BUSINESS AND THE STATE IN MALAWI
THE POLITICS OF INSTITUTIONAL FORMATION, MAINTENANCE AND CHANGE

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Abstract

This dissertation analyses the institutional and organisational evolution of state-business relations in Malawi, from the colonial period (1891-1963) to the first decade of multiparty democracy (1994-2004), through the period of one-party authoritarianism (1964-1993). It contributes to three areas of political science.

Firstly, it adds to empirical knowledge on the politics of state formation and state-building by illuminating how institutions governing state-business relations have been central to the evolution, form and character of the Malawian state. It provides some insights for building the capacity of states, especially in southern Africa, to deliver coherent and credible economic policies. Secondly, it demonstrates how the distribution and exercise of power between state and business elites, and the relative financial and political importance of the private business sector to the state, shape the institutional and organisational forms of state-business relations. It shows that these relations are profoundly political rather than technocratic products and reformers need to be more aware of this. Thirdly, it contributes to historical institutionalism by suggesting that the concept of critical junctures should be defined based on people's expectations for, rather than effects of, institutional change; that history should be emphasised not just for explaining institutional continuities as is done by most historical institutionalists but also institutional discontinuities; and that in explaining existing patterns of institutions researchers need to be concerned more with the most recent predecessor institutions rather than going too far in the past.

The analysis is organised in seven chapters, grouped into three parts. The first part presents the research problem, reviews the literature and outlines the methodological approach. The second part provides empirical narratives of state-business relations in each of the three periods. The third part spells out the implications of the work for the understanding of the politics of Malawian state-business relations, for state-business relations generally and historical institutionalism.

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While all of the above should share in any credit of this work, I am, alone, responsible for any remaining errors of fact and interpretation.

Dedication

For my mother, Loozen, and my late father, Gamaliel, who inspired me to enter higher education and provided me with a solid base for it from their very modest means; and

For Innocent and Henry Junior, who sustained my sense of purpose and determination during the darkest hours of this endeavour.

Declaration

I declare that this dissertation is my own work and is being presented to the University of York for the first time.

Signed: ....

Date: ....

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List of Abbreviations and Acronyms

ABAM	African Businessmen Association of Malawi
ACB	Anti-Corruption Bureau
ACCORN	Associated Chambers of Commerce of Rhodesia and Nyasaland
ADMARC	Agricultural Development and Marketing Corporation
AFORD	Alliance for Democracy
ALC	African Lakes Corporation
ANC	African National Congress (South Africa)
APMB	Agricultural Produce and Marketing Board
BCA	British Central Africa
BCAC	British Central Africa Company
BCGA	British Cotton Growing Association
BEE	Black Economic Empowerment (South Africa)
BNA	Blantyre Native Association
BNDE	National Development Bank (Brazil)
BOCCIM	Botswana Chamber of Commerce, Industry and Manpower
BOP	Balance of Payments
BSAC	British South Africa Company
CAF	Central African Federation
CAP	Central African Planter
CARER	Centre for Advice, Research and Education on Rights
CAT	Central African Times
CBM	Commercial Bank of Malawi
CEO	Chief Executive Officer
CFU	Commercial Farmers Union
CII	Confederation of Indian Industry
CIIR	Catholic Institute for International Relations
CMHN	*Consenjo Mexicano de Hombres de Negocios*
COMESA	Common Market for Eastern and Southern Africa
DC	District Commisioner
DEMATT	Development of Malawian Traders Trust
Dev.POL	Statement of Development Policies (Malawi Government)

DFID	Department for International Development (UK)
DPP	Democratic Progressive Party
EAM	Exporters Association of Malawi
ECAMA	Economics Association of Malawi
EFI	Egyptian Federation of Industries
EIB	European International Bank
ESCOM	Electricity Supply Commission of Malawi
EU	The European Union
EXCO	Executive Council
FCI	Federal Council of Industry
FDI	Foreign Direct Investment
FDP	Liberal Federal Democratic Party (West Germany)
FEO	Federation of Economic Organisations
FICCI	Federation of Indian Chambers of Commerce and Industry
FKI	Federation of Korean Industries
FMB	Farmers Marketing Board
GDP	Gross Domestic Product
GNI	Gross National Income
GNP	Gross National Product
GNTC	Ghana National Trading Corporation
GoM	Government of Malawi
GSP	Generalised System of Preferences
HDI	Human Development Index
HIS	Integrated Household Survey
IFC	International Finance Corporation
IG	Inspector General of Police
IMF	International Monetary Fund
INDE Fund	Investment and Development Fund
IPPG	Improving Institutions for Pro-poor Growth
IT	Information Technology
ITB	Intermediate Tobacco Buyers
JEC	Joint Economic Council (Mauritius)

JPPC	Joint Public–Private Consultative Committee (Thailand)
KMT	The Kuomintang (Taiwanese Political Party)
KNTC	Kenya National Trading Association
LEGCO	Legislative Council
MARTA	Malawi Road Transporters Association
MCCCI	Malawi Confederation of Chambers of Commerce and Industry
MCP	Malawi Congress Party
MDC	Malawi Development Corporation
MDGs	Millennium Development Goals
MDP	Malawi Democratic Party
MDU	Malawi Democratic Union
MEC	Malawi Electoral Commission
MEDI	Malawi Enterprise Development Institute
MEGS	Malawi Economic Growth Strategy
MGDS	Malawi Growth and Development Strategy
MIPA	Malawi Investment Promotion Agency
MMD	Movement for Multiparty Democracy (Zambia)
MNA	Malawi National Archives
MNDP	Malawi National Democratic Party
MPRSP	Malawi Poverty Reduction Strategy Paper
MRA	Malawi Revenue Authority
MVAC	Malawi Vulnerability Assessment Committee
MYP	Malawi Young Pioneers
NABW	National Association of Business Women
NAC	Nyasaland African Congress
NAG	National Action Group
NAIU	Nyasaland African Industrial Union
NASME	National Association of Small and Medium Enterprises of Malawi
NCA	Nyasaland Convention of Associations
NCC	National Consultative Committee
NEDLAC	National Economic Development and Labour Council (South Africa)
NICC	Nyasaland Indian Chamber of Commerce

NICO	National Insurance Company of Malawi
NITA	Nyasaland Indian Traders Association
NITL	National Investment Ltd.
NMA	Nyasaland Merchants Association
NMTA	Nyasaland Motor Transport Association
NPA	Nyasaland Planters Association
NSA	Non-State Actors
NSO	National Statistics Office
NTA	Nyasaland Tobacco Association
NTC	National Trading corporation
NTEA	Nyasaland Tobacco Exporters Association
NTRA	Nyasaland Tea Research Association
OECD	European Organisation for Economic Cooperation and Development
PAC	Public Affairs Committee
PAP	Poverty Alleviation Programme
PCC	Petroleum Control Commission
PMC	Price Monitoring and Control Committee
PMERW	Promotion of Micro-Enterprises for Rural Women
PMPB	Pharmacy, Medicines and Poisons Board
PNDC	People's National Defence Council (Ghana)
PPD	Private–Public Dialogue
PPP	Private - Public Partnership
PRO	Public Records Office (London, Kew).
PRSP	Poverty Reduction Strategy Papers
PSD	Private Sector Development
PTA	Preferential Trade Area
RBM	Reserve Bank of Malawi
RSA	Republic of South Africa
SADC	Southern Africa Development Community
SAF	South African Foundation
SAPs	Structural Adjustment Programmes
SBRs	State-business relations

SEDOM	Small Enterprise Development Organisation of Malawi
SME	Small and Medium Enterprises
SMEF	Small and Medium Enterprises Fund
SPC	Secretary to the President and Cabinet
SSC	Secretary of State for Colonies
STAFE	Special Task Force on the Economy
SUCOMA	Sugar Company of Malawi
TAM	Transporters Association of Malawi
TAMA	Tobacco Association of Malawi
TEAM	Tobacco Exporters Association of Malawi
TUCM	Trade Union Congress of Malawi
UDF	United Democratic Front
UFMD	United Front for Multiparty Democracy
UK AID	United Kingdom Agency for International Development
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference for Trade and Development and Development
UNDP	United Nations Development Programme
US	United States (of America)
WNLA	Witwatersrand Native Labour Association
WWB	Women World Banking
ZAM	Zambia Association of Manufacturers
ZMDC	Zambezi Mining Development Corporation

CHAPTER ONE

Business and the State in Malawi: The Problem, Context and Argument

Introduction

In the last few decades, the analysis of state-business relations (SBRs) has returned to the research agenda, particularly with respect to developing countries. One sustained argument that has emerged from the recent empirical analyses is that although their forms may vary widely between countries, synergistic SBRs are a necessary condition for economic progress, especially in conditions of late development. Besides engendering trust between state and business elites, such relations are known to improve information exchange between decision-makers and enhance the credibility of governments in the realm of economic policy making and implementation, hence contributing to a healthy investment climate that enables economic growth and development. However, SBRs take different forms at different times in different countries and they yield different outcomes. Most of the literature on the subject has been concerned with the effects of these relations on economic outcomes. But how do the formal and informal institutional arrangements that shape relations between states and businesses form and evolve over time? And what insights can the analysis provide for the theories of SBRs and for the analysis of institutional evolution generally? These two questions are the central concerns of this thesis.

The questions are addressed by analysing the evolution of SBRs in Malawi. The analysis compares three time periods: the colonial period (1891-1964), the post-independence one-party, authoritarian era (1964-1993), and the first decade of the era of multi-party democracy (1994-2004).This periodization is premised on the observation that the way in which state power was organised in each period shaped the institutional configuration of state-society relations generally and SBRs in particular. However, scholars analyse different (though related) phenomena under the banner of SBRs. Consequently, discourses and research on the subject are theoretically diffuse. Before setting out the factors that motivated the analysis of Malawian SBRs and the key claims of the thesis, I provide in the following section a conceptualisation of SBRs that the thesis uses.

1.1. Conceptualising state-business relations

Although varying conceptions of what constitutes the state have informed the various definitions of SBRs, these relations have been defined mostly in terms of what constitutes business. For instance, business is variously conceived as part of an encompassing notion of capital, as in marxist analyses of political economy and globalisation discourses; as a sector, as in the studies of Shafer (1997), Wilks and Wright (1987) and Evans (1995); as a firm, particularly with regard to large companies, as detailed by Lindblom (1977) and earlier by Dahl (1959); as an association or interest group, as in the works of Olson (1965), Cawson (1985), MacIntyre (1994), Maxfield and Schneider (1997) and many others; and as a network, - a conception detailed in the works of Kazenstein (1977), Atkinson and Coleman (1989) and Wilks and Wright (1987b). Each of these conceptions provided useful theoretical lenses for this study, but each was too narrow to provide a satisfactory treatment of the research questions at hand.

This thesis is concerned with a range of interactions between the state in its multiple manifestations, on the one hand, and business in all its complexity, on the other. Thus, my conception of SBRs is generic and neutral, and business is irreducible to any one of the concepts identified above. By state-business relations, I mean the formal and informal institutional and organisational relations between state elites and their agencies, on the one hand, and business elites and their organisations, on the other. Thus, SBRs can be unitary in that business can interface with the state as an individual firm, or do so collectively, in which case business firms interface with the state through a sectoral grouping like the Tobacco Exporters Association of Malawi (TEAM) or through a peak association like the Malawi Confederation of the Chambers of Commerce and Industry (MCCCI). Further, the relations can exhibit multiple points of interaction, formal and informal, covering all these levels simultaneously. As chapters four to six will show, the rules of engagement often vary at each level of interaction and have implications for the formation, maintenance or change of institutions governing SBRs. However, this thesis is not concerned with just any relationship between any business and any manifestation or level of the state. The focus is on those relationships, collective or unitary, that had the potential or actual ability to shape, sustain, change or simply reflect the institutional structure of SBRs at the national level.

1.2. Background: the motivation to analyse state-business relations

SBRs are not a new theme in political studies. They have received analytical attention in political economy dating back to Smith (1776) and Marx and Engels (1848), to mention only precedents of two approaches to the subject. In recent times, they have become topical in studies of economic growth and development, growing from the ambit of the state-market debate in academia and among development practitioners and financiers. A review of the debate shows that the role of the state in the economy has undergone several permutations since the end of World War II (Fritz and Menocal, 2007; Onis 1991; Chang, 2002) with corresponding oscillations in development policy and practice from state-led development, predominant in the 1950s, to the market-led development propagated in the 1980s and beyond. Other analysts, for example, Schneider (1998:101-2) have even argued that the opposite of state-led development is not market-led development but business-led development. The debate created polar analytical positions between those who championed the hegemony of unfettered private business enterprise and the proponents of the leading role of the state. A middle ground, which has mainstreamed state-business relations and motivated research for this thesis, has come about through the institutional analyses of development practice, covering all regions of the developing world but with disproportionately little focus on sub-Saharan Africa. Some of the important works in this regard are Johnson (1982), Amsden (1989), Evans (1995), Maxfield and Schneider (1997), Handley (2008), Taylor (2007), MacIntyre (1994) and Kingstone (1999).

These analyses have concluded that one important explanation of the variations in economic performance among developing countries is the nature of the relations between business and the state.

This scholarship has shown that SBRs yield (sometimes) diametrically opposite results across space and time. For instance, collaborative arrangements between the state and the private sector in South Korea, Japan, Taiwan, Mauritius and Botswana are widely held to have been responsible for unprecedented economic transformation. Such relations have been described as 'growth coalitions' or 'reforms coalitions' (Brautigam *et al*, 2002; Taylor, 2007). Elsewhere, for example, The Philippines, Zambia and Zimbabwe, the nature of SBRs is held as one plausible explanation for economic stagnation. In such cases, the main diagnostic is the nature and extent of collusion between business and state elites and how they militate against growth by yielding what would pass for 'distributive coalitions' (Olson, 1982). In India, from 1980 onwards, the relationship is said to have accounted for brisk economic growth but also rising inequalities (Kohli, 2007).

The diversity of SBR outcomes outlined above raises a set of questions with which this thesis is concerned: Where do the institutions governing SBRs come from? Why and how do they persist, sometimes even when their economic and social outcomes are inefficient or sub-optimal? For those that change, when, why and how do they change? The variations in the institutional and organisational patterns of SBRs and the diversity of their outcomes imply that understanding the evolution of SBRs is important not only for explaining the development paths of countries but also for understanding the nature of the state, economy and society. The way in which state authority is organised and effected shapes the incentives for social and economic actors, incentives that, in turn, influence their behaviours and interests, and contribute directly or indirectly to patterns of institutional formation, maintenance and change. Furthermore, it is an established fact in studies on the fiscal sociology of states that sources of state revenue shape the political and economic character of states in its relations to the economy and to groups of social actors such as labour unions and business associations. Similarly, the structural aspects of the economy, including its historical context, shapes how the business community organises itself in furtherance of its interests.

This dissertation builds on this established knowledge and shows that SBRs are themselves central in shaping the politics and patterns of state-society relations, depending not just on the financial but also the perceived political importance of the business sector to the state. The analysis demonstrates that attempts to understand the nature of states, economies and societies in developing countries without an appreciation of the politics of the institutional and organisational patterns of relations between the state and the private sector, between different segments of the private sector and between ministerial departments and other bureaucratic or political agencies within the state, are bound to be shallow and therefore less useful for informing reforms in political and economic governance.

Thus, rather than attempting an explanation of the economic development trajectory of Malawi from the perspective of SBRs, this thesis illuminates a cognate area of institutional theory that grapples with explaining the provenance, resilience and change of institutions. This focus was motivated by an observed lack of sufficient concern in the institutionalist literature with the origins, maintenance and change of institutions and its disproportionate concentration on the effects of the institutions. For example, Kang (2002) found that the state and the business sector in South Korea were 'mutual hostages' in a relationship characterised by 'a balance of power' and that this relationship gave way to unintended developmental effects. Other analysts, for example, Krueger (1974), Bhagwati (1982), Hellman *et al* (2000), and other neo-liberal publications have emphasised modes of interaction and attendant forms of corruption, ranging from unproductive rent-seeking behaviour to outright 'state capture'[1], that come into place when government and the business sector, or parts of it, collude rather than collaborate. For the African state, the literature has emphasised its huge but distortive role in the economy and its predatory tendencies (Bates, 2001; Cheibub, 1998; Basil, 1992; Fatton, 1992; Evans, 1989 and 1995). However, rarely has the question been raised about the formation, resilience and

[1] Hellman *et al* (2000) define 'state capture' as the capacity of the business community (either at macro- or meso- level) to shape and affect the formation of the basic rules of the game (i.e. laws, regulations and decrees) through illicit and non-transparent private payments to public officials and politicians.

change of the institutions governing SBRs. The question, for example, is how the institutions that yielded 'mutual hostages' and 'balanced (their) power' in South Korea or the predatory and collusive institutions in Zaire (now the Democratic Republic of Congo) were formed and maintained.

Among the few commentators that have addressed this question, there are at least two observations to be made. Most explanations have been formulated from a functionalist perspective, for example, North (1991), Williamson (1985) and Keohane (1984). While these explain the maintenance and change of institutions to some extent, they do not address the question of the origins of those institutions but deduce them from the functions the institutions appear to serve. Their predominant concern has been with explanations of political and economic "equilibrium within the context of a given set of institutions" (Kreps, 1990:530) and not necessarily the origins of those institutions. Other analysts have dealt with the question more directly but have not done so from the perspective of SBRs. For example, Thelen (2002 and 2004) was concerned with the formation of institutions of vocational skills training, Lindner and Rittberger (2003) focused on the constitutional arrangements of the European Union (EU), and Riker (1995) was concerned with the crafting of the United States Constitution. Nonetheless, there are only a very few detailed case studies and even fewer that include informal institutions. However, some analysts, for example, Taylor (2007) and Handley (2008), have provided some useful insights into this question and have done so from the perspective of SBRs in the African context. However, both were concerned less with institutional formation and change than with the politics of economic reform in the neo-liberal era.

In short, most of the literature on SBRs reflects a failure to explicitly and sufficiently link political compulsions to the provenance of institutions. Yet this consideration is important as it has become clear from historical comparative analyses that economic and political institutions of any society reflect political settlements of one form or another among the society's elites (Doner *et al,* 2005; Khan, 1997). As subsequent chapters will show, at the core of the formation, maintenance and change of institutions governing SBRs is the exercise of power and influence, formally or informally, of both the state and the business sector on each other, illustrating the claim by Soltan (1998) that institutions are products of politics. This historical case analysis of Malawian SBRs contributes to our understanding of how political interests and configurations of state and business elites shape the formation and evolution of the political institutional architecture that governs state-society relations, particularly SBRs.

1.3. Case selection: Why Malawi?

Geographical context

Malawi consists of a narrow stretch of land in south-east Africa bordering Tanzania in the north and north-east, Zambia in the west and northwest and Mozambique in the south and south-east. It has a total area of 118,484 square kilometres, of which 94,276 is land and the remainder is water. The population in 2008 was estimated at 13,066,320, with an average density of 139 up from 85 in 1987 and 105 in 1998 (National Statistics Office, NSO, 2008). The population is ethnically diverse, and the main groups include the Chewa, Nyanja, Tumbuka, Lomwe, Sena, Tonga, Ngoni, Ngonde, Asians and Europeans. The country has three regions, originally imposed by the colonial government for purposes of administration. These regions became implicitly politically significant during the one-party state of Dr. Banda and explicitly so from 1994 with the rebirth of multiparty democracy. Population distribution by region has consistently shown the south to be the most populated and the north to be the least populated. The 2008 census showed that the south has 45 per cent, the centre has 42 per cent and the north has 13 per cent of the population. Although the figures have varied between censuses, the pattern of distribution remains the same. A particularly important aspect of this pattern is its coincidence with the configurations of political power, especially between 1994 and 2004. During this period, each of the three regions was associated with a particular political party: the south with the United

Democratic Front (UDF), the centre with the Malawi Congress Party (MCP) and the north with the Alliance for Democracy (AFORD)[2].

Malawi was chosen for this study because of the paradoxes and contradictions that its economic and political trajectory presents to institutional theory. The country's record of economic and social development is far from being impressive despite efforts at development planning dating back at least to 1930[3] and policy reforms under the auspices of the World Bank and International Monetary Fund (IMF). Given the relevance of SBRs in explaining patterns of economic development, the dismal social and economic record of Malawi motivated this study.

Economic and social context

Malawi is one of the poorest countries in the world and belongs to the World Bank's category of 'low income' countries[4]. By 2006, its GNI per capita was $170, with GDP pegged at $2.2 billion. UNDP figures suggest average annual growth rates of GDP per capita of -0.4 per cent between 1975 and 2004 and an insignificant 0.9 per cent between 1990 and 2004. In 2006, exports stood at 28 per cent of GDP, against an import ratio of 52.8 per cent in a context of exchange rate volatility.[5] The country is chronically dependent on aid, which amounted to $575.3 million in 2005 and averaged about 17 per cent of GDP between 1995 and 2005. Industry's (value added) contribution to GDP reached 19.8 per

[2] From the build-up to the 2004 election up to the 2009 election, there were fissures and fissions within and between political parties, including political defections among elected members of parliament. In the 2009 general election, a new party, the Democratic Progressive Party (DPP), won a landslide victory. Its margin of victory was such that the close identification of regions with parties has weakened as party and regional loyalties have shifted.

[3] On 2nd January 1930, the colonial government published what was probably the first development plan for the country, *Nyasaland Protectorate: Development Programme (1931-1934).* This was followed by *The Nyasaland Development Programme* in 1948, developed by what was called a 'Post-war Development Committee' that was mandated to devise a development strategy for the protectorate after the Second World War. These were later followed by periodic *Statements of Development Policies (DEV POL.)* during the MCP era, *Poverty Reduction Strategy Papers* (PRSPs) during the UDF decade, and currently, *The Malawi Growth and Development Strategy* (MGDS) (2006-2011).

[4] According to the World Bank's income-based categorisation, a country is in the low income group if its GNI per capita is equal to or less than $905; lower middle income if it is greater than $905 but equal to or less than $3,595; upper middle income if GNI per capita is greater than $3,595 but equal to or less than $11,115; and high income if GNI per capita is equal to or greater than $11,115.

[5] For example, The Malawi Kwacha to the US dollar decreased in value from under MK20 in 1994 to MK140 in 2005.

cent in 2006, with gross capital formation at 16.3 per cent of GDP after averaging 12.6 percent annually between 1994 and 2004 – significantly below the average for sub-Saharan Africa. Agriculture continues to be the mainstay of the economy. It contributes over 40 per cent of GDP, over 80 per cent of total employment, about 90 per cent of foreign exchange and is the main source of livelihood for the majority of the poor and is therefore critical to any strategy of broadly shared economic growth and poverty reduction. The manufacturing sector is quite small and comprises mainly agro-processing, contributing between 10 and 12 per cent to GDP. The Malawi Vulnerability Assessment Committee, MVAC (2006) suggests that there was no growth in this sector between 1996 and 2005. The formal private sector is also small, consisting of a handful of oligopolistic firms and a number of medium and small enterprises (Ebony, 2001; World Bank Regional Programme on Enterprise Development, 2006; MVAC, 2006).

Poverty remains deep, severe and widespread. According to MVAC (2006) more than 52 per cent of the population were living below the poverty line in 2005, and about 22 per cent (one in every five persons) were living in 'ultra poverty', that is they could not afford to meet the minimum daily recommended food requirements. The incidence of poverty is greatest in rural areas, especially in southern and northern regions (Integrated Household Survey, IHS, 1998; MVAC, 2006).The distribution of income is heavily skewed, with an inequality index (Gini co-efficient) estimated at 0.38 in 2006, reflecting profound inequities in access to assets, services and opportunities across the population. The richest 10 per cent of the population had a median per capita income that was eight times higher than that of the poorest 10 per cent and three times higher than the overall median income per capita for the country. Corruption is thought to have been intensive and limited to a narrow elite during the one-party era (Chingaipe and Leftwich, 2007) but extensive from the mid-1990s. For instance, Transparency International's corruption perception indices show that between 1997 and 2004 corruption progressively worsened[6]. A local study commissioned by the Malawi Government in 2005 found that 90 per cent of Malawians considered corruption to be a serious problem, with 70 per cent believing it had become worse between 1995 and 2005. 34 per cent of businesses who had made sales to the public sector reported that it was common to pay gratification to public officials. The survey further found that politicians were seen as having the least integrity and that gratification was commonly shared among public officials (Millennium Consulting Group, 2006).

Explanations of this palpably poor record have been in terms of economic policies both at macro- and sectoral levels and external shocks (Harrigan, 2001; Mhone, 1987; Bwalo, 1997; Ettema, 1984; the World Bank, 1981a, 1981b, 1982). Where institutional explanations have been attempted, apart from a few (for example, Chinsinga, 2002 and 2006; Pryor and Chipeta, 1990), they have been concerned with government service delivery systems within what Leftwich (2007:106) calls a 'technicist approach' to governance absolved of politics. No explanation has been proffered from an SBR perspective *per se.* Although Harrigan (2001), Mhone (1987) and Pryor (1990) have alluded to SBRs, they have done so mostly with respect to the one-party period. However, such an explanation would require establishing more firmly the institutional and organisational patterns of SBRs first, and that is what this thesis accomplishes.

Furthermore, an earlier scoping study, Chingaipe and Leftwich (2007) showed that changes in the formal institutions of the Malawian state were associated with observed changes in the patterns of SBRs, but the formal and informal institutional mechanisms that account for that association were not spelled out. The patterns of SBRs associated with the last two periods appeared to run against conventional theory relating to the macro-political institutional contexts of the periods. For instance, Dr. Banda and his MCP regime were known for a capitalist ideology, often mediated by some degree of

[6] The corruption perception index relates to perceptions of the degree of corruption as seen by business people and country analysts and ranges between 10 (highly clean) and zero (highly corrupt).The first assessment for Malawi was in 1997 when the index was 4.1 and continued to fall. By 2004, it was 2.8. These figures are culled from various annual reports available at www.transparency.org/policy_research/surveys_indices/cpi/.

populism (Harrigan, 2001; Short, 1974). In theory, such a regime would be expected to be sympathetic to the private sector in general. But the regime turned out to be highly predatory and suffocated not only the development of civil society but also the private business sector. Why was this? What mechanisms were used by the state to dominate society, in particular the business sector? What institutional arrangements and what political imperatives explain this apparent unconventional mix of ideology and praxis? These are some of the questions that are answered in chapter five.

Similarly, in the 1990s, democratisation promised democracy and economic progress. A new government, the UDF, largely composed of business tycoons and self-styled democrats, embarked on institutional reforms aimed at developing a liberal and democratic political economy. In design, the reforms would translate into collaborative, synergistic and developmental relations between the state and business interests. However, in practice, the UDF proved to be a highly collusive and corrupt regime, approximating what Hutchcroft (1993 and 1994) described as ‘booty capitalism’ in the case of the Philippines. Anders (2005) described the Malawian phenomenon as ‘the democratisation of appropriation’ while Muula and Chanika (2006) characterised the 1994-2004 period simply as ‘Malawi’s lost decade’. How did the collusive institutions, especially with respect to SBRs, evolve within a formal democratic institutional framework that was aimed at increasing transparency and accountability? What political imperatives sustained them? These are some of the empirical questions that are addressed in chapter six.

There have also been claims about the continuity of colonial policies and institutions into the post-colonial period, several of which have implications for SBRs. For example, Pachai (1973) showed the effect of the colonial legacy on land policies; Nzunda (1989) pointed out that the company law instituted in 1908 to serve the interests of British imperialism remained in force for twenty-two years after independence; Harrigan (2001) pointed to the continuation of a colonial agro-based development strategy with its attendant institutions. While historical works on Malawi have scattered allusions to various aspects that are of interest to SBRs generally, no scholarly work (so far as I know) has attempted a systematic analysis of the evolution of the institutional and organisational patterns of colonial SBRs. Thus, despite citation of institutional continuities in several domains, it has not been clear whether the post-colonial pattern of SBRs was influenced by the colonial legacy in the same way as other institutions. This thesis shows that historical legacies have been important in shaping patterns of SBRs in subsequent periods by providing rationales more for institutional discontinuity and modification than continuities.

In short, Malawi provides an excellent case study for the evolution of institutional and organisational patterns of SBRs in different political institutional set-ups. By addressing the questions sketched above, this thesis makes a substantial empirical contribution to the understanding of how state-level politics shaped SBRs in the country, and also provides deeper insights about the processes of institutional formation, maintenance and change more generally, as highlighted below.

1.4. Overview of the analytical and methodological framework

In analysing the evolution of the institutional and organisational patterns of Malawian SBRs, this thesis uses the approach of historical institutionalism. The inspiration to use this approach draws from Karl Marx's observation that the men (and women) who make history "do not make it just as they please; they do not make it in circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past. The tradition of past generations weighs like a nightmare on the brains of the living. And just as they seem to be revolutionising themselves and things, creating something that did not exist before... they conjure up the spirits of the past to their service" (Marx,1869 online version, not paginated). Historical institutionalism provided a set of concepts that helped to dig beneath the institutional arrangements to enable an analytic narrative of patterns of SBRs in each of the political epochs to reveal the political imperatives, interests and relationships of state and business elites that created and supported the institutional arrangements or resisted and sought to change them, and the historical context in which these processes transpired.

Historical institutionalism has been used by scholars to analyse institutional evolution in different social spheres, for example, Skocpol (1979), Collier and Collier (2002) and Thelen (2004). However, one of its analytical tools, critical junctures, has lacked conceptual precision. It has not been clear just what factors determine the criticality of any juncture. Consequently, its analytical relationship with a sister concept, path dependence, has been nebulous, giving the impression (rightly so) that historical institutionalism is an inconsistent approach for exploring questions of institutional formation, continuity and change. This has been the case because existing definitions of critical junctures foreclose institutional continuity and emphasise breakdown and change, while those of path dependence emphasise institutional continuity even across critical junctures. Using the insights from the analysis of Malawian SBRs I suggest a reformulation of the concept of critical junctures in a manner that resolves the conceptual tension with the concept of path dependence. In doing so, this thesis contributes to making historical institutionalism a more consistent approach.

The key concepts that are used in the analysis are critical junctures, power asymmetries, institutions and institutional architecture, and politics. This section provides an overview of the operational definitions of these concepts but I present the analytical and methodological approach more comprehensively in chapter three.

Critical junctures

Several scholars have defined critical junctures differently. While some definitions are loose and make the concept porous, others have sought to delimit its scope using arbitrary criteria (more on this in chapter three). Consequently, its direct empirical referents have been elusive to pin down precisely. Nonetheless, it is a commonly used concept in political analysis, recently illustrated in such works as Collier and Collier (2002), Mahoney (2000), Pierson (2004) and Hogan (2006). I define critical junctures as the occasional points or periods of time when political and/or economic processes presented (virtually unexpected) windows of opportunity for departures from the existing institutional set-up. This definition focuses attention on episodes of institutional upheaval that were expected to engender a transformation of the core of the institutions governing state-business relations. The concept is used to illuminate how fundamental changes in the political institutional architecture of the state shaped the formation and change of SBR institutions within and across the periods of study.

Power asymmetries between the state (and its elites) and the business sector (and its elites)

This refers to the distribution, ownership and control of economic and political resources among elite clusters which become the bases of their power in contesting the formation, maintenance or change of institutions. Power asymmetries impose constraints on or provide opportunities to different actor-groups. They are used in the analysis to show how they influenced actor-groups to engage in political activity that shaped the institutional and organisational patterns of SBRs. The use of this concept draws mainly on the works of Acemoglu and Robinson (2006a and 2006b) and Mann (1981). The focus was on ongoing struggles within, and also over, prevailing institutional arrangements. The concept illuminates gradual forms of institutional change in the practice of SBRs within each period.

Institutions and political institutional architecture

I adopt the definition of institutions proposed by Douglas North. Institutions mean the man-made constraints or 'rules of the game' that structure human interaction in political, economic or other social spheres (North, 1990). Institutional architecture refers to "the complex totality of a country's basic political institutions – the rules, usually enshrined in a constitution and other key laws that determine how the leadership of a state is configured and how state authority is exercised" (Macintyre, 2003:1). The concept is used in assessing the extent of concentration or dispersal of governmental decision-making power in each period and how the distribution of power shaped patterns of SBRs.

Politics

There are many definitions in the literature. For this study, I adopt the one provided by Leftwich (2005), i.e. all the activities of cooperation, negotiation and conflict, within and between societies, whereby people go about organising the use, production or distribution of human, natural and other resources in the course of the production or reproduction of their biological and social life. This definition broadens the scope of political activity and enables examination of a whole range of interactions between the state and the business community.

Data was collected from a range of primary and secondary documents as well as in-depth interviews with key informants who included serving and retired politicians, businessmen and leaders of peak business associations, details of which are presented in chapter three. Data was interpreted using an integrated, empirically-based approach that drew eclectically from process tracing, discourse and content analysis and analytic comparison.

1.5. Overview of key claims

The key claims of the thesis are in three categories. The first set relates to empirical contributions to the understanding of Malawian SBRs and the role of politics in shaping them. The second set relates to new insights that the analysis brings to SBR theory. The third set relates to historical institutionalism.

The empirical analysis demonstrates that the evolution of the institutional and organisational patterns of SBRs dovetailed with the politics of state formation in the colonial era, nation-building in the post-independence period and state/polity reforms in the era of multiparty democracy. Consequently, the analysis of Malawian SBRs is as much about the formation of institutions governing these relations as it is about the nature of the relations in the evolving institutional arrangements. The analysis further demonstrates that studying the politics of SBRs offers a fresh perspective into the character of states and is a useful way for comparing governments or regimes. It shows why SBRs are at the core of both political science and economics and how they are crucial for understanding state-society relations.

This thesis claims that colonial SBRs were mostly characterised by consultations, negotiations, bargaining and cooperation between the British administration and the European commercial and agricultural interests. While there were several ways for exchanging views, public-private policy dialogue was consolidated through direct representation of the European commercial and agricultural interests in the Legislative Council (LEGCO). The Indian and African business communities were marginalised and had no regular or meaningful policy voice and space. I describe this pattern of SBRs as particularistic concertation. It was a collaborative governance pact characterised by a balance of power between the state and the European business sector, sometimes against the interests of Indian and African communities. Institution formation and policy-making, maintenance and change entailed processes of negotiation and hard-ball bargaining.

A new approach to politics and the economy characterised the post-independence pattern of SBRs. Unlike in the colonial period, political power became concentrated in the president who enjoyed unimpeded executive authority across the public-private domains. Institutional formation and policy-making were more by presidential fiat than dialogue and the state's business regulatory regime virtually substituted the discipline of the market. Through its enterprises, the state itself dominated the business sector. It subordinated private enterprise by creating and co-opting the African Businessmen Association (ABAM) into the political party while subjecting all private enterprise including those of non-Africans to a perpetual insecurity of property rights that was sanctified by forfeiture laws. I describe this pattern as neo-patrimonial state hegemony.

Throughout the first decade of multiparty democracy, the institutional arrangements and practice of SBRs were in a flux as much as were those governing macro-level politics and the economy. While there were efforts by several state agencies and the business community to institutionalise public-private dialogue for the making of economic policy and development strategies, there also evolved a pattern of non transparent and collusive relations between business owners and the party elites that dominated government and national politics. I describe this dual pattern of SBRs as nascent concertation and politically embedded cronyism and collusion.

The changing institutional configurations of SBRs, from one political epoch to another, depended, first on the dominant political ideas for organising state-society relations. State and business elites engage in the creation or re-engineering of rules and practices that align with the dominant ideas. For instance, imperialism in the colonial period, nationalism in the one-party period and democracy after 1994, provided the ideational frameworks which directly shaped patterns of SBRs. Not only did these ideas shape choices of development strategies which in turn affected SBRs, they also affected how the business sector organised itself vis-a-vis the state. In each period were business groups that opposed key elements of the dominant ideas and were therefore at odds with the state while other groups were in agreement with the dominant ideas. Within the business sector, parochial identities such as race and political affiliations not only fragmented the business community but also influenced state attitudes towards different segments of the business community. Consequently, the nature of institutional arrangements for SBRs depended on the balance of power between the contending groups. In each period, those business groups that were on the same side with the government based on these parochial identities enjoyed better SBRs.

Furthermore, macro-level politics shaped the way in which the authority of the state was configured and exercised, which in turn directly shaped variations in SBRs. The political institutional architecture determined the nature of policy voice and space for the business sector. Thus, from a colonial imperialist bureaucratic state that sided with European commerce and agriculture, the state turned into a leviathan in the one-party period emphasising its sovereign authority and the obligation of all other social actors to submit to its hegemonic power in the economy and politics; before degenerating into a soft state characterised by a lack of discipline and low levels of law observance and enforcement in the first decade of multiparty democracy. Decentralisation of state authority yielded organisational pluralism within the state, leading to competition among agencies and departments for visibility and importance. Not only did this weaken the capacity of the state to deliver coherent and credible policies, it also made the individual agencies/departments vulnerable to narrow influences in the business community.

The changing nature of politics and the the state resulted in business associations changing from being vigorous representatives of business demands and vehicles of political representation in the colonial period, to mere transmitters of government policy to the business community in the one-party period, and to a weak and fluid combination of these roles in the democratic period. Thus, the evolution of the structure, power and ideology of the business sector, across the three periods, was profoundly bound up with political process of organising and re-organising state-economy and state-society relations. The differences in the institutional and organisational patterns of SBRs were rooted in the distribution and exercise of power between the state and the business sector. The national political institutional architecture shaped opportunities and incentives for state and business elites in each period to create and sustain the distinct institutional and organisational forms of SBRs.

This thesis claims and demonstrates that synergistic SBRs thrive on mutual dependence between the state and the business sector in achieving their political and economic objectives. In particular, attitudes of state elites towards the business sector are shaped by their perceptions of the political and financial usefulness of the business sector (or parts of it) to the objectives of state elites. In the colonial period SBRs were characterised by acrimony when the administration was dependent almost exclusively on the largesse of the British South African Company (BSAC). Concertation only emerged in the context of an evolving relationship of dependence between the administration and the wider European community after financial relations with the BSAC had been severed. The administration needed to raise revenues and the constitutional changes of 1907 rested the political legitimacy of the administration on the enduring consent of the European community. The colonial state could no longer afford a hostile relationship with the European business community.

Conversely, in the one-party period the state dominated society and economy leading to the relatively low financial and political usefulness of the private business sector to the state. Furthermore, low levels of capitalist development in a context of nationalist politics compelled the state to engage in populist strategies to indigenise the business sector in ways that made the entire business community dependent on the goodwill of the president. The government generated most of its revenues, relied on foreign aid and preyed on private capital without fear of immediate political repercussions. After 1994, the UDF government depended on the business community for revenues as well as a political constituency. Supported by the rhetoric of neoliberal economic reforms, the UDF regime was pro-business in its policy orientation. However, interdependence was shaped by narrow, particularistic interests that led to collusive relations. The analysis illustrates how politics matter for relations between the state and the business community, between segments of the business community and between state agencies. It further demonstrates the roles of agency, i.e. leaders, elites and coalitions, in the formation, maintenance and change of institutions for political and economic governance and how SBRs are central for understanding the politics of economic growth, state-building and patterns of social inclusion and exclusion, all of which shape the nature of states, patterns of economic governance and patterns of state-society relations generally.

In terms of SBR theory, the thesis provides fresh insights on at least three aspects. Firstly, it suggests that regardless of whether the state is authoritarian or democratic, policy concertation in SBRs require that decision-making authority within the state should neither be too concentrated as was the case during the one-party period nor too fragmented as during the first decade of multiparty democracy. Either extreme presents political problems that preclude the emergence of benign institutions for public-private policy dialogue. Secondly, current SBR theory advocates for encompassing business associations capable of pursuing non particularistic policies that guarantee long term economy-wide efficiency. This is all good but the empirical evidence in this thesis presents a paradox in that the formation of such encompassing associations has been at the behest of the state. Even when the business sector is able on its own to develop encompassing associations, access (or lack of it) to policy dialogue with state elites, shapes how the business sector organises itself. Thus, unless the state is interested in the existence of peak, encompassing associations, the business sector is more likely to suffer from organisational pluralism, defined by such parochial identities as sector of business activity, race and political affiliations, and be unable to cultivate a pan-business front. Lastly, collusion in SBRs is a common phenomenon although its degree varies from one country to another or from one regime to another. Current SBR theory emphasises the enactment and implementation of business competition laws. Such legislation is obviously important in a functioning market economy. The Malawi case suggests that fending off collusion in SBRs is dependent on the nature of the state and the attitude of its elites and business leaders towards transparency and accountability. The existence of competition law on its own does not prevent harmful collusion in situations where elites straddle business and politics and political financing is unregulated.

With respect to the analytical framework of historical institutionalism, this thesis claims that the dominant conceptualisation of critical junctures has led scholars down the wrong analytical path in explaining institutional formation, maintenance and change. Instead of defining critical junctures on the basis of long term effects of institutional change or as periods when an existing institutional arrangement breaks down or as when a significant off-path change takes place, this thesis suggests that a definitive element of critical junctures is the people's expectations for institutional change in a particular direction. This conceptualisation, whose analytical usefulness is supported by the institutional evolution of Malawian SBRs helps to explain not only institutional breakdown but also gradual institutional change and institutional continuity despite periods of upheaval. It reconciles the concepts of critical junctures and path dependence, opens up explanatory room for the role of agency and makes historical institutionalism a consistent approach for explaining institutional evolution. Furthermore, most historical institutionalist studies have emphasised the role of history in explaining institutional continuity using the concept of path dependence. This thesis claims and demonstrates that history matters for institutional discontinuities too as in moving from one political epoch to another, actors draw insights from experiences with previous institutional arrangements in order to discard or modify them and design new ones.

1.6. Structure of thesis

The thesis is organised in three parts with a total of seven chapters. This first chapter has presented the broad questions and claims with which this thesis is concerned and has shown why they are important for academic and policy purposes. Chapter two reviews the literature on state-business relations. The main observation is that the literature provides useful empirical and theoretical material for a comparative study of SBRs and their policy and development outcomes, but pays very little attention to the theoretical question of their emergence, evolution and change. Chapter three outlines the analytical and methodological framework and describes how the framework was used to gather and analyse data.

Part two consists of three chapters on the empirical analysis of SBRs in Malawi. Chapter four analyses the emergence and institutional development of SBRs in the colonial period. It shows that the politics of state formation and consolidation created a symbiotic relationship between the state and the European business community. This chapter is particularly important for a historical institutionalist analysis because it deals with a foundational period in which a set of institutional pathways were laid down. Chapter five analyses SBRs in the post-colonial, one-party authoritarian state. It highlights how the political objectives of the nationalist government restructured state-business relations by discarding, modifying and extending institutional elements inherited from the colonial period and by creating new ones. Chapter six analyses the patterns of state-business relations in the emergent multi-party democratic state. It highlights how the politics of dismantling the one-party state led to the weakening of the state and broadened the scope for collusive SBRs.

Part three has one chapter – chapter seven - which elaborates the empirical and theoretical contributions of the analysis of Malawian SBRs. It synthesises the evidence of how political processes have historically shaped the institutional and organisational patterns of SBRs in Malawi and draws out implications for institutional and SBR theories.

CHAPTER TWO

The Provenance of State-Business Relations – A Literature Review

Introduction

This chapter reviews the literature on the provenance of the institutional and organisational patterns of state-business relations (SBRs). It observes that academic and policy interests in SBRs have a fairly long history. They can be traced from Smith (1776) right up to the most recent studies of developing countries, including those of MacIntyre (1994), Evans (1995), Maxfield and Schneider (1997), Taylor (2007), and Handley (2008) among others, and ongoing research projects by various consortia and organisations. It shows that the analysis of these relations is part of the wider discourses on relations between the state and society and the state and the economy, which are central to the social and political sciences. It identifies factors that shape SBRs, how the state and the business community influence each other and the different comparative patterns of these relations. I argue that the literature provides useful insights for understanding the institutional evolution of SBRs in Malawi but pays less analytical attention to how politics shape the formation and change of the institutional and organisational patterns of these relations.

The chapter has four main sections. Section 2.1 provides an overview of the academic and policy context of studies on SBRs, identifies some of the recent discourses associated with these relations, and highlights some of the antecedents of concerns with SBRs. Section 2.2 identifies factors that shape the patterns of SBRs. Section 2.3 focuses on the modes of influence between the state and the business community. Section 2.4 surveys the comparative patterns of state-business relations that arise from the different combinations of factors.

2.1. Context and discourses on state-business relations

2.1.1. Academic and policy context

Dahl (1959) lamented the paucity of studies on the politics of SBRs: “For all the talk and public curiosity about the relations between business and politics, there is a remarkable dearth of studies on the subject…One would suppose that the role of business, particularly big business, would be a matter of central concern to political scientists” (1959:1). By the 1970s, however, SBRs had become a focus of analysis in comparative political economy, especially “in theories of dependent development and bureaucratic authoritarianism [and] in other efforts to explain highly exclusionary patterns of growth and politics” (Schneider, 1998:101) that favoured small groups of elites. However, this scholarship boom was followed by a lapse in the late 1970s and early 80s when academic attention shifted to non-elite social actors whose political activism was being propelled by political and economic liberalisation associated with the ‘third wave of democratisation’ (Huntington,1991) and structural adjustment programmes, respectively.

The recent surge of interest in SBRs, particularly in developing countries, is due to at least two factors. First, neo-liberal policy experiments have shown that “the opposite of state-led development is not market-led but rather business-led development” (Schneider, 1998:102) – a theme emphasised by Chandler *et al* (1997) but one that Smith (1776) and Schumpeter (1961) alluded to (see below).The second has been the realisation that ‘institutions matter’ for growth and development – a theme resurrected by Burki and Perry (1998) but building on a voluminous literature in economic history (North, 1990; Ostrom, 1990; Olson, 1965). A key conclusion has been that patterns of SBRs are crucial in explaining patterns of development. Others have suggested that patterns of SBRs determine not only the content of economic reforms but also the range of policy instruments that can be used and the pace at which the reforms are implemented (Schneider, 1998; Silva, 1996; MacIntyre, 1994; Maxfield and Schneider, 1997). These suggestions have led to research that addresses a diversified set of questions relating to the origins, change, efficacy and effects of both formal and informal institutions, and the interactions between them, on various facets of development. This thesis is a contribution to these efforts.

On the policy front, some recent studies on SBRs have been motivated by the disappointing results of neo-liberal reforms under Structural Adjustment Programmes (SAPs) (World Bank, 1981) and Poverty Reduction Strategy Papers (PRSPs) (Mkandawire and Soludo, 1999; Weyland, 1998; Gore, 2000; Ibrawoh, 1999; van de Walle, 2001). Particular policy questions relating to SBRs concern property rights, corruption, political credibility, governments' capacity to deliver essential social services, market regulation and, in general terms, how states influence entrepreneurial behaviour for better or worse (World Bank, 1997).

Consequently, international development organisations are pushing for various policy and institutional reforms in the arena of SBRs. The World Bank, the United Kingdom Department for International Development (DFID) and the Organisation for Economic Cooperation and Development (OECD) are inspired by the conviction that "no development is possible without growth, without a good investment climate, without a buoyant private sector"[7]. Private Sector Development (PSD) is regarded not only as a tool for non-state based development of capitalism but also as essential for economic growth and poverty reduction because it generates employment and is a source of innovation. The various reform efforts[8] aim at facilitating the contribution of the private sector to national development in developing countries by improving the business and investment climate, instituting or reforming public-private dialogues (PPD) for policy-making and implementation and developing public private partnerships (PPP) in the provision of public goods and essential social services. Research is also being supported to inform aspects of these processes through, for example, the research Programme Consortium on

[7] Francois Bourguignon on www.ifc.org accessed on 30th July 2008).
[8] Details can be found at www.publicprivatedialogue.org, www.ifc.org and www.oecd.org .

Improving Institutions for Pro-Poor Growth (IPPG) at the Universities of Manchester and York[9], the International Institute for Labour Studies, World Bank Research arms, and the OECD Centre for Development, among others.

2.1.2. Locating state-business relations in the social sciences

State-business relations are at the core of at least three enduring themes in the social sciences. Firstly, they are part of debates on the cause-effect relations between institutions and development. Some institutions matter for growth and development, whereas others constrain these processes (Hodgson, 2001; Chang, 2007; Woo-Cummings, 1999)[10]. There is a need to identify which institutions, under what circumstances, work for or against growth and development and why and how they change or resist reform. This is particularly crucial 'because development failure is now understood to represent institutional failure and not just policy failure' (Doner *et al,* 2005:329). Secondly, SBRs are an integral part of the state versus society debate, exploring issues related to strong and weak states and modes of interactions between the state, on the one hand, and weak or strong civil society, including the business sector, on the other (Leftwich, 2007a; Kohli, 1998; Migdal,1988; Evans,1995). This debate ordinarily merges into discussions of the interface between formal and informal institutions, hierarchies and interests (Schmitter, 1974; Cawson, 1986; Helmke and Levitsky, 2006). Thirdly, SBRs are at the centre of market versus state debates. An important theme of this debate to the present study is the recognition that "all states intervene in their economies for various reasons [but] the key question is how government intervenes and for what purposes" (Johnson, 1982:17-18). Thus, the key question is no longer whether the state should intervene in the economy but what kind of intervention is necessary for growth and development (Evans, 1995; Chang, 1999; Woo-Cummings, 1999; Kohli, 2004; Wade,

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[9] See www.ippg.org.uk

[10] There is a growing body of scholarly work on this theme by the IPPG. Research papers are available at www.ipppg.org.uk.

1992). Placed within these huge debates, academic interest in SBRs goes back several centuries. The following section highlights some of the earliest ideas.

2.1.3. Antecedents to the analysis of state-business relations

Early concerns focused on the linkages between patterns of SBRs and economic development and social stratification. Three strands can be identified: state-centred, business-centred and those that took a middle view.

The business-centred tradition

This tradition has its origins in Smith (1776), especially in the argument that “the different progress of opulence in different ages and nations” resulted from “two different systems of political economy”[11] – the system of commerce and manufactures and that of agriculture (Smith, 1776/1976, Book IV:428). He demonstrated that the state’s instruments of economic policy, especially import restrictions and export encouragement through ‘bounties’ (i.e. subsidies), ‘drawbacks’ (i.e. tax rebates) and commercial treaties with other states shape SBRs, but such state interventions would be “disadvantageous to the country in whose favour [they are] meant to be established” (Book IV.ix:489). He advocated a pattern of SBRs in which the state would be discharged from “the duty of superintending the industry of private people and of directing it towards the employments most suitable to the interests of the society” (ibid: Book IV.ix:51).

However, such optimism has not been borne out in most of the developing world, where mostly fragile states dominate weak economies such that the economic survival of the territories and political survival of the regimes hinge on some form of state activism in the economies. Neither has the optimism materialised in strong states such as those in East Asia, where ‘developmental states’ have been

[11] Smith conceived ‘political economy’ as a “branch of the science of a statesman or legislator” (in short, government or the state) aimed at “providing plentiful revenue or subsistence for the people, or more properly, to enable them to provide such a revenue or subsistence for themselves and to provide the state with a revenue sufficient for [the provision] of public services” (Smith, 1776/1976, Book IV: 428).

central in directing private capital and investments using 'bounties' and 'drawbacks' within 'plan-rational' frameworks, giving rise to different patterns of SBRs (Woo-Cumings, 1999; Onis, 1991, Wade, 1992).

Schumpeter (1961, 1950)[12] reinforced the business-centred view in his notion of development[13]. He argued that "it is the producer who, as a rule, initiates economic change" (1961:65). Although less explicitly concerned with SBRs, his analysis had fundamental implications for them. The propositions that the development of a nation comes from 'entrepreneurs or wild spirits' and that those who really move the innovation and the economy are the big companies that have resources and capital to invest in research and development, imply that realising development requires some positive engagement between the state and (big) business. Thus, rather than a 'hands-off' pattern of SBRs as implied by Smith and championed by the World Bank and the IMF since the 1980s, the Schumpeterian formulation suggests that states that need to ascend the economic ladder must forge synergistic, or hand-in-hand, relations with private capital. This is borne out in emerging market economies in Asia and Latin America (Amsden, 1989; Moore and Schmidtz, 2008; Johnston, 1982; Doner and Schneider, 2000; Evans, 1995). However, private 'big companies' as contemplated by Schumpeter have been rare in most of the developing world, where states have tended to substitute public enterprises for them, leading to varied patterns of SBRs. A key point that emerges from this tradition is that the nature of state involvement in the economy shapes the patterns of SBRs.

The state-centred tradition

[12] His ideas were developed by 1909 and published for the first time, in German, in 1911.

[13] In the Schumpeterian framework, development is defined by new ways of combining materials and forces of production, covering five cases: 1.The new combination must introduce a new good or new quality of good, 2.It must introduce a new method of production that is based on new scientific discovery, 3.It must open a new market (either for old or new products), 4.It may require conquest of a new source of supply of raw materials or intermediate goods, and 5.It may require carrying out new organisation of any industry (e.g. creating or breaking the monopoly position (Schumpeter, 1961:66).

A key antecedent in this tradition is to be found in the work of Marx and Engels on political economy[14], especially in two notions of the role of the state in society. A predominant argument is that in the process of capitalist development, SBRs are such that the state is constrained by businessmen[15] and performs acts that aim at protecting and furthering their interests:

> ...the bourgeoisie has ... since the establishment of modern Industry and of the world market, conquered for itself, in the modern representative state, exclusive political sway. The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie…It has drowned [all virtue] in the icy water of egotistical calculation… [and] resolved personal wealth into exchange value…In one word, for exploitation, veiled by religious and political illusions, it has substituted naked, shameless, direct brutal exploitation (Marx and Engels,1848/1998:5).

This view indicates the potential vices of a cosy relationship between businessmen and those who control political power through the state, and the role of ideologies in sustaining the institutional pattern. This fear is borne out in some developing countries but more in the interest of political regime survival than furtherance of bourgeoisie interests. For example, it has been shown that business in the Philippines was born and flourished or failed not so much in the marketplace as in the halls of the legislature or in the administrative offices of the government (McHale, 1959 as cited by Hutchcroft, 1994:217). Similar patterns have been observed in Egypt and have been described as politically-embedded cronyism (Adly, 2009).

Marxism also conceived the state as a factor of cohesion endowed with relative autonomy from social forces (Hay, 2006; Poulantzas, 1973). In SBRs, this notion is vindicated in works that have highlighted various forms of relative autonomy of the state from powerful business interests. For example, Evans (1995) has demonstrated that in developmental states, SBRs took the form of embedded autonomy. More directly related to the role of the state in promoting 'social cohesion' have been the corporatist

[14] Contrary to Smithian conception, 'political economy' in Marxism refers to antagonistic relations of production and exchange between those who control the means of production and those who provide labour, mediated by the state. It is about relations between 'the economic base' and the 'political superstructure' (Hay, 2006; Poulantzas, 1973).

[15] They call them the 'bourgeoisie' and are defined as 'the class of modern capitalists, owners of the means of social production and employers of wage labour' (Marx and Engels, 1848/1988: 55, footnote No.7).

arrangements in Latin America and East Asia, which have explicitly sought to attain social peace and harmony among antagonistic classes – business and labour - through social pacts (Lucas, 1997; Schneider, 1997; MacIntyre, 1994). This tradition suggests that patterns of SBRs are partly shaped by the degree of autonomy that the state enjoys over the business community. The more autonomy the state has, the less likely the possibility of becoming an 'executive committee' for capitalists and the better the position to act as a factor of social cohesion. Yet there is nothing to preclude the suggestion that a more autonomous state may become predatory on private enterprise.

The middle view

The core argument is that patterns of SBRs are not to be explained in exclusive terms on the lines of perfect markets and imperfect states or imperfect states and perfect markets. Rather, the explanations ought to be balanced between economic factors and politics (World Bank, 1997; Amsden, 1989; Johnson, 1982; Deyo, 1987; Chang, 2002 and 2007). A key antecedent of the middle view is found in the observation that economic and political phenomena are connected through the role of 'the corporation' so that "certain questions about the governmental-market relation are at the core of political science and economics no less for planned economies than for market systems" (Lindblom,1977:ix-x). As suggested in his analysis of the privileged position of busineses in a market system and the politics of business enterprise in communist systems, Lindblom's work alludes to the possibility of a variety of patterns of SBRs, shaped by the type of political regime. Thus, "[a]side from the difference between despotic and libertarian governments, the greatest distinction between one government and another is the degree to which market replaces government or government replaces market" (ibid: ix). The middle view suggests that patterns of SBRs represent forms of adjustment between states and business rather than approximations to unilateral control of one by the other, as the cases of Taiwan and South Africa exemplify[16]. These antecedents underscore the view that patterns of SBRs influence development trajectories and outcomes.

Especially from the 1980s, scholarly interest in SBRs extended to developing societies, motivated mostly by the need to counter neoclassical homilies on the primacy of markets in the growth miracles of East Asian countries. A flagship publication is Johnson (1982) which showed that SBRs that took the form of purely state-dominated command economies or unproductive market *laissez-faire* were inferior when judged from their development outcomes. The distinctive feature of developmental SBRs, as evidenced by Japan, was one in which "the state's role in the economy is shared with the private sector and both the state and private sectors [improve] the market to make it work for developmental goals" (ibid:viii). The provenance of the Japanese pattern of SBRs was attributed to the bureaucratic aspects of the state. Evans (1995) has emphasised the potency of networks between state and business elites. Maxfield and Schneider (1997) extend the analytical reach of this approach to the organisational properties of both states and business and the institutional aspects for their interaction. These developments are insightful for the present study because, like in other developing countries, neither the state nor the market in Malawi is fundamentally consolidated around agreed rules.

The various perspectives on SBRs have precluded a standardisation of approaches to the study of these relations. For present purposes, three approaches are identified in the following section.

2.1.4. Recent approaches to the study of state-business relations

As the study of the development of capitalism

[16] In Taiwan, the authoritarian KMT state dominated the business sector via large-scale public enterprises and control of the financial sector. This yielded clientelistic SBRs between the native Taiwanese business elites and the mainland Chinese political elites. However, regime transition and the economic and governance reforms of the 1980s resulted in a power surge for business, and politicians became more reliant on businesses for political financing – yielding a realigned pattern of SBRs (Chu, 1994). Similarly, in South Africa, the predominantly white business owners' fears of nationalisation by the ANC compelled them to engage with the black political elites, even before the latter took power, and they pledged to support the political cause of a multi-racial country in exchange for a repudiation of the ANC socialist charter. The result has been a pattern of SBRs that was hitherto generally not expected under the ANC government (Taylor, 2007).

In this approach, the main concerns have been the formation of capitalist classes and their organisational expression. The focus has mostly been on business associations and the role of the state in enabling or constraining their growth (Becker, 1990; Hawes and Liu, 1993; Leys, 1994; Kennedy, 1994; Heilman and Lucas, 1997). Some of this scholarship has conceptualised the provenance and activities of business associations as an integral component of a social movement aimed at minimising the power and roles of the state in society. For example, Becker (1990) saw a 'bourgeoisie social movement' in the anti-statist activities and ideologies of the FEDECAMARAS in Venezuela. Similarly, Heilman and Lucas (1997) conceived business associations as 'social movements for African capitalism'. At the core of this orientation is the realisation that the development of capitalism involves "human agency in such forms as associational activity, trends of thought, passage of laws and shaping the government – in sum, in the form of social movements and politics" (Sklar,1987:11). Others, however, have sounded caution on the ongoing competition and conflicts between business associations in a context of 'pervasive organisational surplus' (Moore and Hamalai, 1993), which often confound efforts at collective action in relation to the state. One implication is that a capitalist class that may be internally divided on the basis of parochial identities such as ethnicity, race, religion or other cleavages may be less likely to mobilise into coherent and widely representative business associations and may be vulnerable to penetration and divide-and-rule tactics by the state. The case of the Confederation of Indian Industry (CII) and the Federation of Indian Chambers of Commerce and Industry (FICCI) illustrates this point (Sinha, 2005).

As the study of governance

Some scholars have approached SBRs as part of the governance problem, that is, "the exercise of political power to manage a nation's affairs" (World Bank, 1989:60). Thus, SBRs are seen by some as part of the process of deepening democracy – a view that is expressed in several qualified concepts, such as 'good governance' (World Bank, 1992 and 1994)[17], 'good enough governance' (Grindle, 2007); 'collaborative governance' (Rhodes, 1995 and 1997; Ansell and Gash, 2007; Donahue, 2004), and 'nodal governance' (Burris *et al*, 2005). Studies in this approach have focused on how to manage the "pluralisation of the institutional environment" (Lucas, 1997:71) in which political and economic decisions are made. Inevitably, most attention has been paid to Public-Private Dialogue (PPD) mechanisms i.e. forums and other arrangements for consultation and cooperation between actors from government and business[18]. Besides engendering transparency, reciprocity, credibility and trust between the state and organised business interests (Schneider and Maxifield, 1997; te Velde, 2006, Herzberg and Wright, 2006), these arrangements are seen as important for the consolidation of democracy (Hart, 2001).

These recent notions of governance resonate with an older discourse of corporatism. For SBRs, two versions of corporatism can be identified, namely, corporatism as post-capitalism and corporatism as interest mediation. Post-capitalism corporatism differs from both capitalism and socialism and represents a system of political economy in which private ownership of capital is combined with public control, and the state directs business towards specific goals (Winkler, 1976:103, Hutchful, 1989:21) on the basis of four principles: "Unity, order, nationalism and success" (Winkler, 1976:103). It differs from capitalism in that the market system is constrained, and rights over private capital are somehow abrogated by the state. It is different from socialism because it does not include nationalisation of private capital. The state is sufficiently autonomous from economic interests and can impose its will without being captured by any economic group. This version of corporatism is in evidence in several accounts of the nature of the economic system that was central to the rise of 'developmental states' in South Korea and Japan (Johnson, 1982; Amsden, 1989).

[17] This qualification aimed at absolving politics from governance and development and suggested only technical, administrative and managerial solutions to the problems of growth and development (Leftwich, 2007a:107).

[18] Case studies from 2006 from various countries are available at www.publicprivatedialogue.org

Corporatism as interest mediation is concerned with the organisation and structure of political and economic interests in society and the relationships of those interests with the state. For Schmitter, it is a "system of interest representation in which the constituent units are organised into a limited number of singular, compulsory, non-competitive, hierarchically ordered and functionally differentiated categories, recognised or 'licensed' (if not created) by the state and granted a deliberate representational role in exchange for observing certain controls on their selection of leaders and articulation of demands and supports" (Schimitter, 1974:93-94). For Cawson (1986:38), "Corporatism is a specific socio-political process in which organisations representing monopolistic functional interests engage in political exchange with state agencies over public policy outputs which involves those organisations in a role which combines interest representation and policy implementation through delegated self-enforcement". Thus, starting from a pluralism where interest groups are many and have influence but lack formal roles in both policy-making and implementation, Schmitter's conception represents an intermediate case in which interest groups are organised into 'peak groups', that have formal roles in policy-making but not in its implementation. Cawson's interpretation represents a situation in which interest groups form representative peak associations and have formal roles in policy making and implementation. These conceptions imply different patterns of SBRs and demand that particular attention be paid to processes of political exchange between states, business and labour as well as aspects of collective action within the sectors.

The functioning of corporatist arrangements, however, depends on whether the aim of the state is to organise and dominate society or to create a platform through which societal groups can influence the state. For the former, the state is "not to be the subject of effective challenge from popular or particularistic demands" (Williamson, 1985:8). The state organises social groups in order to establish and maintain a certain socio-economic order and to directly regulate the behaviour of individual actors in the economy so that it is compatible with the desired social order. Examples of such arrangements include Brazil under Getulio (Lucas, 1997), South Korea under Park (Moon, 1994) and Indonesia (Lucas, 1997). For the latter objective, corporatist arrangements may combine centralised and decentralised patterns of engagement (Cawson, 1985; Grant, 1985). It implies 'pluralisation of the institutional environment' (Bratton, 1989; Lucas, 1997), which may give rise to 'pressure' patterns of relations, making collusion and patrimonialism common while limiting policy coordination. For example, South Africa's National Economic Development and Labour Council (NEDLAC) is institutionalised by statute to bring government, labour and capital together but does not restrict formation of other groups outside it. In fact, sometimes even the government avoids NEDLAC on some issues and deals directly and exclusively with an association of leading corporate executives, the South African Foundation (SAF) (Taylor, 2007). Similarly, in Egypt, besides the state-controlled Egyptian Federation of Industries (EFI), many business associations sprang up in the 1990s, leading to considerable fragmentation in the representation of big business and creating confusion for government officials (Adly, 2009:21).

As the study of coalitions for the delivery of public services and development

Recent concerns in this regard revolve around the notion of public-private partnerships (PPPs). These are contractual arrangements between public and private sector entities to deliver policies, services and infrastructure (Burgiene *et al,* 2006). Scholars and policy practitioners are concerned mostly with the extent and institutional forms of involvement of private enterprise in the delivery of public goods and services as well as success factors, especially administrative, managerial, financial or other technical competences (UNECE, 2008; Compagnon, 2008; Vian, 2007; and Jacobson and Choi, 2008). A few have been concerned with the politics of these arrangements, focusing on issues such as the capacity and structure of the state, the democratic legitimation of these partnerships and their unintended consequences (Flinders, 2005; Friend, 2006). In a much older tradition, and in the context of the centrality of SBRs in shaping development trajectories, there is considerable literature on growth coalitions and collusive or predatory coalitions (Brautigam et al, 2002; Mackie, 1988; Taylor, 2007). The main concerns have revolved around the politics and forms of collective action and the formal and informal rules that yield the different types of coalitions (Moore and Schmidtz, 2008; Wang, 2000).

Other studies have been concerned with the changing patterns of SBRs in the neo-liberal era. Areas of focus have included changing balances of power between the state and the business sector and the opening up and utilisation of policy spaces (Moore and Hamalai, 1993; Kleinberg, 1999; Heilbrun, 1997, Taylor, 2007; Handley, 2008; Adly, 2009). For example, despite liberalisation of both politics and the economy, personalistic and collusive relations between state elites and businesses continued in Zambia, Indonesia and Egypt (Taylor, 2007; MacIntyre, 1994a; Adly, 2009), while in Nigeria (Lucas, 1997), Taiwan (Chu, 1994) and South Africa (Taylor, 2007), states sought to position themselves strategically and relied on the business sector and its associations to increase their global competitiveness. The liberalisation of economies has also given way to more pronounced ambivalence of interests within the business sectors. In many African countries, this has reinforced the state's perception that the business sector is disorganised, and it is consequently ignored or marginalised in policy processes (Taylor, 2007; Handley, 2008). By contrast, states in Latin America have responded by organising the business sector and attempting to co-opt it (Taylor, 2007; Lucas, 1997).

2.2. Factors shaping state-business relations

2.2.1. Factors related to the state

Political institutional architecture

Political institutional architecture is defined as "the complex totality of a country's basic political institutions – the rules, usually enshrined in a constitution and other key laws, that determine how the leadership of a state is configured and how state authority is exercised" (Macintyre,2003:1). The focus is on the extent to which the political institutional architecture concentrates or disperses governmental decision-making power and how the functioning of the distribution of power within it shapes SBRs.

Political architecture determines whether the government will be stable or unstable, whether it will be a dictatorship or based on democratic principles, or whether it will be the rule of men or the rule of men under the law (Fessler, 1949:1).

The distribution of political power varies between unitary and federal states, presidential and parliamentary systems (Bagehot, 1867/1993; Althusius, 1610/1964; Ersson, 2000 and Elazar, 1997; Riker, 1964 and 1975; Ostrom, 1974). The structure of the state and the distribution of power within it yield a corresponding pattern of business organisation. In a federal state, the dispersal of power gives rise to a similarly fragmented business sector. For instance, in the US, "there is no peak organisation capable of presenting the views and interests of American business as a whole" because "the federal structure ...fragments the business community" (Vogel, 1987:111). Schneider (1997:200-201) also shows that in Brazil, SBRs were 'disintermediated', and there was no peak association and meetings were issue driven. In such cases, SBRs take place at meso- and micro-levels where sectoral associations and large firms, respectively, engage with the state, often in an *ad hoc* manner. In unitary states, the tendency is for business to organise into peak associations like the Federation of Economic Organisations (FEO) in Japan (Boyd, 1987) and the Federation of Korea Industries (FKI) in South Korea (Moon, 1994). The motivation is to match the concentrated power of the state. Nonetheless, there are examples of fragmented business sectors in unitary states such as Britain (Wilson, 1990) just as there are peak business associations in some federal states like India (Sinha, 2005)[19] and Mexico (Schneider 1997:200-201). Thus, the argument that state form determines SBRs is less plausible and much depends on conjunctural factors and the actual practice by states.

[19] Gangal(1962), however, argues that Indian federalism is better described as 'unitarism with a high degree of decentralisation' because in his analysis a holistic interpretation of the Indian constitution and the actual behaviour of states runs counter to the definitive feature of federal states, which is dispersal of state authority.

Similarly, presidential and parliamentary systems are distinguished on the basis of the concentration of executive power in the president in presidential systems and in the cabinet in parliamentary systems[20]. There are subtle distinctions between these systems of government, but what matters most is their actual practice, which often 'deviates from constitutional theory' such that 'the borderline between parliamentarism and presidentialism lies in muddy waters' (Lane and Ersson, 2000:121). Systems of government 'shape the whole political process and the way of ruling' (Linz, 1994:18) and affect SBRs through their effects on state bureaucracies and, therefore, state performance and attitudes towards business. Presidential systems are associated with 'appointive bureaucracies' in which every incumbent appoints a large contingent of his own personnel into the top echelons of the bureaucracy. Such bureaucracies consist of the president's 'personal retainers', and state power and authority are identified with 'personal rulership' (Weber, 1964). In other words, "the political administration…is treated purely as a personal affair of the [president] and political power is considered part of his personal property" (Weber, 1968 Vol.3:1028-1029). For example, in Brazil and Mexico, about 50,000 positions in the top three or four levels of the bureaucratic hierarchy were distributed by direct personal political appointment, mostly as pure patronage pay-offs with little positive impact on policy, and were all subject to immediate dismissal (Schneider, 1999:291-2). SBRs in such situations are more likely to be influenced by the idiosyncrasies of the president and the propensity for the state to be predatory, as in Zaire (Evans, 1995; Bates, 2001), or cronyist, as in the Philippines (MacIntyre, 1994) and Egypt (Adly, 2009), is likely to be high.

Parliamentary systems on the other hand, are associated with coherent bureaucratic apparatuses of the Weberian type[21]. Consequently, the bureaucracy has relative operational autonomy from both top

[20] There are various versions of presidentialism as well as parliamentarism. See Lane and Ersson (2000), Horowtz (1990), Lipset (1990), and Linz (1990a, 1990b) for discussions on the variants.

[21] According to Weber (1968), such bureaucracies are not generally subjected to interference from political elites and are often insulated from them; recruitment is meritocratic, promotion is gained following a career path and is performance-based rather than being based on personal loyalty; formulation of policies is professional and objective, not influenced by

politicians and societal groups, and policy has a higher chance of being made on the basis of sound analysis of evidence. In these conditions, SBRs are likely to be consultative in policy making and developmental in outcomes. Frequently cited examples in developing countries are South Korea and Japan (Amsden, 1989; Johnson, 1982).

Bureaucratic capacity and autonomy

Variations in bureaucratic capacity have been used to explain differences between developmental SBRs and rent-seeking, distributive coalitions. State strength, capacity and autonomy are understood as the ability to enforce political decisions and goals arising from institutions governing domestic linkages between bureaucratic agencies and social actors (Weiss, 1998; Atkinson and Coleman, 1989)[22]. The most analytically useful statement of how state bureaucratic capacity affects SBRs is provided by Evans (1995) in the concept of embedded autonomy. Embeddedness refers to the ability of the state bureaucracy to enmesh itself in a 'concrete set of social ties [i.e. network] that binds the state to society and provides institutionalised channels for the continual negotiation and renegotiation of goals and policies' (Evans, 1995:12). State autonomy means the ability of the state bureaucracy to be insulated from the particularistic demands of both politicians and societal groups in the formulation as well as implementation of policy. Embeddedness alone is likely to result in a weakening of the state and a pattern of SBRs characterised by organised rent-seeking practices, that is, 'embedded particularism' (Herring, 1999). With autonomy alone, the state is more likely to become predatory.

It is generally agreed that a bureaucracy with such capacity as projected by Evans must be coherent, sufficiently centralised, endowed with professional ethos, well trained and staffed on the basis of merit (Evans, 1995; Doner, 1992; Fields, 1997; Maxifield and Schneider, 1997). Such a bureaucracy enhances coordination, aggregates interests, improves transparency and minimises particularistic

narrow, myopic interests; and implementation is informed by principles of bureaucratic impartiality, not personal connections and favours.

22 For comprehensive discussions on state strengths and weaknesses see Migdal (1988), Haberer (2003), Atkinson and Coleman (1989) and Leftwich (2007), especially chapters 4 and 9.

pressures. Bureaucracies that lack these attributes tend to have multiple points of interface with the private sector, policy coherence and coordination can be quite problematic, and they encourage personalism that easily becomes collusive (Taylor, 2007; Lucas, 1997; MacIntyre, 1994; te Velde, 2006, Herzberg and Wright, 2006; Evans and Rauch, 1999). However, such internally coherent bureaucracies are rare in developing countries. The key questions, therefore, for many developing countries are why, how and when such bureaucracies come into being.

Type of political regime

Of the many classifications of political regimes, three stand out as relevant to the study of SBRs. Evans (1995) offers an outcome-based classification in which regimes are either predatory, developmental or somewhere between these two. In another, regimes are classified according to their behaviour and economic outcomes. Thus, a political economy is either a command, developmental or market economy (Johnson, 1982). In the third, the concern is with the political character of regimes, which may be totalitarian, authoritarian or democratic (Linz, 1964)[23]. The central organising question for the classifications is whether there is more or less central state control of the economy and the political system. The important question for this thesis is whether being an authoritarian or democratic, command or market-based; predatory or developmental regime affects patterns of SBRs.

Civil liberties associated with democratic regimes are deemed to provide opportunities for political and policy spaces for engagement between the state and civil society, especially the business community. "The involvement of civil society... in the process of policy making addresses the need of the state and the government to broaden their legitimacy by enhancing the transparency, the quality and the efficiency of their policies. In the specific case of economic policies, corporations and the business community...have full authority to be associated to the policy-making process" (Pinaud, 2008:1).

[23] Also see Block (1994) for a five-part classification. There are many other classifications in both economics and political science, but they are essentially permutations of these.

Conversely, authoritarian regimes are associated with repression and predation. Unlike democracies, where lobbies and cartels accumulate and eventually rob states of their dynamism (Olson, 1982; 2000), dictatorships often curtail freedom of association, meaning that business associations may not exist, and if they do, they cannot challenge state policies. Examples include Mobutu's Zaire (Evans, 1995) and Rawlings' Ghana before 1993 (Kraus, 2002). However, other military and authoritarian regimes, for example, South Korea under Chung Hee Park and Doo-Hwan Chun, Taiwan under Chiang Kai-Shek and his son, Japan before 1945, Brazil and Mexico are credited for synergistic and developmental SBRs in a context of political centralisation, repression and exclusion (Schneider, 1997 and 1999; Evans, 1995; Johnson, 1999 and 1982; Amsden, 1989; Olson, 2000; Vu, 2007; Moon, 1994). This suggests that explanations of the outcomes of SBRs must go beyond simplistic association between regime types and outcomes.

The nature of state intervention

The purposive intervention of the state in the economy or activities of private enterprise is based on the reality that a nation's welfare and interests cannot be optimised through the working of the market alone. This is because the logic of the market, that is, profitable allocation of values for a society, does not correspond to the political logic of states, that is, the authoritative allocation of values for a society (Johnston, 1984; Wilks and Wright, 1987a; Easton, 1965). Thus, governments intervene in the economy for a range of reasons, including promoting the nation's economic development and growth, accelerating the structural transformation of domestic industry in a desired direction, improving the international competitiveness of designated products, encouraging the development of new technologies, smoothing the phasing out of chronically depressed industries, assisting the rationalisation of weak industries judged to have potential to recover, protecting domestic employment and ensuring the welfare of people (Johnson, 1984; Ozaki, 1984).

State intervention differs in content and form depending on the stage of development of an economy, its natural and historical circumstances, international conditions and its political and economic situation (Ueno, 1982; Ozaki, 1984). Different forms of state intervention structure incentives for private enterprise differently and directly affect patterns of SBRs. For analytical purposes, Evans (1995) has identified four types of state intervention in the economy. The government performs roles as a custodian, a demiurge, a midwife or a husband. In summary, as custodian, the state engages in regulatory efforts that either polices and restricts initiatives of the business sector or formulates and enforces rules aimed at providing stimuli and incentives. As demiurge, the state takes direct responsibility for delivering certain types of goods and services, often through public enterprises, based on the assumption of the limitations of private capital. As midwife, instead of substituting itself for private producers, the state assists with the emergence of new entrepreneurial groups or induces existing groups to venture into more challenging kinds of production. As husband, the state cajoles and assists private entrepreneurial groups in meeting global business challenges, including taking over risky complementary tasks like research and development[24]. The nature of state intervention determines what activities and strategies will dominate the agenda of business associations, and each structure SBRs differently (Bell, 1995; Johnson, 1982; Chang, 1994 and 1999; Wilks and Wright, 1987; Amsden, 1989).

2.2.2. Factors related to business structures and the nature of the economy

Structure of the economy

The contributions of various productive economic sectors of a country to foreign exchange earnings, Gross Domestic Product (GDP), domestic employment, and other macro-economic indicators condition SBRs in different ways. It informs the role the state should play and what kind of industrial policy it

[24] For a full discussion, see Evans (1995 ch.4).

should institute since new sectors are not built by individual firms but complementary combinations of several firms and the state. It also shapes the organisation of business associations *vis-à-vis* the state, as reflected in many sectoral business associations in many countries. Economies that rely on a few sectors for revenue also tend to craft synergistic SBRs in those sectors (Hirschman, 1977).

Economic and political importance of the business sector

Current or potential economic contributions of the sector (i.e. economic utility) and the capacity for sustained and politically significant collective action of the sector (i.e. political utility/political threat) feeds into the state's political calculation of whether the sector is expendable or not. Fiscal sociology has taught us that sources of state revenue have an impact on political processes, especially state formation and patterns of state-society relations (Moore, 2004; Bates, 2001). For example, in Mauritius, the government could not afford to adopt a wholly hostile attitude towards the few sugar barons of French descent as doing so would bring the economy to its knees (Meisenhelder, 1997). When the South African government was asked to explain why it had been very slow in pushing the transformation of the mining sector in terms of the Black Economic Empowerment (BEE) programme, the Minister of Energy and Minerals responded, "It's shades of grey: business, government and others are deciding in terms of negotiation and partnership...we call the shots together... rather than 'exercising power over' its 'power with' – it is an inclusive approach to governance" (Hamann *et al,* 2008:21-22). On the other hand, SBRs may be insignificant in sectors that the state perceives to be of low economic and/or political utility (Taylor, 2007). For instance, the Chiluba government in Zambia was able to ignore the organised business sector (mostly merchants and manufacturers of consumer goods) because of its low economic utility: the state still employed the largest proportion of the formal workforce and controlled the mining sector, which provided revenue for government services as well as rents for patronage (Taylor, 2007; Brautigam *et al*, 2002). However, the case of Zimbabwe's agricultural sector shows that neither economic nor political utility alone is enough to engender congenial SBRs. It must be both. The Commercial Farmers Union (CFU) enjoyed access to the government and protection of land rights until continued protection became a political liability for the regime. It turned out that regime interests outweighed economic importance of the farmers and the CFU was expendable (Taylor, 2007).

Strength and autonomy of capitalist classes and institutions

This is often understood in terms of the 'structural power of capital', i.e. a situation in which government is dependent on the economic and investment decisions of the private sector to realise its economic goals, which in turn compels government to consider the interests of business even in the absence of formal lobbying (Heilman and Lucas, 1997:145). Otherwise, governments have to contend with the 'footloose' nature of capital (Hirschman, 1978). The effectiveness of structural power is such that business associations can be considered irrelevant because "...[the corporation] is at hand, ready to be used by its executives, for political activity ranging from discussions with civil servants to financial support of political parties" (Lindblom, 1977: 196). However, in many developing countries, capital is too diffuse to automatically excite specific policies and is dependent on the state in many ways. Consequently, its structural power is limited. Even where capital is concentrated and mobility is not unduly restrained, capitalist interests still organise into associations so as to concentrate power and influence in order to get the ear of government. Examples include the *Consenjo Mexicano de Hombres de Negocios* (CMHN) in Mexico (Schneider, 1997) and the South African Foundation (SAF) in South Africa (Taylor, 2007).

The key issue is whether the private business sector commands a large constituency or is a political threat to the regime. This affects the political calculus of the government as to how to engage with the business community (Taylor, 2007). For example, in Brazil in the 1980s, the efficiency of government was so dependent on the cooperation of the landed oligarchy that rather than being able to focus on its relationship with industrial capital, the state had to simultaneously contend with traditional elites threatened by the conflictual transformation of rural class relations (Evans, 1989 and 1997). The autonomy of the capitalist class resides in the strength of capitalist institutions, especially property rights, and in the organisation of the business sector for the purpose of exerting influence. However, this is mediated by dominant ideologies, especially those of state elites, as shown below.

Strength of capitalist ideology vis-à-vis other ideologies

The relative strength of capitalist ideology appears to influence patterns of SBRs. These are in part conditioned by factors such as the structure of the economy, the interface between the local and international economy, and historically, the impact of imperialism and colonialism. For example, in Africa, low levels of capitalism are associated with imperialism and settler communities whose practices held back the rise of and marginalised an indigenous bourgeoisie. Small populations of white and Indian settlers dominated African business sectors (Taylor, 2007; Lucas, 1997; Dotson and Dotson, 1968). Spaniards and the Portuguese dominated in Latin America (Schneider and Maxifield, 1997), and minorities of Chinese descent dominated in Southeast Asia and Taiwan (MacIntyre, 1994). This legacy affects SBRs in several ways, especially when the 'indigenes' pressure governments for preferential treatment or governments victimise the non-indigenous private sector[25] in order to address historical imbalances.

Furthermore, parochial identities such as ethnicity and regionalism shape politics and affect patterns of SBRs when the state and the business sector are each dominated by ethnically separate groups or both are dominated by a single group. In a context where access to the state is a more important means of class formation than relations of production (Sandbrook, 1985; Kennedy, 1994), ethnic groups tend to constitute cleavages in economic and political life, and class formation is facilitated by government repression of some groups and selective provision of benefits to others. In such situations,

[25] Examples include Senegal, Kenya (Lucas 1997, Footnote No. 74), Taiwan (Chu, 1994) and most recently the black empowerment programme in South Africa (Hamman *et al*, 2008).

classes do not represent historical actors that are grounded in the structures of antagonistic socio-economic interests and their transformation (Rueschemeyer *et al*, 1985:51-63). Rather, they are politically created according to the interests of those who wield power. Relations between states and the business classes they create often cement patrimonial relations of dependency. African examples include Nigeria, Kenya, and Senegal (Lucas, 1997; Dinwiddy, 1974). In Asia, the point is best exemplified by the Philippines, where "the state apparatus [was] continually choked by an anarchy of particularistic demands from, and particularistic actions on behalf of, those oligarchs and cronies who [were] most favoured by its top officials" (Hutchcroft, 1994:218). In some instances, the state replaced the private sector through state-owned enterprises, as was common in Taiwan (Chu, 1994) and most of post-colonial Africa (Dinwiddy, 1974).

The strength of capitalist ideology, especially among state elites, vis-à-vis statist or socialist ideologies determines the position of business in SBRs. Where a capitalist ideology is entrenched, the state tends to be pro-business and intervenes in the economy to enable rather than to hinder private enterprise. The resulting patterns of SBRs are the growth coalitions associated with developmental states in South Korea and Japan and industrial transformation in Brazil (Evans, 1995). If the dominant ideology is statism, the attitudes and engagement between state and private business can be hostile and may give rise to patterns of SBRs based on particularism. Statism not only crowds out the private sector through public enterprises but also reduces the political and economic utility of private businesses, leading to intransigence on the part of the state and to the marginalisation of the business sector from policy-making processes (Taylor, 2007; Brautigam *et al,* 2002). For example in Taiwan, the Kuo Mitang (KMT) government's public enterprises dominated the business sector, and the entire banking sector was under the Ministry of Economic Affairs. Consequently, the native Taiwanese business community had very low political and economic utility to the state, which was dominated by the Chinese (Fields, 1997; Chu, 1994). Similarly, in Ghana, SBRs were conditioned by the fact that the PNDC government did not require private sector investment apart from gold mining in order to generate its high rates of economic growth and reconstruction (Kraus, 2002).

If the dominant ideology is socialist, the private business sector is often antagonised and preyed upon, capitalist institutions, especially private property rights, are undermined, and the political risk of private investment is high. Examples include Tanzania after the Arusha declaration in 1967 (Heilman and Lucas, 1997; Nyang'oro 1989) and Zimbabwe from the late 1990s, where populist anti-imperialist rhetoric brought the economy to its knees (Taylor, 2007). A particularly instructive example is Rawlings' Ghana, where the PNDC government came to power obsessed with socialist notions. It subjected successful entrepreneurs to extra-judicial proceedings on charges of sabotaging the economy. Many businesses were closed down or confiscated, profit was deemed morally questionable (Tangri, 1992; Kraus, 2002), and the government "saw wealth as something undesirable, especially in a society where the mass of people were very poor, and deprived sections of the community needed to be protected from exploitative capital. Business [had] to improve its concerns for labour and managers [did not have] to live too affluent a life-style in an environment of hardship" (Tangri, 1992:104).

The organisation of business interests in relation to the state

The literature suggests that how the business sector is organised contributes to the shaping of patterns of SBRs. The organisational form of the business sector affects the political calculus of the government as to whether to grant business associations access to policy dialogue, and how exactly to engage with the business community. For some scholars, membership density of the associations, effective internal mediation of members' interests, quality of policy inputs and financial autonomy are some of the important factors that enhance the capacity of business associations to engage with the state (Doner and Scheneider, 2000; Taylor, 2007; Bell, 1995; and Sinha, 2005).

High membership density, which reflects the degree of representativeness, illuminates the political importance of the association in terms of a political constituency, the ability of the association or its members to make campaign contributions, the proportion of the sector output produced by its members and its overall capacity to be an asset to the government (Dunleavy and O'Leary, 1987:34; Doner and Schneider, 2000:271).The extent to which business is mobilised in a particular sector, or indeed at a macro-level, determines whether it will be able to assume a role in the making and implementing of policy (Atkinson and Coleman, 1989:53). Thus, encompassing business associations create the perception of political and economic utility to the state and are more likely to be concerned with broader economic strategies than narrow interests. For example, in Zambia, manufacturers represented by the Zambia Association of Manufacturers (ZAM) had "little political clout; they were ignored [by the Chiluba government] in favour of importers, informal economy traders and mostly urban consumers who provided a more valuable political constituency" (Taylor, 2007:71). In India, the Rajiv Gandhi government did not find the FICCI a useful partner in the implementation of reforms aimed at technological modernisation, external opening and a reduction of state regulation[26]. The government ignored the FICCI and instead propped up a rival association, the CII (Sinha, 2005:9-10).

Thus, an important question for the theoretical objective of this dissertation is how can membership of business associations be increased? The literature suggests that 'selective incentives' or 'club goods' (Olson, 1982) are critical because they make membership of an association valuable while making exit or non-membership costly. Such incentives vary between countries, but the critical ones include access to state actors, management of import and export quotas and licenses and other similar documents, and several other services or benefits specific to the associations (Doner and Schneider, 2000; Taylor, 2007)[27]. What appears paradoxical is the fact that the selective incentives that are primarily responsible for increasing and maintaining the membership density of business associations have to be sanctioned or delegated by the state (Handley, 2008; Sinha, 2005). This suggests that whether a business

[26] The reforms were seriously opposed by his own party which had dense connections with the FICCI. The FICCI was protectionist, weak, politically fragmented and had acquired vested interests in the continuation of the regulatory system.

[27] Doner and Schneider (2000:72) provide a table indicating a range of selective incentives offered by different associations mostly in Latin America and East Asia.

association will become a political force will partly depend on the interests of state elites in providing exclusive state-related incentives that sustain the association.

An inability to effectively mediate member interests often results in fragmentation and membership attrition that erodes the political utility of the association, especially where association membership is not compulsory. For instance, in Thailand, the Thai Auto Parts Manufacturers Association has had to contend with another assembler-backed association, several large textile firms do not participate in the Spinners Association, and many other large firms operate outside the government-sanctioned peak association, the Federation of Thai Industries (Doner and Schneider, 2000:271). The result of this pluralisation has been a lack of coordination of policy inputs to the government and unwillingness by the government to engage in policy consultations with many players. Similarly, in Zambia, merchants and manufacturers pushed contradictory demands on the state. According to Taylor, "state officials charged that business associations were confused and inconsistent because [they did not know] what they [wanted] and [government] saw no need to credibly respond to business concerns" (Taylor, 2007:71).

At the core of the organisational strength of business associations and their role in SBRs is the quality and quantity of their professional staff as well as their ability to meet the financial outlays necessary for acquiring and processing information and implementing associational and government-sanctioned activities. Examples of strong business associations include those in Japan, which are often staffed by retired economic bureaucrats, and South Korea, where government has had a hand in the appointment of key personnel (Boyd, 1987; Fields, 1997). Furthermore, competition between rival associations, as was the case in India, compelled each competitor to develop human resource capacity in order to develop competitive advantages. Inadequately staffed associations or those in which staffs are less competent in processing information and developing proposals and strategies not only will they be unable to match the competence of state bureaucrats but they will also contribute to the downgrading of the association.

2.3. Modes of influence between state and business

SBRs have two basic dimensions: the nature of government intervention in the private sector and the nature of business involvement in political life. Patterns and outcomes depend on how the involvement of one influences the other.

2.3.1. Control of business finance by government versus political financing by business

Where private capital is scarce, government control over banking institutions provides the state with leverage over business. Governments use such instruments as credit rationing and disbursement of loans 'to reward the friendly, exclude the hostile and disorganise the dangerous' (Moon, 1994:145). For example, in South Korea, the government of Chu Doon Hwan used credit allocation and threats of tax investigations to enforce compliance with the administrative guidance on business restructuring. It further required commercial banks to set aside 35-55 per cent of their available lendable funds for small and medium sized firms in order to compel big firms to deconcentrate due to financial suffocation (Ibid:148). In Taiwan, the Ministry of Economic Affairs exercised such control over the banking sector that 'the fortunes of large firms depended on the good will of government' (Chu, 1994). However, finance control can degenerate into political patronage, which often results in macro-economic disequilibria and financial crises like that of East Asia in 1997 (Chang, 1999). A particularly good example is the Philippines, where favoured cronies accessed massive bank credits but never repaid them, creating a financial crisis aptly described as 'selective squander' (Hutchcroft, 1993). Similarly, in Egypt, huge loans from public banks were given to cronies, often without sufficient collateral and sometimes on the basis of a telephone conversation (Adly, 2009).

On the other hand, business' financing of political parties and candidates creates pockets of business support among politicians that can be vital in diffusing populist and statist elements of regimes. While this happens in both developed and developing countries, it can be quite useful in the latter because the indigenous 'capitalist classes' are mostly at formative stages of development. In South Korea, for example, Roh Tae Woo came to power on a populist platform that promised to curtail big business in the interest of ordinary people. When the regime resuscitated industrial restructuring and rationalisation measures, the chairman of the FKI admonished both opposition and ruling politicians and warned of potential retaliation through the discretionary use of political contributions. He declared that the FKI would henceforth provide donations to politicians willing to support and protect business freedom. This led to political and bureaucratic realignments and a pro-business economic regime (Moon, 1994). Similarly, for South Africa, Taylor (2007) has shown that business people met the ANC in exile in 1985 and later, in 1988, fifty white business executives and progressive organisations formed a consultative business movement aimed at promoting a fair and just society and a successful economy in a united non-racial democracy. Taylor has argued that in exchange, but also due to the changing global economic context, the ANC repudiated its 1955 freedom charter, which had called for social democracy and nationalisation as means for addressing inequalities in the distribution of resources. Likewise, in Egypt, private capital holders who benefited from cheap loans from public banks provided up to one billion US dollars to the regime for the 2005 election campaign (Adly, 2009:17).

The reciprocity, that is, the control of business finance by governments and political financing by business, can also generate widespread rent-seeking and rent-taking especially when ownership of business coincides with holding a political position in government, as it transpired in Zambia in the 1990s (Taylor, 2007; Daloz, 2003). It yields widespread resentment and cynicism about SBRs as it suggests the existence of 'distributive coalitions' and trading influence. This is particularly a problem where the state is not consolidated, dominates the economy, and political funding is largely unregulated

(Fisher and Eisenstaedt, 2004). However, the political influence of the business community lies in the state's or regime's perception of its chances of survival with or without the support of the business sector. In Brazil, business association leaders mobilised resources for a coup in 1964. Ten years later they launched an anti-state campaign against the military regime for failing to institutionalise private sector participation in the policy process, and the state responded positively (Lucas, 1997). The PNDC government in Ghana had similar fears and subjected prominent businessmen to trials in specially designed tribunals and confiscated their property (Tangri, 1992; Kraus, 2002). In Taiwan, the KMT established businesses to avoid dependency on the native Taiwanese for funding (Chu, 1994).

2.3.2. Government policy, regulations and discipline enforcement –v- lobbying by business

Formulating policy and enforcing regulations are basic functions that even anti-statists assign the state in the process of capitalist development. However, where neither states nor markets have consolidated around agreed rules, enforcement of regulations and discipline becomes selective and discretionary. State incumbents require political supporters to survive and these in turn must be provided with incentives sufficient to retain their support (Evans, 1989: 564). In the context of weak states, this exchange relationship affects the formation of goals and the enforcement of rules. The uneven enforcement of rules owing to political considerations penalises those not favoured by the regime while its cronies escape censure for indiscipline, as has been the case in Egypt (Adly, 2009). But not all aspects of state action are inclined towards the 'vested interests' of its supporters. Economic policies and regulations are rarely chosen or enforced for public or private interests but "chiefly for regime interests such as consolidating power, expanding political support and assuring political survival" (Moon, 1994:145; also Taylor, 2007).

On the other hand, the business sector engages in *persuasive* attempts to influence state decision making, through provision of policy-relevant information and advocacy rather than explicit pressure. For example, groups of Chinese entrepreneurs for many years engaged in strategic persuasive representations to the Communist Party to accept the 'private sector' not as 'the second' and illegitimate economy but as central to market socialism and to accept them into the party membership (Haberer, 2003). Lobbying can take the form of formal macro- and sectoral lobbies in PPD forums, such as the JEC in Mauritius or NEDLAC in South Africa, but it can also occur informally through networks. At the micro-level, lobbying can be an opaque and informal activity, difficult to monitor and presenting real dangers of collusion. At the collective level, its efficacy depends on many organisational and attitudinal factors on both sides of the relationship as discussed above. In countries like the US, lobbying has increasingly come to include strategies of 'constituency-building' in which business firms seek to build support for their interests among consumers, stockholders, employees, and so on in order to create enough political pressure to be heard (Baysinger,1984).

2.3.3. State predation on business versus state capture by business

Predation has been variously defined. Some definitions confine it to the more generic conception of the state, while others attribute it directly to the individual or group of individuals who run the state. According to Pareto (1966:114-115), predation refers to "the appropriation of the goods of others by legal or illegal means". In some of its guises, it is perpetrated by a small number of individuals who compel the majority to pay tribute to the minority. In such scenarios, "the minority preys on the majority using the state as its engine of predation" (Leftwich, 2007a:100). Levi (1981) grounds her definition on the self-interest and self-maximising assumptions of the public choice analytical framework. For her, predation occurs when the ruler, that is, the actor or set of actors who promulgate and enforce the law of a society, of which the most important are those governing property rights, attempts to formulate policies that maximise their personal objectives and they succeed because their bargaining power relative to that of those external to the political establishment, is disproportionately higher (Levi 1981:438). Such power often comes from the rulers' access to and control of instruments of force and coercion and state resources.

Evans (1995:44, see also 1989:562) defines predatory states in terms of their ability to extract " large amounts of otherwise investable surplus while providing so little in the way of collective goods in return that they do indeed impede economic transformation". This, however, appears to delimit predation to lawful (not necessarily just) but heavy tax burdens and alleges that state elites squander the resources without providing the necessary public goods that tax revenue is supposed to finance[28]. It further implies that heavy taxation and other forms of extraction that are matched with provision of public goods may not necessarily amount to predation[29]. Olson (1993) argues that while an autocratic ruler may extract the maximum possible surplus from society and use it for his own purposes, to call this predation is misleading. He prefers to call it stationary banditry which takes diverse forms but "the essence of the matter is that the stationary bandit provides a minimum amount of public goods to ensure increased income through expropriation/extraction" (1993:569). Besides the pursuit of outright expropriation, political elites and administrative personnel also solicit donations from businessmen and poor citizens, who are either coerced by the regime to contribute or volunteer bribes in return for favours. Such states thrive where the business sector is weak and the state takes advantage of its dispersion. In short, predation is 'the state as organised [and legalised] crime' (Tilly, 1985:165). Predation implies the insecurity of property rights. Besides dissipating surpluses, when predation destabilises property rights, investors withhold their investment (Bates, 2001). Gordon Tullock (1974) is clear on this point when he argues that "with random seizure of property, it is irrational on the part of citizens [more specifically, businessmen] to produce very much to be seized" (as quoted by Levi, 1981:435).

[28] However, in his analysis of Zaire, it is clear that he uses the term 'predation' to cover illicit acquisitions of money and other goods by those who hold 'any slice of public power'(Evans, 1989: 570).

[29] Evans (1989:562 footnote No.3) claims that his definition is different from those who define 'revenue maximising states' as predatory.

On the other hand, a powerful business sector can 'capture' the state and use it in favour of business interests. State capture is achieved when the business community is able to shape and affect the formation of the basic rules of the game to its advantage through massive illicit and non-transparent provision of private benefits to officials and politicians. It echoes other concepts such as crony capitalism, booty capitalism and pirate capitalism and includes cases where high-level corruption is pervasive (Adly, 2009; Hellman *et al*, 2000; Kang 2002b; Hutchcroft, 1994; Shatz, 1984; Frye, 2002). In state capture, the business sector colonises the state and turns it into its executive committee, stifling growth in the process (Kang, 2002a)[30]. This mode of business influence is associated with strong business sectors and weak states and is characterised with policy incoherence or indecision (Kang, 2002b; Hellman *et al*, 2000; Frye, 2002). With weak states and weak market institutions, a typical problem for states in developing countries is to resist society's demands (Migdal, 1998). Examples of state capture include the Philippines (Hutchcroft, 1994), Azerbaijan, Bulgaria and Croatia (Hellman *et al*, 2000:10).

2.4. Comparative patterns of state-business relations

What patterns of SBRs can be expected from the different combinations of factors and modes of influence between the state and the business sector? Kang (2002b) proposes that the interaction of two factors – the degree of coherence (coherent/fractured) of the state apparatus and the degree of concentration (strong/dispersed) of the business sector – give rise to the following patterns of SBRs.

Mutual hostages: where the state is coherent and business is strong/concentrated. Each is too powerful to be taken advantage of by the other. SBRs are collusive but yield unintended developmental benefits, as exemplified by South Korea (Kang, 2002b) and Germany (Sinha, 2005).

[30] Kruger (1974) shows the extent of economic dissipation that arises from such intensive rent-seeking and, Bwagwati (1982) even specifies the type of 'rents' that are directly unproductive and which thrive in such scenarios.

Predation: where a coherent state (centralised) takes advantage of a dispersed and weak business sector with political elites pursuing outright expropriation. The result is massive top-down corruption and economic plunder, as was the case in Zaire (Evans, 1989).

Rent-seeking: where a fractured state is colonised by a strong business sector, i.e. state capture. The result is massive bottom-up corruption, as was the case in the Philippines (Hutchcroft, 1993 and 1994).

Laissez-faire: where the state is fractured and the business sector is dispersed. No rents are created. An example is the US (Wilson, 1990).

Kang's model recognises the reality of collusion in any pattern of SBRs. It therefore achieves its major purpose of modelling corruption and its effects on relations between state and business elites. However, the model is insensitive to the fact that in development states like Japan and South Korea, the developmental effects of SBRs were not unintended. Additionally, a combination of coherent states and weak business sectors does not always result in predation. In Japan and South Korea, the states did not prey on the weak private sectors but nurtured them through various industrial policy instruments and created large conglomerates. Furthermore, where there is a combination of fractured states and dispersed business, the states tend to be authoritarian but lack capacity. Rather than residual corruption, one gets a pattern of politically-embedded cronyism, as in post-liberalisation Egypt (Adly, 2009).

Sinha (2005:5-6) develops a model of state-interest group interaction similar to that of Kang except that the key variables are state-centred, i.e. state autonomy and state weakness. While some of her descriptions of patterns of SBRs are useful, others are not, as they describe the environment within which SBRs take place or the nature of the state. For instance, embedded autonomy/corporatism justifiably describes patterns of SBRs where the state is autonomous and business is coherent, and embedded particularism characterises SBRs in which the state is autonomous and the business sector is fragmented. However, terms such as state pluralism or liberal pluralism are too crude to describe any particular pattern of SBRs, just as pluralist state, over-developed state or disorganised business do not at all describe patterns of SBRs. If anything, these are best regarded as factors that give rise to patterns of SBRs.

Atkinson and Coleman (1985, 1989) provide a comprehensive description of patterns of SBRs. Building on Katzenstein (1977), SBRs are conceived as 'policy networks' in which state elites and private sector actors come together for purposes of economic policy making. Based on variations of 'state autonomy' and 'concentration and/or dispersal of decision-making power in government' and 'business mobilisation', they identify at least five possible patterns of SBRs, depicted in Table 2.1.

Table 2.1: Summary of patterns of state-business relations

	Clientele pluralism	Parentella pluralism	State-directed	Corporatism	concertation
State variables	Low autonomy High centralisation	Low autonomy Low centralisation	High autonomy High centralisation	High autonomy Low concentration	High autonomy High concentration
Business variables	High mobilisation	Low mobilisation	Low mobilisation	High mobilisation	High mobilisation
characteristics	State off-loads some responsibility to private sector actors.	Close connections between firm owners/managers and the dominant political party; Government members eager and willing to intervene in administrative processes with partisan calculus; Dispersed bureaucratic authority, weak technical expertise, undeveloped professionalism.	Business considered untrustworthy by state elites; State embarks on economic projects which affect investment decisions of business; state elites often self-righteous and manipulative; No consultations, but more directives – SBRs barely cordial.	An autonomous but divided state seeks to place the burden of decision making in the hands of conflicting socio-economic groups.	Business shares in policy-making through direct negotiations but the state leads the way; The state avoids capture, pushes through a broader agenda.

The different patterns of SBRs entail different formats of PPDs. The literature suggests that these mechanisms can be classified broadly as formal and informal. Formal PPDs are institutionalised in the form of advisory investment councils, discussion forums between government officials and representatives of the business community (Pinaud, 2008:1) Examples include the Joint Public-Private Consultative Committee (JPPC) in Thailand, The Malaysian Business Council in Malaysia (Lucas, 1997), NEDLAC in South Africa (Taylor,2007) and the Joint Economic Council (JEC) in Mauritius. Ideally, a PPD would take the form of concertation, but in the context of weak states and weak private sectors there exists a disjuncture between the local institutional and economic situation and the conditions for an optimal PPD. In such situations, "merely assembling government representatives, high-level civil servants and private sector [organisations] around a table will not suffice to create an atmosphere of trust in which the broad direction of economic policy can be jointly expounded"(Pinaud, 2008:3).

Although the current policy drive is to formalise SBRs' institutions in an orthodox way[31], evidence abounds that some regions in the world have experienced high levels of investment and economic growth without having the desirable formal institutions. In the developing world (as in the developed world), exchanges between state and business elites are often 'hand-in hand, informal, shaped by personal or small group relationships rather than general rules or principles...they are particularistic' (Moore and Schmidtz 2008:40). For example, the personal networks of professional elites in the public and private sectors in France are known to have been central to the success of industrial policy (Loriaux, 1999). In China, where the private sector was adjudged illegitimate for ideological reasons, security of property as well as increased private investment resulted from informal but strategic pressures by entrepreneurial groups connected to the central committee of the communist party (Haberer, 2003; Moore and Schmidtz, 2008). The informal institution of *guanxi* – based on personal

[31] For example, World Development Report (2005) and www.publicprivatedialogue.org .

connections, reciprocity and mutual trust - complemented and compensated for the weak formal institutions and played a major role in facilitating foreign direct investment (Wang, 2000). Similarly, the old boy network (*amakudari*) in Japan (Schaede, 1995) gave the state bureaucracy an internal coherence and corporate identity while institutionalising policy dialogue with the private sector. It gave rise to a pattern of SBRs commonly described as embedded autonomy and led to phenomenal growth. Furthermore, Skinner (1958) and Mackie (1992)[32] have shown that businesses in Hong Kong, Taiwan and Southeast Asia have long operated in political and economic systems that have lacked the rule of law and have learned to protect their interests through networks of mutual support and political co-optation.

These examples reinforce the observation that the functioning of an institution is not to be inferred from its [apparent] form (Wiggins and Davis, 2006) as much depends on the administrative requirements, efficacy of implementation and actual outcomes. But not all informal relations between state and business actors work for wider developmental purposes. Evans (1989:579) has condemned bureaucratic rings in Brazil[33] as *ad hoc,* personalised and undependable for industrialists, and arbitrary in outcomes. Similarly, exceedingly close SBRs involving an economically powerful oligarchy and weak formal institutions blurred the distinction between the public and private spheres and led to cronyism in the Philippines (Hutchcroft, 1994; Haggard, 1994). For Africa, descriptions have been overwhelmingly pessimistic, best summarised by Chabal and Daloz (1999) when they argue that SBRs capable of becoming growth or reform coalitions are anathema to African states, where political elites are more preoccupied with rent-seeking and fomenting disorder than with development[34].

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[32] As cited by Wang (2000:543).

[33] Described as individualised connections between the local bourgeoisie and the state: "small sets of individual industrialists connected to an equally small set of individual bureaucrats, usually through some pivotal office holder".

[34] Other key works on this theme are Bratton and de Walle (1997), Jackson and Rosberg (1984), Le Vine (1980), Clapham (1982).

Focusing almost exclusively on venal bureaucrats and rent-seeking capitalists and believing in Mueller's iron law of rent-seeking[35], some analysts have called for arms-length relations between governments and business sectors. They have pushed for neo-liberal reforms aimed at minimising the roles of the state in the economy. However, the reforms have yielded three paradoxes: first, they have not removed contact between government and business although some facilities for potential collusion have been removed (Schneider and Maxfield,1997); second, the reform process itself has created new rents, especially the privatisation programmes (ibid.; Taylor, 2007; Mwenda and Tangri, 1992; Debardeleben, 1999); third, evidence, from Mexico and Chile for instance, has shown that 'the road to markets is easier if business cooperates' (Schneider and Maxfield, 1997:4). In short, the neoliberal policy prescription for SBRs in the guise of investment climate reforms "causes collateral intellectual damage: denial of the possibility that [business people] might actually need and want politicians [and bureaucrats] to have discretion to help them in times of trouble or to encourage coordination among private sector enterprises" (Moore and Schmidtz, 2008:27).

The nature of the state in state-business relations

The comparative patterns suggest that the state in SBRs will conform to the weathervane model, the neutral view or the broker model (Dunleavy and O'Leary, 1987:43). In the weathervane model, the state "is a coding machine, a passive vehicle through which inputs are processed. The state resembles a weathervane [in that] it simply mirrors or responds to the balance of pressure group forces in civil society" (ibid). State elites and their bureaucratic agencies "are responsive to, biased towards and indeed colonised by the strongest pressure groups in their domains" (ibid). The effects of such SBRs will depend on contextual factors, but clearly in this model, government potentially becomes "the steady appeasement of relatively small groups" (Dahl, 1956:145) while policy-making is reduced to the "legitimation of victories in pressure group contests" (Dunleavy and O'Leary, 1987:43).

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[35] The law states: "wherever a rent is to be found, a rent seeker will be there trying to get it" (Mueller, 1989:241).

In the neutral view, the state is either a bystander or a referee presiding over the existing rules or an interventionist that promotes substantive fairness (Dunleavy and O'Leary, 1987:45). Unlike in the weathervane model, a neutral state does not simply allow pressure groups to formulate public policy after having competed among themselves but rather tilts the balance of public policy towards the interests of the unorganised party. Their motivation for doing this may be the need for political stability and consolidation of political power and legitimacy. For SBRs, the model suggests the existence of patterns in which the state has a modicum of autonomy from societal groups such as business associations and plays the role of mediator, balancer and harmoniser of interests. Institutionally, this may require 'societal corporatist arrangements' in which governments do not restrict 'freedom of association' but encourage the rise of peak associations that assume a privileged role in discussions (Schneider and Maxfield, 1997; Hutchful, 1989; Schmitter, 1974; Bianchi, 1986).

In the broker model, the state does not mirror its society, as in the weathervane model, nor does it neutrally tip the balance of public policy towards the 'public interest'. Rather, state elites have and pursue their own policy preferences, which may be far from altruistic. Consequently, "policy [reflects] the outcome of self-interested contests within the state apparatuses …" (Dunleavy and O'Leary, 1987:47), and the outcome may also be favourable to other societal groups. This view resonates with that of Pempel (1999), who argues that rather than purely focusing on policies and state structures in the search for explanations of development outcomes, one must also concentrate on regime interests.

Conclusion

This chapter has shown that concerns with SBRs are not new and that they straddle the disciplines of Politics, Sociology and Economics. The institutional and organisational patterns of SBRs are shaped by many factors, ranging from dominant economic and political ideologies in any given country to how the state and the business sector are organised vis-à-vis each other and the technical capacities within them. In addition, the political and economic importance of the business sector in relation to the objectives of state elites and the modes of influence between the state and the business sector all feed into the calculus of state elites and help structure SBRs. The literature further suggests that the character of political regimes affects the scope and methods of interaction between governments and businesses, but their relationship with developmental outcomes is inconclusive. The variations in patterns of SBRs suggest that historical legacies, situational imperatives and regime interests give rise to different patterns. Thus, in contexts of relatively low capitalist development, weak states and fragmented markets, SBRs will take different patterns depending on the political courses of action.

However, the literature does not systematically and directly deal with the interests and constraints that motivate state elites to take particular courses of action vis-à-vis the business sector and engender the different patterns of SBRs. Neither do the models illuminate how SBR patterns tend to persist once they stabilise and how they change or can be changed. The models further presume a separation between the state and the business sector, but states in developing countries straddle political governance and doing business, and state elites are often also businessmen (Daloz, 2003). We therefore need to understand what patterns of SBRs emerge when state companies are a significant part of the business sector.

The literature on SBRs is largely concerned with the relationship between forms of these relations and developmental outcomes, often from different theoretical perspectives. But there is little analytical attention paid to the politics of how the institutions come into being, how they are sustained and how they change. In the next chapter, I present the analytical and methodological approach that was used to trace the evolution of SBRs in Malawi.

CHAPTER THREE

Analytical and Methodological Framework

Introduction

This chapter presents the analytical and methodological approach of historical institutionalism that was used to gather and analyse data in order to trace and explain the evolution of state-business relations in Malawi. I argue that historical institutionalism was an appropriate approach because it provided a framework that was institutional in focus, historical in time and actor-centred. This was particularly important as it has become clear from the extensive literature on SBRs that understanding SBR institutional processes amounts to understanding the particularities of contests, negotiations and cooperation between state elites and their agencies, on the one hand, and business elites and their organisational forms, on the other, and the rule structure within which these relations take place. Historical institutionalism provided a set of concepts that were sensitive to inter-temporal aspects rather than snapshot views of political processes and institutional outcomes. These concepts are inherently comparative and were therefore useful for discerning continuities and discontinuities in the practice of SBRs from one era to another. Its explicit focus on the distribution and exercise of power by actors effectively made it a useful political approach for examining the formation, maintenance and change of SBR institutions as they unfolded over time.

The chapter is organised as follows. Section 3.1 presents the key methodological premises and ideas of historical institutionalism and indicates why the approach was appropriate for this study. Section 3.2 discusses the key analytical elements of the approach. Section 3.3 describes how the approach was operationalised and the methods that were used to collect data. Section 3.4 discusses ethical issues encountered during the data collection phase and provides a conclusion.

3.1. Historical institutionalism

3.1.1. Origins of historical institutionalism

Historical institutionalism is an approach to the analysis of the evolution (i.e. origins, maintenance and change) and outcomes of formal and informal rules that shape the behaviour of actors (i.e. people and/or organisations) in political, economic or social spheres of life. Its antecedents lie in historical sociology and political economy, especially in the works of Karl Marx on 'historical materialism', Max Weber on the 'methods of social science' and Emile Durkheim on 'the rules of sociological methods'. As a variant of the 'new institutionalism'[1], its re-incarnation in political analysis began in the early 1980s as a reaction to the behavioural revolution and to the increasing use of rational choice approaches. These two approaches were deemed unsatisfactory because of their society-centred overemphasis that effectively pushed the state onto the margins and the tendency to abstract political behaviour from its historical and institutional context[2]. Early works to mainstream the approach include Skocpol's (1979) study on the state and social revolutions, which sought to explain the causes and patterns of great revolutions; Skocpol (1984) on vision and method in historical sociology; and Evans, Rueschmeyer and Skocpol (1985), who were explicitly concerned with bringing the 'state' back to the centre of political analysis. While Theda Skocpol (1992) gave the approach its name, it is Steinmo, Thelen and Longstreth (1992) who first produced a coherent statement of the approach and who provided further improvements and conceptual clarity in their later works alongside that of others including Thelen (1999 and 2003), Mahoney (2000), Pierson (2000) and Hogan (2005).

3.1.2. Key methodological premises of historical institutionalism

[1] Following Hay (2002:7) it is conventional to regard the political science mainstream today as characterised by three distinctive perspectives: rational choice theory, behaviouralism and the new institutionalism, each with several approaches within its fold. Each adopts a different approach to political analysis.

[2] Useful surveys of the development of 'Institutionalism' as an approach are provided in Hay (2002), Sanders (2006), and March and Olsen (2006).

The aim of historical institutionalism is to produce a nuanced and detailed empirical description of the causal chains or 'pathways' of the long-term development of interactions among goal-oriented actors, that is, the evolution of institutions and their outcomes. The approach is based on at least four methodological premises[3].

First, the analysis of political interactions, like those characteristic of SBRs, is realistic and more illuminating if it is sensitive to the rule-structure within which the interactions take place, such a structure being a creation of current or previous actors. The rationale for this premise is to be found in numerous studies that have shown that 'institutions matter' in that all social, political and economic behaviours of people and organisations are profoundly shaped by, and only acquire their importance within, the institutional context in which they occur. Thus, at the core of the logic of historical institutionalism is the argument that empirical institutional analysis must concern itself fully with the historical development of institutions.

Second, empirical study must be sequential, following the trajectory of life itself rather than a discrete approach that takes 'snapshot' views of the phenomenon under study. The assumption of historical institutionalism in this regard is that human beings (and their agencies) are norm-abiding, rule-following and self-interested actors. Thus, how they behave in any activity (for instance, SBRs) depends on the nature of the organisation, on the wider context in which they function and on the specific set of rules they have to comply with or seek to resist. Thus, in seeking to explain institutional formation, maintenance and change, narratives constructed using this framework will necessarily be longer and must inevitably be based on history.

Third, empirical study must be driven by a hypothesis (or several) that arises from an empirical puzzle. Unlike other approaches, notably rational choice and behaviouralism, which select their cases on the bases of how they deviate from a prediction of some general theory, historical institutionalism begins

[3] I have drawn these premises mainly from Sanders (2006), Thelen (1999), Thelen (2003), Steinmo (2007), Levi (1999).

with real-world observations. For example, Evans' observations led him to ask why some states foster industrial transformation, while others do not or do not do it well (Evans, 1995). Similarly, Handley (2008) was concerned with why and how the business sector in some countries develops the capacity to constructively contest the formulation of economic policy, while in other countries it struggles to develop an independent political capacity? Such questions are then used to formulate hypotheses to explain the observed paradoxes or differences.[4]

Fourth, historical institutionalism works at the level of mid-range theory building in which groups and organisations, not necessarily atomised individuals (as in rational choice), are the main units of analysis and employs inductive reasoning to transcend the particular stories and generate theoretical claims. This premise contrasts significantly with the other main approaches to political analysis, which aspire to universal theoretical claims and use deductive reasoning to falsify or validate a theory.

3.1.3. Key ideas of historical institutionalism

The main ideas of historical institutionalism have not remained static, because new theoretical insights have emerged to refine and recast them. Nonetheless, there are at least four core ideas that constitute the approach although some of their fine details continue to be areas of theoretical contestation and intellectual debate.

First, and particularly important to this study, is the idea that institutions are products of politics, so in order to understand their provenance, resilience and change, there is a need to go beyond the institutional arrangements themselves so as to discover the political imperatives and relationships that were responsible for their creation, those that resisted them and sought alternative arrangements, and the structural context in which these processes took place. This idea necessitates a broader

[4] The other approaches, notably rational choice institutionalism, begin with an observation of deviance from the predictions of a general theory. For example, in view of the problem of free-riding, why do communities cooperate in the exploitation of natural resources? (Wade,1992). Or given that 'capital is privileged', why do corporations come together to form business associations? (Lindblom,1977).

understanding of what constitutes 'politics' (as defined below) and implies that "institutional [evolution] is a contest among actors to establish rules which structure outcomes [in a manner] most favourable for them" (Knight, 1992:15) in the immediate future or in the long run. Thus, a society's institutions, including those governing SBRs, are viewed as creations of political conflict and strategic bargaining among social actors and reflect power asymmetries among the actors. Although this idea still has high explanatory power, some of its assumptions are problematic in that the constituencies responsible for the genesis of an institution may not be the same as those that sustain it over time. For example, Thelen's study of Germany's political economy of vocational skills found that the 1897 Handcraft Protection Law aimed to galvanise a reactionary artisanal class as a countervailing force against a growing and radical labour movement. But further down the line, industry that was bypassed by the law developed interests around it and became its main defender (Thelen, 2003).

The second idea is that 'history matters.' The legacy of the past influences the present and the future in that initial policy and institutional choices and the commitments that grow out of them determine subsequent decisions/choices (Krasner, 1984; Pierson and Skocpol, 2002) such that there develops inertia for the initial choices to persist. Consequently, implementing the reform, transformation, and replacement of institutions becomes difficult. Furthermore, history matters because political events take place in a historical context that directly shapes them. Classic examples of the importance of history's centrality to industrial policy come from studies on late development, particularly the work of Gershenkron (1962), whose historical analysis led him to two important conclusions: the time when a country industrialises affects its strategy for industrialisation, and late industrialisers will necessary require the interposition of the state. History also matters to the extent that people's ideas at the time of designing institutions are shaped by a combination of their past experience and intended future outcomes. In short, for historical institutionalism, "history is not a chain of independent events" (Steinmo, 2007:12) but a sequence shaped by sets of inter-dependent variables.

The third idea relates more directly to the question of institutional emergence and change and has been a subject of theoretical contestation and refinement. Initial formulations were influenced by the 'punctuated equilibrium' approach to policy formation and change (True et al, 2007)[5]. This postulated a theory of institutional development characterised by long periods of institutional stability and reproduction that are punctuated occasionally by brief phases of institutional flux during which more dramatic change occurs (Cappocia and Kelemen,2007; collier and collier, 2002). Thus, once created, institutions either persist or break down in the face of an external force (True *et al*, 2007; Hay, 2002; Peters, 2005). However, this 'zero-sum' view of institutional evolution is not *entirely* supported by empirical evidence. Recent formulations go beyond the influence of external shocks and incorporate endogenous processes and variables for institutional evolution. Further, unlike the initial formulation that implied that institutional formation always occurs via a revolution-like process, current formulations point to different modes of institutional change, including layering, drifting and conversion (Thelen, 1999 and 2003, Redmond, 2005a; Steinmo, 2007; Mahoney and Thelen, 2010), all of which show that existing institutions rarely *break down*, and change often takes place in a manner that cannot be said to be revolutionary.

The fourth idea relates to the role of ideas/ideologies in shaping the evolution and change of institutions. The rationale is that ideas have 'framing effects' on choices and become the mobilising forces for societal groups like business associations and political parties that often seek to create or change institutions. For the actors interested in the perpetuation of existing institutional arrangements, ideas provide a rallying point. As Mkandawire (2001:291) noted with respect to developmental states, ideologies provide the rationale and legitimacy for policies and institutions and "serve as the 'opium' for masses" while "knitting together the ruling class". Studies that have reinforced this tenet include Hall

[5] Eldredge and Gould (1972), in their evolutionary studies in biology, were the first to introduce the phrase 'punctuated equilibrium' before social scientists began to apply it to the study of change of social phenomena (see also Somit and Peterson, 1992).

(1989), in which he explored how economic ideas shape political power over time, and Blyth (2002 and 2003) in which he analysed the role of ideas in shaping the interests of actors and inducing institutional change.

The approach provided four key concepts for the analysis of SBRs, namely, a conception of institutions that distinguishes them analytically from organisations, critical junctures, power asymmetries, and a broader understanding of what constitutes politics. Some of these concepts (for example, critical junctures) still lack consensus on the specifics of their meaning, and I hope that the findings of this study will have contributed to clarifying some of the issues.

3.2. Concepts in historical institutionalism for the analysis of state-business relations

3.2.1. Institutions and organisations

Historical institutionalism distinguishes between institutions and organisations. Institutions are understood as constraints devised by people to govern regular political, economic and social interactions (North, 1990). Often described as 'rules of the game', they are embedded in structures of meaning and resources and tend to be relatively resilient to the preferences and expectations of individuals and, sometimes, to changing external circumstances. They structure incentives in political, social or economic exchange (March and Olsen, 2006). Institutions can be formal and explicit, that is, rules and procedures that are created, communicated and enforced through channels that are widely accepted as official, or they can be informal and implicit, that is, rules that are socially shared, usually unwritten, and are created, communicated and enforced outside officially sanctioned channels. They include traditions and customs, values, cultural practices and other norms of behaviour that are treated as accepted ways of doing things[6]. Thus, the statutory rules governing the National Economic Development and Labour Council (NEDLAC) in South Africa (Handley, 2008), the administrative edicts governing the Zambia Business Forum (ZBF) (Taylor, 2007), or the High Level Consultative Committee

[6] This distinction between formal and informal institutions is based on the works of Helmky and Levitisky (2006), North (1990 and 1995), Leftwich (2007b), O'Donnel (1996), Carey (2000), Lauth (2000), Bratton (2007), Hyden (2006).

in Botswana (Land, 2002) exemplify formal institutions, while the 'old boy network' in Japan (Schaede, 1995) or the q*uanxi* in China (Wang, 2000) exemplify informal institutions.

Informal institutions embody private forms of power and influence and "may operate behind, between and within the formal institutions, hence substantially influencing how public power is used to make or prevent decisions that benefit some and disadvantage others" (Leftwich, 2006:2). Their effect on formal institutions can be any one or combinations of the following: complementary, substitutive, accommodating and competing[7]. Formal and informal institutions go together, not least in SBRs, and especially in Africa, where a particular social logic of exchange, 'the economy of affection'[8], predominates. The patterns of SBRs depend, in part, on the exercise of power and influence, formally or informally, of the actors.

Organisations, on the other hand, are "purposive entities designed by their creators to maximise wealth, income or other objectives *defined by the opportunities afforded by the institutional structure of society*" (North, 1990:73, *emphasis added*). Thus, the nature of organisations and how they develop depends on existing political and social institutions at the macro-level. But organisations themselves comprise rules that seek to govern and direct the behaviour of their members towards the attainment of organisational goals. Organisations are therefore subsets of institutions (Hodgson, 2001). However, once established, organisations interact with the macro-level institutional framework and, in turn, influence how the framework evolves. Organisations are therefore central to the processes of

[7] I follow Helmky and Levitisky (2006) here, who provide the following descriptive definitions: **Complementary** informal institutions shape behaviour in ways that neither violate the overarching formal rules nor produce substantively different outcomes. Often, they enhance the efficiency and effectiveness of formal institutions. **Accommodating** informal institutions create incentives in ways that alter the substantive effects of formal rules but without directly violating them. Often, they are created by actors who do not like outcomes generated by the formal rules but are unable to change or openly violate those rules. **Competing** informal institutions structure incentives in ways that are incompatible with the formal rules. To follow one rule, actors must violate another, e.g. in systemic corruption. **Substitutive** informal institutions seek outcomes compatible with formal rules and procedures and exist where the formal rules are not routinely enforced. They achieve what formal institutions were designed for but have failed to achieve, and they often emerge where state structures are weak or ineffective.

[8] An 'economy of affection' is constituted by personal investments in reciprocal relations with other individuals as a means of achieving goals that are seen as otherwise impossible to attain. Such goals may aim at material goods or symbolic goods such as prestige and status (Hyden, 2006:73).

institutional creation, maintenance and change. If we conceive SBRs as a game, organisations are players within the game whose rules are specified formally and/ or informally. As players, their objective is to win the game "by a combination of skills, strategy and coordination; by fair means and sometimes by foul means" (North 1990:4-5). Examples of organisations in SBRs include government departments or agencies like the Ministry of Industry, Trade and Private Sector Development (MITPSD) or the Malawi Investment Promotion Agency (MIPA) and business associations like the Malawi Confederation of Chambers of Commerce and Industry (MCCCI) or the Indigenous Business Association of Malawi (IBAM) as well as individual firms.

3.2.2. Critical junctures

A predominant conception of 'critical junctures' has been based on the notion of 'punctuated equilibrium'. They have been taken to mean occasional points in time when confluences of political factors and social pressures culminate in a window of opportunity for institutional and policy departures from the existing forms. Some analysts have metaphorically described them as 'watersheds' (Abbot, 1997), 'turning points' (Sewell,1996), or 'unsettled times' (Swindler, 1986; Katznelson, 2003) and have conceived them as periods when agency produces decisions that have long term consequences such that it is generally agreed afterwards that 'nothing was ever the same again' (Collier and Collier,2002; Mahoney, 2000). Although useful, this conception has serious analytical limitations in that it ignores endogenous processes of change and narrowly conceives institutional innovation and change as functions of exogenous shocks, or as Steinmo (2007) puts it, 'products of fate'; it presents institutional changes only as 'big bang' events and sidelines the less dramatic but significant incremental institutional changes; it assumes a complete breakdown of existing institutions and their replacement by new ones, an assumption that is contradicted by reality; and it is less clear on the factors that make a juncture critical and is quite ambiguous on the causes and duration of the juncture.

I suggest that a more analytically useful conception ought to be less deterministic in its claims about institutional processes, and the criticality of the juncture should not be primarily decided by the resilience of an institutional path. Rather, the criticality of such junctures should be determined by what can be shown to have been the general *expectations,* primarily of the actors, in relation to the change of the institutions in question. For example, the onset of democratisation in 1994 in Malawi was a critical juncture in which actors consciously tried to rearrange political structures in order to address the institutional excesses of the past and redirect incentives for future political actors[9]. There were high expectations for institutional change in a particular direction. Whether the intended direction was sustained is an empirical question and should be marginal to the definition of a critical juncture.

Thus, critical junctures should be understood as occasional points or periods of time when a *confluence* of political and socio-economic processes present virtually unexpected windows of opportunity for actors to consciously try to change the way existing institutions work insomuch that departures from the existing institutional set-up are generally expected. The criticality of a juncture, then, depends on the extent of possibilities for institutional change. This formulation contrasts significantly with those provided by Mahoney (2000 and 2001) and Hogan (2005 and 2006). For them, junctures are 'critical' if once new institutions are chosen or created, it becomes almost impossible to return to the original position and choice set to execute a new choice and an institutional pattern that is significantly different from the pre-existing one is set for the long term. While my interpretation has points of tangency with that suggested by Leftwich (2008), it differs in that the bases of my formulation are expectations for institutional change, while Leftwich's formulation is premised on the degree of discretion available to actors to institute change. My view is that, even in cases of high discretion and apparently major

[9] The popular slogan that reflected the intentions and expectations for change was '*zinthu zisinthe'* (literally: Things must change),which after the multiparty general election in 1994 changed to *'Zinthu zasintha'* (literally: Things have changed). Useful accounts that capture the expectations regarding institutional changes associated with the transition period are provided in Phiri and Ross (1998).

changes, over time, old institutions may be found to have persisted. In that case, more room for manoeuvre is reduced to much ado about nothing.

The definition accepts that some junctures, such as situations of regime change (for example, the attainment of political independence), provide more room for manoeuvre, while others may be embedded in antecedent conditions and therefore limit room for change, as is evident in the framing of the US Constitution (Riker, 1995)[10]. Furthermore, regardless of whether there is more or less room for change, institutional choices at critical junctures are not predetermined, but contingent (i.e. choices are made from among various alternatives and arise from the 'rough-and-tumble' of elite conflicts and negotiations vis-a-vis the existing and the proposed institutions). The duration of a critical juncture may be a brief period in which a particular institutional direction is taken, as was the case in the creation of the NEDLAC in South Africa and the JEC in Mauritius (Taylor, 2007), or it may constitute an extended period of reorientation of old institutional set-ups as has been the case in China (Haberer, 2003). In this regard, Roland (2004) has rightly argued that some institutions, especially cultural ones, are slow moving, while others, especially formal political institutions, are fast moving. The interaction of institutions in these two categories influences why, how and when institutional change occurs. Thus, the length of time associated with a critical juncture can neither be fixed beforehand nor can it be indefinite. Rather than imposing an arbitrary time span on the lines suggested by Mahoney (2000), I suggest that the nature of the expectations in relation to the institutional changes agreed to at the juncture should be the basis for deciding the duration of a critical juncture.

This concept was used, firstly, to identify periods of time that may have acted as or were generally expected to be, openings for the formation and change of SBR institutions and secondly, to identify the factors that shaped institutional choices by exploring the nature of contests or negotiations, including

[10] Riker has shown that some critical propositions of the Virginia Plan which essentially became the US Constitution, were replaced after heated contestation and that the counter-propositions were informed by the workings of antecedent institutions.

such factors as identities of players and how they were organised, their sources of power and other contextual and temporal factors that influenced their positions in the contests.

3.2.3. Power asymmetries

The literature reviewed in the previous chapter has made the point that the nature of SBRs is shaped by the distribution of power within and between the state and the business sector so that institutional evolution entails a contest among actors to establish rules that structure outcomes to their advantage. The exercise of power is critical to the nature of the contests, negotiations and cooperation that determine the institutional and organisational forms of SBRs. Thus, institutional changes may reflect changes in the balance of power between those interested in maintaining the institution and those seeking to change it, or they may reflect changes in the interests and ideas of the most powerful. However, given that institutions often come to serve functions remote from those originally intended by their designers and come to be supported by constituents that may not have been part of creating them (Thelen, 2003), the origins of an institution cannot be simply attributed to an existing distribution of power. It requires going back in time to the moments of institutional changes and understanding the configurations of power that shaped institutional choices or the mode of adaptive change.

Of the many forms that power takes, there are two main ones that are critical to the institutional processes of SBRs. These are 'political (ideological) power' and 'economic power'. Political power emanates from having a disproportionate influence on the norms, values and principles that underpin a certain institutional pattern governing social, political and economic life, that is, it establishes a dominant ideology or a discourse that may be hard to shift and may deliver disproportionate power to those who dominate or benefit from the institutional arrangements that flow from this dominant discourse. This form of power is associated with and often accrues to those who control the state. Changing such a dominant ideology often requires a complex politics that changes both the institutional arrangements and the group of political elites that control them. Economic power derives from ownership and control of major economic resources and activities and can be directly used for political purposes. This form of power is associated with landowning elites or their organisations, business associations, large corporations and trade unions (Mann, 1986; Leftwich, 2007b; Lukes, 1974; Young 2001). What is crucial to the analysis of SBRs is the nature of interaction and influence between those who exercise the formal political powers of the state and those who wield significant power because of the resources they control.

Operationally, assessing the role of power asymmetries in the processes of institutional formation and change for SBRs involved two main levels of analysis. The first was to identify and understand which groups of actors pushed what kind of opinions regarding which institutions? From what kind of view and interest were their opinions formed and with what kind of authority? This informed the understanding of the bases of power of the state and the business sector and the institutional and organisation infrastructure that they used to broadcast and exercise that power over each other. The second level involved assessing the state's perceptions of the political and economic values of the business sector and how these perceptions influenced the attitudes of the state towards the business sector or parts of it.

3.2.4. Politics

The subject matter of this thesis is the *'politics'* of state-business relations. However, what constitutes 'politics' is not straightforward, and each definition raises further and more difficult questions (Leftwich, 2004). There is not much space to attempt to catalogue all definitions. However, it has been suggested, and is generally agreed, that " the political should be defined in such a way as to encompass the entire sphere of the social…[E]vents, processes and practices should not be labelled 'non-political' or 'extra-political' simply by virtue of the specific setting or context in which they occur. All events, processes and practices which occur in the social sphere have the potential to be political…" (Hay, 2002:3). I agree with this assertion for two reasons. First, it makes the point that arena- or site-specific definitions of politics are inadequate as the activity of politics runs through the entire range of human interaction, including in SBRs. Second, it underscores the point that definitions that limit the activity of politics to conventional politicians are restrictively narrow and confine politics only to certain institutional and organisational sites such as political parties, parliaments or government offices.

A political analysis of SBRs therefore needs a definition of politics that provides sufficient insights at a sufficiently high level of abstraction. I adopt a definition proffered by Leftwich that in my view meets these criteria: “Politics comprises of all the activities of cooperation, negotiation and conflict, within and between societies, whereby people go about organising the use, production or distribution of human, natural and other resources in the course of the production or reproduction of their biological and social life” (Leftwich, 2004:103). Thus, what is political concerns “the distribution, exercise and consequences of power” (Hay, 2002:3), which is at the core of cooperation, negotiation and conflict-making or conflict resolution processes.

SBRs are ‘political’ in at least two main ways: First, they entail *processes* concerned with or that reflect (uneven) distribution and exercise of power and influence using different means, including coercion between the state and the business community or some segments of it. As Hay (2002) observes, power is about context-shaping, or in other words, the capacity of actors, in this case state and business elites, to redefine the parameters of what is socially, politically and economically possible or desirable for the other. Second, patterns of SBRs shape the subsequent formation of institutions governing economic activities, including the ownership, distribution and use of resources. They essentially entail a ‘mobilisation of biases’ in favour of particular economic ideologies, institutions and policies over others. Thus, contestation, negotiation, power and influence between the state and (some) economic agents, are endemic to SBRs.

However, it must be noted that historical institutionalism has been criticised on several counts, largely because of the theoretical implications flowing from its earlier view on institutional evolution that was informed by the 'punctuated equilibrium' approach. Recent works have addressed most of the criticisms but have themselves raised new issues for institutional theory[11]. Nonetheless, the approach provided the tools for studying the human political interactions between the state and the business sector in a context of rule structures, and for a sequential study of the evolution of SBR institutions. In particular, the approach was appropriate for the analysis for two main reasons. Firstly, it provided an epistemological framework that enabled an understanding of how history itself shaped SBR institutions. The emphasis on extended time frames across periods of different political institutional contexts made the approach inherently comparative by expanding the number of observations. Consequently, it enabled a long-term view of SBRs in Malawi that provided a basis for an assessment of existing propositions about institutional formation, resilience and change while generating new theoretical insights. Process tracing allowed the establishment of 'pathways' in a way that was sensitive to 'period effects', i.e. historical institutionalism required placing events 'in time' without losing sight of the overall pattern of the institutional and organisational patterns of SBRs.

Secondly, with new theoretical insights from recent works (for example, Mahoney and Thelen, 2010), historical institutionalism provided the necessary tools for an analysis of SBRs that sought to identify what aspects of the institutional configuration were renegotiable, under what circumstances, and what modes of change ensued, or in other words, a search for the mechanisms through which institutions remain the same or change in some dimensions while persisting in others, or completely break down and get replaced.

[11] I return to these issues in the last chapter, where I assess how a political analysis of SBRs in Malawi sheds light on the processes of institutional evolution.

3.3. Operationalising the analytical framework and data collection methods

The analytical framework was used to develop questions that guided data collection and analysis as detailed below.

3.3.1. Data collection methods: document analysis and key informant interviews

Document analysis

This involved a systematic perusal of primary documents, official documents, published sources and secondary literature. The bulk of the primary records were consulted at the British Public Records Office (PRO) in Kew, London, and the Malawi National Archives (MNA) in Zomba, Malawi. Other records and documents were accessed at resource centres and libraries of various government agencies, business associations and individuals. Data was culled from the following broad categories of sources for all three periods of the study:

- Original correspondence within and between the government departments and personnel, on the one hand, and business associations and businessmen, on the other. For the colonial period, this included correspondence between the Nyasaland Government and the Foreign Office and the Secretary of State for Colonies in London, correspondence between business associations and business people in Nyasaland and Britain with the Colonial Secretary of state and other correspondence.
- Sessional papers, including the minutes of meetings of the Legislative Council (LEGCO) and the Executive Council (EXCO) during the colonial period, later replaced by the Hansard and the minutes of cabinet meetings in the post independence period; annual and other reports of both government and business associations; minutes of meetings and other records of business associations.
- Statutes, including ordinances and orders-in-council during the colonial period, later replaced by Acts of Parliament and Regulations as subsidiary legislation, and records of proceedings of

the Malawi Congress Party (MCP) conferences.

- Various policy documents, including development blueprints and political party manifestoes.
- Various newspapers, magazines and newsletters.
- Transcriptions and audio speeches made by state and business elites at various occasions.
- Miscellaneous reports from different organisations and private correspondence.

Document analysis was complemented by key informant interviews which sought to elicit deeper insights into the relevant issues.

Key informant interviews

Semi-structured interviews were conducted with selected 'key informants'. These were purposively sampled from both the state and business sectors. For a close follow-up on some issues, 'snowballing' was used[12]. These sampling methods were preferred because the respondents were deemed to be people with specialised knowledge or critical information on matters related to SBRs in different institutional contexts. They could not, therefore, be randomly selected. A key characteristic of this method was that some respondents, for example, chairmen of business associations, counted more in terms of their roles in SBRs than others. Formal interviews were held with 21 respondents (see Appendix I for a list of names) spread across five categories as follows:

- Retired and serving public servants in departments and ministries or government agencies that discharged duties impacting on SBRs.
- Retired and serving politicians selected on the basis of their roles in or connection to instances or events incidental to SBRs at any point in their careers.
- Businessmen or representatives of firms selected on different grounds, including known or perceived roles of their firms in the economy and involvement in significant incidents relevant to

[12] Purposive sampling is a non-random technique in which respondents belong to predefined groups and have particular attributes or characteristics that enable detailed exploration of the research objectives. The number of people interviewed is less important than the criteria used to select them (Silverman, 2006). Snowball sampling is a non-random and potentially very biased technique in which a starting sample of respondents provides the researcher with the names of others who might participate in the study (Northey and Tepperman, 1986).

SBRs.

- Leaders of selected business associations and of peak associations.

Open-ended questions were asked to enable conversational interviews in order to elicit deeper insights into the issues being researched. Questions were based on several themes as outlined in Appendix 3.2. The themes were derived from the literature on SBRs, institutional theory and the history of politics and economics of Malawi. The questions were designed to allow wide variations in the answers of the different respondents and therefore offered greater likelihood of a better explanation of SBRs. For each respondent, an interview schedule in the form of a fairly detailed list of questions was prepared based on the profile of the respondent and his or her role in matters relevant to state-business relations. An audio record of the interview was made if the respondent allowed it. Fairly comprehensive notes were also taken. Each interview was then transcribed and analysed.

Key informant interviews were useful in several ways. First, they enabled an understanding of events, actions, values, and so on related to the practice of SBRs from the perspective of the actors themselves or those close enough to the process to be pertinent in their observations. Secondly, they enabled a detailed description of the practices and processes of SBRs in the post-colonial period by paying attention to mundane details and the processual aspects of politics and in situating the findings in their wider social and historical context

3.3.2. Data analysis – Integrated empirical approach

The analysis of data was a systematic search for institutional and organisational patterns of SBRs in the data. The analysis sought to establish recurrent behaviours, rules, actors and dominant ideologies that underpinned the practice of SBRs in each period. These were identified or inferred from the actual words spoken or written down. The focus was on understanding what was said in relation to SBRs, who said it, to whom it was directed, how it was said, and the context in which it was said. Beyond a focus on the actual words spoken or recoded in texts, further analytical focus was on the manner in which activities or events that shaped SBRs were implemented. In this aspect, the analysis sought to uncover the underlying assumptions and motivations of actors related to the activities, events, rules and structures affecting SBRs. The focus was on identifying who did what, why and how they did it[13]. Once an empirical pattern of SBRs was established for each period, process tracing was used to explain the patterns. Process tracing is a procedure of causal analysis that first establishes some association between explanatory variables and the outcome variable and identifies the causal mechanisms that link the two[14]. Causal mechanisms refer to "the processes and intervening variables through which an explanatory variable exerts a causal effect on an outcome variable" (Mahoney, 2003:363). For all the three periods, the analysis found that politics was the main explanatory variable for the different patterns of SBRs but in each period politics was played out through different processes and intervening variables. Process tracing helped in identifying factors for the emergence, maintenance and change of the institutional and organisational patterns of SBRs in each period. Thus, the technique was useful in tracing pathways of causation.

The patterns of SBRs in each period were then juxtaposed with one another to assess similarities and differences and continuities and discontinuities across the time periods. To do this I drew insights from analytic comparison which is a set of procedures in which a researcher uses the method of agreement[15] and/or the method of difference[16] to discover factors that affect outcomes in a number of cases (Neumann, 2006; Lijphart, 1975; Meckstroth, 1975). Each period of analysis was treated as a case. The procedure consisted of identifying similarities in the conduct of SBRs among the three cases and the variables that accounted for the similarities, identifying instances of difference across the

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[13] In doing this interpretive process I drew on techniques that are associated with discourse and content analysis which involve a range of methods for analysing data collected from interviews or other recorded talk and texts (Silverman, 2006; Rugg and Petre, 2007; Gerring,2006).

[14] A comprehensive statement of this technique is provided by George and McKeon (1985) and Bennet (2008).

[15] In using the method of agreement, the analysis seeks to establish that cases which share a common outcome also share common hypothesised causal factors, despite varying in other significant ways (see Mahoney, 2003: 341).

[16] With the method of difference, the analysis contrasts cases in which an outcome under investigation is absent in other cases which have the same hypothesised causal factors (see Mahoney, 2003:341).

three cases, i.e. where different institutional and organisational forms of SBRs were associated with different causal variables, and those instances where similar causal variables could be associated with different SBR forms or similar SBR forms could be associated with a different set of causal variables across the cases.

Using this method enabled the identification of combinations of factors that shaped the evolution of SBRs in the different periods.[17] This allowed a shift from mere descriptions of historical events or social and political settings to a more general and theoretical interpretation of the narratives which is condensed in chapter 7.

3.4. Methodological limitations of the study

Three important limitations of this study arise from the conceptual framework and the study design.

Generalisability: A case study approach enabled in-depth understanding of patterns of SBRs, but its results provide only limited scope for generalisation. Similarly, the main concern behind the sampling techniques used was not the 'representativeness' of the sample but targeting respondents who were deemed to have vital information on aspects of the research problem.

Causation: This study sought to explore the evolution of patterns of SBRs. Given a multitude of variables that impact on SBRs, it did not establish causality between the independent and dependent variables as the methods used did not control for the effects of other variables in order to isolate the effect of a single variable.

Perceptions of bias: The themes deployed in the study were developed by me and were derived from the literature and made consistent with the research assumptions spelled out in chapter one. Since conventional case study approaches identify themes from findings and endeavour to employ categories or descriptions established by respondents, this study might be criticised for potential bias. However, the design retained sufficient flexibility to revise and refine categories and themes in the course of data

[17] This was possible because in this method, a researcher "identifies many factors for a set of cases, sorts through logical combinations of factors and compares them across cases" (Neuman, 2006:471-2).

collection. Further, a within-case comparative study required some level of methodological consistency and focus in order to enable comparison. The initial imposition of themes and categories was therefore crucial to effective execution of the study.

3.5. Ethical considerations

The conduct of this study, like most empirical research, had ethical dimensions. Ethical problems are "those that arise [when a researcher tries] to decide between one course of action and another, not in terms of expediency and efficiency but by reference to standards of what is morally right or wrong" (Barnes, 1999:16). The University of York research committee defines ethical issues more generally as those that arise from the basic principle that academic activities should neither include practices which directly impose a risk of serious harm nor be indirectly dependent upon such practice. Such issues relate to the methodology used, the subjects or respondents used, and the application of the project findings[18]. Thus, ethics define what conduct is or is not legitimate in a particular research exercise, and ethical issues require the researcher to balance between the pursuit of scientific knowledge and the rights of those being studied, those participating in the study, or of others in society. Three ethical issues that concerned the data collection for this study were consent of the participants, confidentiality of information and disclosure of the research objective.

Consent: Permission to access materials pertinent to the study was sought from the relevant authorities at the national archives in London and Zomba, in ministries and other government agencies, and business associations. Each respondent's permission was sought prior to their taking part in the study.

Research objective: At each and every instance of interface with respondents or other custodians of information, it was disclosed in clear terms that the research was purely academic although its results

[18] See the University of York Code Of Good Practice for Research, available at www.york.ac.uk/research/policy/Cop_Ethics.htm.

could have some institutional and policy relevance. A one-page research synopsis was prepared and delivered to each respondent at the time of requesting an interview.

Confidentiality of information: Respondents were informed and assured that all information was collected on the basis of strict confidentiality and would not be used for any purposes other than academic research. Consequently, statements that are direct quotes from respondents have been acknowledged as such, but no direct attribution to the sources by name occurs except where the respondent expressed no reservation for such attribution. Similarly, audio records of interviews were taken only when respondents permitted and were destroyed after use.

Scientific misconduct: The conduct of the research and the development of the thesis have adhered to all legal and ethical standards required of academic researchers. Particular attention has been paid to matters of scientific misconduct especially plagiarism and research fraud[19].

Conclusion

This chapter has presented the analytical and empirical approach that was deployed in the collection and analysis of data to produce analytic narratives of SBRs in Malawi in three different political institutional contexts. Historical institutionalism provided a political approach to SBRs that was useful for interrogating the formation, maintenance and change of institutions governing these relations. The next three chapters in PART II present narratives arising from the use of this approach. In the spirit of historical institutionalism, the chapters follow the sequence of political periods. In the next chapter, therefore, we begin with a narrative of SBRs in the colonial era.

[19] Research fraud involves tampering with data to make results appear more convincing or even creating fictitious interview results. Plagiarism is the act of stealing or presenting as one's own, the ideas or work of someone else (Burnham et al, 2004:263-264).

CHAPTER FOUR

Particularistic Concertation: Colonial State-Business Relations and the Politics of State Formation

"Mr Chairman, we [members of the Chamber of Commerce and Agriculture] were here before the Administration and possession, as we are frequently told, is nine-tenths of the law."[1]

Introduction

This chapter analyses the pattern of colonial state-business relations from 1891 when the 'modern' state in Malawi was founded at the insistence of the commercial, agricultural and missionary interests who had begun to settle about a decade and a half earlier. Throughout the colonial period (1891-1964), the evolution of the institutional and organisational patterns of SBRs dovetailed with the formation and consolidation of state institutions. It was, therefore, intertwined with political processes. In the first six years, SBRs were characterised by the state's apathy towards the broader business community and preferential treatment for an imperialist chartered company – the British South Africa Company (BSAC). The result was the business community's general acrimony towards the state. However, after 1896, SBRs developed into a collaborative governance pact characterised by a balance of power between the state and the business sector. The relationship took the form of concertation, i.e. a pattern of regular, free speech meetings and other forms of exchange between representatives of peak business associations and the government. Its key characteristics were consultations, negotiations, bargaining and cooperation. Consequently, the state sometimes behaved as an obedient servant of private capital in providing a policy environment for furthering private commercial interests. At other times, the quest

[1] R.S. Hynde at a public meeting of the Chamber of Commerce and Agriculture, *British Central African Times*, 2 May 1903 (MNA).

for hegemony and legitimacy made the state pursue policies that pitted it against the business community.

However, the business sector was fragmented on racial and sectoral lines. Formal commerce and plantation agriculture were dominated by Europeans and by Indians. African entrepreneurs were very few and mostly plied their trade on the margins of the formal sector. The practice of SBRs was particularistic in that it was segmented on racial lines. Concertation was exclusive to Europeans, often through their peak associations founded in the 1890s. The Chamber of Agriculture and Commerce (henceforth, the Chamber) enjoyed virtually unbridled access to the state and often received a sympathetic hearing on a range of issues. However, there were glaring sectoral divisions within the European business community between planters and other commercial interests. Despite these divisions, they were able to transcend occasional differences, cultivate pan-business interests and engage with the state. Indians were not organised in any meaningful way for SBRs until the Nyasaland Indian Traders' Association (NITA) was formed in 1923[2]. In August 1936, it became the Nyasaland Indian Chamber of Commerce (NICC)[3]. However, since it was denied regular access to the government, SBRs for the Indian community were *ad hoc*, mostly taking place through written correspondence. The earliest business association for Africans, The Nyasaland African Industrial Union (NAIU), was founded in 1907 but was short-lived, largely because of its low membership density[4]. Except for a few instances where the Blantyre Native Association (BNA) asked for government intervention on specific business issues, Africans were excluded from formal SBRs until after the first general election in 1961.

The chapter makes three main arguments. Firstly, particularistic concertation evolved from the mutual dependence between government and the European business community. Secondly, the formal

[2] The Nyasaland Indian Traders', NITA/2444/1923, MNA.
[3] NICC Secretary to Provincial Commissioner, Blantyre, 28 June 1939.
[4] Its second meeting was held on 15 May 1909 at Nyambadwe and total recorded membership was eleven (Pachai, 1973).

political institutional architecture of the period, especially the position and role of the Legislative Council (LEGCO), sustained the Chamber not only as a peak business association but also as a legitimate political representative of the European settlers. Thirdly, the establishment of business interests before the advent of the state and the role of business interests in the processes of founding the state endowed the European business community with an early advantage in accumulating an initial and disproportionate amount of power and capacity to organise politically vis-a-vis the state. As a result, the business community was able to compete for, and preserve, 'spaces' where they genuinely engaged with the state in policy dialogue. The analysis shows how history and politics matter for the processes of institutional formation, maintenance and change.

The analysis is sequenced as follows: Section 4.1 traces the role of the business sector in the process of state formation and highlights the evolution of particularistic concertation. Section 4.2 discusses the dynamics of particularistic concertation, showing how the European business community was favoured and how the Indian and African business communities were marginalised. Section 4.3 is concerned with institutional and organisational change in SBRs. It shows how nationalist political agency in the context of the Central African Federation (CAF) and the idea of 'colonial trusteeship' led to the opening up of the political system to African elites, thereby weakening institutions that had sustained particularistic concertation and giving rise to a new pattern of SBRs. The conclusion highlights preliminary theoretical observations for SBR and institutional evolution.

4.1. State formation and the origins of concertation

The colonial pattern of SBRs - particularistic concertation - evolved largely from the mutuality of interests and dependence between the government and the European business community: the state sought to establish political control and authority over the Africans, while the business sector was principally interested in using African labour and appropriating other natural resources, especially land. To pursue its objective, the state needed the settler community, on whose consent its legitimacy depended. Similarly, the economic interests of the business sector required the cooperation of the government in regulating economic relations between European and Indian commercial interests and between both foreign groups, on the one hand, and the Africans, on the other. The result of this dependence was that the evolution of state-business relations was intimately bound up with efforts at state formation. The earliest role of the business sector in this process was in the acquisition of land that later comprised the territory of the state.

4.1.1. Acquisition of territory and establishment of British sovereignty

The genesis of the colonial state in Malawi lay in the activities of the expatriate business interests, supported by missionaries, who sought the establishment of civil authority for the furtherance of their own interests. They began to arrive in the 1870s in response to a call for lawful commerce and Christianity made by David Livingstone in 1859 as a means to curb the slave trade and 'civilise' Africans (Pachai, 1973:71; Pike, 1968:62, 70-71). In 1878, the first company, African Lakes Corporation (ALC)[5], arrived from Glasgow as a commercial and development arm of the Free Church of Scotland. More companies and planters followed so that by the early 1880s their increasing presence and influence led to an imperial contest between Portugal and Britain for the control, occupation and development of the territory (Pachai, 1973; Tindall, 1968). From the late 1870s, the business and missionary communities continually petitioned the British government to take a more active role in the administration of the territory. They asked for a government officer and even requested that one of their number be entrusted with a consular role (Smith, 1975:49). The British government, however, appointed its own man, Captain Foot, as Consul in 1883 but with little material support for discharging his duties (Thurston, 1995; Smith 1975).

The Portuguese occupied part of the lower Shire Lowlands in southern Malawi on 12 May 1882, but the occupied Kololo villagers revolted violently in 1884. The ALC moved in, primarily to safeguard its

[5] Established as Livingstonia Central Africa Company in 1878 in Glasgow, it changed to ALC in 1894. See MacMillan (1970).

business interests as the area provided trade routes for its merchandise from the ports on the Indian Ocean. The company negotiated treaties with chiefs in the rebellious villages, promising British protection – a commitment that the Foreign Office disavowed in 1885, abolishing its responsibilities in the territory because of lack of financial resources (Pachai, 1973; Mc Millan, 1975). Nonetheless, the ALC, supported by other traders and planters, continued initiatives to bring the Shire Highlands[6] under British protection. It signed treaties with chiefs that stipulated that they were to accept the protection of either the British government or the company (Smith, 1975:49). Although the Consul refused to recognise the treaties and wanted them abrogated, the ALC applied for a Royal Charter in 1887 to administer the territory. The Foreign Office refused, partly because the company did not have adequate administrative capacity and partly, and more importantly, because "it was not Great Britain's duty to defend missionaries and traders in remote regions from 'native enterprise'"[7]. The British South African Company (BSAC) offered in 1889 to administer the territory under its charter, but missionaries, businessmen and planters, who had earlier supported the ALC application, strongly opposed this because they "did not want another Rhodesia" in Nyasaland (Tindall, 1968:179). Thus, by the end of 1889, company rule over Nyasaland had been forestalled, and the British government was unwilling to extend its authority to the new territory.

In 1889, Harry Johnston, British Consul in Mozambique, concluded negotiations with the Portuguese government whereby southern Malawi was conceded to Portugal (Smith, 1975; Pachai, 1973). Cecil Rhodes of the BSAC – "never one to allow financial considerations to inhibit expansion of the British Empire" (Smith, 1975:59) – offered to finance the signing of treaties with chiefs and the administration of the protectorate. On the basis of this financial guarantee, the Foreign Office discontinued negotiations with Portugal and despatched Harry Johnston to conclude treaties with chiefs but

[6] The Shire Highlands was the part of Southern Nyasaland that had the most British settlements.
[7] Foreign Office Undersecretary, 2 March 1888, House of Commons Parliamentary Debates, 3rd Series, V.323:20.

instructed him “not to declare a protectorate until there was a Portuguese aggression” (Smith, 1975:60, Pike, 1968). Thus, Johnston became first Commissioner and Consul-General for the territories under British influence north of the Zambezi, where he was to administer Nyasaland for the British government and exercise similar administrative powers on behalf of the BSAC over the territories west of Nyasaland (now part of Zambia). Thus, in addition to being an official of the British government, the Commissioner was also an agent of the BSAC and responsible to its board. According to Tindall (1968) and Baker (1972), Johnston had the approval of the British government for his dual role. As will be shown below, the interlocking of roles had significant consequences for SBRs during his period. To expedite the conclusion of treaties with African chiefs in the Shire Highlands, Johnston engaged John Buchanan - a successful planter who arrived in Nyasaland in 1876 and was serving as manager of the ALC - as acting British Consul specifically for this purpose.

In August 1889, while Johnston was on a tour of duty, an armed Portuguese expedition advanced, aiming to take control of the southern part of Malawi (Smith, 1975:60, Pike, 1968). John Buchanan, using the powers of his new role to advance an old agenda, advised the Portuguese general that the territory that they had targeted was under British protection and asked him to halt the expedition. This effectively declared a protectorate over the Shire Highlands. On 21 September 1889, Buchanan further advised the Portuguese general that more areas were to come under British protection (Pachai 1973:78-80). Even more areas were added in a third declaration on 14 May 1891 that created the British Central Africa Protectorate[8]. On 11 June 1891, the Anglo-Portuguese treaty was signed, which marked the beginning of the British protectorate that lasted 73 years.

The leading role of the business community in establishing the territory and the authority of the state over the acquired territory is evident in the account above. Besides mobilising European commercial and agricultural interests to present a unified front to the British government, the ALC took practical

[8] London Gazette,15th May 1891, PRO FO 881/6292.

steps and invested in acquiring territory from African chiefs. Although the British government had refused to recognise the treaties between the company and chiefs, the company continued to invoke the legitimacy of the British government in its treaties. For example, in 1890, Alfred Sharpe settled a treaty for what was then called 'Chikuse territory' (now Ntcheu). Although this was done on behalf of the ALC, whose representative, a Mr Tom Taylor Nash, accompanied Sharpe, the treaty was signed off by Sharpe as "Acting for and on behalf of Her Majesty the Queen of Great Britain and Ireland"[9]. It was the private alienation of land from African chiefs by British elements and the offering of protection to the African populations on the alienated lands that created the territory of the protectorate state.

Furthermore, with the support of local British interests, the ALC lobbied the Foreign Office for consular representation, requested a Royal Charter to administer the territory on behalf of the British government, and used one of its employees at an opportune time to declare British authority over the territory. While the ALC led in the acquisition of territory and in extending the sovereignty of the British state over it, another corporation, the BSAC, was influential in setting up the protectorate's administration in the first five years.

4.1.2. British South African Company and the setting up of the colonial administration

The first administration was set up under the provisions of *The African Order in Council (1889),* which allowed the Commissioner prerogative powers "to introduce ordinances, proclamations, rules and regulations subject to approval of Foreign Office" (Pachai, 1973:236). With this surfeit of authority, Johnston's terms of reference required him to 'strengthen the protectorate; advise chiefs on their relations with each other as well as with foreigners; secure peace and good order; and check the slave trade' (Pachai,1973:82; Pike, 1968). However, the British government did not provide any grant-in-aid for the administration and the Commissioner had to rely solely on the cooperation of the BSAC, which had guaranteed an annual subsidy for the administration. In 1889, Rhodes had undertaken to provide

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[9] Africa (Central) Treaty of Chikuse Territory, 17 February 1890, PRO FO 93/4/1.

£9000 per annum, through the ALC, for the administration of the protectorate. This was because in that year, the BSAC acquired £20,000 worthy of shares in the ALC (Baker, 1972:33-34; Pachai, 1973:83). The Foreign Office advised that money for the administration of the protectorate could not be disbursed through the ALC because the company was unchartered and that the money had to be paid to "the real administering body, the Government" (Baker, 1972:33-34). In early 1891, the BSAC revised the subsidy to £10,000 per annum for five years, which was to be spent according to the discretion of the commissioner[10]. The administration began with only four European officers including the commissioner, seventy volunteers from the Indian Army to keep peace and order and twenty Africans providing support services (Pachai, 1973:81). The British Treasury only provided salaries for the British officials. Consequently, there was heavy reliance on the largesse provided by the BSAC. This dependence afforded the company great influence, which in turn put the administration at odds with settlers, traders and missionaries on the way in which they thought the protectorate should be run.

The relationship between the BSAC and Commissioner Johnston generated perceptions of the existence of a clientelist principal-agent relationship in which the commissioner, and hence the government, often acted as a virtual stooge of the company. This, however, was not surprising because unlike other colonial states that maintained themselves by extracting resources from the domestic economy (Clapham, 1985), Johnston's administration was heavily reliant on the largesse of the BSAC. For example, by December 1891, the administration was costing £22,500, of which £20,000 was provided by the BSAC[11]. In 1892, the commissioner disclosed that he was compelled to use resources earmarked for the BSAC's territory for the development of Nyasaland especially the Shire Highlands[12].

Between 1892 and 1893, the BSAC claimed land on the basis of the treaties made between chiefs and the ALC between 1885-6. Johnston refused to endorse these claims because the Foreign Office had

[10] Memorandum of Agreement between Foreign Office and BSAC, PRO FO 93/4/4.
[11] Johnston to Salisbury, 10th December, 1891, PRO FO 84/174.
[12] Johnston to Salisbury, 11th May 1892, PRO FO 403/174.

indicated that the treaties were not enforceable after 1891[13]. In May 1893, the BSAC offered to increase the annual administration subsidy to £17,500 for 5 years but on two conditions: if the protectorate government conveyed all crown rights in land to the company[14], and if Johnston gave 80 per cent of the protectorate's territory to the company[15]. The company's intention was to acquire leverage in land matters: "For the future, it must be understood that the chartered company alone has the right to acquire, subject to approval of her majesty's government, concessions of land and minerals within and without the protectorate"[16]. At that time, 60 per cent of the land was controlled by the European community and the government as depicted in Table 4.1 below:

Table 4.1. Distribution of land ownership in 1893

Owners/Occupiers	Proportion of land (%)
Planters, traders and missionaries	20
British South Africa Co[17]	20
British Crown	20
Africans	40

Source: Pachai (1973):83.

Effectively, the BSAC's demand meant that the Crown's and Africans' shares of land would pass to it, turning Africans into tenants on their own land - a phenomenon missionaries described as a 'frightening prospect' (Pachai, 1973:83). While Johnston agreed to these conditions, the Foreign Office unilaterally changed the proposed duration of the subsidy from 5 to 10 years[18] but refused to endorse the proposed alienation of land to the company on the basis that the protectorate was not included in the charter of

[13] Johnston to Foreign Office, 5 December 1891, No.22, CA Confidential, FO/842114 PRO.
[14] Rhodes to Johnston, 30 April 1893, PRO FO403/185.
[15] Johnston to Rhodes, 3rd May 1893 enclosed in Johnston to Foreign Office, PRO FO403/185.
[16] Rhodes to Johnston, 30th April 1893, PRO FO403/185.
[17] In 1893, BSAC took over ALC and so held the largest proportion of land.
[18] Johnston to Rhodes, 8 October 1893, PRO FO403/185.

the company[19]. In response to pressures from missionaries and planters, who loathed rule by the chartered company, Johnston pursued a land policy with safeguards that apparently worked against the interests of the BSAC[20]. Nonetheless, he granted the company enormous tracts of land in central and northern parts of the protectorate based on the ALC treaties that the Foreign Office had refused to recognise (Ross, 1975:91).

4.1.3. Perceptions of government capture and the rise of business associations

The prerogatives that the Commissioner enjoyed under *The African Order in Council* effectively granted him authoritarian rule. He established a highly centralised political order, which represented a typical colonial state in that there was "from the [commissioner] a sense of superiority over those whom [he] ruled, a sense of power emanating from above rather than growing from below; for the ruled a sense of the state as an alien imposition, to be accepted, ... to be feared, to be cajoled and where possible exploited, but existing on a plane above the people whom it governed and beyond any chance of control" (Clapham,1985:19). While in many colonial territories this was true from the perspective of colonised peoples, it was equally true for the settler community in Johnston's Nyasaland. This pattern of governance had been discerned as early as 1892 by Rev. Hetherwick, who wrote in a private letter: "In some way or another, I hope a change may be effected in the means and methods of this administration. It can only be done by [the Foreign Office]. We have no appeal here, nor room for appeal; the author of the mischief is the court of appeal, and there, of course, no appeal can be heard"[21].

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[19] Foreign Office to Emmanuel and Simmons, 7th June 1893,PRO FO 403/185.

[20] Four safeguards were 1.That the administration should have enough land for expansion, 2.Africans should be paid a fair price for their land, 3.African land should not be sold to the BSAC without the consent of the African inhabitants, 4.That all disputes would be settled by Johnston himself (Pachai, 1973:82).

[21] From Rev.Hetherwick to Rev. Dr Scott, 13 June 1892, PRO, FO 6337/211.

The apparently easy access to external financial resources encouraged the administration to ignore the emerging commercial community. The authoritarian tendencies of the administration meant that opportunities for public-private dialogue were limited, especially as the state appeared to have had no reason to engage with the business community. Following the argument by Bates (2001) and Doner *et al* (2005), it can be said that access to easy money from the BSAC meant that Johnston's administration did not experience an acute 'resource imperative' that would compel him to forge a coalition with the business community. Indeed, there is some evidence to suggest that the relationship between Johnston's government and the BSAC was collusive and aimed at introducing company rule by the backdoor. For instance, in 1893 Johnston refused to sanction land agreements between other companies and chiefs. Although the refusal was justified in terms of the ongoing land reforms, other correspondence suggests otherwise. For example, the Central Africa Company's agreements were refused because "it would be very hard if this greedy company were to worm its way in and try to oust the [the BSAC] from its rights"[22].When the Foreign Office intervened on behalf of the Central Africa Company, Johnston circumvented the instructions by endorsing leases to worthless and inaccessible land. He, further, refused title deeds to planters, which affected their opportunities to secure loans and did not allow them to sell any of their land, to prevent trouble for the BSAC when it assumed company rule (Woods, 1991:40). Furthermore, Johnston borrowed heavily from the BSAC and taxed planters and traders heavily in order to repay the loans so that "their collapse would leave [the BSAC] as the only enterprise that could pay for the administration and thus make charter rule more acceptable to Whitehall" (Woods, 1991:26). Missionaries were particularly in the suspicion that Johnston manipulated local administration to advance the interests of the BSAC: "If he can lift ivory and taxes when and where he pleases in the interest of the [BSAC], we demand, on behalf of the natives some independent power to watch their interest" (Ross, 1975).

[22] Johnston to Foreign Office, 21 January 1893 enclosed in Bowler to Roseberry, 9th June 1893, PRO FO 403/185.

Under these circumstances of neglect and acrimony, agricultural and commercial interests began to coalesce in order to form something of a countervailing force to the state[23]. In September 1892, the Shire Highlands Planters Association was formed, but its geographical coverage was too limited for its purposes vis-a-vis the government. Consequently, some planters led by John Buchanan – the promulgator of the protectorate – formed the Nyasaland Planters Association (NPA) in December 1892[24]. However, the mobilisation of the commercial and agricultural interests evolved in ways that "created deep schisms within the European community and contradictions among commodity producers" (Woods, 1991:21). By 1894, both associations were moribund. By 1895, the government and the missions had established *The British Central Africa Gazette* and *Work and Society* as their print media outlets, respectively, and both were generally hostile to the agricultural community (Woods, 1989:364). Buchanan observed the need for planters and commercialists to form a united and strong association in order to pursue their common interests. It led to the formation of the Chamber, which evolved into the articulator of European business interests to the government for many years. In the same year, *The Central African Planter (CAP)* (which changed to *Central African Times* (CAT) and to *Nyasaland Times* in later years) began to be published with a devotion to "the planting interests of the community – the interest ... on which the commercial prosperity of the [protectorate] depends"[25].

Nonetheless, the business community continued to be internally deeply divided, as will become clear below. Their intermittent unity was motivated by either common antipathy towards the government on certain issues or by government directives for the business community to provide a single front for policy consultations.

Johnston's failure to deliver on his commitments to the BSAC irked the company, which consequently withdrew the offer to increase its subsidy (Pike, 1968; Pachai, 1973). Planters and missionaries also

[23] Chamber Minutes, 25 November 1941 (50th Anniversary of the Chamber), MNA 27/NCC/2/19.
[24] Historical Manuscripts Inventories, p.1 of ACC. 27, MNA.
[25] Editorial, CAP, Sept 1895, MNA.

resented his authority, especially on land policy. Consequently, the Foreign Office agreed with the BSAC that the Commissioner would cease administering the company's territory and that the company would stop subsidising the administration of the protectorate by 30th June 1895[26]. In 1894, the BSAC undertook direct administration of its area, and the resource vacuum for administering the protectorate compelled Johnston had to find alternatives. He turned to the larger business community and sought to provide planters with legal tenure, something that he had earlier refused[27].

However, his turn to the wider business community was too little too late. Its organisational capacity, especially the membership density of the Chamber, increased as it became a representative of commercial, agricultural and general settler interests to the government[28]. Johnston's health began to fail. In May 1896, he left for treatment of black water fever (Tindall, 1968:185) and never returned. Despite several achievements related to state formation, Johnston "did not leave on a flood of grateful eulogies" (Hanna, 1965:122). This was particularly true for the business community, which in late September 1897 welcomed the appointment of a new Commissioner by expressing gratitude that Johnston was not going to return[29]. The views of the business community on Johnston's administration were perhaps most clearly stated in the following excerpt:

> The Administration so far as promoting the welfare and advancement of [the protectorate] has been, we regret to say, a failure. This is in no small degree due to the rule of autocracy inaugurated by Commissioner Johnston...that is a disease that kills every effort and every attempt of private enterprise[30].

Thus, between 1891 and 1896 SBRs were bifurcated. On one hand, the particularistic relationship with the BSAC virtually amounted to government capture[31] due to the increasing dependency of the

[26] Memo from Percy Anderson to BSAC, 6th November 1893, PRO FO 403/185.
[27] Johnston to Roseberry, October 1893, PRO FO 403/185.
[28] The Nyasaland Chamber of Commerce, Historical Manuscripts Inventory, Acc. No.27, p.1 (MNA).
[29] 'Annual Meeting of the Chamber, CAP, 1 October, 1897, MNA.
[30] CAP, Editorial 15 June 1897, MNA.
[31] To be understood in the same way as 'state capture' as defined by Hellman *et al* (2000) except that the exchange of money was not illicit or clandestine.

administration on the financial resources of the company. On the other hand, relations with the larger business community were characterised by suspicion, mutual mistrust, antagonism and marginalisation. Johnston acknowledged this when he wrote that "the difficulties raised up against my work by Europeans have infinitely exceeded the trouble given me by the Negroes or Arabs" (as cited by Jones, 1964: 55). However, from 1897, the attitudes between the government and the European business sector improved, largely due to two factors. Firstly, the European business community organised into a peak association with increased membership density and began seeking policy dialogue with the government. The business community thus became a political constituency that the government could not easily ignore. Secondly, the withdrawal of the BSAC's financial subsidy increased the government's dependency on the local business sector as a source of revenue for administering the protectorate. The combination of these factors compelled the government to accept the Chamber as legitimate and granted it regular access to the Commissioner and his officials. It marked the beginning of a new pattern of SBRs i.e. concertation.

4.1.4. Creating and deepening concertation

The replacement of Johnston by Alfred Sharpe in 1897 was obviously a critical juncture as it raised expectations for improvements in SBRs. When the Chamber entertained the new Commissioner at a complimentary dinner[32], he acknowledged that it was a great satisfaction to him to know that he had the sympathy of the settlers, the possession of which would greatly assist him in discharging his duties[33]. Unlike Johnston, who had been catapulted into authority without intimate knowledge of the country and without social ties, Commissioner Sharpe had lived in the country since the late 1880s and socialised with missionaries, settlers and government officials, especially through the Shire Highlands shooting and sports clubs. These clubs had interlocking memberships and provided opportunities for informal

32 'Complimentary Dinner to HM Commissioner', CAT, 10 October 1897.

33 From Sharpe to the Chamber, 12th September 1897, reproduced in CAT, 8 October 1897.

interaction between leaders of business associations and the government. For instance, the Chamber's President in 1897, Duncan Beaton, was also president of the shooting club where the Commissioner had been a member before becoming its patron. Captain Daly, Messrs Israel and Lindsay were on the Executive Committee of the Chamber while also serving with Commissioner Sharpe and his deputy as patrons of the shooting club[34]. This social network enabled informal discussion of issues that were core to structuring SBRs, especially as there was not yet an institutionalised PPD forum. For example, when a member asked that the Chamber be affiliated to the London Chamber of Commerce and that it participate in showcasing at the Imperial Institute, its president explained that the matter had been discussed and that the government was willing to pay 33 per cent of the cost of affiliation, that the BSAC would bear a large part of the cost and that the ALC would transport exhibits for showcasing free of charge[35].

Besides the informal interaction, *ad hoc* formal interface between business and government elites became frequent, especially on sticky issues such as the construction of railways[36]. However, it is the question of African labour that effectively laid the foundation for concertation. After the meeting between the committee of the Chamber and the commissioner, the Chamber released a statement with the following excerpt:

> In the matter of the labour question, [the commissioner] had...proposals which are free from obnoxious red tapism and which...commend themselves to the employers of labour in this country. [His] suggestion...amounts to an invitation to the employers...to cooperate with government in formulating a workable scheme for the recruiting of labour and the only condition... is that the employers should be prepared to act in concert, and that the government has the right to veto anything which would not be consistent with the queen's regulations on the subject.[37]

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[34] 'Season 1897 The Shire Highlands Shooting club BCA', CAT 10 October 1897; 'Blantyre Sports Club', CAT, 1 October 1897.

[35] Annual Meeting of the Chamber, CAT, 1 October 1897.

[36] Sharpe to Chamber, 29th March 1897, reproduced in CAT, 1 October 1897.

[37] 'HM Commissioner's Views', CAT 18 December 1897 p.1; see also 'The Chamber and HM Commissioner', CAT 18 December, 1897 p.3.

This 'liberal and broad-minded offer'[38] from the Commissioner set a precedent for collaboration between the government and the business community and was the earliest step towards institutionalisation of PPD. In 1898, a law was introduced to regulate emigration of African labour to the mines of South Africa and Rhodesia. However, by 1903, the outflow had become too much for planters. On 18th March, the Chamber asked the Commissioner to transmit a petition to the Foreign Office on the matter, but the Commissioner refused on the grounds that, as he had received letters from individual planters and others with views that were at variance to those of the Chamber, the views of the Chamber were not representative of the whole community[39]. The Commissioner wished "a plebiscite had been taken of all the members of the Chamber and if the mind of the public had been ascertained."[40] It must be noted that the exportation of labour was being carried out under a scheme that involved the British, Nyasaland and Transvaal governments. The need to raise revenue for the administration forced the government to export 1000 labourers to the Witwatersrand Native Labour Association (WNLA). In return, WNLA made upfront tax payments for the labourers and recovered it from their wages (Pachai, 1973; Chirwa, 1993). A public meeting of the Chamber voted for the abolition of the scheme, and their view was best expressed by R.S. Hynde when he argued, "The dominant feelings among Europeans...are that we...are not wanted in this country. But, Mr. Chairman, we were here before the Administration and possession, as we are frequently told, is nine-tenths of the law"[41]. Similar pressure was exerted on the Foreign Office by London-based corporate directors who had interests in the protectorate[42]. However, the government displayed its autonomy and continued with the WNLA scheme until 1907.

[38] Ibid.
[39] 'Export of Labour', CAT, 21 March 1903, p.2.
[40] Ibid.
[41] 'Should BCA be a Recruiting ground for Labour for the Mines? Opinion of the Residents', CAT, 2 May 1903, p.4.(MNA)
[42] Mr Roe, representative of the BCAC, informed the public meeting that his directors in London were involved in the lobbying (ibid, p.7).

4.1.5. Private sector fragmentation – planters and commercialists in uneasy partnership

1903 was an eventful year for the Chamber, especially because of the issue of African labour. The executive committee met 23 times, its chairman resigned amid allegations of a conflict of interest as his company owned the agency that was recruiting labour for the WNLA, and amendments to the constitution of the Chamber were proposed[43]. While the breadth and depth of concertation increased, it was apparent that planters wanted to break away from the Chamber and to form their own association. This created the fear of business associations working at cross-purposes and presented the potential for concertation to weaken. It was then proposed that the Chamber should have two sections dealing with planting and commercial interests respectively, each section with five committee members, with the committees operating independently on exclusive matters, and the presidency and vice-presidency of the chamber alternating between the sections and rotating annually[44]. Despite these attempts, the Nyasaland Planters' Association (NPA) was constituted and held its first general meeting in November 1903. In December, the Commissioner congratulated planters on the formation of their association and observed that the Chamber "had undoubtedly done much good work but in all planting countries it was found that the best interests of purely agricultural matters could be much better dealt with by... a planters association... [He] would endeavour to support the [association] in every possible way"[45]. The reformation of the NPA reduced the political significance of the Chamber by reducing its membership density until 1907, when the two merged to form the Nyasaland Associated Chamber with "membership open to all European residents of Nyasaland who [were] engaged in the development of the country"[46].

In 1907, the protectorate received a typical Crown Colony constitution, which replaced commissioners with governors and shared governmental power between an Executive Council (EXCO) and a

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43 BCA Chamber of Agriculture and commerce Annual General Meeting, CAT, 10th October 1903, p11-14.
44 Ibid.
45 CAT, 12 December, 1903, p.10.
46 Nyasaland Associated Chamber, Minutes of Proceedings 2 Nov-27 June 1911, 27/NCC/2/1, MNA.

Legislative Council (LEGCO), both councils being chaired by the Governor[47]. The new constitution provided opportunities for reconfiguring state power, institutionalising PPD and deepening concertation. Hitherto, PPD had been ad hoc, often initiated by the business community in reaction to government policies. Nonetheless, SBRs were "most friendly" as the Chamber found the Commissioner and his officials "willing to listen to and consider the various proposals submitted to them"[48] despite the fact that questions often arose where state and business interests were at variance, as shown on the labour question.

4.1.6. Institutionalising Public-Private Dialogue – the primacy of the architecture of political institutions

Public-private dialogue (PPD) in the colonial period found its sustenance in the formal political institutional architecture of the state. The constitutional framework laid down in the *Nyasaland Order in Council of 1907* provided opportunities for the development of the institutional mechanisms for PPD that formalised and deepened concertation. It also sustained the Chamber as a peak business association and for many years as a legitimate political representative of the European settlers despite the diversity of interests and the frequent lack of harmony between them. By negotiating the details for operationalising some constitutional principles, the Chamber was able to sufficiently tilt the rules for selecting 'unofficial' members of the Legislative Council (LEGCO) in its favour. Thus, from 1908 until 1956, the LEGCO had seats for the business community, and the Chamber developed an elaborate procedure for the selection of representatives. This section traces the evolution of this institutional framework and shows that the process was defined by elite politics.

The LEGCO as a forum for government-business dialogue

Unlike the 1889 African Order in Council, which concentrated all government decision-making power in the commissioner, the 1907 Nyasaland Order in Council dispersed the power between an EXCO and a

[47] Nyasaland Order in Council, 1907, MNA. For reasons for this form of a Constitution, see Hailey (1956: 261).
[48] Mr Beaton, Chamber President, Annual General Meeting, CAT, 10 October 1903, p.10.

LEGCO with the latter acquiring the power to make ordinances and to exercise all powers that had previously been exercised by the commissioner. The LEGCO was to consist of the Governor and persons that would be appointed by the British government on recommendation of the Governor[49]. It has been argued that the introduction of the LEGCO did not reduce the power of the Governor as he had "final word on all governmental matters [and] had complete control over the legislature since its members were practically hand-picked by him" (Kadzamira, 1971:83). However, this view is largely a logical derivative from the law and is not entirely supported by empirical data on how elites engaged with the legal framework. In fact, the provision of a LEGCO attenuated the powers of the Governor and was the most important single rule that enabled the formal institutionalisation of concertation. Because of the provision, the Chamber, and later the Nyasaland Convention of Associations (see below), practically became something of an 'electoral college' for the nomination of members to LEGCO, where some unofficial members were designated as representatives of agricultural and commercial interests.

As early as 17 December 1907, the Chamber asked the Governor, in order to secure adequate representation of commercial and other interests in the LEGCO, that agriculture be represented by a member who was solely engaged in the industry[50]. On 6th May 1908, the Chamber urged the Governor to take due notice of its resolution on representation of agricultural interests. The Governor, however, argued that granting the request would amount to unlawful delegation of authority, and he unilaterally appointed three Europeans to the LEGCO, including the president of the Chamber. Upon considering this response, the Chamber passed a motion requesting the Governor to take their wishes into account when making future nominations to the LEGCO[51]. On 1 June 1909, the Chamber resolved to approach the Governor to allow it to nominate one member for LEGCO citing the practice in the Straits Settlements and Ceylon as precedent. The Governor replied that he had no power to allow the chamber

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49 Article 3, Nyasaland Order in Council 1907.
50 Chamber Minutes, 17 December,1908, 27/NCC/2/1, MNA.
51 Chamber minutes 2 June 1908, 27/NCC/2/1, MNA.

that right[52]. In August 1909 the Chamber petitioned the Secretary of State for Colonies (SSC) and requested the privilege of nominating one or more members for the LEGCO[53]. In January 1910, the SSC indicated that he "did not see his way to alter the present mode of nominations"[54]. The contestation went on until 1922. In the meantime, on the request of the Governor, the Chamber continued to suggest (and gave in alphabetical order) twice the number of names as there were vacant unofficial seats on the council[55]. The Governor would then choose from the list and recommend that they be appointed by the King. In 1921, the Chamber observed that the Governor had repeatedly refused it the right to make nominations to the LEGCO. Dissatisfaction with the ineffectiveness of the unofficial representatives on export and income taxes "made it necessary for some definite action to be taken"[56]. It was then proposed that "no member of the chamber or of the affiliated associations should accept appointment to LEGCO on the nomination of ...the Governor"[57]. The Chamber resolved, however, to allow the government to reconsider its position and called for at least consultation "as to whom we wish to represent the public on the Council"[58]. They further warned that if this right was refused, they would press further by asking their members to reject nominations from the Governor, adding that if "the latter step is necessary, it will not be taken with the idea of disassociating ourselves from cooperation, but with the object of getting into closer touch with Government"[59].

Rejecting nominations to the LEGCO would seriously jeopardise the legitimacy of the government. Thus, in February 1922, the government indicated that although the decision of the SCC precluded the Governor from accepting nominations, the Governor was "prepared to give the fullest consideration to

52 Chamber minutes, 1 June 1909, 30 June 1909, 27/NCC/2/1 MNA.
53 The Foreign Office was responsible for Nyasaland until 1904, when the responsibility was transferred to the Colonial Office.
54 Chamber minutes, 28 July 1909, 25 August 1909, 27 January 1910, MNA.
55 Chief Secretary to Governor Hall, 28 March 1940, S1/625II/19 folio 234, MNA.
56 Chamber minutes,1921, 27/NCC/2/3, MNA.
57 Ibid.
58 Ibid.
59 Ibid.

any suggestions the Chamber may desire"[60]. However, conflicts of interest between agriculture and commerce within the chamber intensified. In 1925, the Cholo (Thyolo) and the South Nyasa Planters Associations withdrew from the Chamber, revived the NPA and asked the government to recognise the NPA and grant it access[61]. Membership of the NPA was confined to planters or farmers "resident and personally engaged in agriculture on an estate or farm"[62]. While its general aim was to further and protect the interests of agriculture generally, the association's specific interests revolved around cooperative production and marketing of farm products; the organisation, supply and conditions of labour; and ventilation on legislation directly concerned with agriculture[63]. Although the government had indicated that it would give due consideration to the opinions of the association[64], it refused to accord the association full recognition because it was "considered desirable... to look to one body as representing...the views of the planting community and that the Chamber... has hitherto been regarded as an institution with which government should communicate in such matters"[65]. The government was weary of a pluralised institutional environment for public-private dialogue but nonetheless undertook to furnish the NPA with copies of communications on agricultural matters that it would address to the Chamber. The government further suggested that, alternatively, the Chamber and the NPA should constitute a standing joint committee that would authoritatively interact with the government[66].

Virtually at the same time as the formation of the NPA, the Chamber was further weakened by the formation of the Nyasaland Merchants Association (NMA) from within its ranks to protect European trading interests. The primary objective was to manage what they perceived to be unfair trading practices perpetrated by the Indian community. The association laid down terms of credit for the

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60 Chamber Minutes, 28th February 1922, 27/NCC/2/3, MNA.
61 Cholo Planters Association to Chief Secretary, 18 February, 1925, File No.441/25, MNA.
62 Article 3, NPA Constitution, NPA/441/25, MNA.
63 Article 2, NPA Constitution, op.cit.
64 Chief Secretary to Cholo Planters Association 25 February and 22 October 1925, File No.441/25,MNA.
65 Acting Chief Secretary to NPA, 25 June 1926, MNA 441/25.
66 Ibid.

wholesale and retail businesses and provided credit reference services to its members. It was suggested, as a containment strategy, to make the NMA a subcommittee of the Chamber. This was initially rejected by the traders on the grounds that the NMA was interested in trade only, while the Chamber was interested in a broader pan-business agenda[67]. In 1926, the government strongly criticised the formation of separate business associations, arguing that it was impossible to ascertain with confidence the real wishes or opinions of the non-official community and that doing so with many public bodies would be a time-consuming process[68]. The NPA, however, felt that the government was reneging on its promise to place it on an equal footing with the Chamber and that it was being relegated to a secondary position[69]. Thus, rather than being subordinated to the Chamber, the NPA preferred the formation of a joint standing committee in which the Chamber would be an equal partner. The joint committee resolved to form a central body modelled on the Kenyan Convention of Associations. The NPA approved the resolution, but the Chamber insisted on further negotiations, which lasted another two years. In 1928, the Governor summoned representatives of all unofficial bodies to a meeting, at which he expressed his earnest hope "that an organisation would be formed with a central executive which would possess the goodwill of the entire European community and ... speak with authority and confidence on matters affecting common interests"[70]. The outcome of the meeting was the formation of the Nyasaland Convention of Associations (NCA). Upon the formation of the NCA, the NPA dissolved, and the NMA rejoined the Chamber.

The NCA became a premier political organisation and subsumed business associations. Commercial interests other than transport were represented by the Chamber, and agriculture was represented by

[67] Historical Note in Historical Manuscripts, Acc. No.30, MNA. Note that the only archival file for the NMA, containing records from January 1925-February 1928 , File No. 30/NMA/1 has been missing since 2003.
[68] Chief Secretary to NPA, 4th August 1926, Nyasaland Times, 20th July 1926.
[69] NPA to Chief Secretary 17 August 1926, MNA 441/125/1.
[70] 'Nyasaland Associations: Are they of Any Value? Nyasaland Times, 10 January 1933,MNA.

various district Settlers and Planters Associations[71]. Transport interests were represented by the Nyasaland Motor Transport Association (NMTA). In addition to these, there were other associations affiliated to the NCA whose objectives were confined to specific purposes and who did not take part in the general politics of the organisation. These included the Nyasaland Tobacco Association (NTA), Nyasaland Tea Research Association (NTRA) and the Nyasaland Tobacco Exporters Association (NTEA), all of which were formed at the initiative or encouragement of the government. Planting and commercial interests continued to have direct representation in the LEGCO. Following the formation of the NCA, concertation deepened as the business community was able to present a unified front. For instance, between 1928 and 1932, from a random selection of 50 questions of importance on which business associations submitted written opinions to the government, the government's final decision was either wholly, mainly or partly in accord with that of business in thirty-eight cases. In eight cases, final decisions were pending and only in four cases were the government's final decisions contrary and adverse to the inputs and interests of the business community[72].

The business community had considerable policy voice and the government often openly appreciated "the straightforward advice...even though it was not always possible to accept it"[73]. By 1939, Governor Kennedy had observed that the interests of Europeans were not directly represented in EXCO, where the views of officials went unchallenged and often took precedence over the unofficial views represented in letters or other documents. He proposed the appointment of unofficial members to EXCO in an advisory capacity[74]. Although the SSC found it unnecessary to alter the composition of the EXCO, he approved the proposal[75] so that from 1939 business had direct representation in the EXCO, albeit without voting powers, but had voting rights in the LEGCO. However, SBRs soured in the 1940s. This

[71] These included Cholo Settlers, Ntcheu Settlers, Dedza Settlers, Mlanje Planters, South Nyasa Planters and Zomba Planters.
[72] Nyasaland Associations: Are they of Any Value? Nyasaland Times, 10 January 1933, MNA.
[73] Acting Governor Hall to William Bowie, 20 April 1934, S1/625II19 folio 20.
[74] Governor Kennedy to SSC, 26 July 1939, S1/625II/19 Folio 188, MNA.
[75] SSC telegram No.217, S1/625II/19, MNA.

was mainly because of a cumulative effect of the numerical advantage that government had in the LEGCO. There were more official than unofficial members and they often out-voted the unofficial members on questions where the government and the business community had divergent views. This mechanism had been used previously to subdue the representations of the business community on the following issues:

- Decision to grant the British Cotton Growing Association (BCGA) a monopoly to purchase cotton grown by Africans in 1923[76].
- Continuation, after the war had ended, of taxation measures that had been meant to raise revenue for the First World War[77].
- Introduction of a Native Tobacco Board in 1926[78]
- Introduction of a Trade Union Law in 1934[79].

In 1944, the unofficial vote in the LEGCO was once again swamped by the official vote on tax measures. It was observed that "year after year...the unofficial members suffered defeat... with such nonchalance and light heartedness" that the Chamber was inclined to regard them as "semi-official government agents used as a buffer between the Colonial Office and the British Community in Nyasaland"[80]. It was then resolved that unofficial members should withdraw from the LEGCO "until such time as the Chamber [was] satisfied that British subjects...have such representation...as [would] safeguard their interests adequately"[81]. However, the unofficial members refused to comply with this resolution because they had been nominated to the LEGCO by the NCA, not the Chamber[82]. The Acting Governor felt that the Chamber's resolutions were not "the general opinion of responsible Europeans..."

76 Chamber Minutes, 27 February 1923, MNA 27/NCC/2/4.
77 Chamber to SSC, 22 January 1921, MNA 27/NCC/2/4.
78 LEGCO Minutes, 8 February 1926, PRO CO626/21.
79 LEGCO Minutes,4-6 June 1932, PRO CO 626/21.
80 Chamber Minutes, 9 May, 1944, MNA.
81 Ibid.
82 Chamber Minutes, 13 June 1944, MNA 27/NCC/2/19.

and that “this small Chamber committee” could not speak for all European settlers, who totalled 1,800[83]. The Governor later claimed that the Chamber’s president had discredited the meeting as having been attended by certain members who rarely attended the Chamber’s meetings and that “the President himself opposed the resolution”[84]. At a subsequent general meeting of the NCA, Chamber delegates felt that they were treated like naughty school children and that the attitude of the NCA chairman towards the chamber was that of a schoolmaster[85]. In 1945, the Chamber withdrew from the NCA and asked the government to reserve a seat for commerce in the LEGCO, but this was not to be.

4.1.7. Inclusive politics and the weakening of particularistic concertation

The spectre of nationalism began to gather momentum in 1944 with the formation of the Nyasaland African Congress (NAC). This was coupled with the demand for popular electoral representation of the European community by the NCA. Consequently, constitutional changes between 1945-46 reconfigured the LEGCO, and in 1949, five elected Europeans, three Africans nominated by an African Protectorate Council, and one Indian from the Indian Chamber of Commerce (ICC) comprised the unofficial members of the LEGCO. Thus, LEGCO seats were no longer identified by the social or economic interests of the European community but by colour. These changes remained in place until 1956 – three years into the Central African Federation (CAF) – when further constitutional changes saw the withdrawal of the Indian seat and an increase in African seats, which were filled by indirect elections (Kadzamira, 1971:84-85). The reconfiguration of the LEGCO weakened concertation as it embodied diverse and often antagonistic interests. Thus, in 1951, the Chamber began to consider rejoining the NCA in order “to have one undivided power and avoid being played off by the government”[86]. However, this was overtaken by the introduction of the CAF, which transferred many common services from the protectorate to the Federal Assembly in Salisbury (Kadzamira, 1971; Walker, 1965; Hanna, 1965). Especially important to SBRs

83 Acting Governor to SSC, 12th May 1944, PRO CO 525/195.
84 Governor Richard to SSC, 15 May, 1944, PRO 525/195.
85 Ibid.
86 Chamber Minutes, 27 November 1951, MNA 27/NCC/2/24.

was that such matters as trade, industry, commerce, income tax and customs became federal responsibilities. The Nyasaland LEGCO was left with the responsibility for matters directly concerned with the welfare of the African population (Kadzamira, 1971; Walker, 1965; Hanna, 1965). Consequently, European business interests looked to Salisbury, while the Nyasaland Government began to respond to demands to boost African commerce. In 1954, the Chamber became a member of the Federal Council of Industry (FCI) and the Associated Chambers of Commerce of Rhodesia and Nyasaland (ACCORN)[87]. The NCA became a 'Nyasaland Forum' where European opinion on any issues could be expressed[88].

Thus, political changes from the 1940s through to the late 50s, especially the introduction of the federation and the increase in the number of Africans in the LEGCO and later in the EXCO, undermined the institutions that had undergirded colonial SBRs between 1907 and the late 1950s. As will be seen later in the chapter, the early 1960s witnessed political processes that virtually wiped out the concertation in SBRs and laid down the foundations of yet another pattern that characterised the post-colonial era (see chapter 5).

Having traced the institutional evolution of particularistic concertation, I turn, in the following section to an overview of the dynamics of this pattern of SBRs.

4.2. Europeandom: dynamics of particularistic concertation

Colonialism meant ensuring the political and economic dominance of whites over any other subjugated races. In this project, the colonial state allied with European private capital in some respects but did not always respond positively to business demands. Whenever it had its own interests to pursue, it often steered its policy proposals and legislation through the opposition in the Chamber, unofficial members of the LEGCO or any big corporation. This autonomy of the colonial government accounted in part for the sustainment of concertation while preventing government capture by narrow business interests.

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87 Chamber Minutes,30 November and 14 December 1954, MNA 27/NCC/2/25.

88 Secretary of NCA to Affiliated Associations,17 December,1954, MNA 27/NCC/2/25.

Consequently, what passed as policy on many economic matters depended on the distribution and exercise of power of either the state or the business community. This section highlights the dynamics of the pattern of SBRs that ensued.

4.2.1. Exclusion of non-Europeans from public-private dialogue

Colonial state-society relations were shaped by a racial thinking that categorised society into a hierarchy of European, Indian and African. The private sector also developed along racial lines, and business associations became advocates of political agendas besides economic concerns. This stratification of society reflected Johnston's vision of Central Africa as a region to be "ruled by Whites, developed by Indians and worked by blacks"[89]. Consequently, formal SBRs were particularistic as only European business associations had preferential access to the government. Indians were excluded because "the class of Indians in Nyasaland was not such as to justify their being treated on the same lines as Europeans..."[90] Their inputs to government policies were reactive and only in writing[91]. Africans were excluded because "[their] understanding was too immature to justify...extending to [them] the same full freedom...enjoyed by the settlers"[92]. The government took it upon itself to be the custodian of African interests[93]. Nonetheless, the BNA – a group of elite Africans – occasionally voiced African commercial concerns to the government but only in writing[94]. The European business community often used their access to the government to carve out narrow benefits, sometimes by turning the government into an ally to subjugate the Indian and African communities. It is therefore not surprising that one independent African of the time described this configuration of political and economic power as a 'Europeandom' in

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89 Johnston to Foreign Office, PRO FO Confidential, item 6337, No.145.

90 EXCO Minutes, 8 December 1908, PRO CO 626/6; Governor Manning to Colonial Office, 13 April 1912, PRO 525/42. Restrictive rules on Indian immigration to South Africa and Rhodesia from 1904 onwards saw less-educated and unskilled Indians coming to Nyasaland. See Power,1993:580; Dotson and Dotson, 1968:33.

91 For example, "Objections by the Indian Chamber of Commerce on behalf of all Indian Traders to the Proposed Amendment of the Licensing Ordinance", 2 September, 1938, MNA S1/1343II/30.

92 LEGCO Minutes, 12-18 November 1910.

93 In LEGCO, representation of African interests was shared between the missionary representative and Official members; on boards and commissions even those directly concerned with African questions, Africans were represented by government bureaucrats.

94 BNA Minutes, 5 February 1927, MNA S1/1343/30; BNA petition to Governor, 26 November 1930, MNA S1/1343/30.

which the European missionaries, government and companies were altogether “too cheaty, too thefty, too mockery [of Africans and Indians]”[95]. However, while the European business sector had both policy voice and policy spaces, the government was relatively autonomous, sometimes in defence of the Indian and African communities and at other times for the sake of its own interests.

4.2.2. Business as a reliable policy partner

Recent literature on SBRs in developing countries portrays the state as an unwilling partner that has to be coaxed by the business community[96]. However, in this early phase, the Nyasaland government was enthusiastic about a policy partnership with the European business community. In 1908, the Governor described the appointment of the unofficial members to LEGCO as “the most important step” for policy making that would enable the Governor to consult “members with such large experience of local trading and planting industries and with so ample a knowledge of [Africans] and [African] questions...”[97] So reliable were business representatives in providing policy and legislative advice that by 1940, government co-opted them into the EXCO too. Records of proceedings in LEGCO, EXCO, Chamber and NCA meetings and correspondence among business associations, firms, the Colonial Office and the Nyasaland government show that concertation took the following forms:

- ***Government referral of policy questions to business associations:*** The government often solicited inputs from the private sector on all sorts of policy questions. In addition to written submissions that were considered by the EXCO, there were often face-to- face consultations between government and deputations of business associations[98].
- ***Unsolicited inputs including legislative petitions:*** Business associations were always eager to express themselves on matters affecting their members even when the government did not

[95] Charles Domingo, cited in Shepperson and Price (1956:163); also cited in Davidson (1964:137).
[96] For example, Taylor (2007), Pinaud (2008), Maxfield and Scheneider (1997) and numerous country cases available at www.publicprivatedialogue.org
[97] LEGCO Minutes, 7 May 1908, PRO CO 626/6.
[98] Examples include: renewal of the monopoly granted to the British Cotton Growing Association (BCGA) to purchase cotton grown by Africans, and the introduction of an auction system for disposing of tobacco (Nyasaland Times, Monday August 2, 1937).

ask for their inputs. Such inputs included petitions that were considered by the LEGCO and EXCO or sent to the SSC on appeal[99].

- ***Shared membership on commissions and boards:*** Chapter 18 of the Laws of Nyasaland provided for the formation of commissions on different matters as deemed fit by the Governor. This facility was used to deepen collaboration between the government and the business community on policy issues. A practice evolved in which members of the business community, often nominated by their associations, were appointed to commissions whose recommendations often entailed new policy[100]. Similarly, there were advisory boards for many policy areas, and the business associations were often invited to nominate their representatives to those boards[101].
- ***Private sector initiation of policy and legislation:*** The 1907 Constitutional Order in Council stipulated that ordinances were to be enacted by the Governor with the advice and consent of the LEGCO. In practice, however, and especially on legislation that had potential to transgress European commercial and agricultural interests, the business associations went beyond the provision of advice to the introduction of legislation through unofficial members of the LEGCO[102], sometimes at the invitation of the government as was the case with the amendment of the Trade Licensing Ordinance[103] and the Tobacco Marketing Bill, which took two years of negotiation[104].

4.2.3. The government as regulator and particularistic ally of European capital

Some scholarship on political economy (for example, Lindblom (1977), Evans (1995), Chang (1999 and 2007)) has suggested that the roles that the state plays in the economy help shape the patterns of SBRs. While all governments play roles in the economy, the key factor affecting the form of SBRs is the

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99 Examples include: petitions and memoranda on nomination of members to LEGCO, op.cit; exportation of African labour, op.cit and restrictions on the granting of trading licences (Power, 1993:597).

100 Examples: Land Commission in 1920, Inquiry on Natives on Private Estates, Inquiry into the Revenue and Expenditure of the Protectorate 1922, Inquiry into the Chilembwe Uprising, 1915 (Terms of reference for this commission were set by the Chamber and agreed to by Government (EXCO Minutes, 15 October, 1919, PRO CO 626/6)).

101 Examples: Boards on Communications, Motor Vehicle Licensing, Agricultural policy, Education, Labour, and Native Tobacco.

102 Examples include: Tea Ordinance No.31 of 1934 (LEGCO Minutes, 20 October 1934, PRO); Flue-Cured Tobacco Ordinance No.10 of 1936 (LEGCO Minutes, 21 April 1935, PRO); Tung Ordinance No.11 of 1946 (LEGCO Minutes 19 February 1946, PRO).

103 When the government requested suggestions for amending the Ordinance, the Chamber submitted a draft proposal in 1931 that the government found to be unduly biased in favour of European trading interests and intended to legislate away competition from Indian traders. The draft was rebutted article by article by the Attorney General. A new bill drafted by the government was introduced and passed in the LEGCO in 1932 (Power, 1993).

104 The bill was drafted by the tobacco association in 1936 and adopted by the government. Consultations and negotiations on the bill with the Chamber and the Tobacco Association substantially changed the government version of the bill. The government disowned it but advised on its introduction in the LEGCO as a private member's bill (EXCO Minutes, 20 February 1936 – 29 October, 1937, PRO).

extent to which government takes on the roles that are conventionally deemed to be for the private sector and the extent to which the organised private sector takes on the roles that are conventionally expected to be performed by the government. The role of the colonial government in the economy was mostly regulatory[105]. In performing this role, the government often behaved as an ally to the European commercial interests, as the following three cases illustrate.

Firstly, labour and tax regulations were conflated to provide government with revenue while providing conditions under which European enterprises could maximise the use of cheap African labour. Under the 1894 tax rules, the government and the European business community worked out a mutually beneficial arrangement in which African tax offenders were handed over to the European planters and company managers to work for a specified period, and the European would pay the required amount of tax to the government. In 1901, the Chamber asked the government to help raise the supply of labour by increasing the tax payable by Africans who did not work for Europeans for at least one month a year or introduce a 50 per cent tax rebate if the African worked for a European for at least one month a year. The government obliged, and in 1903, the Chamber successfully negotiated for the rebate to increase to 100 per cent (Ng'ong'ola, 1986; Pachai, 1973).

Secondly, although the colonial government was conscious of the rights of Africans to land, the best arable lands were alienated by concession to settlers, especially large companies. Hailey (1942:1) observed that 70 per cent of these parcels of land was in the hands of 11 large estate holders. Under labour tenancies called *thangata*, Africans resident on these alienated lands were reduced to a servile status[106]. Furthermore, laws and regulations on production and marketing of cash crops favoured

[105] The government sometimes took active roles in the economy. For example, it provided European tobacco farmers with loans until 1931(Governor Thomas to SSC, 13 August 1931 PRO CO525/140/3); it financed the formation and operations of the Nyasaland Tobacco Association (Governor Green to SSC, 17 July 1931 PRO CO525/140; Nyasaland Times 31 March and 3 April 1931); upon the demand of the Chamber, it took up shares in the Shire Highlands Railway Company (Ross to Chief Secretary, 3 November 1926 PRO CO525/115/3); and in the 1950s, it established the Agricultural Produce Marketing Board (APMB), which began to invest directly in the economy (Ng'ong'ola,1986).

[106] On 'thangata' see Kandawire (1977), Newbury (1980) and Khrishnamurthy (1964).

Europeans. Africans were prohibited from growing premier cash crops such as coffee, tea and flue-cured tobacco. This exclusion aimed to avoid creating African competitors and to ensure the availability of labour supplies for European plantations. This tack of particularism was best expressed by Commissioner Johnston when he observed that "from time to time a planter [rose] to object to the [Africans] being allowed to plant coffee, in case they should come into competition with him or [urged] the administration to use its power despotically to compel a black man to work for wages whether he will or not" (Johnston, 1897:183). For the cash crops that Africans were allowed, mostly dark-fired tobacco and cotton, producer prices were suppressed (Ng'ong'ola, 1986; Nyasaland Protectorate, 1909). In 1911, a law was introduced whereby an African could pay a lower rate of tax if he sold certain cash crops to a European who then resold at a higher price (Pachai, 1973:114). In short, agrarian regulations and policies furthered agricultural and commercial interests of settlers at the expense of Africans, who had limited access to means of economic production and were effectively regarded as a rural peasantry.

Thirdly, regulations governing commerce and trading were less particularistic in favour of Europeans than in other areas of economic activity. This was because this sector of business was dominated by Indians, who were able to coalesce into the NITA and later the NICC and effectively counterpoised particularistic proposals from NMA and the Chamber[107]. However, one particularistic regulation that affected SBRs in the post-colonial era (see chapter 5) was enacted in 1914. It prohibited Indians and Africans from acquiring property and pursuing trade in the Blantyre Townships except in areas that were designated as Asian or Native wards[108]. This regulation was a sequel to one of 1913 in which the EXCO approved the principle that it was "highly undesirable that Indians should be permitted to reside in the vicinity of European areas"[109]**.** Consequently, Indians spread to rural areas so that by 1961, 50 per cent of Indians were living outside the main towns of Blantyre, Zomba and Lilongwe (Power, 1993:581). Their

[107] See Power (1993) for an overview of the Anglo-Indian trade rivalries in Nyasaland.
[108] EXCO Minutes, 4 December 1913; 9 March 1914, PRO CO 626/6.
[109] EXCO Minutes, 16 September 1913, PRO CO 626/6.

trading activities also increased significantly, as shown by increases in the number of licences given to new entrants and the number of additional licences given to established traders who were opening up more branches of their businesses. For instance between 1911 and 1928, the distribution of retail licences was as depicted in Table 4.2 below.

Table 4.2.: Distribution of retail licences between Europeans and Indians, 1911 and 1928[110].

Year	Race	Licences for new entrants	Additional licences to established firms
1911	Europeans	29	38
	Indians	40	117
1928	Europeans	45	154
	Indians	172	446

Source: Power (1993: 589).

Despite their close relationship, the government was able to resist some demands from the European business community. For example, when the Chamber pushed for the abrogation of the WNLA scheme in 1903 in order to keep African labour within the protectorate for plantations and railway construction, the Governor refused and advised the local employers to provide fair wages and humane working conditions to Africans. In 1923, the government went ahead with granting the British Cotton Growing Association (BCGA) a monopoly to purchase cotton grown by Africans amid opposition from the Chamber and unofficial members of the LEGCO[111]. In both cases, the government had revenue interests[112]. Similarly, when the NMA proposed stringent measures on credit transactions, trading activities and bankruptcy laws - all aimed at disadvantaging Indian traders - the government did not oblige[113]. In short, government went along with business policy proposals only to the extent that the

110 Note that under the 1910 Licensing Ordinance Africans did not need a licence to trade.

111 Disposal of Native Cotton Crop – Agreement with BCGA, PRO CO 525/120/9; LEGCO Minutes, 16-17 April,1923 PRO CO626/6.

112 According to Pachai (1973:122) WNLA paid the 6d tax to the government for each labourer and recovered it from wages. Further, WNLA was paying African labour a higher wage of £2, 5s 0d per month while local employers were paying 3s 6d per month. Following the Governor's response local wages for African labour rose to 7s per month. With regard to BCGA government was entitled to 50 per cent of the profits from the sale of cotton.

113 Petition from European Wholesale Importers against Banyan Trading, LEGCO Minutes, 4-6 May, 1909, PRO CO 626/6.

proposals yielded political and financial benefits or, at the very least, did not present a significant political or economic cost to it.

4.2.4. Big business and the state – on the margins of collusion?

Besides the pattern of concertation described above, there were closer relations between the government and some big corporations. Two important features of these relations were that they were largely informal and were tripartite owing to the division of governmental power between the Colonial Office in London and the Nyasaland government in Zomba. SBRs at firm level appear to have been influenced by the potential or real stakes of the companies in the protectorate and hence their political and economic significance to the government. Although the official records suggest that these relations were developmentally synergistic, there is room to suspect some collusion. For present purposes, only two examples are given, covering relations with the BSAC on land and mineral rights and with the Zambezi Mining Development Company (ZMDC) on the rights to prospect for coal[114]. These two examples are chosen only to show the features of informal SBRs and how the deconcentration of governmental power could sometimes safeguard the autonomy of the state and prevent capture by business interests. The latter point is particularly important as there is quite a considerable amount of literature that advocates centralisation of governmental decision-making power for effective SBRs.

Relations with the BSAC

The BSAC enjoyed a special relationship with the colonial state partly because of its role as benefactor in the formation of the Nyasaland Protectorate. However, after the financing arrangement was severed, the relationship continued but evolved from the one of near state capture that had characterised Johnston's period to an narrower kind of particularistic concertation in which the BSAC interfaced with

114 There are indications of similar state-firm relations with British Central Africa on railways (Vail, 1975); Blantyre Supply Company on labour (Chirwa, 1993).

the Colonial Office mainly on land and mineral rights. The following case illustrates the general pattern of this relationship.

In the 1930s, the Colonial Office referred a draft bill of the Nyasaland Mining Ordinance to the BSAC for consideration and comments. The company made detailed proposals regarding their 2,730,000 acres in Nyasaland and suggested amendments to the Ordinance, including a particularistic application of the law where government could apply the mining law to the company's land "by agreement"[115]. The company further proposed that the "government should receive all purely administrative payments made under the law but other revenue, including royalties, should be divided equally between government and the company"[116]. The Colonial Office considered these proposals to be fair but advised that they could not act until they heard from the Nyasaland government. The company drafted a complete chapter of the Mining Ordinance so as to regulate all matters of land and mining rights on its land and asked the Colonial Office to adopt it. After a series of consultations, referrals and amendments[117], the Deputy Governor of Nyasaland observed "... that the company has made some effort to adopt our suggestion that [its] special mining chapter should be cut down so far as the provision therein may be said to be of general application,....they are now prepared to agree that the general Mining Ordinance should apply to the company's areas [with a few exceptions]"[118]. On 3rd September, 1935, the Colonial Office forwarded to the BSAC the Nyasaland Protectorate (Native Trust Land) Order in Council and the revised Mining Ordinance with an informal note that said: "Provided Nyasaland agree, we are proposing to enact the order in council as soon as may be conveniently possible, in the meantime perhaps you will be so good as to look through the draft bill and let us know

115 From secretary of BSAC to SSC, PRO CO 525/120/10.

116 Ibid.

117 The depth of concertation is reflected in 'Notes of a discussion on the Mining Legislation of Nyasaland held in the Colonial Office Conference Room on Thursday, 21st of June 1935 at 3:30pm' and in the 'Notes of a discussion with Representatives of the British South Africa Company regarding the Mining law of Nyasaland held on 25th June 1935 in Mr Calder's Room at 3:30pm' **PRO CO 525/120/10** PRO CO 525/152/13 Folio No.16.

118 A confidential despatch from Governor of Nyasaland, 11th December 1935, PRO CO 525/159/3, folio no.4.

whether you have any further comments. If you now think that it, and the Mineral Rights Order in Council are satisfactory, we will write officially to the company and soon, I hope, bring these somewhat long outstanding matters to a satisfactory conclusion"[119] .

This example suggests that relations between government and 'big business' tended to be informal. Companies appeared to wield too much power over the state in pushing through their particularistic proposals. It is clear from the informal correspondence that decisions were strenuously negotiated, which reflects the existence of a technical capacity to negotiate the relevant issues in both the government and the companies. It is further clear that division of governmental authority between the Colonial Office and the Nyasaland government was critical to the preservation of state autonomy, otherwise it is probable that if power were centralised, the company would have been able to somewhat easily push through its narrow agendas.

Relations with ZMDC

When Sir Alfred Sharpe retired as Governor of Nyasaland, he became the managing director of ZMDC, which was based in Mozambique. In October 1923, relying on his status and informal connections within the colonial administration, he wrote to the Colonial Office asking them to confirm "whether coal had been discovered in Nyasaland" and whether "the Colonial Office and the Nyasaland Government were willing to negotiate with the ZMDC" on the development and exploitation of the coalfields. He was simply advised to follow the Nyasaland Mining Ordinance of 1906[120]. In the meantime, another corporation based in Nyasaland, the British Central Africa Company (BCAC), applied for rights in the coalfields on a royalty basis, and the Nyasaland government "had reason to believe that the BCAC was very anxious to obtain the rights"[121].

[119] From Calder (Colonial Office) to Hutchinson (BSAC), enclosure in PRO CO 525/151.
[120] Applications for Prospecting and Working Rights for Nyasaland Coalfields, PRO CO525/115/4.
[121] Despatch of 8/01/1924 from Governor of Nyasaland to SSC, PRO CO 525/115/4.

In January 1924, Sir Alfred Sharpe visited Nyasaland to discuss the matter with the Governor. In 1926, he met Sir C. Strachey at the Colonial Office to discuss the possibility of a joint application between the BCAC and ZMDC. On 29th March 1926, Sir Sharpe wrote a letter to the Governor of Nyasaland that indicates what kind of state-firm relations existed. Reference was made to "my interview with you at Zomba in April 1924" and "unofficial correspondence which has taken place between yourself and myself". He went on to say that he had "heard a rumour that a British syndicate has applied, or has the intention of applying for the concession for the investigation and eventually development of the Nyasaland Coalfield. If there should be any truth in this report...., if a concession is given, it should be to us [i.e. ZMDC and BCAC]"[122] . In concluding his letter, Sir Alfred Sharpe exerted pressure on the Governor to decide in favour of ZMDC by suggesting that he had already cleared the deal with the SSC when he wrote the following: "I am addressing your Excellency direct on this matter in accordance with the instructions given by the Colonial Office in their letter to me of the 19th November, 1923". Although there is no evidence of corrupt exchanges, the informality of the relations reflected in the language provides room to suspect that collusive relations existed in which private companies appeared to exercise an inordinate amount of power and influence on both the Nyasaland government and the Colonial Office. In the case of ZMDC, this pattern of relations can be explained by Alfred Sharpe's role from being a respected colonial officer and later to a director of a private company with interests in his former protectorate. This case shows that the dispersion of power between the Colonial Office and the Nyasaland government, each with its own elaborate processes of decision making, was critical for the preservation of the autonomy of the state from powerful capitalist interests.

[122] From Sharpe to Governor Bowring of Nyasaland, enclosed in Despatch of 8/01/1924 from Governor Nyasaland to Colonial Secretary, PRO CO 525/115/4).

4.3. Institutional change in SBRs, 1955 to 1963 – the primacy of the reconfiguration of political power

The nationalist political process, especially from the 1940s, and the introduction of the Central African Federation (CAF) in 1953 opened up political and economic spaces for Africans and began to affect the configuration of power in SBRs. The introduction of the CAF diminished the policy-making importance of the protectorate government on commercial and industrial matters, which were lost to the federal government. Thus, the European commercial and agricultural interests repositioned themselves to interface with the federal government. Secondly, reforms in political representation further weakened the position of the business community. Of particular importance was the introduction of direct popular elections of European LEGCO representatives, which reduced the political relevance of business associations since they lost the status of being electoral colleges, and government looked elsewhere for its legitimacy. Furthermore, the withdrawal of European concerns from wholesale and retail trade, especially between 1948 and 1958, further weakened the political and economic importance of the Chamber[123]. The inclusion of Africans and Indians in the LEGCO meant that it was no longer a forum for sanctioning European particularism in the economy. The five Africans that joined the LEGCO in 1956 "took upon themselves the role of a fully fledged opposition and immediately began to harass the government with hostile questions, criticism and denunciation of federal arrangements" (Pike, 1968:138). Thus, both agency and structural elements that had consolidated particularistic concertation began to weaken.

Besides weakening SBR institutions, the CAF further "created a hot-house in which African nationalist aspirations flourished" (Pike, 1968:122). In 1960, a new constitution sanctioned the imperial policy of cooperation with African nationalists, abandoned the identification of LEGCO seats as 'African' and 'non-African' and provided for a LEGCO with 28 elected unofficial representatives, three ex-officios and

[123] An economic survey conducted in 1958-59 found that European withdrawal was because of two reasons: intense competition from Indian traders and unreliable and costly employment of African storekeepers (Nyasaland Protectorate, 1960: 45). On the growth of the Indian trading community, see Power (1993).

two nominated members of the EXCO (Pike, 1968; Kadzamira, 1973; Pachai, 1973). Essentially, the constitutional changes resuscitated and reaffirmed the principle of 'colonial trusteeship', which espoused that political power would eventually be devolved to the indigenous peoples of colonised territories when they were politically ready to take over and that where conflict occurred between settler and native interests, the latter would prevail[124].

The electoral results of 1961 augmented the power of nationalists in the LEGCO and EXCO and significantly changed the political landscape of the country. Of the 28 seats in the LEGCO, the nationalist party, the Malawi Congress Party (MCP), won 25 (Mair, 1962). A ministerial system of government was introduced, and between 1961 and 1962, the number of MCP ministers in an EXCO of 10 increased from five to seven[125]. This reconfiguration of political power resulted in African nationalists displacing white colonists in the LEGCO and EXCO and provided an opportunity to pursue African political objectives. In fact, the period between 1961 and the attainment of political independence in 1964 was a period of transition in which political processes remoulded the patterns of state-society relations and policy-making processes. SBRs, having been core components of both aspects, could not escape change. By 1964, a new pattern of SBRs had evolved to such a degree that the attainment of political independence was less, if anything, of a critical juncture in the institutional development of SBRs. Although the period 1961-64 was formally part of the colonial era, the African political elites, led by Kamuzu Banda, were effectively in charge of the government. They wasted no time in using their newly found political power to begin redressing the racially inspired political, social and economic

124 The principle has a long history, but its clearest statements are to be found in Lugard (1926/1966), The Hilton Young Commission Report (1929), and The Passifield Memorandum (1930).

125 One of them, Cameron, was white and an independent member of the LEGCO. The United Federal Party, which represented settler interests, gave up its claim for EXCO seats. See Baker (2001,ch.3) for an appreciation of the negotiations that led to this configuration.

wrongs perpetrated by colonial particularism and to laying a foundation for long-term economic development[126]. The following institutional and policy changes were crucial in restructuring SBRs.

Firstly, policy making became centralised in Kamuzu Banda despite a nominal dispersion of power through the ministerial organisation of government. He became "personally and solely responsible for MCP policy and the policy to be adopted by his ministers in government" (Baker, 2001:39). He is on record to have said, "If they [i.e. ministers and the party] do not like it, they can either lump it or sack me but I have made it quite plain right from the start that I impose my own policy..." (ibid). This was further bolstered by a preference for informal ways of formulating policy. Banda admitted "in writing and verbally that he will do as much business as possible by means of informal discussions... leaving the minimum of essential stuff to formal meetings of the Executive Council"[127]. This pattern of informal, largely private and personalised policy-making increased the influence of Banda, reduced the importance of legitimate state institutions responsible for policy formulation and had a significant effect in shaping SBRs in the post-independence period, as will be seen in the next chapter.

Secondly, Banda and the MCP did not like the fact that commerce and business "was a monopoly for people of other races, Europeans, Asians..."[128], and it was their intention that "Africans should enter commerce ... but our people have no means of entering commerce easily because they have no money, they have no capital to start business and the banks will not easily give them credit"[129]. This diagnosis led to interventions that introduced a pattern of particularism in favour of African businessmen. The earliest change came in October 1961, three months after the election. At an informal meeting in Lilongwe, Banda told African businessmen that he would allow them to enter the transport business and share in the business of the Agricultural Produce Marketing Board (APMB) as transporters. His condition was that the businessmen should come together to form an organisation with which the APMB

126 See Nyasaland Government, Development Plan 1962-65.
127 Governor Jones to SSC Macleod, 4 October 1961, CO 1050 2491 (cited in Baker, 2001:40).
128 Kamuzu Banda, speech to businessmen, 4th September, 1971(MNA).
129 Ibid.

and the government could deal. Consequently, the Malawi Road Transporters Association (MARTA) was formed[130]. On Banda's orders, the APMB apportioned 45 per cent of its transporting business to MARTA in its first year and 60 per cent in the second year. By 1964, the APMB had stopped doing business with European and Indian transporters, and the entire business was given to MARTA[131]. In the same period, Banda ordered a review of the Business Licensing Ordinance and assigned his economic lieutenant, Dunduzu Chisiza, to lead the process[132]. The object was to open up spaces for Africans to enter the commercial life of the country. Similarly, opening up the farming of estate crops that had been exclusive to Europeans, especially tea and flue-cured tobacco, was top on the policy agenda. After the elections, an African delegation was sent to study the smallholders' tea scheme in Kenya. Banda used their report to negotiate with the exclusively white Nyasaland Tea Association "to let our Africans grow their tea near established factories so that they can take their leaf to the factories already built and functioning...our smallholders will be your juniors... and [as such] we expect you to give them encouragement"[133]. The Tea Association began supporting the smallholder scheme from 1962[134]. In 1963, Banda pushed through the Special Crops legislation, which opened up the growing of cash crops to Africans[135].

Thirdly, the paucity of credit for African entrepreneurs and the need to mobilise resources for economic development increased the role of the government in the economy. The APMB, founded in 1952 by combining several crop-specific marketing and regulatory boards, provided the only viable vehicle that could be used to mobilise capital. In 1962, African representatives in the LEGCO pushed the Farmers Marketing Ordinance to reform the APMB and address the grievances of the colonial agricultural

130 Originally established as Nyasaland African Transporters Association, it became MARTA in 1964.
131 Ibid., Interview with Mr Sindo, Mapanga Blantyre, 27 July 2009.
132 Chisiza was a champion of Africanisation, but he died in 1962 in a car accident (See Power,1993; Baker,2001). For the activities of the Licensing committee see 'Working Party on business Licensing' File No. BL 44 Folio 10, MNA.
133 Kamuzu Banda, speech to the Tea Association, 11th February 1967.
134 See Pachai (1973) and Palmer (1985) for the development of the Tea Industry in Malawi.
135 Special Crops Act No.27 of 1963; Government Notices 212 and 213 of 1963.

economy. The APMB became the Famers Marketing Board (FMB), acquired African Board members, with a chairman exercising executive powers, and its activities included participation in business ventures (Ng'ong'ola, 1986:256). By 1964, the government had adopted a policy of creating big state companies to assist any public or private organisation with capital, credit or other resources in the execution of any projects, schemes or enterprises relating to the development or improvement of the economy of the country[136]. At the same time, the government adopted a policy of "surfeiting the executive arm of government with unbounded discretion in the management of the agricultural economy and encouraged the sole crop marketing authority, [the FMB], to participate in business ventures and other developmental activities" (Ng'ong'ola, 1986:256).

It is important to note that these changes were politically inspired and were only possible because of the changes in the institutional configuration of political power. The politics of transition to independence caused institutional changes in the structure and practice of colonial SBRs. By July 1964, when colonial rule formally ended, a path of state hegemony in the economy had been set. In the post-independence period, this factor and the political hegemony of the MCP characterised state-society relations and profoundly shaped SBRs.

Conclusion

The analysis of colonial SBRs generates insights that are of interest to the broader theoretical objectives of the thesis. For institutional theory, these relate to how history and politics matter for the processes of institutional formation, maintenance and change; the role of politics in shaping institutional paths; and how the notion of critical junctures relates to institutional change. With regard to SBR theory, the analysis suggests the primacy of national political architecture in moulding how the business sector organises itself vis-a-vis the state, the primacy of the political and financial significance of the business

136 Kamuzu Banda, speech to businessmen, 4th September, 1971 (MNA).

community to the objectives of the government, and how political processes and patterns of elite configuration shape the dynamics of PPD.

The primacy of politics

The provenance and institutional development of SBRs in colonial Malawi illustrates the primacy of inter-elite politics in shaping the patterns and content of these relations. Colonial SBRs were so at the core of state-society relations that the formation and evolution of SBR institutions was intertwined with the formation and consolidation of state institutions. The conflation of these processes created a scenario in which state and business elites made implicit and explicit political demands on each other in order to further their respective interests. Consequently, the institutional and organisational patterns of SBRs were products of negotiations and bargaining and could be described as evolving and repeated 'political settlements' between government and business elites. For instance, business demands for direct political representation shaped the LEGCO into a forum for SBRs while the demand of the government to deal with one 'public body' in policy dialogue helped to create and sustain a peak business association despite the diversity of interests within the European business community. However, the politics of concertation thrived on the mutual dependence of the parties in order to address their political needs. The state elites needed the support and cooperation of the business community to legitimise the government and its policies. The Governor's speech in the first LEGCO session in 1908 signalled this need, which continued to manifest itself in the different ways through which concertation took place. On the other hand, the business community needed the state to provide civil authority to stave off European competitors for territory and regulate economic relations within the territory. The politics of nominating business representatives to the LEGCO and the asymmetry of voting power in the LEGCO illustrate how elites sought to acquire and preserve political power that they could use in furtherance of their interests.

Economic (Financial) dependence of the state on the business sector

The foregoing narrative of colonial SBRs suggests that the extent to which the government depends on the business sector determines whether the government has political and economic reasons (incentives) to regard the business sector as a policy partner. During Johnston's period, the government relied on an external source of funding and regarded the European commercial and agricultural community with a considerable level of hostility. Neither did Johnston seek to create legitimacy for the state, as he solely relied on the legal powers provided in the 1889 Order in Council. The government was, however, faced with a 'resource imperative' after external funding was withdrawn. This increased government's recognition of the local business community as a source of revenue for the administration. Consequently, the business community was accorded a greater role in economic policy making, and a relationship based on reciprocity developed. For example, the conflation of labour and taxation policies from the early 1900s signifies that the state increasingly relied on the business community to help raise revenue. Thus the analysis provides further evidence for the proposition from fiscal sociology that the social, economic and political evolution of societies is, in part, driven by the ways in which states tackle the challenges of raising revenues and managing spending (Schumpeter, 1918/1991; Campbell, 1993; Moore, 2004). Sources of revenue for the colonial state precluded the rise of synergistic SBRs in Johnston's time and later shaped the depth and breadth of concertation and impacted on the patterns of state formation. It further illustrates that synergistic SBRs are likely to endure when they deliver valuable benefits to the contracting parties, especially the state.

Organisation of the business sector in relation to the state

According to theories of collective action (Olson, 1965; Ostrom, 1990; Axelrod, 1984), the kind of concertation that characterised colonial SBRs is possible only with a highly mobilised business community that can present itself as a united political constituency. Indeed, this was the optimistic intention expressed in the 1890s by planters and commercialists when they founded the Chamber of Commerce and Agriculture. But the diversity of interests within the colonial business community was deep-seated, and finding unity among themselves was difficult. While such fragmented private sectors have been cited by governments as an excuse for avoiding policy dialogue with the business community (Handley, 2008; Taylor, 2007), the protectorate government persuaded the business community to find unity in diversity by requiring that access to policy dialogue would be through a peak association. The government's need to avoid a pluralised institutional environment for policy dialogue pulled the different factions of the European business community together into peak associations, namely, the Associated Chamber in 1907 and the NCA in 1928.

The cases of the NPA and the NMA illustrate that access to the government for policy dialogue may be the single most important selective benefit that voluntary business associations can offer their members. Between 1903 and 1907, the NPA survived because it received support from, and access to, the government. When planters withdrew their affiliation from the Chamber in 1925, their revived NPA was denied policy space until 1928, when the NCA was founded at the insistence of government. Similarly, the NMA struggled to find an independent foothold between 1925 and 1928 largely because government denied it access to policy dialogue until it rejoined the Chamber in 1928. The Chamber itself was refused access to the state when it pulled out of the NCA in the early 1950s and was about to rejoin the NCA when the CAF was introduced and changed the incentives for rejoining the NCA. This suggests that the organisational patterns of the business community for the purpose of policy dialogue with the government may be dependent on the government's tolerance for a plurality of voices from the sector. It further suggests that the state can sometimes compel internally fragmented business elites to transcend their sectoral divisions and develop a pan-business consciousness and political competence necessary for providing policy inputs. At other times, it suits the state to maintain a fragmented business sector, as did the colonial government when Governor Sharpe sanctioned the reformation of the NPA in 1903 and granted it access to policy dialogue until 1907.

Besides the quest for a non-pluralised institutional environment, the government's attitude to business associations further illustrates that the representativeness of the associations was an important consideration in granting space for policy dialogue to their representatives and for the form that the engagement would take. The main considerations were the number of subsectors of the economy that the association represented and the number of eligible members that actually subscribed to the association. For instance, the NMA was deemed less representative. In 1925 it had only eleven signed-up members[137], its cause was championed mostly by seven wholesale importers[138], and the market share of its members was decreasing due to competition from Indians (Power, 1993). For the NPA, the government was torn between its need for a single united front for the business community and the importance of the planting community to the economy. Thus, it allowed an exchange of correspondence with the NPA and considered its written representations but refused it the right of representation to the LEGCO and regular face-to- face policy dialogue, which was reserved for the Chamber until the formation of the NCA.

The formation of sectoral business associations at the request of the government provides further evidence of the ability of the government to shape the organisation of the business sector, especially in sectors that it deems economically important to the economy. This is exemplified by the formation of the Nyasaland Tobacco Association and the Nyasaland Tea Association. This fact reinforces a recent proposition made in the context of India that 'developmental' business associations emerge and acquire their capacity as a result of active state support (Sinha,2005), often in 'hand-in- hand' rather than 'arms-length' relations (Moore and Schmidtz,2008).

Political architecture and the autonomy of the State* vis-a-vis *business

[137] NMA Minutes, 12 January 1925, MNA NY 6/1/1.

[138] Petition of Principal European Wholesale Importers of Nyasaland, PRO CO 625/6.

The formal political institutional architecture of the state shapes institutional trajectories of SBRs by defining how the political process should work. For instance, the centralisation of legislative and other governmental power in the Commissioner under the 1889 Order in Council was partly responsible for the lack of synergy between Johnston's government and the business community. Institutionalised SBRs only evolved when the 1907 Order in Council came into force and deconcentrated the power of the Governor. The creation of the LEGCO and the principle that legislation would be legitimate only if enacted with the advice and consent of the LEGCO opened up spaces for business representation. Although subsequent SBRs were close and the business community had considerable influence over policies, the government preserved its autonomy. This was possible because the dispersion of decision-making authority between the Colonial Office and the protectorate government and the use of the LEGCO and EXCO provided a set of checks and balances that effectively protected the state from capture by powerful capitalist interests. While multiple points of contact between the state and business are known to engender collusion (Atkinson and Coleman, 1989; Kang, 2002), they appear here to have been responsible for the preservation of state autonomy and avoidance of collusion. This was particularly true of state-firm relations with the BSAC and ZMDC, which tended to be quite informal and provided more room for particularism. This finding suggests that decentralisation of decision-making authority over economic policy does not precipitate state capture or other forms of collusion so long as there exists a functioning mechanism for coordinating the decisions that are made and for achieving policy coherence and consistency without inhibiting the enterprise of private capital.

Social cleavages in the reconfiguration of power

Colonial social cleavages were defined primarily by racial thinking. Particularistic orientations in SBRs (e.g. marginalisation of Indians and Africans from PPD) stemmed from a concentration of both political and economic power in the European community. It is apparent that the politics of racial identities had a significant influence on the perpetuation of Europeandom in SBRs. However, the reconfiguration of political power in the early 1960s meant that racial identities became a means of separating economic and political elites in that while economic power lay with Europeans and Indians, Africans wielded political power. This incongruity resulted in differences in the logic and mode of social organisation and in the understanding of each other's economic and political interests. The institutional changes introduced by Kamuzu Banda during the transition to independence exemplify this point. Of particular importance were the rolling back of policy space for the business sector and the creation of MARTA for the purpose of beginning to Africanise the sector. These changes illustrate the proposition that "how business looks and behaves depends in large part on the state" (Handley, 2008:3). It provides additional evidence that where parochial identities such as race or ethnicity are pronounced in identifying political and economic elites, reconfiguration of political power may be a stimulus for institutional change in SBRs[139]. This is the case because such reconfiguration often accompanies changes in the ideology and politico-economic objectives of the political elites that affect the purposes of SBRs.

The role of history and timing

The analysis of colonial SBRs demonstrates the importance of a historical institutionalist approach in several ways but also casts doubt on the validity of some of its concepts, especially the notion of critical junctures. Firstly, it is clear that power asymmetries between the business and the state are central to explaining the pattern and the outcomes of SBRs. However, the narrative suggests that the distribution of power between elite clusters is rooted in the historical context of inter-elite engagements. For our case, these date back to the processes of state formation.

Secondly, the analysis demonstrates that it matters whether it is business or the state that emerges and develops political capacity first. In this case, not only did the business sector acquire that capacity earlier, it also led the early processes of state formation. In later years, being 'the oldest public body in

139 Studies that have made similar observations in African SBRs include Lucas (1994) and Meisenhelder (1997).

Nyasaland'[140] afforded the Chamber political clout that enabled it to sustain concertation with the government. This finding provides further evidence for the proposition that synergetic state-business coalitions emerge when the organisational strength of the business sector is high and the state lacks useful policy information and technical capacity (Taylor, 2007).

Thirdly, the narrative shows that history matters in explaining institutional change because of the relevance of predecessor institutions in informing the design of new ones. This is reflected in the negotiations on changing the rules for selecting members of the LEGCO. Furthermore, to explain fully the institutional and organisational patterns of SBRs instituted after 1897 and those introduced between 1961 and 1964, one needs an empathetic historical understanding of the nature and functioning of the institutions that had hitherto existed, especially how they shaped the political and economic objectives of elites. The African political consciousness and activism that ultimately caused institutional changes in SBRs arose from the historically embedded particularism of state-society relations that elevated Europeans and oppressed Africans.

Finally, the institutional development of colonial SBRs shows that the notion of critical junctures has an intuitive appeal for thinking about institutional formation and change. However, it raises questions about precisely what factors are necessary to designate any moment of institutional change as a juncture and what would determine the criticality of the juncture? Institutionalist literature has emphasised the contingency of events that create a moment of change and installation of institutions that are new in outlook and effects as definitive features of junctures. The junctures are deemed to be critical only at a later point in time when the effects of the new institutions confirm that things are no longer the same (Hogan, 2006; Abbot, 1983; Collier and Collier, 2002). However, the narrative above shows that old institutions rarely break down; neither do new ones emerge spontaneously. Institutional development was a negotiated incremental process in which the interests of government and business elites were

[140] The Chamber often described itself in these words when making a representation to the government.

often compromised into political settlements so that the new rule of the game was only a slight modification of the old one. There were no complete departures from the past as is suggested in some conceptions of critical junctures based on the notion of 'punctuated equilibrium'. The analysis suggests that rather than determining the criticality of such moments by the effects of the new institution, it is stakeholders' expectations of real institutional change that should be of prime importance in determining the criticality of the moment. For instance, 1907 was a critical juncture for SBRs because the Order in Council prescribed a political institutional architecture that generated expectations about how the business community and the government would formally engage with each other. Similarly, the 1961 election represented a critical juncture in that the reconfiguration of political power resulted in expectations of change in some rules governing the business sector. For instance, it was expected that Africans would be allowed to take part in what had been prohibited business activities such as haulage. The expectations may or may not be fulfilled.

The foregoing theoretical observations are true for the colonial epoch and are only preliminary in so far as the theoretical objectives of this thesis are concerned – I will take them up further in the final chapter. The next chapter analyses the development of post colonial SBRs to identify continuities and discontinuities and to discern what they suggest for SBR and institutional theories.

CHAPTER FIVE

Neo-Patrimonial State Hegemony: Post-colonial State-Business Relations and the Politics of Building the Nation and the Party

"To me, two passengers – one by the name of 'Business' and the other by the name of 'Politics' [may be allowed] to travel by the same train when I can't help it...but I see to it that they do not travel in the same compartment..."[1]

"This [country] is not a hunting ground for crooks. I am going to see to it [that] honest businessmen...have nothing to fear from me. But sharks, crooks, I will make this country Gehenna for them."[2]

Introduction

This chapter analyses state-business relations in the one-party era (1964-1993). It shows that the analysis of SBRs for this period, like that of the colonial era, is as much about the formation of institutions governing these relations as it is about the nature of the relations within the evolving institutional arrangements. The shift of power from the British to African nationalists, and the attendant political processes, consolidated a new approach to politics and the economy that Dr. Banda had begun forming in 1962. The result was a pattern of SBRs that was markedly distinct from particularistic concertation that had characterised the colonial epoch. I describe the new pattern as neo-patrimonial state hegemony. This was a system of governance in which political power was concentrated in the president, who wielded sweeping executive authority across public and private domains and was revered as infallible; the bureaucracy was deprived of policy autonomy, and business associations were politically weakened and subordinated to the party; the policy and institution-making processes were more by presidential directives than consultation; the state, through its companies, dominated the business sector and, in relative terms, reduced the economic and political significance of non-state private enterprise; and the state's strictly enforced business regulatory regime virtually replaced the

[1] Kamuzu Banda, 11th February 1967, speech to the Tea Association, MNA 1967 pam 1,27.
[2] Kamuzu Banda, 8 October, 1968, speech - State Opening of Parliament, MNA 1968 pam 1,127. Gehenna is a biblical term which in Malawi is understood to mean 'hell'.

discipline of the market. All these features were essentially binary opposites of the SBR institutional matrix of the colonial era.

The analysis shows how a confluence of history, the role of the state in the economy, politics and political institutional architecture shaped the institutional evolution of SBRs. The argument has three main strands. Firstly, the institutional and organisational pattern of SBRs during this period was shaped by a political institutional architecture that concentrated power in the president. Secondly, the role of the state in the economy, in a context of low levels of capitalist development, led to a mingling of business and politics in which business was subordinated to politics. Thirdly, the private business sector had so low economic/financial and political utility to the state that the state did not have much incentive to deepen policy dialogue with it.

The chapter is organised as follows. Section 5.1 provides the contextual background that underpinned the rise of neo-patrimonial state hegemony. Section 5.2 traces the institutionalisation of neo-patrimonial state hegemony vis-a-vis SBRs. Section 5.3 discusses the dynamics and effects of neo-patrimonial state hegemony on SBRs, focusing on the business activities of the state and the regulatory framework for business enterprises. Section 5.4 focuses on the politics of indigenising commerce and industry, and section 5.4 shows how democratisation processes in the 1990s opened up the way for some elements in the business community to champion macro-level political change that ultimately undermined the economic and political hegemony of the state. The conclusion makes a preliminary case of what insights the narrative of post-colonial SBRs generates for institutional and SBR theories.

5.1. Background: socio-economic profile and business fragmentation at independence

Nationalist political activities culminated in the attainment of independence on 6th July 1964. The country was renamed Malawi. Kamuzu Banda, the Prime Minister since 1963, became the President in 1966 when Malawi became a republic. In the same year, the Malawi Congress Party (MCP) became the only lawful political party, and the country became a one-party state with Banda as Life President of the party and later of the Republic too[3]. Banda's regime created a political system that was anything but democratic and has been aptly described as 'a hard state' (Mhone, 1987), a 'hortatory regime' (Joffe, 1973), despotism (Short, 1974; Ihonvbere, 1997) and a dictatorship (Baker, 2001; Phiri and Ross, 1998). The overarching goal of the regime was 'to build the nation and the party'. Under this theme, a set of guiding principles for the politics and the economics of the country were formulated and pursued in ways that fundamentally impacted on the institutional evolution of SBRs.

At independence, the Malawi economy was dominated by subsistence agriculture and exportation of labour to South Africa, Southern Rhodesia (now Zimbabwe) and Northern Rhodesia (now Zambia). Plantation agriculture, mainly tea and tobacco, on European-owned estates formed the mainstay of the export sector, providing about 40 per cent of export merchandise. Agriculture accounted for 55 per cent of GDP and 90 per cent of employment[4]. There was no significant mining industry. GNP per capita was about $60, half of which was attributed to smallholder agriculture and the other half to about 100,000 people in wage employment, mainly on estates and in government service. The 5,000 estimated hospital beds were enough for less than 12 per cent of the population. The seven-year primary education catered for less than half of the relevant age group. Total secondary school enrolment was estimated at 4,000, which represented only one per cent of the eligible population, while tertiary education was available for fewer than 1000 students. Only 33 Malawians had some level of university education[5]. In the business sector, manufacturing and transport were dominated by Europeans while commerce, except banking, was dominated by Indians. For example, Joffe (1973:135) has shown that Asian establishments accounted for 90 per cent of retail trade but represented only 15 per cent of licensed retail outlets while African retailers owned 82 per cent of licensed retail establishments.

[3] See Williams (1978) chapter 7, Short (1974) chapter 12 and Baker (2001) on the emergence of a one-party state.
[4] Figures are from Harrigan (2001:12).
[5] Figures from GoM (Government of Malawi) (1987) and National Statistics Office (NSO) (1984).

Overall, however, according to Short (1974:276), 90 per cent of small scale commerce was Asian owned.

Against this background, and very much in line with the prescriptive analysis by Gerschenkron (1962) on the role of the state in late development, the government believed that its main task was to promote and control development. A common observation was that “the colonial government neglected to develop our country... now that we the Africans are in power, we have to develop the country ourselves”[6]. A war against economic unviability, poverty, ignorance and disease was declared. Four fronts for prosecuting the war were identified, including the ‘business front’[7]. Thus, in contrast to the colonial state, the new government took a ‘hands-on’ approach in the business sector by creating its own companies in order to spur economic development and achieve financial independence from the British government. A restrictive business regulatory framework evolved and aimed at cushioning the masses against the excesses of capitalist entrepreneurship and constraining the emergence of alternative centres of political power. The regime further believed that social and economic progress could be induced by exhortation of the people to take up economic roles that were politically determined by the leadership. Particular emphasis was on strategies for the indigenisation of commerce and industry. These *dirigiste* principles aimed at launching a developmental path that would simultaneously correct the economic and political wrongs perpetrated by colonialism.

In 1964, the business sector was fragmented in its organisation vis-a-vis the state. In addition to the Associated Chamber of Commerce and Industry and the Indian Chamber of Commerce that persisted from the period before 1961, there were the Asian Chamber of Commerce and the African Chamber of

[6] Kamuzu Banda, State Opening of Parliament, 8 October 1968 p.3.; speech at the opening of Malawi Distilleries, 24 February 1967, p. 8.

[7] The other fronts were agriculture, labour measures and tourism. See Banda’s speeches to the MCP Convention, 1967, and to Parliament on 9th March, 1971.

Commerce and Industry[8]. Despite attempts by the Chairman of the 'European' Chamber (J.V. Raines) to form a nationwide non-racial chamber in 1965[9], the African and the Asian chambers continued to exist as independent entities until about 1968. However, the political desire to Africanise the business sector, especially commerce, led the government to support the creation of a peak business association for Africans in 1969 – the African Businessmen Association of Malawi (ABAM)[10]. ABAM existed alongside the Chamber and had some shared African membership although the majority of African businessmen belonged to ABAM only. But unlike the Chamber, whose role in policy became derivative, peripheral and manipulated, ABAM enjoyed considerable access to government bureaucrats and politicians, including the president. Like several other African associations permitted during this period, ABAM was an affiliated member of the MCP, and its executive committee members were delegates to the MCP convention, which was designated as the highest policy-making body of the country. The political relationship between ABAM and the party (hence, the government) enhanced the legitimacy of the party among Africans by yielding policies for promoting African commercial enterprise, sometimes by using political power to discriminate against Indian and European commerce. There was a strong belief that it was politically necessary to develop an indigenous business class.

5.2. Nation building and the institutionalisation of neo-patrimonial state hegemony

5.2.1. The meaning of national building and Kamuzu Banda's monopoly of policy voice

In the context of the deep and widespread poverty that was prevalent at the time of independence, and in the aftermath of the infamous cabinet crisis,[11] the MCP government adopted 'building the nation and

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[8] Secretary for Trade and Commerce to the various Chambers, 22 February, 1964, File No. JLI, folio No. 30 (MNA). Folio 26 shows that there also existed briefly The Nyasaland Central Province Chamber of Commerce, which was dissolved in 1963. Except for the Asian Chamber which was based in Lilongwe, the rest were based in Blantyre.

[9] 'The Chamber of Commerce and Industry of Malawi – A Thriving Organisation', Daily Times, 13 September 1978, p.1.

[10] Except for Joffe (1973) and Dinwiddy (1974), who mention ABAM in passing, I have come across no any other published scholarly work on the political economy of Malawi that mentions ABAM. For this reason, I devote some space in this chapter to show its relationship with the state establishment.

[11] Hansard ,September, 1964, but for an account of the crisis, see Baker (2001).

the party' as its overarching goal[12]. It meant "building the nation and the party politically, economically, morally and spiritually"[13]. It was argued that "no people [could] call themselves a nation or an independent nation, when they [had] no political stability in their country; ... no economic viability...; no moral principles and [did] not observe the spiritual side of their life".[14] To achieve and maintain political stability, the 'four cornerstones' of the MCP, namely Unity, Loyalty, Obedience and Discipline, were emphasised[15] and enforced in ways that consolidated the personal power of Kamuzu Banda in everything and undermined any need for policy dialogue with any other stakeholders. The MCP projected itself as the 'supreme' political body in the country and declared that no member, high or low, was above it[16]. In effect, the power of the MCP transcended its membership and subordinated every person and organisation. This was a direct result of the institutional fusion between the party and the government.

In a scheme typical of patrimonialism (Weber, 1968) or personal rule (Jackson and Rosberg, 1984; Sandbrook, 1985), Kamuzu Banda was designated as "the supreme leader and symbol of the supremacy of the party" who had to be "respected, honoured and revered by every member of the party ... [and the members were] expected to conduct themselves in a courteous and respectful manner in his presence"[17]. By 1965, some overzealous politicians began deifying Kamuzu. It was argued that there was no need for any kind of opposition to Kamuzu on any matter by anyone: "There is no opposition in heaven. God himself does not want opposition – that is why he chased Satan away. Why should Kamuzu have opposition?"[18] A behavioural pattern of hero-worship began to evolve in which

[12] From 1965 until the early 1990s, this was the theme of the MCP annual conventions.
[13] Kamuzu Banda, opening speech to the MCP Convention, 1st September 1969:2. My concern here is with the political and economic aspects of this agenda.
[14] Ibid.
[15] Provided in section 2 of the MCP Constitution.
[16] Preamble to MCP Regulations (1965).
[17] MCP (1965) Regulation No.15.
[18] A.W. Chipungu, Deputy Minister for Health, Malawi News, 20th December 1964 – cited by Short (1974:258).

Kamuzu was presented as an all-knowing and benevolent leader. John Tembo, the one-party state's henchman, reinforced the development of Banda's personality cult when he said in 1965,

> There is no question that we have the best leadership we can ever expect to get ... What must we do? ... We must be dedicated to duty, we must be loyal and we must be obedient, because all the plans which [Kamuzu Banda] has for us... cannot come true if we the followers and our people do not help him to realise [them]. There is no [any other] way for us; we cannot offer money, we cannot offer our brains. All we can do is offer our dedication..."[19]

Banda was therefore designated as 'father of the nation'. All development plans and successes were seen as his acts of selfless benevolence. He was depicted as being in charge of all the financial and intellectual resources necessary for development. In this formulation, state-led development was itself political patronage. By the end of 1965, the MCP convention had "whole heartedly and willingly" endorsed "the proposal to establish...a strong and stable government under a one-party state and to have a President who shall be both Head of State and Head of Government and shall have no vice President or Prime Minister"[20]. Thus, straddling the positions of head of state, government and party, Kamuzu Banda enjoyed a "highly centralised and overpowering presidency" (Diamond, 2008:138) in which virtually every aspect of national policy depended on his personality and ideology. Delegates to the 1965 MCP Convention pledged (on behalf of all Malawians) "to abide by the ideals and principles of Kamuzu Banda"[21].

However, the foregoing resolutions were only formal endorsements of a personal monopoly of power that began soon after the 1961 elections. Kamuzu was unambiguously clear about his policy-making position before 1965. As early as 1963, he boasted about it to potential investors: "Anything I say is law. Literally law. It is a fact in this country"[22]. Thus, the personalisation of the policy terrain that he had initiated in 1962 (see chapter 4) found its full legitimate expression in the resolutions of the 1965 MCP

19 Hansard, 15th July, Third Session, First Meeting 1965, p.81.
20 Resolution No.9, MCP Convention 1965 (MCP 1980:2).
21 Resolution No.7, MCP Convention 1965 (MCP,1980:2).
22 Kamuzu Banda, speech at a dinner hosted for Lonrho Executives, 8 November, 1963.

Convention and the provisions of the 1966 one-party republican constitution. It was common practice for Banda to make spontaneous policy announcements at political rallies throughout his presidency. Because of this, ministers and senior government officials were of necessity required to attend most public meetings addressed by the President in case there were policy announcements for their respective portfolios.[23] His personal rule, anchored by the political institutional architecture (see below), came close to Weber's (1968) sultanism as paraphrased by Sandbrook (1985:89-90): a strongman who occupied the centre of political life – the centrifugal force around which all else revolved. He ruled on the basis of material incentives and personal control of the state machinery and demanded veneration and obedience. But how did this cult of personality, which fundamentally impacted on SBRs, evolve?

5.2.2. Political institutional architecture and policy dialogue with the business community

The political institutional architecture of the one-party state, i.e. the totality of the basic political rules that determined how political power was configured and how state authority was discharged, removed any policy spaces for Non-State Actors (NSA) where they could engage with government in a genuine contestation of policy. Formal and transparent Public-Private Dialogue (PPD), which had characterised most of the colonial era, was deinstitutionalised as policy-making became the personal terrain of Kamuzu Banda. This practice was sustained by a framework of four cornerstones – unity, loyalty, obedience and discipline – that constituted the operating philosophy of the party and the state. Within this framework, a policy opinion different from that contemplated and announced by the President was regarded as a manifestation of conflict or dissent and a threat to the political stability that was extolled as necessary for economic development. Nominally, the annual party convention was the forum for policy formulation. In effect, it was nothing less than tokenistic as participants merely provided affirmative comments and endorsed policy announcements. Except for the voices of a few European

[23] Interview, Dr.Justin Malewezi, Permanent Secretary and later SPC during the MCP era.

settlers who Kamuzu Banda nominated to Parliament as a 'responsible opposition', freedom of thought and speech on policy matters was severely curtailed.

Quest for unity and stability

In the project of building the nation and the party, the predominant intentions were to preserve a climate of political unity and stability and a peaceful and orderly administration of the country so that the regime could concentrate the energies of the government and the people on the development of the country[24]. The need for political stability was further justified in terms of creating a conducive environment for business, especially for foreign investors. For example, in 1965, the Minister of Finance observed,

> [stability] is what businessmen like. They are not missionaries. When they come over, they expect to make profits, to pay dividends to shareholders and apart from helping us by investing money to develop this country, they must get their returns too. They must be assured that whatever they do here will stand for a long time. If somebody comes over here to build up a shop and there is a possibility that the shop will be stoned in two days' time, he can't bring his money.[25]

The quest for political unity and stability was a predominant organising factor within the political institutional architecture that was put in place. The President was prepared to engage in preventive detention, even of tens of thousands of people if that was required to maintain political stability[26]. He further observed that "when a country is building its political institutions, it is likely to do many nasty things" and left the implication of the observation open to interpretation when he concluded, "Well, we are building our political institutions here now"[27]. The following institutional and organisational elements were of particular importance in determining the parameters that shaped the organisation and practice of SBRs: the legal supremacy of the party over any organisation, the designation of the party convention as the primary public forum for policy dialogue, the creation of a European parliamentary opposition and the security forces of the party.

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[24] Kamuzu Banda, speech during State Opening of Parliament, 8 October 1968, p. 5.
[25] Hansard, 15th July,Third Session, First Meeting 1965,p.83.
[26] Kamuzu Banda, speech during commemoration of release from Gweru prison, cited in Short (1974:256).
[27] Ibid.

The supremacy and autonomy of the MCP in relation to business

The supremacy of the MCP and Kamuzu Banda was enshrined in the enacting words of the party constitution[28] as follows:

> WHEREAS it has been universally accepted that in Malawi the Party is supreme and that no-one is above the party;
> WHEREAS it has been unanimously agreed that Ngwazi Dr. H. Kamuzu Banda, Life President of the mighty Malawi Congress Party, as a symbol of the party, is the Supreme Leader; ...[29]

This position of the party was conveyed to the business community in a series of speeches, the most telling ones being those made by the President himself. As early as December 1963, he warned the non-African business community that after the attainment of independence, they would be deported if they financed African opposition parties[30]. In 1964, at the opening of the trade fair organised by the "European" Chamber of Commerce, he projected the supremacy of the party in the following terms:

> The Government of this country is in the hands of the people of this country. In my hands, in the hands of these boys behind me[31], in the hands of my people of this country who control the Malawi Congress Party because the government of this country means the Malawi Congress Party. Any businessman, Industrialist and investor who fully understands this, will be given all opportunity, all possible protection for his business here[32].

The practical effect of these statements was to cajole business enterprises into supporting the MCP financially and materially while subduing them politically. His attitude towards expatriate capital was welcoming but only if it obliged the regime and did not seek to influence politics:

> Here under the new government, businessmen and Industrialists from all over the world are welcome...as long as they come here fully realising, fully accepting the fact that this is Malawi and not England, France, Germany or the United States of America. Yes, I want to be quite blunt about that. This is Malawi and we are in the majority and that being the case, the political show must run

[28] In enforcement, the party and republican constitutions were so conflated that distinguishing between them was only necessary for academic purposes. See Williams (1978), especially chapter 7.
[29] Preamble, The Constitution of the MCP
[30] Hansard, 12 December, 1963,p.1010. He specifically mentioned the Mbadwa and Christian Liberation parties.
[31] As a father figure, Kamuzu referred to his ministers and party stalwarts as his 'boys'.
[32] Prime Minister's speech at the opening of the Trade Fair, 4July 1964, MNA 1963/64, pam 1,127.

by us – the Malawians. As long as they understand and accept this, businessmen from all over the world are welcome here and government will give them the necessary protection"[33].

The proscription of expatriate business elites from involvement in policy-making and politics in general was emphasised:

> But no businessman, no industrialist, no matter how great he may be, how great his business organisation or company is, must come here with the idea of making this country a banana republic. We will not allow it. I will not allow any country, any businessman to come here and think that because he controls millions [of pounds] he can come here and control the government of this country. I am not going to allow my government to be a puppet of any business company here. I want that clearly understood. This is not South America or Central America. This is Central Africa and this particular country is Malawi. No one can think because he controls millions [of pounds], he can come here and control the government in Zomba[34].

Thus, unlike Johnston's protectorate government, Banda's stance showed that he was keen on staving off any form of state capture by business interests. It also showed that the state was ready and willing to tower over the business sector and dispense with any of its elements if it was politically desirable to do so. This attitude was, however, not unique to Banda but was prevalent in many newly independent African states. For example, the nationalist slogan of Ghana's Nkrumah for this purpose was couched as a pseudo–biblical commandment: 'seek ye first the political kingdom and all else shall be added unto you'[35]*.* The primacy of politics over business in Nyerere's socialist Tanzania was conveyed in the Arusha declaration: "The mistake we are making is to think that development begins with industries ...The policy of inviting a chain of capitalists to establish industries in our country might succeed in giving us all the industries we need but it would also succeed in preventing the establishment of socialism unless we believe that without first building capitalism, we cannot build socialism"[36]. The call was for a

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[33] Ibid.
[34] Ibid.
[35] Kwame Nkrumah, 12th June 1949 at the launch of the Convention People's Party (CCP) (Thanks to Daniel Appiah for the details).
[36] Julius Nyerere, Arusha Declaration 1967.

strategy of self-reliance in which the African state would take charge of both political and economic affairs but where politics would lead economics.

The Party convention as forum for Policy dialogue: particularistic co-optation of the business sector

The pursuit of stability was in essence an exercise in the creation of a politically united elite cluster. For this reason, the MCP constitution aimed at co-opting strategic African groups into the party structures. Section 6 provided that the Trade Union Congress of Malawi (TUCM) and other movements or organisations would be affiliated to the party, provided that they were not proscribed by the party convention or the party National Executive Committee, their constitutions, principles, programmes and rules were not in conflict with those of the party and that names of the national officers of the organisations were approved annually by the party National Executive Committee. Of particular significance to the practice of SBRs was the fact that under this rule, ABAM was so intertwined with the party that even its organisational structure mirrored that of the party at national, regional, district and sub-district levels. Members of the National Executive Committee of ABAM were approved by the party based on the recommendation of the Inspector General of Police (IG), who collated intelligence on the individual members through the police Special Branch[37]. Following the 1991 ABAM elections, one executive member was deemed politically unreliable and was subsequently not cleared to assume office.[38] The amalgamated Chamber of Commerce and Industry, which included non-Africans, was not an affiliate of the party. Although it was under constant political surveillance, its executive committee members did not have to be vetted for political reliability.

Section 25(k) of the party constitution designated members of the national committees of affiliated organisations as delegates to the MCP Convention. Under this rule, ABAM was accorded a policy voice, while the Chamber was denied the same but was expected to comply with the resolutions of the party

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[37] IG to ABAM administration Manager, FSO/19/c/17/20/vol.vii/170, 22 January 1986 [private archives].

[38] IG to ABAM Acting Administration Secretary, FAO/IG/c/7/20/vol. Viii, 20th February 1992.

convention. Albeit nominally, the convention was a forum that heard, discussed and decided national policies, including those that impacted on the practice of SBRs. It was so important that in 1971 the President described it as “the primary Parliament of Malawi”[39], whose inclusiveness reflected “our kind of democracy, whatever others may think”[40]. However, the convention was an annual event that lasted only four days and spent most of its time hero-worshipping Kamuzu Banda. There was no genuine contestation of policy because Kamuzu had forewarned that if anybody voted against the government, in the convention or in parliament, he or she would lose favour and would be expelled[41]. It is therefore not surprising that party resolutions were merely endorsements of Banda’s views, which he always outlined in the opening address to the conventions.

This arrangement deinstitutionalised concertation with the business community but consolidated informal, non-transparent consultations with whichever business interests Kamuzu deemed important for any other strategic issue. This observation recurred in interviews with the former Executive Chairman of ABAM, a long serving cabinet minister in Banda’s government and the Secretary to the President and Cabinet (SPC). However, the Chamber was accorded an indirect form of ventilation on policy between 1964 and 1973 through a nominated European parliamentary opposition.

The nominated European parliamentary opposition

Although political power was concentrated in the President and the MCP, Banda found it necessary to provide some political accommodation to Europeans. He therefore created a ‘nominated (parliamentary) opposition’, initially comprising three Europeans. In 1965, he proposed to the MCP Convention and Parliament to increase the number to five. To allay the fears of other nationalists, Banda indicated that only those Europeans who agreed with the regime and did not intend to cause trouble would be

[39] Kamuzu Banda, closing speech, MCP Convention (Lilongwe), 11 September, 1971.
[40] Kamuzu Banda, opening speech, MCP Convention (Mzuzu) 6 September 1970, MNA, pam 1,127.
[41] Hansard, 17 May 1966:550. Note that Kamuzu had absolute control over who could be Members of Parliament and would dismiss them as he saw fit. See Williams (1978).

appointed[42]. Consequently, section 20 of the republican constitution provided that the President could "appoint as nominated members of the National Assembly such persons, not exceeding five in number as he considers desirable so to do, in order to enhance the representative character of the assembly, or to represent particular minority or other special interests in the Republic"[43]. The rationale for this arrangement was communicated to Parliament in 1968: "I wanted ... to have a measure, a degree of true European representation by having here not necessarily those Europeans that we know openly are our friends or ... pretend on the surface to be our friends...But even those Europeans whom we know do not agree with us, I wanted some of them here. And the only way to do that was the way I decided - nomination"[44]. Thus, while the prospect of an organised African opposition was abhorred, a legitimate place for European "opposition" was provided.

Although the MCP regime thrived on the principle of avoiding any form of political conflict, the nominated opposition was the only group that was accorded the privilege of expressing openly alternative policy options, but then only in Parliament. As Joffe (1973) has observed, this passed for lawful and legitimate conflict. Although the selection of the opposition members was not institutionally connected to the Chamber, there was an implicit understanding that the Leader of the Opposition acted as a conduit for expatriate agricultural and commercial interests. For example, in 1965, the Minister of Finance asked the Leader of the Opposition to "help [government] ... by impressing upon people in the Chamber of Commerce, particularly merchants, to start thinking seriously about improving their premises". Similarly, Kamuzu Banda referred to the two additional oppositional members appointed in 1966 as one representing the tea interests, and the other, the tobacco interests. When he wanted to address 'contractors', who were all European, he also asked the Leader of the Opposition to convene the

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[42] Hansard, Third Session, Second Meeting,7 October 1965 p.198.
[43] Republic of Malawi (Constitution) Act, 1966 (Act No.23 of 1966).
[44] Kamuzu Banda, 14 October 1968, closing speech of parliamentary session,p.12.

meeting[45]. Thus, policy dialogue with the non-African business community was indirect and occurred through the nominated opposition until 1973. At best, they could put their views opposing government policy on record but could not influence any changes in policy or rules.

However, in the early 1970s, the continued existence of a nominated opposition lost favour with Kamuzu Banda. The official reason was that only 23 Europeans out of 7,046 and 294 Indians out of 10,880 had registered for citizenship by 1972[46]. Consequently, the MCP Convention in 1973 found it 'undemocratic' to have five members representing such a small number of people. It recommended "to the Government to stop European sectional representation in Parliament forthwith" (MCP, 1980: 18). It is probable that this was the most politically convenient justification for dealing with what had increasingly become a disloyal opposition and a political nuisance for the regime. Two instances are worth pointing out.

Firstly, in 1968, at the height of the preparations for the large-scale project of constructing a new capital city in Lilongwe, Banda began to focus on business integrity, efficiency and reasonable profit, especially in the construction industry[47]. Later that year, legislation governing consultants and contractors was proposed. Banda announced that "First class consultants and contractors who meet requirements of competence, experience and integrity have nothing to fear from the new legislation. Its only victims will be those firms who have no business to be here. We cannot afford either in the Government or in the private sector to carry the burden of incompetence, inexperience, dishonesty or idleness". The Leader of the Opposition spoke strongly against some stringent provisions of the bill that had caused "considerable concern ... and intense lobbying..."[48] But Banda observed that consultants and contractors were in the habit of inflating costs in various ways and of compromising on the standards of work. While accepting some observations by the Leader of the Opposition as valid, he angrily retorted:

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45 Kamuzu Banda, speech to contractors, 8 May 1968, MNA 1968pam 1127.

46 The numbers for those who registered are taken from (MCP,1980). The totals are 1966 figures taken from Dotson and Dotson (1968).

47 Kamuzu Banda, speech to contractors, 8 May, 1968.

48 Hansard, Sixth Session, First Meeting, 11 October, 1968.

It is my intention to make this country a paradise for honest, serious and efficient businessmen...But while I am determined to do this...I am also determined to make it Gehena for dishonest and inefficient businessmen. This is not a hunting ground for crooks. I am going to see to it [that] honest businessmen...have nothing to fear from me. But sharks, crooks, I'll make this country Gehenna for them[49].

For the first time since 1964, Banda wondered whether the Leader of the Opposition was being responsible[50].

Secondly, in 1971, the government announced legislative proposals to expropriate European estate holdings in the central region that were not being cultivated by the owners. These proposals attracted a spirited defence from the nominated opposition. The Leader of the Opposition pointed out the following: European land holdings were less than one per cent of the total landmass of the country so that the proposed legislation was trivial from an economic point of view; the colonial government had already confiscated about 75 per cent of the uncultivated land between 1959 and 1961; since 1961 there had been progress to cultivate the undeveloped land holdings; the tenant system that the President disliked existed in the central region because it was impossible to grow tobacco profitably with hired labour; government proposals in the bill would merely continue the tenant system but under the aegis of parastatal companies; and the proposed law amounted to a breach of the government's assurances to European estate owners given in October 1969 that they would have five years within which to phase out the tenant system[51]. This direct attack on the credibility of the government irked Banda and his lieutenants. In his response, Banda indicated that he did not want to 'strike a discordant note' or 'inject a drop of acid in the discussion' but pointed out that land in the central region had been unlawfully appropriated by Europeans under the colonial government through informal discussions at the Gymkhana club in Zomba and that money being made from these estates was being spent outside the

[49] Kamuzu Banda, 14 October 1968, closing speech of parliamentary session, p.22-23.
[50] Ibid.
[51] Hansard, March, 1971 (cited in Joffe (1973).

country[52]. The opposition had become a political nuisance and its views were contrary to the development agenda of the government. Two years later, the MCP convention formally passed the necessary resolution.

The abolition of the nominated parliamentary opposition in October 1973 was the ultimate removal of the independent and transparent business voice in policy making*.*

Politics and accommodation of the Chamber of Commerce and Industry

The Chamber lacked policy visibility partly because it was seen to be an organisation for Europeans. Its role in the rapidly changing political environment became derivative. Government officials, including ministers, interacted often with the Chamber largely to project the power of the African government and to press its members to help government achieve its policies in the business sector, especially on Africanisation of the sector, curbing profiteering, and exploration of new external markets and attraction of foreign investment[53]. However, a change of government attitude to the Chamber is discernible in the 1970s. This followed a 1968 nationwide recruitment drive by the Chamber to increase its African membership, which stood at 10 out of 305 members. The drive was justified as one way of contributing to the government's goal of increasing African participation in business[54]. The initiative gained the support of the government when Aleke Banda, then Minister of Economic Affairs, addressed a meeting of African businessmen and 'a sprinkle of European businessmen organised by the Chamber' and encouraged the former to join the Chamber while pleading with the latter to 'persuade their counterparts overseas to come and invest in Malawi by opening new industries'[55]. The Chamber's strategy to realign its policies with those of government was perhaps a response to persistent outbursts by the regime that Malawi was no longer an occupied territory and all companies and organisations had to do things

52 Kamuzu Banda, closing speech to Parliament, March 1971, MNA, pam 1127.
53 Kumanda, B., 'Urge them to invest in Malawi – Says Aleke', The Times, 19 August, 1968, p.1.
54 'Chamber Plans Big Boost to Business', The Times, 29 February 1968, p.1.
55 Kumanda, B 'Urge them to invest in Malawi – Says Aleke', The Times, 19 August, 1968, p.1.

according to the government's wishes. Kamuzu Banda never missed an opportunity to remind the business community that while he allowed business freedom, the government had to make policy[56]. Political recognition of the Chamber increased in 1974 when Mr. Aubrey Kachingwe was elected its first Malawian chairman and gave the Chamber the African face that government craved. The Minister of Trade and Industry then advised that the Chamber

> should not take pride for living in isolation [and] its members must be always responsive to the changing circumstances. The principal role of the chamber is to be an avenue for constructive thinking. It must also play its vital advisory role to the government so that the private sector too can exert its impact in the whole process of the country's economic development[57].

The Chamber then capitulated to politics and began to play a politically visible and appeasing role. Among other activities, it raised funds for various projects, especially those run by the Kamuzu Foundation Trust, 'Youth Week' activities and MCP conventions. It also began running seminars for rural businessmen, covering such areas as management, marketing, financial control and bookkeeping as a contribution to the government policy of developing commerce and industry[58]. In 1975, for the first time, the Chairman of the Chamber was part of a government delegation to the Mozambique International trade fair[59]. By 1980, relations between the Chamber and the government had improved so much that the 93rd Annual General Meeting of the Chamber attracted patrons from "government, civic institutions as well as the Malawi Congress Party"[60]. By December 1982, total membership had increased to 550. The following year, the Chamber was accorded permanent representation on the National Transport Committee of the Ministry of Transport and Communications.

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56 'Malawi not a 'Banana' republic', Daily Times, 14 October, 1974, p.2.
57 Address to 83rd Annual General Meeting of the Chamber in 1975; 'Commentary', Daily Times, 13 September 1978, p.7
58 'Businessmen attend one-day seminar', Daily times 19 September, 1977, p.11.
59 'The Chamber of Commerce – A Thriving Organisation', Daily Times, 13 September 1978, p.7.
60 'Chamber of Commerce aims for higher economic prospects', Daily Times, 19 May 1986, p.1.

The political acceptability of the Chamber increased its membership density as more African businessmen and Indians joined it without fear of being accused of associating with a dissident organisation. It is clear in the change of the government's attitudes and subsequent accommodation of the Chamber in some aspects of policy processes that political considerations, especially localising the leadership of the Chamber, were critical. The compatibility of objectives between state elites and leaders of business associations is known to be a factor in shaping the kind of synergy that develops between them (Sinha, 2005). The foregoing discussion shows that so long as Europeans remained in leading positions, the Chamber would have continued to be ignored by the political elite. Although its involvement in policy formulation was as limited as everyone else's, the Chamber's political manoeuvre of seriously attempting to operationalise the policy intentions of the regime won it increased legitimacy and government confidence.

By 1986, the government had delegated some responsibilities to the Chamber. Besides being increasingly recognised as the private business community's voice to government, it became responsible for the issuance of certificates of origin, the Generalised System of Preferences (GSP), Preferential Trade Area (PTA) certificates of origin and road transit coupons to transporters in order to facilitate movement of goods through Mozambique[61]. This set of selective incentives augmented the Chamber's stature as a partner to government. In 1988, its chairman, Harry Thomson, observed that the Chamber existed "to help the government improve the economy and it was imperative that members... should be conversant with the government's economic policies in order to negotiate with the government...effectively"[62]. A few months later, amid government concern about inflation, the Chamber constituted an inflation committee to assist government in combating inflation[63].

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61 'Chamber of Commerce and Industry – Its Functions', Daily Times, 3 July 1986, p.17

62 'Chamber needs stronger Committee in centre', Daily Times, 3 May 1988, p.2.

63 Chamber forms inflation committee', Daily Times 13 April 1989, p.1.

The party machinery of control

The one-party state developed control structures and institutional arrangements of domination and subjugation of all other societal actors[64]. The Youth League of the MCP was instrumental in the quest for political stability and enforcement of the four cornerstones. The Malawi Young Pioneers (MYP) – an elite wing of the Youth League – was established in 1963 as a means for mobilising the youth for national development, but it soon took up the task of political indoctrination and became an exemplary projector of Kamuzu as father and founder of the Malawi nation and a fountain of wisdom who always knew what was best for the nation (Phiri, 2000)[65]. The MYP evolved into a Paramilitary wing of the MCP, with bases in all districts, and gathered intelligence and persecuted those who did not comply with the demands of the regime. Together with the ordinary Youth League, it constituted a third security arm for the state that complemented the conventional police and the army[66]. The party machinery was particularly effective in enforcing Regulation No. 16: "Any [person] guilty of disloyalty, rumour mongering, deliberate manufacture of destructive stories, invidious whisper campaigns, loose talk and character assassination against any member of the party or the party itself or contravenes any of these rules, shall be guilty of a breach of party discipline...and shall be dealt with in such a manner as the President in his absolute discretion may think fit" (MCP,1980:22). The youth leaguers and the young pioneers were particularly zealous in policing bus stations and markets in towns and semi-urban centres. They were key in the enforcement of price regulations in local markets and shops (see below). They were also instrumental in collecting political intelligence in highly sophisticated ways. In 1968, Banda boasted to expatriate businessmen about the efficacy of his intelligence agents:

[64] For an informative model of the framework see Mhone (1992).
[65] The MYP was modelled after and trained by the Young Pioneers of Kwame Nkrumah of Ghana and the National Service Brigade of Israel.
[66] It is estimated that by 1992, government expenditure on the MYP amounted to 150 per cent of the country's entire health budget (Phiri, 2000:3).

> Some of you think that you can talk all sorts of things and it will never get to me. But you are fooling yourselves....Most of the things you say even in your own pubs when you think you are among yourselves reach me.... How? I am not going to tell you. All I want you to know is that you are deceiving yourselves if you think you can engage in any kind of childish, foolish, careless talk...[67]

In short, the control machinery of the party was responsible for a culture of political silence within the country and for penetrating the business sector to ensure that contrary views were not aired and that state directives regarding any aspect of doing business were complied with in full. The political institutional architecture of the one-party state concentrated political power in the President. It engendered and sustained authoritarianism, paternalism and repression. It revolved around the personality of Kamuzu Banda, so much so that his idiosyncrasies towards 'business' and policy making were critical in shaping the patterns of SBRs. The following section provides an overview of the pattern of state hegemony in SBRs during this era.

5.3. Dynamics of neo-patrimonial state hegemony in state-business relations

When other African countries were going down the socialist path of development in the second half of the 1960s, Banda attempted to explain the economic ideology of his regime at several public meetings and official forums. The most important of these were an inaugural lecture at the MCP political educational conference in 1968 and an opening speech to the MCP Convention that year. Consequently, the Convention resolved that "in Malawi's own interest, capitalism is the only feasible system"[68]. However, he declared that it would not be liberal capitalism in which the wild spirits of entrepreneurs would be left to run amok. Banda observed that

> even in America, rigid capitalism is no longer permitted. The Government has certain control. In Britain, it has even more control. So here, too, we will not let capitalism run wild and get away with murder in this country. Capitalism under control and regulated, but capitalism just the same, not communism or socialism[69].

[67] Kamuzu Banda, speech to contractors, 8 May 1968:8-9, MNA, 1968 pam 1127.
[68] Resolution No.5, MCP(1980:6)
[69] Closing speech, MCP Convention (Lilongwe) September 1968: 5.

The resolution sanctioned a brand of capitalism in which the state, singularly or in partnership with private capital, played a bigger role in the economy and in which private enterprise of whatever scale was strictly regulated and policed because Kamuzu claimed to believe "in honest and fair capitalism"[70].

5.3.1. The state in business – minimising political and economic dependence on private enterprise

Neo-patrimonial state hegemony in SBRs evolved from a genuine need to spur economic development. The widespread view before 1964 was that granting independence to Nyasaland was not reasonable as the country was an 'imperial slum' (Vail, 1975), a 'sleepy backwater' and a 'Cinderella of the protectorates' (Pachai, 1973) that was economically unviable[71]. A confluence of three factors – the political need to prove that proponents of the Central African Federation (CAF) were wrong on the economics of the country; the reality of the paucity and risk aversion of private capital in the country; and the hype of development economics, which peaked in the 1960s and 70s – provided the political and economic rationale for massive state involvement in the economy.

State participation in business had begun in the colonial period, as seen in arrangements between the British Cotton Growing Association (BCGA) and the protectorate government, and the establishment of the Agricultural Production and Marketing Board (AP&MB) in 1955. At independence, the need to accelerate the pace of economic development through the business sector was emphasised and found its first formal expression in the first five-year development plan (1965-69)[72]. Private enterprise was seen as the primary driving force for development throughout the economy, with the public sector playing supportive and stimulative roles akin to those that Evans (1995) has described as the midwifery roles of the state in the industrial transformation that is associated with the emergence of

70 Speech, Political Education Conference, 15 May, 1968, p.9.
71 See counter-arguments by Banda in his speech on Republic Celebrations, 6 July, 1971, MNA, pam 1,227.
72 Jones, Sir Glyn, speech from the Throne, 7th July 1965, MNA.

developmental states in East Asia[73]. The reality, however, is that the state performed more of the 'custodial' and 'demiurge' roles (Evans, 1995) than the midwifery ones. However, this should not be a surprise as Banda himself had indicated this leaning in 1967 and 1968 when he told the Tea Association and Parliament, respectively, that,

> To me, two passengers – one by the name of 'Business' and the other by the name of 'Politics' [may be allowed] to travel by the same train when I can't help it...but I see to it that they do not travel in the same compartment..."[74]
>
> Private enterprise had its chance here, in fact it missed its opportunity ... [because] it didn't want to spend pennies. Therefore, the government must go into business ... We are not going to close private enterprise ... We are going to compete ... Where private enterprise is willing to risk its capital, it is alright with us. But where it is afraid, shy, unwilling, then the government will have to do something about it, and it must do something about it[75].

The urgency for economic development and the lack of private indigenous capital provided the rationale for the state's role in business. Indeed, politics and business were conflated as the state dominated both activities. State dominance in the economy was accomplished mainly through the activities of two parastatal companies, namely, the Malawi Development Corporation (MDC), founded in 1964, and the Agricultural Development and Marketing Corporation (ADMARC)[76]. Using these two corporations, the government went into business singularly or through joint ventures with foreign and local capital. The government also nationalised some companies, notably the Malawi Railways in 1965, and established other state-owned enterprises in utilities, hospitality and services. Besides the MDC and ADMARC, Banda augmented his personal business empire, which he had begun building in 1959. In 1969, he consolidated his enterprises into Press Holdings Ltd (Press) which grew into a conglomerate that van Donge (2002) has dubbed as the 'African *Chaebol*'. Although Press was a privately owned company, its

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73 See GoM (1987:5) for a summary of the roles the Malawian state aimed to perform; see Woo-Cummings (1999) on theories of developmental states.

74 Speech to the Tea Association,11th February 1967, MNA 1967 pam. 1,127.

75 Closing speech of parliamentary session,14 October 1968, MNA pam. 1127. Also speech to contractors, op.cit., p.4.

76 The APMB was reorganised in 1962 and renamed as the Farmers Marketing Board (FMB). The FMB was further reorganised in 1971 and renamed ADMARC.

activities were not dissimilar to those of the MDC and ADMARC[77]. While he personally owned Press, Banda was Minister for the MDC and ADMARC[78]. He therefore had ultimate authority for all three companies, whose institutional relations gave Press the appearance of a parastatal company (see below). The activities of these companies resulted in the building up of a range of public and quasi-public bodies that invested in, managed or supported a broad spectrum of economic activities in agriculture, industry, commerce and finance. Together they dominated the business sector and virtually eclipsed the non-state business sector.

The economic dominance of the triumvirate: The MDC, ADMARC and Press Corporation Ltd

The corporate triumvirate engaged in all sectors of the economy. In many ventures, this was done through partnerships with foreign firms in the forms of management contracts and shareholding. The three were the only local companies that for a long time were allowed to partner foreign capital. Banda boasted about this approach as 'Malawi's way of doing things', a veiled reference to the contrasting nationalisation programmes that were taking place in neighbouring Tanzania and Zambia: "I do not believe in confiscation and nationalisation of private property or capital, [but] I am a stronger believer in local participation in any business and Industrial enterprise"[79]. The rationale for joint ventures between local and foreign capital was two-fold - to reduce remittances to foreign countries and to develop an African business class. In the financial sector, state participation was particularly important to the regime's resource mobilisation. On the establishment of the National Bank, Banda observed that banks and insurance companies were of greatest importance because they mobilised capital for investment in commercial and industrial undertakings. It was therefore "not prudent...to leave banking and insurance

[77] See Van Donge (2002); Malawi Congress Party (and others) – v -The Attorney General, and The Speaker of the National Assembly, HC, CC No.2074 of 1996; Attorney General –v- Malawi Congress Party (and others), SC, CA No.22 of 1996 [1997] MWSC 1 (31 January, 1997).

[78] Positions established in the Acts of Parliament for MDC (1964), ADMARC (1971).

[79] Opening speech to Parliament, March 1971, p.11.

business entirely in the hands of expatriate companies... or outside governments"[80]. For the Commercial Bank of Malawi (CBM) and the National Insurance Company (NICO), Malawians and government departments were particularly urged to do business with them.

ADMARC played a minimal role until 1971, when it was reorganised on instructions from the President. Its mandate was widened and its management was asked to understand that "the organisation is no longer just another government board, where or in which the questions of development and profit are minor ones, but a business concern, where and in which the question of development and profit are paramount and the question of stabilising farm prices, secondary"[81]. The corporate triumvirate developed a diversified portfolio of enterprises in virtually every sector of the economy (Appendix III provides lists of business interests for each of these three 'public' corporations at the end of the MCP era). By 1974, the government's business strategy had resulted in the establishment of 320 new factories (GoM, 1974). By 1977, Press and its subsidiaries had a gross turnover of about 33 per cent of GDP and the parastatal sector was contributing 25 per cent of GDP by 1985 (Lwanda, 1995:58). By 1994, Press and the parastatal sector combined were controlling 75 per cent of the economy.

Politics and elite configurations in state-business relations

Given the configuration of power and the application of the four cornerstones, there existed cohesion and unity of purpose among corporate, bureaucratic and political elites. At the apex was Kamuzu Banda, who straddled the three sectors to the extent that the elites below him saw in him their 'common parentage'. The result was a form of elite cousinhood across the different sectors based on common adherence to the rules of a political game in which loyalty to the leadership took precedence over independent initiative and policy debate. Not only was Banda the supreme political leader, but also he was the supreme businessman (Van Donge, 2002:651).

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[80] Ibid, p.7.

[81] Ibid,p.13.

Elite cousinhood was enhanced by institutional arrangements, especially interlocking directorships, among the three major corporations and a pattern of elite interchangeability in which senior executives were moved from one corporate body to another. Some bureaucrats were, by virtue of office or personal appointment, were members of corporate boards. Similarly, party elites, including several members of Parliament, were appointed to serve on corporate boards. The result of these practices was a blurring of the public-private divide. The phenomenon meant that there was only a small elite that straddled both business and politics. While Banda capped the structure, political control of this configuration rested with his henchman, John Tembo. For example, in the early 1990s, he was not only the Minister of State in the President's Office but also Treasurer-General of the MCP and Chairman of 11 companies. The dominance of the state in business provided those who manned it with patronage resources that helped them augment their power. Thus, unlike the South Korean regimes that relied on private businesses for political financing (Kang, 2002; Moon, 1994), Banda's regime was largely self-reliant.

By 1994, Press had a total of 28 subsidiaries and 8 minority holdings (PCL, 1994). ADMARC had holdings in at least 18 companies, some of which had their own subsidiaries. The MDC too had at least 18 companies with some of them having subsidiaries of their own (Privatisation Commission, 1994). This number reflected a significant reduction in MDC enterprises as the corporation had 32 subsidiary and associated companies in 1983. However, the portfolio performed poorly due to weak management, pervasive government controls and regulations and a lack of strategic focus. By 1987 government divested some of the enterprises and reduced the portfolio to 18[82]. However, rationalisation of the MDC took the form of swapping with Press and ADMARC rather than selling to other parties, allegedly because of a lack of Malawian buyers (Guhalti, 1989). The interconnectedness of the three corporations was most crucial in the financial sector (Mhone, 1987; Harrigan, 2001; Kydd, 1985) where

82 MDC Board Paper, No.35/99, 18 October, 1999, (MNA).

they owned about 70 percent of the assets and the two dominant banks controlled 90 per cent of all banking assets[83]. Not only did dominance afford the small elite easy access to resources for their business activities but was also effectively used as a 'carrot and stick' to reward the loyal and punish the incompliant elements in business by refusing them credit.

The concentration of political and economic power in small elite yielded an oligarchy that prevailed throughout this period. While the economy appeared to be improving in macro-economic terms, its benefits were not widely enjoyed. For example, by 1984/85 only about 10,718 families had annual incomes exceeding MK5, 000[84]. There were fewer than 20,000 privately owned cars. Only 5,808 civil servants were in the grades above that of a clerical officer. The largest estate owners were also the barons of the regime: of the 8,660 tobacco estates in 1987, only 362 had production quotas in excess of 25,000kgs. By 1991, the political, corporate and bureaucratic elite is estimated to have numbered fewer than 50,000 households, with a majority of them comprising a sub-elite that gravitated around the big men of the regime[85]. In short, the concentration of economic and political power sustained the regime by affording its leaders the requisite patronage and control machinery but also significantly reduced the economic significance of non-political private enterprise and its associations.

5.3.2. The regulatory framework - policing private enterprise

The need to improve the living conditions of the masses and the need for political elites to consolidate power saw the enactment of statutes that suffocated the business sector in several ways. Licensing regulations passed as part of the legislation on the control of goods and services enacted in 1968, severely distorted market operations, especially pricing and distribution. They also restricted entry to some business activities, especially imports, commercial agriculture and the formation of joint ventures with foreign capital, which was exclusive to the corporate triumvirate discussed above. In a context of

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83 IMF, Malawi Enhanced Structural Adjustment Facility Policy Framework Paper, 1998/99–2000/01, www.imf.org/external/np/pfp/malawi/malawi.htm, 10/06/2010.

84 The exchange rate to the American dollar was MK1.72.

85 Figures from Frausum (1991:12). For an account of the estate-led development strategy, see Harrigan (2001).

widespread poverty, pricing controls were populist, and their enforcement increasingly became contaminated with the politics of regime maintenance. In addition, a forfeiture law enacted in 1966 effectively sanctioned state predation on private capital even though it was primarily designed to penalise political dissidents or those suspect to the regime. While the various legislations may have had some legitimate business, developmental or welfare intentions, it was largely applied in a manner that afforded state elites opportunities to consolidate power and maintain the institutional arrangements of control. Necessity required businessmen to maintain the good will of the President and his associates.

Licensing regulations

The rule structure provided by the Business Licensing Act (1970) accorded the Minister of Trade and Industry absolute discretion and did not even provide for a right of appeal against his decisions or, at the very least, oblige him to provide reasons if he refused or cancelled a licence. The Minister of Trade argued that there was no need for an appeal procedure because he always considered carefully each and every point for cancellation of licences[86]. However, whenever expatriate capital was involved, the President was personally responsible for the decisions regarding business licensing:

> I am not going to allow any stupid businessman to come in just because he has money and think he can twist my people around ... That is why I am very, very strict with licensing of businesses. No matter who the Minister of Trade and Industry is, he will not be allowed to issue a license until I approve it – I am the real Minister of Trade and Industry in this country[87].

Besides commerce and industry, commercial agriculture, especially the production of burley tobacco, was also subjected to licensing by the Ministry of Agriculture[88]. Within the licensing requirements, government 'quota' allocation committees periodically decided the maximum import values that firms were allowed as well as the maximum quantities of specific types of tobacco any grower could

86 Hansard, 2 December, 1970, p.796, as cited by Williams (1978:241).
87 Kamuzu Banda, Prime Minister's Speech at the opening of the Trade Fair, 4 July 1964, MNA, 1963/64 pam 1,127.
88 'Warning on Tobacco, The Times, 23 July 1970, p.3.

produce[89]. Business licensing was an effective institutional weapon for forcing businesses to comply with the demands of the regime as licences could be cancelled on the flimsiest of grounds as illustrated in the following two cases.

Firstly, in December 1970, an amendment to the *Insurance Act* transferred the power to refuse or revoke an insurance licence from the Registrar of Insurance to a minister. All companies were required to re-register and were warned that each application would be looked at on its merits, and registration could be refused for various reasons or on the grounds of national interest. The purpose of the amendment was "for the protection of our people and for the survival of the [newly established state company –The National Insurance Company of Malawi (NICO)][90]. Thus, licensing regulations were used to provide a competitive edge to a state-owned company. Even before the amendment was passed, Kamuzu Banda indicated that "all ministries, government departments and statutory bodies [would] have to show cause why they [were] not insuring, with the new insurance company"[91].

Secondly, in 1972, the MCP Convention condemned certain fanatical religious sects, especially the Jehovah's Witnesses, as hindering the political and economic development of the country. This was against the backdrop of the sect having been banned in 1967 for being "dangerous to the good government of the state"[92]. The convention resolved that all members of the sect "employed in commerce and Industry should be dismissed forthwith and that any commercial or industrial concern that does not comply with this resolution should have its license cancelled"[93]. It was further resolved that members of the sect "employed by the government should be dismissed forthwith" and that those who were "self-employed, either in business or farming must have [their] activities discouraged"[94]. A wave of

[89] From Secretary for Trade and Industry to various chambers of commerce,22 Februar, 1964, MNA, Division of Trade and Industry, File No.JLI.
[90] Hansard, 2 December, 1970.
[91] Speech to Parliament,1970, p.4.
[92] Gazette, 20 October 1967. See also resolutions of the MCP Convention 1967.
[93] MCP Convention Resolution of 1972 (MCP,1980:16).
[94] ibid.

business forfeitures followed, as did deportations of expatriate managers who were unable to dismiss employees because they did not know their religious affiliation[95].

In short, while business licensing is a legitimate activity undertaken by governments everywhere, it was used in the one-party era as an instrument for restricting the entry of some entrepreneurs into certain lucrative ventures in a manner that was ostensibly contradictory to a capitalist system of free enterprise, where market competition determines entry and exit from business sectors. As the case of the Jehovah's Witnesses shows, licensing regulations were also used to settle political scores with individual businessmen or companies. It was 'political correctness' rather than economic criteria that took precedence in making decisions on various aspects about business licences.

Price controls and enforcement by the MCP machinery

The MCP government instituted a price control regime through *The Control of Goods Act (1968)*. Since the President insisted on businesses making profits by increasing the turnover rate rather than by increasing profit margins[96], its aim was to curb profiteering. An entrenched perception was that businessmen were dishonest in their pricing. Thus, Banda often reiterated that Malawi was "not a hunting ground for crooks"[97]. He was keen to ensure that honest businessmen had nothing to fear, but "sharks, crooks" would find Malawi to be "Gehenna for them"[98]. The political undertones in the pricing instructions to businessmen were as clear as their business sense was elusive:

> You must not cheat my people in the village. You must not charge higher prices for what you bought cheaply yourselves. Anyone who does that, I will cancel his licence. I do not want my people to be cheated by either Asians or Africans[99].

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[95] Interview, Mr. Mark Katsonga, businessman and politician.
[96] Speech to the MCP Convention (Lilongwe), 1968, p.13.
[97] Closing speech of parliamentary Session, 14 October, 1968, p.23.
[98] Ibid.
[99] Closing speech, MCP Convention (Lilongwe), September, 1968, p.13.

Consequently, a Price Monitoring and Control Committee (PMCC) was formed in the Ministry of Trade and Industry. Subsidiary committees were constituted in the districts and were chaired by district commissioners (DCs). Their mandate was to check on prices and monitor that traders were displaying prices of their merchandise. The PMCC reviewed prices and set a mark-up of between 12 and 18 per cent, depending on whether the producing firm faced competition[100]. For those commodities specifically mentioned in the law, firms needed permission from the Ministry to effect price changes. For the other commodities that were informally added to the list of controlled goods, firms needed a 'letter of no objection' before raising prices[101].

However, unnecessary political infiltration into the price control regime began to occur in 1973 in the context of the oil crisis, which resulted in an inflationary trend. The Ministry issued a warning to all businesses that selling any item above prescribed prices would result in severe penalties. The general public was asked to report any overpricing to police or the Ministry[102]. Consequently, many shops, mostly owned by Asians, were closed down for overcharging, owners' bank accounts were frozen and some of them were deported and their properties forfeited[103]. However, the Ministry found itself overwhelmed and unable to control prices, especially in rural markets and trading centres:

> This situation cannot be controlled through the normal machinery available in the Ministry. Not only is this machinery inadequate due to inadequate staff but also will not make the necessary impact. I am sure the only way to deal with the spiralling market prices is through the Malawi Congress Party machinery[104].

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100 Kaluwa (1989); Interview with Mr. Mandindi, Director of Trade , 21 July 2009; 'Price Monitoring and Control committee formed', Daily Times, 19 March, 1982, p.7.

101 Ministry of Trade and Industry Z/Q Individual Firms, 43 Portland Cement Company (Mw) Ltd, File No. IND/109 (MNA).

102 'Ministry Issues Warning on Prices', Daily Times, 23 January, 1973, p.1.

103 DC(Mangochi) to Secretary of Trade and Industry, 29 November 1973; DC (Mchinji) to Secretary of Trade and Industry,2 October 1973; Secretary of Trade and Industry to Office of President and Cabinet, 30th April 1973; Secretary (OPC) to Deputy Chief Immigration Officer, 3 May 1973 (MNA) File No. 45/01/02/vol.v.

104 Secretary for Trade and Industry to MCP Administrative Secretary, 6 December 1973 (MNA), Ministry of Trade and Industry General Correspondence File No. 45/01/02/vol.v.

Thus, the youth leaguers and MYP began to police markets and shops and reported offenders to police, district commissioners and Ministry officials. In 1978, Kamuzu Banda extended the responsibility to the Women's League of the MCP and instructed them to "report anyone overcharging to the Secretary-General of the Malawi Congress Party"[105]. Thus, a parallel structure with its own rules for price control emerged within the party and complemented the bureaucratic one in the Ministry. At the 1980 MCP Convention, on the motion of the President, delegates described overcharging as "criminal and inhuman practice" and resolved "to help His Excellency the Life President check prices in all business enterprises in their respective areas and report all those charging high prices to appropriate authorities and the Secretary General of the party who in turn will cause cancellation of licences of all such businessmen"[106]. In the aftermath of this resolution, ABAM embarked on a campaign to cajole its members to desist from overcharging[107]. Between 1979 and 1980, 63 businessmen had been prosecuted for contravening price control regulations[108]. After 1980, however, the number of businesses that suffered due to party activities related to price control increased, and some cases were based on petty jealousies. Price control turned out to be a populist measure that struck a chord with the poor majority and pitted the state against private entrepreneurs and traders. For instance, in 1983, the Ministry announced that it would do "everything possible to serve the interests of the public by restraining traders and manufacturers from [increasing prices] despite the rising cost of raw materials[109].

The price control framework, however, began to crumble between 1986 and 1987 under the auspices of the Structural Adjustment Programmes (SAPs). Prices for many commodities were deregulated. Foreign exchange, import and agricultural production quotas were removed. Government justified these

105 'Ngwazi Warns Market Vendors', Daily Times, 14 September,1978, p.1.

106 Resolution No.10, MCP (1980:37).

107 Interview with Mr. Chikhawo; 'ABA committee official for Chikwawa elected, Daily Times, 4 February ,1981, p.3; 'ABA asked to help check overcharging', Daily Times, 21 June 1983, p.2.; 'Warning on unfair prices', Daily Times, 4 February, 1981, p.7.

108 '63 Businessmen Prosecuted', Daily Times, 20 March, 1981, p.7.

109 'Traders Restrained from Overcharging', Daily Times 11 March 1983 p.2; 'Fines for Seven Trading Cheats', Daily Times, 27 October, 1983, p.1.

changes as being consistent with its statement of development policies for 1987-1996[110]. By 1992, when the wind of political change blew across the country, price controls remained only on sugar and cement (Kaluwa, 1989).

Business forfeitures and security of property rights

The Business Licensing Act complemented the *Forfeiture Act* (1966) in institutionalising insecurity of property rights for private businessmen. In particular, the Forfeiture Act vested unfettered discretion in the political and bureaucratic elites to confiscate private property. This law aimed to consolidate political power by occasioning economic injustice on those who were real or imaginary foes of the regime.[111] The provision that was critical in shaping SBRs was in section 2 of the Act:

> If the Minister is satisfied that any person is, or has been, acting in a manner prejudicial to the safety or the economy of the state or subversive to the authority of the lawfully established government, irrespective of whether that person be within or without Malawi, he may by order, which shall be published in the gazette, declare such person to be subject to forfeiture.

The generality of terms such as 'acts prejudicial to the safety of the economy' effectively allowed any perceived business offence to qualify an enterprise for forfeiture. Such practices as selling above the government's prescribed prices and violations of foreign currency quotas not only resulted in cancellation of business licences, freezing of bank accounts and deportations but also forfeiture of all real and personal property of the person involved. Forfeited property was to be vested absolutely in the government and used or applied for purposes that would be directed by the Registrar General[112], who was "at all times subject to such general and specific directions of a forfeiture committee"[113] that was personally appointed by the President. The Act carried a wide indemnity clause under which no suit, prosecution or other legal proceeding would lie or be instituted against any person or the government in

110 'Government Promotes Private Sector', Daily Times, 7 May 1990, p.1.
111 For a concise legal analysis of the Forfeiture Act, see Roberts (1966).
112 Section 5(d) of the Act.
113 Section 6(1) of the Act.

respect of anything done or purported to be done under the provisions of the Act[114]. This allowed the seizure of property belonging to persons mistakenly believed to be subject to forfeiture (Roberts, 1966:133) and protected party activists who abused the Act for their own intentions.

Many Asian and African businessmen fell victim to the Forfeiture Act. One account estimates that there were 300 forfeiture deportations of Asian businessmen between 1966 and 1981 (Kotecha, 1981). While forfeited aliens could be deported, Africans were detained indefinitely, often without trial[115]. Government and party leaders often appropriated forfeited assets among themselves, either by distributing it directly or through a pre-empted auction system[116]. Only one case (as far as I know) of such forfeitures was brought before the courts after the fall of the MCP regime and was successfully concluded in 2001. A businessman who was also a Member of Parliament had his business licences cancelled arbitrarily and declared a subject to forfeiture. The forfeited portfolio of assets, which included shops, farms and equipment, warehouses, maize mills, livestock, lorries, a petroleum filling station, 11 houses, crops, bricks, wood and furniture, was taken over by Press under the President's instructions[117]. In 1998, the High Court estimated the assets to have a replacement value of MK92, 525,975 (for other details, see Appendix IV)[118]. This case illustrates how the regulatory framework was predatory and that the MCP's brand of capitalism was one that allowed only the chosen few to participate, and only in so far as they submitted to the political demands of the regime. As some respondents observed, very few local long-term investments were made, except by the very top elites, because no independent local entrepreneur

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114 Section 7 of the Act.

115 During the field research, I tried to make a count of business forfeitures but source documents (Forfeiture Files) could not be located. The MNA referred me to the Administrator General, who in turn referred me to the Ministry of Justice and the defunct National Compensation Tribunal, but to no avail.

116 According to three respondents – a former Minister in the MCP government, a senior bureaucrat in the MCP government and a business tycoon whose father suffered forfeiture of some of his businesses.

117 Press took over several other forfeited businesses, including bakeries and farms. Other privately owned wholesale shops were forfeited and taken over by the MDC and rebranded as Chipiku Stores by the Import & Export Company (Interview, Mr. Mark katsonga, July, 2009).

118 Many other cases are reported to have been dealt with by the National Compensation Tribunal, which was established after the change of government. Its records, however, were not available for examination. The Tribunal was dissolved in 2006 amid allegations of abuse of funds.

could be sure of anything long enough to reap the benefits of his investments[119].The government's own S*tatement of Development Policies* of 1987 observed that "ownership of all but the smallest [business] ventures is highly concentrated among a small number of parastatal organisations and private companies" (GoM 1987:62). But without any reference whatsoever to the restrictive nature of the business regulatory institutional framework, the policy document simply observed that this was because "the number of Malawian entrepreneurs willing and able to undertake industrial ventures of any size has been very limited" (ibid).

In short, the business regulatory regime empowered the President and his cohorts to dispossess, without warning or negotiation, any business proprietor perceived to be contravening the regime's view of the 'national interest' or who potentially threatened the interests of the political elites. Politics, not good economics, determined the survival and success of business enterprises. It is certainly no exaggeration to suggest that the greatest single constraint on African entrepreneurship was the institutionalised uncertainty of the business environment. The one-party state was nothing less than a predator on private enterprise despite an outlook of stability. Although it claimed "to support a liberal system of private enterprise as the basis for commercial and industrial activity"(GoM, 1987:55), the evidence shows that rather than being 'liberal', the system subjected the miniscule private enterprise sector to heavy policing and arbitrary deprivation so that the epicentre for commercial and industrial activity was the state itself through its corporations. Although the state tried to promote African enterprise, it was very much as a reward for those African businessmen who helped to prop up the regime and cultivate its legitimacy.

[119] Interviews with Mr. Mark Katsonga Phiri and Mr. Humphrey Mvula.

5.4 The African Businessmen Association and the politics of indigenising commerce and industry.

Under the hegemony of the party, the non-co-opted business community did not have any independent policy voice but merely complied with the announced policy or resolutions of a party convention. However, the political importance of ABAM increased and so too did its policy leverage, especially in attempts to indigenise commerce and industry. Nonetheless, ABAM's influence did not in any way eat into the autonomy of the state because the association was itself the creation of the state, and the 'selective incentives' accorded to it by the government were elements of political patronage for which members were perpetually grateful to Kamuzu and the party. The rationale for the efforts to indigenise the business sector lay in the disproportionately small share of Africans in the business life of the country.

5.4.1. African private enterprise at independence

Like other African countries, Malawi's business sector was dominated by foreigners at independence. Indians were the most successful in commerce. They dominated wholesale trade and enjoyed a virtual monopoly on rural retail trade. Joffe (1973) and Dinwiddy (1974) peg the Indian share of small-scale commerce at 90 per cent, which was carried out through only 15 per cent of licensed retail establishments. Europeans participated in wholesale and retail trade, but their overall share was small and was attributable to a few big companies (Power, 1993).They nonetheless occupied strategic positions, including plantation agriculture, transport and finance. There were no African wholesalers, and the African share of retail trade was less than 10 per cent but Africans had a disproportionate share of 82 per cent of licensed retail establishments (Joffe, 1973; Nyasaland Government, 1962)[120]. This reliance on external actors was regarded as potentially unreliable, economically risky, but most importantly for the present purpose, politically unacceptable.

[120] A Government report of 1959 indicated that by 1957 there were 9,300 African retail shops and 4 wholesalers.

Against this background, the new African government deemed it expedient to minimise dependence on the entrepreneurship of non-indigenes. This was particularly the case since Indians and Europeans showed little, if any, enthusiasm to adopt Malawian citizenship. African participation in commerce, however, became a policy focus in 1962 when Kamuzu Banda ordered the formation of MARTA[121] for the purpose of opening up provision of transport services to Africans. But in 1964, Africanisation of the business sector had two clear dimensions. The first was to Africanise the ownership of large-scale enterprises. This dimension received most attention from the President and led to the state establishing multi-sectoral corporations and dominating the business sector as discussed above. The second dimension aimed at Africanising small-scale commerce[122]. It moved up the government agenda in the late 1960s when the domination of non-Africans in rural commerce was deemed to be "inimical to the economic development and viability of the country"[123]. Besides the need to develop an indigenous commercial class, Kamuzu wanted to enhance the political legitimacy of the party among African entrepreneurs. Thus, in 1968, he convened a meeting of African businessmen, where he complained about mismanagement of MARTA and effectively asked them to form a more encompassing association[124]. Consequently, in 1969, the Association of African Businessmen of Malawi (ABAM) was formed and became an appendage of the party. In 1970, Kamuzu directed the dissolution of MARTA and directed the formation of a government body – the Malawi Road Transporters Authority[125] – which worked in collaboration with ABAM.

Africanising the business sector was part of a development strategy in which the state played an entrepreneurial role while catalysing the emergence of indigenous capitalists in the private sector. One

[121] In fact, the colonial government began to take positive steps in 1958, when it set up the African Loans Board, which aimed at providing working capital to already established traders to expand the range of merchandise.
[122] These dimensions were not unique to Malawi. Kenya had similar experiences.
[123] Kamuzu Banda, Hansard, 29 January, 1968: 242-3.
[124] Kamuzu Banda, speech to African businessmen, October, 1968.
[125] Kamuzu dissolves MARTA, Malawi news, 17 February 1970, p.1.

aim was to control the externalisation of resources through remittances of profits by expatriate businesses:

> One of the things that now irritates me – I have to send the Minister of Finance to London every year...to discuss monetary management questions with the British Government. Why? Because there are no African businessmen here. All the trade, commerce, Industry are in the hands of other people: Europeans and Asians....The fact [is that] the shareholders of these private companies here are in London. And when the dividends are paid, the greatest portion...goes to London and what is even worse, to Bombay, Calcutta...and Pakistan...we have to go to London begging for money when money is being made in this country by these private enterprises and goes out of the country. And then when we go there, those people, some of the officials in certain ministries talk as if we are begging them[126].

Kamuzu saw ABAM as a vehicle for promoting African involvement in business activities and for mobilising the energies of Malawian businessmen to contribute to the overall development of the country. In the words of its last Executive Chairman, ABAM was "a weapon on the trading front in the war against poverty, disease and ignorance"[127]. Thus, the association identified with the party in many respects and enhanced the mingling of business and politics.

5.4.2. ABAM, the MCP and the government – Institutional relations based on mutual dependence

ABAM was formally commissioned by the President in 1975 and registered under the Trustee Incorporation Act in 1978[128], but its institutional relations with the MCP and the government began at its inception in 1969. Its National Executive Committee members were approved by the National Executive Committee of the Party and were, under the MCP Constitution, delegates to the party's convention. Its membership ranged from petty traders to medium enterprises. Its organisational structure mirrored that of the party down to the district level. Although the ABAM constitution required the election of a National

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126 Kamuzu Banda, October 1968, closing speech of parliamentary session, p.10.
127 Interview, Mr. D.J. Chikhawo, July 2009.
128 D.J. Chikhawo, Inaugural speech to ABAM Executive Committee (Shire Highlands Hotel), 16 February 1992, p.1.

Executive Committee every two years, elections were not regularly held[129]. At all levels, the association worked with the party structures to promote the activities of the party and disseminate propaganda messages tailored for the African business community[130].

The long-term political objective of ABAM was to help Kamuzu Banda in his efforts to achieve the economic independence of the country[131]. In the process, the relationship between ABAM and the party became reciprocal. While the party introduced particularistic policies and business schemes that favoured African businessmen (see below), the association was expected to help and promote the activities of the party. Politicians in high-ranking positions often reminded ABAM members that they owed their success to Kamuzu Banda's efforts to develop the country through the party. Consequently, ABAM mobilised financial resources in support of political activities such as national and regional conferences[132]. Occasionally, ABAM executive committees met with the President and would present cash donations. For example, in 1984 a ten-member delegation presented MK5, 000 to Kamuzu Banda "as a token of appreciation for the business opportunities offered to them" and thanked him for establishing several organisations (see below) to help the development of African commerce and industry[133]. At a subsequent meeting of the ABAM Executive Committee, the Vice Chairman and other members observed that the amount donated to the President was too insufficient because "many and great are the good things which members of ABAM are now enjoying as a result of the direct interest which [the President] has in the association"[134]. ABAM's most conspicuous role was the provision of free transport to party activists, especially the Women's League – Kamuzu's *Mbumba* – because "the

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129 For instance, D.J. Chikhawo was first elected in 1980 and served as Executive Chairman until 1994 but was re-elected only twice, in 1985 and 1991.

130 D.J.Chikhawo to D.S. Katopola, MP, MCP Regional Chairman (S), 29 January 1992, ABA/EXCHRMAN/DJC/cen.

131 'Help Ngwazi to achieve Economic independence of the country', The Times, 2 July, 1970, p.8.

132 'ABA donates MK1000 to MCP Convention', Daily Times, 20 August 1981 p.5; 'Businessmen urged to contribute towards party activities', Daily Times, 11 September, 1980, p.8.

133 'Businessmen say "Thank You Ngwazi", Daily Times,21 February, 1984,p.1.

134 Minutes of Extraordinary Board Meeting of ABA Executive Committee, held at Shire Highlands Hotel on 25th February 1984.

women entertained the [President] whenever they went to these places and providing transport was a gesture of appreciation for what Kamuzu had done for African businessmen"[135].

The association was expected to adhere to the MCP code of practice, especially in so far as the four cornerstones were concerned. For example, it was expected that those who lost political favour should either be prohibited from being members of the association or not hold any positions in the association. For example, when Bakili Muluzi was dismissed from the post of Secretary General of the MCP in 1978, ABAM appointed him chairman of its Transport Sub-committee. The Executive Chairman of the association was then asked by senior party officials and government bureaucrats why he had appointed a person who had fallen out of political favour[136]. Similarly, in 1987, a group of party activists observed that at district meetings of ABAM in the southern region, it was emphasised that the association is a 'baby of the MCP and follows the MCP system and whatever the MCP does'. They therefore wanted to know from the MCP Administrative Secretary why a man who had been detained twice for being against MCP policy was holding a senior position in ABAM[137].

The political loyalty of individual businessmen took precedence over their business interests in legitimising their membership of the association. Even as late as 1992, the chairman emphasised political loyalty as an important criterion in the following terms:

> What we should always remember is that we all belong to the MCP and without the MCP ABAM would not be formed and be where it is today ... We must contribute business services to the national development programmes loyally and diligently. It is also our duty to rally, support the MCP, government and above all, the Ngwazi, financially and materially[138].

[135] 'Businessmen called upon to assist with transport', Daily Times, 1 September 1978 p.11; 'Minister Commends ABAM's efforts, Daily Times 28 February 1978 p.1; 'ABA Members urged to unite', Daily Times, 9 April 1981 p.7; 'ABA Members get a pat on the back', Daily Times, 26 May, 1982, p.3.

[136] Interview, Mr. D.J Chikhawo, July 2009, former executive chairman of ABAM.

[137] C.Njabina to MCP Administrative Secretary, 15th June 1987 [private archives].

[138] D.J. Chikhawo, speech to new ABAM Executive Committee, 16 February 1992, p.3 [private archives]

ABAM's legitimacy with the party earned it a policy voice through different mechanisms. Occasionally, the Executive Committee had private audiences with the President where policies such as the eviction of Asian traders from rural areas were discussed[139]. The ABAM chairman gained the President's confidence to such an extent that in 1992 when the wind for democratic change blew across the country, he was privately commissioned by the President to travel around the country to gauge the popular mood and assess whether the continuation of a one-party state under the MCP had a real chance of survival. In contrast, the Chamber did not enjoy such exclusive access to the President and at best was involved in policy consultations at an operational level.

In addition to access to the political authorities, ABAM had direct representation on boards of organisations that made policy affecting local businesses. Of particular importance were the Small Enterprise Development Organisation of Malawi (SEDOM), Development of Malawian Traders Trust (DEMATT), Malawi Entrepreneurs Development Institute (MEDI), and The Import & Export Company of Malawi[140]. The government saw ABAM, which encompassed the Exporters Association of Malawi (EAM), Transporters Association of Malawi (TAM) and Private Traders (Small Produce) Marketing Association, as a peak business association for Africans[141]. The Ministry of Trade, which was designated as a 'parent ministry' for ABAM, granted the association a lucrative sugar distributorship of up to 1000 metric tonnes per week in order to boost its revenue base[142] . ABAM was also regularly invited as a participant in policy dialogues organised by the donor community on private sector issues, often alongside the Chamber[143].

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139 Interview, Mr.D.J. Chikhawo, July 2009.

140 Interview, Mr. D.J Chikhawo and his personal papers.

141 Secretary of Agriculture to ABAM, 10th January 1991, Ref. No. 43/1/45/vol.III/63; Secretary for Economic Planning to ABAM, Ref No. EPD/2/3/4 [private archives].

142 ABAM Chairman's Report, Annual General Meeting, 17 November, 1991; D.J. Chikhawo to Secretary for Trade and Industry, 16th January, 1992, ABA/EXCHRMAN/DJC/cen.[private archives].

143 'UNDP Initiative in the Development of the Private Sector–Third In-Country Private Sector Meeting', UNDP RAF /88/025/-G (private archives].

5.4.3. Strategies for promoting African enterprise

Foreign dominance in commerce was recognised as a sensitive question but was obviously detested by the regime:

> It is a very sensitive question, ... if I do not face it now, no one else will face it ... In this country, trade and commerce ... [are] in the hands of people other than our own ... The vast majority of businessmen in this country dealing either in consumer goods or capital goods, is not African. It is either European or Asian. As a result most of the money, if not all of the money, made in trade and commerce in this country goes ... into the pockets of Europeans and Asians; Most of this money ... goes out of this country ... We must do everything possible to change the situation...which has been going on far too long[144].

The small African share in commerce was attributed to lack of capital and lack of access to credit, unfavourable terms for African traders in the wholesale market and stifling competition from Indian entrepreneurs who were already entrenched[145]. Consequently, the MCP government, like other African governments that were facing similar situations (Dinwiddy, 1974; World Bank, 1971), devised a plethora of measures with the explicit objective of assisting African businessmen. These took three different forms: discrimination against non-African businesses in favour of Africans, provision of business finance and basic training.

Formation of trading corporations

The National Trading Corporation (NTC) was formed by a partnership between the MDC and Bookers Malawi, in which the MDC acquired a 51 per cent stake. The NTC, like RUCOM Industries in Zambia, the Ghana National Trading Company (GNTC) and the Kenyan National Trading Corporation (KNTC) (Dinwiddy, 1974:6), was mandated to provide special services, including trade credit, to African traders[146].

144 Kamuzu Banda, Hansard, 5th Session, Third Meeting, 29 January, 1968. pp 240-241.
145 Ibid.
146 Hansard , 6th session, First Meeting 8 October, 1968 p.5.

However, the partnership between the MDC and Bookers Malawi fell through in 1970 when the NTC failed to lower prices in the rural areas. The President suspected that Bookers was using its relationship with the MDC as a shield so that it could keep prices high without suffering repercussions under the Control of Goods Act.[147] The President unilaterally announced the dissolution of the partnership and directed that the NTC would revert to Bookers Malawi and its rural assets would be acquired by the MDC, which would turn them over to a new government company (Hooker, 1971). At the time of the dissolution, wholesale services had improved somewhat through the establishment of 26 depots, and trade credit had been granted to up to 200 traders (Dinwiddy, 1974:88). The Import and Export (I&E) Company was subsequently formed as an MDC subsidiary to run wholesale and retail shops throughout the country. Its mandate included lowering prices for consumers, using its 'managerial positions' as apprenticeship positions for African businessmen, and selling successful shops to African businessmen[148]. The government then announced that it was going to limit the issuing of import and export licences to a few firms. This measure was designed to punish Bookers and aide the newly formed company. The NTC and its successor helped an emergent commercial class to venture into the wholesale and retail sectors. Combined with the activities of Press, they provided opportunity for entrepreneurs with political connections to negotiate the rights to lucrative distributorships of consumer goods. In addition, the government procurement policy changed so that some contracts, for example food supplies, were restricted to Africans[149]. Similarly, Asian businessmen were warned not to compete with Africans in rural areas by buying maize mills and farm produce[150]. By 1968, Asians were restricted

[147] Kamuzu Banda, speech to Parliament, 1971.
[148] The Times, 1 May, 1972, p.11 as cited by Joffe (1973:138).
[149] Kamuzu Banda, opening speech, MCP Convention (Lilongwe) September, 1968, pp 14-15.
[150] 'Asian Traders Advised to help Africans', Malawi News, 26 August 1969.

from doing business in rural areas. All these policy measures were hailed and endorsed by the MCP Convention of 1968[151].

Eviction of Asians from rural areas

In 1968, Kamuzu observed that the country was 'flooded' with traders of other races, who had built shops "in the villages where the African should be trading among his own people...This robs our people the opportunity to go into business"[152]. The MCP Convention endorsed the position that business in rural areas should be left to Africans only. Consequently, Asians were ordered to relocate to the urban centres of Blantyre, Zomba and Lilongwe within two years and licences to trade in rural areas thereafter would be refused. The Business Licensing Act was accordingly amended. This measure became a trump card for the party and ABAM until its demise in 1994[153]. For example, the Conventions of 1970 and 1975 carried resolutions of gratitude to Kamuzu for this policy. Senior politicians also often made reference to this measure when soliciting donations to the party from businessmen. In the early 1990s, the measure was highlighted in order to retain the loyalty of businessmen at a time when the political landscape was changing.

However, this was an ill-conceived policy which was announced before operational plans had been worked out. Consequently, the deadline for its implementation was pushed back to 1973 and later to March 1978. During most of this period the bureaucracy groped in the dark for an operational interpretation of the presidential directive[154]. ABAM too complained of slow progress in implementing the policy[155]. Consequently, a committee comprising bureaucrats, bankers, ABAM, The Chamber,

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151 Resolutions No.2 (iv), and No.8, MCP (1980:6-7); 'Help for Africans entering businesses', Malawi News, 26 August 1969.

152 Kamuzu Banda, speech to MCP Convention, 1968; 'African Businessmen to get a New Deal', The Times, 29 January, 1968, p.1.

153 The Conventions of 1970 and 1975 for example carried resolution of gratitude to Kamuzu for this policy. In the early 1990s, the measure was emphasised in order to keep the loyalty of businessmen at a time when the political landscape was changing.

154 See, for example, Secretary for Trade, Industry and Tourism to Secretary to President and Cabinet and others, 15th July 1975, BL/110/042/01/165; BL/110/042/02/2 of 16th February, 1976.

155 Interview, Mr. D.J. Chikhawo.

Press and the I&E company was constituted to deal with the technical issues in the implementation of the directive. It must be noted that there are claims that this policy measure was 'Dr. Banda's baby', and he overrode policy advice to the contrary by some of his ministers[156]. The operational challenges were enormous, especially as deadlines had been set by the President before consultations. It is not the purpose of this study to evaluate this policy measure, but suffice to say, it was driven by political considerations.

In the main, it was seen as part of the nationalist struggle to reclaim the commercial sector for Malawians. However, the policy was not unparalleled in independent Africa. In Kenya, the Trade Licensing Act (1967) and The Import, Export and Essential supplies Act (1967) were enacted to restrict non-citizens from trading in all rural areas and all non-central parts of major cities and towns. Non-citizens doing business in such areas were issued with 'quit notices' and had to sell or rent their businesses to citizen traders (Himbara, 1994: 472). In Malawi, however, there was no option to rent to citizens. According to the President, any Asians opposed to the idea were "digging their own financial and economic graves"[157] as any unsold foreign business by 31 March 1978 was forfeited. Africans were repeatedly warned 'not to be Indian stooges'[158], and those Africans suspected of colluding with the departing Asians had their business licences cancelled and assets forfeited. Most Asians left the country for India or the United Kingdom. Those who remained became politically and socially invisible but quickly re-established themselves in commerce. While a good number of them became victims of forfeiture, they were, as a community, generous donors to the party and especially to Kamuzu personally. For example, in 1992 up to 250 of them from Blantyre alone met the President to "thank him for the peace and calm, law and order" that had prevailed in the country for 28 years and had enabled them to do good business. They presented a 6 tonne truck and a cash donation of up to MK1, 034,

[156] Interview, Mr. Aleke Banda.
[157] 'President Warns Asian Traders to move by a certain date', Malawi News, 5 May, 1970, p.1.
[158] 'Businessmen Warned: Dont be Indians' stooges', Daily Times, 6 April, 1981, p.1.

255[159]. Contrast this with the MK7,820 donated by the African business community from nine districts of the central region in the same year[160].

Provision of business finance and training

After Asians were expelled from the countryside, it was expected that Africans would quickly take over. The reality, though, was that many Africans had neither the capital to acquire assets owned by Asians nor the business acumen to run similar enterprises. The scarcity of private domestic savings, management and entrepreneurial skills compelled the government to form organisations that would provide the necessary financing and training as follows:

- The Ministry of Trade, Industry and Tourism proposed the formation of The Development of Malawian Traders Trust (DEMATT)[161] in 1976. The aim was to provide a combined package of assistance comprising training, finance, and business advisory services initially to traders taking over from Asians. The trust offered 'learn-on-site' programmes by holding classes on cash control, credit, stock management, business analysis and sometimes shelving[162].

- In 1981, The Small Enterprise Development of Malawi (SEDOM) was established as a non-profit organisation by the government through a grant from the European Development Fund. The aim was to provide financial assistance, technical advice and development of business premises for African businessmen[163].

- The Investment and Development Fund (Inde Fund) was established in 1981 by Inde Bank (a subsidiary of ADMARC) and The Netherlands Finance Company for Developing Countries. The aim was to provide finance and advisory services for set-up, expansion and modernisation of enterprises owned and controlled by indigenous Malawians.

- The Malawi Entrepreneurs Development Institute (MEDI) was set up to provide long-term vocational training to African entrepreneurs and to provide them with start-up capital.

159 'Blantyre Asians assure Ngwazi of support', Daily Times, 24 November, 1992.
160 'Government wants partnership with the Private sector', Daily Times, 22 October, 1992, pp 1-3.
161 Secretary of Trade, Industry and Tourism to Secretary to Treasury and others, 10 November, 1976, BL/110/042/02, MNA.
162 'Trust for benefit of local traders,' Daily Times, 17 April, 1980, p.1.
163 'Grant from European Development Fund', Daily Times, 9 February 1981 p.1; 'Small Business body is viable', Daily Times, 28 June,1985 p.1.

ABAM had representation on the board of SEDOM, MEDI and DEMATT and was active in organising workshops and seminars for businessmen. In this latter task, the Chamber was tasked by the political authorities with helping in the training of African businessmen in rural areas. However, these facilities were often under so much political influence that the allocation of finances was based not just on the viability of business proposals but also on the political acceptability of the applicants[164]. Thus, the one-party state devised strategies for promoting African enterprise, but it required the individual entrepreneurs to remain unquestionably loyal to the party, and if they were not, the regime was not hesitant in using its legal instruments to dispossess them. Although ABAM was not a huge financial donor to the party (except for transportation), its political significance was quite high, especially in providing impetus for the implementation of politically inspired measures for the Africanisation of the commercial sector and in contributing to the enforcement of price controls.

However, ABAM had a whole range of management problems, as reflected in the failure to hold the periodic elections required by its own constitution. By the time the political environment began to change in the early 1990s, many members had become disillusioned, and there were numerous allegations of favouritism and nepotism in allocating sugar distribution quotas and transport services. There were also allegations that the ABAM leadership were Indian stooges. An audit commissioned by the government established gross mismanagement of finances. Thus, in 1991, the Road Transporters Association, an affiliate of ABAM by government directive, financed a general assembly of the association. Elections were held, and the Ministry of Trade and Industry pledged its support in restructuring the association[165]. Even insiders observed that ABAM had lost direction and needed reform[166]. But the tide for macro-level political change was gathering momentum. By 1993, the political

164 Interview, Mr. D.J. Chikhawo.

165 Minutes of meeting between Ministry Officials and ABAM Executive Committee, ABA/ADMINSEC/JDC/cen, 25 October 1991; Secretary of Trade to Chikhawo, 2 December, 1991, Ref No.BL/110/029 [private archives].

166 Bakili Muluzi to Chikhawo, 21 November,1991 Ref. Atupele Transport, EEB sfh [private archives].

landscape had changed so dramatically that many of ABAM's executive members at national, regional and district levels were activists in emerging opposition groups.

5.5. Political change and the beginning of the end of neo-patrimonial one-party state hegemony in SBRs

Upon the attainment of self-government in 1963, Kamuzu Banda was clear about what kind of political system he intended to set-up:

> I am not opposed to the existence of opposition parties; [but] I do not myself propose to take the initiative in building up an effective opposition to my party. [And] If opposition parties should appeal [to the people], then....my party will.... seek to minimise their influence... should the people as a whole tire of me and my party, then they will remove and replace us. Until that time comes, we propose to govern[167].

The MCP regime pursued this objective with zeal. Although formally a one-party state, the analysis above agrees with Venter's (1995:155) observation that, to all intents and purposes, Malawi was a one-man state in which the entire state machinery was answerable to Kamuzu Banda. For the business community, the result was a climate of fear, insecurity of property rights and a culture of silence. It was a period of 'living dangerously' (O' Maille, 1999) in which public and private domains were fused by politics. However, 'the people as a whole' grew tired of the party and began pressing for the overhaul of the one-party state. The movement for political change in the 1990s and the rise of neo-liberalism as a framework for national politics and the economy shook the foundations of the neo-patrimonial state hegemony. The historic referendum held in 1993, which favoured multiparty democracy over the continuation of a one-party state, marked the beginning of the end of a pattern of SBRs, and state-society relations generally, in which the state lorded over the business sector.

Certainly, a number of reforms aimed at opening up economic activities to the market, as opposed to political rationality, began in the early 1980s with the adoption of structural adjustment programmes (Kydd, 1989; Harrigan, 1991). They included deregulating foreign exchange, domestic prices and the

[167] Kamuzu Banda, Malawi News, 1 March 1963 as cited by Short (1974:253).

removal of barriers to the entry of private enterprise in sectors that were exclusive to the corporate triumvirate. These policy changes, however, did not produce any significant changes in the pattern of SBRs, within which neo-patrimonial state hegemony based on an entrenched pattern of elite interlock and an embedded political culture based on fear and submission, continued unabated. The beginning of the end for Banda's predatory, intimidatory and at times violent practices towards private enterprise lay in changing the fundamentals of politics, i.e. the nature of the state, the political system and attendant power configurations.

Following the 1993 referendum's result in favour of the reintroduction of multiparty politics, the Forfeiture Act and the one-party constitution were repealed. In 1994, the United Democratic Front (UDF) swept to power with Bakili Muluzi as President.The demise of the one-party state, and especially the loss of power by the MCP, saw ABAM shrink, entering terminal political decline. The rise to power of the UDF, which was led by business tycoons several of whom had suffered at the hands of the MCP, represented yet another critical juncture in the institutional patterns of SBRs and is analysed in the next chapter.

Conclusion

The structure and practice of SBRs during the one-party era was fundamentally different from that of the colonial era. The foregoing narrative shows that just like in the preceding epoch, the analysis of SBRs is essentially about the formation and evolution of institutions for organising these relations. Consequently, it provides further insights about factors that shape both SBRs and the processes of institutional formation, maintenance and change. Just like in the colonial era, the praxis of SBRs in the post-colonial era illustrates the primacy of political considerations for the state and business elites in structuring their relations. In concluding the chapter, I highlight below some theoretical points that the narrative illustrates or suggests.

The primacy of politics

Whereas colonial business associations were fairly autonomous and enjoyed political power to the extent of virtual veto, the post-colonial period was characteristically different. Business associations were subordinated to the MCP, which thrived on a ruthless enforcement of its four cornerstones. Thus, Kamuzu Banda ordered the creation of ABAM more to enhance the legitimacy of the party among African businessmen than to broaden the sphere of African business enterprise. African businessmen were effectively turned into the president's retainers by granting them particularistic privileges, including reserved trading areas. These 'benefices' *(*Weber, 1968:235) obliged African businessmen to proclaim the personal power and benevolence of the President. While ABAM was appended to the party from inception, the Chamber was compelled by the logic of appropriateness i.e. its continued survival was dependent on its willingness to go along with the political whims of the party. Similarly, the regulatory framework, especially its price controls, was imbued with a degree of populism that enjoyed a warm reception from the poor majority. While this strategy produced political gains, it repressed private enterprise. The arbitrary cancellations of business licences and subsequent forfeitures yielded a docile and overly cautious business community. Unlike the colonial government, which relied on a thinly spread police force for law enforcement, the post-colonial state relied on an omnipresent party machinery that was effective at enforcing laws or party resolutions and punishing any perceived deviance from the four cornerstones. The MYP, youth leaguers and the conventional police constituted nothing less than 'patrimonial troops' (Weber, 1968:235) in unleashing state-controlled violence against politically undesirable elements in the business community.

Political architecture and the autonomy of the state* vis-a-vis *the business community

Unlike the colonial era, where institutional formation was based on inter-elite politics in the form of negotiations and bargaining, during the one-party era, institutions governing SBRs were not in any sense 'political settlements' (Khan, 1997). Due to the asymmetrical distribution of power in favour of the President, rules and codes of practices in SBRs were products of presidential fiat in which economic considerations played second fiddle to political ones. While the Chamber was effectively sidelined for failing to Africanise its leadership, Banda created a nominated parliamentary European opposition to placate the expatriate business community but did not allow them any meaningful power to influence decisions. While the MCP Convention was officially a policy forum, the Chamber of Commerce was left out because its membership included Europeans, who were not allowed any active part in national politics. ABAM, however, like all other participants at the conventions, was merely sycophantic and was cajoled into building a presidential personality cult. The personalisation of the state in Kamuzu Banda meant that in so far as the making of policy was concerned, there was no benign collaboration (Scheneider and Maxfield, 1997; Harris, 2006; te Velde, 2006) between the state and the business community. Collaboration was only at the level of implementation of policy directives.

The analysis suggests that transparent and benign collaboration for policy dialogue in SBRs depends in part on the degree of dispersal of political power in the institutional architecture of the state. While state power in the colonial period was shared between the Governor, EXCO and LEGCO, in the post-colonial period, it was centralised in the President, who was difficult to access. This removed any meaningful policy spaces for the business community.

Financial independence of the state from the business sector

When compared to the colonial period, the analysis of post-colonial SBRs provides evidence for the proposition that one important distinction between one government and another is the degree to which market replaces government or government replaces market (Lindblom, 1977:ix). It illustrates that when the state becomes the larger part of the business sector, the private business community loses much of its economic and political significance and is highly unlikely to be accorded a regular and significant policy voice. It further shows that a pattern of elite interlock in which political elites straddle government and business results in an accumulation and concentration of power by a few who use it to create institutions that protect their interests at the expense of broader access to political and economic opportunities.

The analysis bolsters the suggestions made in the previous chapter that state dependence on the private sector for revenues and the provision of employment shapes SBRs. In contrast to most of the colonial period, where the state relied on the domestic business sector to provide taxable employment and other forms of revenues, the one-party state dominated the economy itself. The role of parastatal companies and the President's conglomerate (Press) virtually eclipsed private entrepreneurs. The state, through its corporations and other enterprises, provided the largest proportion of jobs and generated the revenue that the political elites needed for patronage and other purposes. There was effectively little need to 'sweet-talk' the business community or regard it as a policy partner. Johnston's colonial state disregarded the domestic business sector because the state accessed revenues with relative ease from the BSAC. Subsequent Governors initiated and sustained concertation with the business community because of their 'resource imperative' and need to sustain political legitimacy with the European community. The one-party state, however, was largely self-reliant. It was itself the largest part of the business sector, the biggest employer and contributor to GDP. In any case, its rule structure was predatory, and it could therefore extract money and other materials from private enterprise through different mechanisms. Thus, contrary to the thesis of the 'privileged position of capital' (Lindblom, 1977), it is the state that was privileged in post-colonial Malawi, and capital was subservient to it. This insight not only endorses the hypothesis in fiscal sociology about the social, economic and political evolution of societies (Campbell, 1993; Moore, 2004) but also shows that the political and economic objectives of state elites determine how much and what kind of policy space, if any, will be accorded to the business community. In contrast to the miniscule role of the state in the economy during colonialism, the overarching economic role of the post-colonial state and Banda's personal engagement in big business diminished the relative financial and political significance of private enterprise and meant that government had little reason for engaging with it directly and regularly in policy dialogue.

The narrative also shows that the low level of capitalist development at the time of independence enabled the state to dominate the economy and engage in populist strategies to indigenise the business sector. The political and economic dominance of the state meant that the business community lost the autonomy it had developed over decades in the colonial era. The African businessmen did not even have a chance to begin to develop even the semblance of autonomy. The entire business community was dependent on the goodwill of the President and his lieutenants. While the state viewed private enterprise with mistrust for fear of it developing politically autonomous capitalists and for fear of it undermining the state by cheating a peasant citizenry, the business community viewed the state with suspicion because of the ever imminent possibility of forfeitures. Thus, the dominance of the state made it autonomous, but its predatory tendencies made it unable to become embedded along the lines suggested by Evans (1995). The state was neither an organ of a domestic bourgeoisie that it sought to create through indigenisation policies nor was it an 'executive committee' for international capital although it partnered with it in subsidiary and associated companies. Any element of the business community was dispensable. SBRs, therefore, were a skewed relationship.

Organisation of the business sector vis-a-vis the state

Unlike the colonial government, which intervened in the organisation of the business sector to avoid a pluralised institutional environment for policy dialogue, the one-party state thrived on 'divide-and-rule' tactics, initially by creating a sectional business association for Africans, the MARTA, and later ABAM to operate alongside the Chamber. This difference owes to the politics of policy making. Unlike in the colonial era, where business associations had a policy voice, they had no significant role in policy making during the one-party state. There was therefore no need for a single collective voice. Secondly, the pluralised organisation of the business sector served to legitimise the party among African businessmen by granting their association political access and prestige while effectively designating the Chamber and its alien membership as 'outsiders' to mainstream politics.

The analysis, like that of the colonial era, shows that access to the state is the most important incentive for peak business associations. The Chamber lost its visibility in policy processes until the early 1970s. Despite attempts to woo African businessmen to sign up for membership, there were only 10 African members in 1969. There was probably less pressure to increase African membership as the nominated parliamentary opposition was made up by members of the Chamber even though they were not selected by it. It is apparent that the dissolution of the parliamentary opposition in 1973 contributed to the election of an African chairman of the Chamber, and this act alone earned the Chamber political recognition and the invitation to engage in dialogue with government on policy implementation. By 1987, the Chamber was described in the Government's Statement of Development Policies as a partner offering a forum for policy discussion. This illustrates the validity of the proposition by Leys (1994:30) made in the context of Kenya that it is 'less important that the domestic bourgeoisie should be efficient – technically, financially or otherwise - ... than they should be competent politically ...". The compliance of the Chamber, although mechanical, to the demands of the regime ensured its survival in a period when any semblance of autonomy would have resulted in it being proscribed. It is remarkable that, in the long run it became something of a cradle for political change.

Elites and their configuration

The narrative shows that the configuration of state and business elites contributes to structuring the practice of SBRs. While the two clusters of elites were differentiated in the colonial era, they were fused in the one-party state. The dispersal of governmental power in the colonial era therefore enabled inter-elite politics of negotiation and contestation in making institutions and policies. In contrast, the political institutional architecture of the one-party state yielded only one elite cluster straddling business and politics with decision-making powers concentrated at the top. The result was simply levels of elites that gravitated around the apex, which was manned by the President himself. Furthermore, it is evident that when elites straddle business and politics, the state turns into a means of boosting personal businesses. This is illustrated by the acquisition of forfeited businesses by the President's own company. It shows that the economic interests of key elites can exert a powerful influence on the kinds of choices they make with respect to political arrangements (VonDoepp, 2005; Boone, 1998). Given that Kamuzu Banda personally dictated the wording of the *Forfeiture Act*[168], and that his company benefited massively from it, it is difficult to escape the conclusion that the political power of the state was used to augment economic interests, which in turn augmented the political power of the President. Furthermore, elite interlock, firstly, between political roles and private ownership and secondly between various directorships of state corporations (including Press) and their subsidiaries, yielded a type of authoritarian patrimonialism that blurred the public-private divide and endangered the politically indifferent private enterprise.

Historical institutionalism and critical junctures

It is argued in historical institutionalism that institutions are persistent features of the historical landscape and are the central factors that push historical development along a set of paths (Hall, 1996; Hoff, 2003). While this claim has been evidenced by different studies elsewhere (Pierson, 2004; Thelen, 2003), the foregoing analysis does not entirely support this view when the praxis of colonial SBRs is juxtaposed with that of the one-party state. On the contrary, it shows that the attainment of independence was a critical juncture in which popular expectations for institutional change among the African population, especially the political elite, unleashed political energies towards that goal and produced marked institutional discontinuities in the practice of colonial SBRs. New institutions were

[168] He told parliament, "I dictated this law, so if there is anyone to blame it is me" (14 October, 1968, closing speech of parliamentary session, p.5).

enacted and new practices for the conduct of SBRs evolved. The colonial institutional edifice for SBRs did not persist. It succumbed to political processes and power reconfiguration.

The analysis shows that while some colonial institutions are known to have continued into the post-colonial period, for example, the peasant land tenure system on tobacco estates (Harrigan, 2001; Ng'ong'ola, 1986), there was a complete institutional break in SBRs. This suggests that the conception of critical junctures based on the effects of institutional change, when applied to the attainment of political independence, explains institutional discontinuities and the emergence of new institutions in SBRs but does not help to explain institutional continuities in other spheres. This, in turn, suggests that institutional continuity across a macro-level critical juncture can be explained if the definitive factor in the notion of critical junctures is not the effects of the resultant institutional changes but people's expectations for change at the time of the event that designates a critical juncture. The expectations may or may not come to pass subject to elite interests.

History and institutional change

The narrative shows that the historical effects of the institutions and politics of the colonial era shaped the institutional evolution of SBRs in the post-colonial period by providing a basis for the political and economic objectives of state elites. In breaking with the past, political processes and the national political institutional architecture was designed in a manner that produced a skewed power distribution between the state and the business sector that the state used effectively to determine policy spaces for the business sector and the format of policy dialogue. Historical power asymmetries informed by parochial identities (especially race) were at the centre of institutional change when political power shifted from Europeans to Africans. The discarding of colonial institutions and the creation of new ones by a new cadre of political elites was consistent with nationalist expectations deeply rooted in the historical experiences of the Africans. The narrative shows that history matters not just for explaining institutional continuities across critical junctures as is often emphasised in most historical institutionalist literature (Mahoney, 2000), but also because historical lessons derived from the effects and dynamics of the previous institutional paths shape elite ideas and objectives, which lead to institutional discontinuities and feed into the design of subsequent institutions. Thus, the attainment of political independence was a critical juncture, not just for the praxis of SBRs but for state-society relations in general. Therefore, both institutional change at critical junctures and institutional continuity through path dependence are only explicable by looking to the history of institutional formation, maintenance and their outcomes on different groups of actors.

The analysis illustrates the proposition that institutional change is dependent on the interaction of existing institutional structure and the actors who work within it. In other words, behaviours shape the institutions while the institutions shape the incentives for the actors (North, 1995). It therefore suggests that the structure-agency dichotomy, while useful for explaining some political outcomes, is not helpful for explaining institutional change. Like that of the colonial period, the analysis of post-colonial SBRs provides empirical evidence for 'theories of intentional design' (Sinead and North, 1995) in so far as the emergence of political institutions is concerned. The difference between the two epochs, however, is that while in the colonial era the institutions were generally products of free and voluntary exchange between business and the state, they were products of governmental orders in the post-colonial era owing to asymmetrical power distribution.

These theoretical observations, however, are only preliminary at this stage. I will return to them more systematically in chapter seven. The next chapter, analyses the patterns of SBRs after the demise of the one-party state and the introduction of multiparty democracy.

CHAPTER SIX

Nascent Concertation and Politically Embedded Cronyism and Collusion: State-Business-Relations in a Decade of Multiparty Democracy

> *"We regard Government as our partners in creating a conducive climate for business and economic growth … we regard ourselves as advisors to Government but, as is normal, Government is not compelled to take all our advice."*[1]

> *"It saddens me … [that]… we have not … won any tenders from our Ministers… [yet]…all of us hold our positions by virtue of our party affiliation… It may be proper … to issue a directive that will encourage all ministries and parastatals to direct all their requirements to us…"*[2]

Introduction

This chapter analyses state-business relations in the first decade of multiparty democracy (1994-2004). It shows that the transition from a one-party dictatorship to multiparty democracy, and the subsequent change of government from the Malawi Congress Party (MCP) to the United Democratic Front (UDF), was another critical juncture for the institutional patterns of SBRs. The democratisation wave generated expectations for change in the formal political institutional architecture. These expectations crystallised in a new democratic constitution that ushered in a different political dynamic that re-structured state-society relations generally, and particularly SBRs. Throughout the decade, the institutional arrangements for SBRs were in a flux so that their analysis is as much about their emergence as it is about the character of SBRs during the period.

Neo-patrimonial state hegemony of the MCP era gave way to a two–dimension pattern of SBRs. I describe these dimensions as nascent concertation and politically embedded cronyism and collusion. Nascent concertation was a pattern characterised by continued efforts by several state agents and the business community to institutionalise public-private dialogue (PPD) for the formulation and monitoring of economic policy and development strategies. It was, however, confounded by mistrust and suspicion among stakeholders, mainly because of the informality of the evolving institutional arrangements and

[1] Jimmy Koreia Mpatsa, president of the Confederation of the Chambers of Commerce and Industry (MCCCI), 'Interview with the President', MCCCI Newsletter, Issue 2, 2000, p.9.

[2] UDF executive member to UDF Governor for southern region, 'Strengthening UDF', 24 April, 2002 [Private Archives].

uncertainty about the strategic interests of the key stakeholders. By the end of the decade, PPD was much better than in the MCP era but remained uninstitutionalised. The phrase 'politically embedded cronyism and collusion' describes a non transparent, collusive dimension in which there were close connections between business owners and the dominant political party and most governing politicians were eager and willing to intervene in administrative processes with partisan and personal calculus. It was characterised by a break-down of discipline and standards within the state machinery as bureaucrats were cajoled into political loyalty to the new regime. The result was wanton political graft in which state elites and business elements engaged in rent-generating and rent-seeking activities, respectively.

The core argument of this chapter has three strands. Firstly, the new structure of rules governing politics and the economy took effect before building appropriate ancillary institutions. This opened up opportunities for rampant rent-seeking behaviour. The configuration of political power after the 1994 general elections compelled state incumbents to succumb to particularistic pressures in SBRs in order to build political support. Secondly, the paradox of the simultaneous pursuit of concertation and collusion in SBRs was sustained by a culture of chameleon politics that characterised the political elites (both those in government and in the opposition) in the transitional decade. It reflected the interaction of formal rules and political agency characterised by a rhetorical pursuit of democratic and liberal ideals and a simultaneous pursuit of narrow elite interests to maintain political power, in an environment where disbursement of patronage became the basis of political legitimacy. The analysis illustrates how political and economic interests of key elites shape each other and influence the kinds of institutional choices the elites make. The third argument relates to the theoretical concerns of the study. I argue that the history of the one-party state in SBRs motivated the ruling politicians in UDF to quickly deregulate the business arena. Large scale deregulation enabled them to gain political support from businessmen and women of small and medium enterprises. Furthermore, the need to demonstrate that political practice (especially policy making) had changed relative to that of the one party authoritarian state, provided the rationale for consultation between the state and various groups in the business community. The new pattern was significantly distinct from both the colonial and the post-independence eras and illustrates further how the nature of the state, especially the configuration of political power, impacts on the evolution of institutions for SBRs.

The chapter is organised as follows. Section 6.1 provides the contextual background to the emergence of nascent concertation and politically embedded cronyism and collusion. Section 6.2 discusses political change and the resulting changes in the institutional architecture of SBRs focussing on the deconstruction of the institutional arrangements of the one-party state. Section 6.3 traces the evolution of concertation. Section 6.4 discusses the emergence and dynamics of politically embedded cronyism and collusion. Section 6.5 explains the paradoxical conflation of concertation and collusion in SBRs. The conclusion identifies the theoretical points for SBR and institutional theory that the analysis suggests.

6.1. Background to the emergence of nascent concertation and collusive state-business relations

6.1.1. The wave of democratisation

The third wave of democratisation reached Malawi in the early 1990s[3]. After three decades of one-party rule, whose authoritarianism and repression was unparalleled anywhere on the African continent (Venter, 1995), the political system underwent a quick metamorphosis. Some accounts describe the transition as mainly a domestic process initiated by religious authorities. They take the reading of a Catholic pastoral letter on 8th March 1992 as the starting point. The letter was the first public criticism of the MCP regime. It called for social and political reform and argued that it was not disloyal for Malawians to ask questions about matters that concerned them. It was particularly strong at criticising

[3] Huntington (1991) distinguishes the 'third wave' from the first that took place at the end of the eighteenth century beginning with the French revolution and ending with the American revolution; and from the 'second wave' that arose in the aftermath of the Second World War. The third wave began in 1974 and was triggered by the overthrow of the Portuguese dictatorship.

social and economic inequalities, corruption, nepotism, gross abuse of human rights, and inadequate social services especially in education and health[4]. Such accounts include the Catholic Institute for International Relations (CIIR) (1993), Mchombo (1998), Newell (1995), Nzunda and Ross (1995), Article 19 (1993) and Cullen (1994).

Other accounts emphasise the international dimension especially the role of foreign aid donors. They argue that the donors played a crucial role in the timing and relative smoothness of the transition. The background to this argument is that in 1992 foreign aid accounted for 31.5 per cent of GNP which was about three times the average for sub-Saharan Africa which was pegged at 11.1 per cent (UNDP, 2000:221-22). At a donors' group meeting in May 1992, the Malawi Government requested $800 million for Balance Of Payments (BOP). For the first time, the request was subjected to political conditionality (Brown, 2004). Consequently, western bilateral donors gradually withdrew their support and increasingly pressured for the respect of human rights and a move to pluralism. This pressure incited exiled dissidents of the MCP regime to organise more effectively in March 1992 and forced the MCP regime to open up to change. Informative accounts in this regard include Brown (2004), Clapham (1996), van Donge (1995) and Venter (1995).

A few months after the pastoral letter, the Public Affairs Committee (PAC), initially comprising of religious groups only, was established as a societal initiative to dialogue with the MCP government for political change (Brown, 2004:707). The Chamber of Commerce and the Law Society were initially not allowed by Dr. Banda to participate in PAC on the basis that their concerns could be channelled to relevant ministries of government. They were later accepted and discussions with government

[4] Catholic Bishops of Malawi, 1992, 'Living our Faith', Balaka, Montfort Missionaries, Lent, 1992.

proceeded with speed[5]. It is fair to say that a confluence of factors, both local and international, caused the quick and smooth replacement of the MCP regime[6].

While there were many internal and external factors and actors too, that prompted the political change, it is worthwhile for this dissertation to highlight a small but significant part of the transition that relates directly to SBRs. It is about the role of some leaders of the Chamber and the African Businessmen Association of Malawi (ABAM). In the early 1990s, Bakili Muluzi, a former Secretary General of the MCP was doubling as Chairman of the Transport Committee of ABAM and Deputy Chairman of the Chamber. Harry Thomson was the Chamber's chairman and also chairman of the Southern Africa Development Community (SADC) Regional Business Council. In 1991, at meetings of the SADC Regional Business Council in Mozambique and Swaziland, Muluzi broached the idea of starting an opposition party to Thomson[7]. Straddling ABAM and the Chamber helped Muluzi to gauge the mood for change in the business community and to mobilise support among both African and expatriate businessmen. Consequently, the Chamber was accused, by MCP sympathisers, of turning into a political body through the activities of its leaders. MCP staunch supporters consequently resigned[8] but the leadership of the Chamber, as part of the PAC, continued to push for reforms. Although ABAM officially supported the MCP and continued to call on African businessmen to show gratitude to Kamuzu for affording them business opportunities, most of its members joined the movement for political change. In mid 1992, ABAM's chairman was tasked by Kamuzu Banda to assess the popularity of the

[5] Interview, Mr. Harry Thomson, Chairman of the Chamber at the time. During this period, there was considerable external criticism of the regime by exiled Malawians. There was also high inflation and growing discontent with a policy directive for teachers and other civil servants to relocate and teach in their regions of origin.
[6] Additional literature on Malawi's transition to democracy include the following: Phiri and Ross (1998), Englund (2002), Forster (2000), Ihonvbere (1997), Kaspin (1995), Mitchell (2002) and Ng'ong'ola (1996).
[7] Interview, Mr.Harry Thomson, July 2009.
[8] Interviews, Messrs Harry Thomson, Rafiq Hajat and Humphrey Mvula.

party and he reported of popular disillusionment with Banda's close associates and that change was inevitable[9].

In October 1992, a referendum on the future of the one-party state was announced. In June 1993, people voted for multiparty democracy. In readiness for the general election in 1994, seven new parties were registered including the UDF[10] led by Bakili Muluzi as President and Harry Thomson as Secretary General and several shadow ministers who were members of the Chamber. Following the general election of May 1994, Kamuzu Banda and the MCP gracefully gave in to Bakili Muluzi of UDF who won the presidential election with 47 per cent of the national vote.

6.1.2. The configuration of political power

The general election, however, brought to light the salience of regionalism and ethnicity in Malawian politics. At the Presidential level, Bakili Muluzi, a Yao from the southern region and UDF candidate amassed 75 per cent of votes in the southern region, about 22 per cent in the central region and close to 6 per cent of votes in the northern region. Dr Banda, a Chewa from the central region and MCP candidate received 70 per cent of votes in the central region, about 19 per cent in the southern region and close to 9 per cent of votes in the northern region. Similarly Chakufwa Chihana, a Tumbuka from the northern region and AFORD candidate received 85 per cent of votes in the northern region, about 8 per cent in the central region and managed only 7 per cent of votes in the southern region[11]. At parliamentary level, the trend was similar as shown below:

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[9] Interview,Mr. D.J. Chikhawo, former chairman of ABAM.

[10] The other parties were Alliance for Democracy (AFORD), United Front for Multiparty Democracy(UFMD), Malawi National Democratic party(MNDP), Congress for the Second Republic(CSR), Malawi Democratic Party (MDP), and Malawi Democratic Union (MDU).

[11] These are rounded figures so they do not necessarily add up to 100%. Furthermore, there was another presidential candidate, Kamlepo Kalua who pooled about 0.53 per cent of the total national votes.

Table 6.1: Distribution of parliamentary seats by party and region after the 1994 general election

	AFORD	MCP	UDF
NORTH	**33**	**0**	**0**
CENTRE	**3**[12]	**51**	**12**[13]
SOUTH	**0**	**5**[14]	**73**
TOTAL	**36**	**56**	**85**

Source: Malawi Electoral Commission, 1994 Presidential and Parliamentary Elections Report, Appendix XII.

As observed by Chirwa (1998), on the basis of these results, no party was 'national' in character and none could claim legitimacy in the regions where they lost. With only 48 per cent of parliamentary seats, the UDF could not pass even legislation that required a simple majority vote. The party's need to build broad-based legitimacy and consolidate power impacted on the practice of state-business relations. In particular, the political loyalty and reliability of owners of businesses became a prime consideration in the allocation of credit, lucrative government contracts and other favours.

6.1.3. Social and economic background

The UDF assumed power in 1994 on the policy platform of poverty alleviation and democratic politics. In the preceding era, acknowledging openly the prevalence of poverty was a political taboo as poverty was supposed to have been a phenomenon of the colonial era (Chinsinga, 2002). In fact, parliamentary and other records of the period are full with expressions of gratitude to Kamuzu Banda for his 'wise', 'visionary' and 'dynamic' leadership that transformed Malawi 'beyond recognition'. The reality, however, was that poverty was widespread, deep and severe. GNI per capita was as low as $160 in 1994, which was far below half the sub-Saharan average and about 52 per cent of the population was living below a

[12] These seats were in constituencies bordering the northern region and populated by people with ethnic identities as those of the northern region.
[13] These seats were in urban constituencies with mixed ethnic groups.
[14] These seats were all in Nsanje district, the district of origin of the MCP presidential running mate.

poverty line of $40 per person per year. At the end of 1993, the gini-coefficient was as high as 0.57 and was one of the highest in the world. The Human Development Index (HDI) was as low as 0.320 with life expectancy at birth pegged at 44 years, which was eight years less than the average for sub-Saharan Africa; infant mortality rate was at 134 per 1000 live births, adult illiteracy was estimated at 44 per cent in 1995, and only about 37 per cent of the population had access to safe water[15]. Against this backdrop, the UDF government launched the Poverty Alleviation Programme (PAP) in August 1994. Although the PAP was vague on specific strategies, the shift from agriculture to commerce as the desired hub of economic growth and development was clearly visible (Chinsinga, 2002; Van Donge, 1995). The government projected an outlook of being biased towards the promotion of the business sector[16].

However, the private business sector was very small. In 1994, its output accounted for only 15-20 per cent of GDP and the remainder was being generated by the state in its multiple guises (GoM, 1997:1). The formal enterprise sector (including government companies and their subsidiaries) was also small, with an estimated 1,800 corporations out of an estimated number of commercial enterprises ranging from 200,000 to 600,000 (GoM, 1997:3). Furthermore, the distribution of business enterprises according to size showed a structural weakness in that it was characterised by a disproportionately large number of micro-enterprises, a small number of small and medium enterprises (SMEs) and a few large enterprises. A 1992 Gemini survey estimated proportions of the different enterprises to be 0.04 percent for large enterprises, 3.6 per cent for SMEs and 96.36 per cent for micro-enterprises[17] (as cited in GoM, 1997:4). It was a common diagnosis that the dominating and often oligopolistic presence of a few large firms, with vertically and horizontally integrated portfolios across agricultural production,

[15] These figures are from various official documents as cited in Nthara (2003) and IMF (1998).
[16] In an interview for this study, Mr. Aleke Banda, who served as Minister of Finance and later of Agriculture in the UDF government said the perception was wrong because the government spent more on agriculture than on commerce and introduced the Agricultural Starter-pack Programme.
[17] Compare with Botswana at 4.2 percent, 50.1 per cent and 45.7 percent respectively.

manufacturing and distribution, contributed hugely to an uncompetitive economic environment where new and small players were unable to find a foothold (GoM, 1997; Harrigan, 2001).

Besides complicated business licensing and registration system that were characteristic of the one-party state, a particularly acute constraint to business development was lack of access to capital. A survey of 10,698 medium size enterprises showed that in 1994 sources of capital for setting up enterprises were distributed as follows: Household savings accounted for 80 percent of businesses; loans from relatives for 7.6 per cent; loans from lending institutions for 4.9 per cent; loans from money lenders for 2.3 per cent and 4.3 per cent were accounted for by 'other' sources (National Statistical Office, (NSO), 1996)[18]. Across the three regions of the country, capital problems in the SME sector were as depicted below:

Table 6.2: Distribution of capital problems in SMEs by region, 1994

	South	Centre	North
Percentage of enterprises with problems in securing capital	61.8	72.5	57.6
Percentage of household savings in capital finance for enterprises	80	86.7	87.3
Percentage of firms accessing business finance from lending organisations	6	5.6	2.7
Percentage of firms reporting government regulations as problem to setting up enterprises	4.1	1.8	4.7

Source: National Statistical Office (NSO) (1996) Medium Business Economic Survey, 1994 (figures culled from various pages).

The situation captured above led to several initiatives that impacted on SBRs. For instance, liberalisation of the economy, privatisation of state-owned enterprises and the need to develop small and medium enterprises provided the impetus for the beginning of concertation. These dynamics

[18] Survey involved enterprises operating from fixed premises and employing from 5-99 employees.

transpired in a political environment characterised by experimentation with democratic ethos in policy-making, less for commitment to democracy than a fig leaf for show-casing political change. On the other hand, difficulties in accessing capital for business development, especially in the SME sector, turned the state into a resource and an arena for politically embedded collusion between state agents and some business elements.

6.2. Political change and the deconstruction of the one-party state in state-business relations

6.2.1. Political institutional architecture

A new political institutional architecture was created in a new republican constitution which sought to address the excesses of the one-party state and create a new political and economic order that would be based on pluralism, limited executive powers and democratic principles. In particular, the powers of the presidency were attenuated through the separation of powers between the executive, legislative and judicial branches of the state[19]. Furthermore, a term of five years was imposed for the presidency with the incumbent being allowed to run for one more consecutive term[20]. Certain decisions, including any amendments to the constitution, were subjected to the rule of super-majority in which any proposal had to recieve up to two-thirds of affirmative parliamentary votes in order to become law[21]. The nominal supremacy of parliament and the MCP convention gave way to constitutional supremacy under which the judiciary gained powers to reverse executive and parliamentary decisions so long as they could be shown to be unconstitutional[22]. Unlike the one-party constitution which was drafted by a small committee of the MCP in 1965, under the chairmanship of Aleke Banda, the new constitution was a product of a National Consultative Committee (NCC). The NCC drew its membership from professional bodies, religious groups, traditional leaders and emergent political parties. However, despite professed

[19] Sections 7-9 of the Constitution of the Republic of Malawi, 1994.
[20] Section 83 of the Constitution of the Republic of Malawi, 1994.
[21] Chapter XXI of the Constitution of the Republic of Malawi, 1994.
[22] Section 5 of the Constitution of the Republic of Malawi, 1994. On judicial review of executive decisions, see Nzunda (1998).

intentions for a limited government, the concentration of political power in the president continued into the democratic era, and in some respects impacted on the evolution of both concertation and collusion in state-business relations (see below).

The new political institutional architecture differed significantly from the colonial and post-colonial eras in that business interests were not given a permanent and secure representative role in the governance structures of the state. However, like any other societal interests, they were accorded freedom to organise and to lobby for their interests. The Chamber's slogan as 'the voice of the private sector' became even more pronounced and lobbying government became its primary objective. In addition to restructuring state authority, the constitution made the nurturing of a market economy a principle of national policy[23] and made specific provisions to guarantee business freedom. In particular, sections 28 and 29 sought to protect rights over property and to entrench freedom of people to do businesses of various kinds:

> 28. (1). Every person shall be able to acquire property alone or in association with others.
> (2). No person shall be arbitrarily deprived of property
>
> 29. Every person shall have the right to freely engage in economic activity, to work and to pursue a livelihood anywhere in Malawi.

These provisions were important for stopping the practices of the one-party state in affecting the business environment. Similarly, and perhaps more importantly, section 88 imposed restrictions on the direct involvement of presidents and ministers in the management of private business ventures:

> 88 (4): Any business interests held by the President and members of the cabinet shall be held on their behalf in a beneficial trust which shall be managed in such a manner as to ensure conformity with this section.
>
> (5): The President and members of the cabinet shall not use their respective offices for personal gain or place themselves in a situation where their material interests conflict with the responsibilities and duties of their offices.

[23] Section 13 of the Constitution of the Republic of Malawi, 1994.

Compliance with these provisions was problematic throughout the decade as some examples of cronyism and collusive activities involving the president and some of his ministers show (see below). However, deconstruction of the one-party rule-structure vis-a-vis the business sector went beyond changing the constitutional framework and encompassed the realm of development strategies and economic policy.

6.2.2. Policy shift: doing business in a market economy for poverty reduction

The Poverty Alleviation Policy Framework had four objectives, including the promotion of employment and income opportunities in the informal sector of the economy[24]. This objective directly related to the business sector and, in practice, focussed on SMEs. In terms of programme content, it aimed to create alternative non-farm income opportunities in order to reduce poverty. According to the PAP document, focus was going to be on improving the policy environment, entrepreneurial and technical skills development, access to credit and appropriate technology and marketing. In practice, access to credit became a major preoccupation.

The focus on commerce was given visibility through numerous credit initiatives for SMEs some of which were new creations while others were carried over from the MCP period. The most notable ones included Development of Malawi Traders Trust (DEMATT), Small Enterprise Development of Malawi (SEDOM), Women World Banking (WWB), the Promotion of Micro-Enterprises for rural Women (PMERW), Malawi Savings and Credit Cooperative (MUSCCO), Small and Medium Enterprise Fund (SMEF), Malawi Mudzi Fund, the Youth Credit Scheme and the National Association of Business Women (NABW). Chinsinga (2002) observed that all these schemes were meant to be revolving funds but they dried up because of a culture of defaulting on repayments. I suggest below that the culture was

[24] The other three objectives were: to increase agricultural productivity among resource-poor farmers; to increase access to priority services; and to enhance the capacities of local communities in managing development.

enhanced because political considerations were prime criteria in the allocation of loans which recipients treated as grants.

The shift of policy focus from agriculture to commerce was a result of a combination of factors. A muted, politically spiced view was that the UDF government focussed on commerce because it was a main preoccupation of people in the southern region where it drew its large electoral support, and that changes in the agricultural sector were meant to punish people in the central region who were predominantly smallholder farmers, and as a region voted overwhelmingly for the MCP[25]. This argument, rooted in the politics of regionalism that became conspicuous from the results of the general election in 1994, may be supported by some statistical data. For instance, a 1992 study estimated that there were 570,000 SMEs in the country of which 54 per cent were in the south, 31 per cent in the centre and 15 per cent in the north[26]. However, UDF leaders explained (during field interviews) that policy emphasis shifted from agriculture because of conditionalities imposed by international donors, especially removal of subsidies on agricultural inputs. Commerce appeared to offer an alternative that quickly appealed to the UDF leaders as most of them had backgrounds in commerce[27].

A related policy shift was in the extent of regulating economic activities. Upon the assumption of political power, the UDF used the discourse on poverty and economic rights to define its permissive orientation towards the business sector (Englund, 2002). Its ideological outlook fitted well with the principles of economic liberalisation that were being championed by the international community. Thus, the *Special Crops Act* was amended to allow smallholder farmers to grow any cash crops; the *Agricultural Produce and Livestock Act* was repealed to liberalise production, pricing and marketing of all agricultural products; restrictions on seed and fertilisers were removed and private traders were

[25] Interview, Mr. D.J. Chikhawo, former Chairman of ABAM and MCP Member of Parliament.
[26] Mzumara, G., 'Experts Draft Way Forward for SMEs', Daily Times, 16 October 1996 p.10.
[27] Interview, Dr.Justin Malewezi, former Vice President and Minister of Privatisation in the UDF government; Mr. Aleke Banda, former Minister of Finance and Agriculture in the UDF government.

allowed to buy and sell smallholder crops including tobacco, in competition with ADMARC[28]. Trade in consumer goods and services was fully liberalised, leading to massive street vending in the cities and urban centres and, in the process, created a new political constituency within the business sector, i.e. street vendors (Jimu, 2005).

But the euphoria of economic liberalisation was short-lived. The Chamber of Commerce soon observed that trade liberalisation led to the flooding of the market with counterfeit goods that threatened to replace trade in genuine goods. The Ministry of Commerce and Industry made similar observations[29]. The Chamber further observed that high level liberalisation had brought about hardships in the business community, leading to lay-offs and company closures[30]. The problem appeared to have acquired significant magnitude in the tobacco sector, the mainstay of the economy. As early as 1996, the Tobacco Association of Malawi (TAMA) demanded a policy reversal and specifically asked for the termination of Intermediate Tobacco Buyers (ITB) licenses "with immediate effect" for doing disservice to the industry[31]. It was later argued that lack of civic education on the liberalisation of the tobacco sector, brought in players that did not know the rules of the game and contributed significantly to low tobacco prices at the auction floors[32]. Even some UDF politicians, privately voiced concerns with trade liberalisation although in public they bragged about their party having brought about freedom to do any business anywhere without hindrance. For example, in expressing this concern to the President a UDF executive member complained about an influx of Lebanese traders:

> Most local industries are suffering from a flood of cheap goods in the local market. [For example], Encor has virtually stopped production of enamel ware. I have noticed that even my shoe clinic has had a drop of 40% in sales because of the availability of cheap second hand shoes. It is a common view that these people (Lebanese traders) are sharks who have no love for our country. They come here to extract whatever wealth that they can acquire and, when we have bled

[28] Banda, Aleke., Minister of Finance, Budget Statement 24th March,1997.
[29] MCCCI Newsletter, Issue 2, 2000 p.5.
[30] Otomani, W., 'MCCCI offers free economic advice to government', Daily Times, 3 September, 1997, p.11.
[31] Chide, R., 'TAMA demands end to buyers' licences', Daily Times, 1 July, 1996, p.2.
[32] Kamlomo, G., 'Quality Leaf will fetch good prices –Industry', Daily Times, 27 April, 2000, pp.1-3.

> enough, they leave for richer pickings elsewhere. They do not invest in land, buildings or any fixed assets...[33].

However, an aspect of economic liberalisation that quickly assumed a political dimension was price deregulation, especially of basic consumer goods. Four months after the UDF came to power, there was widespread disenchantment with the government for failing to control prices. Junior civil servants planned a demonstration to force the government to establish a Price Control Commission to check increasing commodity prices[34]. The opposition party, AFORD, was particularly scathing in accusing President Muluzi and his minister of commerce, Harry Thomson, for doing nothing about sugar prices[35]. Thus, while economic liberalisation initially generated euphoria as a symbol of political change, its wholesale adoption in a context that lacked appropriate institutions, stung a big segment of the business community. The poor majority became nostalgic of the previous era in so far as price control was concerned.

In 1996, the UDF government began to succumb to growing political pressure on the need to control prices. At the Eighth Malawi International Trade Fair, President Muluzi took a cue from the MCP intimidatory tactics and threatened to revoke trading licences for those that would continue over-pricing their merchandise[36]. Five months later, the government suspended the operation of commuter minibuses by non-Malawians including Asians, on the basis that the business had to be left to local or indigenous Malawians[37]. However, unlike the MCP government, the UDF did not have the machinery, ideological or otherwise, for checking the 'malpractice' and the international policy environment was not sympathetic to any measures along those lines. The inflationary trend, however, continued in the wake of massive currency devaluations under the auspices of the IMF (Harrigan, 2001). On 23rd September

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33 From UDF executive member to State President Bakili Muluzi, 'Various Concerns', 6th July, 1997, P.1 [Private Archives]
34 Matiya, C., 'Strike in government', Daily Times, 28 September, 1994, p.1.
35 'Price hikes: people react', Daily Times, 5 October, 1994, p.1; Nyekanyeka, R., 'Sugar scarcity: president blamed', Daily Times, 15 November, 1994, p.1.
36 Tembo,C., 'Government threatens to revoke licenses', Daily Times, 6 June, 1996, p.1.
37 'No Minibuses for foreigners', Daily Times, 5 November, 1996, p.1.

1998, with a second general election nine months away, the President made a surprise visit to Portland Cement Company, a subsidiary of the MDC for which he was the responsible Minister[38]. He cajoled managers to lower the prices of cement and threatened unspecified action if they defied:

> Although this is a liberalised economy I cannot allow companies to be charging prices any how because of the devaluation of the kwacha. And if you are not going to do something about this, I will command the government to take drastic measures against you[39].

In the same year, the government enacted the Competition and Fair Trading Act, at the insistence of the United Nations Conference for Trade and Development (UNCTAD) and the Common Market for Eastern and Southern Africa (COMESA)[40]. The law sought to encourage competition in the economy by prohibiting anti-competitive trade practices, regulating and monitoring monopolies and concentrations of economic power, and protecting consumer welfare among others. This legislation had the potential of assuring the masses that the government was going to control prices. However, the law remained unimplemented until 2005 because the government did not create the commission that was supposed to execute the law. The official reason was that the government did not have resources to establish the commission[41]. A muted view was that the legislation was forced on the government by the international bodies. There was no local demand for it, not even from the business community itself. Thus, having rolled back the legacy of the MCP in running a highly controlled economy, the UDF began to intervene in the economy in a manner that was politically rational for regime survival. The varied reactions to economic liberalisation by the government show the centrality of politics in state-economy relations. It further illustrates that where capitalism is relatively underdeveloped, business regulation by the state is not necessarily antagonistic to people's welfare and freedom. Neither is free play of market forces inherently germane to the interests of all businesses all the time.

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[38] This was a continuation of the practice in the MCP era in which the President exercised ministerial powers over the corporation.

[39] Chapalapata,M., 'Muluzi Fails to scare Portland', Daily Times, 24 September, 1998,p.1.

[40] Personal correspondence with Mr. Collins Magalasi, former Commissioner for the Malawi Competition and Fair Trading Commission.

[41] Ibid.

6.2.3. Divestiture of state-owned enterprises.

The need to develop the private sector rapidly, especially in non agricultural activities, required an overhaul of the ownership structure in the formal business sector in order to expose it to the discipline of market competition. Thus, in April 1996, the *Public Enterprises (Privatisation) Act*, sponsored by the World Bank and IMF, was enacted to provide legal authority and procedures for dismantling the hegemony of the state in the corporate sector. In August 1997, cabinet approved a divestiture sequence plan involving one hundred public enterprises of which 18 were held by ADMARC, 19 by the MDC.

The chamber of commerce had an early policy input into the programme. In particular, it advised government that the privatisation process had to give preferences to Malawian citizens regardless of racial descent[42]. The suggestion was accepted by the government which introduced six mechanisms for ensuring that Malawian nationals participated in public enterprises that were up for divestiture. They included the following: National Investment Limited (NITL) which acquired shares for warehousing and subsequent exclusive sale to Malawians; public offers of shares; a special revolving fund to enable indigenous Malawians, to participate in public enterprises that were being listed on the Malawi Stock Exchange (MSE); another fund for concessionary loans to Malawians who acquired significant equity stakes in privatised enterprises; a provision in the *Privatisation Act* which allowed the Privatisation Commission to offer a public enterprise at a discount rate if the purchaser was a citizen of Malawi; and a provision for deferred payment terms to indigenous Malawians[43]. By 1999, 36 public enterprises had been privatised[44] and by 2004 the figure had reached 62. Thus, the change in policy from creating state companies to selling them off, yielded institutional changes on both sides of SBRs and entailed a

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[42] Minutes of the Chamber, 5 December 1995 held in the Chamber House conference room [Private Archives].The meaning of this resolution was that it included Malawians of Asian and European descent.

[43] http://www.privatisationmalawi.org/index.php?option=com_content&task=view&id=32&Itemid=103 accessed on 21 June, 2010.

[44] http://www.fdi.net/documents/WorldBank/databases/plink/soceco/2malawi.htm accessed on 22 June, 2010.

change in the distribution of economic power. While the state concentrated both economic and political power during the MCP era, the state during the UDF period was giving up its economic power by withdrawing from direct management of profit-making enterprises. This dynamic had the potential to make the state dependent on private enterprise and therefore to create even more incentives for concertation. But this was not necessarily the case partly because both the state and the private sector were organisationally weak (see below) and also because the government gained control over Press and maintained leverage in the economy.

6.2.4. Dispossessing the MCP of economic power

Although the MCP lost political power, it retained economic power through its ownership of Press. In 1994, the corporation was responsible for 40 per cent of the economy and had a turnover equal to 17 per cent of GDP (Economist Intelligence Unit, 1995). With about 49 subsidiary companies, in different sectors of the economy (see table below), Press was by far the single largest private sector entity. To have such a huge company controlled by a small group of opposition politicians in a fragile economy did not auger well with UDF politicians.

Table 6.3: Operating divisions and number of enterprises of Press in 1993

Operating Division	Number of enterprises
Agriculture and agro-processing	15
Brewing and distilling	4
Banking and Insurance	3
Construction and secondary manufacturing	10
General Trading and Distribution	9
Services	5
Oil and distribution	3

Source: Kaunda (1998) footnote No. 25.

The UDF's drive to consolidate power led the government to weaken the MCP further by dispossessing it of the corporation. Press had been registered as a Trust in 1982 in order to access a bailout loan from the World Bank guaranteed by the Government (van Donge, 2002; PCL, 1994). The trust deed gave Dr. Banda, as founding trustee, absolute control over Press:

> During his life [he will] have exclusive right, power, paramount authority of directing, controlling, regulating and determining in all aspects all activities, administration, policies, matters and things relating to or concerning the Press Trust and the Trust Fund... the action, deals, decisions, directions of the Founding Trustee shall be valid, final, conclusive and binding in all respects as if they were actions, deeds, decisions, directions and instructions of all the trustees for the time being of the Press Trust.[45]

On 6th November 1995, a *Press Trust Reconstruction Bill* was circulated to members of Parliament and on 7th November, the Minister of Finance, Aleke Banda, asked Parliament to dispense with a 21-day notice requirement for bills and to debate the bill. When the motion was passed by simple majority owing to a loose parliamentary coalition between the UDF and AFORD, MCP protested and walked out. The bill, was nonetheless, debated, passed and signed into law by the President. The new law replaced trustees with appointees of the new government[46]. On 15th November 1995, the MCP sued the government, mostly on procedural improprieties. On 1st July 1996, the court ruled that the *Press Trust Reconstruction Act* was unconstitutional "both in terms of the way it passed through the National Assembly as well as on the principles which the constitution stands for"[47]. The ruling was one of the earliest in applying the provisions of the new constitution in which government policy decisions would be subjected to review and challenge. The government, however, appealed against the ruling and on 31st January 1997, the Supreme Court over turned the ruling[48]. This ruling had the effect of financially crippling the MCP which has since been unable to organise and mobilise enough political support due to lack of resources to maintain an extensive network of patronage.

Besides dispossessing the MCP of Press, the UDF government squeezed out ABAM because of its continued political allegiance to the MCP. In August 1995, the minister of commerce, Peter Kalilombe, called for the dissolution of the association on the basis that it had no role in a

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[45] Clause IV of Press Trust Deed, 10 February,1982.
[46] MCP and others – v – Attorney General and Speaker of the National Assembly, High Court Civil Cause No.2074 of 1995.
[47] Ibid.
[48] Attorney General–v–Malawi Congress Party and Others, Civil Appeal No.22 of 1996, MWSC1, 1997.

democratic era that called for interaction of all races[49]. The association, through its interim chairman, Mr Harry Jonga, resisted these efforts[50]. The association did not disband until it was squeezed out by depriving it of its main source of revenue. As indicated in the previous chapter, ABAM's main source of revenue was commissions levied on sugar distribution by its members. ABAM's sugar quota of up to 1000 metric tonnes per week was arbitrarily withdrawn[51]. This quota had been granted by the MCP government through the Ministry of Trade and Industry. President Muluzi's company, Ntaja Trading, became the largest sugar distributor. By 1998, the company was reportedly making a profit of about MK10 million per week in sugar distribution alone, and was singled out in a donor's report as the 'worst culprit' in what was described as 'the sleazy sugar business in the country'[52]. In addition, membership to ABAM was no longer a basis for the award of contracts from government. Thus, the association lost its most valuable incentives for political reasons and could not retain its membership. It fizzled out.

The drive to reverse the legacy of the one-party state in the economy and the desire to develop political support for the UDF government were two motives that were at the centre of restructuring SBRs. The hegemony of the state was weakened by deregulating the business sector, allowing more freedom to do business, and restructuring ownership through divestiture of public enterprises. To consolidate its economic and political power, the UDF government dispossessed the MCP of the largest private corporation in the country and squeezed out its affiliated business association. These efforts further illustrate the primacy of political considerations in forming the attitude of state elites towards the business sector, or parts of it, that in turn feed into wider institutional dynamics of SBRs.

[49] Tembo, C., 'Dissolve ABA – Kalilombe', The Nation, 2 August, 1995.
[50] 'Call a meeting –ABA challenges', The Nation, 8 August, 1995.
[51] 'ABA's Lament: Return our Sugar Quota', Daily Times, 12 December,1994, p.1.
[52] Banda, M., 'Ntaja Trading nets MK10m weekly: The truth about UDF's sleazy sugar deals', Daily Times,20 April,1998, p.1.

6.3. Democracy and the evolution of concertation in state-business relations

In contrast to the MCP era, the UDF period saw more policy dialogue within the public sector, but more importantly for the purpose of this study, with the private sector. To be sure, the case for more collaboration began to gather momentum in the early 1990s when the country was in an economic crisis and the wind of political change was blowing. The chamber advocated for 'smart partnerships' on the lines of public–private partnerships (PPPs) but the MCP government was not forthcoming[53]. In 1994, the chairman of the Chamber made a case for public-private dialogue (PPD) but observed that previous efforts with the MCP government had been hampered by government's tendency to send junior staff to such meetings (Okhai, 1994).The UDF government was quick to show willingness for partnership with the private sector in the formulation of policy. This was particularly crucial as most of the cabinet ministers did not have much of experience in running a government. Furthermore, policy dialogue was a way of showcasing and legitimising democratic change[54]. The earliest effort was the incorporation of business representatives in the Poverty Alleviation Programme (PAP) at the policy level. The PAP organisational framework consisted of a presidential council, a national steering committee and eight task forces. The business sector was represented in the presidential council by the Chamber and ABAM before the latter fizzled out. However, the provision for business representation in the national steering committee was not specific and was often done by a public sector agency – the Malawi Investment Promotion Agency (MIPA) (Chingaipe and Leftwich, 2007).

President Muluzi led in the effort of initiating PPD. As early as 19th January 1995, he convened a meeting with business representatives[55]. The purpose of the meeting was "to discuss ... measures for improving the process of consultation between the government and the private sector in order to

[53] Gunde, A., 'Chamber, Government Meet Monday', Daily Times, 11 April,1997,p.1; Manyungwe, A., 'Private Sector for Smart Partnership', Daily Times, 18 April, 1997, p.1.

[54] Interviews, Mr. Harrison Mandindi, Director of Trade; Dr. Justin Malewezi, former Vice President and Minister of Privatisation in UDF government.

[55] The meeting was attended by the Chamber, MIPA, National association of Business Women (NABW), National Association of Small and Medium Enterprises of Malawi (NASME), Soche Business women, Governor of Reserve Bank and several Ministers .

improve private sector participation in economic development"[56]. Besides calling for suggestions for improving the business environment, the president appealed to business representatives to be responsive to government initiatives and incentives to promote investment and business development. This meeting demonstrated the apparent willingness of the UDF government to develop a state-business coalition for economic development.

6.3.1. The politics of institutionalising public-private dialogue (PPD)

Organisational and institutional pluralism

Government's commitment to the development of a state-business policy and developmental partnership began to take an institutional shape one year after the president's meeting with the business representatives. In December 1995, the Ministry of Commerce and the Chamber agreed on monthly meetings, regular briefing sessions and Press Releases by government delegations on return from conferences or seminars of interest to the private sector, and the formation of task forces on specific issues[57]. However, the state side of the relationship was affected by organisational pluralism, leading to a dispersion of bureaucratic power and authority in decision-making. The Ministry of Commerce and Industry, Ministry of Finance, the National Economic Council (later, Ministry of Economic Planning and Development) and the Ministry of Agriculture had their own arrangements with various segments of the private sector on a variety of policy issues, mainly because of cross-cutting and overlapping ministerial mandates. However, there was a general acceptance that the Ministry of Commerce and Industry was primarily responsible for state-business relations and was evolving slowly into something of a 'pilot agency' (Johnson, 1982) on the state side. The role of MIPA in structuring

[56] Brief report on the meeting between His Excellency the State President and Business Executives, 19th January 1995 at Sanjika Palace at 9:30am –JAAJ/TM/BUSIEXE/020295 p.1 [Private Archives].

[57] Minutes of a consultation meeting between the Chamber and the Minister of Commerce, F. P. Kalilombe, 5th December, 1995 [Private Archives].

SBRs during this period illustrates the problems of coordination and competition for power when government mandate for the private sector is divided among bureaucratic agencies.

MIPA was created in 1991 to promote investment through and for private sector development. It, however, quickly became a mouthpiece of the private sector within the public sector. By 1995, its slogan was 'bridging the gap between the public and private sectors' and it began to coordinate a technical committee on industrial policy. The committee comprised representatives of government departments, academia and the business sector, particularly NASME[58]. A public-private dialogue forum called a *MIPA Forum* was created and designed to be held twice a year (in January and July) to "foster interaction between public and private sectors"[59]. Participation to the forum was by invitation only. The plurality of organisational actors certainly made policy coordination incoherent and difficult, and created more openings for particularistic interests to forge preferential links and collusive relations.

The business side was equally pluralised. Besides the Chamber which was increasingly recognised as a peak business association and 'the voice of the private sector', there were other sectoral associations which interacted with different state departments on a whole range of issues. Nonetheless, by 1997 the Chamber acknowledged the increased openness of the government for policy talks, but bemoaned the frequency of unfavourable responses from government on some pertinent issues[60]. Consequently, proposals were mooted to establish a 'business council' that would convene government and business representatives at regular intervals. This proposal, however, did not materialise because President Muluzi rejected it on the advice of his close associates of Indian origin who saw no need for such a council as it would simply duplicate the functions of the Chamber[61]. A measured critique of the idea was relayed to the President in private correspondence by an executive member of the party:

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[58] MIPA (1995) Monthly Newsletter (January).
[59] Ibid, p.3
[60] Khanje, T., 'Government, Private sector Dialogue Vital – Chamber,' The Nation, 21 March, 1997, p.8.
[61] Interview, Mr. Humphrey Mvula.

> I have looked at the proposals of the new Business Council and I have my doubts as to whether it would function as envisaged. Such a body would only function if it was kept small, with representation from key areas, at the highest levels, and if it was given specific follow up powers by an Act of Parliament…The present proposal seems to have far too many members (about 26 from Government alone) and may become too unwieldy to be really effective. I feel that such a body should have its own secretariat and Manager who would be tasked to implement decisions of the Council. The staffing should be recruited transparently, on merit basis to avoid suspicion from the other side...[62]

Although the idea of a business council was thwarted, it had some support among government bureaucrats who were weary of the pluralised institutional environment in which they dealt with the business sector. For instance, when the business community asked the government in 1999 to strengthen policy consultation with the private sector, government representatives encouraged the private sector to form a national dialogue and/or a business council to enhance consultations and collaboration[63]. Thus, by 1999 despite the government's commitment to collaborate with the organised private sector, policy dialogue remained uninstitutionalised. However, there were more policy discussions, including annual budget consultations, between government in its many forms and the business community at macro- and meso- levels. This *ad hoc* pattern of concertation owed to the need of the new government to demonstrate to donors and the electorate, that they were committed to democratic reform of the policy-making process by providing room for policy consultation, and also to develop and consolidate a business constituency for political support.

6.3.2. Initial efforts at structuring PPD and animosity between the Chamber and government

The year 2000 was particularly consequential for the subsequent institutionalisation of concertation in SBRs. On the state side, the Minister of Finance (Aleke Banda) initiated a Special Task Force on the Economy (STAFE) as an accountability forum. It included a few cabinet ministers, Chief Executive

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[62]UDF executive member to State President Bakili Muluzi, 'Various Concerns', 6th July, 1997, p.2.

[63] Report on Proceedings of the 1999 MIPA–ECAMA Budget Breakfast held on 31st July, 1999, at Capital Hotel, Lilongwe [Private Archives].

Officers of parastatal companies and other private sector representatives. It was a forum where hard questions about macroeconomic management and economic infrastructure were asked, pledges of action were made and time frames were set. It reported directly to the President and met monthly. However, the effectiveness of the forum revolved around its chairperson who was known to be a dynamic, visionary and hardworking minister. By 2002, he had fallen out of grace for opposing an amendment to the constitution to abolish presidential term limits. He was, consequently, dropped from cabinet and STAFE became moribund for lack of leadership (Chingaipe and Leftwich, 2007).

In the business sector, a new 'business forum' was constituted to encourage indigenous business Malawians to improve their businesses and to make representations to government on policies which stifled growth of the indigenous entrepreneur[64]. In the same year, the Chamber decentralised its structures and created regional chambers. A campaign for membership resulted in many SMEs joining the regional chambers and tipped the balance of power against 'big business' in the national Chamber. Thus, in 2001 Jimmy Korea Mpatsa, a founding member of the 'business forum' was elected President of the Chamber and revived the idea of a business council[65]. Up to mid 2002, policy dialogue between the government and the business community had been cordial. The President of the Chamber attributed this to the fact that President Muluzi and some of his senior Ministers had been members of the Chamber themselves:

> Fortunately, the Head of Government and some of his senior colleagues have been in our positions in the past and they clearly understand our role. They are never critical and, if anything, have been encouraging us to interact more with government...We regard government as our partners in creating a conducive climate for business and economic growth … we regard ourselves as advisors to government but, as is normal, government is not compelled to take all our advice [66].

[64] Phalula, M., 'Local entrepreneurs form association', Daily Times, 27 January, 2001, p.10.
[65] 'MCCCI offers policy recommendation', Daily Times, 22 June, 2001, p.4.
[66] Jimmy Mpatsa, 'Interview with the President' MCCCI Newsletter, Issue 2, 2000:9.

However, after 2002 the relationship between the government (especially politicians) and the Chamber was characterised by suspicion, mistrust and hostilities. The Chamber criticised the 2002/03 national budget with extraordinary vehemence, describing it as 'unrealistic and not making sense' and a recipe for further fiscal slippages and macroeconomic mismanagement[67]. This was against the backdrop of financial recklessness and over expenditures by government orchestrated by the need to consolidate political power by supplying patronage networks and a culture of unplanned, populist cash handouts to party supporters and local elites at political rallies and other avenues. The ultimate goal was to canvass support for the abolition of presidential term limits. Such recklessness had been observed earlier and had been a subject of discussion at other high levels in the government machinery:

> I would not be so concerned if the government over-expenditure was used for productive activities. Most of the expenditure seems to be caused by abuse, misuse and misappropriation. I realise government expenditure is beyond your control but unless people in positions speak out, mismanagement will continue[68].

By April 2003, the Chamber was "concerned with the poor state of the economy" and called for a private sector – friendly budget that would "heal the sector from injuries inflicted by the government's failure to manage the economy"[69]. The background to this sharp criticism was that between 2000 and 2002, fiscal policy became increasingly expansionary. Government deficit rose to 7.1 per cent of GDP while the money supply increased by 25.2 per cent in 2002 largely because of excessive government domestic borrowing which stood at MK45 billion[70]. Domestic interest payments rose to 24.7 per cent of government revenue and 4.5 per cent of GDP compared to 13.2 per cent and 2.1 per cent in 1998 respectively. Interest rates were as high as 40 per cent while gross investment fell from 13.9 per cent in

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67 Phalula, M., 'MCCCI criticises government revenue and expenditure measures', Daily Times, 10 July, 2002, p.7.
68 Chairman of National Economic Council (NEC) to Governor of the Reserve Bank, e-mail correspondence, 2 May, 2000 [Private Archives].
69 Phiri, F., 'Chamber Challenges Government on 2003/04 Budget', Daily Times, 25 April, 2003, p.1.
70 There are unverified stories that the Reserve Bank printed lots of MK50 notes which the President was dishing out at his rallies. The notes were withdrawn from circulation soon after the 2004 general election.

2001 to 10.9 percent of GDP by the end of 2002. The overall balance of payments had changed from a surplus to a deficit of 5.5 per cent of GDP[71]. President Muluzi hit back at the Chamber on 24th May 2003 at the opening of the Malawi International Trade Fair. He accused the leadership of the chamber of double standards and meddling in politics at the expense of promoting business development[72]. These unpalatable public exchanges soured relations between government (at the political level) and the Chamber until Muluzi left office in May 2004.

Thus, from 2000 to 2004 there was an increasing divergence between the intentions of government in allocating budgetary resources and the expectations of the business community as represented by the Chamber. One respondent attributed this state of affairs to the intransigence of the President:

> With Bakili we had no time to discuss because even if you talked to him, the guy was not listening. To him, it was like you are blaming him. So when you are blaming him, he didn't want to listen. So what then did we do? We just shouted at him. Our strategy was to expose him in the papers and the radios…They knew that the chamber was important but they also knew that if they listened, they would not make money…they were there to make money and they made money. Don't think they were stupid, they knew what they were doing[73].

Despite the souring of relations between the chamber and the ruling politicians, a parallel effort at PPD, the National Action Group (NAG), was slowly being institutionalised.

6.3.3. The rise of National Action Group (NAG): political power and membership diversity in peak business associations

In 2001, 'big business' in the Chamber was out-voted by SMEs in taking up positions in the council, including the presidency of the Chamber. Faced with strategic options between 'voice' and 'exit' (Hirschman, 1977), representatives of the big companies were inclined to take the latter. Like their counterparts in South Africa who founded the South Africa Foundation (SAF) or those in Mexico who founded the MHCN, they founded a separate forum, the NAG, for influencing government's economic

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[71] All these figures are taken from GoM (2004:1).

[72] Phiri, F., 'Muluzi accuses private sector', Daily Times, 26 May, 2003, pp.1-3.

[73] Interview, former president of the Chamber.

policy and advocating the provision of economic infrastructure[74]. The Chief Executive Officer (CEO) for Press led the initiative[75]. A national workshop on private sector development was jointly convened by the Minister of Finance and the CEO for Press. Participants included high-ranking bureaucrats and business captains. It prioritised sub-sectors for national focus and recognised the need for a high-level dialogue between government and the business community. The NAG evolved into a forum which drew membership from Ministers, senior government bureaucrats, business executives and representatives of aid agencies. Forums of this kind, especially during periods of transitions have not been uncommon in Africa and elsewhere (Hart, 2001), and in some cases they have taken a neo-corporatist model (Nyangoro, 1989; Taylor, 2007; Meisenhelder, 1997). For the NAG emphasis was on representatives who had ultimate decision making powers in their organisations or departments.

The NAG was initially given secretariat support by two consulting firms owned and managed by non-Malawians. In 2002, the UK Department for International Development (DFID) funded the establishment of a permanent secretariat for NAG which included the two consulting firms, two officials from two key ministries and a part-timer seconded from DFID (Agar and Kaferapanjira, 2006:2). This support enabled the NAG to make the transition from a reactive approach to a proactive one. Consequently, in addition to the main monthly forum, sectoral forums were also initiated. The lower level forums were designed to address specific sectoral issues e.g. textiles and mining, and would refer issues they could not resolve to the main forum.

The NAG's specific objectives included improving the business–enabling environment, establishing mechanisms for sustained dialogue between government and the business sector, working towards changing negative attitudes to policy dialogue and developing a culture of engagement between government and business. These objectives, however, rivalled those of the Chamber and it would not

[74] Interview, Mr. Harrison Kalua, MCCCI President; personal exchange with Dr. E. Silumbu, former Chief Economist for the Chamber.

[75] He had been Governor of the Reserve Bank and later Minister of Finance in the UDF Government. He was reportedly removed from cabinet because of his measures for checking public expenditure which his cabinet colleagues did not like.

be far-fetched to suggest that the ultimate goal was to make the Chamber redundant. For instance, the formation of the NAG was justified by its proponents by negating the Chamber as "a breeding ground for politicians who frustrated business interests"[76]. The Government, through the Ministry of Economic Planning and Development, blamed the Chamber for weak mechanisms for public-private dialogue. In particular, it argued that the Chamber had failed to win the trust and confidence of the private sector to act as an effective mouthpiece for the sector. A new 'business council' was proposed to serve as a liaison between the government and the business community (GoM, 2004:10). However, for some, the NAG reflected a quest of power and influence by "disgruntled representatives of big business"[77]. For others, "....it was very much an economic club where [business representatives] could share ideas with government personnel and through the people from the ministries, they could push things in Government"[78].

Despite the scepticism surrounding the NAG, it is acknowledged by both proponents and opponents, that the arrangement gave PPD a new impetus and achieved quite a few significant results. For instance, it developed the 'Malawi Economic Growth Strategy' (MEGS) to complement the Malawi Poverty Reduction Paper (MPRSP). The MEGS proposed strategies for generating high and sustainable broad-based economic growth of at least 6 per cent per annum over the long term. The emphasis was on promotion of export-oriented and import-substitution trade (GoM, 2004). The forum also secured reforms in tax administration and tax regime. In particular, the powers of the Minister of Finance to grant discretionary incentives and extension of payment periods for provisional tax were removed. According to Agar and Kaferapanjira (2006) and GoM (2004), the NAG process helped the Chamber to revamp and re-orient its governance and lobbying effectiveness, i.e. shifting the focus

[76] Interview with staff of the Ministry of Trade, Industry and Private Sector Development (Chingaipe and Leftwich, 2007).
[77] Interview, Mr. Harrison Kalua, President of the Chamber.
[78] Interview,Dr. Justin Malewezi, former Vice President and Minister of Privatisation.

more onto 'enabling environment' activities than on the more survivalist revenue-raising activities[79]. In its short life, the NAG became the focal point for regular dialogue between the government and a segment of the business community, but also faced many obstacles and challenges which finally brought about its demise. The forum was convened for the last time in April 2006. The following section highlights challenges that the forum encountered and illustrates some factors that are at the centre of the politics of institutional formation and change.

6.3.4. The fall of NAG: Institutional informality and political legitimacy of the forum

Although the NAG represented a sustained effort at PPD, its form was contested by several stakeholders. In January 2007, at a meeting involving the government, the Chamber, NAG secretariat and some donor representatives, it was agreed to abolish the NAG and start a new PPD initiative managed by the Chamber. The main reasons for doing away with the NAG were political in that they concerned the distribution and exercise of power within the business and public sectors and between them, and a contestation about the legitimacy and mandate of business representatives in the forum. To begin with, the NAG was simply 'too informal'. It did not have formal authority over any of the stakeholders. Participants could agree to take action and commit their organizations or departments to be accountable to the group but there were no legal or quasi legal enforceable sanctions for failure to deliver on agreed commitments. The process relied on peer pressure and volition and it was for that reason that representation was sought at very high-levels of decision makers. However, lack of formality gave it the perception of illegitimacy and gradually senior government officials began to shun it.

Secondly, drawing on democratic principles of representation, the Chamber argued that the NAG did not have 'mandate' from any other businesses to negotiate anything with government and that such mandate lay with a properly registered Chamber of Commerce which had a known membership of the

[79] I return to the governance structure issues below.

private sector. The NAG process was further criticised for not being representative enough in that it was relatively small, arguably to allow for open and robust dialogue between those who knew each other. It was deemed to be not representative of the diversity of the private sector because of the inclination to draw membership exclusively from 'big business'[80]. For these reasons, one senior bureaucrat described the NAG as

> a suspicious arrangement for government. It was a kind of pressure group of business persons and semi-politicians. There was too much of blame game...it was a club of top ones ... but private sector is not big companies only....the scope [had to] broaden by including sectoral associations...[81].

Thirdly, the NAG was resented for being "too white, too British, too donor-driven, too big-business oriented, not delivering quickly enough and so on" (Agar and Kaferapanjira, 2006:5). The fact that the NAG was facilitated by a secretariat that was predominantly white (and British) and funded by DFID was regarded by some quarters as only a means of creating jobs for white expatriate consultants.

The fall of NAG was further precipitated by the perception amongst public sector participants of 'state and donor capture' by private sector players. The belief was that NAG had become a forceful forum not so much for accountability but for decisively influencing government and/or donor policy to the benefit of the private sector at the expense of the social sectors. Thus, the lack of formal membership and lack of a formal mandate deprived the NAG of legitimacy and fuelled the perception within the Chamber and Government that it was merely a forum of 'busybodies' who wanted to wield political influence through undemocratic means. The emphasis on the informality of the NAG and its implications on democratic principles of governance suggests that in the public sphere the sustenance of informal institutions depends not just on their being 'complimentary' or 'accommodating' of the formal institutions (Helmke and Levitisky, 2005) but on the dominant interpretation of their effects[82].

[80] Interviews, Mr. Harrison Kalua, Mr. Hope Chavula and Mrs. Grace Amri.
[81] Interview, Director of Trade, Ministry of Trade, Industry and Private Sector Development.
[82] I return to this issue below and in the concluding chapter.

6.3.5. The NAG and constitutional changes in the Chamber

The disenchantment of 'big business' with the governance institutional framework of the Chamber, and the subsequent founding of the NAG, undermined the legitimacy of the Chamber. Consequently, in 2002, the constitution of the Chamber was revised to provide for a hierarchical structure of membership based on levels of subscription fees and differences in membership benefits as shown in Table 6.4 below. Certain benefits that are critical to the practice of SBRs were restricted to certain categories of membership. These included election to the council of the Chamber, direct participation in PPD and eligibility to serve on joint committees with government. Furthermore, voting power was apportioned according to membership categories in a manner that ensured the retention of power and influence of big business. These changes were designed to win back big businesses into the mainstream activities of the Chamber.

Table 6.4: Membership and distribution of power in the Chamber according to membership group.

Membership category	**Fees in MK**[83]	**Benefits that distinguish the category in terms of power**[84]
Platinum	125,000 ($833.33)	Eligible for presidency, deputy presidency and membership of Chamber's council. Eligible to represent the Chamber on government committees, task forces and international forums. Core member of the PPD team on relevant issues at presidential, ministerial and parliamentary levels. Participate in setting the agenda for PPD. Business profiling on the Chamber's website. Five votes in decision-making.
Gold	100,000 ($666.68)	Eligible for presidency, deputy presidency and membership of the Chamber's council Four votes in decision making
Silver	65,000 ($433.33)	Eligible for nomination to the Chamber's council only. Three votes in decision making.
Copper	35,000 ($233.33)	Two votes in decision making
Aluminium	25,000 ($166.68)	One vote in decision -making
Bronze	15,000 ($100.00)	One vote in decision-making

Source:* *www.mccci.org/categories_benefits.php; Enhancement of Benefits and Call for Renewal of MCCCI Membership (undated).

The institutionalised asymmetry of power among members of the Chamber has implications for SBRs. For example, participation in PPD is an exclusive right of members of the platinum group. The arrangement runs the risk of becoming elitist because in an environment where access to business finance is problematic, not many SMEs easily part with the necessary subscription fees to purchase a

83 Exchange rate in September, 2010: 1USD =MK150.

84 Each of the groups has several other benefits but here I show only those that reflect the institutionalised asymmetry of power within the Chamber.

right of direct policy voice in PPD. Furthermore, the distribution of voting power reflects a model of representation which essentially recognises the right of all to be represented but holds that not all opinions are of equal value (Heywood, 2002:225). The arrangement favours 'big businesses' in that it enables their over-representation through multiple memberships within the same group and across the membership groups. For example, until 2009, all tobacco buying companies were members of the Tobacco Exporters Association of Malawi (TEAM)[85]. The Association was a platinum member as were a few other companies that were members of the association e.g. Limbe Leaf Tobacco Company and Africa Leaf Malawi. Furthermore, some individual companies in the platinum group have their subsidiaries in the other membership categories. While the design maximises revenues for the Chamber, the scenario illustrates how the institutional arrangement dramatically increases the number of votes accruing to one group of stakeholders and potentially skews the balance of power and influence. Internally, the Chamber lacks institutional arrangements for systematically eliciting and expressing the voices from its membership in the lower categories. In addition, and crucially, the membership of the Chamber is a very small fraction of private sector enterprises as a whole. There is little evidence to suggest that members in the platinum group who formally represent the private sector on government committees and in other decision-making processes, act in the interest of members in the lower categories or the wider community of small businesses.

Concertation throughout the first decade of multiparty democracy was less than benign. While there was periodic exchange of information on some issues between the government and the business community, there was less policy credibility on the part of government and the relationship was fraught with mistrust and suspicion. Nonetheless, efforts at institutionalising concertation can be said to have gained traction at the macro- and meso-levels of SBRs but had not yet consolidated by June 2004.The

[85] TEAM was disbanded by presidential directive in 2009 amid allegations that it was an association that masked collusive relations among tobacco buying companies where tobacco auction prices were predetermined.

development of concertation, however, paralleled a pattern of non transparent and collusive SBRs at micro-level. The following section unpacks this dimension and illustrates even further the primacy of politics and power configurations in shaping the institutional evolution of SBRs.

6.4. Patterns of politically embedded cronyism and collusion in state-business relations

The UDF era spawned a version of 'booty (or crony) capitalism' (Hutchcroft, 2004) in SBRs at firm level[86]. However, cronyism and collusion were not limited to transactions between the public and private sectors. To be sure, they were part of a wider pattern of social behaviour whereby state resources were diverted from public to private ends[87]. For SBRs, they entailed a pattern of official impropriety and particularism that nested a web of activities that were calculated to ensure the advancement of real or pseudo businesses of those who were related to powerful politicians or were genuinely or conveniently sympathetic to the UDF. Cronyism and collusion in SBRs took many forms. For the purpose of illustration, I identify four forms, namely, public procurement (award of contracts), access to credit, enforcement of rule of law, and outright graft. The analysis shows how access to the state enabled private accumulation. It suggests that democratisation deepened and broadened the politics of the belly (Bayart, 1993) in which the state is reduced to a spoils system and an arena of particularistic exchanges. Government ministers, sometimes including the president, were eager and willing to intervene in administrative processes to bend the rules or cut corners in order to pursue narrow interests. The cases illustrate the significance of the relative autonomy of bureaucratic authority in state-business relations. It is not surprising, therefore, that by 2004 Malawi was known for corruption, rampant rent-seeking and widespread economic exploitation. According to one survey, 70 per cent of

[86] I do not suggest by this that all firms engaged in collusion but the point is that collusive relations happened at firm level while efforts of benign collaboration were at meso- and macro- levels.

[87] Not much scholarly work has been done on corruption in Malawi because of the political sensitivity of the issue but the following sources provide a good profile: Anders (2002), Tambulasi (2009a), Tambulasi (2009b), Chirambo (2009), Millennium Consulting Group (2006), Transparency International (2004), Khembo (2004) and De Maria (2010) and Hall-Matthews (2007).

Malawians believed that corruption had worsened during the reign of Muluzi (Millenium Consulting Group, 2006:6).

6.4.1. Public procurement and the politics of privilege

A good deal of public procurement was anything but transparent. It was a rent-haven for politically close businessmen and women, pseudo-businessmen and women, public sector managers and officers who straddled careers in public service and small or medium business enterprises. Awarding of contracts was often not based on objective procurement principles as laid down in government procedures. There are numerous examples to suggest that procurement was largely influenced by a quest for personal rents and political expediency to facilitate the expansion of a patronage network for UDF leaders. The emerging pattern of corruption between government and some private sector elements was noted by the Chamber as early as 1995. It was observed that "tendering procedures in government were opaque leading to more underhand deals"[88]. There are many cases of corruption in public procurement but here I highlight a few that show public-private interaction[89]:

The Field York case

In 1994, the Minister of Education was involved in corrupt procurement of learning materials from a UK-based company called Field York International Ltd. He was personally involved in arranging the transaction, including payment, and bulldozed his senior civil servants to comply with instructions that were unprocedural and unlawful. An official of Field York International further offered the Minister of Finance a bribe of £25,000 if he authorised payment[90]. The initial value of the transaction was £1.93 million but was later reduced to £900,000 as indicated on pro-forma invoices that were not itemised. A competitor supplier would cost only 25 per cent of the amount quoted by Field York. Although there was

[88] Minutes of the Chamber, 5 December 1995 at 10 am.
[89] More cases can be found in reports of the Anti-corruption Bureau, reports of the Auditor-General and Court documents.
[90] Tembo,C., 'Field York scandal- more disclosures', Daily Times, 29 March, 1996, p1.

no formal contract with the company, materials were delivered by a chartered plane and the company engaged the President in arranging payment. £300,000 was paid[91].

The Petroleum case

Between January and December 1997, the General Manager of the Petroleum Control Commission (PCC) and the Minister of Energy and Mining, corruptly awarded a fuel supply contract to Europetrol Ltd. The General Manager personally negotiated fuel prices with the supplier and further sidelined Malawian transporters in favour of TZ hauliers from Tanzania which was managed by Europetrol Ltd.The supplier paid the General Manager huge sums of money as gratification. Between 1997 and 2000, $216,507.60 was paid in small amounts. Another $25,000 was paid between October 1997 and July 1998, and another $1.5 million was credited to his bank account in Channel Islands, UK[92].

Ministry of Health (pharmaceutical) case

Y.B. Enterprises which belonged to a UDF politician and the president's 'home boy', was awarded a contract to supply pharmaceuticals despite being unregistered with the Pharmacy, Medicines and Poisons Board (PMPB). The government's contracting unit initially rejected the bid but President Muluzi directed that six items on tender No.031/2001/02/01 should be awarded to Y.B Enterprises. The President argued that the directive aimed at promoting local businessmen. The deal cost government an extra $228,780[93].However, this was not an isolated case. The Public Accounts Committee of the National Assembly observed that for the period 1997-2001, controlling officers in government procured goods and services from suppliers who were not on a pre-qualified list approved by government[94].

[91] The State – v –Sam Mpasu, Criminal Case No.17 of 2005, Lilongwe Chief Magistrate's Court.
[92] ACB Annual Report, 2001/2002 pp.7-8.
[93] ACB Annual Report, 2001/2002 p.14.
[94] Report of the Public Accounts Committee of the National Assembly following examination of treasury minutes of the Government of Malawi for the years 1997-2001, June ,2005, p.8.

The UNIPRO Africa case

Government awarded a MK13 million computer software contract to a ghost company – UNIPRO Africa Ltd. The company belonged to a widow of a Minister of Justice who had defected from his party (AFORD) during a period of upheaval in political allegiances following the 1994 general election. The company was registered about a week after the tender notice while the contract was supposed to be given to a company that had operated in Malawi in Information Technology (IT) business for not less than 3 years[95].

The Ministry of Education (construction) case

Contractors (genuine and pseudo) connived with public officers and claimed over MK187 million from the government for works not carried out. For example, Jeff wa Jeffrey who was known to be an associate of the Minister of Education had 'rents' valued at MK80, 355,230.89. Contracts under Mr. F.B Bvungani had a total 'rent' value of MK4, 438,431.90 while those under Mr and Mrs Kathumba had a value of MK24, 075,233[96]. Many more received payment proportionately more than the amount of work they had done before abandoning projects. The scam involved not just politicians and senior civil servants but also very junior staff. For instance, accounts assistants, clerical officers and copy typists in the ministry were awarded contracts to rehabilitate secondary schools even when they had no building companies[97]. The case also shows a common pattern of overcharging the government to maximise rents. For example, six pit latrines whose correct value was MK120,000 cost the government MK1,878,000. Although only four latrines were completed, the contractor was given a completion

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[95] Banda, M.,'Tender Board in MK13 million scam', Daily Times, 16 February,1998, p.1.

[96] Report of the Public Accounts Committee to National Assembly following examination of treasury minutes of the Government of Malawi for the years 1997-2001, June 2005, p12.

[97] Moya, L., 'Education Headquarters in Shady Deals', Daily Times, 4 February, 1997, p.1.

certificate for all six to facilitate receipt of money from ministry[98]. However, this type of collusion was not limited to the Ministry of Education. A similar scam transpired in the Ministry of Lands, Housing, Physical Planning and Surveys where public officers colluded with private contractors to defraud government by claiming large sums of money for work not done or partly done[99]. In some cases it included multiple payments for the same work[100].

These cases illustrate what was a common pattern in state-business transactions in public procurement. Politicians engaged in creating rents for personal enrichment and to consolidate power by rewarding cronies. This was because after 1994, politics became a rich man's game and political legitimacy became dependent on the amount of largesse that individual politicians could disburse. The UDF believed in social democracy which for many of its members meant distribution of alms, including cash handouts, to the poor[101].Thus, money had to be found somewhere for these purposes. This pressure made corrupt transactions all the more attractive. This is particularly illustrated in the Ministry of Education scam. The Permanent Secretary disclosed that political pressure was the main reason for the manner in which contracts were handled:

> This was even worse when we were approaching the presidential and parliamentary elections because a lot of UDF politicians came to get contracts in order for them to raise money for their political campaign. The Minister of Education ... would give verbal directives to have certain political influential persons paid[102].

Besides the pressure to finance political activities, corruption was a strategy for getting rich quickly. A senior bureaucrat observed that during Muluzi's reign, "there was a scramble for wealth among the top brass ... there was too much self–interest...so you see people getting rich under UDF administration

[98] Report of the Public Accounts Committee to National Assembly Following Examination of Treasury Minutes on the Government of Malawi for the years 1997-2007, June 2005, p12.
[99] ACB Annual Report, 2000/2001.
[100] 'CARER Abhors Corruption', Daily Times, 11 December,1996, p.3.
[101] Interview, Mr. Humphrey Mvula, UDF Director of Research.
[102] Kamlomo, G and Nyoni, S., 'Safuli spills the beans,' Daily Times, 26 September, 2000, pp 1-3.

because they were politically connected"[103]. Thus collusive SBRs thrived partly for purposes of raising campaign finance. This was particularly the case because up to the year 2002 UDF had no party accounts of any sort[104]. The president used to finance all political meetings in his personal capacity and nobody knew where he was getting the money[105]. One main reason is that political financing is an unregulated activity in Malawi. Politicians can mobilise resources from anywhere and there is no requirement of disclosure as is the case in other countries. Thus, collusive SBRs became a strategy for raising money for political activities. The strategy was somewhat sanctioned by the president himself when in 1999 he convened a meeting of ninety-three Malawian businessmen of Asian origin. He assured them of government support if they would rally behind his political party in the 1999 elections. He pledged that they would be granted government contracts, he would ease temporary permits for their foreign employees and there would be cessation of government harassment over their businesses. Some businessmen pledged financial support to the campaign while others donated cash in envelopes[106].

However, in February 2001, the Executive Committee of the UDF resolved to create a structure for generating funds for the party through legitimate commercial activity. They set up a company, Manja Holdings Ltd, with three subsidiaries[107]. By 2002, they had generated only MK500, 000 in profits because ministers were uncooperative as indicated by the executive member of the party who was in charge of the company:

> It saddens me to report that despite our good intentions and efforts, we have not yet won any tenders from our ministries. The list of applications is long … but the point ... is in line with your statement that all of us hold our positions by virtue of our party affiliation. Thus, we must all support

[103] Interview, Director of Trade, Ministry of Industry, Trade and Private Sector Development, July 2009.
[104]UDF executive member to UDF Governor of the southern region, 'Strengthening UDF', 24 April, 2002, pp.3-4 [Private Archives].
[105] Interviews with Dr. Justin Malewezi, former Vice President and Minister of Privatisation in UDF Government and Mr. Harry Thomson, former UDF executive member and cabinet minister; July 2009.
[106]Tembo, C and Mtumodzi C.,'Muluzi Fetes Asians', Daily Times, 21 October, 1998, pp.1-2.
[107] EPA Engineering & Project Management Services Ltd for civil engineering; 2.EPA International Ltd for supply of goods and services; 3. Prima Fuels Ltd for importation and distribution of fuels and lubricants.

> the party by every means at our disposal. I have noted a marked lack of support from our ministers for our tender bids and it may be proper for your office to issue a directive that will encourage all ministries and parastatal [organisations] to direct all their enquiries for their requirements to us for a quotation, and, if we are competitive, then we should get preference in the award of any order[108].

In another instance, a UDF executive member reported of suffering 'great distress' because his bid to supply 8 million exercise books for the free primary education did not win the contract despite being the cheapest. When he learned that the contract had been awarded to a foreign firm, he asked President Muluzi "to delve into the matter"[109]. These cases suggest the existence of an implicit rule that government contracts had to be awarded to businesses or individuals that sympathised with the regime. They further suggest that the informal rule was well understood and could be enforced at the highest level by the exercise of formal executive authority.

It is clear from the examples above that collusion in SBRs was politically embedded. The importance of political allegiance in awarding business contracts by government is further demonstrated in the marginalisation of businesses of those who were seen to be politically unreliable or sympathetic to the opposition parties. For instance, in the Field York case (above), the accused minister argued that he could not deal with Dzuka Publishing Company in the supply of learning materials because the company was run by people who were staunch supporters of the MCP. He feared that they would sabotage the government's programme of free primary education. Although bureaucrats from the ministry provided testimony that allayed fears of sabotage, the political considerations in awarding contracts were clear[110]. Similarly, a UDF activist informed the Minister of Presidential Affairs in 2002 that a business firm called Mike Trading belonged to a nephew of a powerful politician who had been dropped from cabinet for

[108] UDF executive member to UDF Governor of southern region, 'Strengthening UDF', 24 April 2002 pp.3-4 [Private Archives].
[109] UDF executive member to state President Bakili muluzi, 'Various Concerns', 6th July, 1997, p.2 [Private Archives].
[110] The State – v – Sam Mpasu, Criminal Case No.17 of 2005, Lilongwe Chief Magistrate's Court.

opposing the extension of presidential terms for President Muluzi. The activist appealed to the minister to ensure that the firm no longer got contracts from the government[111].

Public procurement entailed a politics of privilege in which those who were higher in the echelons of the party and government had opportunities to boost their businesses or those of their associates. There was an erosion of discipline which was not only left unabated by the leadership but was discreetly encouraged by it. The President was called in by his cronies to intervene in ways that often undermined the rule of law in so far as state-business transactions were concerned. The state simply reduced to a spoils system because of lack of disciplined leadership as one former senior minister observed:

> Muluzi, a nice man but I think too populist, not a strong person, not a strong disciplinarian ... discipline in the public service just collapsed... there was a lot of thieving and all sorts of things only because the enforcement of discipline was not there...It was a misunderstanding of democracy. People thought they were free to do whatever they wanted to do...[112]

The pattern of indiscipline had been observed earlier by many commentators and observers of Malawian politics. For example, by the end of the first presidential term, many of Malawi's middle class regarded Muluzi as a weak national leader who was keen to appease his ill-disciplined, corrupt cabinet[113]. Similarly, when the Danish government suspended its development aid to Malawi it cited a 'a weak administration since 1995' that had allowed corruption to flourish[114]

6.4.2. Graft and plunder: the politics of the belly in public enterprises

The lack of discipline, however, was not limited to rent-creating and profit-sharing corruption in SBRs. In other cases, especially in the parastatal business sector, practices bordered on sheer graft and plunder along the lines that Bayart (1993) characterised as 'politics of the belly'. This was because appointments to the boards and some management positions of these companies were made as

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[111] Anonymous author to Minister for Presidential Affairs, 'Re: Mike Trading', 4 March 2002 (MNA Presidential Affairs Box 50724).

[112] Interview, Mr. Aleke Banda, former cabinet minister in UDF government.

[113] 'Muluzi's future hangs in balance' in Africa Analysis: Malawi May 1999:4.

[114] Tenthani, Raphael., 'Malawi Corruption halts Danish aid' 31 January 2002 (http://news.bbc.co.uk/1/hi/world/Africa/1794730.stm -accessed 20th July 2010).

rewards for political allegiance and were given to those who would carry out 'instructions from above' to siphon resources and channel them to political activities or other private ends. There are many cases that would fit in this category but here I highlight only three to show the main patterns that political graft and plunder took:

Portland Cement Company

A subsidiary wholly owned by the MDC gave away 500 bags of cement to a Minister of Energy and Mining, after his familiarisation tour to the company. In presenting the 'gift', the General Manager was clear on the purpose of the gesture: "We want to thank you for visiting us with a small gift, just a token – it's a lorry filled with 500 bags of cement"[115].

The Shire Bus Lines case

Monday Trading, a firm that supplied spare parts to Shire Bus Lines, belonged to the Chief Executive Officer (CEO) of the company who was an executive member of the ruling party. His firm was being paid between MK8 to MK9 million per month regardless of whether supplies were made or not. Furthermore, the firm was not registered for surtax but was charging Shire Bus Lines surtax and not remitting the same to the Malawi Revenue Authority (MRA). Another company, QAC belonged to the CEO's elder brother and was also on a similar scheme with the parastatal company[116].

The Electricity Supply Commission of Malawi (ESCOM) case

A UDF Member of Parliament was paid MK40 million by the company for goods and services he never supplied or undersupplied. Similarly, the Deputy CEO and Director of finance paid MK45 million to Shire Bus Lines in 2004, without knowledge of the CEO, on the grounds of settling debts[117]. However, there were no records of such debts and it is suspected that the money was released through the dubious supply contracts at Shire Bus Lines and used for campaign in the 2004 general election.

[115] Ngala, H.,'Portland gives Minister 500 bags of cement', Daily Times, 2 January, 1996 p.2.
[116] ACB Annual Report 2003/2004 p.10. By the end of fieldwork, there was little movement on the case. Proceedings had been stayed in the magistrate court because files and documents of the case at the court registry went missing!
[117]ACB Annual Report, 2004/2005 p.15.

These cases illustrate the different ways through which access to the state was used to boost personal incomes through genuine or pseudo-businesses and to fund political activities of the ruling party. But collusion and corruption in SBRs also took other forms which essentially undermined the rule of law by selective application of the rules. For example, Nuka wholesalers Ltd used to buy export sugar from Illovo Sugar Company but sold it locally thereby evading surtax. The owner used to bribe custom officers at border posts to falsify records to show that the sugar was being exported. The Director of Public Prosecutions refused to grant consent to prosecute despite repeated requests by the Anti-Corruption Bureau (ACB)[118]. According to a former senior minister in the UDF government, prosecution could not proceed because the president's company would be implicated. In another case, another of the president's companies (Atupele Properties) was offered a ghost plot by the Blantyre City Assembly for the construction of an office park. The Minister of Lands directed that the car park for the office be built on a road reserve for a highway. Furthermore, the president compelled the Malawi Revenue Authority (MRA) to occupy the office block and to pay rentals for five years in advance before construction of the building was completed[119]. Similarly, a UDF Member of Parliament directly asked the president to order the Ministry of Education to resuscitate a contract his company had with the ministry under tender No.4421-CTB 4421/9. The contract had been suspended by the ACB as part of investigating the construction scam in the ministry. The Member of Parliament observed that his company had been cleared and he was experiencing serious financial problems to service his constituency. In response, the president directed the Minister of Presidential Affairs to liaise with the Minister of Education to find a way of helping the Member of Parliament[120]. This selective and slipshod enforcement of rules meant that so long as one was in good books with the people at the top of the political hierarchy, it was easy to get away with illegalities and corruption. As observed by the World

[118] ACB Annual Report for 2003/04 p.13.
[119] ACB Report for 2003/04 p.11.
[120]Member of Parliament for Thyolo south constituency to State President (1st February 2001) (MNA, Presidential Affairs BOX 50725).

Bank country team, there were weak government systems and controls that allowed for institutionalised corruption and especially customs evasion[121].

6.4.3. Access to credit facilities: bad loans to good friends

The leverage of the state in credit organisations for SMEs further deepened politically-embedded cronyism and collusion in SBRs. Politicians of the ruling party or their associates took out 'business' loans especially from SEDOM, DEMATT and the MDC and never paid back. This was particularly the case because board members and managers were appointed by the president from among party supporters and there was an implicit understanding to provide loans to applicants associated with the party. For example, SEDOM provided a loan of MK240, 000 to a young brother of a Minister of Lands and Valuation when the applicant owed the organisation a previous loan that was not being serviced. Another UDF Member of Parliament was named as having given a kickback of MK10,000 to a manager within SEDOM for facilitating his loan[122]. More ministers and senior UDF officials were named in an 'arrears' report as having taken loans from SEDOM without security and they too were not making any repayments at all[123]. Similarly, between 1995 and 1998, DEMATT disbursed a total of MK33 million without proper documentation to enable recovery of the loans[124]. It was alleged that the president contributed to the mess by instructing the organisation to give loans to people on political grounds[125]. But the culture of defaulting on payments was not limited to politicians only. Chirwa *et al* (1996) found that defaulting in microcredit schemes was rampant because politicians misrepresented the loans as gifts or grants during campaigns so much that there was little willingness among ordinary recipients to pay back the money.

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121 Kamlomo, G, 'TEAM blames corruption on government weaknesses', Daily Times, 14 April, 2000, p.3.
122 'SEDOM to be probed', Daily Times, 3 July, 1997,p.1.
123 'Ministers, Members of Parliament on SEDOM blacklist', Daily Times, 6 August, 1997, p.1.
124 Maeresa,A, 'DEMATT dishes out MK33m with no proper documentation', Daily Times, 19 January, 1998,p.2.
125 Ibid.

In very basic terms "SEDOM and DEMATT collapsed because people just took loans because they had positions in the party and never paid back"[126]. The MDC was not spared from political pressures to provide investment funds to people who were connected to top politicians. As one officer observed,"... there was often political pressure on officers within the corporation to prepare project papers and board papers for approval even when the projects were not viable"[127]. By 2004, MDC had a huge debt consisting of MK1.07 billion to DBSA (Development Bank of South Africa), MK 471 million to Reserve Bank of Malawi/European International Bank (EIB) and MK 157million to EIB[128]. A considerable proportion of this was due to bad loans. At a meeting of the MDC board the chairman informed members that "a memo had been deployed to the president on political loans and he was awaiting response"[129]. Suffice to note here that the MDC was subsequently liquidated.

President Muluzi's propensity to intervene in credit matters of his cronies may have encouraged bad loans not only from micro-credit firms but also from high street banks. For example, a private school owned by an activist of the ruling party had an overdraft of MK522,234 and a loan of MK1, 116,956 which were not being serviced. When the bank threatened legal action, the proprietor informed the bank that the guarantor of the loan, President Muluzi, had undertaken to communicate with the bank on the matter[130]. In another case, a UDF Member of Parliament asked the president to intervene in a loan case in which the Reserve Bank of Malawi (RBM) had gone to court because he was not servicing the loan. He specifically asked the president to order the RBM to slow down on the recovery of the loan[131].

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[126] Interview,Dr. Justin Malewezi, Former Vice President and Minister of Privatisation in the UDF government.

[127]MDC Internal Memorandum, Ref.TIM GEN, 12 October, 1998 (From Project Officer to Management) (MNA, MDC Box No.5).

[128]MDC Ltd Corporate Strategic Plan 2005-9 (MNA, MDC Box No. 1).

[129] MDC Minutes of the 185th Meeting of the Board of Directors held on 30th January, 2004.

[130] Managing Director (Soche Progressive Institute of Education) to Credit Service Manager, National Bank of Malawi (MNA Presidential Affairs, Box No.50724).

[131] From Member of Parliament for Thyolo South Constituency, to His Excellency State President (1st February 2001) (MNA, Presidential Affairs BOX 50725).

Access to credit based on political relations took many forms. There are reports of unpublicised business funding schemes managed by the Ministry of Finance, from which some ministers and senior bureaucrats took loans that were never meant to be paid back[132]. For example, a report by the Auditor General revealed that between 1999 and 2002, government introduced a fund to offer soft loans to small scale entrepreneurs. Only four people applied for loans under this fund: A cabinet minister, a UDF Member of Parliament, a personal physician for the president and a representative of the UDF on the Malawi Electoral Commission (MEC). Except for the MEC commissioner who never got the loan, the other three got MK3 million, MK2 million and MK5 million, respectively. No contracts were signed[133]. This scheme was basically a pseudo micro-business fund. It did not reflect any state-business interaction but outright graft under the pretext of promoting businesses.

Throughout the first decade of multiparty democracy, collusive SBRs reflected the adage that " a goat eats where it is tethered" (Bayart,1993) which is the essence of the 'politics of the belly' where state elites (i.e. ruling politicians and bureaucrats) engaged in personal accumulation of wealth and power using the state. Unlike in South Korea where collusive SBRs are said to have been responsible for rapid growth and expanding investment (Kang, 2002), in Malawi they were certainly responsible for slowing down the economy. Between 1994 and 1998 private sector investment went down by 70 per cent from 17 per cent to 5.2 per cent of GDP[134] while the share of industry/manufacturing fell from 21 to 18 per cent (Nthara, 2003:113) and plummeted further to 12 percent by 2004 (Chinsinga, 2002; UNDP, 2006).The United Nations Conference on Trade and Development (UNCTAD) showed that Malawi had failed to attract new foreign direct investment (FDI). For instance, FDI (equity) was pegged at $25

132 Interview,Mr. Geof Chikuta, former Chief Investigator of the Anti-Corruption Bureau, July,2009.
133 Chipofya, D., 'UDF allies in MK10m loan scandal', The Daily Times, 9 December, 2008.
134 Gunde, A., 'Private sector registers decline', Daily Times, 22 May 1998 p.3.

million in 1994 but had fallen to $3.3 million by 2001[135]. This was attributed, among other factors to state-business corruption and poor economic planning[136].

While the MCP regime was obviously a predatory oligarchy in so far as its relations with private capital and society in general were concerned, the UDF era was a 'plundering democracy' and a big part of its ruling elite constituted an 'exploiting oligarchy' (Khembo, 2004). Political and economic spaces were manipulated to enhance the dominance of the ruling party and its entrepreneurial clientele. During this decade, businesses especially SMEs were born, flourished or failed not so much in the market place as would have been expected in a liberalising economy, as in the administrative offices of the government and the party. The illicit exchange of money and favours between state and business elements and political graft was common knowledge. A former cabinet minister in UDF government insinuated that in reality UDF stood for *Ukafuna Dilu Fulumira*[137] rather than 'United Democratic Front'. Political loyalty overrode prudent economic criteria in public procurement and in granting access to state-controlled credit facilities. Bureaucrats were not independent from political interference and many joined in the plunder in order to save their jobs in one of the most patrimonial bureaucracies. Politicians in the ruling party appeared to be competing among themselves in extracting rents from the state for purposes of augmenting their personal economic and political bases. Politically-embedded cronyism and collusion in SBRs affected the operations of genuine businessmen. Thus, in mid 2003, the Chamber accused the government of throwing away moral business principles by favouring a few people in business, and vehemently criticised the culture of handouts, including hard cash, to political supporters[138].

The simultaneous development of concertation and politically-embedded cronyism and collusion in SBRs presents something of a paradox. Conventional theories of SBRs suggest that a pattern of concertation naturally presents incentives that militate against the development of collusive relations

[135] www.unctad.org/sections/dite_fdistat/docs/wid_cip_mw_en.pdf (accessed 10 July 2010).
[136] Namwaza,G., 'Malawi lowly ranked in investment', Daily Times, 8 October,2004, p.1.
[137] Literally meaning: If you want a (corrupt) deal, be quick!
[138] Musukwa, H., 'MCCCI Calls for Business Morality', Daily Times, 18 July 2003 p.2.

(Schneider and Maxifield, 1997; Taylor, 2007; Haggard, Maxfield and Schneider, 1997). The institutional pattern of SBRs presented above takes exception to this conventional wisdom. The following section attempts a political explanation of the simultaneous development of the two seemingly contradictory institutional patterns.

6.4.4. Chameleon politics[139]: explaining the awkward embrace of concertation and collusion

The duality of concertation and collusion arose mainly from the tension between interests of the UDF leadership. In one dimension, they sought to project an outlook that they were advancing a democratic agenda. The result was the apparent willingness to engage with the business sector in policy dialogue. This was aimed at winning the confidence of the international donor community and was consistent with the new expectations about democratic politics. In the other, they wanted to build their own economic power and retain political power for longer than the new democratic rules of the political game required. Electoral politics, based on regionalism and ethnicity, did not guarantee their continued grip on power. The simultaneous pursuit of these two interests resulted in 'chameleon politics' as a dominant strategy for maximising their political and economic interests.

Chameleon politics is used here as shorthand for a kind of politics characterised by flippancy and inconsistency in the principles adhered to by political leaders (Dzimbiri, 1998). It demonstrates a lack of credibility of the political elites and undermines the democratic notion of a government or state founded on the sustained trust of the people. It is further characterised by shifting allegiances among political elites, very much on the rationale that in politics there are no permanent enemies or friends. Thus,"heroes of yesterday may be villains of today" depending on the dynamic of political friendship or animosity (Englund, 2002:17-18). In the culture of chameleon politics, the ruling political elites are concerned more with 'appearances' than the substance of the ideals they profess.

[139] The use of this phrase is not new in the analysis of Malawian politics. It was first used by Mapanje (1981) to describe state-society relations in the period of the one party state and has been used by others including Dzimbiri (1998) and Englund (2002) to describe Malawian politics since 1994. Anders (2006) has used it to describe the behaviour of Malawian civil servants.

The UDF government initiated concertation in formal SBRs to project the rhetoric of democratic policy-making processes based on consultations with non-state actors. In doing this they sought to demonstrate a departure from the practices of the one-party state where economic policy making was a preserve of a few people if not the president alone:

> ... having come from a one party state, we did everything to make sure that we were democratic... that we did not go back to the one party state... but unfortunately after the 1999 general election, things were no longer the same...[140]

> The first five years were very democratic. It was a euphoria period of change. We wanted to do certain things which the MCP had not done. We had to be seen to be getting rid of the one party remnant. But the second five years were different – they were characterised by kitchen cabinets...[141]

Thus policy consultation, especially on the national budget with the Chamber and other private sector stakeholders, was meant not only to develop a broad ownership of the policies but also to deepen the democratic legitimacy of the UDF government. After 1999, however, there was less of collective cabinet responsibility. The President developed selfish interests to remain in power and factions within the cabinet developed. There were increasingly fewer cabinet meetings and the president committed himself less to running government and more to political machinations to extend presidential term limits[142]. Decision making within the government became even more decentralised[143]. Patrimonial strategies, especially cash and material handouts were intensified. However, at technical level and ministerial level, concertation began to institutionalise under the NAG to maintain the ‘appearance’ of democratic and collaborative policy dialogue. Furthermore, the NAG appeared to have been fully accepted between 2003 and 2004 at the expense of the Chamber. During this period President Muluzi accepted parliamentary defeat to extend term limits and appointed his anointed successor as Minister of

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[140] Interview, Mr. Harry Thomson, UDF executive member and cabinet minister.

[141] Interview, Dr. Justin Malewezi, Vice President and Minister of Privatisation in UDF government.

[142] Monthly cabinet meetings were abandoned because the president was too busy. He later allowed his deputy to preside over cabinet meetings but the authority was revoked after just one meeting. At that first meeting, one minister asked for information about allegations of corrupt government deals to procure vehicles and award of contracts for a scheme to develop national identity cards. Two ministers who were involved in these deals and were part of the president’s ‘inner circle’ reported the matter to the president who reacted by directing that only he would preside over cabinet meetings.

[143] Interview, Mr. Aleke Banda, Dr. Justin Malewezi and Mr. Harry Thomson.

Economic Planning and Development. The new minister used the NAG to court 'big business' and collaborated with it in developing the business-friendly MEGS. Thus, the NAG enhanced the appearances of democratic consultations while building a business base for the minister's political support for the presidency.

However, multiparty politics gave way to a culture of 'handouts' as a new basis of legitimacy for political elites. This was justified as a direct way of alleviating poverty and as being consistent with the principles of social democracy that was the ideological plank of the UDF. Political legitimacy for the party depended on an extensive and expensive party machinery that organised and controlled its constituency. It required numerous side payments and encouraged the development of 'big men' in politics. Furthermore, before 1999, the distribution of parliamentary seats compelled the UDF to 'buy' opposition politicians in order to attain a threshold of parliamentary votes. After 1999, the strategy continued and got worse. It extended to politicians outside parliament and traditional chiefs in order to canvass popular support for constitutional changes (Chingaipe,2009). As observed by VonDoepp (2005:181), UDF functionaries and candidates bought coffins for funerals, provided donations to churches, schools and hospitals and provided cash handouts to groups that patronised their meetings. These strategies were primarily responsible for collusion between genuine and pseudo businesses, especially SMEs, and state departments. Politically–embedded cronyism and collusion was a strategy of siphoning away resources from the state for personal enrichment and for building and consolidating patronage networks in order to maintain power. Furthermore, political elites also extracted resources from the business community in the form of 'security fees' for maintaining business contracts[144]. Thus, both concertation and collusion were driven by politics and were products of activities of politicians that were caught between satisfying the expectations of the democratic rules of politics while pursuing their

[144] Interview, Dr. Justin Malewezi, Vice President and Minister of Privatisation in UDF government.

selfish, non democratic political and economic interests using strategies that contradicted the formal framework of rules.

Conclusion

The analysis above has shown that in the first decade of multiparty democracy the preconditions for coherent SBRs in both the public and private sectors were weak, and that formal relations tended to be ad-hoc, issue driven and disjointed. In comparison to the one party era, the democratic period saw more policy consultation between the government and the private sector, albeit in a context of pluralised institutional environment and ambivalent strategic objectives of governing politicians. In winding up the chapter, I return to the main concerns of this research i.e. how political processes and power configurations within the democratic framework shaped the institutional patterns of SBRs and what the analysis suggests for institutional and SBR theories.

The primacy of politics

Just as in the colonial and post-colonial eras, the economic and political interests of the ruling political elites were prime in shaping the institutional arrangements of SBRs between 1994 and 2004. However, unlike the colonial and post-colonial state elites who demonstrated unity of purpose in their strategic objectives, the political elites in the democratic era were ambivalent. The need to project a democratic outlook in policy processes led to strategies that enabled apparent concertation between the government and the business community. However, unlike in the colonial era, concertation remained nascent primarily because of lack of agreement on the mode of business representation for public-private policy dialogue[145]. But the UDF politicians wanted to hold on to power in a manner that was not consistent with the democratic rules of politics adopted in 1993.This led to a culture of chameleon politics that sustained efforts at formal concertation while engendering collusive SBRs. However, the extensiveness of collusion reflected the continuing centrality of the state in SBRs due to the resources it

[145] It must be recalled here that during the colonial era the European business community had direct representation in the Legislative Council (based on the 1907 Order in Council) and later had direct representation in the Executive Council (see Chapter 4).

commands and as the largest consumer. The examples given above show that state-business transactions were avenues of upward mobility and a source of wealth for entry and survival into the private sector. The main criterion for eligibility to share in the spoils of the state was political allegiance to the UDF as a party and especially to the top leadership[146].

Thus, politics was the driving force in changing SBR institutions of the one party period and in the formation and maintenance of new institutional patterns. The institutional variations in SBRs across the three periods suggest that different politics entail different institutional arrangements for SBRs and the strategic objectives of the political and business elites of each period are critical in explaining the processes of institutional evolution. The analysis illustrates the proposition that economic and political interests of key elites can exert a powerful influence on the kinds of choices they make with respect to institutional arrangements (Boone, 1998).

The institutional architecture of the state and elite configurations

The political institutional architecture of the multiparty democratic state resulted in the dispersal of the power of decision-making in government. Unlike in the MCP era where all major state-business transactions revolved around the dictates of Kamuzu Banda, ministers and bureaucrats in the UDF government had wide latitude for decision-making including the concluding of multi-million dollar contracts with private companies. The state became less coherent than during the MCP period and presented numerous points of interface for non transparent SBRs that were collusive as exemplified by different scams presented above. Furthermore, the new political institutional architecture introduced political competition and the uncertainty of a continued grip on power. The creation and sharing of rents by governing politicians and bureaucratic elites became a strategy for mobilising resources that were disbursed as patronage in order to gain political support and legitimacy. This strategy enhanced collusive SBRs in which the political allegiance of business owners became important eligibility criterion

[146] Government contracts, access to credit, quotas for sugar distribution, posts to diplomatic missions and membership on parastatal boards were all awarded to UDF sympathisers regardless of their region of origin or ethnic identity.

for extracting resources from the state for private ends. Furthermore, unlike in one-party period when business associations were part of the national governance structures, they were not directly co-opted into state structures during the first decade of multiparty democracy despite the active involvement of the leadership of the Chamber in the politics of change in the early 1990s[147].

Lack of political co-optation presented incentives for business associations, especially the Chamber, to develop independent political and technical capacity to raise policy issues and engage with the government when opportunities for dialogue occurred. A comparison of the political capacity of business associations the three periods, suggests that the independence of business associations from direct political control enhances the development of constructive private-public policy dialogue. Cooptation of business associations into the party structure during the MCP period stifled critical policy voice because of excessive party discipline. The case of ABAM further suggests that co-opted business associations tend to be used as instruments for politicians to pursue other agendas. Once there is a shift in political power, the political usefulness of co-opted associations wanes and are likely to become irrelevant for their members and will finally disintegrate. Thus, the Chamber has survived since the early 1890s because it kept its autonomy from the colonial state and developed its political capacity to withstand threats which enabled it survive the one party state.

Economic and political dependence of the state *and the autonomy of the state vis-a-vis the business community*

I have shown in chapter 4 that concertation developed in colonial SBRs mainly because the state depended on the business sector for its revenues and political legitimacy. I have further shown that the one-party state depended less on the private business sector because it generated enough revenue from the many business enterprises that it managed. In any case, it was an unlimited state so much that it could use force and other forms of predation to extract any resources from private businesses if it

[147] It must be recalled here that ABAM was an umbrella body of all African business associations and was itself a member of the MCP with a right to send delegates to the party convention. Furthermore, expatriate business interests were given parliamentary representation as a 'loyal opposition (see Chapter 5).

needed them. The private business sector was too insignificant a threat for the legitimacy of the regime because it could not mobilise independently. There was, therefore, not much room for policy dialogue between the state and the business sector and the result was state hegemony in SBRs. The analysis in this chapter shows that the UDF government depended on the business community both financially and politically. Policy emphasis was on SMEs as agents of economic growth and poverty reduction but implementation was badly affected by politics as the policy focus appeared more to rationalise collusion and rent-seeking than to encourage investment and growth. Thus, the state generated rents that accrued to politicians through pseudo-businesses or informal, collusive relations between government departments and agencies and selected businesses.

The state became embedded in social and political relations with elements of the business sector but lacked the autonomy and discipline that is associated with 'effective states' (Fukuyama, 2005; Ghani and Lockart, 2008; Unsworth, 2005). In short, the state under the UDF regime best resembled Myrdal's 'soft state' which was characterised by a general lack of social discipline, deficiencies in legislation, in law observance and enforcement, and directives handed down to officials at various levels to aid collusive SBRs (Myrdal, 1970: 229).

Organisation of the state and the business sector and the institutionalisation of PPD

Unlike the colonial and the one party period, the public sector in the first decade of multiparty democracy, was characterised by bureaucratic pluralism and a divided mandate for PPD with the business sector. This dispersion of mandate partly encouraged factions in the business community as it guaranteed access to the state. For example, the NAG enjoyed reasonably good relations with ministries of Finance and Economic planning and Development while by law and tradition the chamber related better with the Ministry of Commerce, Trade and Industry. Other sectoral associations interfaced more with MIPA and other ministries on policy issues but the chamber increasingly got the recognition of being the umbrella body of the private sector. Thus, the decentralised pattern of policy-making in government contributed to the pluralised institutional environment for SBRs which affected coherence of policy and opened up the system to collusive behaviours.

In terms of business organisation, the analysis illustrates the importance of the two logics of associational objectives identified by Schmitter and Streeck (1999). For the 'logic of membership' the association must offer sufficient incentives to their members to extract from them adequate resources for its survival and growth. For the 'logic of influence', associations must exercise adequate influence over public authorities (ibid: 19). The analysis has shown that the rules of membership within the chamber before 2001/02 saw large firms withholding their active participation and founding a separate forum for PPD. This affected the Chamber on both logics and led to institutional changes within the Chamber which have had profound effects in institutionalising PPD after 2004. The analysis suggests that business associations for effective PPD must develop political capacity to intermediate among members and to engage the state. In particular, it is important to keep 'big businesses' from defecting as they did when they were outvoted by a majority of small firms. The development of the necessary political capacity may require the introduction of some form of proportional voting but the current formula based on the level of subscription fees raises difficult questions about the notion of representation in PPD.

Insights for institutional theory

The analysis in this chapter provides at least three insights for institutional theory. The first relates to the nature of 'critical junctures' in effecting change in existing institutions. It reinforces an assertion made in the previous chapters that the definitive element of 'critical junctures' ought to be *expectations for change* rather than effects of change. It was the need to fulfil the new popular expectations about political practices of democratic states that led to the emergence of policy dialogue between the state and the business community. However, the practice of PPD was less than anticipated and a reversal to a status of non-dialogue was a real possibility. Furthermore, despite constitutional rules, introduced as part of the transition process, to stop ruling politicians from active involvement with their businesses, the practice continued nonetheless. Thus, the criticality of the transition period lay in people's expectations for change which were codified in law. The effects of these changes, however, were dismal.

The second insight is about how historical experiences of actors shape institutional continuity and discontinuity. The history of the one party state informed the restructuring of SBRs in the era of multiparty democracy. Efforts at deconstructing the institutional edifice of the one-party state (e.g. the repeal of forfeiture laws, guarantees of freedom to engage in lawful economic activities, apparent willingness to engage in policy dialogue) illustrates not only the primacy of politics but also the importance of the historical context in shaping institutional evolution. Not only did history provide a basis for discarding some institutions, it also generated expectations of what subsequent rules should be. Thus, both institutional formation and change are inextricably embedded in history which shapes ideas and aspirations of actors.

The third insight relates to how actors exploit their positions of power to determine what the actual rules governing any activity will be. Although the new constitutional rules required the president and cabinet ministers to disengage from active involvement with their businesses, they did not spell out a system for effecting this requirement. This omission effectively created a space which was not governed by any rules. It provided state elites with room for manoeuvre and they exploited the omission by engineering collusive SBRs with their firms or those of their cronies. Similarly, the *Competition and Fair Trading Act* which had potential to minimise collusive SBRs was simply ignored and remained unoperationalised. The requirement of the Anti-corruption bureau to seek consent from the Director of Public Prosecutions in order to prosecute corruption cases effectively shielded collusive SBRs from the justice system[148].

[148] The Director, who was under the control of the President, used to withhold his consent and he had final say on whether a case would be prosecuted or not. See also Transparency International (2004).

These pieces of legislation were not enforced mainly because they were at odds with the interests and political realities of those who had lawful mandate to establish the institutions and organisations for enforcing them. These instances suggest that enforcement characteristics of formal rules are critical to the effective maintenance of institutions and that it is the interaction between formal institutions and actors that determine what the actual rules will be.

This chapter is the last of three empirical chapters. In the next chapter I show what the analysis contributes to the understanding of the politics of Malawian SBRs and also its implications for SBR and institutional theories.

CHAPTER SEVEN

Conclusion: State-Business Relations and the Politics of Institutional Formation, Maintenance and Change

> ***"Aside from the difference between despotic and libertarian governments, the greatest distinction between one government and another is in the degree to which market replaces government or government replaces market ... Hence, certain questions about the governmental-market relation are at the core of both political science and economics, no less for planned systems than for market systems"***[1]

Introduction

This final chapter spells out the wider implications of the empirical analysis of state-business relations (SBRs) in Malawi. The overarching argument is that politics were central in shaping the formation and maintenance of SBR institutions in each period and in changing the institutions from one period to another. The activities of cooperation, negotiation, conflict, bargaining, domination and subjugation, first, between the state and the business community, secondly within the state between bureaucratic agencies, and thirdly, within the business community between business associations divided along racial and sectoral lines, shaped the attitudes of the various state and business elites as well as the structure, political and economic orientations of the state and business communities. At a macro-level, a particularly important variable from one period to another, was the distribution and exercise of power between the state and the organised business community.

The chapter is divided into four sections. Section 7.1 deals with the implications for the understanding of the shifting patterns of state-society relations in Malawi, with particular reference to SBRs. Section 7.2 considers implications for wider SBR theory, while section 7.3 highlights the implications for institutional theory in political science. Section 7.4 identifies some issues for further research.

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[1]Lindblom (1977:ix).

7.1. Implications for the understanding of state-business relations in Malawi

This section identifies the main variables that shaped Malawian SBRs across the three periods. These include the structure, authority and political orientations of the state; the structure, power and ideology of the business sector; and the dependence of the state on the business sector for revenues and political support.

7.1.1. The structure, authority and political orientations of the state

The way in which the authority of the state was exercised determined whether the business sector had policy voice and space. Under the first constitutional order of 1889, the authority of the 'state' was vested in a rudimentary administration in which the commissioner had virtually unlimited discretion. Commissioner Johnston used the discretion to enhance a particularistic relationship with the imperialist corporation, the British South Africa Company (BSAC), while marginalising the rest of the business community as part of the efforts to introduce company rule over the country. Thus, this early period was characterised by acrimony between the barely existing state and the mostly unorganised business community. SBRs remained unstructured and uninstitutionalised until 1907 when the rudimentary administration began to evolve into a modern state. The creation of the Legislative Council (LEGCO) and the Executive council (EXCO) under the 1907 constitutional order diminished the discretion of the Governor as he had to share decision-making powers with the councils. By requiring the representation of European settlers in the LEGCO, the constitutional framework made the political legitimacy of the colonial state dependent more on European commercial and agricultural interests than on the Governor's loyalty to the British government. Furthermore, the division of state authority between the British government and the colonial government required the latter to ensure that its policies and proposals were negotiated first with the business associations. It further imposed specific restraints on the freedom of the Governor to formulate and implement policy instantly and provided an appeal procedure for the European business associations. This was an incentive for the colonial government to negotiate its policies first with the Chamber and the Nyasaland Convention of Associations (NCA). Thus, the structure of the colonial state provided spaces for genuine policy dialogue and collaboration but only with the European business community.

The rules for representation in the LEGCO left out the Asian and African communities until the late 1940s when changes in the composition of the LEGCO were introduced. The privileged position of the European business community in public-private dialogue (PPD) weakened with the introduction of the Central African Federation (CAF) and the intensity of nationalist activity. These two factors led to significant changes in the structure of the colonial state and in the pattern of its engagement with the European business associations. However, despite the collaborative relations, the colonial state, especially after 1896, was not the unautonomous handmaiden of European commerce and agriculture. It battled with planters over labour policies, with European commercialists over their trading practices and the construction industry over standards, land acquisitions and inhumane treatment of African workers, and endeavoured to avoid monopolies in business.

However, the structure, authority and ideological orientations of the state changed significantly upon the attainment of political independence by Africans. The Malawi Congress Party (MCP) became the most important political organisation in the country. It created a coherent, highly autonomous state that concentrated policy-making powers in a patrimonial president, Kamuzu Banda, whose idiosyncrasies shaped the institutional forms of state-society relations, including SBRs. Banda transformed the Malawian polity into a particularly dense and pervasive form of authoritarianism and achieved total control over state, society and economy. He subordinated the business community to the party through coercion, expropriation and patronage so much that private enterprises were closely tied to the political interests of the state. Unlike the colonial state which tolerated the expression of diverse views among its officials (reflected in minutes of the EXCO) and within society, including business associations, the MCP's political mantra of 'unity, loyalty, obedience and discipline' was ruthlessly enforced by its patrimonial troops to stifle expression of different policy opinions and to enforce compliance with the dictates of the president. Thus, the creation and co-optation of the African Businessmen Association (ABAM) into the party deprived it of independent policy voice and made it one of the instruments for mobilising support for the regime. Similarly, a European parliamentary opposition, which Banda designated as a proxy representative of European commercial and agricultural interests, was not allowed enough policy autonomy and was abolished when it began to make its policy positions more forcefully. Although the regime preached unity, racial thinking continued to shape its attitudes toward the business community. The state's need to create a nationalist business class often meant hostile attitudes and actions towards the Indian and European business communities as exemplified by forfeitures of their assets, deportations and trading restrictions, including the eviction of Indian traders from rural areas.

The democratisation process in the 1990s brought changes in the structure, authority and ideological orientations of the state that, in turn, profoundly impacted on the patterns of SBRs. The most important institutional changes included the attenuation of presidential powers through the separation of power among relatively autonomous branches of government and through the decentralisation of economic decision-making among ministers and senior bureaucrats. Constitutional rules proscribed arbitrary deprivation of private property and guaranteed business freedom and generally supported the emergency of a market economy. Organisationally, the shift was towards greater pluralism within both the state and the business sector. The decentralisation of decision-making within the state, and overlapping mandates of the various government agencies vis-a-vis the business sector, led to bureaucratic pluralism. Emphasis on freedom of association resulted in entrepreneurs mobilising themselves into business associations along economic sub-sectors, size of firms and identities such as gender. The result was a more pronounced fragmentation of the business sector.

Organisational pluralism within the state and the private sector yielded, initially, a pluralised environment in which the various business associations engaged in policy dialogue with the various government agencies/departments. For example, the Chamber with the Ministry of Trade, Commerce and Industry, the National Action Group (NAG) with the Ministry of Economic Planning and Development; the National association of Small and Medium Enterprises (NASME) with the Malawi Investment Promotion Agency (MIPA). Organisational pluralism weakened the state, eroded bureaucratic discipline in the public sector, and opened up institutional spaces for extensive collusive SBRs. Furthermore, competitive multiparty politics yielded a fractured political system in which the state became less autonomous from particularistic pressures and disbursed rents extensively in order for the ruling party to sustain support. Consequently, the state descended into a domain of wanton political graft involving rent-seeking business elements and rent-generating state incumbents. Under the UDF government, the abuse of public office paralleled that of Mobutu's Zaire where holding any slice of public power constituted a veritable exchange instrument (Schneider and Maxifield, 1997; Hutchcroft (1994), as exemplified by the many cases of collusion cited in chapter six.

Paradoxically, this pattern of SBRs emerged despite the creation of watchdog organisations such as the Anti-Corruption Bureau (ACB) and an emerging vibrant civil society. Its emergence challenges the view that democratisation reduces corruption (Chowdhury, 2004; Goel and Nelson, 2005), and shows that they can coexist, especially in political contexts where democracy is only emerging and its institutions are still in a flux.

Across the three periods, the evolving patterns of SBRs were directly shaped by the forms of the state. From an imperialist bureaucratic state that sided with European commerce and agriculture[2], often against Africans and Asians[3], the state came to resemble Hobbes' 'Leviathan' in the period of one-party

[2] My use of 'imperialist bureaucratic state' draws on O'Donnell's (1998) 'bureaucratic authoritarianism'.

[3] See, for example, Shepperson and Price (1956).

rule[4]. It emphasised its sovereign authority, the obligation of all other social actors to obey it, and took pre-eminence in political, social and economic life. In the first decade of multiparty democracy, liberal notions for organising political and economic relations in society led to attempts to define a private sphere that would be independent of the state, thereby redefining the limits of the state itself. But the latter degenerated into a form that resembled Myrdal's 'soft state' that was characterised by lack of discipline and low levels of law observance and enforcement. However, as the state evolved from one form to another, so too, did the structure, power and ideology of the organised business interests. Their interactions with the different forms of the state gave SBRs their varied institutional forms in each period.

7.1.2. The structure, power and ideology of the business sector

The changing nature of the state resulted in business associations changing from being vigorous representatives of business demands in the colonial period, to mere conduits of government policies to the business community during the one-party period, and to a weak and fluid combination of these roles in the first decade of multiparty democracy. While the public and private sectors were distinct in the colonial period, they were largely fused in the one-party period. Attempts to redefine the boundaries after 1994 were less successful as the state continued to dominate economic activity and elites straddled business and politics in a manner that enabled the use of political power to boost their enterprises and their economic power to hold on to political power.

The evolution of the organisational forms, power and ideology of the business sector, across the three periods, was profoundly shaped by political processes of organising and re-organising state-society relations. For instance, the colonial society was stratified on racial lines. Business associations were similarly fragmented i.e. European, Indian and African. There was hardly any recognition of pan-business interests across the racial divide and often representations of these business associations to

[4] See Held (1983) and Parker (1983) on an anatomy of the leviathan state.

the government would seek to work against the interests of the others. For example, in the 1930s the European Nyasaland Merchants Association (NMA) called for business licensing regulations that would negatively affect their Indian competitors, leading to bitter contestation with the Indian Chamber of Commerce (ICC). While the NMA had direct audience with the government, the ICC had to make its case only in writing because of the racially informed rules of PPD. Similarly, when the government decided to introduce a business loan scheme in the late 1920s, the Blantyre Native Association (BNA) which occasionally made representations on behalf of African entrepreneurs, petitioned the government to exclude Indian traders from the scheme[5]. Besides racial divisions, the European business community was further fragmented along sectoral lines especially between commercialists and planters.

Despite the sectoral divisions, the European agricultural and commercial interests were able to form the Chamber as a peak association in 1895 in order to present concerted resistance to the power and authority of Commissioner Johnston that was exercised mostly to benefit the BSAC. After 1896, the Chamber became increasingly powerful. It was regularly consulted on policy issues, and later acquired direct representation in the LEGCO which enabled its members to introduce proposals for enactment into law. The autonomy of the Chamber from the government derived from its members' early settlement in the country, their roles in the processes of state formation and the belief that the possession of capital gave them an automatic entitlement to policy voice, especially in the creation of institutions for political and economic governance. Although colonial SBRs were somewhat collusive, for example, the state's relations with corporations such as the British South Africa Company (BSAC) and Zambezi Mining Development Corporation (ZMDC), and in taxation policies that benefited European merchants and planters while exploiting Africans, and trading policies which marginalised Indians and Africans, both the state and the Chamber were generally autonomous of each other and there was a shared ideological understanding that the role of the state in the economy was largely

[5] BNA petition to Governor, 26 November 1930, MNA S1/1343/30.

regulatory. This pattern continued until nationalism began to take root in the late 1940s leading to direct representation of Africans and Indians in the LEGCO. Between 1953 and 1963 the interactions of the Chamber and the NCA on one hand, and the government on the other, were less intense as responsibility for economic and commercial policy was transferred to the federal government in present day Zimbabwe.

Nationalist politics, especially after the attainment of political independence in 1964, tipped the balance of political and economic power in favour of the state which took effective charge of the business sector and dominated economic activity. Banda's populist orientations engendered a somewhat hostile attitude towards private enterprise, which was heavily regulated and policed especially in pricing consumer goods. Furthermore, the state created a peak business association for an emerging African business class and favoured its members with business contracts, credit facilities, training and other particularistic policies including restricting commercial activities by non-Africans to urban centres in a country that was, and still is, predominantly rural. The creation and co-optation of ABAM into the political party prevented it from developing political capacity and independence from the state. The Chamber lost the legitimacy it had enjoyed with the colonial state as nationalist state elites saw it as a remnant organisation of colonialists. It was further weakened by an exodus of most of its members who left the country willingly or by deportation. Its relations with the state only began to improve when it Africanised its leadership positions in compliance with a nationalist government policy of Africanisation, but was penetrated by the party and was, therefore, unable to develop autonomy from the state. Thus, the business sector continued to be fragmented. It was not, therefore, in a position to present pan-business policy proposals and was whipped into mechanical compliance with the four cornerstones of the one-party state.

The roles of business associations during this period included transmitting orders, regulations and guidelines from the government to the business community and helping to work out how to implement them rather than initiate policy. This form of collaboration with the state was essential not only for the successful execution of the policies, but also as a survival strategy for the associations because the MCP regime was capable of disbanding them even for reasons as flimsy as a mere difference in policy opinion.

The combined influence of democratisation and neo-liberalism enabled the Chamber, after 1994, to begin to develop the political capacity necessary for engaging with the state. The provision of civil liberties opened up space for the Chamber to develop its autonomy from the state and the ruling party. Its membership density increased through the co-optation of sectoral associations and the introduction of regional chambers. Thus, the Chamber transformed into an encompassing association that stood for pan-business interests. The apparent willingness of the government to consult on policy formulation, provided the incentive for the Chamber to develop technical capacity by recruiting professional staff in economics and management. Although internal divisions within business associations are known to weaken the associations for public-private dialogue (PPD), the division between 'big business' and small and medium enterprises (SMEs) was beneficial in that it initiated the institutionalisation of PPD. The formation of the National Action Group (NAG) by big business in protesting the dominance of the SMEs in the Chamber, led to structural changes in the Chamber including the introduction of membership categories. These changes enabled the Chamber to retain both big business and SMEs, thereby sustaining its membership density. This enabled the conversion of the NAG into a formal and institutionalised PPD forum within the Chamber. However, the Chamber's capacity to demand accountability from the state had not fully developed by 2004, partly because the Chamber had not yet fully recovered from the legacy of the one-party state and was unsure of how the government would react to its criticisms. This was particularly the case between 2000 and 2004 when the UDF regime began to renege on democratic principles.

As can be seen from chapters four to six, the evolution of SBRs was conditioned by political processes that were inspired by dominant political dogmas that were central to structuring state-society relations i.e. British imperialism in the colonial period, African nationalism after 1964 and liberal democracy after May 1993. Thus, European business associations allied with the colonial state in their pursuit of imperialist objectives, at the expense of the Asian and African communities. It is worth emphasising that except for Africans, both Europeans and Asians used their business associations for political representation in the colonial period. After independence, African nationalism led African state elites to marginalise the Chamber that was dominated by Europeans and Asians. Furthermore, non-Africans were not allowed party membership, effectively denying them any role in national politics as only members of the MCP could participate in elected positions. The racial divisions within the business community, reinforced by the state, prevented the formation of pan-business associations in the first two periods.

Racial considerations, however, became less influential in democratic politics even though there have been unsustained efforts to form business associations and forums that are exclusive to 'indigenous' Malawians, for example, the Indigenous Business Association of Malawi (IBAM). The shift from business associations defined by race was a step in the right direction for the development of a class consciousness of the business community. However, competitive multiparty politics fragmented the polity and resulted in making political affiliation to the ruling party an effective criterion for business contracts from government and access to credit, among other favours. Not only did these practices deepen neo-patrimonial tendencies of the emerging democratic state, but also delayed the capacity of the business community to recognise itself as a 'class', and undermined its efforts to develop the necessary political capacity to pursue pan-business interests. Popular discourse on democratisation in

Malawi suggests that ethnicity and regionalism became the most influential identities that structured politics after 1994 (Phiri and Ross, 1998). One would, therefore, expect that these identities were equally important in the practice of SBRs, especially the collusive ones. They were not. While ethnicity and regionalism affected electoral politics and some appointments into the public service, collusive SBRs thrived mainly on political affiliation of individual business owners to the UDF, regardless of region of origin or ethnicity.

The changing patterns of SBRs reflect the changing distribution of power between the state and the business sector. To paraphrase Lindblom, it can be said that the degree to which market replaced government or vice versa shaped the evolution of structures, power and ideology of both the state and business sector. Consequently, the intensity of PPD varied with the form and extent of mutual dependence between the state and the business communities, as elaborated below.

7.1.3. Economic and political dependence between the state and the business sector

Economic dependency

Although the business community needed the state for the provision of public goods, the evolution of Malawian SBRs suggests that what mattered most for their institutional and organisations patterns was the relative dependence of the state on the business sector[6]. In particular, the nature and extent of the state's financial dependence on the business sector shaped the attitudes of state elites towards the business sector and the rules and structures for PPD. In the early colonial era, the state was unable to achieve autonomy from the BSAC as the company was the principal benefactor to the administration of the protectorate. Between 1891 and 1896, it provided annual subsidies to the protectorate administration ranging from 50 per cent to 89 per cent of total annual administrative costs. The result

[6] This is evidenced by the fact that across the three periods, less so during the one-party state, it was the various organised business interests that demanded spaces from the state for policy dialogue.

was a deep, collusive relationship between the administration and the company, at the expense of relations with the other European commercial and agricultural interests.

Relations with the wider European business community began to improve when the British government blocked BSAC's efforts to establish company rule and terminated the company's role of benefactor to the colonial government. The government then began to depend more on the wider European and Indian business communities to finance its recurrent budget. The more it wanted to raise revenue for the administration, the more engaging SBRs became. In addition to paying their own taxes and other levies, the European agricultural and commercial interests provided the largest share of employment to Africans which enabled them to pay their taxes. The pertinence of revenue considerations in shaping SBRs was further reflected in protracted disagreements, as discussed in chapter four, between the Chamber and the government over the exportation of African labour to South Africa under the Witwatersrand Native Labour Association (WNLA) scheme, the agreement between the government and the British Cotton Growing Association (BCGA) on the purchase of cotton grown by Africans on crown land, and in recurrent demands by planters and commercialists for electoral reforms, including increase of the number of seats in the LEGCO to ensure that their interests, especially in taxation, were not overridden by those of the government.

In contrast, the economic dependence of the MCP regime on the private business sector was minimal. This was because the private sector was too small to generate the revenue needed for a nationalist development programme so much that the government, and the small elite group that dominated it, engaged in large-scale business enterprises. The state used its corporate sector as its developmental vanguard and to generate the resources it needed for patronage. The state further provided the largest proportion of formal employment in the economy. For example, between 1968 and 1971, employment in the business sector increased from 89,113 to 112,674 while in the civil service it increased from 43,730 to 54,766. However, over 60 per cent of employment in the business sector was provided by public enterprises[7]. The government's extensive productive and regulatory roles in the economy, in addition to its authoritarian and repressive political character, endowed the state with too much autonomy from other societal actors, including business associations. The fusion of party and government meant that government resources were used to facilitate party activities and it was not uncommon for civil servants to be seconded to the party headquarters while remaining on the civil service pay roll[8]. Furthermore, the MCP constituted a 'hard state' (Mhone, 1992) that often behaved like Olson's 'stationary bandit' (Olson, 1993). It extracted any resources from the business community and the wider peasant society by direct appeals for funding or in the form of forced gifts, party membership cards and indirect taxation[9].

In addition, the government received development assistance from overseas and did not have to rely so much on domestic revenue to finance development projects. For example, in 1964 external finance was 56 per cent of total government revenues while tax revenues were only 6.5 per cent. By 1971 when Banda was made life president of the country, the proportion of tax revenue had increased to 10.7 per cent, external finance reduced to 46 per cent because of reductions in voluntary current transfers, capital transfers and interest and loan redemption from abroad. However, government borrowing from abroad increased from MK2, 412,000 in 1964 to MK32, 417,000 in 1971, representing an increase of 1,244 per cent[10]. The dependence on finance from abroad for development programmes continued and was exploited by donors in the 1990s to support calls for political change by suspending disbursement.

[7] NSO (1972:42-44). Note that throughout the period of the one-party state public enterprises and other income generating statutory bodies were classified as part of the 'private sector'.

[8] Interview, Mr. Aleke Banda, July, 2009.

[9] See Mhone (1992) and Harrigan (2001) on how ADMARC was used to indirectly 'tax' smallholder producers to increase government revenues.

[10] 'Central government receipts of revenue and development accounts', NSO (1972) Malawi Statistical Yearbook, p.129. Except for percentages of tax revenues, all other statistics in percentages are my calculations.

These dynamics illustrate that the state's dependence on foreign finance and its dominance in the domestic economy presented it with no significant incentive for PPD for policy formulation[11].

Neoliberal public sector reforms aimed to reduce the role of the state in the economy. It opened up spaces for private enterprises to contribute more to economic growth and employment, therefore, increased the potential economic usefulness of the private sector to the state. The UDF government, therefore, often referred to the private sector as 'the engine of economic growth' – a cliché that expressed the government's intentions rather than the reality. During the decade (1994-2004), private sector investment shrank by 70 per cent, as did the manufacturing sector from 21 percent to 12 per cent. Foreign direct investment reduced from $25m to $3.3m by 2001[12], leading to reductions in employment and erratic economic growth. While tax revenues could finance up to 60 per cent of the recurrent annual government budget, the UDF government, like its predecessor, depended more on external finance for development initiatives. Up to 80 per cent of the annual development budget and 40 percent of the recurrent budget were financed through external aid (loans and grants) (USAID, 2005; AFRODAD, 2007). Thus, there was relatively little financial dependence on the private sector by the state

In terms of political financing, the continued fusion between a ruling party and the government enabled the UDF access to government resources by direct expenditures on party activities. Furthermore, the party and two other opposition parties, used to receive quarterly funding from the National Assembly under section 40 (2) of the Constitution[13]. More importantly, as a ruling party overseeing the discharge of patronage, the UDF was able to mobilise political resources from the business community through collusive SBRs as discussed in chapter six. President Muluzi was further able to mobilise resources

[11] It is important to emphasise that during the one-party era, there were ad hoc PPD meetings but they were limited to discussions about policy implementation.

[12] Figures from Nthara (2003), and www.unctad.org/sections/dite_fdistat/docs/wid_cip_mw_en.pdf (accessed 10 July 2010).

[13] The section provides that a political party that obtains at least 10 per cent of the national vote in parliamentary elections and actually wins seats in the Assembly should be given funding to enable it to continue representing its constituency. The actual amounts are decided by a proportional formula based on the number of seats that the party wins in the Assembly.

from foreign organisations and governments for the party even though the money was deposited into his personal account[14]. Thus, the financial utility of the private sector to the state was obviously higher than during the MCP era but was not sufficient to commit the UDF government to a pattern of collaborative, rather than collusive, SBRs. The easiness of accessing external funding for development and political activities diminished the dependence of the government on the private sector and instead increased the dependence of the private sector on the state for favours and rents.

The changing patterns of the state's financial dependence on the business sector reinforces the view, often made in studies on the fiscal sociology of the state, that sources of state revenue directly shape patterns of state formation and subsequent state-society relations (Moore, 2004;Thies,2007; Campbell,1993). Where the state largely depends on the domestic business sector for its revenues, as was the case with the colonial state after 1896, the state is inclined to seek collaboration with the productive groups of society.

Political dependency

Besides the state's financial dependence on the business sector, the significance of the business sector as a political constituency shaped the attitudes of the state elites towards the sector. The key considerations were whether the business community (or a segment of it) was an asset or a liability to the survival of the state or the regime. The extent to which the state perceived the business community to be a political asset influenced the institutional forms that SBRs took. For instance, Johnston's rudimentary state had its legitimacy in rules made by the British government to whom he was accountable. He was, therefore, not bothered so much by the consternation his collusive relationship with the BSAC caused among the rest of the European agricultural and commercial interests. The European settlers knew that the legitimacy of Johnston's state depended less on them than on the

[14] For example, he sourced up to MK1,740,166,712 from governments of Libya, Morocco, Rwanda and Taiwan (Namangale, 15 September,2010;Nyangulu,12 January,2006). He is also reported to have taken advantage of his religion (Islam) to solicit $98m from Kuwait (Chirambo, 1998).

Foreign Office. This awareness was reflected in Reverend Hetherwick's letter to Reverend Dr. Scott in which he observed that change "in the means and methods of [the] administration….[could] only be done by [British] government"[15]. Thus, the wider European business community was neglected by Johnston's 'state' because it lacked sufficient political usefulness to his administration. After 1907, however, the survival of the emerging colonial state depended on the consent of the European community represented by business associations. It is the quest for state legitimacy that compelled successive governors to counsel the European planters and commercialists to form the NCA for policy dialogue and political representation and the co-option of business representatives into the EXCO. However, the introduction of the Central African Federation (CAF) decreased the political dependence of the colonial state on the settler community. Furthermore, the CAF led to the intensification of nationalist activities. A combination of these factors helped the African community to acquire importance for the continued survival of the colonial state. Thus the government became increasingly sympathetic to African issues, leading to direct African representation in LEGCO which was the mainl forum for formal PPD.

Despite its low financial usefulness to the state, the non-state business sector was politically important to the MCP regime. For instance, the marginalisation of the predominantly 'white' Chamber in the early years of independence, and the creation of ABAM projected the spirit of nationalism which the state elites used to consolidate their power. Furthermore, the cooptation of ABAM into the political party enabled the regime to monitor and control African entrepreneurs but also turned ABAM into a tool for proclaiming the benevolence of the regime for giving them business opportunities. In spite of being politically useful to the regime, both the Chamber and ABAM did not have independent policy voice.

[15] From Rev.Hetherwick to Rev. Dr Scott, 13 June 1892, PRO, FO 6337/211.

The political dependence of the UDF government on the business sector was mainly at two levels. Firstly, its engagement with the Chamber and the NAG were proclaimed as a sign of its democratic credentials. Thus, Muluzi himself initiated policy dialogue with the business community within a few months of coming to office. This was initially driven by an apparently genuine need to form a developmental coalition between the government and the private sector. These attempts pleased the international donor community, especially the UK Department for International Development (DFID), the World Bank and IMF, which were keen to see consultative processes in economic policy-making. For the electorate, policy consultations showcased the reality of political change from the practices of the MCP regime and helped to cultivate support for the new government. Secondly, competitive politics and UDF's need to broaden its support base put the party in a persistent populist mode. The party's dependence on SMEs and informal businesses (mostly petty traders including street vendors), increased as they were seen to constitute a large voting bloc. The president himself began to describe himself as 'a chief vendor'. Dependence on this category of business increased in the second term of the government while that on the Chamber decreased as the latter's calls for accountability were understood as attempts to undermine the government. As a result, the government began to shy away from high-level PPD.

Thus, the evolution of Malawian SBRs has been an integral part of the evolution of state-society relations since colonial times. Their shifting institutional and organisational patterns have been products of political processes involving the state and the organisations of the business sector. From a relationship of constructive contestation based on a balance of power in the colonial period, the pattern changed to a patrimonial relationship in which the state enjoyed disproportionate power over the business sector in the one-party period, before degenerating into an uncertain partnership characterised by institutional flux in the first decade of multiparty democracy. The forms of SBRs were never stable and were dependent on the political and economic orientations of the incumbents of state power. The intensity of policy engagement varied with forms of the state, mainly because of variations in the extent of the state's financial and political dependence on the business community. In the next section, I highlight the implications of Malawian SBRs for theories of state-business relations.

7.2. Implications for theories of state-business relations

The evolution of Malawian SBRs has a few implications for the theories of SBRs. To put these implications in perspective, I begin with an overview of the theories.

Two sets of theories of SBRs can be distinguished on the basis of how 'business' is conceptualised. The first set conceives business as capital, economic sector and a corporation (Haggard, Maxifield and Scheneider, 1997). Theories in this set take a structural view of business influence on the state. The private control of physical and financial assets and capital mobility; factor intensity, asset specificity and the degree of industrial concentration in sectors; size of firms, their internal organisation and ownership - are all theorised to shape the attitudes of the state and its policies towards the business sector (Haggard, Maxfield and Schneider, 1997, Leftwich and Sen, 2010). From the perspective of these theories, SBRs are arms-length relations and there is no need for institutionalised channels for them. These theories give little analytical attention to the political organisation of business and to the institutional arrangements for mediating business interests with the state. Although important for their interpretive insights, the theme of this study – the politics of institutional formation, maintenance and change – was inspired less by them than the second set of theories.

The second set conceptualises business as 'associations' and 'networks'. Business –as-association perspectives are concerned with the dynamics and forms of business collective action in expressing and negotiating policy preferences with the government. Business-as-network perspectives emphasise 'embedded' and 'strategic' networks[16] of personal relationships between individual business managers

[16] According to Haggard, Maxfield and Schneider (1997:54-55), 'embedded' networks are natural, generalised and pre-existing, e.g. extended family, regional or ethnic networks. They form a primal social fabric in which all other forms of social,

and owners on the one hand, and bureaucrats and governing politicians on the other, and their overlapping roles that blur the public-private divide. Thus, SBRs are defined in this perspective as the totality of the interactions between economic and political institutions and organisations[17]. In this view, the goal of SBRs is to enhance economic growth and poverty reduction. Thus, 'effective' or 'good' SBRs are generally understood as a set of highly institutionalised, responsive and transparent interactions between the state and the organised business sector (Schneider and Maxfield,1997; MacIntyre,1994; Harris, 2006; te Velde, 2006; Sen and Cali, 2009). Such SBRs, it is argued, have four key virtues: information exchange between the government and the business community; reciprocity in strategic (investment) actions between the government and the business sector; credibility of government policy to minimise uncertainty and risk of investment by private businesses; and trust between the government and the business sector (Schneider and Maxfield, 1997; te Velde, 2006, Herzberg and Wright, 2006). The theory suggests that these virtues are dependent on the following empirical factors:

- How the state is organised vis-a-vis the business sector. Preference is for a pilot agency, centralised decision making, and a competent economic bureaucracy that has a reasonable degree of Weberian characteristics.
- How the business sector is organised vis-a-vis the state. Preference is for a peak, encompassing business association that has high technical capacity and ability to intermediate member interests.
- How public private dialogue is conducted. Preference is for a regular, formally institutionalised forum.
- The availability of instruments for avoiding harmful collusive behaviour. Emphasis is on the presence of a competition (anti-trust) law.

While there is a general inclination for formally institutionalised SBRs (te Velde, 2010; Pinaud, 2007; Leftwich and Sen, 2010), there is empirical evidence showing that the virtues of 'effective' SBRs are

economic and political interactions are embedded. Strategic networks are artificial creations – narrower, instrumental forms of cooperation established to achieve some specific goal.

[17] Given the main concerns of this research of the evolution of Malawian SBRs as spelled out in chapter one, the study fits in this category better than in the first.

attainable through informal arrangements (Wang, 2000; Moore and Schmidtz, 2008; Tenev *et al*, 2003; Steer and Sen, 2008).

But how does the Malawi story relate to this theory? I show the theoretical insights following the sequence of empirical factors of 'effective' SBRs as presented above.

7.2.1. Organisational characteristics of the state

Of the three institutional configurations discussed in chapters four to six, it is colonial SBRs that most approximated 'effective' SBRs. When the three are compared, they suggest that regardless of the character of the political regime i.e. authoritarian or democratic, SBRs characterised by constructive contestation of policy require that decision-making authority within the state should neither be too concentrated (i.e. in the MCP period) nor too fragmented (i.e. in the UDF period). Subject to the political and historical setting, either extreme presents problems that preclude the emergence of 'effective' SBRs. For example, the monopoly of the policy space by president Banda after 1964 stifled transparent policy dialogue, while too much uncoordinated decentralisation under President Muluzi after 1994 fragmented the policy arena and undermined the credibility of government. In practical terms, this suggests that reforms aimed at building state capacity for policy formulation and delivery, must seek the balance between concentration and deconcentration of decision-making authority within the state. However, finding the inflexion point will not be easy or fast.

The importance of 'pilot agencies' for effective SBRs is well established in the literature, beginning with Johnson's (1982) study of the Japanese Ministry of International Trade and Industry (MITI). Current theories emphasise the presence of an investment agency whose bureaucrats are technically competent and insulated from political pressures from politicians and other social groups. However, there was no such organisation in colonial Malawi but SBRs were consultative. In the post colonial period, although the Ministry of Commerce and Industry enjoyed the nominal recognition as a 'lead agency', in effect there were several bureaucratic agencies involved in SBRs, including the Malawi

Investment Promotion Agency (MIPA), Malawi Export Promotion Council (MEPC), and Ministry of Economic Planning and Development. Clarity of policy was ensured by the centralisation of decision-making power in the President during the one-party period which ensured what Cammack *et al* (2010) have described as 'vertical coordination' of policies within the state. Decentralisation of the authority under President Muluzi yielded bureaucratic competition and policy coordination failures. Furthermore, as modern economies get even more complex, it is reasonable to anticipate even greater organisational pluralism within the state due to the need of specialist agencies. This suggests that the critical element for effective SBRs is not just the presence of a lead bureaucratic agency but the ability of government to coordinate policies from the agencies in order to send coherent, unambiguous messages to the business sector and enhance the credibility of government.

The normative appeal of the Weberian state structures and especially their potential role in fending off collusion in SBRs and building state capacity is well established (Evans, 1995; Johson, 1982; Evans and Rauch, 1999; Evans, 1997). The sticking issue which has not received enough attention in current SBR theory is about how to create such structures in countries like Malawi, which have known mostly patrimonial bureaucracies where appointments into the policy-making cadres of the public service are an important part of political patronage and technocratic integrity has been systematically undermined over time[18]. The centrality of politics in the evolution of Malawian SBRs suggests that creating such structures (hence improving state capacity) is likely to be less of a technicality in administrative reforms than a profoundly political process involving strenuous and protracted negotiations and bargaining as such reforms have the effect of redistributing power within the public sector.

[18] Technocratic integrity exists where technocrats are typically willing and able to provide advice to leading politicians. It does not exist where senior officials are systematically either afraid or badly equipped to provide advice (Cammack et al, 2010:4).

7.2.2. Organisational characteristics of the business sector

Contrary to the theories that emphasise the structural constraints of SBRs on the state, the analysis of Malawian SBRs provides evidence that the (indigenous) business sector in developing countries does not yet occupy a privileged position. Despite political and economic liberalisation, the state has continued to shape the character of capitalism and the position of business in the policy arena. The activities of the state in the economy strongly influence the dynamics of collective action in the business sector, sometimes intentionally but also in unintended ways. It is suggested in current theory that encompassing, peak business associations are crucial to the formation of effective SBRs. The argument is that policy preferences and demands of a business association are partly dependent on the scope of its membership. Encompassing associations are assumed to be in a position to pursue non-particularistic policies that ensure long term economy-wide efficiency (Leftwich and Sen, 2010; te Velde, 2006; Bell, 1995).

The paradox suggested by the Malawian case is that the formation of such encompassing associations has been at the behest of the state. For example, the colonial state counselled the Chamber and the Nyasaland Planters Association (NPA) to form the Associated Chambers of Commerce and Agriculture in the 1900s in order for the government to obtain one consolidated view on any policy proposal. When planters and commercialists fell apart, again it was the state that brokered the formation of the Nyasaland Convention of Associations in the late 1920s. Similarly, when merchants broke away from the Chamber and demanded recognition of the Nyasaland Merchants Association by the state, the government refused and denied its members access to policy dialogue. Consequently, the merchants rejoined the Chamber on the pretext of avoiding being played off by the government. In the one-party period, president Banda directed the formation of ABAM and the merger of the Chamber and the ICC. But because of the state's nationalist concerns the two peak associations operated alongside each other. Conversely, initial recognition of the National Action Group (NAG) and the granting of access to policy dialogue to many associations during the UDF era, undermined collective action in the business sector until the Chamber began to co-opt sectoral associations and successfully challenged the existence of the NAG. These suggest that unless the state is interested in the existence of a peak association (either for policy dialogue or other reasons), the business sector is more likely to suffer from organisational pluralism and be unable to recognise itself as a class.

Even if the business sector should be able, on its own, to develop encompassing associations, access to policy dialogue is the single most important incentive at the disposal of state elites to shape directly or indirectly, how the business sector gets organised vis-a-vis the state. The importance of access to the state is further illustrated by the demise of ABAM a few years into the transition to democracy. ABAM's fate illustrates the importance of the independence of business associations from party politics, especially in an evolving environment of multiparty politics.

SBR theories underscore the need for business associations to develop in-house professional capacity to collect and process policy-relevant information. This is all well and good but the Malawi story presents a few sobering facts. Colonial business associations had only one permanent staffer i.e. the secretary. The executive committees of the associations did all the technical work themselves. During the MCP period, both the Chamber and ABAM had lean structures but with a little more technical and administrative staff. But this was a period of state directives rather than policy dialogue with non state actors. Similarly, nascent concertation in the UDF period owed more to the opening up of the political system than to increases in professional staffs in the Chamber whose numbers remained low (Chingaipe and Leftwich, 2007). This observation does not negate the importance of professional technical capacity to vibrant business associations. Instead, it reinforces an earlier observation, first expressed by Leys, that it is more important for the domestic businessmen to be politically competent as a class i.e. being able to recognise the requirements of capital as a whole and seeing to it that the requirements are met, than for them to be technically or financially efficient (Leys,1994a:230). This observation is particularly pertinent where racism, nationalism or ethnicity present persistent fault lines in the private sectors. In Malawi, these identities have been exploited by state elites for political reasons but have had the negative effect of constraining 'business' from developing a class identity. Failure to transcend the racial and ethnic divides as well as the distinction between foreign and national, fragments the business sector and reduces its capacity as a political actor.

7.2.3. The practice of Public-Private Dialogue (PPD).

SBR theory deduces the strength of PPD from four main variables: whether there is a PPD forum, the format of the forum, the frequency of its meetings and whether the forum is formal or informal (te Velde, 2006, Cali and Sen, 2009). Measurements of these variables, though problematic sometimes[19], provide a preliminary impression of the nature of PPD. However, there is evidence that even in situations where the measurements are apparently favourable for genuine dialogue, the quality of PPD may be low as exemplified by Zimbabwe[20]. The story of Malawian SBRs suggests that one explanation for the format and quality of PPDs is the degree of dependence of the state on the business sector (or part of it) for revenues and political support.

Using basic ordinal scales to measure the degree of the state's political and financial dependence on the private business sector, Table 7.1 presents some specific propositions about the format and intensity of PPD. In theory, both political and financial dependence are measurable on a continuum so much that there is an infinite space for their interaction, giving rise to many possible combinations. Placing the patterns of any SBRs on this coordinate plane depends on empirical evidence.

[19] For example, frequency measurements are only indicative as they do not take into account ad hoc meetings or small group meetings both of which constitute PPD.

[20] Between 1997 and 2006, Zimbabwe had an institutionalised formal PPD forum, the National Economic Consultative Forum (NECF) that met at least four times a year but the forum was used by the government more to exercise control over the business sector than to consult on policy (te Velde,2006).

Table 7.1: Dependence of the state on the business sector and the format and intensity of PPD

<table>
<tr><td rowspan="4">Political dependence</td><td>high</td><td>I

Neo-patrimonial collusion: informal, SBRs involving individual state elites and individual firms. May include informal networks.</td><td>II

Possible coalition that can be collusive or developmental. Quality of PPD will depend on the dominant objectives and autonomy of the state elites</td><td>III

State capture: PPD in which government takes policy instructions from a powerful business constituency</td></tr>
<tr><td>medium</td><td>IV

Cooptation of business associations into the party of government.PPD reduces to a political control mechanism</td><td>V

Uninstitutionalised concertation involving government agencies and business associations</td><td>VI

Concertation: effective SBR characterised by constructive contestation of policy is most likely</td></tr>
<tr><td>low</td><td>VII

Marginalisation of business from policy dialogue</td><td>VIII

Ad-hoc, issue-driven consultations</td><td>IX

Unlikely scenario</td></tr>
<tr><td></td><td>Low</td><td>medium</td><td>high</td></tr>
<tr><td></td><td></td><td colspan="3">Financial dependence</td></tr>
</table>

There are two main propositions in Table 7.1. Firstly, if an organised business sector (or sub sector) is perceived to be a significant constituency for the government's political well-being, the state is more likely to seek to engage with its representatives. However, the form of engagement will depend on other factors such as the strategic interests of the state elites and their perception about the financial importance of the sector or sectors. The business association will either be co-opted into the government structures, for example ABAM, or will remain separate from the state, for example, the Chamber in the MCP period. Conversely, if the business sector is perceived to be neither a significant asset nor threat to the political survival of the government, its business representatives will be marginalised from PPD as was the case with the Indian Chamber of Commerce (ICC) in colonial Malawi. Secondly, if the financial dependence of the state on the business sector (or subsector) is significant, the more likely it will be for the state to engage with business representatives in policy dialogue, as was the case with the Chamber after 1994. Conversely, if a business sector has low financial importance to the government, genuine policy dialogue with its representatives may not be forthcoming.

The analysis of SBRs in the period of UDF government further suggests that where both the state and business are weak and the institutional framework is fluid, and the propensity to collusion is high, formal arrangements for PPD are necessary. The informal ones may be contested away as was the case with the NAG. But the mere existence of a formal institutional arrangement is not enough. Its effectiveness depends on the specifics of the arrangement and on the interests of state elites. For example, ABAM was a delegate to MCP conventions but had no effective policy voice.

7.2.4 The avoidance of harmful collusive behaviour

For the avoidance of collusive behaviour, SBR theory emphasises the need for mechanisms that enhance transparency of business transactions and policy dialogue. Particular emphasis is on the existence and effective implementation of business competition law. While such legislation is important to a functioning market economy, the Malawi case suggests that the most important element in fending off collusion is the nature of the state and the attitude of its elites and business leaders towards transparency, accountability and principles of fair trading. For example, the colonial government did not have such a law but business competition was part of a shared economic ideology. Similarly, there was no such law during the one-party period but the scope of collusion was narrow because of business policing by the strong state. Such legislation, however, was introduced in 1998 at the insistence of the United Nations Conference on Trade and Development (UNCTAD) and other multi-lateral organisations. But it existed only in statute books until 2005 because the UDF government reneged on its commitment to put in place the infrastructure necessary for implementing the law. Meanwhile, collusive SBRs developed into something of a norm.

Thus, the existence of a competition law, *per se,* does not reduce harmful collusion, especially in situations where elites straddle business and politics. The avoidance of collusive behaviour requires a multi-faceted approach that ensures the adherence to standards of transparency and accountability and to a separation of the public from the private spheres of life. Furthermore, the analysis suggests that in contexts where both the organisation of politics and the economy are in transition, regulations on political financing are important for fending off collusion in SBRs. This is particularly important because in Malawi and other nascent democracies in Africa, access to state power is the surest and quickest route to personal wealth.

Thus, the measurement of SBRs must go beyond a search for specific organisational structures and pieces of legislation. Econometric measurements in this regard (for example, te Velde, 2006; Cali and Sen, 2009) give snap-shot views that are not systematically contextualised and do not, therefore, tell us how the organisations and institutions were formed and how well they function. This research has shown that the organisational and institutional forms of SBRs, and their functioning, are profoundly shaped by the distribution and exercise of political and economic power between the state and the business sector. Thus, the measurement of SBRs is one area where political science and economics provide a useful interdisciplinary approach.

7.2.5. Implications for African state-business relations

In this section I highlight how my findings relate to three themes on African SBRs. These are racial and ethnic identities, attitudes of state elites towards business and the role of international aid.

Racism and ethnicity

Several analyses have pointed out that in Africa, racial and ethnic identities distinguish between a country's political and economic elites. See for example, Brautigam (2002) and Handley (2008) for Mauritius, Himbara (1994) for Kenya, Taylor (2007) for South Africa and Zimbabwe, Handley (2008) for South Africa, Heilbrunn (1997) for Togo and Benin, and Heilman and Lucas (1997) for Nigeria and Tanzania. The main argument is that state and business elites use their positions to assert group rights and the economic advancement of their ethnic groups. The group that dominates the state has more advantages than other groups.

This characterisation is borne out in the evolution of Malawian SBRs. For example, racial identities i.e. European, Indian and African were central in shaping the institutional and organisational forms of SBRs in colonial and post-independence periods. Thus, the European colonial state marginalised Indian commercialists even when the latter's share in national commerce was growing rapidly. Similarly, the MCP government was resentful of, and often harassed, the European and Indian businessmen as part of efforts to 'Africanise' the business sector. However, unlike in Nigeria (Lucas, 1994; Heilman and Lucas, 1997), there is no evidence of ethnic or regional rivalry within the Malawian African business community for the period with which this study has been concerned (1891-2004). My findings further show that although multiparty politics in the 1990s fragmented the polity on regional and ethnic lines, these factors did not cause visible divisions in the business community and in SBRs. Instead, the most noticeable cleavages were based on political affiliation of individual businessmen. This shows that ethnic cleavages do not have a determining effect of their own on SBRs. Their effects depend on how elites use these identities as part of their political strategies for power. This point is reinforced by the fact that ethnically diverse societies such as Mauritius and South Africa (Handley, 2008; Taylor, 2007; Brautigam, 2002) where the state and the business sector are dominated by different ethnic or racial groups, have been able to forge state-business coalitions that have turned out to be developmental.

Attitudes of state elites towards business

Heilman and Lucas (1997) have alerted us to the fact that states can be 'pro-business' without being 'pro-capitalist'. In their conceptualisation, 'pro-business' states make business-friendly policies but use them mainly to create opportunities for rents, leading to corrupt accumulation of wealth and a weak basis for a country's long term development. 'Pro-capitalist' states on the other hand, make business-friendly policies that enable private accumulation of wealth by ensuring productive investment of capital. The Malawi case underscores the importance of this distinction in designing reforms aimed at creating development-oriented SBRs. For instance, a wholesale adoption of neoliberal reforms in the 1990s made the UDF government appear to be more pro-business than pro-capitalist. Restrictions on doing business were relaxed, rent-creating and rent-seeking behaviours among state and most business elites became the norm rather than the exception, and productive investment slowed down as shown in chapter six. In contrast, the MCP regime often displayed a hostile attitude towards private business but it was pro-capitalist in that it encouraged productive investments of rents (see Cammack *et al*, 2010) even though it was a version of capitalism in which the state dominated the economy.

This has important implications for African SBRs. Firstly, it underscores the importance of careful study of the evolution of SBRs, analysing the discrepancy between public platitudes made by state elites and what actually they do with the business sector. It is clear that effective, growth-oriented SBRs will not come forth on the basis of public platitudes, such as *'the private sector is the engine of growth'*, that was often spouted by the UDF regime. Secondly, it shows that 'effective' SBRs cannot be had to order and it is not enough for the state to simply adopt pro-business policies. Growth-oriented SBRs require reforming both the state and business associations for a collaborative rather than a collusive relationship. For the business sector, this means that African businessmen must recognise pan-business interests and develop a class consciousness that is divorced from simplistic affiliation to a ruling party. Peak business associations founded on these principles are better placed to contribute to growth and have potential to initiate reform of corrupt, patrimonial politics that characterise many African states.

African SBRs and international aid

This study has shown that the extent to which the state depends on the private business sector for revenues and political support is central to patterns of SBRs. This proposition implies that external aid given to developing countries may have a role in shaping the patterns of SBRs by giving state elites the perception that they can get additional money elsewhere without engaging with the business sector to work out favourable investment policies that will boost the creation of wealth. Furthermore, the orthodox neoliberal framework that guides the making of economic policies in many aid-dependent African countries restricts the range of strategies that states and business communities can use to create 'effective' SBRs. There is, therefore, a need for more detailed national studies to explore this suggestion further.

7.3. Implications for institutional theory in political science

In this section I identify the key contributions of this study to institutional theory. As mentioned in chapter three, there are many versions of institutional theory in political science, including rational choice, sociological, discursive, historical and normative institutionalism (Peters, 2005; Schmidt, 2006; Hay, 2002). The implications that I identify relate only to historical institutionalism - the approach that I have used to understand the politics of the institutional and organisational evolution of Malawian SBRs. These implications are on the concept of critical junctures especially its definition and relationship with the concept of path dependence, emphasis on the importance of history in explaining institutional discontinuities, how power asymmetries affect the pace of institutional change, and how actors interact with institutions to cause institutional change.

7.3.1. Reconsidering the concept of critical junctures

Institutional formation and change is considered mostly as happening during moments or episodes of upheaval, for example, periods of transition from one political system to another. Such periods are called critical junctures. According to Collier and Collier, a critical juncture is "a period of significant change, which typically occurs in distinct ways in different countries (or in other units of analysis) and which is hypothesised to produce distinct legacies" (2002:29). Other scholars, for example, Hogan (2005 and 2006), Abbot (1997), and Pierson (2004) define critical junctures in a similar way. Although the authors have subtle differences on the criteria for identifying a critical juncture, there is consensus on two points. First is that a critical juncture exists if a significant change took place. The second is that the change must establish a legacy. In these conceptions, judgments about any moment of change being a critical juncture can only be done at a later point in time when the effects of institutional change can be ascertained and it can be shown that a legacy was established as a direct result of the change.

The analysis of Malawian SBRs suggests that changes during such periods affect mainly principles and ideational frameworks for organising state-society relations (i.e. macro-level change) but do not immediately translate to wholesale institutional transformation in specific institutional domains as is suggested by most formulations of critical junctures. For example, the introduction of the 1907 constitution altered the framework of organising state-society relations by introducing the notion of political representation and sharing with the Legislative and Executive councils the power previously exercised by the Governor only. Similarly, the introduction of a one-party state constitution in the 1960s and especially the MCP's ideological mantra of 'unity, loyalty, obedience and discipline' provided a new framework for organising state-society relations as did the democratic constitution in 1994. In specific institutional domains, actors negotiated with each other on how to align their relations with the ideals that framed macro-level changes. For example, the notion of political representation that was provided in the 1907 constitutional order, led to recurrent political contestation over many years between state elites and the European community on how best to give it practical effect. It was not resolved until the 1950s but agreements at different points from 1909 enabled the institutionalisation of PPD within the LEGCO. Similarly, the transition to 'democracy' between 1993 and 1994 was generally understood to imply policy consultations between government and societal actors, especially the business community. But as the discussion in chapter six has shown, the specific institutional arrangements for doing this had to be negotiated incrementally and a satisfactory settlement had not been reached by 2004. Even the institutional edifice of the one-party state was built incrementally through resolutions of the party's annual convention.

Thus, institutional formation within each period was an incremental process in which change involved introducing modifications to the rules in ways that were compatible with the main ideas for organising relations within the polity. This reinforces recent theorising about gradual and endogenous institutional change (Mahoney and Thelen, 2010; Greif and Laitin, 2004) within historical institutionalism, that represent a departure from earlier concerns with abrupt institutional changes induced by exogenous factors. My contention is that macro-level critical junctures affect ideas for organising relations and subsequent institutional change in different domains is hardly abrupt but is shaped by the ideational framework established at critical junctures.

Furthermore, I suggest that the emphasis on effects of institutional change as a definitive element for a critical juncture is rather misplaced because institutional change may not be a necessary element. This may sound counterintuitive but in the light of recent theories of gradual institutional change involving layering, conversion and drift (Mahoney and Thelen, 2010), it is illogical to define a critical juncture in terms of a period when an existing institutional set-up broke down, or an off-path change was made. Furthermore, at critical junctures, changes to specific institutions may be possible, even plausible, but may be rejected outright or may be aborted soon afterwards. For example, in 1994 a constitutional conference agreed to stop the straddling of business and politics by presidents and ministers and developed specific constitutional rules for this. However, the UDF government simply ignored the provisions and straddling strategies of political elites got entrenched. Such cases of aborted change or of cases in which actual institutional change takes a path other than the one envisioned by actors, for example, Malawi's democratisation process (see Vondoep,2005), would negate some historic moments as non critical junctures. As Collier and Collier argue, "if the change does not produce a legacy...then one would assert that it was not in fact, a critical juncture" (2002:30). I suggest that rather than the effects of the institutions that get created, it is people's expectations for real institutional change in a particular direction that should be a key definitive element of critical junctures. The expectations may be fully or partially fulfilled or may not be fulfilled at all. The importance of emphasising expectations for, rather than effects of, change is that it recognises the role of actors in fulfilling the expectations for change in the institutional and organisational domains where they are involved as exemplified by the evolution of PPD between 1994 and 2004.

Furthermore, once critical junctures are defined on the basis of people's expectations, historical institutionalism becomes a more internally consistent approach. A perennial criticism has been that the concepts of critical junctures and path dependence, which are the essential building blocks of the approach, are inconsistent. The argument has been that the concept of critical junctures has implied abrupt institutional discontinuities, often orchestrated by external factors, while path dependence has implied institutional continuities and slow, incremental endogenous change, even across periods that have been designated as critical junctures (Hogan,2006; Peters *et al*,2005). By defining critical junctures on the basis of expectations for change, the apparent contradiction between the two concepts wanes because the proposed definition allows a range of outcomes vis-a-vis institutional reform including 'no change', and is less deterministic about the speed of change. Whether change happens, what form it takes and its speed, are all empirical questions as illustrated by the changing institutional and organisational forms of SBRs across the three periods. But where institutional resistance to change is significant, and institutions begin to evolve in ways that diverge from people's expectations as expressed at the critical juncture, and the evolution is clearly shaped by institutional arrangements that were in place before the critical juncture, then institutional continuity can be explained by path dependence. A typical Malawian example for this phenomenon is the labour tenancy that has continued on tobacco estates since colonial times despite attempts by both colonial and post-colonial governments to curb the system (Woods, 1993; McCracken, 1983; Pryor and Chipeta, 1990).

7.3.2. History and causation in historical institutionalism

A primary assumption in historical institutionalism is about institutional continuities even across moments of upheaval. The persistence of institutions is consequently explained in terms of legacies of the past using the concept of path dependence (Pierson, 2000b; Mahoney, 2001; Clemens and Cook, 1999). The evolution of Malawian SBRs shows clearly that history explains not just institutional continuities but also discontinuities, and shapes the content of subsequent reforms. For example, the MCP government took on productive roles in the economy and modified the mechanisms for the parliamentary representation of European commercialists and planters, in order to correct what they perceived to be colonial injustices. Similarly, after 1993 political change saw the dismantling of the institutional set-up of the one-party state including repeal of the forfeiture laws and freeing social organisations (trade unions and business associations) from a forced membership of the MCP. The point here is that history matters not just for institutional continuity but also for change. Actors draw upon their historical experience with predecessor institutions (i.e. learning) to decide whether to discard, retain or modify the existing institutions. This aspect of how 'history matters' in causing institutional discontinuities is not emphasised and is less theorised than how it causes institutional continuities.

Similarly, it is argued that explanation of institutional continuity must necessarily be long and should go back to a very early phase of institutional formation (Hall, 1999; Hoff, 2003; Mahoney, 2003). This approach is necessary to establish ‘path dependence’ in institutional evolution. The analysis of the evolution of Malawian SBRs shows that the experience with colonial institutions was critical in shaping institutional change after independence. For example, the political dominance of Europeans in LEGCO led to the proscription of non-Africans from elected positions after independence, but the importance of representation of European planters in Parliament led to the creation of a ‘parliamentary opposition’. Similarly, the experience with the institutions of the one-party state was influential in shaping institutional change for the democratic era. For example, expropriation of private property by the MCP regime led to the abolition of the forfeiture laws and enactment of legal rules to protect private property. The case study does not provide evidence, even for a remote suggestion, that colonial institutions influenced the formation of institutions for the democratic era. This has an important implication for historical institutionalism. It suggests that the chain of causation may not have to go too far in the past and researchers ought to establish some terminus in their backward search. It reinforces Riker’s observation that “at best a remote institution may influence its immediate successor, which in turn influences its immediate successor, and so on until the present, but it is hard to ascribe causal influence to a remote institution at the beginning of such a chain when the influential structure has been modified repeatedly” (1995:123).

7.3.3. Power, politics and the pace of institutional change

It is already established that some institutions are slow-moving while others are fast-moving (Clemens and Cook, 1999; Roland, 2004) depending on how deeply entrenched in the social fabric the institutions are. Formal political institutions, for example, national constitutions and other laws, are generally taken to be superficial and therefore fast-moving and the informal ones, for example, cultural or traditional rules governing aspects such as marriages, are taken to be deep-rooted and therefore slow-moving.

The evolution of Malawian SBRs shows that the pace of change may depend less on whether the institution is formal or informal, political, economic or cultural, than on the distribution and exercise of power between proponents and opponents of institutional change. For example, during the MCP era, once a change was deemed desirable by the political elite, whether in the cultural, political or economic sphere, the pace was fast because there was no need for prolonged negotiations with any other societal groups and the state deployed ruthless mechanisms to enforce compliance with the change. For example, termination of a European parliamentary opposition was immediate as was the change of the electoral system in the 1970s both of which aimed at consolidating power for Dr. Banda. In the democratic period (1994-2004), institutional change was slow because of protracted negotiations due to the balance of power between the state and business associations as exemplified by the process leading to the establishment of a formal PPD. This study, therefore, provides evidence for the view that economic and political institutions are political settlements between elites. More specifically, where power is dispersed among elite clusters, there exist 'veto points' (Tsebelis, 2002) which slow down institutional reforms. This was the case in the colonial and the democratic periods where business associations and other societal actors engaged with government to influence the content of reforms and the pace of their implementation. Conversely, where political power is centralised, as was the case during the MCP era, there are no independent competing centres of power and veto possibilities are remote. Institutional reforms are therefore most likely to be fast-paced.

7.3.4. Agency and structure –the causes of institutional formation and change

It is commonly assumed among institutionalists that all social, political and economic behaviour is governed by institutions, formal or informal (North, 1990). The analysis of Malawian SBRs shows that institutions do not always form a dense, closely-knit set of unambiguous enforceable rules. Rather, there are gaps within the rules and between the rules and their interpretation and enforcement. This notion of institutional gaps is not necessarily new but it is fairly recent. For example, Dixit (2006), Leftwich and Sen (2010), and Mahoney and Thelen, (2010) have shown that there exist 'institution-free' zones of behaviour. Olivier de Sardan (2008) has identified behavioural patterns which contradict both formal and informal rules, suggesting the existence of 'institutional space' in which actors manoeuvre. My findings suggest that these 'gaps' become avenues for manipulative or calculative actors whose behaviours orchestrate subtle but significant institutional change, and in some cases give rise to informal rules that may work at cross-purposes with the formal ones. For example, political financing in democratic Malawi is an 'institution-free' area and ruling politicians take advantage of this lack of rules to siphon resources from the state for narrow political ends. Similarly, public procurement rules have generally been loose in interpretation and enforcement as have been the rules aimed at cracking down on corrupt activities. By taking regular advantage of these gaps, the UDF regime gave rise to an informal set of rules which sustained collusive SBRs as discussed in chapter six. Ambiguities or discretion in the formal rules engendered contests over their meanings and shaped their enforcement. For example, the generality of the provision of section 2 of the Forfeiture Act (see chapter 5, section 5.3.2) gave rise to interpretations and enforcement mechanisms that essentially expropriated private property and earned the MCP regime the label of a predatory state. The analysis, therefore, shows that the interaction between agency and established rules is the source of institutional change, and sometimes of informal rules.

7.4. Some issues for further research and conclusion

7.4.1. Issues for further research

This dissertation has implied some issues that merit further research. Firstly, the transitions from one form of political system to another, for example, from autocracy to democracy, is associated with changing capacities of states to discharge their traditional functions and to put in place institutions that deliver development. This research has suggested that the capacity of the Malawi state has been higher in the autocratic than democratic periods. There is need for more national studies on the institutional and organisational evolution of SBRs aimed at generating practical insights on how to build state capacity and especially Weberian-like bureaucratic structures in contexts of pervasive patrimonial politics. This need is perhaps more urgent in African countries than in the other regions of the developing world, because except for a few studies (e.g. Taylor, 2007; Handley, 2008; Brautigam, 2002), there is little scholarly work on SBRs and the problems of development are most pressing.

Secondly, the development paths of Malawi and many other African countries have been explained mostly from the perspective of economic policy. However, this study has made allusions to effects of the different patterns of SBRs on growth and development. There is need for studies to determine the impact of specific SBR configurations on growth, investment and development and the mechanisms through which they work. Given the salience of SBRs in the political economy of development, it is hoped that such studies may generate a recipe of what institutional and organisational forms of SBRs work for or against broader goals of development in different political contexts.

Thirdly, this study has been concerned with state-business relations at the macro-level. However, it is known, and I have shown especially for the colonial period, that states tend to have different attitudes to different subsectors of the business community. My hypothesis is that state attitudes towards subsectors will vary with the extent to which the state depends on the subsector for financial and political support. This implies that there are possibilities of macro-level patterns of SBRs being different from those at sectoral levels and that may have implications for state capacity, sectoral policies and the nature of coalitions that happen between state elites and producer groups. For example, in Malawi one would expect SBRs in the tobacco sector to be different from the macro-patterns that have been discussed in this work.

Conclusion

In this thesis I have traced the evolution of state-business relations in Malawi from the 1870s up to 2004, spanning three political periods distinguished on the basis of the nature of the state and the political system. I have demonstrated the primacy of politics in the practice of these relations, especially in the formation, maintenance and change of institutions that shaped them. This process dovetailed with the formation and consolidation of the institutions and organisations of the state and involved negotiations, bargaining, sometimes directives by the government. The key variables that structured these relations were the structure, authority and ideological orientations of the state; the structure, power and ideology of the business sector; and the dependency of the state on the business sector for revenues and political support. The overall argument is that the shifting institutional configurations of Malawian SBRs were shaped by variations in the distribution and exercise of power between the organisations of the state and those of the business sector i.e. different forms of state-level politics entailed different arrangements for state-society and especially state-economy relations, and reflected evolving political settlements among elites. Racially inspired colonial politics led to a governance pact between the colonial administration and the European business community. Not only did this affect the development of African capitalism, it also constrained the development of class consciousness within the business community as issues were framed as European, Indian or African rather than pan-business. Similarly, nationalist politics fragmented business associations on racial lines while the politically determined objectives to pursue infrastructural and industrial development saw the state crowd out private enterprise which also suffered state predation as the regime sought to entrench its power by eliminating any potential alternative centres of power and personalities. While democratic multiparty politics led to the end of state predation on private enterprise, it led to bureaucratic pluralism within the state and organisational pluralism within the business sector. SBR institutions were in a flux. Competitive politics provided incentives for SBR the emergence and maintenance of SBR institutions that enabled both policy dialogue and collusion.

The analysis has generated new insights for historical institutionalism as an approach to political analysis. I have suggested that macro-level critical junctures affect mainly ideational frameworks for organising relations in society and that subsequent change in different institutional domains seek to conform to the new framework. I have further suggested that the concept of critical junctures may acquire more explanatory power if its definitive elements are people's expectations for institutional change in the periods of upheaval rather than effects of institutional change. I have shown that history is useful not just for explaining institutional continuities (or legacies) but also discontinuities, and the design of new institutions. I have further contended that historical causal chains do not necessarily have to stretch too far into the past for it is the most recent predecessor institutions that shed light on existing institutional arrangements.

Besides the conceptual and methodological insights summarised above, I have further suggested that not all human behaviour is governed by institutions, formal or informal. There are always gaps which provide room for agency so that the interaction between the existing rules and actors give rise to institutional change or give rise to informal rules.

Finally, I have illustrated that political and economic institutions are products of politics and reflect temporal elite settlements. Thus, the road to understanding the formation, maintenance and change of institutions, especially of SBRs, has to be a political one. A search for obstacles to broad-based economic, social and political development must concentrate on identifying the institutions that serve small groups of elites at the expense of broad access to opportunities by the non-elite majority. Reform of these institutions, however, will hardly be without controversy and can be expected to be slow.

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Appendices

Appendix I: List of key informants

NAME OF KEY INFORMANT	PROFILE OF RESPONDENT	DATE AND PLACE OF INTERVIEW
1. Mr. Rafiq Hajat	Executive Director of Institute for Policy Research and Interaction, Former businessman, former Executive member of UDF, Former Vice Chairperson of MCCCI, Civil society advocate and pertinent observer.	16 June 2009, IPI, Blantyre
2. Mr. Humphrey Mvula	Executive member of UDF, Businessman, Former CEO for Shire Bus Lines (Parastatal)	30 June 2009, Shire Highlands Hotel, Limbe.
3. Dr.Mathews Chikaonda	CEO of Press Corporation, Former Governor of Reserve Bank, Former Minister of Finance in UDF government, Co-Chairman of NAG, Chairman of Business Action Against Corruption.	23 July 2009, Chayamba Building, Blantyre
4. Mr. Aleke Banda	Cabinet Minister in MCP and UDF governments, Businessman, former Managing Director of Press Corporation.	22 July 2009, A10 Residence, Lilongwe.
5. Mr.Harry Thomson	Former MCCCI president during MCP period, Minister in UDF government, Businessman.	20 July, BCA Residence, Limbe.
6. Mr.Kassam. Okhai	Businessman, former MCCCI President 1993-1997, former Chairman of National Economic Council.	16th June 2009 , Gestetner offices, Blantyre
7. Rt. Hon. Dr. Justin Malewezi	Secretary to President and Cabinet in MCP government, Vice President and Minister of Privatisation in UDF government.	15th July, 2009, A43, Kuka Lodge 1, Lilongwe.

8. Mr.Harrison B.Kaluwa	President of MCCCI, President of Malawi Coffee Association, former bureaucrat (Ministry of Agriculture.), CEO for Mzuzu Coffee Planters Cooperative.	17th July 2009, Ufulu Gardens, A43, Lilongwe.
9. Mr.Alex Gomani	Chief Economist, Millennium Challenge Account-Malawi; Long Service in Ministry of Finance and other ministries at the level of Principal Secretary.	20th July, Millennium Challenge Account, Lilongwe.
10. Mr.Ted Kalebe	Former Technocrat in Office of President and Cabinet (Development Division), Former General Manager of Malawi Investment and Promotion Agency, Politician (MP) and Minister of Economic Planning and Development after 2004.	16th July, 2009, A47 Residence, Lilongwe.
11. Mr.Mike Mlombwa	Businessman, President of Indigenous Business Association of Malawi.	17th June, 2009, Plantation House, Blantyre.
12. Mr. Dye Mawindo	Former CEO of Privatisation Commission, Former Legal Practitioner, Former Company Secretary for MDC.	15th July, 2009, NRC Residence, Lilongwe.
13. Mr Harrison Mandindi	Director of Trade, Ministry of Industry, Trade and Private Sector Development.	21st July 2009, Lilongwe.
14. Mr.Geoffrey Chikuta	Former Chief Investigations Officer (10 years), Anti Corruption Bureau (1998-2008).	17th July 2009, Millennium Challenge Account Offices, Lilongwe.
15. Mr. Mark Katsonga Phiri	Business man, former MCCCI president, Politician.	30th June, 2009, AXA Bus Lines Offices, Blantyre.

16. Ms. Edna Chamgwera	Malawi Chamber of Commerce Membership Development Officer, 20 years of service with the Chamber of Commerce and Industry.	16th July, 2009, Lilongwe Chamber of Commerce Offices.
17. Mr. Hope Chavula 18. Mrs. Grace Amri	Malawi Chamber of Commerce, PPD Economist. Malawi Chamber of Commerce PPD Coordinator.	23rd July, Chamber House, Blantyre.
19. Mr. D.J. Chikhawo	Former National Executive Chairman of the African Business Association of Malawi (ABAM) and former Member of Parliament (MCP).	22 July, 2009, Njewa, Lilongwe.
20. Mr.Iron Costa Sindo	Former member of MARTA and ABAM, UDF politician.	27 July, 2009, UDF Offices, Limbe.
21. Mr. Felix Mlusu	Managing Director of NICO Holdings, co-chairperson for the PPD forum.	27 July, Chibisa House, Blantyre.

Appendix II: Themes explored in interviews with key informants

AIMS AND OBJECTIVES OF FIELD WORK

My field work aims to **collect data** that will enable the production of analytic narratives of how political processes shaped the institutional and organisational evolution of state-business relations in Malawi across three political epochs, namely colonial, one party dictatorship and multiparty democracy. Data will be collected and collated to achieve the following three broad objectives:

- To show how the formal private sector emerged (during colonialism) and was organised vis-*a-vis* the state during each of the periods under study and the political imperatives for these forms of organisation.
- To show how the state/public sector was organized *vis a vis* the private sector in each period under study and the political imperatives for these forms of organisation
- To show the practice and the formal and informal institutional patterns of SBRs in each period
- To show the content of SBRs during each period

Operationally, these objectives will be unpacked into sets of questions and variables that will guide the process of data collection as detailed below.

Structure of economy

The structure of the economy is important for understanding the nature of business associations and state attitudes towards the business sector as a whole or parts of it.

- What were the major sectors of the economy during each of the three periods? Were there dominant companies within these sectors? If yes, did their role in the economy shape their influence or power in SBRs? How? Why?
- What was the structural power of the business sector i.e. its economic weight in the economy in terms of (a) levels of employment disaggregated between formal and informal employment? (b) taxation and other forms of state revenue (c) Forex earning capacity (d) contribution to GDP at sectoral level?
- Does the structural power of capital influence the perceptions and attitudes of the state regarding the political and economic utilities of the business sector or subsectors?
- How did the structural power of business affect the political capacity of business in SBRs?
- Were business associations seen as legitimate to the state i.e. to what extent was the administration and activities of organised business institutionalised and considered legitimate?
- Did the state have reason to regard business as a partner in policy and institutional creation and maintenance? Was this the same at macro and sectoral levels of business organisation? How? Why?

Structure of business associations

- Did business people see themselves as a part of a larger group –capital- i.e. is there any evidence of class consciousnesses?
- Business autonomy: Did the business community operate within a well delineated private arena that was both normatively and organisationally distinguishable from the interests and pursuits of the state and/or ruling party?

- Did the business community have economic and political interests, identifiable and distinct from other groups including the state and was business organised in pursuit of those objectives*?*
- Were there peak organizations, representing all business? What were they? How did they form? Why did they form?
- Were there distinct sectoral business associations? If yes, were there any formal or informal arrangements for them to meet, discuss, interact and cooperate? Were there any informal linkages? If yes, what form did they take?
- Were the organizations of business strongly unified at the top or was there considerable decentralization of power down to branches or chapters? How does the centralisation or decentralisation affect the political capacity of business associations? Is there competition among business associations for the attention of the state? Do the business associations cohere as a set of political actors? Do they generate and pursue pan-business positions?
- What was the professional capacity of the business associations in terms of research skills and negotiating experience? Did they have a professional staff? How many? Was it adequate for their purposes? Was the association properly equipped?
- Did the business associations have capacity to respond to policies or initiate policies? What is the evidence for this? Did they have the capacity to project policy positions publicly? Why did they have or not have the capacity?
- Is there any evidence of a strong regional, ethnic or even religious basis to some business organizations? i.e. what 'organizational density' characterised the business associations? Were they divided or unified, and to what extent and why?
- How representative of businesses were the business associations? What are the membership densities of the associations relative to the number of firms at macro level for peak associations, at sectoral level for sectoral associations?
- How was power distributed within business associations? Did all members share the same rights and obligations or were their degrees of membership, influence and benefits? What factors shaped the patterns of power distribution within the associations?
- For peak associations, what institutional arrangements existed for managing the diversity of interests within its ranks and for resolving real conflicts? Was there a process of internal contestation of policy? If yes, what was that process?
- How were the business associations funded? Were they self-financing? Donor supported? State-funded? Did the mode of funding affect their relations with the state? How? Why?
- Did the state provide 'selective incentives' to business associations?

Structure of the state and ideology of the regime

- What kind of state was it? Federal, unitary, presidential, parliamentary or mixture? How did this influence the institutional and organisational patterns of SBRs?
- What was the *political* character of the regime? A powerful party-state? A dictatorship? Democratic etc and how did this shape SBRs?
- What was the economic ideology of the regime? Was it committed (and credibly so) to the promotion of the private sector? Or was it cautious about the private sector, promoting a more mixed economy with a stronger role for the state?
- Was the private business sector considered trustworthy by state elites
- Were there political ideologies or slogans that provided the rationale for the disposition of the state *vis-a-vis* the business sector? What was the practice in relation to these ideologies?

- How was the state organised for SBRs? i.e. was there a non-joined-up multiplicity of points of access to the state for businesses or a single gate-keeping organization within the state structure? Which departments, ministries or government agencies were primarily responsible for SBRs, and how did the office of Governor and later, President, fit into the picture? Was there an organisational entity that could be described as a 'pilot agency'?
- What was the character and capacity of the economic bureaucracy? Appointive or Meritocratic?

Institutional Architecture of SBRs

- What was the predominant conception of state-society relations; especially SBRs during each period (Pluralism? Corporatism? Collaborative governance? etc)
- Were SBRs formally structured by institutions or were they entirely ad hoc or occasional?
- If SBRs were institutionalised, what form did they take and why did they take that form? Were they serviced by secretariats? How did the institutions form? (PPD, Corporatist, etc). Were the institutions formal, transparent and seen as legitimate? What were they and how did they work?
- Were SBRs consultative? How regular were they? Was consultation largely token or was there genuine discussion?
- What was the balance of power within the SBR institution? Who called the meetings? Who set the agendas? Who funded them? what purpose did the PPDs serve?
- Was the business sector dominated by certain subsectors? i.e. did some sectors of the business community win a greater share of the 'policy voice' than others? If so, why? What is the evidence?
- Were patterns of SBRs similar or different between the macro-and sectoral levels? How? Why?
- How did the nature of the state shape the autonomy of the business sector? What were the results of this- Did it engender/ enhance neopatrimonialism by the state or did it enhance the state's ability to pursue broad–based economic/development policy?
- How predictable and credible was the institutional environment in terms of (a) security of property rights? ((b) contract enforcement? Pricing and trading policies (both domestic and export trade).
- Were there behind-the-scenes, personalised influences in SBRs? What evidence is there?
- How did social cleavages i.e. factors such as race, class, ethnicity, political partisanship affect or shape SBRs?
- Did business success, generally, depend on political fealty to the party in government or the social cleavage dominating the state? Did political parties rely on business financing?
- What were the patterns of elite configurations? Was there some form of shared or double membership in state and business organisations? If yes, how did this shape SBRs?
- What kind of institutional informalities shaped SBRs?
- Were there informal organisations that had influence on SBRs? How did this work? Is the informality linked to, or mediated through, political party relationships? Do these relations reflect state or business domination? Predation, collusion or capture?
- What was the relative power of both formal and informal institutional arrangements and the way in which they interacted with each other (whether in conflicting, complementary, accomodating or substitutive ways).
- If there were a multiplicity of business interests interacting with the state, what model best describes the state:

  Weathervane?:

  a. Was the state a passive vehicle through which inputs from business associations was processed?

b. Was the state biased towards or colonised by businesses or business associations?
c. Can it be said that the government became the 'steady appeasement of relatively small groups'?

Neutral View

a. Was the state a by-stander or a referee presiding over existing rules (regulating)
b. Did the state intervene to shape institutions and policies to tilt incentives towards the unorganised or voiceless parties?
c. What factors motivated the neutrality of the state –need for political stability? Or consolidation of political power and legitimacy?
d. Was the state autonomous? A mediator? Balancer and harmoniser of interests pushed by various business associations (and labour unions?).

Broker Model

a. Did the state elites pursue their own interests?
b. If yes, which interests? How did this shape the institutional and organisational patterns of SBRs

- How did the state exert influence on the business sector?
  a. Control of access to business finance? How?
  b. Enforcement of policies, regulations and discipline? How?
  c. Predation?
  d. Selective awards of business contracts?

Appendix III Business portfolio of Press, MDC and ADMARC as at 1994.

1: Press Corporation Limited's Portfolio as at October 1994

Subsidiaries

Name of company	Nature of business	Press stake (%)
Bergers Trading Ltd Malawi	Retailer clothing	51.0
Carlsberg Malawi Brewery	Brewery	51.0
Enterprise Container Ltd	Manufacturing plastic products	62.5
Central Poultry Ltd	Poultry farming	100
Grain and Milling co. Ltd	Milling of grain and production of stock feeds	51.0
Hardware and General Dealers Ltd	Dealers in hardware and furniture manufacture	100
Malawi Distilleries	Distiller and importer of beverages	50
Mw Pharmacies	Pharmacy chain	100
Maldeco Fisheries	Fishing company	100
National Insurance Company Ltd	Insurance	65.0
Number One stores (mw) Ltd	Clothing retailer	51 Truworth (Zimbabwe)
OILCOM 1978 Ltd	Fuel and oil distributor	80 British Petroleum (UK) 20.
People's Trading Centre (PTC) Ltd	Supermarket chain	60 Premier Group (South Africa)
General Farming Company Ltd		100
Press (Farming) Ltd		100
Kasikidzi Estates Ltd		100
Buwa Tobacco Estates		100
Press Foods	Food manufacturer and distributor	100
Press group Ltd	Investment company	100
Press Properties Ltd	Property investment and development	100
Press trading pty Ltd	Procurement agency (South Africa)	51.0 Boart International (South Africa)
Press Transport 1975 Ltd.	Transporter	100
Press Bakeries Ltd	Property holding company	100
Press Produce Ltd	Property holding	100
Sales Services Ltd	Property holding company	100
Tyre re-treaders Ltd	tyre re-treaders and distributors	60.0 Swaziland Tyres

Associated companies

Name of company	Activity	PCL effective interest	Share held by Group companies
Commercial Bank of Malawi	Bankers	40	40
Ethanol company Ltd	Ethanol production	24.4	35.5
Limbe Leaf Tobacco Company	Processing tobacco	42	42

Mandala Ltd	Agriculture/trading	32.1	32.1
National Bank of Malawi	Bankers	38.4	38.4
New Building Society	Building society	15.9	24.5
Press Hall Steel (holdings) ltd	Steel processing	50	50
Southern Bottlers (SOBO) Ltd	Production of soft drinks	25.4	49.8

Source PCL (1994:2 and 16).

2: ADMARC's portfolio as at 1994

Name of Company	Nature of business	Percentage interest
Auction Holdings Ltd (3 subsidiaries)	**Tobacco trading, suppliers of agricultural inputs, equipment, pest control, tobacco re-handling**	
Central Tobacco Properties		
Cold Storage Company		
Cory Mann George Ltd		
David Whitehead and Sons		
Dwangwa Sugar Corporation		
Finance Corporation Ltd		
Grain and Milling Ltd		
Investment and Development Bank of Malawi (INDE BANK).		
Malawi Finance Company Ltd		
Malawi Tea Factory Company Ltd		
Manica Freight Services Ltd		
MITCO		
National Bank of Malawi		
National seed Company Ltd		
Optchem (malawi) Ltd		
Stagecoach (Malawi) Ltd		
Sugar Corporation of Malawi (SUCOMA)		

Source: Privatisation Commission(1996), 'Divestiture Sequence Plan'

3: MDC's portfolio at 1992

Name of Company	Nature of business	Percentage interest
Bata Shoe Company	Manufacturing shoes, boots and sandals	49
Brick and Tile Company	Manufacturing cement-based wall and floor tiles	40
Chillington Agrimal Ltd	Manufacturing agricultural implements	40
Commercial Bank of Malawi	Commercial banking, corporate finance and leasing services	30
Encor Products Ltd	Manufacturing and selling aluminium, enamel and galvanised wares and tea chest fittings and wheelbarrows	23.3
Investment and development Fund (Inde Fund)	Loan and equity finance to Malawian owned companies	29.35
Leopard Match Company Ltd	Manufacturing and distributing leopard matches	30
National Insurance Company	General insurance, life assurance and pension services	20
Packaging Industries (Malawi) Ltd	Manufacturing of various packaging materials	85
Pipe Extruders and Plastic products Ltd	Manufacturing pvc pipes, plain and printed bags and sheets	
The Import & Export Malawi Ltd	Wholesale and retailing and marketing services	86
The Portland Cement Company (1974) Ltd	Manufacturing Portland cement	100
Tourism Development and Investment Company of Malawi Ltd	Hotels, tour and travel services, airport catering services	72.25
Mpico Ltd	Development, ownership and management of commercial and industrial property	50
Gem	Mining and buying gem stones for export	100
Malawi Iron and Steel Corporation	Producing castings in ferrous and non-ferrous metals	44.5

Appendix IV: MSCA Civil Appeal No.12 of 1998

IN THE MALAWI SUPREME COURT OF APPEAL
at Blantyre

MSCA CIVIL APPEAL NO. 12 OF 1998
(Being High Court Civil Cause No. 289 of 1993)

BETWEEN:

ADMINISTRATOR GENERAL .... APPELLANT

- and -

DR. G. N. K. KHOFI .... RESPONDENT

BEFORE: THE HON. JUSTICE UNYOLO, JA
THE HON. JUSTICE MTEGHA, JA
THE HON. JUSTICE TAMBALA, JA
B. Y. M Makwinja, Counsel for the Appellant
Mordecai Msiska, SC., Counsel for the Respondent
Mrs Mbekwani, Court Official

JUDGMENT

TAMBALA, JA

This case is a clear example of the abuse of the rights of an individual which was very common in the previous one party regime. In 1970, Dr Khofi the respondent was an owner of two companies called Kadona Gowoka and Company Ltd and Nkhotakota General Traders. The two companies were engaged in trading business and they owned trading establishments at Nkhotakota District Headquarters as well as at Mwansambo, Liwaladzi and Chia Lagoon; all these places were in Nkhotakota District. According to Dr Khofi's affidavit evidence, it was a prosperous business. In February, 1971, Dr Khofi received a letter from Mr J.B. Mkandawire who was at that time District Commissioner for Nkhotakota District. The letter was dated 20th February 1971 and stated:-

> *"Dear Sir,*
>
> ***ALL BUSINESS LICENCES***
>
> *I have been directed that under Cap. 46:01 of Business Licencing Act, all your Business Licences should be cancelled as from to-day, February, the 20th, 1971.*
>
> *Yours faithfully,*
>
> *J. B. Mkandawire"*

Dr Khofi received another letter from Mr A.S. Sacranie of Sacranie Gow and Company. The letter was also dated 20th February, 1971 and contained the following unsettling information:

> *"The bearers of this letter are representatives of Messrs. F. Sacranie and Company, Chartered Accountants of Blantyre who have been duly authorised upon instructions of His Excellency the President to undertake and implement the following duties:*
>
> *(1) Take possession of all the premises, stock-in-trade, motor vehicles and all property and assets of both the above companies and prepare full inventory thereof;*
>
> *(2) Take possession of all books of accounts, cheque books, and all other documents and vouchers of the said companies;*

(3) To prepare statements of affairs (with supporting documents and information) in respect of the financial status of the two companies and make comprehensive report thereon;

(4) To take similar action in the case of any property, assets, deeds, documents belonging to or in the name of Mr G. N. K. Khofi Phiri.

You are requested to give your full co-operation in this matter.

Yours faithfully,

A. S. Sacranie
SACRANIE GOW AND CO."

Dr Khofi received yet another letter also bearing the date of 20th February, 1971. It was from F. Sacranie and Company. It stated:

"Dear Sir,

Mr A R Sacranie and Mr M Bahadur are acting for F. Sacranie and Company under the direct instructions from the President through Mr A Sattar Sacranie.

You are requested to give them the fullest co-operation and assistance.

Yours faithfully,

F. Sacranie, Gow and Company"

The letter was copied to Mr A. Sattar Sacranie. It confirmed the contents of the letter from Mr Sattar Sacranie and the two gentlemen mentioned in the letter carried out the tasks mentioned in Mr. Sattar Sacranie's letter.

About March, 1971 Dr. Khofi saw in the local press a notice issued by the Administrator General. It was dated 22nd March, 1971 and stated-

"The Hon. Minister of Trade and Industry has made an order applying the Provisions of Part VI of the above - mentioned Act to the above mentioned company. The order appeared in Government Notice No. 83 in the Malawi Government Gazette Supplement dated 19th March, 1971.

In accordance with section 40 of the said Act the property and assets both real and personal of the said company vest in the Administrator Generdl upon the trusts imposed by Part VI of the said Act.

(There followed two paragraphs dealing with claims against the company and debts owed to the company). The notice related to Kadona Gowoka and Company Ltd and it was signed by:-

W.S.A. Warren
Malawi Government
Administrator General"

The result of all these events was that Dr. Khofi's business enterprises came to an abrupt end and Dr. Khofi found himself detained at Mzuzu Prison. He was not furnished with any reason why the authorities took such measures against his business and himself.

While he was at Mzuzu Prison, Dr. Khofi, inquired from A.S. Sacranie about his business affairs. He received communication from Mr. A.S. Sacranie that the business of Kadona Gowoka and Company including its stock-in-trade, was transferred to Press Trading Limited and that Nkhotakota General Traders was entrusted to the Administrator General.

Dr. Khofi subsequently received a letter from the Administrator General. It was dated 16th December, 1971 and it stated -

"Your letter dated the 2nd instant directed to Messrs. Sacranie Gow and Co. has been passed to me in my capacity as Administrator General.

It is apparent from your letter that you do not understand *the legal position which exists in respect of your properties.*

On the cancellation of your business licences under the Business Licencing Act all your property and money vest in me as Administrator General.

The business which was formally operated by you under the name Kadona Gowoka and Co. Ltd has now been taken over by Press (Trading) Ltd. There has been some difference of opinion as to what exactly is the position in relation to the take over and I am at the moment awaiting clarification of the directions which were given through the Office of His Excellency the President before proceeding further with the matter. Until the position has been clarified, I am unable to make arrangements to disburse any money to assist your parents and other dependants who have been removed to Nkhata-Bay.

It is clear, however, that the business known as Nkhota-kota General traders is in no way affected by the Order which was made and that this part of your business enterprise does not fall within the ambit of my authority. It may be possible for you to make some arrangement, even temporarily, for the maintenance of your family out of the latter business.

Yours faithfully

Raymond Kenny
ADMINISTRATOR GENERAL

Dr. Khofi continued to make enquires from the relevant authorities about the position of the assets of his business and why he did not receive any account arising from the action of the Administrator General and Press (Trading) Ltd. About 12 years later, on 20th October, 1983 he received a letter from Mr. P.A. Msiska, who was then Administrator General. The letter advised that the business known as Kadona Gowoka and Company Ltd never came under the control of the Administrator General as it was seriously interfered with by Press before the Administrator General could take over the administration of the affairs of the company. The Administrator General further advised Dr. Khofi to submit his claims to Press.

On several occasions Dr. Khofi inquired from Press Corporation Ltd about the affairs of Kadona Gowoka and Co. Ltd. He was not getting much assistance till 8th January, 1986 when he received a letter from Mr. D.S. Kambauwa the Company Secretary of Press Corporation Ltd. The letter advised that the Board of Directors of Press Corporation Ltd noted a report from their Group Auditors which was to the effect that he had no legitimate claim in connection with the assets taken over by Press (Trading) Ltd and that the Board accordingly rejected his claim. The letter further advised that considering that the matter had been outstanding for a long time and as a "gesture of good will based solely on humanitarian grounds", the Board authorised an "ex-gratia" payment to him of a sum of K1000.00.

On 28th January, 1986 Dr. Khofi wrote a letter to the Company Secretary of Press Corporation Limited. In the letter, he thanked Press Corporation for the "ex-gratia" payment of K1000.00. But he could not accept that he did not have a legitimate claim against Press (Trading) Limited. The letter then made a catalogue of events which led to the loss of his business. Towards the end of the letter he wrote -

> *"In the light of the foregoing, I do honestly feel my claim is legitimate and strongly PLEAD with the Board to give it a further consideration."*

The letter provoked a telephone call from Mr. Kambauwa. During the telephone conversation Mr. Kambauwa issued strong threats to Dr. Khofi for daring to challenge the decision of the Board of Directors of Press Corporation. He was warned that unless he withdrew the letter he would face unpleasant consequences. Then, on 15th February, 1986 he wrote a letter to the Company secretary of Press Corporation Limited. It stated -

> *"Dear Sir*
>
> ***TAKE OVER BY PRESS (TRADING) LTD OF KADONA***

GOWOKA AND COMPANY LTD.

With reference to our telephone conversation this morning, I hereby confirm to withdraw my letter of 28th January 1986 and herewith enclose the relevant documents sent with your letter of 8th January, 1986 duly signed.
Yours faithfully,

G N K KHOFI PHIRI

The documents referred to in the letter consisted of an acknowledgement of receipt of the payment of K1000 and a disclaimer form.

Dr Khofi claims that at the time that Press (Trading) Ltd took over his business (about February, 1971) the value of the stock-in-trade of his business was £107, 465. 7s. 10d. He has since received K401,000 from Press Corporation Ltd.

Dr Khofi brought an action in the High Court against the Administrator General. He sought an order for an account of the manner in which the Administrator General dealt with the assets of Kadona Gowoka and Company Ltd under the Business Licencing Act. He further sought an order requiring the Administration General to pay to him and the other Shareholders of Kadona Gowoka and Company Ltd the balance of the money realised from the disposal of the company's assets under the Business Licencing Act. On 4th March, 1998 judgment was entered in favour of Dr Khofi. The reliefs which he sought were granted to him. The High Court further granted him general damages to be assessed by the Registrar. It would seem that the Administrator General who is the appellant before this Court did not attend the hearing before the High Court. The judgment was given in his absence. The Administrator General now appeals to this Court against the judgment of the High Court.

The gist of the submissions made by counsel for the respondent in this Court is that since the decision of the High Court was made in the absence of the appellant, the proper course of action available to the appellant is to apply to the High Court to set aside the judgment. He argues that the right to appeal to this Court is not available at this stage. He further argues that since the proceedings before the High Court were conducted in Chambers, the appellant is required to obtain the leave of the High Court or this Court before an appeal can be commenced.

We agree with counsel for the respondent on both arguments. The appellant did not attend the hearing of the originating summons in the High Court. The decision of the lower court was arrived at in the absence of the appellant. The proper procedure and practice require that the appellant should have applied to the Court which made the decision to set aside the judgment and to rehear the summons: See O. 28 rule 3 (1) and O. 28 rule 4 (1) of the Supreme Court Rules. See also O. 32 rule 5 and O. 32 rule 6 of the Supreme Court Rules.

Paragraph (c) of the further proviso of Section 21 of the Supreme Court of Appeal Act requires that leave must be obtained from this Court before an appeal can be commenced where the Order of the High Court was made in Chambers. In the present case the Order of Kumitsonyo, J., was clearly made in Chambers. The appellant was required to obtain leave before proceeding to appeal. No Such leave was obtained by the appellant in the instant case. The appellant clearly failed to observe the correct procedure and practice in the present appeal.

The dispute between the respondent and the appellant has been outstanding for a very long time. The respondent lost his business and the means to earn a living in 1971. He was only able to commence an action to obtain relief from the Court in 1993. He obtained the judgment the subject of this appeal in March, 1998, about 27 years after his businesses were unlawfully confiscated. It is now 30 years since he has been waiting for justice to take its course and give him what he considered to be fair compensation. Well established principles of justice and fairness would require that there must now be a finality to this matter. We would consequently dismiss the appeal with costs.

Delivered in Open Court this 26 day of April, 2001, at Blantyre.

Sgd: ....
L. E. Unyolo, JA

Sgd: ....
H. M. Mtegha, JA

Sgd: ....
D. G. Tambala, JA