements. The Native Authority Ordinance empowered the NAs to maintain their own treasuries, from which they could finance a number of social economic projects such as building bridges and roads and paying social workers from the revenue collected by the NA from a number of sources. The predominantly oral people, who used different modes of oral text to transact social and official business, were now offered a platform to transact official business where the *modus operandi* was non-traditional. This naturally introduced the basics of official record keeping to the Africans who participated in Native Authority (NA) affairs, and oral tradition now lived in partnership with the written culture, both of which were to influence each other.

As noted above, Native Authority records consisted of tax records, court records, ledgers, registers (marriage, birth, death, etc.), some correspondence and simple financial reports. These may not have mattered much to local people who were not concerned with keeping track of what their native authority had collected, how the revenue had been used and who had authorised the payment, but they mattered a great deal to the District Commissioners, whose primary functions included revenue collection. Eventually information contained in the NA books was used in compiling District Officers' reports, which finally reached the Governor.

On a larger national scale, indirect rule contributed to the generation of more public records because besides those that were already being generated by the

Secretariat, government departments and other establishments, the provincial and district offices, Native Authorities throughout the country started the regular production and maintenance of public records.

The quality and management of Native Authority records varied from one native authority to another. Two years after the establishment of the Native Authorities, the Provincial Commissioners' conference held on 22-24 July 1935 observed that there were some differences between districts in the manner in which Native Authorities kept their records. The differences were deemed inevitable 'owing to geographical conditions and to the varying degrees of intelligence of individual Native Authorities.'⁴³ While this Provincial Commissioners' conference had decided that the Native Administration Court Books and Cash Books were proving quite satisfactory, the District Commissioners' meeting of August 1935 had decided against the form of the Court Book as it did not 'suit certain of the advanced Native Authorities in the Northern Areas'. Such 'advanced' NAs were accustomed to recording their cases in great detail, and instances were quoted where the record covered as many as eight pages.⁴⁴ Comparatively, the return of cases tried by Native Authorities from the Northern Province was less satisfactory than in the Southern Province, where considerable success had been achieved.⁴⁵ District Commissioners who acted as Auditors for the Native Authority treasuries were instrumental in assisting the NAs to maintain their records. One particular DC for Mzimba merits mentioning because he circulated to all the Native Authorities in his district with guidelines for best

⁴³ Central African Archives, S1/207/35, Minutes of a conference held in the Provincial Commissioner's office at Lilongwe, on 22nd of July, 1935, and following days

⁴⁴ Central African Archives, S1/207/35, Minutes of a meeting held in the District Commissioner's Office at Mzimba, on the 7th, 8th and 9th August, 1935

⁴⁵ Central African Archives, S1/207/35, Comments by the Senior Provincial Commissioner on the minutes of the District Officers' conferences in the Northern Province.

correspondence and filing systems and he would reprimand any NA who did not follow the guidelines.

The NA records, which were mostly in the vernacular, were kept at the NA head offices which in most cases were either the Chief's residence or court. Those that were kept in the chief's residence tended to be regarded as the Chiefs' property, and for this reason the records have been inherited by successive chiefs. Most of these records if any have survived, still remain under the custody of the chiefs.⁴⁶ Harvey (2010) explains why the native authority records may not have survived;

Past records would be kept for a few years but there would not be space for a proper archive, and even the best courts ... and clerks ... would have too much on their plate to devote much thought to archives. Files were not transferred to official archives elsewhere.

It would appear that apart from the requirement to keep records for current administrative and judicial purposes, no policy guidelines were given to the Native Authorities for the retention and disposition of records, and therefore retention and disposition of the records entirely depended on local factors. Where Native Authority records still exist, they are valuable archival sources for research into many aspects of local self-government during the colonial administration. Hall (1938, p. 412) has underscored the value of Native Authority records to the ethnographer and the administrator. He holds that:

⁴⁶ In July 2010, the National Archives of Malawi conducted a snap survey in Traditional Authorities (formerly Native Authorities) Mwambo and Chikowi in Zomba district to confirm whether the traditional chiefs are still keeping the NA records and to assess the extent and storage conditions for such records. The survey indicated that each of the two Traditional Authorities had approximately 12m³ of records, which consisted of correspondence, diaries, photographs, and tax and court records. Importantly, the records are very delicate and vulnerable to decay due to their age and very poor storage conditions – leaking houses during rainy seasons and termite and mice attacks. Following these findings, the National Archives has planned to undertake a three-month survey in all the Traditional Authorities in the northern region aimed at further identification, assessment of the NA records and rescuing the most vulnerable records by transferring them to the National Archives for safer preservation and wider access. It is expected that the programme to rescue the endangered NA records by transferring them to the National Archives will be extended to all the three regions of the country.

a study of [Native Authority court] records will show, at the least, the types of social maladjustment which bring people to court, with the relative frequency of different kinds of a case: the manner in which different types of a case are viewed by the court, whether as offences against society or as affecting only families or individuals: and probably some general indication of the tone of the society.

4.3.4 The Federation of Rhodesia and Nyasaland

The three countries that occupy colonial Central Africa have a lot in common, so much so that during the early colonial period Southern Rhodesia was merged with North Western Rhodesia and ruled by the British South Africa Company, while North Eastern Rhodesia was administered along with Nyasaland before both North Western Rhodesia and North Eastern Rhodesia were brought together as Northern Rhodesia (Banton, 2008). One major source of finances for running the Nyasaland Protectorate during Sir Harry Johnston's tenure as first Commissioner was actually from Cecil Rhodes' British South Africa Company (Jones, 1964; Baker, 1975). A closer cooperation was forged among the three territories, such that over the years 'a series of conferences on the closer political association of Northern Rhodesia, Southern Rhodesia and Nyasaland' (Banton, 2008, p. 247) resulted in the formation of the Federation of Rhodesia and Nyasaland on 3 September 1953, with the federal capital in Salisbury, Southern Rhodesia.

Although, as a result, Northern Rhodesia and Nyasaland were administered from Salisbury, the two territories maintained their previous administrative set-up in relation to Native Affairs, with a Governor in charge of each territory. A number of functions that were previously carried out by the territorial governments were transferred to Federal Government responsibility. These functions included: Posts

and Telecommunications;⁴⁷ 'Immigration; Import and Export; Wholesale and Retail Prices; Companies and Corporations; Insurance; Copyrights and Patents, Non-African Education; Higher Education; Development of Industries; Banks and Banking; Higher Purchase; Water; Electricity Distribution; and non-African Agriculture' (Jones, 1964, p. 158). The main fields, which remained within the territorial powers, were territorial constitutional and political advancement; law and order; land; provincial, district and native administration; labour; mining; African education; forestry; game; fisheries; housing; liquor licensing and betting; lotteries and pools (Brelsford, 1960, p. 594).

The political developments that had taken place in Central Africa, which culminated in the Federation of Rhodesia and Nyasaland, had important implications for the development of archives in Malawi. The establishment of the National Archives in 1935 in Southern Rhodesia coupled with the closer cooperation of the three territories, meant that the National Archives in Salisbury influenced the establishment of the National Archives in Malawi and Zambia. When the fire occurred at the Secretariat in Zomba in 1919, with the unfortunate result of the destruction of all the archives, there was no permanent home for archives in Malawi until 1947.

From 1930, non-current records 'were housed in well-ventilated and dry brick offices,' but due to pressure to store current records, the archives were in 1941 'removed to the only empty space available, the Secretariat vaults' (Hiller, 1949, p. 19). Here, the records were in such a perilous state that when the Governor of Nyasaland (Sir Donald Mackenzie-Kennedy) visited the National Archives in Salisbury during his official visit to Southern Rhodesia in 1941, he discussed the

⁴⁷ Posts and Telecommunications was Welensky's first portfolio and has left a lasting legacy in the Post Office buildings of Malawi.

state of public records in Nyasaland with the Government Archivist. These discussions culminated in the passing of the Archives Amendment Act in October 1946, enabling the Chief Archivist of Southern Rhodesia to have an extended mandate over the public records in Nyasaland and Northern Rhodesia as well as those of Southern Rhodesia (Hiller, 1947, p. 12; Mazikana, 1986).

The Salisbury Archives Amendment Act of 1946 led to the promulgation of the Nyasaland Archives (Destruction and Disposal) Regulations, 1947. Among other provisions, the 1947 Archives Regulations provided for the establishment of the position of Chief Archivist and the Archives Destruction Committee, and stipulated procedures for the transfer of historical public records to the Central African Archives in Salisbury.

From 1947, every head of department, including Provincial Commissioners and District Commissioners, was obliged to prepare a list of public records in his department that were either to be destroyed or preserved in the Central African Archives. Such lists were to be forwarded to the Chief Archivist in Zomba. The lists were scrutinised by the Archives Destruction Committee, which comprised the Attorney-General, the Auditor-General and the Chief Archivist. After the Committee's scrutiny, the lists were forwarded for further scrutiny by the Royal Commission for Central Africa in Salisbury, which forwarded its recommendations to the Governor. If the Governor decided that any public records should be destroyed, he would publish his decision in the Gazette, and ninety days from the date of publication, destruction of the records in question was carried out. The Regulations also prohibited anyone from destroying any public records and from mutilating, damaging or tampering with any public archives without the Governor's authorisation.

Furthermore, the Regulations empowered the Chief Archivist to order any government department to transfer any public archives under its custody, to the Central African Archives in cases where such public archives were at least fifteen years old and were no longer required by the department for official purposes, or where the archives belonged to a department that had ceased to exist and the archives were no longer needed for official business (Nyasaland Government (Archives Destruction and Disposal) Regulations, 1947).

In Malawi, responsibility for the management of non-current public records was effectively transferred from the Secretariat to the Central African Archives in July 1947 through its regional archives depot, which was established in Zomba. The Zomba Branch was manned by the Chief Archivist and his assistant, both recruited from London in 1946 during the visit to London by Chief Archivist of the Central African Archives.

When the federation of the three territories was established in 1953, the Central African Archives that had been established earlier in 1947 was renamed the Federal Archives of Rhodesia and Nyasaland and became a department of the Federal Government (Mazikana, 1986). The structure and aims of the federal archives basically remained unchanged except in name. New legislation, the Federal Archives of Rhodesia and Nyasaland, was enacted in 1958 to reflect the developments following the formation of the Federation. Among other important provisions, the 1958 Act 'provided for the preservation, custody, control and disposal of the public and judicial records of the federation and its territories [and consequently] the federal government acquired the records of the territorial records centres created in Nyasaland and the two Rhodesias' (Lihoma, 2009, p. 36).

After the dissolution of the Federation of Rhodesia and Nyasaland on 31 December 1963, Nyasaland and Northern Rhodesia became independent in July and October 1964 as Malawi and Zambia, respectively. The former federal regional records centres in Zomba and Livingstone became what are now the National Archives of Malawi and the National Archives of Zambia. While the National Archives of Malawi still has its head office in Zomba, the country's former capital city, the National Archives of Zambia is in Lusaka, the country's capital city. The dissolution of the federation led to some important developments in archives in Central Africa. Between 1947 and 1963 the Central African Archives, and later the National Archives of Rhodesia and Nyasaland in Salisbury, had accumulated enormous volumes of public records from both Nyasaland and Northern Rhodesia.

Following the dissolution of the Federation and the independence of Malawi and Zambia, a need arose for the transfer of relevant records from the Archives in Salisbury to the two newly independent nations. For this reason, an Inter-Governmental Committee comprising representatives from the three countries was set up in order to 'assess the territorial relevance of the records [in the National Archives in Salisbury, now Harare], consider schedules for the disposal of records of an ephemeral nature and at the same time those of a permanently valuable nature' (Mazikana, 1986, p. 141). The outcome of this Committee was that the archival material relating to each country was identified and transferred accordingly to the countries concerned. All the archival material relevant for Southern Rhodesia remained in Harare, while some 2, 490 cubic feet were relevant to all the three countries and were therefore deemed 'irreducible, indivisible and permanently records of the Federation of Rhodesia and Nyasaland' (Mazikana, 1986, p. 141).

Although a resolution had been made that these indivisible records should remain in Harare, the need was felt for the other two countries to have copies of the records. With sponsorship from the International Development Research Centre of Canada and UNESCO, a two-year (1984-1986) joint microfilm project was undertaken in Harare to microfilm the indivisible records through which the three countries shared a common heritage (Mazikana, 1986). At the end of the project, Malawi and Zambia successfully obtained copies of the indivisible federal records on microfilm. Besides the repatriation of the joint heritage federal records to Malawi and Zambia, the microfilm project promoted cooperation, which remains strong, among the three national archival institutions and was also instrumental in developing capacity in microfilm technology among archivists from the three countries who were involved in the project.

4.3.5 Decolonisation

As Prime Minister, Dr. Hastings Banda argued with some credibility that when the British established an organised, regular administration in 1891 the majority of Europeans in Nyasaland expected the social, political and economic order to last forever or at least a very long period of time.⁴⁸ After the establishment of the Administration, Sir Harry Johnston's considered view was that the territory 'must be ruled by whites, developed by Indians, and worked by blacks' (Hanna, 1956, p. 227). This view effectively ruled out any possibility of the majority of the natives ever being able to have any meaningful say in government on matters that affected them. The remarks by no lesser person than Sir Charles Dilke (in Jones, 1964, p. 277) that 'the

⁴⁸ National Archives of Malawi (NAM), Speech by Dr. Hastings Kamuzu Banda (Prime Minister and later President of the Republic of Malawi (1966-1993)) delivered at the Ryalls Hotel, Blantyre, on 12th March 1964.

Government were under no undertaking to fit and train the natives for the position of citizens. They were to be permanently kept in a dependent and wholly subordinate situation,' appear to indicate that Johnston's view might have practically been translated into policy.

However, the natives had to be unshackled from the bonds of savagery and illiteracy through the liberating power of modern education and training if they were to be productive citizens who could play a meaningful role in the development of their native motherland. With the government's casual approach to the important issue of native education as reflected in Sir Charles Dilke's remarks, the natives would either remain illiterate, and therefore useless in so far as their contribution to social-economic development was concerned, or have their education delayed, resulting in late meaningful participation of Africans in the development process of their own country. At independence in 1964, when the Africans were expected to govern the country on their own, there were only 33 Malawians who had attained university education (this number included Malawian teachers at the Soche Hill College - the highest learning institution in the country at the time - which had just been opened at the end of 1963 to train secondary school teachers to diploma level (Kalinga, 1998)). The national enrolment ratio at secondary school was only ten per cent (Gulhati, 1989, p. 13).

Throughout the colonial Administration in Nyasaland, Africans were not responsible for government and administration but were only serving it at junior levels (Baker, 1978) mostly as messengers and junior clerks (Chanock, 1972; Baker, 1978) and up to 1959, there was no single Malawian holding a senior post in the administrative

branch of the colonial government (Baker, 1978, p. 173). Due to the lack of the trained and experienced local manpower competent to manage the affairs of a modern independent state, Malawi would inevitably need the services of a comparatively large number of British officers who were already in the country 'to carry out the actual task of day-to-day government, to train the local people to a stage where they [would] be qualified and competent to undertake that task themselves, and to guide them in the complex problems which [faced] a modern state.'⁴⁹

On the other hand, Dr. Banda's argument that the British in Malawi thought that the political, social and economic order would last forever after the establishment of the Administration, falls short, because in 1957, the United Kingdom Government and the Federal Government of Rhodesia and Nyasaland made a joint announcement that locally based civil servants should be developed with a view to preparing them for running their own responsible governments.⁵⁰ Besides, even the Nyasaland African Civil Servants Association, which was mostly critical of the Administration, acknowledged that from the very beginning, the British Government was committed to preparing the people of the Protectorate educationally, socially and politically for responsibilities that would fall upon their shoulders in all spheres of the Protectorate.⁵¹ The Association was, however, dismayed at the reluctance of the Administration to fulfil the British Government's pledge, as evidenced by the fact that

⁴⁹ NAM, 16-8-8F/30184, ST. 1527/3, Nyasaland Secretariat Department. Suggested line of Statement for the Secretary of State to make to the expatriate officers in Nyasaland, 14 March 1960

⁵⁰ NAM, 16-8-8F/30184, ST. 1527/3, Nyasaland Secretariat Department. Confidential brief for discussion with Prime Minister: The future of the public service

⁵¹ NAM, 20-3-4F/30185, LT. 1/5, Secretariat Establishment, Report of Localisation Committee. From the Acting Secretary General of the Nyasaland African Civil Servants Association to the Chief Secretary commenting on the report of the Localisation Committee (the Adu Report), 5th April 1961.

exactly 70 years after the Nyasaland Protectorate was declared, not a single African was a head or a deputy of any department.

The British Government's policy in Nyasaland (like elsewhere in the British dependent territories) after 1945 was to accelerate political developments and bring about the establishment of a responsible government. Responsible government in Nyasaland demanded the availability of a civil service that was largely staffed by local officers capable of running the government machinery.⁵² However, the Chief Secretary's 1960 confidential brief for discussion with the UK's Prime Minister had indicated that even if standards were lowered, nothing that approached the nucleus of a locally staffed senior service would be available in Nyasaland for several decades. In view of the political developments towards self-government in British dependent territories, Her Majesty's Colonial Service had been reorganised (Colonial Office, 1954) with the aim of effectively guiding such territories as Nyasaland to a stage where they could be regarded as competent to manage their own affairs in conditions that would ensure a fair standard of living and a stable form of government in which individuals of all races felt both free and secure.⁵³

Some of the important measures that were undertaken in order to reform the public service so that it could contribute towards the attainment of the responsible government included reorganising the government departments, establishing the Public Service Commission, and reviewing and changing the Nyasaland Orders into the Malawi Public Service Regulations. These and other important activities

⁵² NAM, 16-8-8F/30184, ST. 1527/3, Nyasaland Secretariat Department. Confidential brief for discussion with Prime Minister: The future of the public service

⁵³ NAM, 16-8-8F/30184, ST. 1527/3, Nyasaland Secretariat Department. Confidential brief for discussion with Prime Minister: The future of the public service.

associated with decolonisation affected records management aspects in different ways.

4.3.5.1 Government restructuring

In readiness for the change from the traditional colonial pattern of the Secretariat being the apex of the Government, with a field political administration and service departments working to it, to a ministerial structure of government and a cabinet system (Adu, 1968), a comprehensive review of the functions of the government took place. To this effect, the Nyasaland Government made provisions in its 1958 estimates for the establishment of the Organisation and Methods (O&M) section within the Secretariat. The purpose of this section was to make a systematic survey and overhaul of government machinery in the Protectorate.⁵⁴ In order to achieve its purpose, the O&M surveyed and analysed the organisation, functions and methods employed in each government department. The survey also investigated an individual department's relationship with other government departments and with the central government and the Secretariat. The O&M was manned by two officers, the O&M Adviser and his assistant, both seconded from the British Civil Service HM Treasury.

The function of the O&M was designed to be advisory because the executive responsibility for organisation and management remained with the heads of departments.⁵⁵ After the review of the department's functions and its relationships with other departments, the O&M recommendations for improvements in procedures

⁵⁴ NAM, 8-1-6R/5237, Formation of O&M Survey Unit in Nyasaland

⁵⁵ NAM, 8-1-6R/5237, Formation of O&M Survey Unit in Nyasaland

and in organisation were submitted to the departmental head in the form of a draft report. The draft report was a basis for discussions of the findings and recommendations of the O&M survey between the O&M Advisor and the head of the department. Although the post-survey discussions generally resulted in a large measure of agreement and acceptance of the recommendations put forward by the O&M, in some cases, departments did not agree with the recommendations. The O&M Adviser's final report to the Chief Secretary indicated the recommendations which had been accepted departmentally and those which a department had not accepted and those which the O&M Adviser was not prepared to withdraw.

Some of the O&M Adviser's recommendations, which were accepted departmentally, could not be implemented without government approval and sanctions of the Standing Finance Committee. Such recommendations included those which involved creation of new posts, additional finance and transfer of responsibilities to other departments and relationships between departments.⁵⁶ After the O&M's final report had been submitted to the Chief Secretary, and once due consultations had been concluded among the Chief Secretary, the head of department and the O&M Adviser, the O&M recommendations for a particular department were formally adopted. As a way of implementing the recommendations of O&M, a small pool of executive officers was temporarily posted to the departments concerned in order to undertake the work of supervising the institution of the procedural recommendations.⁵⁷ The attachment of a small team of executive officers to the departments was necessitated by the experience that the recommendations of O&M

⁵⁶ NAM, 8-1-6R/5237, Formation of O&M Survey Unit in Nyasaland

⁵⁷ NAM, 8-1-6R/5237, Formation of O&M Survey Unit in Nyasaland. O.M. Adviser to the Honourable the Financial Secretary, on Implementing O. & M. Recommendations, 19th March, 1960

ultimately resulted in reductions in departmental staff during the changeover from the old to the new systems and that there was additional work, in making ready forms and records. The executive officers therefore made up for the shortage of staff to undertake the additional work while at the same time attending to the teething troubles with the new systems.

4.3.5.1.1 Government restructuring and records management

Reorganisation of the government departments resulted in major improvements in records management throughout the public service. In the first place, new forms and records were introduced for use by all government ministries and departments, replacing the older ones bearing the colonial insignia. In the second place, one of the dominant areas that featured in the Organisation & Method's review of all the departments was filing and registry systems, as was the case in the home civil service. The review of the department's filing and registry systems assessed overall effectiveness of the systems at the time of review, identified the problems with the systems and recommended a number of actions to be taken for the improvement of the systems. In the end, many departments either adopted new filing systems altogether or had their filing and registry systems improved.

Between 1958 and 1962, the O&M examined the registries and filing systems for the following ministries and departments: Provincial and District Administration (Southern Province); Public Works; Geological Survey; the Secretariat; Police; Justice; Natural Resources and Local Government; Finance; Labour; Urban Development; and Lands and Mines.⁵⁸ After the review of the systems, a new filing

⁵⁸ NAM, 8-1-7R/5240, O. & M. General: Progress Reports

system and a new form of case register incorporating needle sort punch cards, also known as edge-punched cards, were instituted in the Department of Justice. New registry systems were instituted in the Ministry of Natural Resources and Local Government headquarters; Ministry of Labour; Ministry of Urban Development headquarters; Ministry of Finance; and Ministry of Lands and Mines. In the Police department, the O&M reviewed the methods for preparing statistics of criminal and statutory offences and road accidents. At the end of the review, substantial improvements were made in the Police methods of recording road accidents and criminal offences, as well as the organisation of the punch card unit.⁵⁹

A review by the Organisation & Methods of the policy regarding the creation, retention and final disposal of records relating to European Nyasaland Government officers and employees had indicated that the instructions regarding the disposal of these personnel records were vague and were in the nature of a blanket authority.⁶⁰ For instance, the instructions provided that personal files for permanent staff should be destroyed when they were no longer required, while those for temporary staff were to be destroyed after five years. The results of the review also indicated that the creation of records was haphazard because on one hand, the department where the staff worked created a personal file that remained with the department, and, on the other hand, the Chief Establishments Officer could have as many as six files relating to the same officer. Additionally, when the officer was transferred, his departmental file was retained by the old department and the new department created another file and 'eventually all these files [were] transferred to the ...

⁵⁹ NAM, 8-1-7R/5240, O. & M. General: Progress Reports

⁶⁰ NAM, 4-14-7R/5479, 1/6 Organisation & Methods: the creation and disposal of personal files

Archives..., and [were] retained until they [reached] an age of 60 years.’⁶¹ Furthermore, the review had revealed that there were no instructions regarding the disposal of files relating to African employees and employees who had been seconded to the Federal Government [of Rhodesia and Nyasaland].

Following these findings, the Organisation & Methods Adviser, together with the Chief Establishments Officer, made a number of recommendations as follows:

- (a) All the files for staff, both permanent and temporary, were to be treated in accordance with General Order 220, which provided that establishment and salary records that might be required for superannuation purposes should be preserved for a minimum of 60 years.
- (b) Instead of creating many files for one member of staff, only two files were necessary, whereby the Establishments Office was to maintain one file and another one, the departmental file, was to accompany the officer in the various departments in which he might work.
- (c) All the personnel files that had been deposited in the Archives by the Establishments Office and by various departments were to be assessed to determine their administrative value as keeping every file for 60 years was deemed unnecessary.
- (d) Disposal instructions were to be issued for files for African staff and Nyasaland Government was to call for files for officers and employees who had been seconded to the Federal Government and had taken abolition of office, so that the files could be attached to the ‘parent’ files held in the Establishments office.

⁶¹ NAM, 4-14-7R/5479, 1/6 Organisation & Methods: the creation and disposal of personal files.

The O&M review of record keeping systems of two government departments merits more discussion. The two are: the Provincial and District Administration and the Secretariat. The discussions in Sections 4.3.1 (Central government: the Secretariat, Executive and Legislative Councils), 4.3.3.1 (Provincial Administration) and 4.3.3.2 (District Administration) above, have given a picture of record keeping in the Secretariat and Provincial and District Administrations from the early 1920s up to the 1930s. The O&M findings of the review of the Provincial and District Administration record keeping systems in 1958 and those of the Secretariat in 1960 and 1961, provide us with a picture of record keeping in these institutions between the 1930s and the late 1950s.

4.3.5.1.2. Review and reorganisation of Provincial and District Administration record keeping systems

The review of the Provincial and District Administration functions for the Southern Province was carried out in 1958. At that time, the Southern Province consisted of ten districts: Port Herald (now Nsanje); Chikwawa (present day Chikhwawa); Blantyre; Mwanza; Chiradzulu; Cholo (now Thyolo); Mlanje (now Mulanje); Zomba; Kasupe (now Machinga); and Fort Johnston (now Mangochi). One of the areas under review was filing and registry systems. The assessment of the Provincial and District Administration (P&DA) registry services focused on the receipt, registration and despatch of mail; classification, indexing and numbering of files; the association of papers and their files; recording the location of files; the bringing forward of files for action on future dates; the custody and repair of files; management of classified correspondence; and procedures for instituting and supervising a new registry

system. On the basis of these assessment criteria, the O&M observed that the registry services of the P&DA as a whole left much to be desired (Nyasaland Government, 1959), for a number of reasons.

Among other findings, the O&M noted that the Provincial and District Offices adopted different filing systems such that in many cases and on their own initiatives, District Officers reorganised the filing systems in their offices for their individual benefit. When new officers took up post, it was difficult to follow the systems that had been instituted by their predecessors, and, as such, they resorted to further reorganisation of the systems for their convenience. In order to deal with the problem, it was recommended that the Provincial Commissioners should designate officers in Provincial Headquarters with responsibility for the oversight of registry services and for approving, on a Provincial basis, the introduction of any changes (Nyasaland Government, 1959). Since the District Commissioners dealt with similar issues in the districts, O&M recommended a uniform registry system that would assist district officers to handle records in a uniform manner so that once posted to another district, officers would find registry systems with which they were familiar.

The survey also observed that the classification of files was defective as evidenced by the fact that a variety of subjects were dealt with in the same file. As a result of this problem, some files were naturally permitted to grow indefinitely and too thick thereby outgrowing their covers and their fasteners while other files contained fewer papers and were consequently much thinner.

Veteran Head Clerks and Filing Clerks were highly credited for their ability to produce the required papers by memory and without hesitation, even where the papers were filed away under classifications which only remotely resembled the given topic. However, owing to the ever growing number of topics which the P&DA had had to deal with, there was an increase in the number of files that were created. Consequently, memories of Clerks could no longer be relied upon for the effective retrieval of information. This being the case, O&M recommended the development of a uniform file classification system upon which filing staff could depend for filing and tracing of papers.

Since African clerks usually had an inadequate comprehension of the English language and the simple problems of classifying and indexing would be difficult for them, the proposed file classification, indexing and numbering system was to be simple. A system that distinguished between 'subject' and 'case' files was recommended, where the subject files would deal with policy matters while the case files would deal with individual cases on various policy issues. Additionally, the new classification system recommended that papers dealing with related business should be brought under one subject file.

Landreth (2010), Baker (2010), Strachan (2010) and Harvey (2010), all agree that as District Commissioners in Nyasaland, they received no instructions from the Secretariat on the retention and disposal of non-current District Administration records. As we have learned, retention and disposal of the District Administration records was done unsystematically in the districts. Similarly, O&M found that 'no directions... [were] given to the Registry Clerks as to the custody and disposal of files

upon which action [had] been completed' (Nyasaland Government, 1959, p. 18). This resulted in the district office registries being clogged up with inactive files that were long overdue for either disposal or transfer to the archives for further preservation. For the first time, a policy on the systematic retention and disposal of District Administration records was recommended by O&M and later implemented by all the Provincial and District Administration offices.

Determination of the retention periods for district records was considered a task beyond the capability of the P&DA registry clerks, so that the task was assigned to the correspondence officers. The correspondence officers were required to classify the records, examine the contents of the files, determine the retention periods for all the files and then indicate the disposal instructions on newly designed file covers, as shown in Figure 5, below. Files that the office was unlikely to use again were to be marked in the Disposal Instructions box on the bottom right corner of the file cover indicating the date when the files would be sent to the Archives and signed by the correspondence officer. In the same Disposal Instructions box, the correspondence officers were supposed to indicate whether the files sent to the Archives were routine or policy ones. Routine files were to be disposed of by the Archives on particular dates that the correspondence officers were supposed to indicate. Policy and other important files were to be preserved indefinitely and indicated as 'P.A' [Put Away] in the box on the front cover. The proposed Standard Form of File covers were adopted and are still in use today.

Until the O&M's survey, the P&DA offices used file covers that were inadequate for permanent records. The files covers were made of flimsy manila, which led to quick wearing out of files and the spilling out of contents. Additionally, files for Confidential, Secret and Open correspondence were not differentiated. It was therefore recommended that standard file covers in two qualities (light manila with a flat on the right hand side and a stout manila with gussets in the spine and flap with linen strips reinforcing the insides of the gussets) should be supplied by the Government Printer. In order to distinguish between Confidential, Secret and Open subjects, green, red and plain manila files were to be introduced for Confidential, Secret and Open files, respectively. The two qualities of standard file covers and use of different colours for files to distinguish between Confidential, Secret and Open subjects as suggested by the O&M were adopted and are still in use in the Public Service today.

Although only the P&DA offices in the Southern Province were surveyed, the findings represented the situation in all the three Provinces, and O&M's recommendations for improving the record keeping systems were to be implemented by all the P&DA offices throughout the country. Among the procedures to be followed when reorganising the P&DA registry system were that: the Government Printer should make ample supplies of new files; copies of file lists or registers from all parts of the P&DA should be obtained and compared in order to extract a list of subjects by which all business of any P&DA could be described, and then a Master List of Key Words was to be published and distributed to all districts; all files upon which there had been no action for two years were to be despatched to the Archives; Correspondence officers were to be introduced in the new record keeping system; Registry Procedures Instructions were to be published by Provincial Commissioners

and distributed to all districts offices as standing instructions (Nyasaland Government, 1959).

4.3.5.1.3 Review and reorganisation of the Secretariat record keeping system

Apart from reviewing the Provincial and District Administration record keeping systems, O&M also reviewed the Secretariat Secret and Central registry systems in 1960 and 1961, respectively. The review of the Secret Registry system observed that 'the whole system [needed] a drastic overhaul ... which would provide a far more efficient service to the correspondence officers using the Secret Registry,'⁶² while that of the Central Registry concluded that it required 'radically reorganising' because in its 'chronic form,'⁶³ it had all the ailments of a registry system. Some of the problems that were identified by the review of both registry systems included: files bearing unclassified titles and numbered in the same sequence; outdated file indexes; and too many non-current files kept in the registry unnecessarily (for instance the Central Registry maintained 28,000 files, which should have been transferred to the Archives). A number of recommendations for improving the registry systems were put forward and implemented gradually. However, when the Secretariat system was replaced by a Cabinet system in 1964, some of the changes that were suggested or implemented after the O&M review had to be reversed.

⁶² NAM, OM/Secretariat/2, O. & M. Survey: Secret Registry, Secretariat March, 1960

⁶³ NAM, 8-1-6R/5235, 2/5/5 Organisation and Methods, Central Registry. Report on the Secretariat Central Registry, October, 1961

4.3.5.2 Exportation and destruction of public records

Following the departure of the last and only Governor-General, Sir Glyn Jones on 5th July 1966, records from the Secretary to the Governor-General were transferred to the National Archives of Malawi on 9th July 1966. The Government Archivist (John Drew) at the time noted that;

Many more files (such as Executive Council Minutes, correspondence concerning Dr. Banda, etc.) were sent to England, in spite of representations by myself to the Governor-General's Secretary, as it was felt that their contents were of an embarrassing nature and should not be seen by the Malawi Government.

However, at a later date (4/12/1967) another, nearly complete set of Executive Council Minutes from 1919 onwards turned up in State House and was presented to the Archives.⁶⁴

However, correspondence concerning Dr. Banda and others were not and have not been returned. If such records had been returned, it would interest researchers to learn about the Colonial rulers' views of Dr. Banda and other nationalist leaders during the agitation for independence.

While researching for his book in the National Archives of Malawi and National Archives of Zambia, Rotberg (1965) noted that whereas many categories of records from the Secretariat and other offices had been brought into the Archives for administrative and security reasons, the post-World War II sensitive files, a large proportion of the more important secret and confidential files, were not deposited in the Archives and had unfortunately been lost. Additionally, 'a number of unclassified files [had] been destroyed and/or removed from their repositories in Lusaka and

⁶⁴ NAM, NA/1/3/90A, State House Transmittal List

Zomba by the retreating colonial authorities.’ Rotberg (1965, pp. 325-6) goes on to state that

Elsewhere, when the British withdrew from their African colonies they characteristically destroyed a vast array of historically valuable material. In Kenya, sources on the emergency, and on recent history in general, fuelled bonfires; in Uganda, an entire room of secret and confidential files vanished on the eve of independence. In the period before the emergence of Northern Rhodesia and Nyasaland as Zambia and Malawi, British officials apparently denied to posterity the records of the 1959 emergency and, in large measure, the secret and confidential accounts that depicted the early growth of modern nationalist movement in both countries. Police Special Branch reports have, for the most part, also disappeared.

On the removal and exportation of records from the African colonies by the Colonial Administrators, John Thomson, the Foreign and Commonwealth Office (FCO) Sensitive Reviewer confirms that approximately 2,300 boxes of records were sent to the UK during the independence period from different territories and that out of this number, 19 contain Nyasaland files. An interesting development is that the FCO is now working on releasing the records to their respective countries of origin.⁶⁵

As noted elsewhere above, at first district records were not transferred to the Secretariat. Their transfer to the National Archives started in the early 1960s. During the transfer of power, indications are that the Secretariat instructed all District Commissioners to destroy all sensitive records (mostly generated by the Police Special Branch), that the Secretariat would not have wanted the Malawi Government to see. The following testimony from one British District Commissioner during the

⁶⁵ I am very grateful to Prof. Michael Moss for raising the issue of the repatriation of records from various colonies soon after independence to London, with the FCO. From his contacts with the FCO, I have been able to get in touch with John Thomson, to whom I am greatly indebted for generously providing this privileged information to me.

On 18th April 2012, more than 1,200 files of the migrated archives ‘were released at the National Archives in Kew, west London, the first of six tranches in a process due to be completed by November 2013.’ See *The Independent*, Wednesday, 18th April 2012.

transition period stationed at Port Herald (now Nsanje District) indicates that District Commissioners received instructions from the Secretariat to burn all sensitive records:

We received instructions from the Secretariat in Zomba that we should destroy all the sensitive files to avoid the new government seeing them. You should have seen the bonfire behind the DC's office at the *Boma* – the files were up in flames. I was personally there, the Police was there and other people gathered to see what was happening.⁶⁶

It would appear from this testimony that either the District Commissioners generated a large volume of political records, which caused a remarkable bonfire when set ablaze, or other records that the District Commissioners felt needed to be destroyed, were also set on fire. Whatever the case, the destruction of district records during the transfer of power created a permanent gap in the country's documentary sources for understanding Malawi's pre-independence history. It is likely that many people who played some part in the struggle for independence or who were thought to be informers of the Colonial Administration in the various districts, will remain forgotten by history since the records that identified them perished in fires at the DC's offices throughout the country.

4.4 Summary

The settlement in Nyasaland of British missionaries, traders and planters following Dr. Livingstone's discovery of the Nyasaland territory, the expansionist agenda of Portugal in Africa and the flourishing slave trade in Nyasaland, attracted the British government's attention to Nyasaland, which led to the declaration of a Protectorate over the territory in 1891. The developments leading up to the declaration of the

⁶⁶ Oral Testimony: Strachan, I, Perth, Scotland, 13th March, 2010

Protectorate and the functioning of the Colonial Administration up to 1964 had implications for record keeping. In the first place as Delmus (2011, p. xxvi) observes, 'the entrance of these [illiterate] populations within the written culture (by the signing of political treaties, the introduction of printed objects, literacy campaigns led by missionaries, the alphabetical fixation of indigenous languages, the epistolary correspondence with the colonial authority, etc) by no means implies the imposition of the uses and meanings attributed to the written word' by the Europeans. European presence in the predominantly oral societies had a lasting effect of transforming the societies into hybrid societies in that, while the societies still remained largely oral, they had embraced literacy.

In the second place, the establishment of the Colonial Administration marked the introduction of official government record keeping based on written records. Of particular interest in this regard were the Native Authorities as the lowest tier of the government set-up. The Native Authorities, composed of traditional chiefs and their councillors as was the case during the pre-colonial period, embraced record keeping as a means of documenting official business. Large collections of records in all Traditional Authorities across the country serve as evidence that traditional chiefs adopted record keeping after the colonial administration was established.

Thirdly, as the colonial administration developed, record keeping in Malawi developed too. The Federation of Rhodesia and Nyasaland resulted in the adoption of modern records management programmes in Malawi and in the establishment of the National Archives, while the review of records management systems as part of the decolonisation process, similarly led to important records management

developments, whose impact is still being felt today and will continue to do so in years to come.

Fourthly, the transfer of power from the British to the Malawian administrators led to the exportation of some sensitive records to London and the destruction of records held by the District Commissioners at the DC's offices throughout the country. Destruction of the records at the local DC's offices created a permanent gap in the country's documented history, while exportation of the records to London (migrated archives) has remained one of the topics that have discussed over the years in the East and Southern African region.

Chapter 5: The post-colonial administration and record keeping: 1964-1994

5.1 Introduction

This chapter will briefly discuss the British policy towards decolonisation in Africa and the emergence of nationalism as the two factors that led to Malawi's independence in 1964. The central focus of the chapter is a critical appraisal of how the administration of the Malawi Government under the one party (Malawi Congress Party - M.C.P.) regime affected different aspects of archives and records management. To what extent would the Malawian rulers and administrators maintain and build on the record keeping foundation that their predecessors had laid down? To what extent did the post colonial administration depart from the colonial archival and records management standards and practices? In order to address these questions, the chapter will discuss the following aspects: localisation of the public service and how the calibre of the new records personnel affected and still affects the quality of record keeping in Malawi; the omission of the record keeping standard from the Malawi Public Service Regulations in 1966 and its consequences on record keeping in the country; how the autocratic regime controlled the National Archives by frequently closing the institution, banning foreign researchers seeking to conduct research in the Archives, limiting researchers to a few research subjects and using the Archives for intelligence services; and wanton destruction of public records during the transition period to multi-party democracy. The chapter makes extensive use of archival and published material to obtain useful data for addressing the relevant research questions.

5.2 Some factors that led to independence

When Nyasaland was colonised in 1891, did the British intend to colonise it indefinitely and, if not, when would they grant independence to the Africans to rule themselves? Sir Hilton Poynton (1978, p. 20) former Permanent Under Secretary of State in the Colonial Office addressed this question by stating that 'the Colonial Office never liked trying to lay down any long-term or universal timetable' for independence. The fact that colonies in Africa gained their independence on different dates after 1945 meant that each colony was treated as an individual case such that once circumstances in the colony justified the grant of independence, that colony would become independent.

After the Federation of Rhodesia and Nyasaland had been imposed against the wishes of the Africans of the Southern Rhodesia, Northern Rhodesia and Nyasaland, Africans in Nyasaland used the Nyasaland African Congress (NAC), which later became a political party, to continue the fight against the imposition of the Federation. As an expression of people's frustrations with the imposition of the Federation and oppression of local communities by the European estate farmers, local people took part in widespread riots during 1953 in five districts of southern Nyasaland (Blantyre, Chikwawa, Mulanje, Thyolo and Zomba) led by local chiefs (Franklin, 1963; Jones, 1964). In the following years the Nyasaland African Congress intensified its mass campaigns country-wide against the Federation. Combined with an ill-advised campaign by the colonial government in favour of terracing of fields in the northern parts of the country, the NAC campaigns had charged up the whole country such that 'a violent national opposition to British rule appeared' (Jones,

1964, p. 125) in 1959 that resulted in the declaration of the State of Emergency. Reinforcements were brought into the country from the Federal capital in Harare to help restore law and order. As a result of the national disturbances, most of the NAC leaders were arrested. One of the findings of the commission of inquiry (the Devlin Commission), which the Colonial Office had instituted to investigate the 1959 national uprising against the government, was that 'opposition in Nyasaland to Federation was not confined to a small minority of political activists "on the make" but was wide spread among the population' (Monson, 1978, p. 26). By this time, the Nyasaland Africans were identifying themselves as one nation with a common enemy. This contrasts with the same people at the dawn of colonialism when they identified themselves with their own tribes and fought against the same perceived enemy as individual tribal governments. Because the tribe was the political unit of each tribal country', when the British power appeared on the scene, different tribes 'took the offensive ... individually, and individually they were crushed. The house, divided against itself, fell' (Duff, 1903, p. 197).

Kalinga (1998, p. 539) states that 'the zenith of nationalism' resulted in Malawi's independence. But was nationalism in Nyasaland a major factor that led to the country's independence? Jones (1964, p. 259) argues that 'events in Nyasaland did not themselves bring about this change' rather, it was the change in British policy which allowed nationalism to take root and that the most important factor was British tradition whose 'underlying assumption [was] that government ought to be by consent of the governed.' The statement of policy (*Reorganisation of the Colonial Service – Colonial No. 306*), which the Government of the United Kingdom published

in 1954, was in fact the 'government's declared policy of furthering advance towards self-government' (Younger, 1960, p. 4) in Africa.

Having been satisfied that the will of the majority of Africans was to be governed by their own leaders and having identified capable African leaders who could govern their countries – 'most colonies, particularly those in West Africa, had a number of extremely able men' (Poynton, 1978, p. 23) – the British were satisfied that power could safely be transferred to the Africans, hence the grant of independence. Sharing Jones' view, Poynton dismisses most people's views that the transfer of power in tropical Africa was a sudden revolution in British policy, which was forced upon a reluctant Imperial power by internal and international pressures after the second World War (Poynton, 1978). His argument is that the independence of tropical Africa was 'simply a stage in the evolutionary process already established elsewhere' (Poynton, 1978, p. 16). However, it should be recalled that after the Devlin Report, the Conservative government was under day-to-day pressure from Parliament because of troubled state of African affairs in Kenya and Nyasaland. As a result of these developments, the UK government adopted the 'doctrine of the criterion of lesser risk' (Monson, 1978, p. 27) by fast-tracking the independence process. Differing with the view shared by Jones and Poynton, Monson hesitates to say that the British Government was the pace-maker throughout the colonial period.

With the whole nation rising violently against the colonial government, suppressing the majority sentiments would lead to a more serious confrontation –'terrible bloodshed in Africa' (Monson, 1978, p. 24). While the Nyasaland Government was under pressure from the Africans, in Britain the Conservative government 'of the day

was under considerable day-to-day pressure in Parliament on African affairs, more especially after the Devlin Report on disturbances in Nyasaland' (Monson, 1978, p. 24). Ian Macleod the UK Secretary of State in 1959, was forced to admit that there had been 'a deliberate speeding up of the movement towards independence' (Monson, 1978, p. 24) arguing that 'for all the manifest dangers of moving quickly in Africa, the dangers of being too slow were greater' (Monson, 1978, p. 27).

To ensure that the handover of power to Africans was smooth and was conducted in a dignified manner, the British Government organised a series of constitutional and independence conferences. Visits by the UK government ministers, such as one by the UK Prime Minister Harold Macmillan to Africa at the beginning of 1960 and those by African nationalist leaders (for example Dr. Hastings Kamuzu Banda) to the UK were significant in that they afforded the leaders from both sides the opportunity to work collaboratively and not in opposition to each other towards the independence agenda (Jones, 1964). This approach which was adopted by the British Government was also important because it gave the African nationalist leaders the opportunity to achieve their ends more quickly than through armed or violent struggle outside the constitutional power (Monson, 1978). It was important for the nationalist leaders to cooperate fully with the colonial administrators in these crucial moments in order to have a cordial and dignified transfer of power because the new African leaders would still require the services of British experts after independence and would benefit from a minimum degree of economic upheaval.

The Nyasaland Constitutional Conference, which was held from 25 July to 2 August 1960 at Lancaster House in London, was an important step towards Malawi's

independence. Presided over by Ian Macleod the Colonial Secretary and attended by key representatives of all interested groups and political parties in Malawi, the Lancaster conference agreed on a new constitution, which provided for the new government to comprise the Governor, the Legislative Council and the Executive Council. The Executive Council was to consist of ten members, five official members and five non-official members, while the Legislative Council was to comprise twenty-eight elected non-official members and five official members of the Executive Council (Kadzamira, 1971; Pachai, 1973).

After the first general elections were held on 15 August 1961, out of the twenty-eight contested seats in the Legislative Council, Dr. Hastings Banda's M.C.P. won twenty-two seats, the United Federal Party won five seats and Colin Cameron who stood as an independent candidate won the remaining seat. In November 1962, another important constitutional conference took place in London at Marlborough House, where the programme for Malawi's internal self-rule was agreed. The Executive Council was to be replaced by a Cabinet, effective from 1 February 1963, and Dr. Hastings Banda was to become (which he did) the first Prime Minister from the same date. From 9 May 1963, the Legislative Council was to be renamed the Legislative Assembly, while the Cabinet was to cease to be advisory to the Governor except on such matters as public safety and order (Pachai, 1973).

A third constitutional conference, held in London in September 1963, agreed on a new constitution which provided for a fifty-three member (fifty elected African and three European members on a special roll) Legislative Assembly. The conference also agreed that the general elections should be held in April 1964 and that

Nyasaland should become independent on 6 July 1964. The April 1964 elections resulted in an overwhelming victory for the Malawi Congress Party, which won all the contested seats.

While the British policies indeed steered colonies on the independence route, it is fair to say that nationalism was the accelerator that propelled Nyasaland towards independence. It is doubtful that the country's independence would have been gained on 6 July 1964 had the Africans passively waited for the British Government to grant them independence.

5.3 The influence of the one party regime on archives and records management (1964-1994)

5.3.1 Africanisation of the public service

The colonial public service consisted of the European Civil Service Branch, to which the Europeans, belonged and the Native Civil Service Branch, under which the Africans worked. The two branches had very different remuneration packages and conditions of service (Adu, A.L., 1968). This parallel staff establishment system had to be dismantled and replaced with a new unified staff establishment. With the British expatriates set to leave after independence, Malawians were expected to take up the senior positions previously occupied by the British and, hopefully enjoy, the same privileges and status that their British predecessors used to enjoy (Adu, A.L, 1968).

Were Malawians qualified enough to occupy those senior positions and perform efficiently? It should be recalled that there were only thirty Malawians with University

degrees at independence in 1964. This meant that fewer than thirty Malawians occupying senior positions in the public service would be University degree holders. This was the dilemma in which the newly independent states in Africa found themselves because 'the political evolution in almost all dependent territories [tended]...to outstrip the speed at which the educational system [could] meet the new demand ... for routine administration ...and for the implementation of new and ambitious development plans' (Younger, K., 1960, pp.1-2). Although this was the case, independence could not be delayed until the Africans had been fully trained and prepared to take over the administration.

In 1962, with financial assistance from the British Government, the Institute of Public Administration was established at Mpemba in Blantyre 'to train local officers for the Administrative and Executive Services, to prepare law students for the Bar preliminary Examination and to mount a variety of short courses' (Baker, C.A, 1978, p. 166). The establishment of the Institute of Public Administration at Mpemba went some way to addressing the problem of lack of trained personnel for the new Malawi public service.

Kadzamira (1971, p. 86) states that 'between 1961 and 1962 Malawians had ably demonstrated their ability to manage the affairs of their own state' and that independence was a period when 'Malawi had entered a new era in which she was ready to face head-on the challenges of nationhood rather than be guided by outsiders.' The management of the affairs of the state by Malawian political leaders and public servants among other important aspects included record keeping in the public service. Over a period of seventy-three years of colonial rule in Nyasaland,

the colonial administration had laid solid foundations for record keeping systems at the Secretariat, within government departments and at the local administration levels, as demonstrated in the preceding chapter, upon which the Malawians were to build after gaining independence.

It is worth noting that due to the low literacy rates among the Malawians (the department of education had only been established in 1927 and basic education was provided by the missionaries both before and after this date), the few educated Malawians were employed mostly as clerks and messengers in the Native Civil Service of the colonial administration. The African clerks only assisted the European Officers and Clerks in carrying out some basic records management work, while the Europeans did most of the core tasks, apparently due to the incompetence of the African clerks. The Provincial Commissioners' conference of 1928 among other issues, had discussed at length the incompetence of the native clerks. The conference observed that it had 'become apparent that the Service [i.e. the Clerical Branch of the Native Civil Service] as a whole [was] carrying considerable dead weight in the shape of clerks who [were] quite inefficient in any category or capacity.'⁶⁷ Such was the calibre of the clerks that took charge of the registries in the public service when their European superiors returned home after independence.

In order to determine how this calibre of records managers had contributed to the state of record keeping in the public service a few decades after independence, we

⁶⁷ Central African Archives, S1/523/28 Conference of Provincial Commissioners, July 1928

should return to the picture which Thurston (in Kukubo, 1986, p. 225) painted of record keeping in the East and Southern Africa region in 1986:

...papers are misfiled or sent to the wrong action officers, ephemeral papers (many of which need never be registered) are mixed with policy papers on registered files, too many 'general' files are opened and files tend to run on for long periods (which delays their opening when they reach the Archives); files are allowed to become overfull and unwieldy (endangering the contents) and they often pass from office to office without movement control, which results in their being lost or misplaced and large numbers of temporary jackets being opened...

The situation which Thurston described in 1986 still existed in Malawi. In 2007 with financial support from the European Union Rule of Law Project, the National Archives of Malawi conducted a national records management survey. The survey aimed at assessing the state of record keeping in the country with a view to developing appropriate strategies for improved public service records management. During the survey, 193 public institutions, which included the District Assembly, Agriculture, Education, Forestry, Fisheries, Health, Immigration, Judiciary, Police, Prisons and Treasury Cashier offices in all the districts in the country except the cities of Blantyre, Lilongwe, Mzuzu and Zomba, were visited by the Archives survey teams. Some of the eight specific objectives of the survey were to appraise the calibre of records management personnel, to assess the overall quality of records management in each institution and to identify specific challenges faced by each institution in managing its records (National Archives of Malawi, 2010).

On the calibre of records personnel, the survey observed that different categories of staff were responsible for managing public records. These ranged from messengers, cleaners, clerical officers, copy typists/secretaries, senior clerical officers to other senior officers. Eighty-six institutions, representing 45 per cent of all the institutions

that were visited, had clerical officers as records personnel; forty-two institutions (22 per cent) had messengers who also doubled as cleaners, as institutional records managers; twenty-nine institutions (15 per cent) had copy typists or secretaries as institutional records managers; nineteen institutions (10 per cent) had senior clerical officers as institutional records officers and fifteen institutions (8 per cent) had executive officers managing public records (National Archives of Malawi, 2010). Where senior clerical officers and executive officers were managing records, it was on account of the lack of clerical officers to handle records management responsibilities and the sensitive nature of the records being handled by the institution. While the survey established that record keeping functions were carried out by very lowly graded personnel, it also established that the staff in question had no training in their work.

The survey observed the following record keeping shortfalls:

- (a) Due to the frustrations with the inefficiencies of the registries, senior staff in many institutions tended to create mini registries in their own offices where they maintained essential files. While this practice served the interests of the senior staff concerned, in that it afforded them easy and timely access to required files, it led to duplication of institutional records and caused some challenges in integrating the mini registry records into the institutional record keeping system when the senior staff left the institution through posting, retirement, resignation or death.
- (b) In 93 per cent of the institutions visited, high incidents of missing files due to poor filing and lack of file tracking systems were reported as one of the main

record keeping problems. In turn, this problem resulted in the existence of too many temporary files being created to replace the missing files.

- (c) Since 95 per cent of the institutions did not have records retention and disposal schedules in place, management of non-active records was a serious problem. Almost all the institutions had unmanageable accumulations of dormant files, both ephemeral and valuable, which were dumped on desks, in and on top of cupboards, on the shelves, on the floors, in the office corridors, in the ceilings, in storerooms and other warehouses. These records were in most cases neglected and prone to destruction by insects (such as termites, which in the particular case of one District Assembly in southern Malawi had turned a heap of dormant records in the warehouse into an anthill), rats, rain and other agents. To deal with the problem of management of dormant records, some institutions simply burned 'unwanted records.'
- (d) Many court registries in particular, resorted to bundling case files in bags with exhibit items such as Indian hemp and other oily substances when such files were still awaiting court proceedings. This factor contributed to the common problem of missing files, with the grave consequence of delay in determining court cases.

These and other record keeping shortfalls that the survey identified reflect the impact of the low calibre of records personnel and other factors in the public institutions located in district towns throughout the country. Due to logistical problems, the survey teams left out two small districts of Likoma Island and Neno. Even if these two districts had excellent record keeping systems in place, their status would not

change significantly the general poor standards of record keeping in Malawian public institutions.

In order to appreciate how the low quality of records personnel in the public service has affected the quality of record keeping in the public institutions based in the country's cities, reference should be made to two recent public procurement audit reports, commissioned by the Office of the Director of Public Procurement (ODPP) in Malawi.

In January 2009 the ODPP released a report on the findings of the procurement compliance assessment of public institutions in Malawi. The assessment was conducted by the American Procurement Incorporation Company, for fiscal years 2005/2006 and 2006/2007. One of the main areas of assessment was record keeping. This is because the Public Procurement Act (2003) requires that public institutions should maintain complete records of the procurement proceedings, including originals of bids received, and that such records should be available for inspection and audit. The assessment findings on 30 public institutions indicated that record keeping in the country is poor. A sample of the record keeping assessment on three important institutions indicates as follows:

Office of the Vice President: 'Record keeping is poor thereby making it difficult to trace a single procurement transaction as documents relating to a single procurement are neither kept in one file nor in one place' (ODPP, 2008, Annex 1, p. 66).

Ministry of Lands: 'Record keeping in the Ministry is poor thereby making it difficult to trace a single procurement transaction as documents relating to a single procurement are not kept in one file. On the other hand, procurement files are not complete in that some vital information is missing. Such information includes letter of award of contract, evaluation report, among others.' (ODPP, 2008, Annex 1, pp. 53-54).

The Immigration Department: 'record keeping is a major problem in this entity ... Records were missing for most of the procurement transactions, and where the records exist, they are not properly filed or kept in an orderly manner. Currently, the Department cannot trace records relating to the Financial Year 2006/07' (ODPP, 2008, Annex 1, p.6).

The following institutions: Malawi Housing Corporation; Thyolo District Assembly; Blantyre District Assembly; Copyright Society of Malawi; Civil Service Commission; Lilongwe Agricultural Development Division; Teachers Service Commission; National Research Council; Rumphi District Assembly; Regional Mechanical Engineer (North); Ntchisi District Assembly; Ministry of Water and Irrigation; Lilongwe Teachers Training College; Marine Department; Dowa District Assembly and National Road Safety Council of Malawi, had similar assessments:

Record keeping is poor thereby making it difficult to trace a single procurement transaction as documents relating to a single procurement are neither kept in one file nor in one place.... However, the manner in which [the institution] keeps its records, it is very unlikely that these documents can last for five years without being torn or indeed lost (ODPP, 2008, Annex 1).

Out of the thirty public institutions that were assessed, six (College of Medicine; National Lotteries Board; Smallholder Fertilizer Revolving Fund of Malawi; Airport Development Limited; Pharmacy, Medicines and Poisons Board; and Ministry of Women and Children Development) representing just 20 per cent of all the institutions surveyed, were awarded a positive assessment for their record keeping.

In 2011 the Malawi Government, through the ODPP, commissioned SGS, a Swiss Consultancy firm, to undertake a Procurement Audit in fifty public institutions for fiscal years 2007/2008 and 2008/2009. Out of this number, thirty institutions had been covered by the 2008 Procurement Audit conducted by the American

Procurement Incorporation Co, leaving twenty still to be covered. The overall audit assessment of a public institution was based on the following assessment areas: filing; advertising and selection procedure; pre-qualification; bid opening; bidding documents; bid contract evaluation; the contract; contract implementation; payment; transparency of the process; follow up and supervision of the public entity; ODPP supervision; general transparency; and physical inspection (SGS, 2011). The first one of these aspects was filing, in which the audit sought to establish the availability of all procurement documents in the files and the adequacy of the public institutions' filing system.

The reason for including the thirty public entities previously audited in 2008 in the 2011 audit review was to assess their progress in implementing the recommendations of the 2008 audit. As a result of general poor record keeping in the public service, the common recommendation after the 2008 procurement audit review was that public entities should ensure that proper records management for all procurement documents was in place in line with the provisions of the Procurement Act (2004).

The findings of the August 2011 Procurement Audit review indicated that out of the thirty public institutions that were previously audited in 2008, only one was assessed positively on the record keeping aspect. Its filing system was adjudged 'generally neat and well ordered' although it did not capture all information relating to a single contract (SGS, 2011, p. 36). Interestingly, this institution, the Airport Development Limited, was one of the six public institutions that were assessed positively on the record keeping aspect in 2008. Out of all the fifty government institutions, only four (Airport Development Limited, Northern Region Water Board, Privatisation

Commission and the Smallholder Farmers' Fertilizer Revolving Fund of Malawi) had either fair or good record keeping systems; twenty-three had poor or very poor record keeping systems; and twenty-three could not be audited at all because of either non-availability of documents or the institutions concerned were not able to retrieve some or all the documents for the auditors to inspect. The Electricity Supply Commission of Malawi (ESCOM), for instance, failed to provide the auditors with a single file in relation to the 2008/09 procurement transactions for the year valued at MWK 1,263,740,242 (approximately US\$9 Million) because no records could be traced.

Similarly, the audit failed to take place at the Ministry of Agriculture involving procurement transactions worth a sum of MWK 10,652,812,595 (approximately US\$76 million) because the officer who was responsible for record keeping had reportedly retired some six weeks prior to the audit and no one could open the office since the retired officer had taken the office keys with him (SGS, 2011, p. 16).

Out of the nine recommendations made in the 2011 Procurement Audit Report, the first one, a top priority for the ODPP, is 'to ensure that all entities have complete, accurate and up to date information at all times' (SGS, 2011, p. 16). In view of the fact that all but four of the fifty institutions audited had very serious problems with filing, the second priority recommendation of the Report was that the ODPP should ensure that public entities do something in order to maintain good filing systems (SGS, 2011).

The serious record keeping shortfalls in the public service, which the 2008 and 2011 procurement audits have uncovered, confirm how the low calibre of records personnel and a range of other factors in the Malawian public service negatively

impacts on the quality of record keeping. Self-evidently, poor record keeping makes transparent and accountable use of public resources difficult, which in turn provides a favourable environment for corruption to flourish.

5.3.2. Repeal of the Nyasaland Orders and establishment of the Malawi Public Service Regulations

From 1930 when the Nyasaland Protectorate General Orders first came into force, record keeping in the civil service was regulated by these General Orders. The specific sections of the General Orders that regulated the management of records in the public service were Orders 190-232. Order 220 (e) defined records as 'all books, ledgers, papers, vouchers and all other documentary materials made or received by a Government Department and kept by that department for its own information' while the term 'Department' was defined as any government office (Nyasaland Government, 1954). Order 220 (a) prohibited the destruction, mutilation or damage by any unauthorised person, of any public records without following instructions issued by the Governor.

Orders 190-232 outlined detailed steps for managing public records systematically from classification, creation, use, preservation and disposition. They stipulated the steps to take in order to protect government records whilst in the custody of any Department and when and how to hand over non-current records to the National Archives. Additionally, the Orders prohibited deliberate destruction of government records by any officer while each head of Department was required to ensure that no aspect of the General Orders was violated by his officers.

As part of the localisation of the public service after independence, the new Malawi Government repealed the Nyasaland Protectorate General Orders. Instead, new regulations, the Malawi Public Service Regulations (M.P.S.R), which came into operation on the 15th June 1966, were introduced and distributed to all government ministries and departments.⁶⁸ To date, the Malawi public service is regulated by the M.P.S.R and circulars from the Office of the President and Cabinet (O.P.C.), along with circulars from the Public Service Management Department (until 2010, the Department of Human Resource Management and Development) that are issued from time to time. While the M.P.S.R were a renaming and revision of the Nyasaland Protectorate General Orders to reflect the newly independent nation, an important provision similar to the Nyasaland General Orders 190-232 covering all aspects of records management in the public service was omitted. All the amendments to the M.P.S.R from the 1966 edition to the current 1988 edition have excluded any provision for records management.

The omission of the records management provision from the M.P.S.R effectively meant doing away with the policy guidelines and standards for the management of public sector records, and sadly, the situation has remained the same since 1966. One hypothesis that could explain this grave omission is that the Malawian administrators in the newly independent state did not fully appreciate (and it can still be argued that up to present Malawian policy makers are yet to fully appreciate⁶⁹)

⁶⁸ NAM, 16-6-2R/10893, Ref. No. CED/104/1/1 From the Establishments Secretary to the Secretary to the Governor-General regarding the Malawi Public Service and Malawi Service Regulations (General Orders)

⁶⁹ See Lihoma, P. (2008) 'Situation of archives in Africa: the case of National Archives of Malawi', *African Research & Documentation*, 106; pp. 3-11. A case is cited of a Principal Secretary responsible for the National Archives who, when presented with a position paper on the situation of record keeping in the Malawi public service, responded with comments: What is this all about? Waste of stationary! The same senior officer ordered cancellation of a planned Records Management workshop organised by the National Archives for public service records personnel, for fear that the Archives would misappropriate the funds received as workshop fees.

the value of good records management to the public service. Because of their low perception of good record keeping, the early Malawian administrators might not have considered records management as an aspect worth incorporating in the M.P.S.R. This perception, which still exists today, has contributed to the generally low standard of records management in Malawi (Lihoma, 2009).

As a result of the omission of the records management policy guidelines from the M.P.S.R, the responsibility for the management of public records is placed with registry personnel of the clerical officer grade (general duties). The clerical officer is the lowest position in both the administrative and technical hierarchies in the Malawian public service. The clerical officers are mandated to manage public records by their job descriptions. Specific aspects of records management in the job descriptions for clerical officers are opening files, maintaining in-coming and outgoing mail register, dispatching official mail, tracking movement of files and filing documents.⁷⁰ Due to the lack of records management guidelines and standards in the public service, no one can be held accountable to the Chief Secretary for handling records improperly. Importantly, clerical officers as public service records officers and other staff who manage records such as messengers/cleaners and copy typists/secretaries, manage public sector records without following any specific guidelines or standards.

In his 2006 Memorandum, circulated to all Principal Secretaries and Controlling Officers and copied to all Cabinet Ministers, the Chief Secretary expressed concern over the lack of care and attention, and the declining standards in the preparation of

⁷⁰ Department of Human Resource Management and Development, 'Clerical Officer (CO): Duties,' Ref. No. HRMD/4/1/49A/Vol.I/(223), 28th July 2003.

official documents such as memoranda, reports and letters by Government ministries, departments and institutions.⁷¹ Apparently, this resulted from non-availability of guidelines and standards to help the Government ministries, departments and institutions to follow and apply in the preparation of official documents. Such guidelines and standards were specifically incorporated in the Nyasaland Government General Orders, and because they were strictly adhered to by all Government departments then, no concern for declining standards in the preparation of official documents was ever expressed by the Chief Secretary. As a way of dealing with the problem, which the Chief Secretary noted in 2006, all the Principal Secretaries and Controlling Officers were advised to ensure that the integrity of official documents was maintained in their various institutions and warned that the Government would consider it a serious disciplinary matter against any Principal Secretary or Controlling Officer if the integrity of official documents in the ministry, department or institution, continued to be undermined.

However, in a 2010 Memorandum to all public institutions, the Chief Secretary noted that Government ministries and departments were losing important official records due largely to deliberate criminal destruction and destructive behaviour by some officers and that this led to permanent loss of public information.⁷² The 2007 national records management survey by the National Archives also found that some officers in the district government offices made unilateral decisions to destroy official records (National Archives of Malawi, 2010). This problem could also be attributed to the

⁷¹ OPC Circular Ref: No. 20/01/4, from the Chief Secretary to all Principal Secretaries and Controlling Officers, on the integrity of official documents, 21st August, 2006

⁷² OPC Circular Ref: No. CS/S/001, from the Chief Secretary to all Principal Secretaries and Heads of Departments, copied to the Commander of the Malawi Defence Force, the Inspector General of the Malawi Police Service, the Registrar of the High Court of Malawi, the Auditor General, the Accountant General, the Director of Information Systems and Technology Management Services and the Director of Archives, on the subject of protection and preservation of important Government records, 29th April, 2010.

exclusion of record keeping regulations and standards from the M.P.S.R at the time when the M.P.S.R replaced the Nyasaland General Orders.

The lack of record keeping guidelines was evident in the 193 Government institutions that were visited by the National Archives in 2007. Ninety-five per cent of the government departments indicated that the lack of knowledge of and guidance on the management of non-current records was the reason behind huge accumulations, and in many cases, the destruction of dormant records. Seventy per cent of the departments visited had serious problems with their filing systems, and this resulted in missing files and creation of mini registries by some senior officers in their offices that has already been mentioned.

Acknowledging the lack of guidelines in the public service as one of the causes of poor record keeping in the fifty public entities audited in 2011, the Public Procurement Audit Report of that year recommended the development of extensive and detailed filing guidelines. Such guidelines should clearly categorise records, explain how such records should be filed (e.g. chronologically or otherwise) and how and where the records should be archived for permanent preservation (SGS, 2011, p. 16).

As pointed out earlier in this section, lack of appreciation of the role of good record keeping in efficient and effective public service delivery might have led the early Malawian administrators to remove the record keeping regulations from the M.P.S.R soon after independence. This factor was also evident during the 2007 national records management survey. Ninety-five per cent of the departments visited reported and indeed explained that lack of commitment and involvement of senior officials in records management work was the primary challenge that led to other problems. For

instance, departmental records officers lacked supervision for their work, no budgets were provided for record keeping, while assignment of record keeping duties to staff of very low morale and rank and the absence of training for the records officers were the norm (National Archives of Malawi, 2010, p. 15).

An independent view of how the Malawi Government considers record keeping was provided by the Delegation of the European Union to Malawi in 2002. The European Union had observed that 'the GOM [Government of Malawi] does not consider the function and potential contribution of the National Archives as an area for development. This is very unfortunate because the records that are under the custody of the National Archives are part of the administrative machinery' (European Commission Delegation to Malawi, 2002, p. 51). It would appear that the attitude towards record keeping which the Malawi Government had adopted immediately after independence has been maintained to the present day, and its effects on record keeping and by extension accountability in the country are generally negative.

5.3.3 Government control and virtual closure of the Archives

Independence and particularly the autocratic one party rule led to the government's strong control over the National Archives. Prohibitive access conditions were imposed; the National Archives was frequently closed; foreign researchers were in most cases barred from accessing archival material from the National Archives; and the Government stipulated the nature of research subjects that could be pursued at the Archives. All these practices were a departure from the colonial and Federal Governments' practices on access to public records by researchers and other members of the general public.

As we have seen during the colonial period, official records of all colonial territories conformed to the general rules that governed access to Colonial Office records in the United Kingdom.⁷³ When the fifty-year rule for public access to official records was introduced in the United Kingdom by the Public Records Act 1958, replacing the sixty-year rule, the Secretary of State for the Colonies instructed the Governor of Nyasaland to apply this rule to the records of Nyasaland with effect from 1st January 1958. Importantly, the Governor was advised that the fifty-year rule would not preclude the grant of access to records of a later date in exceptional circumstances, such as where official interest had clearly been indicated.⁷⁴

Official government records were first generated in 1891 following the establishment of the colonial administration in Malawi. Operating under the sixty-year rule, public access to government records started in 1951. Until January 1959 when the new fifty-year access to public records rule was introduced, the records of the Nyasaland government that could be accessed by researchers were those from 1891 to 1898.

Access to public records was either ordinary or special. Through ordinary access to public records, researchers could consult public records that were more than sixty-years. From 1959, the period was reduced by ten years, which meant that people could have access to public records, which were fifty years old or more. All records that had passed the closure period of either sixty or fifty years were freely made accessible to researchers. After 1951 when government records were opened for public access, the Nyasaland Government granted access to all who had applied for access to the government records held in the Regional Archives in Nyasaland, which

⁷³ Colonial Office, Ref.: EOD 113/173/016, Circular No. 1345/58. From Alan Lennox-Boyd the Secretary of State for the Colonies, to the Governor of Nyasaland on the question of public access to official records, 12th December, 1958

⁷⁴ Ibid

was later to become the National Archives of Malawi.⁷⁵ This type of public access to government records was normally straightforward, such that once an application was submitted to the Secretariat, within a short period of time the application was approved and permission to consult the records was granted to the applicant.

The second type, special access to government records, involved access to records that were within the closure period of fifty-years. The process of accessing this type of records was a long one. A researcher had to submit an application specifying the records to be accessed and the reasons for accessing those records. The application was submitted to the Records Committee, which scrutinised it. The Records Committee in turn forwarded the application to the Chief Secretary together with its recommendations. If he so wished, the Chief Secretary would then obtain the permission of the Colonial Office, following instructions of the Secretary of State for the Colonies to the Governor in Nyasaland in 1958. When the closure period was sixty years, the Colonial Office advised the Nyasaland Depot of the then Central African Archives on the mechanics of granting special access to records that had not yet attained a sixty-year period. Once the Colonial Office had sanctioned access to government records of a later date, the following was the procedure:

- (a) The Responsible Officer of a Department dealing with the subject was to scrutinise the material in question.
- (b) If the material asked for was too extensive, a bar was to be imposed. In this case, the request was to be considered further only if it was of such outstanding importance as either to justify the Department allocating an officer

⁷⁵ NAM, 18-5-2R/14801, Access to Public Records

for whatever time the scrutiny would take or to justify recognising the enquiry as 'officially sponsored' and providing always that the researcher was personally accepted.⁷⁶

Once special access was granted, and before the material was consulted, the Colonial Office instructed that the researcher was to sign an undertaking to obtain official approval before publishing, at any time in the future, any information derived from his privileged access. Staff of the Archives assisting the researcher was to ensure that only the approved material was consulted.

Although only two requests for access to government records that were less than fifty years old were turned down,⁷⁷ all other requests for special access were granted and all requests for access to records that were older than fifty years were granted, between 1951 and 1963 when Europeans were administering Malawi.

5.3.3.1 Prohibitive access conditions

When Malawians were in control of most aspects of the government affairs after gaining independence in July 1964, the situation in the National Archives changed. The Archivist for Malawi, J.D.C. Drew, described the situation in August 1964 as 'a pity ... [because] Archives [was] no longer the quiet backwater it used to be.'⁷⁸ After the ministerial system was introduced in 1961, the Department of Archives was placed under the Ministry of Home Affairs. By 1964, the Home Affairs Minister was

⁷⁶ NAM, 18-5-2R/14801, Access to Public Records. Instructions from the Colonial Office to the Central African Archives Nyasaland Depot, on the mechanics of special access to public records, 14th May 1951.

⁷⁷ NAM, 1/5, Access to Public Archives (Communication from the Deputy Archivist to R.A. Hamilton, 10th January 1951, and communication from the Chief Secretary to G. Shepperson, 31st July 1952). In 1951 R.A. Hamilton's application to consult records that were less than 50 years old in 1951 was rejected by the Chief Secretary, while in 1952, G. Shepperson's application was also turned down for the same reason as that of R.A. Hamilton

⁷⁸ NAM, 18-5-2R/14801, Access to Public Records. Correspondence from the Archivist for Malawi to a researcher Dr. J. van Velsen, 4th August 1964.

showing increasing interest in the National Archives to the extent that some strict conditions for accessing public records were imposed. All records that were within the fifty-year rule were now precluded from special access by researchers. This was contrary to the advice of the Secretary of State for the Colonies to the Governor of Nyasaland in 1951 and the practice during the colonial period. Instead, only those records that were more than fifty years old could be accessed. Although this was the case, the Government adopted a much stricter line about the inspection and publication of even these records.⁷⁹

Once permitted to access the archival material, a researcher was required to sign a declaration to submit a copy of a whole book or article for ministerial pre-publication approval. After the approval was granted, a rather difficult condition was that when published, the book or article was to be sent to the Minister before it was released to the general public. This condition was difficult to meet because not all the researchers who conducted research in the National Archives and had their works published were the sole authors of books: many were contributors. Additionally, the researchers who contributed book chapters with research material from the Archives had no control over dates of publication and distribution as these were entirely within the province of the publishers. In the particular case of Dr. van Velsen who conducted research in the National Archives and authored a book that was published at the beginning of 1964, he received copies of his own book more than a month after it had reached the bookshops and the reviewers.⁸⁰ Despite the difficulties faced by researchers in meeting the condition to submit published books to the Minister

⁷⁹ NAM, 18-5-2R/14801, Access to Public Records. Correspondence from the Archivist for Malawi to a researcher Dr. J. van Velsen, 2nd September 1964

⁸⁰ NAM, 18-5-2R/14801, Access to Public Records. Correspondence from Dr. J. van Velsen, researcher, to John Drew, Archivist for Malawi expressing his difficulties over the distribution of his book, 29th August 1964

before they were released to the public, the Minister was 'quite adamant about seeing copies of books before anyone else.'⁸¹ Failure to meet this tough condition automatically precluded the researchers concerned from future research in the National Archives and rendered them liable to prosecution by the Malawi Government.⁸²

In enforcing the strict condition for researchers to submit manuscript copies of their books and journal articles for ministerial pre-publication approval and submission of copies of the published books and journals to the Minister before their release to the public, the Government wanted to ensure that whatever was published by researchers who had consulted public records was thoroughly censored so that nothing offensive about the Government was ever published. The other reason for government's insistence on researchers seeking ministerial pre-publication approval, it can be argued, was for the Government to usurp researchers' work for its own credit. In 1962, for instance, Dr. R.I. Rotberg, an Assistant Professor of history at Harvard University, was granted permission to conduct research in the National Archives for his book on African nationalism. Dr. Rotberg had worked diligently for many months on his research project. As part of this project, Dr. Rotberg had submitted an application for ministerial approval to be allowed to publish his version of Mwase's biography of John Chilembwe. When the approval was granted,⁸³ Dr. Banda (then Prime Minister) supported Dr. Rotberg's research in person and in correspondence such that many sections of the Government were fully aware of his

⁸¹ NAM, 18-5-2R/14801, Access to Public Records. Correspondence from John Drew, Archivist for Malawi to Dr. J. van Velsen, researcher, 2nd September 1964

⁸² NAM, 18-5-2R/14801, Access to Public Records. Correspondence from John Drew, Archivist for Malawi warning Dr. R.I. Rotberg, researcher, on the consequences for not strictly adhering to the conditions of access to archival material in the Archives, 5th November 1964

⁸³ NAM, 1/5 Access to Public Archives. Letter from the Archivist for Malawi to Dr. Rotberg, conveying the minister's approval for Dr. Rotberg to prepare his version for publication, 22nd December 1964

work on the Mwase narrative of John Chilembwe.⁸⁴ However, when the pre-publication approval was applied for after many months of hard work and at great personal sacrifice, 'the Prime Minister categorically refused Rotberg permission to publish his edition of Mwase.'⁸⁵ The reason was that the Government proposed to have Mwase's biography of John Chilembwe published as part of literature that was being produced in connection with the Republic celebrations in 1966 and that arrangements for publication of the biography had already been made by the Malawi's Department of Information.⁸⁶ If the Government had intended to publish its Mwase edition and did not want to appear to usurp Rotberg's work, it should have asked Rotberg to cease his work on the same project several months earlier. Instead, the Government rejected Rotberg's application for publication and went to publish its own edition of the work on which Rotberg had devoted much time and effort.

In 1964, another requirement was introduced for researchers wishing to conduct research in the Archives. Those whose applications had been provisionally accepted were required to appear before the Minister of Home Affairs for interviews.⁸⁷ In order to secure an appointment for an interview with the Minister, researchers had to exercise patience given the busy schedules of the ministers. Some researchers, (mostly foreign ones since a few local researchers only started using the Archives in the early 1970s) who might not have had enough time to wait until the Minister was

⁸⁴ NAM, 1/5 Access to Public Archives. Letter from Dr. Rotberg to H.G. Graham-Jolly, the Secretary for Local Government, protesting against government's rejection for the former to publish his version of Mwase's biography of Chilembwe, 17th February 1966

⁸⁵ NAM, 1/5 Access to Public Archives. Letter from John Drew, Archivist for Malawi to Dr. J. van Velsen, 15th March 1966

⁸⁶ NAM, 1/5 Access to Public Archives. Letter from H.G. Graham-Jolly, the Secretary for Local Government to Dr. Rotberg, conveying government's rejection for Rotberg to publish his work on Mwase, 11th February 1966

⁸⁷ NAM, 1/5 Access to Public Archives. Letter from John Drew, Archivist for Malawi to T.A. Coombe, explaining new procedures for accessing government records, 3rd September 1964.

free to grant them an interview, abandoned their research plans and looked elsewhere.⁸⁸ Others might have been put off by this condition, viewing subjection to an oral interview with the Minister as simply intimidating; after all it was not guaranteed that after the interview permission to conduct research in the Archives would be granted. These conditions adversely affected research in the Archives because 1964 was a difficult political year. After the Cabinet Crisis of August 1964, there was no Minister of Home Affairs for many months to replace Yatuta Chisiza. In the absence of a Minister, no research in the Archives could be authorised.

When responsibility for the National Archives was transferred from the Home Affairs Ministry to the Ministry of Local Government in 1966, the Secretary for Local Government wrote to the Archivist for Malawi, advising him that authority to grant permission for researchers to access public records had transferred to His Excellency the President.⁸⁹ Until 1994, the President was also responsible for granting pre-publication approvals to researchers who had undertaken their research in the Archives. Assumption of these responsibilities by the President introduced even tougher research procedures. Before reaching the President, any research application had to be scrutinised by a three-member committee comprising a well-known public figure, a representative from the Ministry of Justice and another representative from the security forces.⁹⁰

⁸⁸ NAM, 1/5 Access to Public Archives. Letter from T.A. Coombe to John Drew, Archivist for Malawi, communicating his plans to abandon his research in Malawi after seeking best advice available in Lusaka, 16th October 1964

⁸⁹ NAM, 1/5 Access to Public Archives. Communication from the Secretary for Local Government to the Archivist for Malawi, 12th September 1966

⁹⁰ NAM, 1/5 Access to Public Archives. Memo from H.G. Graham-Jolly, Local Government Secretary to Secretary for Education, Secretary to the President and Cabinet, University Registrars and the Government Archivist, regarding the new research procedures, 29th May 1968

The primary function of this committee was two-fold: 'to screen rigorously all persons applying for access to closed files in order to prove that they [had] not been engaged at any time in political activity [and] that their researches [would] be of palpable benefit to Malawi as well as to themselves.'⁹¹ The committee's recommendations were submitted to the Minister of Local Government, who in turn forwarded the application and the committee's recommendations to the President. The President's final decision on any research application was in three categories: (1) he allowed the application; (2) he required the applicant to appear before him for further interrogation; and (3) he rejected the application altogether. Where researchers had been summoned to appear before the President, it was not automatic that the permission would be granted. In 1969 alone, the President refused Dr. B. Pachai and Professor G.W. Smith permission to conduct research in the Archives after the two had appeared before him for further interrogation.⁹²

Once a researcher had finally been cleared by the Government to conduct research in the Archives, further conditions were laid down. These included listing all the files that were to be consulted, reading one file at a time, and only in the presence of the national archivist, and submitting a draft of whatever article he/she produced using source material from the Archives.⁹³ Failure to adhere to these strict conditions resulted in some serious consequences for researchers and especially for their referees at the University of Malawi.

⁹¹ NAM, 1/5, Access to Public Archives. Letter from the Archivist for Malawi to John McCracken, explaining the reasons for the tough procedures for access to public records, 6th February 1968

⁹² NAM, 1/5, Access to Public Archives. Letter from the Archivist for Malawi to Prof. Gordon W. Smith, regarding Prof. Smith's rejection by the government to conduct research in the Archives, 30th September 1969

⁹³ NAM, 1/5, Access to Public Archives. Letter from the Local Government Secretary to the Archivist for Malawi advising the conditions for approved researchers to conduct research in the Archives, 2nd January 1969.

5.3.3.2 Frequent closures of the National Archives

From 1965 to 1993, the National Archives was closed on a number of occasions each of varying duration, for different reasons as the President saw fit and directed accordingly. These closures affected researchers and other interested users of the National Archives in different ways.

The first reason for the frequent closure of the Archives was the fact that after independence, the Prime Minister (later from July 1966, the President), was reluctant to localise the public service immediately. Due to lack of trained and experienced Malawian professionals, localisation of the public service was done gradually and as such, several British experts were retained in the public service until the mid-1970s. For this reason, the National Archives was headed by a Briton, Mr John D.C. Drew from 1964 up to 1974. Although Mr Drew was deputised by a Malawian and was the only European in the National Archives between 1964 and 1974, the President considered him as the only officer who could be trusted with the management of the Archives. This being the case, 'the President stipulated that no research workers should be allowed to use the Archives during the absence of [Mr Drew] the Head of Department.'⁹⁴ The President's directive prevented the National Archivist from proceeding on his annual holiday overseas every year. Instead, Mr. Drew enjoyed an accumulation of leave days of several months to cover for the years in which he had forgone or would forgo his annual holidays. Because of the President's directive, the National Archives was closed to all research workers on the following dates:

⁹⁴ NAM, 2/1/7, 8-17-1AR/40589, Archives Administration: Access to Public Records. Letter from J.D.C. Drew, the Government Archivist, to the Local Government Secretary, 20th September 1972

between May and July 1965;⁹⁵ between July and October 1966;⁹⁶ and between April and September 1972,⁹⁷ when Mr. Drew was away on holiday overseas.

Besides the annual holidays, when the National Archivist was away from his post for any official business either in the country or outside the country, the Archives were under the President's instructions to be closed to all research workers. In this regard, Mr. Drew was supposed to inform the President about the specific dates when he would be on official duty away from the office so that the Archives could be closed to researchers during that period.⁹⁸

For over a period of twenty months between 1967 and 1968 and without any exceptions, the National Archives was closed to all researchers on the President's orders. The closure resulted from Robert I. Rotberg's publication in 1966, of *The Rise of Nationalism in Central Africa: the making of Malawi and Zambia 1873-1964*. After Rotberg had had his research work on the Mwase biography of John Chilembwe hijacked by the Malawi Government, which went on to publish this work but refused him permission to publish in his own name, Rotberg did not consider it wise to seek Government's pre-publication approval for his book. When the book was published without Government's pre-publication approval, the Prime Minister was so furious with Rotberg that the book was declared prohibited publication in

⁹⁵ NAM, 1/5, Access to Public Archives. Letter from the K. M. Mtapiko, the Deputy national Archivist to Dr. B.S. Krishnamurthy, concerning the closure of the Archives, 31st May 1965

⁹⁶ NAM, 1/5, Access to Public Archives. Letter from the Archivist for Malawi to J. McCracken, informing the latter that the Archives would be closed from 1st July to October while the former was away, 4th April 1966

⁹⁷ NAM, 1/5, Access to Public Archives. Memo from the Government Archivist to the Prof. B. Pachai, head of the History Department at Chancellor College, informing members of the History Department and any other interested persons about the closure of the Archives, 7th April 1972

⁹⁸ NAM, 1/5, Access to Public Archives. Letter from the Local Government Secretary to the Archivist for Malawi advising the conditions for approved researchers to conduct research in the Archives, 2nd January 1969.

Malawi. As prohibited material, it was a criminal offence to import or possess Rotberg's book, and Rotberg himself was declared a prohibited immigrant.⁹⁹ The Government had cited failure by Rotberg to seek pre-publication approval as the reason for declaring his book prohibited material and declaring the author a prohibited immigrant in Malawi. Moreover, the Secretary for Local Government confidentially wrote to the Commissioner of Police informing him about Rotberg and asking him to take appropriate action against Rotberg because of the critical remarks against the Malawi Government that were contained in the book's postscript.¹⁰⁰

Some statements contained in Rotberg's postscript (1966, pp. 317-321) indicated that Dr. Banda treated his cabinet ministers as if they were schoolchildren as evidenced by his often reference to them as "my boys"; that Dr. Banda made virtually all the decisions affecting the state and the party; and that Dr. Banda had an autocratic grip on the affairs of the newly-independent nation. These and other statements annoyed Dr. Banda so much that besides banning the possession and importation of the publication into Malawi and prohibiting Rotberg from entering the country again, the National Archives, where Rotberg had conducted his research, was declared closed on 5th March 1967. The closure was meant to prevent researchers both local and foreign, from accessing any document whether primary or printed material, from the Archives.¹⁰¹ The Archives remained closed until 22nd November 1968, during which period only a few Malawi civil servants and persons doing research on behalf of the Malawi government were permitted to have access

⁹⁹ NAM, 1/5, Access to Public Archives. Letter from the Archivist for Malawi to Dr. J. van Velsen, 15th March 1966

¹⁰⁰ NAM, 1/5, Access to Public Archives. Memo from the Secretary for Local Government to the Commissioner of Police and copied to the Secretary to the Prime Minister and the Archivist for Malawi, 15th March 1966

¹⁰¹ NAM, 1/5, Access to Public Archives. Letter from the Archivist for Malawi to Dr. J. van Velsen, 7th March 1967

to public records, while staff and students of the University of Malawi, other local and foreign researchers were barred from accessing the services of the Archives.

On 31st May 1993, the Government issued a ministerial decree that came into force on 1st June 1993, suspending all research services of the National Archives (National Archives of Malawi, 1993). While the decree was in force, the Government Archivist was advised that 'members of the public should not use the Archives under any circumstances whatsoever.'¹⁰² The directive to close the National Archives to the general public was issued without consulting either the Government Archivist, who is responsible for managing and directing the Archives, or the National Archives Advisory Council, whose primary objective is to advise the responsible Minister on the running of the National Archives.¹⁰³ The ministerial directive explained that the closure of the National Archives had been necessitated by the need to 'physically check whether any items (documents) were missing from the buildings' (National Archives of Malawi, 1993). However, when confronted by the concerned members of the Academic and Library Staff of the University of Malawi's Chancellor College, the Minister of Education and Culture explained that the closure of the Archives was effected in order 'to carry out routine checks which usually [resulted] in fumigation of buildings and contents to get rid of pests that [were] the usual uninvited guests to such facilities.'¹⁰⁴

¹⁰² NAM, NA/2/1/7/Vol. IV, Access to Public Records. Letter from the Secretary for Education and Culture to the Government Archivist, 31st May 1993

¹⁰³ NAM, NA/2/1/7/Vol. IV, Access to Public Records. Confidential letter from the Government Archivist to the Secretary for Education and Culture, 22nd November 1993

¹⁰⁴ NAM, NA/2/1/7/Vol. IV, Access to Public Records. Minister of Education and Culture's response to the Concerned Members of Academic and Library Staff, on the closure of the National Archives, 28th September 1993.

At the end of the stocktaking exercise, which was jointly conducted by Archives staff and persons appointed by the Ministry of Education and Culture (under which the National Archives now fell), the following were the findings:

'public archives: no files were found missing except for those which had already been listed as missing; historical manuscript: no files were missing, no files were loaned out and neither were any documents withdrawn permanently from the section; library: some technical books (on librarianship and records management) were loaned out (as normal) to staff members' (National Archives of Malawi, 1993).

While the previous orders to close the National Archives were complied with without any questions, different sections of Malawian society protested against the closure of the Department in 1993. It came at a time when the autocratic one party government had been challenged, and a national referendum to decide whether to retain the one party system of government or introduce a multiparty democracy had been scheduled to take place on 14th June that year. During this period, people felt liberated from the oppressive dictatorial rule such that for the first time in history, they were able to express their freedom of speech, which included challenging some of the Government's dictatorial decisions. The public also felt that in order to maximise their right of access to information held by the state, responsible access to the Archives had to be unhindered. Closing the Archives in the same month when the historic national referendum was to be held attracted even more hostile reactions.

Alongside the freedom of expression, which was ushered in by the winds of political change between 1991 and 1992 in Malawi, at least thirty independent newspapers emerged during the last quarter of 1992 alone (Lwanda, 1993; Kachala, 2003). The emergence of free speech and Government's loss of control over information

suddenly increased patronage at the National Archives. Members of the media were among the many groups of people who flocked to the Archives. The closure of the Archives on 1 June was viewed by the journalists as a ploy by the Government to hinder access to public information and free speech. For this reason, the media fiercely exerted pressure on the Minister of Education and Culture to force the Government to reopen the National Archives. Although the National Archives was not responsible in any way for the closure, it suffered its share of fierce attacks from the media for the closure.¹⁰⁵

Three months into the closure of the Department, local and international scholars, as well as the National Archives Advisory Council, expressed their deep concerns about the continued closure of the Archives. The concerned parties made their representations through their representative, Dr. (now Professor) Kings Phiri, then Head of the History Department at Chancellor College and a Council Member of the Advisory Council of the National Archives. They pointed out that the order to close the Archives had been made at a time when three scholars from universities abroad on tightly scheduled research projects were working on the public archives. Apart from foreign scholars, history research students from Chancellor College and a number of regular users of research facilities at the National Archives from the local research community had also been inconvenienced.¹⁰⁶ In their appeal to the government authorities to reopen the Archives the concerned parties requested that

¹⁰⁵ NAM, NA/PA/1/1/93, Access to Public Archives. Confidential letter from the Government Archivist to the Secretary for Education and Culture, 22nd September 1993

¹⁰⁶ NAM, NA/2/1/7/Vol. IV, Access to Public Records. Communication from Dr. Kings Phiri (Scholars' Representative, National Archives Advisory Council member and Head of Chancellor College History Department) to the Government Archivist, 1st September 1993.

something was done, 'as a matter of urgency, to remove [the liability] on the progress of research endeavours.'¹⁰⁷

Another pressure on the Government following the closure of the Archives came from the Concerned Members of the Academic and Library Staff of the University of Malawi's Chancellor College. In their letter to the Minister of Education and Culture, the Concerned Members explained that they had 'learned with **serious** concern,' that the minister had ordered the closure of the National Archives and pointed out that 'the action [had] had **very** deleterious effects on academic research by University staff and students as projects could not be finished or started in time.'¹⁰⁸ They informed the Minister that the closure of a public facility like the National Archives without convincing reasons and recourse to proper procedures was unethical. Importantly, the Concerned Members pointed out that the closure of the Archives violated their and the public's fundamental right of unrestricted access to an important source of information.¹⁰⁹ In the light of these concerns, the Concerned Members concluded:

We request that the Archives be reopened by the 30th of this month [September] so that University staff and students have access to an important information when the new academic year starts in early October.¹¹⁰

Despite sixty-one Concerned Members appending their names and signatures to the petition to the Minister, the petition was ignored and the Archives remained closed.

¹⁰⁷ Ibid

¹⁰⁸ NAM, NA/2/1/7/Vol. IV, Access to Public Records. Letter from the Concerned Members of Academic and Library Staff to the Minister of Education and Culture on the closure of the National Archives, 20th September 1993

¹⁰⁹ Ibid

¹¹⁰ NAM, NA/2/1/7/Vol. IV, Access to Public Records. Letter from the Concerned Members of Academic and Library Staff to the Minister of Education and Culture on the closure of the National Archives, 20th September 1993

The Minister explained that the process of fumigating the buildings and contents of the Archives would go on to its conclusion, which would be dictated by work still remaining to be done. To justify the prolonged closure, the Minister put a question to the Concerned Members:

If pest activity was unrestricted in the archives and we lost part of, or the whole archives, I wonder who will be blamed for violation of our fundamental right of unrestricted access to an important source of information?¹¹¹

Within two months of the closure of the Department, the Government Archivist came under increasing pressure from different sectors of society to reopen the institution. This pressure put the Government Archivist in the limelight where the independent media portrayed him as part of the regime that suppressed free speech and access to information. This forced the Government Archivist to take a strong stand against the closure and sympathise with the researchers and the general public. In his letter to the ministry requesting the reopening of the National Archives the Government Archivist wrote:

In view of the inconvenience caused to researchers because of the protracted closure of the premises, I recommend that the institution be re-opened to the public with immediate effect so that we continue to operate normally.¹¹²

When the Ministry did not heed this plea, a month later, the Government Archivist wrote to the authorities again, stating:

It is sad to note that the Ministry is at pains defending its decision and also under pressure from the media, scholars and researchers. You may also wish to know that the Department has not been spared these attacks. I should therefore be grateful if you could order the reopening of the National Archives without further delay.¹¹³

¹¹¹ NAM, NA/2/1/7/Vol. IV, Access to Public Records. Minister's response to the Concerned Members of Academic and Library Staff on the closure of the National Archives, 28th September 1993.

It is important to note that although the Minister explained that the closure of the Archives was to allow for fumigation activities to take place, there was no any of such activity that took place at all.

¹¹² NAM, NA/2/1/7/Vol. IV, Access to Public Records. Letter from the Government Archivist to the Secretary for Education and Culture on the closure of the National Archives, 28th August 1993.

The Government Archivist continued to put pressure on the Government to consider reopening the Department. In December 1993 the Archivist was bold enough to tell the Secretary for Education and Culture that the action to effect the closure of the National Archives was 'unwarranted' and 'by making a public declaration on the closure, it aroused [public] suspicion and interest.'¹¹⁴ In his conclusion, the Archivist appealed for the speeding up of the processes to reopen the Archives to the public. The increasing pressure from different sections of the society, coupled with the increasing negative impact on the image of the Government which the closure of the National Archives had, and in order save face for the purposes of winning the general elections that were coming up in June 1994, the Government finally reopened the National Archives on 13th December 1993.

5.3.3.3 Banning of foreign researchers

When public records were open for the first time to the public in 1951, the nationality of researchers wishing to consult such records was not an issue until 1966. Once the necessary formal application procedure was followed, researchers were granted access to the public records in the Archives, irrespective of their nationality. This trend was reversed as Dr. Banda became more autocratic and intolerant of criticism of him and his government. Since it proved difficult to prosecute Rotberg for his breach of regulations for publishing his book,¹¹⁵ from 1967 requests from all foreigners wishing to conduct archival research in Malawi were refused.

¹¹³ NAM, NA/PA/1/1/93, Access to Public Archives. Confidential letter from the Government Archivist to the Secretary for Education and Culture, 22nd September 1993.

¹¹⁴ NAM, NA/PA/1/1, Access to Public Archives Applications and Approvals. Government Archivist to the Secretary for Education and Culture, 1st December 1993.

¹¹⁵ NAM, 1/5, Access to Public Archives. Government Archivist to Dr. L.H. Gann (of Hoover Institute), 27th November 1967

When the National Archives was re-opened on 22nd November 1968 after it had been closed for twenty months, the Government imposed a ban on all foreign researchers. The Government's fear was that if foreigners were allowed access to the Archives and published critical articles against the Malawi Government after they had returned to their countries, it would be difficult to bring the offenders to book as had been the case with Robert Rotberg. This being so, only 'persons of Malawian origin, a few expatriates (only heads of departments) of the University of Malawi and persons doing research on behalf of the Malawi Government'¹¹⁶ were permitted access to public records in the National Archives. Access to the public records was accorded to these categories of people simply because they were all resident in the country and for this reason, they could easily be traced and dealt with if they wrote anything considered subversive.

The expatriate community working for the University of Malawi seized the 'privilege' that had been extended to them, which was not available to all other foreigners, to conduct research activities in the Archives. However, when Dr. I. Linden (whose wife used to do research at the Archives) was deported by the Malawi Government in 1971 for perceived subversive activities, the privilege of the expatriate academics working for the University of Malawi was revoked. The Linden incident had incited the President to become increasingly annoyed with applications for research from persons working at, or sponsored by the University of Malawi. For this reason, 'all people associated with the University of Malawi were considered suspicious, and their applications for research in the National Archives were rejected by His

¹¹⁶ NAM, 1/5, Access to Public Archives. Memo from the Local Government Secretary to the Vice-Chancellor of the University of Malawi on the access conditions to the National Archives, 17th July 1968.

Excellency [the President].¹¹⁷ For instance, an American researcher, Ken Lohrenz who had waited for weeks while his application for access to the Archives was considered, was told to leave Malawi at two days' notice in 1971.¹¹⁸

From the Government's communication with Mr. Richard G. Stuart, we get some explanation why the President refused foreigners permission to conduct research in the Archives. Mr. Stuart, then a doctoral student at SOAS, had applied for access to the Archives for research on a doctoral dissertation on "The history of the U.M.C.A (University Mission to Central Africa) in Malawi from 1885 to 1950." His application had been submitted at the beginning of 1972 and the President turned it down later in October the same year. On the Memorandum submitted by the Local Government Minister seeking his approval for Mr. Stuart to conduct research in the Archives, the President wrote:

'No. We no longer allow outsiders to do research here. Our materials are now for our own students. Only under very special circumstances do we allow research by foreigners now. This is for a number of reasons, which I cannot give here.'¹¹⁹

One of the reasons that the President did not give but had indicated to the Office of the President and Cabinet, Local Government and Archives officials earlier in 1968, was that although they satisfied the access requirements, 'persons from countries considered "unfriendly" to Malawi such as Zambia and Tanzania [at that time] [would] not be given access'¹²⁰ to the Archives. This also applied to all researchers from countries whose foreign policies differed sharply from those of the Malawi

¹¹⁷ NAM, 1/5, Access to Public Archives. Government Archivist to the Acting Secretary for Local Government (in Confidence), 3rd December 1971

¹¹⁸ NAM, [NA/2/1/7, 8-17-1AR/40589](#), Archive Administration: Access to Public Records. Government Archivist to Mr. H. Leroy Vail, 15th February, 1972

¹¹⁹ NAM, [NA/2/1/7, 8-17-1AR/40589](#), Archive Administration: Access to Public Records. Secretary for Local Government to Mr. Richard G. Stuart, 16th October 1972

¹²⁰ NAM, 1/5, Access to Public Archives. Government Archivist to Mr. John McCracken, 6th February 1968

Government. The barring of foreign researchers effectively rendered the Archives open to a few University of Malawi students and some government officials only. However, the situation improved in 1975 when three foreign (a Zimbabwean, a South African and an American) researchers were granted permission to use archival resources in the Archives. By 1981, some of the restrictions on conducting research in the Archives were relaxed such that no one was denied access in that year and for the first time, the President granted permission to use the archives to students of the University of Malawi's History Department.¹²¹ It is difficult to discern why there was a change of heart on the part of the President that caused him to relax the strict access conditions to public records in the Archives.¹²² This position forced the Government Archivist to publish the following public notice in the Daily Times (the only daily paper at the time) and the Malawi Government Gazette in 1982:

It is published for general information that the National Archives of Malawi will be open for use by researchers on Saturday mornings apart from the normal official working hours.

This facility concerns two classes of documents; the public archives and the library materials. Researchers who also want to consult modern records on Saturday should place their orders by Friday, as documents in the Modern Records Centre can be retrieved only weekdays.¹²³

As a result of unprecedented numbers of researchers wishing to consult public records, the National Archives was compelled to extend the opening hours to Saturdays in order to deal effectively with increasing demands.

¹²¹ NAM, [NA/2/1/7/Vol.II/III, 8-16-1AR/40582](#), Access to Public Records. S.S. Mwiyeriwa (Government Archivist) to Dr. K.J. McCracken (History Department, University of Malawi), 30th November, 1981

¹²² Vaughan M (2001) Reported speech and other testimony. In White L Miescher S and Cohen D (eds) *African words, African voices. Critical practices in oral history*. Indiana University Press. Bloomington: 53-77, hints that Dr Kadzamira had a role in easing the path of colleagues at Chancellor College, presumably through his sister, Mama C. Tamanda Kadzamira, the 'Official Hostess'

¹²³ The Daily Times, 27th May 1982; Malawi Government Gazette, 27th May 1982.

5.3.3.4 Restrictions on research subjects

Historical public records preserved in a national archival institution and made available to the public, are a valuable primary source of information for a myriad of research endeavours. However, where such valuable sources of information are made to be used for research on limited subjects that are dictated by the authorities, the inherent value of the archival material is compromised.

In Malawi, the period 1951-1964 can be considered as the time when archival material in the National Archives was utilised to its maximum potential and from which different researchers satisfied their research needs. This was the case because no restrictions were imposed by the Government on which subjects researchers permitted to consult public records at the Archives could research and write about. A few months after gaining independence in July 1964, and following the Cabinet Crisis, the Government and especially Dr. Banda, became more autocratic and intolerant to any criticism. As such, the Government employed different mechanisms to ensure that access to any unpublished or published material that portrayed or would portray the Government negatively, whether explicitly or implicitly, was restricted. Apart from enacting the censorship law and declaring any suspicious literature as prohibited material in the country, the Government imposed restrictions on subjects which anyone was allowed to research in the National Archives.

During the Malawi Congress Party's Annual Convention in March 1967, the Government declared the Watch Tower Movement, or Jehovah's Witnesses, a prohibited religious movement in Malawi. The Jehovah's Witnesses who the President publicly denounced as "Devil's Advocates," were banned in Malawi for

their refusal to attend M.C.P. meetings and activities and to buy party cards (Malawi Government, 2005), acts which were viewed as serious crimes against the Government. Following the ban of the Watch Tower Movement, 'anyone having any connection with or interest in the movement was regarded with the greatest suspicion by Government.'¹²⁴ Between 1968 and 1994, while the Watch Tower Movement remained banned, anyone wishing to conduct research in the National Archives on the Watch Tower Movement was refused permission by the Government.

When the National Archives was reopened in 1968 after it had been closed for more than a year, the government put a condition on access to public records. No researcher could be allowed access to the archival material unless he or she proved that his or her research would make a palpable and significant contribution to the development of the country.¹²⁵ Only the research where the Government could make immediate use of the results was permitted. For this reason, research of a purely historical nature was normally not allowed. To ensure that this condition was complied with, all researchers were required to send lists of all files they wanted to consult for Presidential scrutiny and approval. After the approval was granted, the researchers could only consult the files that the President had approved.

Due to the subject restrictions, many researchers found the archival material not useful enough for their research and resorted to oral data instead (Woods, 1990). However, field research had its own restrictions. The Government allowed researchers to conduct field research only on condition that the research workers

¹²⁴ NAM, 1/5, Access to Public Records. J.D.C. Drew (Government Archivist) to J.S.W. Cross, 17th April 1968

¹²⁵ NAM, 1/5, Access to Public Records. J.D.C. Drew (Government Archivist) to H.W. MacMillan, 7th May 1968

confined their activities strictly to dances and not in any way, either openly or secretly, indulge in political activity.

By limiting researchers to the subjects with which the government was comfortable and demanding lists of individual files which the few approved researchers would consult, the Government was actually hiding the archival resources from public access and scrutiny. As long as the limitations were in force, the largest proportion of the archives that should have been available for public access remained virtually closed to the public and grossly underutilised. This scenario is one of the reasons that prompted Woods (1990, p. 259) to argue that 'the National Archives of Malawi were for all intents and purposes closed from the late 1960s until the early 1980s.'

It is paradoxical that while the smaller proportion of the archives served the interests of the larger research community, the larger proportion of the hidden archives served the interests of the minority ruling political elite. The latter feared that their political power would be undermined if the former had had unrestricted access to the archives and later published some material that could tarnish their image. One could argue that the minority ruling political elite realised that the archives had power for political survival. This realisation led to imposition of strict measures to ensure that the power of the archives was limited to the advantage of those in power.

5.3.3.5 Use of the Archives for intelligence services

Some of the tough conditions that were imposed on researchers wishing to conduct research in the National Archives between 1964 and 1974, when Mr. J.D.C. Drew headed the institution, arose because of the dual functions that the Archivist performed. It would appear that apart from his archival job, the archivist was either

explicitly advised by the Government to spy on researchers using the research facilities at the Archives or, given the political environment in which he worked the Archivist was forced to play the role of a government secret agent.¹²⁶ As a result of the archivist's latter role, the government was forced to take some drastic measures against some researchers who were conducting or sought to conduct research at the Archives.

In 1967, the Archivist reported to the authorities that Robert Rotberg intended to publish in his book, '*To strike a blow and die*', referred to earlier, which the Government had refused him permission to publish in 1965. He asked the Secretary for Local Government to 'bring this matter to the attention of the Office of the President and Cabinet (O.P.C.), in order that they [might] take such action as they [thought] fit to prevent publication of this book.'¹²⁷ In turn, the Secretary for Local Government wrote to the O.P.C. advising that since it was not possible to stop the publication, 'representations in strong terms at diplomatic level'¹²⁸ needed to be made on the matter. The O.P.C. took up the matter and, through the Ministry of External Affairs, protested to the American Embassy in Malawi.¹²⁹

Two months after the Government's formal protest to the American Embassy had been made, the Archivist complained that 'the Americans [were] tending to belittle the whole thing as a storm in a tea cup and [had] not been very helpful,'¹³⁰ there appeared to be little hope of some action being taken against Rotberg. When it had

¹²⁶ He may have been anxious lest he be punished in the event that opponents of the government were able to utilise the archive to criticise Dr Banda

¹²⁷ NAM, 1/5, Access to Public Records. J.D.C. Drew (Government Archivist) to H.G. Graham-Jolly (Secretary for Local Government), 5th January, 1967

¹²⁸ NAM, 1/5, Access to Public Records. The Secretary for Local Government to the Secretary to the President and Cabinet, 10th January 1967

¹²⁹ NAM, 1/5, Access to Public Records. Embassy of the United States of America to Ministry of External Affairs, 19th January, 1967

¹³⁰ NAM, 1/5, Access to Public Records. J.D.C. Drew to Dr. J. van Velsen, 7th March, 1967

become apparent that the American Government had done nothing about the matter, the Archivist assured a former colleague at the Hoover Institute in America that the Malawi Government would do something when he said: 'we are determined to ruin his reputation as a scholar, even if we can't make him pay the legal penalties.'¹³¹ As part of this determination, the Archivist planned 'to circularise to all research institutions in Africa and all American universities that [were] interested in Africa'¹³² that 'Dr. Rotberg [was] an unscrupulous and misguided "scholar" whose aim in life [was] apparently, to travel around Africa causing as much trouble as he [could],'¹³³ and because of this, he '[had] no right to hold the position he [did]. [As such,] he [deserved] to be kicked out of the whole field of African studies.'¹³⁴

In September 1966, Mr. L.J.L. Nthenda, a Malawian PhD student at the University of Oxford working on a research topic: "The administration of central government in Malawi 1920-1955," was granted access to the Archives by the President. Mr. Nthenda's permission to consult public records for his research was to expire in February 1967. Towards the end of January 1967, Mr. Nthenda applied to the Government, through the office of the National Archivist, for permission to extend his research until July 1967. In his confidential report to the Secretary for Local Government, the National Archivist regretted that he could not honestly recommend Mr. Nthenda's application for extension of his period of access to government

¹³¹ NAM, 1/5, Access to Public Records. J.D.C. Drew to Dr. L.H. Gann of the Hoover Institute, 27th November 1967

¹³² *ibid*

¹³³ NAM, 1/5, Access to Public Records. J.D.C. Drew to Mr. Burne, Archivist for Zambia, 20th July, 1967

¹³⁴ NAM, 1/5, Access to Public Records. J.D.C. Drew to Dr. L.H. Gann of the Hoover Institute, 27th November 1967. Drew's attitude to Rotberg would almost certainly have been shared by Pambi Mkula, his Zambian counterpart. Rotberg had 'borrowed' a large portion of Sir Stewart Gore-Brown's personal papers and taken them to the USA

records because the researcher appeared ‘to be something of a “security risk.”’¹³⁵ In reaching this position the Archivist explained:

‘It is obvious from the conversations that I had with him that he has pronounced left-wing views and has little sympathy with the present Malawi Government, in particular with its attitude to foreign affairs.

As Mr. Nthenda’s opinions are so much at variance with those of this Government, I hardly feel that it is right for him to enjoy the privilege of having access to this Government’s files – particularly as there is the danger that when he returns to Britain he may publish articles harmful to Malawi’s image abroad and possibly use the material which he has gained here to that end.’¹³⁶

In view of these representations by the Government Archivist, the Minister of Local Government advised the Archivist to inform Mr. Nthenda that Government could not approve the researcher’s application for the extension of his period of access to government files.¹³⁷ Mr. Nthenda responded to this negative reply with shock and therefore wrote a lengthy letter to the Minister in which among other things, he requested an audience with the Minister, where he would make his representations with the hope of being favourably considered for an extended period of access to the government files.¹³⁸ When this request was forwarded to the President, the President ordered that Mr. Nthenda ‘must be removed from the access to the Government Archives immediately. He [was] in no circumstances to be allowed to return.’¹³⁹

In January 1970, the Vice-Chancellor of the University of Malawi submitted applications on behalf of four lecturers for research in the National Archives.

¹³⁵ NAM, 1/5, Access to Public Records. Government Archivist to Secretary for Local Government, 26th January 1967

¹³⁶ Ibid

¹³⁷ NAM, 1/5, Access to Public Records. Local Government Secretary to Government Archivist, 6th February 1967

¹³⁸ NAM, 1/5, Access to Public Records. Mr. L.J.L. Nthenda to the Secretary for Local Government, 9th February 1967

¹³⁹ NAM, 1/5, Access to Public Records. Secretary to the President and Cabinet, to Government Archivist, 28th February 1967. Presidential orders of that nature were usually implemented with much enthusiasm in form of 24-hour deportations in cases of foreigners, mysterious deaths and other harsh treatment on the local victims by different government and party functionaries.

Commenting on the prospective researchers in his confidential letter to the Secretary for Local Government, the Government Archivist pointed out that Dr. R.H. Palmer, one of the four researchers, had once been deported from Rhodesia (Zimbabwe) for political activity and that he was known to be of extreme left-wing views. About another researcher, Mr. H. L. Vail, the Archivist said he was an American who was also apparently of decided left-wing views.¹⁴⁰ Although the Archivist had not gathered enough evidence about the other two researchers to portray them negatively to the authorities, the Government rejected all the four applications submitted by the Vice-Chancellor, citing "certain security arrangements."¹⁴¹

Sometime later, on 28th October 1970, when three other lecturers from the University of Malawi had been approved by the President to conduct research in the Archives and the Archivist was directed on 29th October to assist the three lecturers, he wrote to the Government on 30th October, saying:

'I feel sure that His Excellency has not been presented with the full facts of the case and I would urge that, before anything further is done, certain information relating to two of the persons involved be laid before him through the Office of the President and Cabinet.'¹⁴²

Commenting on one of the three applicants, the Archivist stated:

'[he] has Marxist views, I understand. I was originally told this by Mr. Cole-King and has since been confirmed from another source. Whether a person with Communist sympathies should be given access to government files is a

¹⁴⁰ NAM, 1/5, Access to Public Records. Confidential letter from the Government Archivist to the Secretary for Local Government, 16th January 1970 .

¹⁴¹ NAM, 1/5, Access to Public Records. Secretary for Local Government to the University of Malawi's Vice-Chancellor, 1st April 1970.

¹⁴² NAM, 1/5, Access to Public Records. Government Archivist to Secretary for Local Government, 31st October, 1970

matter of debate, but His Excellency [the President] should certainly be informed of the facts.¹⁴³

The dual roles which the Archivist played raise the difficult question of professional ethics. In delivering his services to the wider community should a national archivist side with the regime that uses the Archives to uphold its grip on power or perform his/her duties impartially and professionally? How can he/she balance the two and at the same time maintain his/her professional ethics? It would appear that between 1964 and 1974, the National Archivist towed the government line so much that he found himself doing a greater service to the regime than to the research community that sought to benefit from the Archival services. It is perhaps this imbalance that consequently fuelled politicisation of the Archives by the one party regime between 1964 and 1993.

It is probable that had the National Archivist not been secretly spying on researchers who came to the Archives and reporting them to the authorities, the situation would not have been what it was. Mazikana and Ngulube (2001) cite a case of a National Archivist who chose to stand firmly on his professional ethics in a dictatorial environment. When the Government of the dictator Mobutu Sese Seko of Zaire (presently Democratic Republic of Congo) was about to fall, the authorities ordered the National Archivist to destroy all records that would later implicate the dictatorial regime. Instead of destroying them as he was ordered, the Archivist hid the records, thereby ensuring that the public was able to access them at a later stage.

Since the departure of Mr. Drew, and when the National Archives was headed by a Malawian, no single report about any researcher has been sent to the authorities.

¹⁴³ Ibid

Instead, the national archivist who took over from Mr. Drew and those who have succeeded him have written letters of support to the Government for the researchers to conduct research in the National Archives.

5.3.3.6 Destruction of public records

In the June 1993 national referendum, 63 per cent of voters had indicated that they wanted a multiparty system of government and the general elections were scheduled to take place on 19th May 1994. Between June and December 1993, it had become apparent that the Malawi Congress Party would be voted out of power.

Since the Government had committed a number of atrocities and indulged in malpractices during its 30-year rule, in order to conceal any documentary evidence against the Government, Kachala (2003) says that 'the government decided to consign to hell any information that was deemed politically sensitive.' To this effect, the government ordered heads of departments to undertake wholesale destruction of classified documents in their departments from the month of January 1994. This order was also extended to the Malawi Police.

The deliberate destruction of public records was a very unfortunate incident in that it left a serious gap that will never be filled was created in the nation's documentary heritage. From the perspective of the regime, however, this unfortunate incident saved the ruling elite from prosecution after losing power. When a new government came into power after the May 1994 general elections, many serious cases were levelled against the past rulers and senior public servants. However, since the public records had earlier been purged of any evidence of wrong doing by the ruling elite and some senior public servants, it was difficult to commence criminal litigation

against those concerned because of lack of evidence. One prominent criminal case that was brought up before the court of law, in which the President, his closest Minister, the Inspector-General of Police and other police officers were accused of murdering three cabinet ministers and a Member of Parliament in an alleged car accident in 1983, was later dismissed and all the accused persons were released because of a lack of evidence.

5.4 Summary

British policy towards independence, coupled with nationalism, led to Malawi's independence in 1964. The record keeping systems that the Colonial Administration had instituted were reviewed and reorganised a few years before independence through the Organisation and Methods Unit. It was expected that the new administration would maintain and even improve on the systems. But as this discussion has demonstrated, lack of appreciation of the value of good record keeping on the part of the new administrators led to the decline of the record keeping systems in the public service. This was mainly due to the abolition of the records management policy guidelines and standard from the Malawi Public Service Regulations and the assignment of record keeping responsibilities to low calibre public servants. Unfortunately, forty-eight years after independence, the public service in Malawi continues to suffer from the consequences of neglecting records management.

As a result of the autocratic regime that emerged after independence, archives assumed a new role altogether from what they had performed during the colonial period. The regime was quick to see the power of the archives and therefore moved

in swiftly to impose all the necessary mechanisms to ensure that the archives were largely used to serve their political interests and not those of the larger research community. Interestingly, towards the end of the regime, the same perception of the power of the archives forced the regime to order the destruction of some sensitive records still held by a number of government ministries and departments. It is therefore paradoxical that while the regime realised the power of the archives, it failed to ensure that all the necessary measures to maintain quality record keeping systems in the public service were put in place.

Chapter 6: The post-colonial democratic era and record keeping: 1994-2012

6.1 Introduction

This chapter will briefly discuss the factors that led to Malawi's transition from a one party state to a multi-party democratic state in 1994. The chapter will then discuss: the restoration of the rule of law and promotion of human rights after attaining multiparty democracy in 1994; civil service downsizing; the freeze in employment and privatisation of public enterprises as some of the IMF/WB structural adjustment policies that the Malawi Government has implemented and in the case of the latter, the Government is still implementing; commercialisation of the Staff Development Institute and competitive bidding in public service procurement as two of the New Public Management measures also being implemented by the Government. Additionally, other public sector reform measures will be discussed briefly. The chapter dwells on how all these policy measures have impacted and continue to have an impact on record keeping in Malawi.

6.2 Governance reforms

Zezeza (2004, p.1) points out that 'astounding political transformations' took place in Africa in the 1990s, observing that while at the beginning of 1990, all but five of Africa's 54 countries were dictatorships, either civilian or military, by 2000 the vast majority of the 49 countries had introduced democratic political reforms. Since Malawi was the civilian dictatorship of Dr. Hastings Banda, the country experienced 'Africa's wave of democratization in the 1990s' (Zezeza, 2004, p.3). While the political transformation that Africa underwent during this period had a catalytic effect on

Malawi's own transformation, the Catholic Bishops' Pastoral letter of 1992 was particularly outstanding in bringing about the country's democratic change.

On 8 March 1992, the Catholic Bishops in Malawi released their Pastoral Lenten letter, *Living Our Faith*, which was read in all Catholic congregations throughout the country. Through the Pastoral letter, the Bishops sharply criticised the Government for the deteriorating socioeconomic and political situation in the country. The Pastoral letter dwelt on such important issues as poverty, unjust wages, access to education, inadequate health service, HIV/AIDS, bribery, nepotism, freedom of expression and association, the administration of justice, and a lack of confidence in the government (Fr. Turnbull, 2003). In what was considered as a bold and deliberate open criticism of the oppressive dictatorial rule, in part the Bishops stated bluntly:

Nobody should ever have to suffer reprisals for honestly expressing and living up to their convictions: intellectual, religious, or political. We can only regret that this is not always the case in our country. . . . Academic freedom is seriously restricted; exposing injustices can be considered a betrayal; revealing some evils of our society is seen as slandering the country; monopoly of mass media and censorship prevents the expression of dissenting views; some people have paid dearly for their political opinions; access to public places like markets, hospitals, bus depots, etc. is frequently denied to those who cannot produce a party card; forced donations have become a way of life.

Participation will remain a fiction without the existence of adequate channels of expression and action: an independent press, open forums of discussion, free association of citizens for social and political purposes, and the like (Lwanda, 2003, Appendix 1).

The release of the Pastoral letter changed Malawi's postcolonial political landscape. Subsequent to the reading of the letter, many people praised the Bishops for speaking on their behalf against the Government's oppression. The press release

from the Office of the Inspector General of Police declaring the Pastoral letter seditious material and stating that anyone who bought, received, procured or otherwise got hold of the Episcopal letter should surrender it to the nearest police station was ignored by people. Instead, the letter became such a most-sought-after item that it was widely photocopied, faxed and circulated around country (Lwanda, 2003; Fr. Turnbull, 2003). For the first time in the country's postcolonial history, people spoke up openly against the Government.

When the seven Catholic Bishops who authored the Pastoral letter were detained by the Police on 10 March 2002, and an extraordinary meeting of the then ruling Malawi Congress Party at its headquarters on 11 March 2002 resolved to kill the Bishops through mob violence or poisoning,¹⁴⁴ 'leaders from all the main churches, and of the Muslim community in Malawi came out in support of the Bishops' (Fr. Turnbull, 2002, p. 6). The more the Government mounted arrest and torture campaign to suppress agitation for political change, the stronger the change movement grew, witnessed by strikes and pro-democracy demonstrations throughout the country. Sahle (2001, pp. 236-237), for instance, observes that a popular protest by industrial workers who went on strike in Blantyre took place between May 5 and 7, 1992 during which police killed approximately forty people in their attempts to quell the striking workers. The strike ignited other strikes because shortly afterwards, tea and tobacco estate workers all over the country went on strike too. During these strikes, students from the University of Malawi's Chancellor College, the Malawi Polytechnic and Bunda

¹⁴⁴ Although the M.C.P. senior leadership had made this resolution, following discussions between Archbishop Giovanni de Andea, the Papal envoy and then the Life President, Ngwazi Dr. H. Kamuzu Banda on the tensions and issues arising from the Pastoral letter, coupled with mounting local and international pressure on the government against harming the Bishops, the Bishops were spared death.

College came out in their support. Apart from the University students, and despite having their salaries recently increased, civil servants also joined the popular protest by staging countrywide strikes.

While the Government was under increasing pressure locally as a result of the growing mass protests, it was further dealt a heavy blow on 11th May 1992 when the World Bank Consultative Group, the leading representatives of the transnational lending community, announced the suspension of all non-humanitarian aid on the grounds of Malawi's poor human rights record (Sahle, 2001).

As a result of the mounting political and economic pressure following the suspension of the donor aid on 18 October 1992, the Government was forced to announce a national referendum for the people to decide whether the country should become a multiparty state or remain a one-party state. The referendum was held on the 14th June, 1993. The results indicated that 63 per cent of the voters were in favour of the multi-party system of government. Following the referendum results, the country held the first democratic presidential and parliamentary general elections on 17th May 1994, which brought Dr. Banda's rule to an end. Presidential candidate for the United Democratic Front, Bakili Muluzi won 47 per cent of the national vote followed by M.C.P.'s candidate, Dr. Banda with 33 per cent, Alliance for Democracy's candidate, Chakufwa Chihana polled third with 18 per cent, while Kamlepo Kalua of the Malawi Democratic Party won only 0.52 per cent of the total valid votes (National Elections Centre, in Sahle, 2001).

During the transition period from one party rule to multiparty democracy between 1993 and 1994 and even after 2004, Malawi undertook remarkable governance reforms, which have had a bearing on archives and records management.

6.2.1 Constitutional reform

On 6 July 1964, when Malawi attained her independence, the country's national Constitution came into operation. The 1964 Constitution's essential feature was that it contained a chapter on human rights. Among other freedoms that the constitution provided for, were freedom of association, freedom of opinion and freedom of expression (Malawi Government, 1964). On account of freedom of association and freedom of opinion as provided for in the Constitution, people were free to join any political party of their choice. Some of the first cabinet ministers in Dr. Hastings Banda's government exercised their right of freedom of opinion to register their dissent to some of Dr. Banda's policies. In particular, the ministers differed with Dr. Banda on such issues as: Africanisation of the civil service; introduction of hospital charges; adoption of the Skinner Report on possible revision of salaries for African civil servants; recognition of Communist China instead of Taiwan; relationship with minority white regimes in Zimbabwe and South Africa, among others (Malawi Government, 2005). Opposition to Dr. Banda's policies on these issues led to the famous Cabinet Crisis of September 1964, where seven influential ministers resigned from the Cabinet, while others were dismissed on suspicion of siding with the rebel ministers (Malawi Government, 2005).

After the Cabinet Crisis, the Government became intolerant to any dissenting views, and the basic freedoms enshrined in the 1964 Constitution were strongly suppressed.

The zeal to suppress the people's freedoms between 1964 and 1965 culminated in the removal of the Bill of Rights from the Republican Constitution, which came into force on 6 July 1966. The adoption of the 1966 Constitution and other developments that followed rendered Malawi 'a fortress of tyranny under Dr. Banda' (The Robert F. Kennedy Memorial Centre for Human Rights, 1994, p.1) because rule of law was abrogated –'wherever law ends, tyranny begins' (John Locke, in Bingham, 2010, p. 8).

Bingham (2010, p. 47) holds that 'a state which savagely represses or persecutes sections of its people cannot ... be regarded as observing the rule of law,' arguing that principally, the law must afford adequate protection of fundamental human rights. Bingham singles out the right to life; the prohibition of torture; prohibition of slavery and forced labour; right to liberty and security; right to a fair trial; no punishment without law; right to respect for private and family life; freedom of thought, conscience and religion; freedom of expression; freedom of association; right to marry; protection of property; and right to education, as the fundamental human rights that the common law and statute law in Britain have helped to protect for many years. It is not surprising therefore, that when Britain granted independence to Malawi under the 1964 Constitution, all these fundamental human rights were embedded in the constitution.

Following the removal of the Bill of Rights from the Constitution, citizens were deprived of their constitutionally guaranteed human rights. For instance, all political parties except the ruling M.C.P. were banned, and holding different political views from those of the M.C.P. had serious repercussions. Furthermore, a number of laws

such as the Public Security Act, the Unlawful Societies Act, the Forfeiture Act, the Censorship Act, the Traditional Courts Act and others, were enacted over the years that sanctioned state violation of human rights. In September 1970, the M.C.P. annual convention resolved that Dr. Banda should be the Life President. Following this resolution, the Constitution was accordingly amended in 1971 and Dr. Banda became the country's Life President (Malawi Government, 2005).

The victory for multi-party democracy in the June 1993 referendum made the 1966 Republican Constitution untenable in the new political order. This being the case, the National Consultative Council (NCC) was established in December 1993 under an Act of Parliament with a mandate:

To participate in the formulation of policies and in the initiation of legislative measures necessary for the transition; to initiate such amendments to the Constitution as are necessary to facilitate the transition to the first multi-party general elections; ... to prepare the draft of a new Constitution suitable for a multiparty political system to become effective immediately after the first multi-party general elections; and to prepare the draft Bill of Rights either as part of the new Constitution or as a separate Act of Parliament (The Malawi Gazette Supplement, in Sahle, 2004, p. 260).

Within the NCC, a constitutional committee was formed and tasked to either amend the existing Constitution or draft a new one altogether. However, having found the old Constitution to be 'terminally flawed' and not a basis for a democrat process, the committee decided to draft a new one, with technical expertise from the United Nations Electoral Assistance Commission (The Robert F. Kennedy Memorial Centre for Human Rights, 1994, p. 23). In line with its mandate, the NCC (whose co-draftsmen were Kelvin Bampton, a British Constitutional lawyer and Mordecai Msisha, a Malawian human rights lawyer) drafted the Bill of Rights, which formed part of the draft Constitution and now features prominently at the beginning of

Constitution in Chapter IV rather than a separate Act of Parliament. The new Constitution came into force on 17 May 1994 and has since been amended a number of times, given that it was hurriedly drafted, thereby omitting some important aspects.

The constitutional reform, which resulted in the incorporation of the Bill of Rights in the 1994 Constitution, has had an impact on public records and archives. Among the thirty-one sections under Human Rights in Chapter IV of the Constitution Section 37 provides:

Subject to any Act of Parliament, every person shall have the right of access to all information held by the State or any of its organs at any level of Government in so far as such information is required for the exercise of his rights (Malawi Government, 2002, Section 37).

Up to 1993, several State and political apparatuses were used to exercise total control over the Malawian society. One important aspect over which the government exercised strict control was information, a factor which prompted ARTICLE 19 (1994, pp.19-20) to label Malawi as having 'one of the most elaborate systems of formal censorship in Africa' and a country 'whose history was based on concealment.' As the previous chapter has demonstrated, access to public records was restricted to historical public records in the National Archives, where access procedures hindered rather than promoted the access. The new constitutional provision for the freedom of access to information held by the state removed most of the barriers that had been built during the one-party regime that prevented the public from accessing information held by the state. In 1994, following removal of such barriers, the Robert F. Kennedy Memorial Centre for Human Rights, which sought to document the extent of human rights abuses during the one-party rule in Malawi, was able to

review government documents from different departments. The review indicated that official information about systematic abuses existed that had not been previously reported. Access to such documentation would not have been possible prior to 1993.

The political transition period brought about the freedom of the press that was recognized and mandated in the 1994 Constitution. Due to this freedom, by the end of 1993 there were over thirty independent newspapers (Lwanda, 1993; Kachala, 2003). The emergence of press freedom and the Government's loss of control over information suddenly increased patronage of the National Archives. Although a researcher wishing to consult public archival material still has to submit an application for admission to consult the archives, such applications no longer require Presidential approval. Instead, the Director of Archives forwards the applications to the ministry responsible for the Archives for ministerial approval. Enormous volumes of historical records generated from 1891 that were largely closed to the public between 1964 and 1993 have since been made open and consulted.

Through unhindered access to the records, which had been virtually closed for three-decades, a number of academicians and other researchers have used them to rewrite Malawi's history by publishing books, journal articles and other publications to present a diverse range of views and interpretations that differs from or corrects that which the one-party regime officially sanctioned. *The Monitor*, one of the new independent newspapers, for instance, began a series on the history of Malawi in 1993 that was enthusiastically received by many of its readers. In 1994 ARTICLE 19 (1994, p. 25) had noted that academic historical research on the Banda period was

beginning that would in the long term change the generally accepted interpretation that Malawi was an orderly, well-run society at that time.¹⁴⁵

6.2.2 Accountability for past atrocities

As a constitution serving democratic society, the 1994 Constitution recognises that ‘the authority to govern derives from the people of Malawi as expressed through universal and equal suffrage in elections’ (Malawi Government, 1994, Section 6). Once voted into power, the executive branch of government is obliged to initiate policies and legislation and implement laws which embody the express wishes of the people of Malawi (Malawi Government, 1994, Section 8) while the legislature is expected to take into account the interests of all the people of Malawi when enacting laws (Malawi Government, 1994, Section 9). One of the fundamental principles upon which the Constitution was founded is that ‘all legal and political authority of the State shall be exercised ... solely to serve and protect their interests’ (Malawi Government, 1994, Section 12(i)). By making these and other provisions, the Constitution laid down a fundamental principle of state accountability to its citizens. The state is supposed to be responsible in every possible manner for serving, promoting and protecting the wishes and interests of its citizens. While this is the

¹⁴⁵ Among others, products of such research work include: Chirwa, R.M (2001) ‘Protesting Politics of Death and Darkness in Malawi,’ *Journal of Folklore Research*, Vol. 38, No. 3, pp. 205-227; Lwanda, J.L. (1993) *Kamuzu Banda of Malawi, 1961-1993: A Study in Promise, Power and Paralysis*. Glasgow: Dudu Nsomba Publications; Lwanda, J.L. (1996) *Democratic Transition in Malawi; Promises, Power, Politics and Poverty in Malawi (1961-1999)*. Glasgow: Dudu Nsomba Publications; Muluzi, B., Juwayeyi, Y., Makhambera, M. and Phiri, D.D. (1999) *Democracy with a Price: History of Malawi since 1900*. Blantyre: Jhango Heinemann; Nzunda, M.S. and Ross, K.R. (Eds.) *Church, Law and Political Transition in Malawi*. Gweru: Mambo Press); Phiri, K.M and Ross, K.R. (Eds.) (1998) *Democratisation in Malawi: A Stocktaking*. Blantyre: CLAIM); Ross, K.R (1997) ‘Some Reflections on the Cabinet Crisis,’ *Religion in Malawi*, No. 7, pp. 3-7; Ross, K.R. (Ed.) (1996) *God, People and Power in Malawi*. Blantyre: CLAIM; and Rotberg, I (Ed) (2002) *Chipembere, Hero of the Nation: Chipembere of Malawi: An Autobiography*. Blantyre: CLAIM.

case, the state is equally accountable to its citizens for any violation of the citizen's human rights.

Given Malawi's post-independence past, accountability as entrenched in the 1994 Constitution had to be two-fold, as argued by Mutharika (2000, p. 203). On the one hand, the Malawi Government was retroactively responsible for the human rights violations between 1964 and 1994, and on the other it is proactively responsible for the prevention of both present and future violations. Being 'the most brutal civilian regime in Africa' (Mutharika, 2000, p. 204), Dr. Banda's government committed many atrocities. The common human rights abuses during that period, as cited by ARTICLE 19 (2004, p. 23), included detention without trial, 'disappearances', torture in custody, punitive confiscation of property, judicial interference, sexual and work-related exploitation of women, dismissal from work and complete controls on freedom of expression and religion.

Although atrocities were committed throughout the Banda regime, three distinct periods marked the peak of human rights violations. These were: (a) between 1964 and 1965 following the Cabinet Crisis, during which hundreds of people were victimised for being thought to be sympathetic to Dr. Banda's critics; (b) between 1969 and 1972 when mostly members of the Jehovah's Witnesses were rounded up throughout the country and abused, humiliated, tortured, stripped of their jobs and property and had their houses and books burnt and forced to flee the country; and (c) during the 1970s after Dr. Banda had been declared Life President (Malawi Government, 2005).

In order retrospectively to account for the atrocities committed during the one-party era, the Constitution provided for the establishment of the National Compensation Tribunal (NCT). The objective of the NCT was to ‘entertain claims with respect to alleged criminal and civil liability of the Government of Malawi which was in power before the appointed day [18 May 2004]....’ (Malawi Government, 1994, Section 137). The NCT had a number of options for making reparations to valid claimants. These were in form of medical care, formal acknowledgement and apology, establishment of memorials, pensions, job retraining, restitution of property, bonds and shares and monetary compensation.

Along with the NCT, a National Compensation Fund was established for the exclusive benefit of those applicants to the NCT who had been granted any award, gratuity, pension or other form of reparation according to the principles, procedures and rules of the National Compensation Tribunal (Malawi Government, 1994, Section 144 (2) (a)). The National Compensation Fund was to cease to accept new claims for compensation not later than ten years from 18th May 1994 (the date when the Constitution came into force). At the end of the ten-year period, the NCT would be dissolved.

To achieve its objective, the NCT was given all powers of investigation necessary to establish the facts of any case before it. Between January 1995, when it started receiving claims against the Government, and July 2003, when it stopped receiving new claims, the NCT registered 24,363 claimants (Malawi Government, 2005).¹⁴⁶

¹⁴⁶ This number excludes that of hundreds of civil servants who were dismissed from the service between 1964 and 1993 on political grounds.

Out of this number, 8 per cent received full payments, 40.8 per cent received interim payments, 23 per cent required additional information from the claimants, 1.3 per cent were rejected for lack of documentary evidence and 22.7 per cent were yet to be assessed (Malawi Government, 2005).

Accountability for human rights violations committed during the one-party era demonstrated the value of archives to the society, which was oppressed by the totalitarian regime. The records that the regime created in the process of officially carrying out violations turned out to be the instruments through which the oppressed held the oppressors accountable for the pain suffered in times past and made them pay for it in order to bring healing. Furthermore, this accountability has led to the generation of a comprehensive database of the extent of various atrocities that the post-colonial government committed between 1964 and 1994.

Validation of the claims brought before the NCT hinged on availability of supporting documentary evidence; 45.7 per cent of the valid registered claimants suffered detention, while 5.6 per cent had their property confiscated (Malawi Government, 2005). To effect someone's detention or property confiscation, the President personally granted authority to do so by signing the Detention or Confiscation of Property Orders. Where the President had not personally appended his signature to the detention and confiscation of property orders, such order documents carried the President's signature stamp. For claimants falling in these two categories and those who were unlawfully imprisoned (consisting of 4.5 per cent of all the valid claimants), the NCT relied on such documentary evidence as the claimant's Detention Order,

Property Confiscation Order, Prison registers, Police charge sheets and court records to validate the claims.

The Malawi Police Service (formerly Malawi Police Force), Malawi Prison Service and Malawi Defence Force (formerly Malawi Army) deposit their non-current records with the National Archives in form of personal files only. All other categories of records generated by these security institutions are kept by themselves. As the three institutions have no records retention and disposal schedules in place, they tend to preserve everything. Although this creates other problems, ironically the practice worked to the advantage of thousands of people who lodged their claims with the NCT. Since the Malawi Police Service and the Prisons were some of the key institutions with which victims of the autocratic regime came into contact as a way of carrying out its mandate the NCT demanded the release of all relevant records that the two institutions generated in relation to various atrocities committed during the Banda regime. The release of such records, for instance, has revealed that ‘there are just too many’ (Malawi Government, 2005, p. 59) detention and property forfeiture documents which were signed by Dr. Banda. Where supporting documents were not available, the claims were either rejected altogether or not validated pending further information.

In order to reduce the NCT’s burden of handling additional claims from hundreds of civil servants who were dismissed between 1964 and 1993 on political grounds, the Office of the President and Cabinet (OPC) took up this responsibility. To this effect, the Government made a public announcement and directed all Principal Secretaries and Heads of Departments that all civil servants who were dismissed or had their

appointment terminated on political grounds be deemed to have retired either on attaining the age of 55 years or on 21st May 1994, if they had reached the mandatory retiring age (then) of 55 years.¹⁴⁷ Claimants were given a period of ten years within which to lodge their claims against the Government.

Between 1995 and 1996, before the establishment of the Office of the Ombudsman, the OPC dealt directly with claimants, and once the claims had been validated, appropriate pensions were paid out. The Ombudsman's Office, whose primary role is to 'investigate any and all cases where it is alleged that a person has suffered injustice [in the public service] and it does not appear there is remedy...' (Malawi Government, 2005, Section 123), was established in 1996. From this date, the Ombudsman took over from the OPC the task of validating claims of the former civil servants dismissed on political grounds. The UK's Department for International Development (in Andreassen, and Oftedal, 2007) estimated that the Ombudsman handled 3000 cases annually between 1996 and 2004, while Andreassen and Oftedal (2007) found that between 2004 and 2007, the Ombudsman opened about 500-600 cases annually.

A few public servants were handed dismissal letters, but most had their employment terminated verbally. Documentary evidence to validate claims of this nature was either a dismissal letter or claimant's departmental personal file. It is worth mentioning that some former civil servants who were victimised by the Banda regime and qualified for compensation had passed away before 1995, while others could not

¹⁴⁷ OPC Ref. No. 5/06/4, Circular from the Chief Secretary to all Principal Secretaries and Heads of Departments, 28th July 1995.

manage to register their claims in person. In both cases, the Government allowed relatives of the victims to lodge claims on their behalf.

When the OPC handled the claims between 1995 and 1996, claimants who did not have – most of them did not have – dismissal letters to support their claims against the Government, were issued with certificate letters. In turn, the claimants presented the letters to the National Archives, which asked the Department to release personal files of bearers of the certificate letters for compensation purposes. The claimants presented the files to the OPC, and after the cases had been concluded, the OPC returned the files to the Archives. Similarly, when the Ombudsman took over from the OPC the settlement of claims of former public servants, the Archives was required to make available personal files to certified claimants. The Ombudsman used powers conferred on him by Section 124 (b) of the Constitution, which provides that the Ombudsman shall have full powers to require the immediate disclosure of information and production of documents of any kind, from a public body.

Guidelines on the retention and disposal of personal files of public servants by the Archives are contained in the Records Retention and Disposal Schedules, which were developed in 1968. The Schedules stipulate that personal files for temporary staff should be retained for ten years, after which they should be disposed of; personal files for permanent staff who worked up to ten years should be retained for 20 years; and those for staff who worked for more than ten years should be retained

for 50 years.¹⁴⁸ Due to these lengthy retention periods, the National Archives was able to produce personal files to most of the claimants who visited the institution.

In its Circular of 21st April 2005, the Government made a public announcement of its decision to stop entertaining any further claims by former public servants who had been dismissed on political grounds, observing that the concerned people had been given sufficient time (ten years) to take up their claims with the government.¹⁴⁹ Between 1995 and 2005, the National Archives assisted hundreds of victims of the former oppressive regime, most of whom had never had any dealings with the Department before. For these people, the Archives were their only hope of ever being able to receive compensation for their suffering. In this way, the National Archives contributed towards the healing process of many people who had been victimised by the Government through summary dismissal from the public service.

6.2.3 Justice sector reform

Since the colonial period Malawi has functioned with the regular courts running parallel to traditional courts, which were originally meant to try minor customary law cases. As one way of interfering with the judiciary and creating an apparatus for political persecution, the Banda government expanded the jurisdiction of the traditional courts in 1970 to include criminal cases such as rape and murder. The mandate of these courts was further widened in 1976 to try treason cases (Mutua, M. 1994). Although the traditional courts had been given such responsibilities, they were

¹⁴⁸ NAM, NA/OA/RM/4 Records Retention and Disposal Schedules

¹⁴⁹ OPC Ref. 5/06/4, Circular from the Chief Secretary for Public Service, to all Principal Secretaries and Heads of Departments and advertised in the press, 21st April, 2005.

presided over by judges (traditional chiefs) who had no legal training, did not allow legal representation of the accused and did not apply rules of evidence (Mutharika, 2000).

In consolidating the structures and processes of democratic rule, the judicial reforms that were undertaken in 1994/1995 resulted in the abolition of the Traditional Courts. All the lower level, District, Regional and National Traditional Courts ceased to operate and were instead integrated into the Judiciary, pursuant to Section 204 of the Constitution. Schärf et al (2006, p. 5) argue that the integration of the Tradition Courts into the Judiciary created other unforeseen problems. Two of these problems were: wholesale incorporation of untrained and incompetent traditional court staff into the Judiciary raised serious problems for the rule of law and judicial competence; and abolition of traditional courts created a serious backlog of cases and brought a heavy strain on the already limited resources of the Judiciary.

The need for capacity building and restoration of public confidence in the legal system and justice in the country became pronounced after the introduction of multiparty democracy. However, in addition to the two challenges cited above, as argued by Schärf et al, public institutions in the legal sector experienced a serious lack of 'material resources to introduce new working practices and procedures and to make managerial arrangements that [would] support improvement of justice, good governance and human rights' (European Delegation Malawi, 2005 p. 4). As a result of these challenges, the Government with generous financial and technical support from the European Union's European Development Fund, initiated the Promotion of the Rule of Law and Improvement of Justice Programme (later in 2008-2010, Rule of

Law and Civic Education Project) in 1998. The wider objective of the Programme was to improve the functioning of the legal sector through enhanced quality and higher volume in the delivery of justice to Malawi citizens (European Delegation Malawi, 2005).

Most of the results required to achieve the objective of the Programme were specific to institutions involved in the implementation of the project. The implementing institutions included the Ministry of Justice, the Judiciary, the Malawi Law Commission, the Malawi Prison Service, University of Malawi's Law Faculty, the Anti-Corruption Bureau, the Malawi National Assembly, the Malawi Human Rights Commission, the National Compensation Tribunal, the National Archives and the Ombudsman. The combined contributions from these institutions to the justice sector were: improved prosecution and defence services in the courts; revision of out-dated laws; Prison reforms; increased supply of graduate quality lawyers, paralegal officers and lay magistrates; an increase in successful anti-corruption cases in court and decrease of corruption; easy access to and exchange of records with legal relevance; and civic awareness on good governance, human rights, access to justice and the role of public legal institutions (European Delegation Malawi, 2005).

One of the serious challenges that hampered the success of the project's pilot phase (1998 – 2001) was poor record keeping within the implementing institutions. Kanyongolo (2006, p. 11) noted that record keeping in the judiciary was generally poor, observing that 'files, registers and case records are neither accurate nor secure, with the result that incorrect data is collected and management decisions

and cases are delayed and/or made from an uninformed position.¹⁵⁰ Although the legal sector was dominated by managing the creation, dissemination and use of information (Barker, 2005), it faced serious record keeping challenges. The challenges led to the development and implementation of records management programmes in the sector. One key recommendation made by the consultants, who designed the project's second phase, was that deliberate measures aimed at improving record keeping within the project's implementing institutions had to be undertaken. As one of the institutions in the project, with a mandate to oversee and promote good record keeping throughout the public service, the National Archives was asked to design and implement programmes that would result in improved record keeping in the justice sector. For this reason, record keeping remained one of the important cross-cutting components throughout the project.

Different strategies, such as records surveys in all the institutions, records management training workshops for records personnel from all the institutions, revision of institutional filing systems, development of institutional records retention and disposal schedules, establishment of institutional records rooms/mini archives and development of records management guides, were adopted in order to address the record keeping problems encountered during the project's first phase.¹⁵¹ By the end of the project's second phase, remarkable improvements in record keeping within the justice sector had been registered. On the basis of demonstrable overall

¹⁵⁰ In contrast to the pre-colonial judicial system in which everything was captured orally, delivery of justice was rarely delayed or affected by poor record keeping (save in some cases where witnesses would have given false testimony leading to miscarriages of justice) a factor which until recently seriously affected the judicial system in Malawi and is yet to be fully addressed .

¹⁵¹ NAM, Ref. NA/OA/4/13/Vol.Vi/91, report from the Acting Director of Archives to the Director of Culture on the Government of Malawi/European Union Rule of Law Programme, 25th October 2008.

progress, the EU approved further funding for Phase 3 (2009-2010) of the project on 31st December 2008.

After contributing to improved record keeping within the justice sector, the National Archives rolled out the record keeping improvement programme to the wider public sector with support from the Programme. The first country-wide records management needs assessment was undertaken. The outcome was publication of the Report cited in the previous chapter. Following the country-wide records management tour, the National Archives provided technical advice on the development of filing systems for all government institutions in twelve districts based in the country's central region.¹⁵²

In order to sensitise policy makers to the contribution of good record keeping towards achievement of effective and efficient service delivery, accountability, transparency and good governance, a two-day records management workshop for all Principal Secretaries (but attended by Deputy Secretaries and Directors of Finance and Administration) was held on 31 January-1 February 2008.¹⁵³ The workshop was facilitated by Mr. Alistair Tough and Dr. Segomotso Keakopa, from the University of Glasgow and University of Botswana, respectively. At the end of the workshop resolutions on records management were adopted, which have since led

¹⁵² NAM, Ref. NA/OA/4/13/Vol. Vi/34, EU-Rule of Law and Civic Education Project Progress Report for the National Archives of Malawi for PE # 2 1st April-6th June 2008, presented by Joel S. Thaulo and Stanley S. Gondwe on 6th June, 2008.

¹⁵³ NAM, Ref. NA/OA/4/13/Vol.II/9, Invitation to a Records Management Workshop for Directors of Administration and Finance from Ministries, from the Secretary for Tourism, Wildlife and Culture, to all Principal Secretaries, 14th January 2008.

to the development of the country's draft Records Management Policy.¹⁵⁴ After raising awareness of senior government officials, and informed by the country-wide records management needs assessment, the National Archives held another two-day records management workshop for all District Commissioners in the country on 16-17 July 2009. The workshop aimed at, among other things, sensitising the participants to the value of records in the promotion of good governance and effective implementation of the decentralisation programme.¹⁵⁵ At this workshop whose key facilitator was again Mr. Alistair Tough, important resolutions for improving record keeping in the district offices were developed by the participants.

Apart from enabling the National Archives to undertake important records management programmes in both the justice sector and the wider public sector, the Rule of Law Programme has assisted the Department in undertaking other activities that could not have been otherwise possible on the basis of the limited resources provided by the government. The Programme has provided resources for procuring and installing various IT systems. A Local Area Network is in place at the Department's head office and a website was designed.¹⁵⁶ Apart from rehabilitating the institution's old vehicles, the Programme procured four new vehicles that have contributed to increased records management outreach programmes. The project has also assisted the National Archives to enhance its own capacity through staff attachments to regional archival institutions for training and benchmarking and long-

¹⁵⁴ Although the draft policy was submitted to the Ministry of Tourism, Wildlife and Culture in June 2008 for comments and directions, by December 2011 the National Archives had not yet received any feedback.

¹⁵⁵ NAM, NA/OA/4/13/Vol. III/53, Invitation to a two-day Records Management Workshop, from the Secretary for Tourism, Wildlife and Culture to all District Commissioners with a copy to the Secretary for Local Government and Rural Development, 1st July 2009.

¹⁵⁶ See <http://www.sdn.org.mw/ruleoflaw/archives/index.html>

term training to Diploma and Masters Levels. Additionally, the Programme assisted the Department to digitise its endangered cinematographic film collection, copy five cubic feet of slave trade records on Malawi from Zanzibar, acquire and install air conditioners and acquire and install fire detection system and extinguishers, among other benefits.¹⁵⁷

6.2.4 Democratic Governance Programme

Following the successful implementation of the Promotion of Rule of Law and Improvement of Justice in Malawi and the Promotion of Rule of Law and Civic Education Programmes, between 1997 and 2010, the Malawi Government and the European Union signed a Financing Agreement in March 2011 to implement the Democratic Governance Programme (DGP). The implementation period for the DGP, which builds on the experiences and lessons gathered during the implementation of both the Promotion of Rule of Law and Improvement of Justice in Malawi and the Promotion of Rule of Law and Civic Education Programmes, is from 2011 to 2016. There is an overall financial contribution amounting to EUR 30 million.

The overarching objective of the DGP is to:

contribute to the reduction of poverty through improved Democratic Governance, including access to quality justice for all in Malawi through a more effective and responsive Judiciary, increased restorative and victim-friendly approaches in both the formal and informal systems; improved democratic accountability and oversight, and to ensure that all Malawians know and understand, and are able to claim, their rights and the services to which they are entitled.¹⁵⁸

¹⁵⁷ NAM, NA/OA/4/13/Vol. II/46, "Ten Years of Success" with the Support of the European Union Rule of Law Project. Briefing Notes for the Head of Delegation of the European Commission to Malawi.

¹⁵⁸ See: http://eeas.europa.eu/delegations/malawi/projects/list_of_projects/22020_en.htm (accessed 12/04/2012)

By financing the DGP to the tune of EUR30 million, the EU demonstrates its support to Theme Five, Democratic Governance, which is contained in Malawi's strategic plan, the Malawi Growth and Development Strategy (MGDS). Under the Governance theme, the government observes that good governance requires: achieving and sustaining macroeconomic growth; strengthening public policy formulation and implementation in a transparent and responsive manner; improving service delivery and accountability at the local level through decentralisation; developing a strong justice system and rule of law; ensuring personal security; establishing an institutional setting for good corporate governance; and promoting human rights (Malawi Government, 2006).

During the design phase of the DGP in 2010, all the institutions participating in the Promotion of Rule of Law and Civic Education Programme were requested to state how they would contribute to the new Programme. Apart from those institutions already in the Promotion of Rule of Law and Civic Education Programme, several other new institutions were expected to participate and are indeed now participating in the DGP. Learning from the previous experiences, when the Rule of Law and Improvement of Justice Programme encountered challenges due to poor record keeping within the justice sector, and given that many public institutions with a track record of poor record keeping would be involved in the Programme, the National Archives considered that in order to achieve the objectives of the DGP, good record keeping had to be a key component of the whole Programme. For this reason, the Archives submitted a proposal to develop and implement different record keeping strategies in order to assist the Programme. To this effect, all the Department's proposals were reflected in the draft project document.

When the final project document was released, the National Archives did not feature anywhere in the document and was consequently left out of the DGP. However, a few months from March 2011 when the project commenced, some former institutions in the Promotion of Rule of Law and Civic Education Programme and many other new institutions that are implementing the DGP encountered problems that involved record keeping. These problems had been foreseen by the Archives, and strategies for dealing with them had been submitted as proposals and were contained in the PGP draft project document. In order to address the problems, the National Archives is now being invited to assist the institutions currently facing record keeping challenges in the DGP and as it is not formally part of the programme, the Archives is rendering its services on a consultancy basis.

6.3 The IMF/World Bank Structural Adjustment Programmes

6.3.1 Privatisation of public enterprises

Lane (2003) views privatisation as a set of strategies for reforming the public sector, stemming from dissatisfaction (such as severe problems of leadership and efficiency) associated with the traditional structure of the public sector. One of the approaches to privatisation is the transfer of ownership of public enterprises from public to private ownership.

In Malawi, privatisation is governed by the Public Enterprise Act (1996) and the programme is implemented by the Privatisation Commission, which was also established in 1996. The major objectives of the privatisation programme are to: foster increased efficiency in the economy; increase competition and reduce

monopoly in the economy; promote participation by the Malawian public in enterprises; and raise revenue for the Government (Public Enterprises Act, 1996). By realizing these objectives, the Government hopes to create an economic environment that is conducive to private sector development and free public resources for investment in infrastructure and social programmes.

Privatisation has had, and continues to have, implications for public records. The fact that public enterprises are established under specific statutory provisions, are publicly funded and subject to government audit and have boards appointed by the executive arm of government, means that records generated by the public enterprises are public records and therefore subject to the regulations governing the management of records of all other government institutions.

The provisions of the Public Enterprises (Privatisation) Act 1996 promote good record keeping in at least two aspects. The first one is regulation of record keeping within the Privatization Commission (PC) through the following sections, which mandate the PC to;

Section 8 (2) (k): prepare or cause to be prepared the relevant documentation necessary to effect the privatization of any public enterprise

(m): maintain records, safeguard information and establish such administrative procedures as shall ensure confidentiality of information

11: cause minutes to be kept of the proceedings of every meeting of the Commission and of every meeting of a committee of the Commission.

15 (2) (a): prepare and update a database of all public enterprises

19 (1): not publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information which relates to, and which has come to his knowledge in the course of, his duties under this Act, by any person without the consent in writing given by or on behalf of the Commission.

These provisions have led the PC to maintain a good record keeping system for both current and historical records.¹⁵⁹ Although relatively new, the PC maintains a very good archive that is headed by a professional archivist, a former employee of the National Archives of Malawi. The archive holds all business and accounts records of each privatised entity. All records that provide critical information about an enterprise for the last five to seven years before privatisation are transferred from the enterprise to the PC, where they are processed and transferred into the archive after each enterprise's Information Memorandum has been compiled. The records in the PC archive are to be maintained indefinitely as long as the Commission continues to exist.

The PC's policy to preserve indefinitely records of all privatised companies has two implications. The first implication is that records of one public enterprise are spread over different locations and in different institutions such as the National Archives, the PC archives and the newly privatised enterprise. The second implication, which is actually an advantage, is that although only partial records covering the last five to

¹⁵⁹ Unlike many other bodies which are also supposed to be subject to regulations but disregard them in reality, part of the explanation for the PC's success may lie in their generous budget which enables them to afford to maintain two parallel infrastructures where records are kept well.

seven years of a public enterprise before the enterprise's privatisation are kept in the PC's archive, the policy provides the only way of preserving public records of public enterprises that have changed hands into private ownership to which the public might never otherwise have access.

The provisions of the Public Enterprises (Privatization) Act also regulate albeit partially, record keeping within the public enterprises which have been earmarked for privatisation. Section 24(1) of the Act requires an enterprise that has been earmarked for privatisation, to: (b) keep up-to-date all business records and books of accounts; (d) prepare the accounts and a financial statement of the enterprise for every financial year and cause the accounts to be audited not later than four months after each financial year; (e): maintain a register of its fixed assets, which register shall be reconciled with the financial statement; (h): as far as possible establish and document all contractual, legal and other obligations; (i) not give any person information that might give undue advantage to that person or to any potential investor.

Privatisation has also raised an issue of ownership of historical records of privatised enterprises. Disposition and preservation of non-current public records in Malawi are largely governed by the National Archives Act (1975). Applying archival principles, non-current public records deposited by government agencies at the National Archives' Records Centres are professionally preserved for purposes of reference, research and posterity. However, as the National Archives Act was enacted some two decades before the Privatization Act and has not been revised since then, it is silent on the destiny of public records of privatised public enterprises. Another issue

is that although the National Archives oversees and promotes records management issues in the country, it has concentrated its efforts mostly on government ministries and departments and, very little, if any, on public enterprises, such that most of the public enterprises have managed their records with little advice from the National Archives. As a result of minimal interaction between the National Archives and the state owned companies, most of the public enterprises in the country have not transferred their non-current records to the National Archives Records Centres.

While the Public Enterprise Act (1996) addresses some records management aspects as discussed above, it does not provide direction on what should happen to the records of a privatised enterprise that are actually public records because they were generated before the privatisation of an enterprise took place. This lack of direction has resulted in serious repercussions for the state of public records, because most of the public enterprises have maintained their own records without transferring them to the National Archives since their establishment in the mid-1960s.

From 1996 to 2009, the Privatisation Commission has successfully concluded privatisation transactions of fifty three public enterprises, while several other transactions are yet to be concluded. Out of this number, thirty-four were wholly owned by the government while the other nineteen were joint ventures between the government and other private investors. The table below summarises the privatisation methods through which the thirty-four PEs that were wholly owned by government were privatised.

Figure 6: Summary of privatisation of PEs and their method of privatisation between 1996 and 2009

Total No. of PEs privatised since 1996: 53
 No. of PEs wholly owned by government: 34

Privatisation method	No. of PEs privatised
Management Buy Out	2
Recapitalisation	3
Liquidation	4
Concession	10
Sale of enterprise	15
	Total: 34

Source: Completed transactions available at www.pcmalawi.org (accessed on 19/10/2010)

Out of all the thirty-four PEs wholly owned by Government that have been privatised so far, the National Archives of Malawi has received record deposits from only three PEs that were privatised through liquidation. The three are: VIPCOR, which deposited 3m³ of its records to the National Archives; Malawi Book Service, which deposited a total volume of 5m³ of its records; and the Malawi Development Corporation, which deposited 326m³ of the organisation's records that were generated between 1964 when it was established and 2009.¹⁶⁰

¹⁶⁰ NAM Records Transmittal List for Malawi Development Corporation.

Out of the four liquidated PEs, three (VIPCOR, Malawi Book Service and the Malawi Development Corporation) were dissolved through local firms that the Privatisation Commission hired to undertake the liquidation process. Only one, Shire Bus Lines Company, was liquidated by a foreign firm. It would appear that because of their familiarity with the National Archives local liquidators, on their own, transfer what remains of the liquidated PE's records to the National Archives after the liquidation process. This is in contrast to a foreign liquidator engaged to liquidate a PE, who at the end of the liquidation process appears not to have any clear direction on what to do with the liquidated PE's non-current records. This was demonstrated when the Shire Bus Lines Company was liquidated by KPMG. To date records of the liquidated first national bus company, which started in 1947 as Nyasaland Transport, are nowhere to be traced.

The acquisition of VIPCOR and Malawi Book Service records was through local liquidators who personally brought to the National Archives a few cartons of records of the liquidated PEs. However, it must be asked whether the two liquidated PEs generated only a total of 8 cubic metres of records during their entire existence since their establishment in the 1960s. Acquisition of the MDC's records, generated from 1964 when the company was formed and well preserved in the Corporation's archive room, was through a request to the National Archives by the local liquidator to advise on what to do with the records. The records from the three liquidated public institutions will be preserved in the National Archives indefinitely for posterity as part of the country's documentary heritage and an important information resource for research.

While the first bus in the country is on display at the Museums of Malawi and attracts the attention of many people, the records of the first national bus company, which owned that bus are nowhere to be found. Additionally, no single document from the PEs that were privatised through management-buy-out, concession, recapitalisation and total sale was received by the National Archives. Historical records of such PEs, if they still exist, may have been lost to private ownership and, may never be accessed by the public. It is uncertain whether the new owners of the privatised enterprises place any value on the bulk of non-current records that they inherited from the Government. However, it is likely that if the owners of the privatised enterprises find the inherited non-current records useful, the records are well-taken care of.¹⁶¹ If the inherited non-current records are not valued and cared for properly, they might eventually be disposed of, thereby creating a permanent gap in the country's documentary heritage.

6.3.2 Downsizing and freeze in public service employment

As part of the Civil Service reforms under the Structural Adjustment Programmes, the Government of Malawi (hereafter, the Government) was expected to reduce the size of the Civil Service in 1996. The savings gained from the reduction of the public service workforce were to be used to increase the salaries of the public servants in order to promote efficiency in service delivery. In March 1996, 14,000 civil servants were retrenched and the first group to be retrenched was the industrial class (Adamolekun, et al, 1997). By 1997 the number had increased to 20,000 and a

¹⁶¹ One typical example of this case is the Compagnie Francaise de l'Afrique Occidentale (CFAO) Malawi Branch, an automobile and pharmaceutical distributor. Although not a public enterprise, CFAO purchased the entire operations of the Mandala Motors Group in 2002 (the African Lakes Corporation was later known as Mandala Motors Group) – see <http://www.cfaomw.com/history.html> (accessed on 07/05/2012). The acquisition of Mandala Motors Group by CFAO included all the operational assets including records that were generated and left by the African Lakes Corporation. I am grateful to Alistair Tough who surveyed the ALC's records at Mandala archive in Blantyre, Malawi, for information on the ALC's records available in Malawi.

further 14,000 industrial class workers were to be retrenched following the Government's 1996/1997 and 1999 functional reviews of its ministries and departments (Anders, 2003). However, due to serious political, social and economic problems arising from the retrenchments, the Government was not keen to carry out any further retrenchments (Wescott, 1999), leaving only the option of suspending recruitment in the public service.

In August 1999, the Government directed the immediate freezing of recruitment of additional staff in all ministries and departments apart from the Malawi Police Service, the Malawi Army, Ministry of Health and the Ministry of Education, Sports and Culture. In order to make up for any lack of staff in their establishments as a result of the new policy measure, Controlling Officers were advised to utilise the services of existing members of staff. Strict and lengthy procedures were put in place to ensure that recruitment of staff was difficult. For instance, if any Controlling Officers considered that recruitment of additional staff in their ministries and departments was 'an absolute necessity to the implementation of core Government programmes,'¹⁶² they were asked to provide a full justification for the posts to be filled and had to submit their recruitment proposals to the Department for Human Resource Management and Development (DHRMD) for assessment. Only after the DHRMD had been satisfied with the submissions, were the concerned Controlling Officers advised to forward their requests for recruitment to the Office of the President and Cabinet. When the OPC administrators saw merit in the requests, the requests were further submitted to the Special Cabinet Committee on Budgetary Measures for final

¹⁶² OPC Circular Ref. No. PS 2.5, from the Secretary to the President and Cabinet to all Principal Secretaries and Heads of Departments, 20th August, 1999.

decision. Apart from freezing the recruitment of additional staff in the Civil Service, and in line with its commitment to strengthen expenditure control measures, the government directed the immediate implementation of a number of expenditure control measures for the 2000/2001 financial year. One of these measures was the freezing of filling of all vacant posts in the Civil Service.¹⁶³

During the 2003/2004 financial year, the Government again directed that vacancies generated by attrition in the Civil Service should not be filled, warning that disciplinary action would be taken against those who contravened the stipulated measures.¹⁶⁴ In 2004, the Government further directed that posts that had been reported to the Public Service Commission, the Local Authority Service Commission and the Appointments and Disciplinary Committee for which interviews were held but selection of successful candidates had not been completed, should be cancelled.¹⁶⁵ This in effect reversed approvals made by the OPC's Special Cabinet Committee on Budgetary Measures to either recruit additional staff or fill vacant posts on special requests made by Controlling Officers.

The freezing of public service employment had implications for record keeping in the country in at least two ways. This expenditure control measure resulted in the reduction of the number of Clerical Officers who served as records managers in the

¹⁶³ OPC Circular Ref. No. 15/15/1, from the Secretary to the President and Cabinet to all Principal Secretaries and Heads of Departments, 4th May, 2001.

¹⁶⁴ OPC Circular Ref. No. 15/15/1, from the Secretary to the President and Cabinet to all Principal Secretaries and Heads of Departments, 26th August 2003.

¹⁶⁵ OPC Circular No. 12, Ref. No. ST/4/2004/05, from the Secretary to the President and Cabinet to all Principal Secretaries and Heads of Departments, 7th October, 2004.

public service. It also rendered the National Archives ineffective because of inadequate personnel to carry out the Department's core functions.

Promotion to senior positions, retirements and high death rates due to the HIV/AIDS pandemic, meant that the number of Clerical Officers available to undertake records management functions in the Civil Service was reduced. In turn, the reduced number of Clerical Officers meant that those actually in post had so much work to do that their performance was likely to be compromised. As Clerical Officers move up the hierarchical ladder through promotions, they cease to carry out records management duties. This being the case, and because of the directive for ministries and departments to utilise the existing staff to carry out government functions instead of recruiting additional staff or filling vacancies, few senior officers could devote their energies to performing clerical duties besides their own duties.

As Section 5.3.1 above has indicated, only 45 per cent of the Clerical Officers provided for in the official establishment were in post and responsible for managing public sector records in 2007. In order to make up for the inadequacy of the Clerical Officers, public institutions used messengers (cleaners), copy typists and a few senior officers who were only interested in keeping certain categories of records that they considered vital. Consequently, as discussed in Section (5.3.1) above, the situation gave rise to a number of serious record keeping problems.

The National Archives was adversely affected by the Government's freeze in employment of additional staff and filling of vacancies. A number of factors had contributed to the understaffing of the institution. Some professionally qualified and

long serving archivists had retired upon reaching the mandatory retirement age of 55 years (increased to 60, in 2010) or opted for early retirement after serving for at least 20 years. Other staff members either died while in service or resigned for better pay packages in the private sector. As a result of these factors and because of the freeze in public service employment, out of the Department's staff establishment of 84 in 2007, the number of staff actually available, inclusive of administrative personnel, drivers, security guards and messengers, was 31, representing a 63 per cent vacancy rate.¹⁶⁶

Due to a lack of professional staff, the Conservation and Reprographic Section was closed down in 2005. Until 2012, this Section has remained closed, which has forced the suspension of conservation of vulnerable archival documents. Another Section that remained unmanned between 1999 and 2009 because of lack of personnel was Historical Manuscripts, which collects historical manuscripts and conducts oral history research programmes to complement the official archives (National Archives of Malawi, 2010).

The Public Archives Section was also affected because it was manned by an Archives Assistant and a Library Assistant between 1999 and 2009. Non-availability of adequate and qualified staff in the Public Archives Section reduced the functionality of the Section to only reference services for a period of ten years. Important activities such as appraisal and cataloguing were suspended as a result, which led to an overwhelming backlog of records appraisal and cataloguing tasks.

¹⁶⁶ NAM, NA/OA/9/2 Staff Matters: Establishment and Staff Returns

The catalogues currently in use at the National Archives were prepared in the 1980s, and the latest archival collections that can be accessed only extend as far as the early 1950s.¹⁶⁷

This state of affairs has thwarted the Department's commitment to promotion of research through increased access to the country's documentary assets. Besides part of the pre-1950 records, colonial records up to 1964 have not been appraised and catalogued and can therefore not be made available to researchers. Currently, public records in Malawi become available to the public for research thirty years from the time they are closed for current business in public institutions. According to this rule, by 2012 all records in the National Archives up to 1982 should be open and accessible to the public. However, no single consignment of records in the National Archives from 1964 to 1982 has been appraised and catalogued. As it is, besides the secondary sources of information in its Legal Deposit Library, the Department makes available to the research community only the larger part (1891-1950) of the colonial archives and all the Federal (1953-1963) archives.

It can be argued that the staffing problems due to the freeze in employment have contributed to the hindrance of research using the 1950-1982 public records. As long as all the public records of the post-colonial era remain inaccessible to the research community and the general public, the National Archives largely remains a colonial and federal archive. In his assessment report, Mazikana (2003, p. 11) stated that 'in

¹⁶⁷ An exception to this are catalogues of the Federal records which were transferred to Malawi in the mid-1960s from Zimbabwe after the dissolution of the Federation of Rhodesia and Nyasaland and microfilm catalogues of the indivisible Federal records which were microfilmed in 1984-1986.

the Records Centre in Zomba, there are 170,000 files going back to 1965 which had been scheduled for review at designated dates and are still awaiting that review.’¹⁶⁸

Operating with a skeleton staff, the Records Management Services Section could not meaningfully carry out records management outreach programmes between 2000 and 2007. During this period, an average of only four outreach programmes of one week each per year was conducted where the National Archives staff inspected registries and advised records personnel on good records management practices. Mazikana (2003, p. 11) observed that the serious reduction in the number of records surveys being undertaken had ‘reduced contact between the National Archives and the records creating agencies as well as cutting off mechanisms through which the National Archives was fulfilling its mandate to advise ministries and departments. As a result of reduced National Archives activity, a multiplicity of filing systems [was] being developed and used in ministries and departments with new staff untrained and unaware of key essentials.’ Coupled with the lack of training in records management for Clerical Officers in the Civil Service, a fall in the National Archives’ outreach programmes contributed to the general decline in the standard of record keeping in the public service.

¹⁶⁸ As a result of the suspension of the freeze in public service recruitment, the National Archives has experienced a reduction in the vacancy rate from 63 per cent before 2007 to 31 per cent in 2011 and recruitment processes are still underway to fill all the vacant positions. Lack of funding from the government and shortages of staff forced the Archives to concentrate on the EU Rule of Law Project activities between 2000 and 2010.

6.4 The New Public Management

6.4.1 Commercialisation of the Staff Development Institute of Malawi

The Staff Development Institute (SDI), formerly the Institute of Public Administration, is the training arm of the Malawi Civil Service that was established in 1962. Since its establishment, the SDI has remained a civil service training institution administratively placed under the Public Service Management Department, formerly the DHRMD, in the OPC. Until 1995, within one year of their recruitment, public servants underwent induction training programmes in their specific fields at the SDI, with full sponsorship from the Government.

As part of the public sector reform measures aimed at cutting costs and increasing efficiency, the Staff Development Institute was commercialised in 1995. Funding previously channelled to the institute for running the training programmes and meeting accommodation, transport and allowance costs for the course participants, who were all drawn from the public service, was curtailed. Apart from staff salaries at the normal government rates, the institute was left to explore ways of raising its own revenue for running the training programmes. This development compelled the SDI to redefine its mission and develop strategies for generating revenue. Previously a leading institution in the provision of training for public servants, since commercialisation, the SDI has existed to provide demand-driven practical training, consultancy and research services to clients within and outside Malawi with the aim of helping its clients to exceed their needs and expectations.¹⁶⁹ Although still a

¹⁶⁹ See www.sdi.org.mw

government institution, the SDI has general autonomy over its day to day operations, and all its services are offered on a commercial basis. Its customer base is no longer restricted to the public service but extends to the non-governmental and private sectors, from both within and outside the country.

Commercialisation of the Staff Development Institute has had implications for record keeping in the Malawi public service. The withdrawal of government funding to the SDI has affected the regular induction programme for Clerical Officers. The two-month Clerical Officers' induction course at the SDI, among other aspects, included Information Management and Office Procedures, Records Management and government rules, regulations and procedures. This specialist course enabled public service records personnel to acquire the necessary knowledge and skills for carrying out most of the routine and basic records management functions effectively. Additionally, the course helps the participants to adopt and apply uniform procedures and standards in the management of records throughout the public service. As illustrated in the preceding chapter, when the Clerical Officers move to higher positions in the system, they assume new roles altogether, and this being the case, the Clerical Officers' induction course at the SDI helps to ensure that records personnel in the public service are appropriately trained to discharge their responsibilities competently.

After the commercialisation of the SDI, individual government institutions became responsible for sending staff, including Clerical Officers, within their establishments to the SDI from their own allocated institutional monthly budgets. As a commercial

enterprise, the SDI now operates on a 'no fee no admission'¹⁷⁰ policy, and this means that for a government institution to send a Clerical Officer for a two-month induction course at the SDI, an expenditure of about K250,000.00 (£1000) has to be made. This is a lot of money, considering that some departments and most of the district offices get an equivalent of this amount or less as monthly funding from the Treasury for all their other recurrent functions. This makes it difficult for many public institutions to send their Clerical Officers to the SDI for the Clerical Officers' induction course. Many other government ministries and departments, which are adequately funded by the Treasury, feel reluctant to send their Clerical Officers to the SDI. This is so for at least two reasons. Firstly, the status of the Clerical Officer as the lowest position in both the administrative and technical hierarchies in the Malawi public service often causes senior officers to ignore their training needs, more especially where substantial amounts of money are to be spent on such poor calibre of staff. Secondly, as Clerical Officers fall under the common service requiring that they can be posted from one public institution to another at any time,¹⁷¹ ministries and departments are not keen to spend money on training Clerical Officers who are not permanently stationed in one ministry or department.

Since the commercialisation of the SDI, the Clerical Officers, like many other public servants, are not sent for induction courses at the SDI in the same way as was previously the case. In 2006, the Chief Secretary issued a circular to all the Controlling Officers and Heads of Departments in which he observed that attendance

¹⁷⁰ See www.sdi.org.mw

¹⁷¹ In his Circular Ref. No. HRMD/4/1/72, to all Controlling Officers and Heads of Departments, the Secretary for the DHRMD announced that government had re-introduced the Common Service for human resource management, secretarial and Clerical staff in the Civil Service with effect from 1st July 2002.

of public servants on induction courses at the SDI was not sufficient. He then appealed to all the Controlling Officers and Heads of Departments to encourage their employees to attend the induction courses, warning, 'from now onwards my office shall closely monitor attendance of Induction Courses at SDI, and strict measures shall be instituted if the situation does not improve.'¹⁷²

Poor patronage at the Clerical Officers' induction course has negatively affected public sector records management in that most public sector records officers carry out their work without going through any training in records management at the SDI. However, producing and maintaining quality (complete, trustworthy, available and authentic) public records that are a key component for enabling the Government to attain efficient and effective service delivery to its citizens, are demanding responsibilities which require the services of appropriately trained and experienced records management experts.

Over a period of seven years (from June 2002 to July 2009), a total of 1333 records personnel from non-governmental, governmental and private sector agencies have been trained in basic records management through training workshops organised by the National Archives. The Department charged K20,000 per participant for the week-long workshops. The lower fees attracted many participants especially from the public sector. Below is a table summarising the number of people that have been trained each year for seven years. Although the participants were drawn from the public and private sectors, participants from the public sector were more than those

¹⁷² OPC, Ref. No. HRMD/SD/03/(31), circular from the Chief Secretary to all Controlling Officers and Heads of Departments, 10th July 2006.

from the private sector at each training workshop. The table indicates the number of workshop participants who indicated that they had undergone some basic training in records management elsewhere prior to attending the workshops organised by the National Archives.

Figure 7: Summary of National Archives of Malawi records management training workshops, 2002 -2009

Year	No. trained	No. previously attended some RM training
2002	68	0
2003	46	2
2004	83	4
2005	164	9
2006	98	6
2007	385	8
2008	426	12
2009	63	0

Figure 7: National Archives of Malawi records management workshops (2002 - 2009)¹⁷³

This figure would seem to suggest that although the records management workshops attracted a cross-section of participants from the public and private sector agencies, most of the Clerical Officers from the public sector, who attended the workshops, were previously carrying out their duties without any training in records management.

A few government ministries and departments are able to send their Clerical Officers to the SDI for the induction course. Those that manage to do this are either well-

¹⁷³ NAM, NA/OA/RM/4/Vol. II, III, IV Records Management Consultancy and Training files.

funded by the Treasury or through donor funded programmes that include capacity building. Apart from sending their clerical officers to the regular annual induction courses at the SDI, such government institutions request the SDI to run special clerical officers' induction courses for them. The Ministry of Local Government, for instance, is implementing a decentralisation programme with funding from the World Bank and the German Government. Two groups of clerical officers from this ministry were sent for a two week records management workshop conducted by the National Archives of Malawi in 2008.¹⁷⁴ In May 2010, the Staff Development Institute completed the seventh Clerical Officers' Induction course for Clerical Officers drawn from the Ministry of Health under the ministry's capacity building programme, with funding from the Global Fund.¹⁷⁵

The implication of this scenario is that well-funded public institutions and those that implement donor funded programmes with a component of capacity building are able to train their staff, including Clerical Officers. Such institutions are more likely to register remarkable improvements in their record keeping systems than otherwise would be the case. Additionally, Clerical Officers at the ministry headquarters are more likely to be sent for induction course than their counterparts at regional and district levels, which will result in better record keeping practices at the ministry headquarters than at the ministry's regional and district offices. In the end, these disparities lead to inequalities in record keeping practices within the public sector.

¹⁷⁴ NAM, NA/OA/RM/Vol.III, Records Management Consultancy and Training

¹⁷⁵ www.sdi.org.mw (accessed 18th January 2011)

6.4.2 Compulsory competitive bidding

As the public sector is engaged in procurement of goods and services, good record keeping of the procurement transactions is essential in demonstrating that the procurement processes have been carried out in a transparent manner. Availability of records of completed procurement transactions makes auditing of public procurement of goods and services possible.

One of the NPM strategies is compulsory competitive bidding. McDonald, 2002; and Murfitt et al. 1996 (in Connoley, 2008, p. 47) view compulsory competitive bidding as a process by which a public sector organisation is compelled by legislation to expose services to competition from external organisations. The process comprises three stages: development of tender specifications for services; advertisement for invitation to potential suppliers to submit tender bids; and assessment of bids against pre-determined criteria and selection of a successful bidder to supply the service (Connoley, 2008). Compulsory competitive bidding has the potential to curb corruption and enforce transparency in public sector procurement once it is well managed.

In 2003 Malawi adopted compulsory competitive bidding through the enactment of the Public Procurement Act. The objectives of the Act are to:

Provide for principles and procedures to be applied in, and to regulate, the public procurement of goods, works and services; to provide for the establishment of the office of Director of Public Procurement as the main authority responsible for monitoring and oversight of public procurement activities, and for the development of the related regulatory and legal framework and professional capacity of public procurement (Malawi Government, 2003).

Apart from establishing the office of Director of Public Procurement (ODPP), the Public Procurement Act provides for the establishment of Internal Procurement Committees (IPCs) in all ministries, departments and parastatal organisations. The functions of the IPCs include ascertaining the availability of funds to pay for each procurement; opening of bids; examination, evaluation and comparison of bids; and selecting the successful bidder (Public Procurement Act, Section 8(3) (a)(b)(c)).

The introduction of compulsory competitive bidding has made provision for all government establishments to institute good record keeping practices and promote access to information. Section 27 (1) provides for a procuring entity to maintain and preserve documentation of the procurement proceedings, including originals of bids received. Once the documentation has been received, the Act requires the procurement entity to maintain it for a period of five years from the date of a decision to cancel or terminate the procurement action, the date of contract award or the date of contract completion (Section 27(2)). Section 27(4) provides that after a bid has been accepted, the procuring entity shall upon request make available the procurement documentation to any person.

Strict adherence to these record keeping requirements should have led to quality record keeping practices throughout the public sector in as far as maintenance of procurement records is concerned. However, this has not happened. One of the functions of the ODPP is 'to collect data on public procurement and monitor the performance of Government ministries, departments and parastatal organisations, and persons conducting procurement proceedings so as to ascertain efficiency and compliance with applicable legislation, regulations and instructions' (Section 4(e)). In

line with this mandate, the ODPP has published two procurement audit reports covering fiscal years 2006/2007, 2007/2008, 2008/2009 and 2009/2010. However, as the two ODPP reports that have been discussed in detail in the preceding chapter have demonstrated, except for a very few, public institutions have not made any meaningful efforts to address record keeping requirements as stipulated in the Public Procurement Act. Despite the key recommendation for public institutions to ensure that record keeping is taken seriously, as mandated in the ODPP's 2009 Report, the 2011 Report indicated that no effort was taken to address the identified problem.

6.4.3 Other reform measures

Since its transition to multi-party democracy in 1994, Malawi has undertaken a broad range of public sector reform initiatives, covering public expenditure management, administrative and civil service reform, capacity building, anti-corruption, decentralization and rule of law (World Bank, 2003). These and other public sector reform measures, which have been undertaken with technical and financial support from various development cooperating partners, have impacted positively on records management in Malawi.

For instance, reforms in the Administrator General's office have completely transformed the office's record keeping system by installing an electronic records management system. The new system has improved the management of estates of deceased public servants in the country. Reforms aimed at strengthening accountability for expenditure have led to improvements in the country's financial management system through the implementation of the Integrated Financial

Management Information System (IFMIS), which has significantly improved the overall quality and timeliness of the Government's fiscal and financial data (World Bank, 2003). As part of Human Capital Development in the public service, records management formed a component of the World Bank's Financial Management, Transparency and Accountability Programme's (2003-2008) capacity building for various categories of public servants.

The advent of Information and Communication Technologies (ICT) in the early 1990s has led to some remarkable changes in the way the government generates its information. In order to respond effectively to the technological changes affecting the public service, the government swiftly transformed the Data Processing Department into the Department of Information Systems and Technology Management Services (DISTMS) in 2003. Among other functions, the DISTMS is responsible for developing ICT policies and strategies; coordinating the implementation of ICT projects; management of government ICT projects and systems; capacity development for ICT human resources at national, sectoral and at Civil Service levels.¹⁷⁶

Technological developments have altered the way in which the public sector in Malawi has traditionally generated its records. Traditionally, central registry typing pools and other offices of secretaries would generate records by typing memos, reports, correspondence and other documents that were assigned to them by their seniors. Copies of such documents would normally be placed in appropriate files. Technological developments have rendered the central registry typing pools almost

¹⁷⁶ See http://www.malawi.gov.mw/index.php?option=com_content&view=article&id=65&Itemid=141 (accessed 13/04/2012)

redundant. This is so because almost every office is allocated at least one computer and officers can use them to generate documents. Moreover, the Internet facility which is now widely available to most government offices located in the country's cities and major towns, enables officers who have access to such facilities to communicate easily with others via e-mail. However, most of the e-mail communications that are exchanged between officers from one ministry or department and others outside those ministries or departments may not be reflected in the official record keeping systems.¹⁷⁷

As the DISTMS is mandated to manage and administer ICT products and services in the public service, it is more concerned with the technology itself than the management of electronic records such as e-mails. Management of electronic records in the Public Service is seen as the responsibility of individual institutions but no policy guidelines are put in place to assist the institutions to manage these records properly. This being the case, very few public institutions take necessary measures to manage their electronic records effectively. For instance, Tough (2011, p.1) notes that although the Malawi's Privatisation Commission does not possess an expensive Enterprise Content Management System or have an Electronic Document and Records Management System, the organisation 'has taken the trouble to organise their shared drive system properly and to ensure that it is monitored and used well.' As the preceding chapter has demonstrated, the Public Service in Malawi

¹⁷⁷ It is common practice for many government officials to use their personal e-mail accounts such as Yahoo or Hotmail, etc., for communicating official business. My personal experience is that the Director of Culture, to whom all heads of Antiquities, Arts & Crafts, Archives, Censorship Board and Museums directly report, does not have any official E-mail address but has constantly communicated electronically through her personal Yahoo e-mail account since 2004.

struggles to manage paper-based records professionally. Against this background challenges for managing electronic records effectively must be daunting.

While a number of reform measures have led to some improvements in records management, one important records management project that has not been associated with any reform programme in Malawi is the national programme for digitisation of strategic public records. In 2007 the National Archives reorganised the registry system for the OPC and in the process assisted the Office to digitally capture and organise Cabinet Minutes from 1964 up to the mid-1970s. On the basis of this seemingly impressive work, the OPC decided that a national digitisation programme of public records should be undertaken. A Circular was issued directing all public institutions to embark on digitisation of important government records. To justify this position the OPC observed that:

Ministries and departments usually keep and record official documents including letters, memoranda, reports, manuals and other important books in hard format on files, bookshelves and in file cabinets. This traditional system of preserving information has led at times to loss of important official records through fires, deliberate destruction of records and natural degeneration of paper.¹⁷⁸

In order to protect and preserve important government records all ministries, departments, parastatals, public institutions and government agencies were directed that 'apart from having official records in hard formats like files, [they should] create digitalized information records on CDs and microfilms/microfiche.'¹⁷⁹ To ensure that

¹⁷⁸ OPC Circular Ref: No. CS/S/001, from the Chief Secretary to all Principal Secretaries and Heads of Departments, copied to the Commander of the Malawi Defence Force, the Inspector General of the Malawi Police Service, the Registrar of the High Court of Malawi, the Auditor General, the Accountant General, the Director of Information Systems and Technology Management Services and the Director of Archives, on the subject of protection and preservation of important government records, 29th April, 2010.

¹⁷⁹ *ibid*

the work was professionally done, the institutions were advised to work with the Department of Information Systems and Technology Management Services (DISTMS) and the National Archives, which would provide the necessary technical support. Controlling Officers were finally directed to start implementing the exercise with immediate effect from 29th April 2010 and complete it by 31st December 2010. After the exercise, back-up digital copies were to be kept at another two alternative safe places including the National Archives.

The directive to digitise all important public records was made without any consultations with the DISTMS or the National Archives, which had been identified to provide technical expertise to all the institutions. This being the case, the two institutions held a consultative meeting on 28 May 2010 to discuss modalities of implementing the national programme, and a Taskforce on Digitisation was established. The second consultative meeting, which took place on 12 August 2010, developed the Terms of Reference for the Taskforce on Digitisation.¹⁸⁰ One of the responsibilities of the National Archives on the Taskforce was to develop appropriate guidelines on digitisation. A draft copy of the guidelines¹⁸¹ was completed and submitted to the Ministry for approval, which had not yet been received by July 2011.

Implementation of this important project faced some basic challenges. The first one was lack of financial resources. The directive had been issued two months before the end of the financial year and institutions had no extra finances to implement the programme. Additionally, annual budgets, which had not incorporated digitisation

¹⁸⁰ NAM, *Digitisation of Public Records: Terms of Reference for the Taskforce on Digitisation*, September 2010

¹⁸¹ NAM, *Guidelines for Digitisation of Public Records: Records Management Guidelines No. 1*

costs for the financial year July 2010-June 2011, had already been prepared and were awaiting the Budget Session of Parliament in May-June 2010 for approval.

The second problem was that while this was meant to be a national records management project, only government ministries and departments located at the capital city were aware of the government directive. The Circular containing the directive appears not to have been widely circulated to the entire government establishment throughout the country.

Thirdly, within three months after the directive was issued, a number of ministries, which had some IT equipment in place and thought that they could start the project, requested support from the National Archives experts to carry out needs assessment and advise them on how to implement the project. Some ministries even thought that the National Archives would undertake the actual digitisation on their behalf. Within this period, the National Archives deployed almost its entire professional staff to various ministries at the request and expense of those ministries to conduct needs assessment and assist in reorganising the records before digitisation could take place.

By 31st December 2010, the National Archives had undertaken comprehensive digitisation needs assessment and reorganisation of records (sorting, classifying and re-filing records, preparing selected strategic records for digitisation and disposing of ephemeral records) prior to digitisation in Ministry of Foreign Affairs, Ministry of Tourism, Wildlife and Culture and Ministry of Agriculture's Liwonde Agricultural Development Division. The only government agency that managed to undertake

some digitisation with assistance from the National Archives in line with the directive was the OPC, which continued from where it had stopped in 2007. Despite registering very little progress at the end of the project implementation period, the President highlighted commencement of ‘the digitalization of official Government documents in order to preserve and protect all strategic Government records’ (Malawi Government, 2011, p. 26) as one of the Government’s achievement for the year 2010.

6.5 Summary

The wind of political change that blew over Africa in the 1990s, the Malawi Catholic Bishops’ Pastoral letter of 1992 and the effects of multilateral donor agencies played a critical role in the introduction of democracy in Malawi. Attainment of multi-party democracy resulted in important constitutional reforms, which recognised and restored human rights. The freedom of the press and freedom of information, as well as accountability for past human rights violations by the Government, opened up the Archives, which had been virtually closed to the public for many years. This period saw the historic opening up of public archives that had been generated in the process of official human rights violations and remained hidden from public view.

The experience that the Archives has gone through between the immediate post-colonial era and the post-colonial democratic period has demonstrated one important issue in relation to historical government records: they are a public asset preserved and controlled by the state as their creator. Where the state is controlled by a repressive regime, the control over the Archives can tend to be so strong that the archives will virtually cease to be public assets and appear as if they belong to the

government in power rather than to the nation. This position is reversed when a democratic government replaces an autocratic one, where the government's influence over public archives is so minimal that the true owners of the archives are clearly identified as the general public as evidenced by removal of controls by the Government to accord the public full access to the records.

Reforms in the justice sector have demonstrated the value of good record keeping in attaining good governance. Such reforms have resulted in improved record keeping practices in the justice sector and to a considerable extent in the wider public sector. They have also enabled the National Archives to build its own capacity and profile and undertake other important programmes that would have otherwise not been undertaken. Although the National Archives is outside the Democratic Governance Programme, it receives calls from institutions in the Programme to render technical assistance in records management aspects. This serves to confirm that good record keeping is essential for effective implementation of public sector reform programmes.

Implementation of some of the World Bank/IMF Structural Adjustment Programmes and the New Public Management strategies has been a double-edged sword in so far as record keeping is concerned. On one hand, they have led to remarkable improvements in some respects, and on the other they have had some negative repercussions for archives and records management. The negative effects of the reform measures stem from the fact that relevant records management aspects or effects of the reforms are overlooked during the reform planning processes.

Technological developments have resulted in the generation of a growing number of electronic records in the public sector, and the Department of Information Systems and Technology Management Services has been established to manage and administer ICT products and services in the public service. However, policy guidelines to provide directions for proper management of electronic records have not been put in place, resulting in serious challenges for electronic records management in the public sector.

The enactment of the Public Procurement Act in 2003 to regulate public procurement in the public sector in Malawi was to reverse the persistent poor record keeping in the public sector through adherence to the requirement for maintenance of complete records by each procuring institution as provided for in the Act. However, disregard for record keeping provisions of the Act by almost all the public institutions as discussed in the chapter, demonstrates that poor record keeping in Malawi is deep rooted and requires serious efforts to address it.

This chapter has also demonstrated that successful implementation of a records management programme depends among a range of factors, including appropriate planning, budgeting, monitoring the implementing process of the programme, as was the case with the records management component of the justice sector reform programme. Unlike this programme, the national digitisation programme lacked proper planning, was not budgeted for and its implementation was not monitored. Consequently, it failed to achieve its objectives, while the Justice sector reform programme registered remarkable achievements of its objectives.

Chapter 7: Conclusion

7.1 Conclusions

During the pre-colonial period, traditional governments in Sub-Saharan Africa did not use written records and, although this was the case, systems for capturing official business transactions were well-developed and effectively employed. The fact that certain individuals within the tribal governments were appointed as keepers of official information in the predominantly oral societies signifies the importance that the tribal governments attached to information management. As long as inter-tribal wars and slave trade did not disturb the communities, the tribal governments in Malawi were relatively stable and most of them adopted broadly similar approaches to capturing and preserving information. When the wars and slave trade intensified and tribes disintegrated, some of the tribal customs and traditions for capturing and preserving information were disrupted, the mode of information management remained as it had always been, oral.

When colonialism transformed the original African governance institutions and replaced them with the Western bureaucracy, record keeping systems, one of the central features of the Western bureaucracy, were introduced at all levels of the colonial government. The centrality of information systems in the tribal governments and record keeping systems in the colonial administration demonstrates that regardless of the nature of government, information and records are a central feature of all government processes, whether this fact is explicitly or implicitly recognised.

When the colonial administration was established in 1891, the administration functioned with a small number of officers. This position changed gradually with the

passage of time. While the Colonial Secretariat had a good system of capturing and maintaining records right from the beginning, some departments did not have designated individuals to look after records. With the passage of time, departments recruited clerks to manage departmental records. The first regulations on records management issued to all government departments in 1922 was the first notable milestone in record keeping in Malawi. The establishment of Native Authorities in 1933 led to a 'records boom', as official written records were generated throughout the country by people who, prior to colonialism, did not make any use of written records. While the District Administration was established at the beginning of the colonial administration, there was no uniform system for capturing District Administration records until a standardised District Administration filing system and index was developed and adopted for use in 1934. The Federation of Rhodesia and Nyasaland had a lasting impact on record keeping, because modern records management programmes were introduced in Malawi, and the National Archives was established.

These and other developments that have taken place and affected record keeping in Malawi demonstrate that public sector record keeping evolves with the growth and development of the public sector. This implies at least two things: firstly, that records, as well as record keeping systems, owe their existence and development to the existence and development of institutions, in this case, public institutions; and secondly that, although record keeping systems may appear stable over a given period of time, they are actually always evolving because administrative change is inevitable given the dynamic environment in which the public sector exists.

Although there were some record keeping shortcomings during the colonial period, more especially at the District administrative level, in general, until the end of colonialism, record keeping was effective in Malawi, largely because those who had introduced it appreciated it and, therefore, they paid detailed attention to ensuring that the system worked properly. Although record keeping systems were reviewed by the Organisation and Methods Unit, and new ones were instituted during the transfer of power, after independence, the state of record keeping deteriorated and has remained in this deteriorated state up to the present, and this despite the expectation that Malawian administrators would build on and improve the systems that had been left behind. While the delay in introducing higher education at an early stage, which resulted in very few Malawians being in a position to take up meaningful positions in government at independence is blamed on the Colonial government, the influence of the predominant oral culture among the new administrators might help to explain the disregard or lack of appreciation for proper record keeping requirements by the administrators in independent Malawi.

The destruction of some records held by District Commissioners, the exportation of some records to London by the colonial government before power was handed over to Malawian rulers, and the destruction of some sensitive records by the one party regime during the multiparty transition period show in the first place, that most of the government decisions and actions were as a matter of course, captured by record keeping systems during the colonial period and that this tradition continued after independence. While some government decisions and actions were sensitive, they were nonetheless documented without considering the implications of maintaining and preserving such documentation. However, when it became apparent that

administrations would be replaced, the need to tamper with the documentary record, to avert any negative repercussions from the new administrators, became so urgent that the only way out of the predicament was to purge the records of any evidence through destruction or physically exporting them. Such actions have created a permanent gap in Malawi's documentary heritage.

As a result of the autocratic regime that emerged after independence, archives assumed a new role altogether from that which they had during the colonial period. The regime was quick to see the power of the archives and therefore moved swiftly to put in place all the necessary mechanisms to ensure that the archives were largely used to serve their 'political' interests and not those of the larger community, including the research community. Interestingly, towards the political end of the regime, the same perception of the power of the archives forced the regime to order the destruction of some sensitive records still held by a number of government ministries and departments. It is paradoxical that while the regime realised the potency of the archives, it failed to ensure that all the necessary measures to maintain quality record keeping systems in the public service were put in place.

The colonial government's review and institution of record keeping systems to facilitate reorganisation of government functions before the handover of power and the key role that good record keeping played in facilitating the implementation of the justice sector reform programme through the Rule of Law Project, demonstrate that effective implementation of public sector reform programmes depends on a variety of factors, a crucial one of which is good record keeping. Any programme aimed at improving public sector services should therefore consider good record keeping as one of its key components.

The research has demonstrated that all the administrative reforms that have been introduced in Malawi have had some bearing on record keeping. This shows that although literature on public sector reform scarcely relates the reforms to record keeping, record keeping is in fact one of the areas affected by any public sector reform programme and should be accorded due attention.

Implementation of some of the World Bank/IMF Structural Adjustment Programmes and the New Public Management strategies has been a double-edged sword in so far as record keeping is concerned.

On one hand, implementation of the reform programmes has led to remarkable improvements in some respects. For instance reforms in the justice sector have resulted in improved record keeping practices in this sector through the review and implementation of improvements in record keeping systems, and through the sensitisation of senior public officials to the importance of good record keeping in efficient and effective public service delivery. These reforms have raised the profile of records management as a key component of any reform programme and enabled the National Archives to build its own capacity in order to take a leading role in the development and implementation of record keeping programmes, both in the justice sector and across the wider public sector.

At the same time, implementation of some of the public sector reform programmes has had negative repercussions on record keeping. For instance, downsizing and freezing recruitment in the public service has led to reduction in the number of Clerical Officers who serve as Records Managers in the public service. This has also affected the National Archives, which until 2009 was forced to carry out only a limited number of core functions due to lack of staff; privatisation of public enterprises has

led to loss into private hands of historical public records of the privatised enterprises; and commercialisation of the Staff Development Institute has led to lack of record keeping skills by Clerical Officers, who no longer undergo Induction Course programmes at the Institute; this has been because of exorbitant costs which most public institutions cannot afford.

Attainment of multi-party democracy in 1994 resulted in important constitutional reforms, which led to the recognition and restoration of human rights. Restoration of freedom of the press and freedom of information and the introduction of the programme of accountability and compensation for past human rights violations by the Government opened up the Archives, which had been virtually closed to the public during most of the post-independent one party period. These reforms culminated in the historic 'coming alive' of public archives that had been generated in the process of official human rights violations and had remained hidden from the public view. These developments in Malawi offer important evidence that democracy leads to freeing of archives from strict controls imposed by autocratic regimes and that, in general, democracy has beneficial implications for record keeping.

This research concludes that all the administrative change that has been experienced in Malawi during the period covered by the study has affected record keeping in several ways. Although most of the changes were not introduced to address record keeping expressly, administrative change and reform programmes had far reaching implications for record keeping. All administrative changes are likely to affect record keeping because established functions and business processes are affected during the process. In Malawi, the present state of record keeping and,

indeed, the state of record keeping at any period of time has been shaped by administrative developments.

While administrative reforms are aimed at improved service delivery, and while all the reforms impact on record keeping, this impact is not always positive. Some of the negative features of record keeping in the Malawian public service today can be laid at the door of the many administrative changes and reforms that have occurred. For the reforms which included reformation of the record keeping systems, successful reformation of the record keeping systems depended on careful planning, staffing, and budgeting for, and monitoring of, the implementation process. Where these were absent, implementation of the records management programme failed.

This research therefore concludes that administrative change and reforms have such a great impact on record keeping that they actually shape it. Understanding record keeping in the context of administrative change and reform over a given period of time offers us a better understanding of record keeping in a particular country. Isolating political, economic, or technological factors as a context for understanding archives and records management is likely to give us only a partial understanding of the subject matter in light of that particular context.

7.2 Recommendations

From the findings of this study, a number of areas have been identified where action needs to be taken in order to address the challenges that have impinged and still impinge on record keeping in Malawi. In order to address some of the challenges, the study makes the following recommendations, in order of priority:

1. That the National Archives be placed under a more appropriate office with a more coordinating role for all government agencies than the Ministry of Tourism, Wildlife and Culture.

Although the National Archives has a mandate to promote and oversee implementation of good record keeping systems throughout all areas of Government, it fails to make meaningful impact because the Department is too underfunded to carry out its core activities. The budgetary allocation to the Department is largely meant for running office overheads. The National Archives is largely viewed as an institution whose sole mandate is to preserve the country's documentary heritage. The potential contribution of the Department to good governance through good record keeping has not yet been recognised by the Government. For this reason the National Archives is allocated a modest annual budget every financial year and placed under Culture, which is one of the least funded departments by the Treasury. Unless the National Archives is relocated from its present parent ministry to a more influential office, such as the Office of the President and Cabinet, where it will feature prominently within the government constitution and attract adequate annual budgets, it will fail to play its meaningful role in this new era.

As this research has demonstrated, the Department was able to review, design, and implement a number of records management programmes in the justice sector, where remarkable improvements in record keeping were registered. Apart from the justice sector other records management initiatives

were undertaken in the wider public service. All this was made possible with financial resources from the European Union Rule of Law Programme.

Since the records, which the public service generates, are the property of the Malawi Government, the Government has the responsibility to provide all the necessary resources to ensure that its records are created, maintained, used, and preserved meticulously. While the National Archives will still be responsible for the preservation of the country's documentary heritage, this research recommends that the Department should be moved from the Ministry of Tourism, Wildlife and Culture and placed in the Office of the President and Cabinet. While in the OPC the role of the National Archives in promoting and overseeing implementation of good record keeping in the public service and the potential contribution of good record keeping to efficient and effective service delivery, and good governance, will be recognised. This recognition will enable the OPC, which provides oversight leadership in the public service, to approve and liaise accordingly with the Treasury, a realistic budget for the Department. From such an influential office as the OPC, the National Archives will be well-placed to contribute effectively to the governance process in this new environment.

The imminent passage of the Freedom of Access to Information Bill into law by the new administration¹⁸² will have far-reaching implications for records

¹⁸² Following the death of the President, Bingu Wa Muthalika on 5 April 2012, then Vice President, Joyce Banda, was sworn in as President on 7 April 2012. However, Joyce Banda had fallen out of favour with the ruling

management. This position makes the relocation of the National Archives from its present parent ministry to the Office of the President and Cabinet even more befitting.

The 1994 republican constitution provides for public access to information held by the state and as a result, the Freedom of Access to Information Bill was drafted in 2003. Although the Bill has undergone a number of reviews from a wide range of stakeholders, including Members of Parliament, civil society organisations, government ministries, and judicial officers, the Bill has not yet been tabled in Parliament. The two previous administrations (United Democratic Front: 1994-2004, and Democratic Progressive Party: 2004-2012) pledged to pass the Bill into law but were unable to fulfil their pledge.

Since assuming office in April 2012, the new President has embarked on reforms, which have seen the stabilisation of the economy, restoration of diplomatic relations with different countries and donors, repeal of repressive laws, and passage of Bills that had been drafted a long time back. On 25 June 2012, the President had an audience with media managers in Malawi. In her address the President assured the media community that her administration would table and pass into law, the Freedom of Access to Information Bill. When she said, "I will make sure that Access to Information Bill is passed"¹⁸³ the President wondered why Bills, which had been drafted a few years ago, were not presented in Parliament. She observed that the Freedom of Access

Democratic Progressive Party and was dismissed from the party in December 2010. Her party, the People's Party, which was formed after her expulsion from the ruling Democratic Progressive Party, is now the ruling party.
¹⁸³ <http://www.nyasatimes.com/malawi/2012/06/26/access-to-information-bill-to-be-passed-malawi-leader/>
(accessed: 12/07/2012)

to Information legislation was important in a democracy because accessible information is vital for citizens to make informed decisions and participate meaningfully in all matters of national interest

Following the President's assurance of passing the Bill into law, the Ministry of Information and Civic Education has indicated that within twelve months, it will develop a policy, whose objective is to support the Freedom of Access to Information Bill. Once the policy has been developed, the Bill will be submitted to the Cabinet for approval before presenting it to Parliament.¹⁸⁴

While the new administration of the People's Party's government under President Mrs Joyce Banda may want to appease different sections of the Malawian society in order to win the 2014 general elections, it is likely that the Freedom of Access to Information Bill will be passed into law before the end of 2013.

In order to make the freedom of access to public information as smooth and as achievable as possible, among other provisions, the Freedom of Access to Information Bill obliges all State organs to institute good record keeping systems and recruit records officers. Records officers shall be in-charge of record keeping in every public institution. Their responsibilities will include development and implementation of records classification schemes, retention and disposal schedules, and ensuring that all freedom of information requests

¹⁸⁴ <http://www.malawidemocrat.com/national/malawi-govt-to-produce-police-to-back-access-to-information-bill-livuzal/> (accessed: 12/07/2012)

are responded to within the recommended period of time (Malawi Government, 2004).

Due to a lack of appropriately trained clerical officers in records management, and non-availability of records management policies and standards, record keeping in the Malawi public service is generally poor, as demonstrated by this research. The research has also demonstrated that in spite of the Public Procurement Act (2003) requiring that all public institutions should maintain procurement records, in most cases the records are incomplete, inaccessible, or not available at all for audit inspections. This should indicate that having the Freedom of Access to Information law will be one important achievement in Malawi's history, but for such legislation to enable the public to exercise their right, is another matter altogether. Unless realistic measures are taken to ensure that good record keeping is entrenched in the public service, the access to information legislation will not benefit the public as it is meant to.

Thurston (2012, p. 2) singles out the essential condition for achieving Open Government when she states that:

The success of Open Government, both in terms of reactive disclosure (Freedom of Information) and proactive disclosure (Open Data), rests ultimately on governments' ability to create and maintain reliable, trustworthy and accurate government records as evidence of government policies, actions and transactions, and on citizens' ability to access them.

When the Freedom of Access to Information Bill is passed into law, meaningful exercise of the right of access to public information held by the state will crucially depend on the government's ability to create and maintain

quality (i.e. reliable, trustworthy and accurate) records. For this to be achieved, this research recommends that the following factors should be considered.

- (a) Availability of qualified and experienced records officers, who are able to maintain good record keeping systems (both paper-based and electronic) within the public service. Since the present calibre of registry clerks is low, the OPC, whose mandate is to 'ensure effective administration, change management and capacity development of the Public Service',¹⁸⁵ should, through the Public Service Management Department, create positions of Records Officers in the public service as provided for in the Freedom of Access to Information Bill. After creation of these positions, recruitment of the officers should even be made before the enactment of the freedom of access to information legislation.
- (b) A special training programme for all the records officers should be conducted in order to equip them with knowledge and skills necessary for managing public sector records effectively. Core components of the training programme should include management of electronic records and international standards for records management. Recent studies have indicated that public institutions in Malawi face serious challenges in managing their electronic records (Tough, 2011) and that despite being published in 2001, the international standard for records management has not made any impact on record keeping in Malawi (Lihoma, 2009). Due to a lack of expertise in electronic records management in Malawi, foreign experts in the area, who

¹⁸⁵ http://www.malawi.gov.mw/index.php?option=com_content&view=article&id=30&Itemid=8
(accessed: 20/07/2012)

are familiar with the Malawian public service environment, should be engaged in the training programme in order to produce desirable outcome from the programme. Since record keeping is an important cross-cutting issue in the public service and donors are pouring in financial resources through the Common Approach to Budget Support (CABS), the government should consider tapping resources from the CABS in order to run the special training programme for public sector records officers if it cannot fund the programme itself.

- (c) The Office of the President and Cabinet should develop a code of practice on records management similar to the United Kingdom's Lord Chancellor's Code of Practice on the Management of Records. Such a code of practice provides guidance on the implementation of the freedom of access to information legislation by, *inter alia*, providing guidance on records management. The code of practice should be issued to all public institutions when the Freedom of Access to Information Bill has been passed into law.
- (d) The Records Management division of the National Archives should work hand-in-hand with all the public sector records officers, in order to ensure that record keeping practices and standards are maintained by providing the necessary support. The support to the records officers may be in the form of regular records management inspection visits, on-site advice on record keeping issues, and periodic workshops for the records officers.
- (e) The National Archives should develop a policy on electronic mail management for the public service. Tough (2011, p. 7) observes that some Malawian civil servants most often use free e-mail packages like Yahoo and

Hotmail to carry out official business. He points out that this practice, unfortunately, 'is often done without any risk assessment, thereby jeopardising commercially confidential and sensitive personal data. It leads also to a fragmentation of the official record: key documents are created and kept on servers outside Malawi without any possibility of integration with other public records.'

Unless a deliberate policy is developed to regulate the management of official e-mails in order to deal with problems as cited above, the public will not have full access to information held by public bodies once the Freedom of Access to Information legislation is enacted. The draft E-Mail policy together with the draft Records Management and Digitisation policies, which the Ministry of Tourism, Wildlife and Culture has not yet reviewed, should be submitted to the Office of the President and Cabinet. Since the National Archives will fall under this office, review of the draft policies is likely to be given a priority.

Circulars and other policy directives from the Office of the President and Cabinet to all government establishments are normally received with due respect and are complied with. When the National Archives is placed under the OPC, records management policies, regulations, and directives issued to all public institutions through the Chief Secretary, are likely to have a positive impact on record keeping since Controlling Officers will treat any communication from the Chief Secretary as a matter of urgency and with serious attention.

2. That the National Archives relocate from Zomba to Lilongwe, the capital city.

Since its establishment, the National Archives has operated from Zomba, the colonial capital. It is housed in five separate old colonial buildings, four of which were not originally intended for archival purposes. While management of the five buildings is a challenge resulting from inadequate personnel, the old buildings pose preservation risks. For instance, a third of the film archive collection deteriorated beyond use and was disposed of due to poor storage conditions while some archives have been ravaged by termites.

Apart from experiencing preservation challenges, the National Archives' location in Zomba, some 300km from the capital city, has isolated the Department from most of the government ministries and departments, which it is meant to serve. The cost implications of archive staff travelling to Lilongwe to conduct records management programmes in ministries and departments are prohibitive given the Department's limited budgetary allocations. Consequently, the interaction between the National Archives and government institutions on records management issues is minimal, a factor which has contributed to low record keeping standards in the public service.

In his 2012/13 Budget Statement delivered on 8 June 2012 in the Malawi Parliament, the Finance Minister stated that one of the major infrastructural developments, which government would finance in the course of the 2012/2013 financial year, was construction of a purpose-built archival building, Museum and Antiquities Research Centre, and an Art Centre in the Capital City (Malawi Government, 2012).

Apart from improving archival preservation and promoting interaction between the Archives and government institutions, physical relocation of the Department to Lilongwe is likely to increase the chances of the National Archives being involved in governance and other policy issues because of its proximity to the Office of the President and Cabinet.

3. That the National Archives be renamed the National Records and Archives Services Department.

For many government agencies in Malawi, the National Archives is associated with preservation and disposition of non-current government records. When agencies are overwhelmed with non-current records in their custody and as a way of getting rid of such records, Clerical/Registry supervisors transfer the records to the National Archives Records Centres. Provided that the records have not been disposed of after attaining their retention periods, records depositing agencies can request access to their records from the Records Centres.

While the National Archives remains a repository for historical government records and continues to offer records-reference services to records depositing government agencies, the Department needs to rebrand itself and play a more proactive role in promoting sound management of current records both manual and electronic, within the public service. As this study has demonstrated, Malawi has a long way to go in order to improve public service record keeping.

As part of a largely positive process of public sector reform in Tanzania, the National Archives was re-located from the Ministry of Education to the Civil Service Department and renamed the Directorate of Records and Archives Management. This change has had a positive impact on archives and records management in Tanzania. One way of engendering a change of attitude towards records management within the public service is for the National Archives of Malawi to change its own name to the National Records and Archives Services Department. With this change, the Department should design and implement records management programmes and activities that are aimed at assisting government agencies to improve their record keeping systems. Some of the activities, which should be carried out as a matter of urgency are the following:

- (a) Drafting comprehensive records management regulations for incorporation in the Malawi Public Service Regulations (M.P.S.R).

The repeal of the comprehensive records management regulations in the Malawi Public Service Regulations (considered by many public servants as the public service bible) from the Nyasaland Government General Orders in 1964 and subsequent omissions of the regulations in all the M.P.S.R editions has had deleterious effects on record keeping in the public service. While provisions of the M.P.S.R are generally and strictly adhered to by many public servants at all levels, the Public Service Management Department (PSMD) and the National Archives should consider, as a matter of urgency, revising the M.P.S.R by incorporating a comprehensive provision on records management as was the case with

the Nyasaland Government General Orders. In order for this position to be reached, the National Archives should develop the regulations and present them to the PSMD, where management will be sensitised to the effects, which the omission of such regulations from the M.P.S.R has had on record keeping in the country. Once this is achieved, the likelihood is high that record keeping issues will be attended to with seriousness since contravention of any of the M.P.S.R provisions attracts relevant disciplinary actions as stipulated in the regulations.

- (b) The National Archives should initiate dialogue with both the Public Service Management Department and the Office of the Director of Public Procurement on the poor state of record keeping in the public service.

In spite of Section 27 (1) of the Public Procurement Act (2003), which mandates all procuring public institutions to maintain and preserve procurement documentation, and in spite of the strong recommendations for public institutions to institute proper record keeping systems as contained in the 2009 ODPP Audit Report, the situation has not improved. Partly it is because most of the Clerical Officers appear not to be competent enough to institute those systems and Controlling Officers do not appear keen to take record keeping matters seriously in their ministries or departments. In order to address this problem, the National Archives as mandated by law to promote and oversee record keeping in the country, should initiate dialogue with both the Public Service Management Department and the Office of the Director of Public Procurement on the poor state of record keeping in the public service and its negative

consequences and then jointly come up with mechanisms for addressing the situation.

4. The Public Service Management Department (PSMD) should take responsibility for and coordinate the training of the Clerical Officers in records management skills.

Commercialisation of the Staff Development Institute (SDI) has affected skills training for Clerical Officers with negative repercussions on public sector record keeping. While the SDI cannot reverse the situation and start offering the Clerical Officers' Induction Courses for free as was the case before the commercialisation, the Public Service Management Department should help to address problems of lack of training for the Clerical Officers and inequalities in training among the Clerical Officers.

Since all the general duty Clerical Officers in the Civil Service fall within the common service under the PSMD, instead of placing the burden of funding the training of the Clerical Officers on various ministries and departments, the Public Service Management Department should take on this responsibility and coordinate the training of Clerical Officers at the SDI.

It should also be incumbent upon the National Archives to initiate discussions with the Public Service Management Department on the need for regular and consistent training of Clerical Officers for improved record keeping in the Public Service. In this way, the reluctance and inability of government departments to fund the Clerical Officers' induction courses will be addressed and the Clerical Officers will regularly be trained under the PSMD.

Since the two-week records management training workshops conducted by the National Archives are cheaper, the Department should conduct the workshops regularly every year. In this way, ministries and departments can send their clerical officers to the training workshops.

5. That appropriate planning is made and necessary resources for the national digitisation programme are adequately provided.

To some extent, the government has shown interest in record keeping from the highest level by directing all government establishments to undertake a national digitisation programme from April to December 2010. However, for such a national programme to succeed there is a need to consider revising the timeframe for undertaking such a big project. The eight-month period set for the project was rather too short. There is also a need to realistically assess the cost for undertaking the programme by each institution, and financial resources should be provided accordingly by government. Additionally, successful implementation of digitisation depends on, among other factors, the availability of professionally competent people to undertake the actual digitisation. The government should address the critical issue of technical expertise to implement the digitisation programme.

6. That either the Privatisation Act or the National Archives Act should be amended to provide for a clear direction on ownership of non-current records of privatised public enterprises.

Although implementation of the privatisation programme has already led to the loss of public records into private hands, the National Archives can still remedy the situation by, for instance, raising the critical archival issues with the Privatisation Commission with a view to amending the Privatisation Act; this would be done in order to provide for directions on the ownership of records of public enterprises which are liquidated or change ownership into private hands through the sale of the assets and sale of the business enterprise and management/employee buy-out. Alternatively, the National Archives Act (1975) should be amended to provide for transfer of non-current records of a privatised enterprise to the National Archives if such records are not crucial for the operations of the new owner. The legislation should also provide for a way for the interested section of the public to access the records, which were created before privatisation, but have been taken over by a new company.

7. That a survey to identify and assess the condition and use of non-current records of privatised enterprises should be conducted.

There is need for the National Archives to carry out a survey of records of privatised enterprises to assess the volume, condition and usage of the inherited non-current public records by the privatised enterprises. Based on the findings of such a survey, negotiations should be entered into with the management of the privatised enterprises for the National Archives to obtain some of the non-current records, which the privatised enterprises may not require. In this way, some of the social economic records generated by the

public enterprises from the 1960s after independence, will be rescued and relocated to the National Archives where they will be properly preserved for public access.

8. That the power to grant access to public archives should be vested in the Director of the National Archives and authorised by him / her.

The lengthy procedures for accessing public archives, which were imposed by the one party regime and practised for three decades, are still being practiced until now although they are no longer relevant in the democratic dispensation. With the removal of most of the barriers for accessing public archives, researchers are still required to submit applications accompanied by three traceable referees. When the Director of Archives receives the applications, he forwards them to the Principal Secretary of the Ministry responsible for Archives. Such applications no longer go to the President through the O.P.C as was the case prior to 1994. Instead, the applications end up on the Minister's table for approval. All Ministers responsible for Archives since 1994 appear not to appreciate why applications for conducting research in the National Archives in Zomba have to be approved by them, when such a decision can easily be made by the Director of Archives himself. To that effect, no researcher has been refused access to the National Archives since 1994. In the absence of the Minister, the decision to approve an application for research in the Archives is made by the Ministry's Principal Secretary.

By continuing with the tradition, which made sense only to those who promoted it for their own political benefit during the period of one party rule,

the National Archives stands in the way of promoting research and freedom of access to information in the democratic dispensation. Moreover, the procedure only denies researchers the opportunity to conduct their research on time. For instance, the Ministry of Tourism, Wildlife and Culture only granted permission to students from the University of Malawi to conduct research in the Archives on 19th September 2007 when the Director of Archives had written to the Ministry on 13th February 2007 to seek permission for the students to conduct their research.¹⁸⁶

7.3 Areas for further research

Some of the areas which this study has touched on provide room for further investigation in order to address the themes of the study in more detail or indeed venture into altogether new research themes. For instance;

1. It is relatively straight forward to draw conclusions as the study has done, about the relationship between administrative reform and record keeping in the public service. Can similar conclusions be drawn if the study is contextualised in the private sector and what challenges would such a study pose?
2. Since their establishment in Malawi starting from the 1860s, Churches have maintained good record keeping systems and between 1948 and 1964, a number of them deposited their respective records in the National Archives.

¹⁸⁶ NAM, Ref.No. MHQ/CUL/02/4, Director of Culture on behalf of the Principal Secretary to Director of Archives, 19th September 2007.

However, even after independence when most of the Churches were headed by Malawians, no consignment of records has been received by the Archives. What is the state of Ecclesiastical record keeping since independence? Could parallels be drawn between the state of record keeping in the public service after independence when Malawians took charge of administration and that of the Churches during the same period? Why have Malawian Church ministers not made any deposits of their Church records with the National Archives since 1964?

3. The 2007 national records management survey focussed on the management of paper-based records in the public service and revealed serious shortfalls. Since public records are generated electronically more than ever before, a survey to assess the management of electronic records in the Malawi public service needs to be undertaken in order to provide a true picture of the state of record keeping in the public service in Malawi.
4. Other countries such as Tanzania have undertaken national records management improvement programmes under a wider public sector reform programme and appear to have been successful. When Malawi attempted to undertake a national digitisation programme between April and December 2010, the project failed. Could there be factors at national levels which influence the success of national records management improvement programmes?
5. The control over the Archives by the autocratic one party government offers another area for further research to compare the extent to which dictatorial regimes across the globe have controlled Archives and for what purposes.

6. The conclusions of this research on the impact of administrative reforms on record keeping would seem justified in the particular case of Malawi. If the study had been undertaken in a country or countries whose history or histories were different from Malawi's, to what extent would the conclusions differ from or be similar to the ones from this research?

Appendix

Appendix 1: Conference Information and Programme



Arts & Humanities
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of Glasgow



BEYOND TEXT

Literacy in oral cultures: conflicts, compromises and complications

Current undergraduate and postgraduate students, postdoctoral researchers, and interested members of the public are invited to attend this free, two-day symposium and to participate in one of the three panel discussions whose themes are outlined below.

Literacy in oral cultures: conflicts, compromises and complications, is hosted by the Humanities Advanced Technology and Information Institute (HATII) of the University of Glasgow. This symposium will provide a forum for renowned academics in African history both from the UK and Africa, surviving British former administrators in colonial Africa, UK scholars who have experience in using the archives in Africa, archivists, post-graduate students, researchers and many others, to discuss a range of critical issues surrounding media and memory in pre-colonial, colonial and post-colonial Africa. The symposium keynote speakers will be Ivan Murambiwa, Director of the National Archives of Zimbabwe, and Professor Kings Phiri of the University of Malawi.

Before Western colonial intervention, the culture and bureaucracy of sub-Saharan Africa was predominantly transmitted orally through ritual, storytelling, music, etc. For many years, the literate western colonial bureaucracy laboured to transform Africa and the evidence of the interaction between these two cultures is documented and preserved in the national archives of almost all African countries. But this is an incomplete record of bureaucratic process and ownership; the voices of Africans are largely silent in this official record.

If you are interested in attending, please let us know by emailing your details to locsymposium@hatii.arts.gla.ac.uk.

The conference will be hosted in the Senate Chambers of the University of Glasgow, Main Campus.

Panel 1: Media and memory in oral cultures (pre-colonial era):

- What can we learn from the culture which existed before colonialism?
- What are the dynamics of oral, aural, visual and material practices in oral cultures?
- How does this differ from literate cultures?

Panel 2: Literacy in oral cultures (colonial era):

- When oral cultures encounter literacy, how do they co-exist and to what extent do they cross-pollinate?
- Is postcolonial African culture necessarily a hybrid culture?
- How is this encounter reflected in the archives of colonial bureaucracy and tribal memory?
- Whose voices remain silent in either place?

Panel 3: Compromises and complications (post-colonial era):

- How do we include the voices of the people (oral history, internet fora, etc.)?
- What ethical, legal, political and economic issues surround such an aim?
- Whose responsibility is it?



Wednesday, 24th November 2010

Time	Speaker	Title
14:00-14:45	Mr. Alistair Tough	Written records and the oral culture
14:45-15:30	Prof. Donald Meek	The silence of Hebridean natives: the case of St. Kilda
15:30-16:00	TEA	BREAK
16:00-16:45	Dr. Kathryn Lowe	Sight and sound: the visual and vernacular in Anglo-Saxon Charters
16:45-17:30	Mr. Rory Crutchford	Cecil Sharp: writing down an oral tradition
17:30-18:30	BREAK	BREAK
18:30-20:30	Mr. Ivan Murambiwa	<u>Public Lecture</u> Archiving Orality in Zimbabwe: what are the implications on the local people?

Thursday, 25th November 2010

9:30-10:00	TEA	TEA
10:00-11:00	Prof. Kings Phiri	<u>Keynote Lecture</u> Orature and the written word in African history: How comprehensively do they capture the voices of ordinary people?
11:00-11:30	TEA	BREAK
11:30-12:15	Dr. Emma Hunter	The role of the District Commissioner in imagining the pre-colonial past: the case of Charles Dundas
12:15-13:00	Dr. Sheila Kidd	Orality and literacy in nineteenth-century Gaelic culture: negotiating the transition
13:00-14:00	LUNCH	BREAK
14:00-14:45	Dr. Giacomo Macola	Rescuing the Archives of the United National Independence Party of Zambia
14:45-15:30	Rev. William Coppedge	Complications to oral methodologies among the Alur people in Uganda
15:30-16:00	TEA	BREAK
16:00-16:30	Mr. Paul Lihoma	Case for oral history programme in Malawi: challenges and complications
16:30-17:00	Mr. Ivan Morowa	The interplay between the oral archives and the written archives in Zimbabwe
17:00-17:15	Mr. Ivan Murambiwa	Literacy and orality: concluding thoughts

Appendix 2: Questionnaire to former Colonial Administrators in Nyasaland

Colonial Administration District Record Keeping Practices

1. When and where in Africa did you serve in the Colonial Administration and in what capacities?
2. Who was responsible for record keeping at the District offices?
3. Was any advice given for the proper management of District Administration records?
4. Were the African clerks taught how to handle records properly and did they do a good job?
5. What arrangements were there for transferring old files to the Archives? Do you remember any files being so transferred? What picture did officers have of the National Archives?
6. Were old files ever destroyed at the DCs' offices?
7. The Native Authorities which you supervised; did they keep records, in what form - minutes, reports, account books? Did you teach the NAs how to maintain their records?
8. Did the predominantly oral African culture somehow influence you in that you would sometimes carry out official tasks without documenting them?
9. Was filing system or record keeping in general the same at the Secretariat, within the departments and at District Administration? In what ways did they differ or were they similar?
10. What was your general impression of your service during the colonial period? Were your experiences markedly different when you served in different Districts in the same Protectorate or in different Colonies?
11. Do you have any other comments on this subject or another subject matter?

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