



The World Justice Project

The World Justice Project | Rule of Law Index<sup>®</sup>

**2012 - 2013**

Malawi Country Report





The World Justice Project

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# Executive Summary

The WJP Rule of Law Index is a quantitative assessment tool designed by the World Justice Project to offer a comprehensive picture of the extent to which countries adhere to the rule of law, not in theory, but in practice. The WJP Rule of Law Index is derived from a set of principles that constitute a working definition of the rule of law. Adherence to these principles is measured by means of a large set of performance indicators that provide a comprehensive and multidimensional picture of the status of the rule of law in each country.

Rather than looking at laws, actors, or institutional arrangements, the WJP Rule of Law Index assesses a nation's adherence to the rule of law by examining practical situations in which a rule of law deficit could affect the daily lives of ordinary people. For instance, the Index evaluates whether citizens can access public services without the need to bribe a government officer; whether a basic dispute among neighbors or companies can be resolved peacefully and cost-effectively by an independent adjudicator; and whether people can conduct their daily activities without fear of crime or police abuse. These are among the common situations that occur in the lives of people and that are directly influenced by the degree of rule of law in the society.

The Index provides new data on nine dimensions of the rule of law:

1. Limited government powers
2. Absence of corruption
3. Order and security
4. Fundamental rights
5. Open government
6. Regulatory enforcement
7. Civil justice
8. Criminal justice
9. Informal justice

These nine dimensions, or factors, are further disaggregated into 48 sub-factors. The scores of these sub-factors are built from over 400 variables drawn from assessments of the general public (1,000 respondents per country) and local legal experts.<sup>1</sup> The outcome of this exercise is one of the world's most comprehensive data sets measuring the extent to which countries adhere to the rule of law - not in theory but in practice.

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<sup>1</sup> We are grateful for the generous engagement of the over 2,500 academics and practitioners around the world who contributed their time and expertise to the qualified respondents' questionnaires, and the 97,000 individuals who participated in the general population poll.

## DEFINING THE RULE OF LAW

As used by the World Justice Project, the rule of law refers to a system in which the following four universal principles are upheld:

- I. The government and its officials and agents are accountable under the law.
- II. The laws are clear, publicized, stable, and fair, and protect fundamental rights, including the security of persons and property.
- III. The process by which the laws are enacted, administered, and enforced is accessible, fair, and efficient.
- IV. Justice is delivered by competent, ethical, and independent representatives and neutrals who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

These principles are derived from international sources that enjoy broad acceptance across countries with differing social, cultural, economic, and political systems, and incorporate both substantive and procedural elements.

## THE WJP RULE OF LAW INDEX 2012

This report, the third in an annual series, presents the framework of the WJP Rule of Law Index and summarizes the results and lessons learned during the WJP's implementation of the Index in

97 countries and jurisdictions.<sup>2</sup> These countries account for more than 90 percent of the world's population. This year's report is based on data collected and analyzed during the second quarter of 2012, with the exception of general population data for the countries indexed in 2011, which was obtained during the fall of 2009 and the spring of 2011.

It should be noted that because country scores are normalized across the entire sample of indexed countries and this year's report measures 31 additional countries that were not included in the *2011* report, individual country findings in the *2012* report are not comparable to the results from prior years.

## USES OF THE INDEX

The WJP Rule of Law Index is an instrument for strengthening the rule of law. It offers reliable, independent, and disaggregated information for policy makers, businesses, non-governmental organizations, and other constituencies to:

- » Assess a nation's adherence to the rule of law in practice;
- » Identify a nation's strengths and weaknesses in comparison to similarly situated countries; and
- » Track changes over time.

The WJP Rule of Law Index enters a crowded field of indicators on different aspects of the rule of law, but it has a number of features that set it apart:

<sup>2</sup> As used in this volume, "country" includes autonomous jurisdictions, such as Hong Kong SAR, China.

- » **Comprehensiveness:** While other indices cover aspects of the rule of law, they do not yield a full picture of rule of law compliance.
- » **New data:** The Index findings are based almost entirely on new data collected by the WJP from independent sources. This contrasts it with other indices based on data aggregated from third-party sources, or on sources that are self-reported by governments or other interested parties.
- » **Rule of law in practice:** The Index measures adherence to the rule of law by looking not to the laws as they are written, but rather at how they are actually applied in practice.
- » **Anchored in actual experiences:** The Index combines expert opinion with rigorous polling of the general public to ensure that the findings reflect the conditions experienced by the population, including marginalized sectors of society.
- » **Action oriented:** Findings are presented in disaggregated form, identifying strong and weak performers across the nine rule-of-law dimensions examined in each country.

Despite these methodological strengths, the findings should be interpreted in light of certain inherent limitations. The Index is a diagnostic tool that provides a general assessment of the health of the rule of law in a given country at a particular moment in time. It does not explain the causes of the conditions it describes, nor does it prescribe remedies. In addition, no single index can convey a full picture of a country's situation. Rule of law analysis requires a careful consideration of multiple

dimensions that vary from country to country and a combination of sources, instruments, and methods.

## ABOUT THE WORLD JUSTICE PROJECT

The World Justice Project (WJP) is an independent, non-profit organization working to strengthen the rule of law throughout the world. It is based on two complementary premises: first, the rule of law is the foundation for communities of opportunity and equity; and second, multidisciplinary collaboration is the most effective way to advance the rule of law. The WJP's work is being carried out through three complementary and mutually reinforcing program areas: Research and Scholarship, the World Justice Project Rule of Law Index, and Mainstreaming through practical on-the-ground programs to advance the rule of law. The World Justice Project engages leaders in countries across the globe and from many professional disciplines to advance the rule of law. Through this multi-pronged approach, the Project seeks to spur government reforms, develop practical on-the-ground programs that support the rule of law, and increase understanding of the importance of the rule of law to people and the communities in which they live. Further details are provided in the last section of this report and at [www.worldjusticeproject.org](http://www.worldjusticeproject.org).

# THE WORLD JUSTICE PROJECT RULE OF LAW INDEX

The rule of law is a system in which the following four universal principles are upheld:

- › The government and its officials and agents are accountable under the law.
- › The laws are clear, publicized, stable and fair, and protect fundamental rights, including the security of persons and property.
- › The process by which the laws are enacted, administered, and enforced is accessible, efficient, and fair.
- › Justice is delivered by competent, ethical, and independent representatives and neutrals who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

These four universal principles which comprise the WJP's notion of the rule of law are further developed in the nine factors of the WJP Rule of Law Index.

## Factors & Sub-Factors

### FACTOR 1: Limited Government Powers

- 1.1 Government powers are defined in the fundamental law
- 1.2 Government powers are effectively limited by the legislature
- 1.3 Government powers are effectively limited by the judiciary
- 1.4 Government powers are effectively limited by independent auditing and review
- 1.5 Government officials are sanctioned for misconduct
- 1.6 Government powers are subject to non-governmental checks
- 1.7 Transition of power is subject to the law

### FACTOR 2: Absence of Corruption

- 2.1 Government officials in the executive branch do not use public office for private gain
- 2.2 Government officials in the judicial branch do not use public office for private gain
- 2.3 Government officials in the police and the military do not use public office for private gain
- 2.4 Government officials in the legislative branch do not use public office for private gain

### FACTOR 3: Order and Security

- 3.1 Crime is effectively controlled
- 3.2 Civil conflict is effectively limited
- 3.3 People do not resort to violence to redress personal grievances

### FACTOR 4: Fundamental Rights

- 4.1 Equal treatment and absence of discrimination
- 4.2 The right to life and security of the person is effectively guaranteed
- 4.3 Due process of law and rights of the accused
- 4.4 Freedom of opinion and expression is effectively guaranteed
- 4.5 Freedom of belief and religion is effectively guaranteed
- 4.6 Freedom from arbitrary interference with privacy is effectively guaranteed
- 4.7 Freedom of assembly and association is effectively guaranteed
- 4.8 Fundamental labor rights are effectively guaranteed

### FACTOR 5: Open Government

- 5.1 The laws are publicized and accessible
- 5.2 The laws are stable
- 5.3 Right to petition the government and public participation
- 5.4 Official information is available on request

### FACTOR 6: Regulatory Enforcement

- 6.1 Government regulations are effectively enforced
- 6.2 Government regulations are applied and enforced without improper influence
- 6.3 Administrative proceedings are conducted without unreasonable delay
- 6.4 Due process is respected in administrative proceedings
- 6.5 The Government does not expropriate without adequate compensation

### FACTOR 7: Civil Justice

- 7.1 People can access and afford civil justice
- 7.2 Civil justice is free of discrimination
- 7.3 Civil justice is free of corruption
- 7.4 Civil justice is free of improper government influence
- 7.5 Civil justice is not subject to unreasonable delays
- 7.6 Civil justice is effectively enforced
- 7.7 ADRs are accessible, impartial, and effective

### FACTOR 8: Criminal Justice

- 8.1 Criminal investigation system is effective
- 8.2 Criminal adjudication system is timely and effective
- 8.3 Correctional system is effective in reducing criminal behavior
- 8.4 Criminal system is impartial
- 8.5 Criminal system is free of corruption
- 8.6 Criminal system is free of improper government influence
- 8.7 Due process of law and rights of the accused

### FACTOR 9: Informal Justice

- 9.1 Informal justice is timely and effective
- 9.2 Informal justice is impartial and free of improper influence
- 9.3 Informal justice respects and protects fundamental rights

## Box 4 : The WJP Rule of Law Index methodology in a nutshell

The production of the WJP Rule of Law Index may be summarized in ten steps:

1. The WJP developed the conceptual framework summarized in the Index's 9 factors and 48 sub-factors, in consultation with academics, practitioners, and community leaders from around the world.
2. The Index team developed a set of five questionnaires based on the Index's conceptual framework, to be administered to experts and the general public. Questionnaires were translated into several languages and adapted to reflect commonly used terms and expressions.
3. The team identified, on average, more than 300 potential local experts per country to respond to the qualified respondents' questionnaires, and engaged the services of leading local polling companies.
4. Polling companies conducted pre-test pilot surveys of the general public in consultation with the Index team, and launched the final survey.
5. The team sent the questionnaires to local experts and engaged in continual interaction with them.
6. The Index team collected and mapped the data onto the 48 sub-factors.
7. The Index team constructed the final scores using a five-step process:
  - a. Codified the questionnaire items as numeric values.
  - b. Produced raw country scores by aggregating the responses from several individuals (experts or general public).
  - c. Normalized the raw scores.
  - d. Aggregated the normalized scores into sub-factors and factors using simple averages.
  - e. Produced the final rankings using the normalized scores.
8. The data were subject to a series of tests to identify possible biases and errors. For example, the Index team cross-checked all sub-factors against more than 60 third-party sources, including quantitative data and qualitative assessments drawn from local and international organizations.
9. A sensitivity analysis was conducted by the Econometrics and Applied Statistics Unit of the European Commission's Joint Research Centre, in collaboration with the Index team, to assess the statistical reliability of the results.
10. Finally, the data were organized into country reports, tables, and figures to facilitate their presentation and interpretation.

## Factor Rankings for Low Income Countries

The rankings below are based on the factor scores for the 15 low income countries indexed in 2012-2013

### Low Income

Country	Factor 1: Limited Government Powers	Factor 2: Absence of Corruption	Factor 3: Order and Security	Factor 4: Fundamental Rights	Factor 5: Open Government	Factor 6: Regulatory Enforcement	Factor 7: Civil Justice	Factor 8: Criminal Justice
Bangladesh	12	12	9	12	12	11	15	12
Burkina Faso	11	1	4	4	7	1	3	7
Cambodia	14	11	3	13	10	14	13	11
Ethiopia	13	4	13	14	13	10	10	3
Ghana	1	2	7	1	1	2	1	6
Kenya	8	13	10	6	4	8	8	10
Kyrgyzstan	9	15	2	9	3	7	9	14
Liberia	4	9	14	8	8	15	14	15
Madagascar	7	7	1	5	2	3	5	2
Malawi	6	3	5	10	5	4	2	5
Nepal	5	6	6	3	9	6	11	1
Sierra Leone	2	8	8	2	14	13	4	13
Tanzania	3	5	11	7	6	5	7	4
Uganda	10	10	15	11	11	9	6	9
Zimbabwe	15	14	12	15	15	12	12	8



## Factor Rankings for Sub-Saharan African Countries

The rankings below are based on the factor scores for the 18 Sub-Saharan African countries indexed in 2012-2013

### Sub-Saharan Africa

Country	Factor 1: Limited Government Powers	Factor 2: Absence of Corruption	Factor 3: Order and Security	Factor 4: Fundamental Rights	Factor 5: Open Government	Factor 6: Regulatory Enforcement	Factor 7: Civil Justice	Factor 8: Criminal Justice
Botswana	1	1	1	5	1	1	1	1
Burkina Faso	14	3	3	6	8	3	4	9
Cameroon	17	18	10	15	16	17	17	17
Cote d'Ivoire	15	10	13	11	12	6	11	13
Ethiopia	16	8	14	17	15	14	15	4
Ghana	2	5	5	1	3	5	2	8
Kenya	12	15	9	8	5	12	13	12
Liberia	7	13	15	10	10	18	18	16
Madagascar	10	11	2	7	4	7	8	2
Malawi	9	7	4	12	6	8	3	7
Nigeria	11	17	18	13	14	10	9	18
Senegal	4	4	7	4	9	2	5	6
Sierra Leone	5	12	8	3	17	16	7	15
South Africa	3	2	16	2	2	4	6	3
Tanzania	6	9	11	9	7	9	12	5
Uganda	13	14	17	14	13	13	10	11
Zambia	8	6	6	16	11	11	14	14
Zimbabwe	18	16	12	18	18	15	16	10



The World Justice Project

# How to Read the Country Profiles

Each country profile presents the featured country's scores for each of the WJP Rule of Law Index's factors and sub-factors, and draws comparisons between the scores of the featured country and the scores of other indexed countries that share regional and income level similarities. All variables used to score each of the eight independent factors are coded and rescaled to range between 0 and 1, where 1 signifies the highest score and 0 signifies the lowest score.

## 1 Section 1—Scores for the Rule of Law Factors

The table in Section 1 displays the featured country's aggregate scores by factor and the country's rankings within its regional and income level groups.

## 2 Section 2—Disaggregated Scores

Section 2 displays four graphs that show the country's disaggregated scores for each of the sub-factors that compose the WJP Rule of Law Index. Each graph shows a circle that corresponds to

one concept measured by the Index. Each sub-factor is represented by a radius running from the center of the circle to the periphery. The center of each circle corresponds to the lowest possible score for each sub-factor (0.00) and the outer edge of the circle marks the highest possible score for each sub-factor (1.00). Higher scores signify a higher adherence to the rule of law.

The country scores are shown in purple. The graphs also show the average scores of all countries indexed within the region (in green) and all countries indexed with comparable per capita income levels (in orange). As a point of reference, the graphs also show the score achieved for each sub-factor by the top performer amongst all 97 countries indexed (in black).

### RUSSIA

Moscow, Saint Petersburg, Novosibirsk

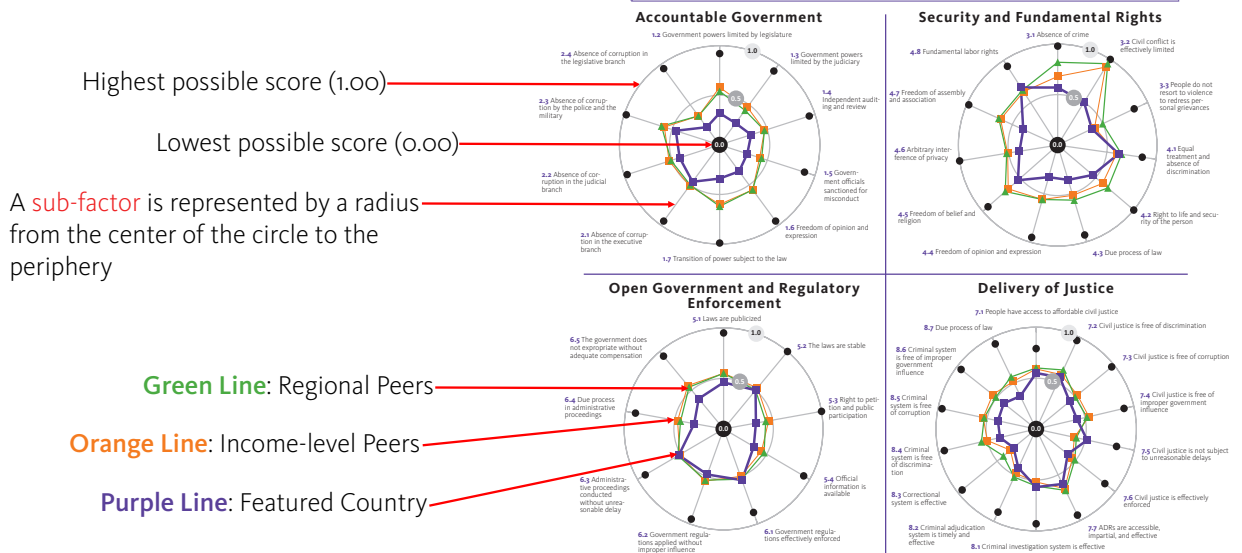
#### 1. WJP Rule of Law Index

Income Group	WJP RULE OF LAW INDEX FACTORS	SCORE	GLOBAL RANKING	REGIONAL RANKING	INCOME GROUP RANKING
Upper middle income	Factor 1: Limited Government Powers	0.31	92/97	25/30	29/30
	Factor 2: Absence of Corruption	0.39	70/97	20/30	25/30
	Factor 3: Order and Security	0.48	92/97	25/30	25/30
	Factor 4: Fundamental Rights	0.47	82/97	25/30	25/30
	Factor 5: Open Government	0.41	76/97	25/30	25/30
	Factor 6: Regulatory Enforcement	0.45	70/97	25/30	25/30
	Factor 7: Civil Justice	0.50	64/97	25/30	20/30
	Factor 8: Criminal Justice	0.40	76/97	25/30	25/30

#### 2. Scores for all WJP Rule of Law Index sub-factors

In each graph, a sub-factor is represented by a radius from the center of the circle to the periphery. The center of each circle corresponds to the lowest possible score for each sub-factor (0.00), the outer edge of the circle marks the highest possible score (1.00).

Key: ■ Russia ● Top Score ■ Upper middle income ▲ Eastern Europe & Central Asia



# MALAWI

Lilongwe, Blantyre, Mzuzu

## 1. WJP Rule of Law Index

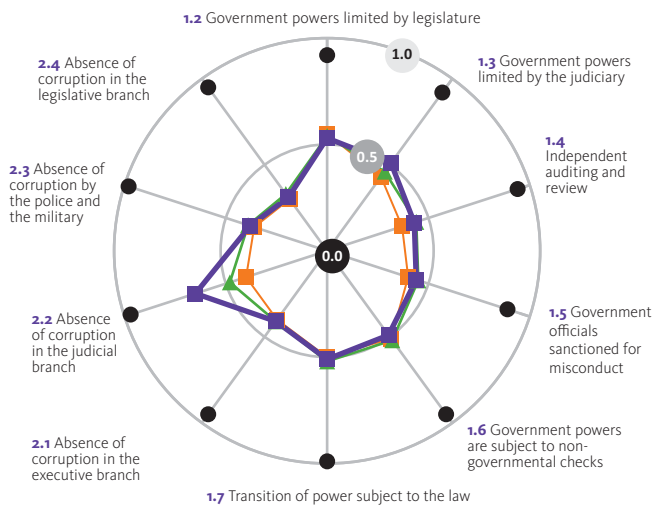
	WJP RULE OF LAW INDEX FACTORS	SCORE	GLOBAL RANKING	REGIONAL RANKING	INCOME GROUP RANKING
<b>Income</b> Low <b>Region</b> Sub-Saharan Africa <b>Population</b> 16m (2012) 20% Urban 10% in three largest cities	Factor 1: Limited Government Powers	0.49	65/97	9/18	6/15
	Factor 2: Absence of Corruption	0.44	57/97	7/18	3/15
	Factor 3: Order and Security	0.69	57/97	4/18	5/15
	Factor 4: Fundamental Rights	0.47	81/97	12/18	10/15
	Factor 5: Open Government	0.43	68/97	6/18	5/15
	Factor 6: Regulatory Enforcement	0.45	65/97	8/18	4/15
	Factor 7: Civil Justice	0.59	35/97	3/18	2/15
	Factor 8: Criminal Justice	0.45	58/97	7/18	5/15

## 2. Scores for all WJP Rule of Law Index sub-factors

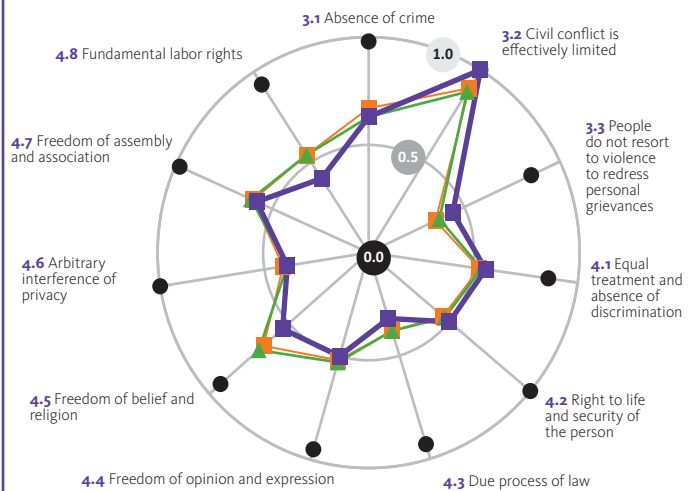
In each graph, a sub-factor is represented by a radius from the center of the circle to the periphery. The center of each circle corresponds to the lowest possible score for each sub-factor (0.00); the outer edge of the circle marks the highest possible score (1.00).



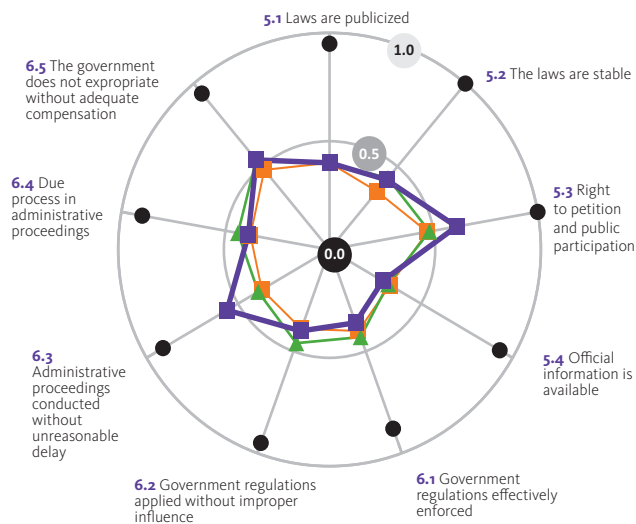
### Accountable Government



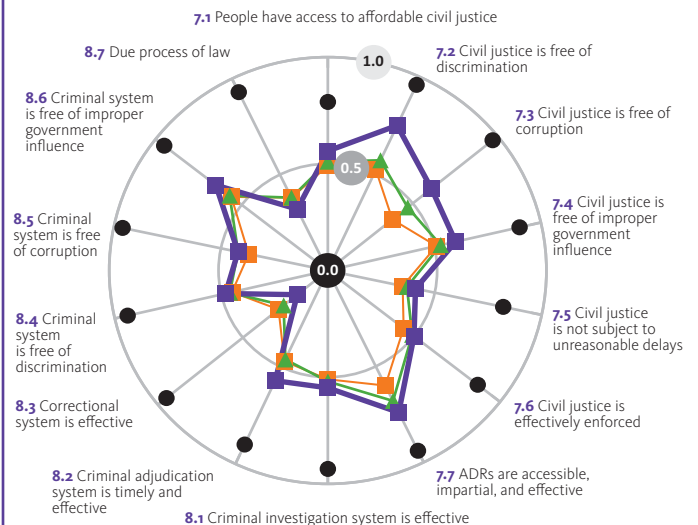
### Security and Fundamental Rights



### Open Government and Regulatory Enforcement



### Delivery of Justice



# Factor 1: Limited Government Powers

When compared to other African countries Malawi possesses an effective system of checks and balances, including an independent judiciary, ranking 4<sup>th</sup> in sub-Saharan Africa (see next slide).

When viewed globally, however, Malawi has plenty of room for improvement, ranking 65<sup>th</sup> out of 97 countries indexed.

	Malawi	Sub-Saharan Africa	Low Income
Factor 1: Limited Government Powers	0.49	0.49	0.46
1.2 Government powers are effectively limited by the legislature	0.53	0.54	0.55
1.3 Government powers are effectively limited by the judiciary	0.51	0.46	0.43
1.4 Government powers are effectively limited by independent auditing and review	0.43	0.44	0.37
1.5 Government officials are sanctioned for misconduct	0.44	0.45	0.40
1.6 Government powers are subject to non-governmental checks	0.49	0.52	0.51
1.7 Transition of power is subject to the law	0.51	0.52	0.50



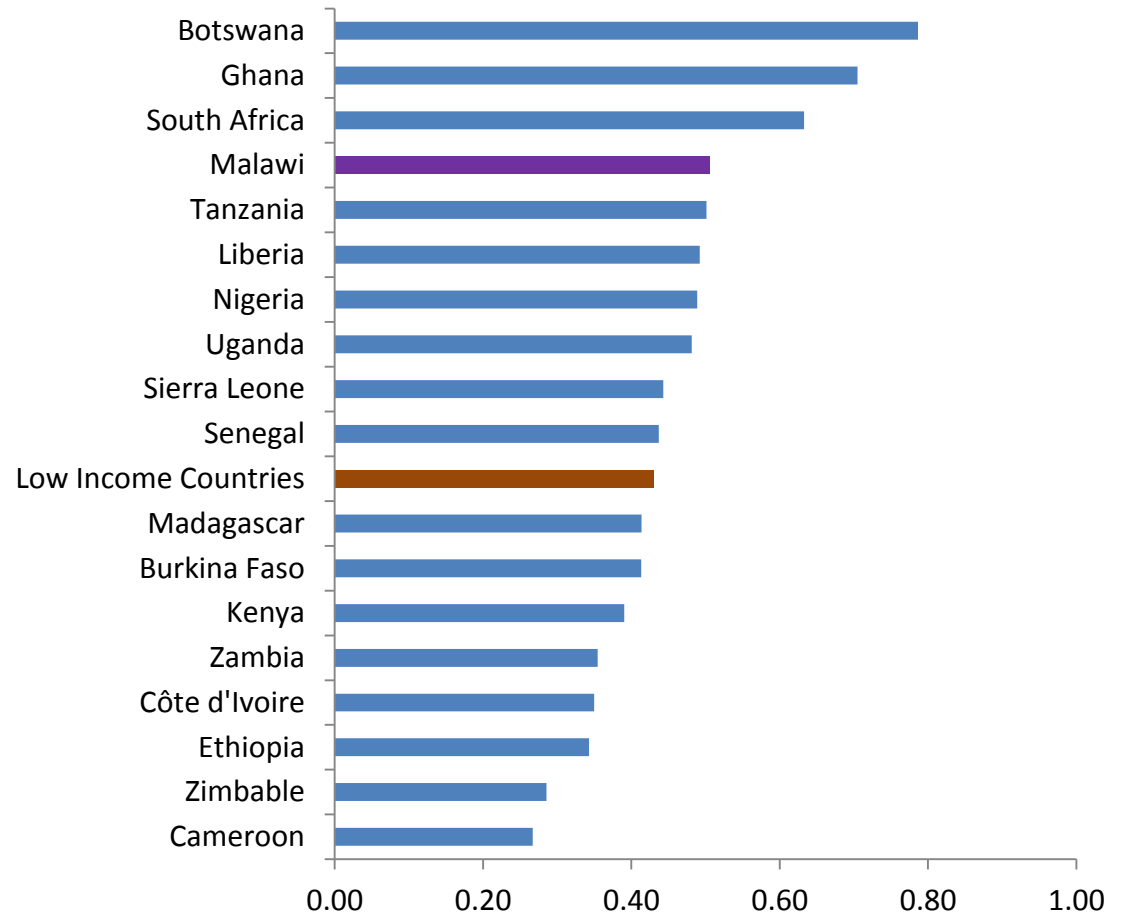
# Factor 1: Limited Government Powers

Malawi ranks fourth best in judicial independence in sub-Saharan Africa ranking only behind Botswana, Ghana, and South Africa.

Malawi outperforms other low income group peers.

### Judicial Independence in Malawi

Sub-factor 1.3, index score

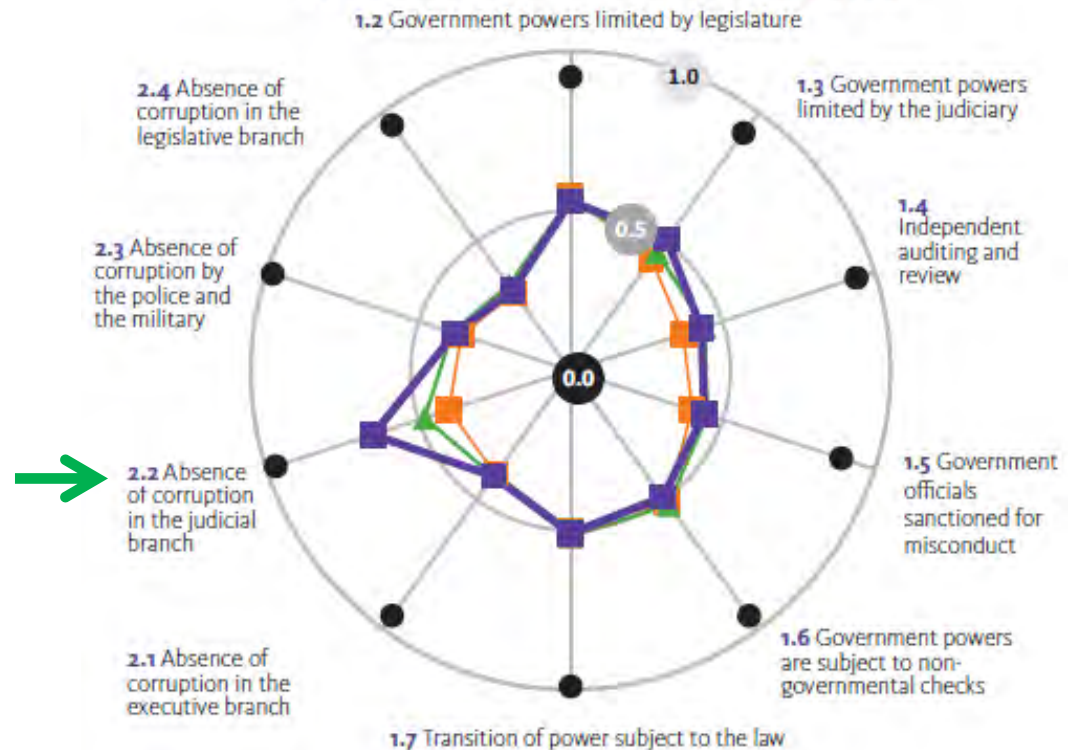


## Factor 2: Absence of Corruption

Corruption remains a significant problem, ranking 57<sup>th</sup> out of 97 countries, although not as serious as in other countries in the region.

<b>Factor 2: Absence of Corruption</b>	Malawi
Score	.44
Global Ranking	57/97
Regional Ranking	7/18
Income Group Ranking	3/15

### Accountable Government



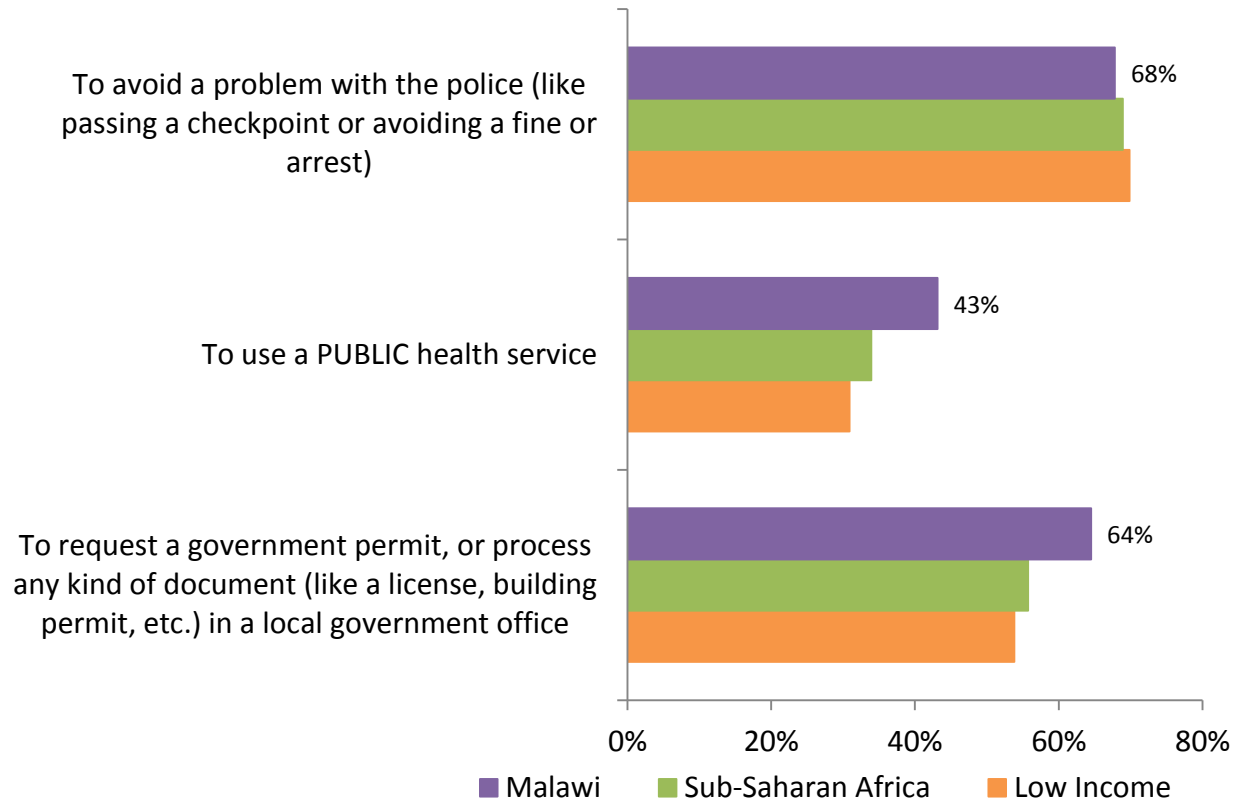
## Factor 2: Absence of Corruption

The Rule of Law Index asks respondents who have had contact with various government institutions whether they had to pay a bribe during their interaction.

The Rule of Law Index found that Malawians are most likely to have to pay a bribe when dealing with the police, followed by registry and permit services.

### Bribery in Malawi

% of respondents answering "Yes" that they had to pay a bribe for the following procedures in the past three years



Source: WJP General Population Poll



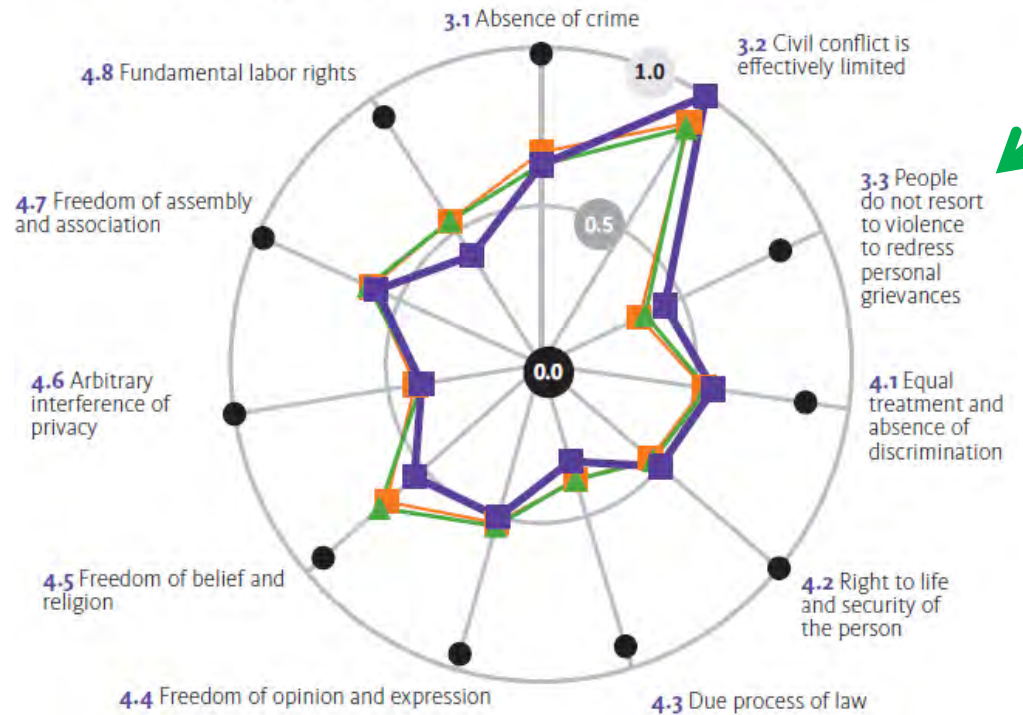
# Factor 3: Order and Security

While crime rates are lower in Malawi than in other African countries, crime is still a problem.

Vigilante justice also appears to be less of a problem in Malawi than in its peer countries, where it ranks 4<sup>th</sup> both regionally and among low income countries.

<b>Factor 3: Order and Security</b>	Malawi
Score	.69
Global Ranking	57/97
Regional Ranking	4/18
Income Group Ranking	5/15

## Security and Fundamental Rights



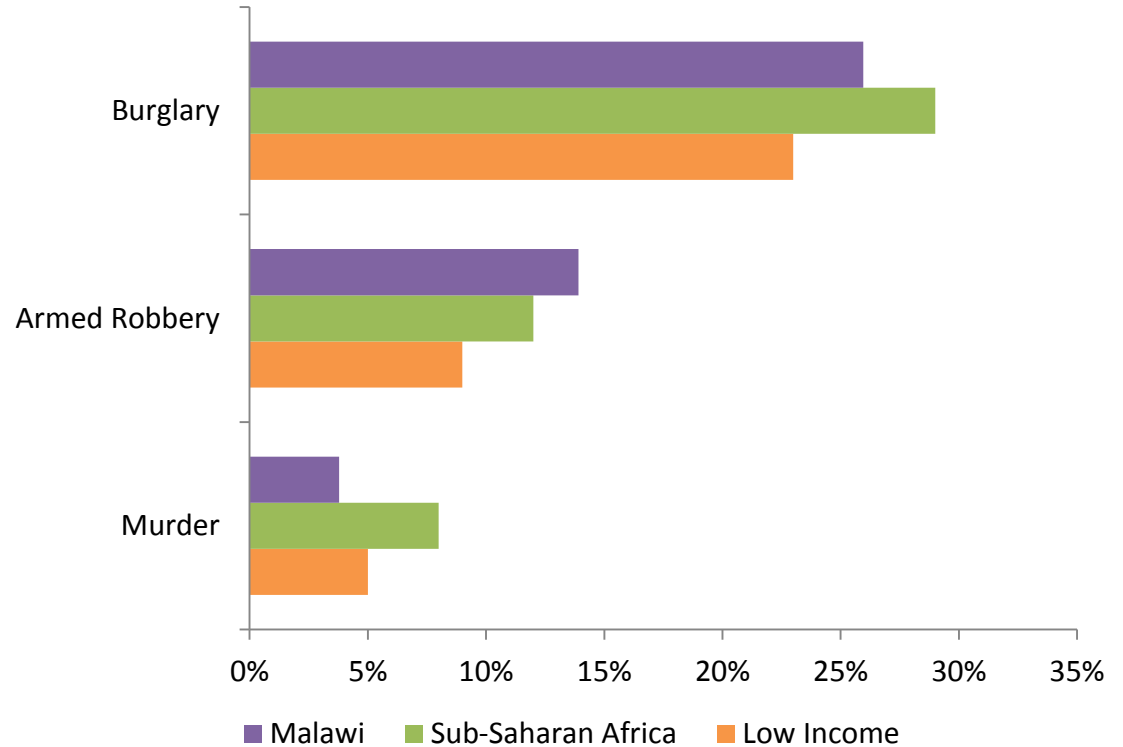


## Factor 3: Order and Security

A quarter of Malawian households surveyed had suffered a burglary. In the last three years, 14% were victims of an armed robbery, and 4% were victims of a murder.

### Crime in Malawi

% of households who have been victimized in the past three years

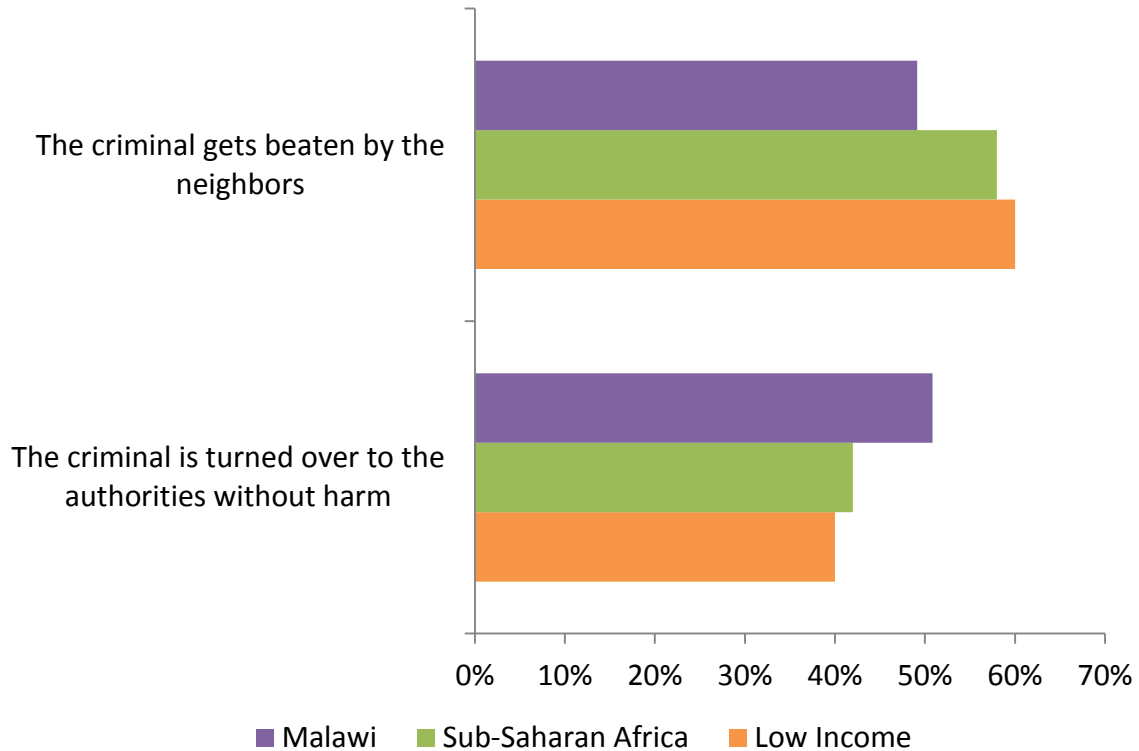


# Factor 3: Order and Security

When a criminal is apprehended by the community, there is nearly a 50/50 chance that the community will take the law into its own hands, as opposed to turning the criminal over to the appropriate authorities.

## Vigilante Justice in Malawi

*Assume that a criminal is apprehended by your neighbors after committing a serious crime. Which of the following two situations is more likely to happen?*



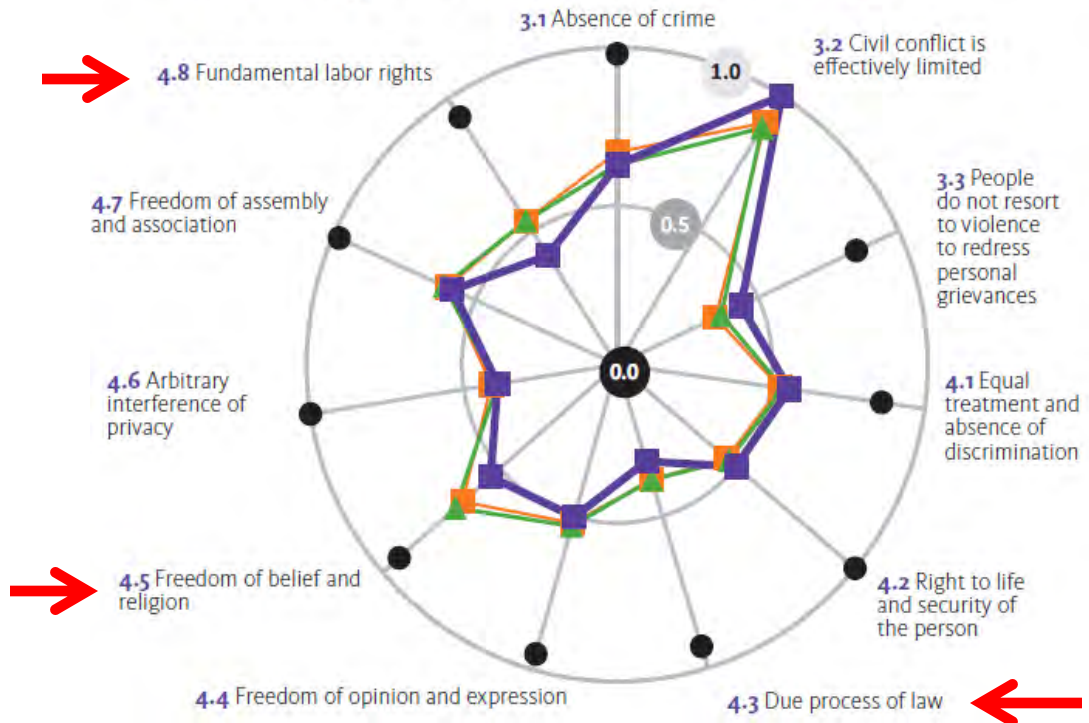
## Factor 4: Fundamental Rights

Of all the dimensions included in the Rule of Law Index, Malawi's performance in the area of fundamental rights is its weakest, ranking 81<sup>st</sup> in the world and 12<sup>th</sup> in Africa.

Protection of due process and rights of the accused is an area of concern, as is the protection of labor rights. Malawi lags behind its regional and low income peers in both of these categories.

<b>Factor 4: Fundamental Rights</b>	Malawi
Score	.47
Global Ranking	81/97
Regional Ranking	12/18
Income Group Ranking	10/15

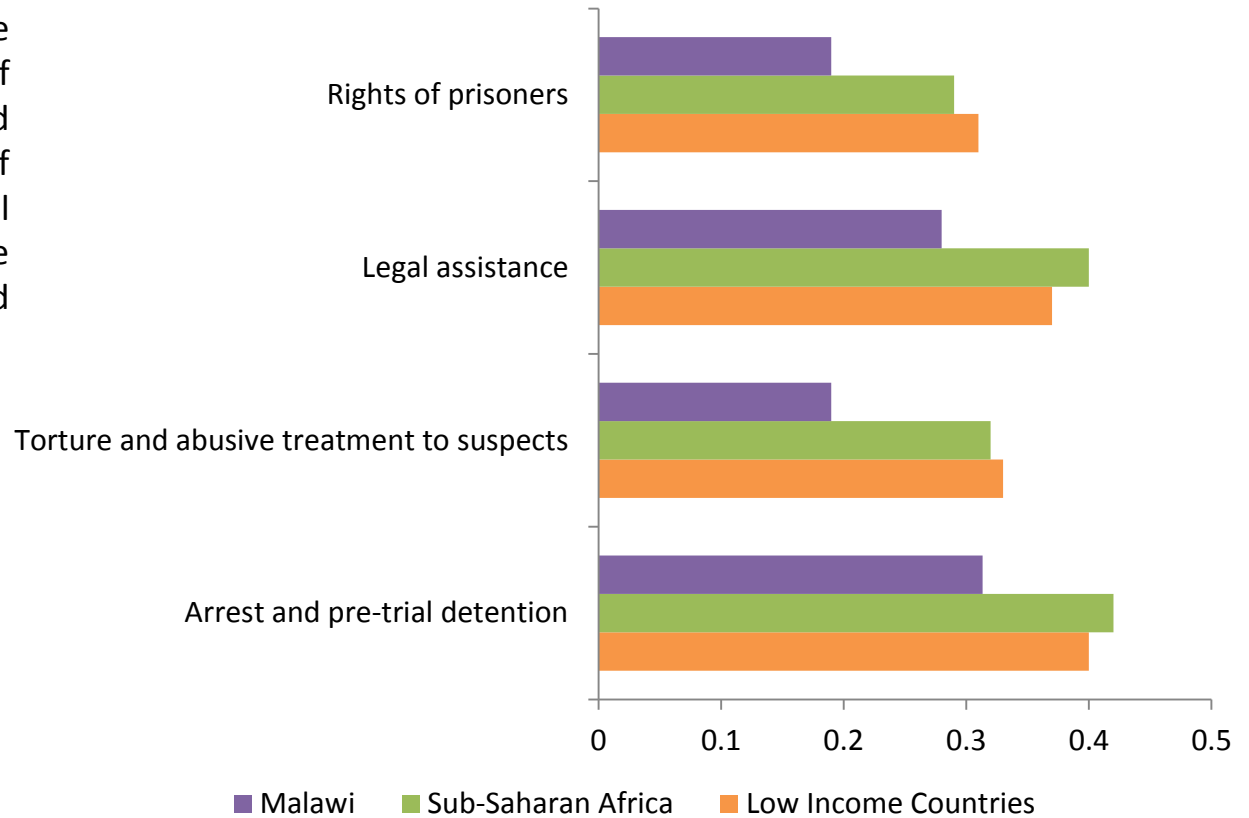
### Security and Fundamental Rights



# Factor 4: Fundamental Rights

On the other hand, Malawi underperforms its regional and income group peers in several dimensions of due process and rights of the accused including in: the protection of rights of prisoners, the provision of legal assistance, torture and abusive treatment to suspects, and arrest and pre-trial detention.

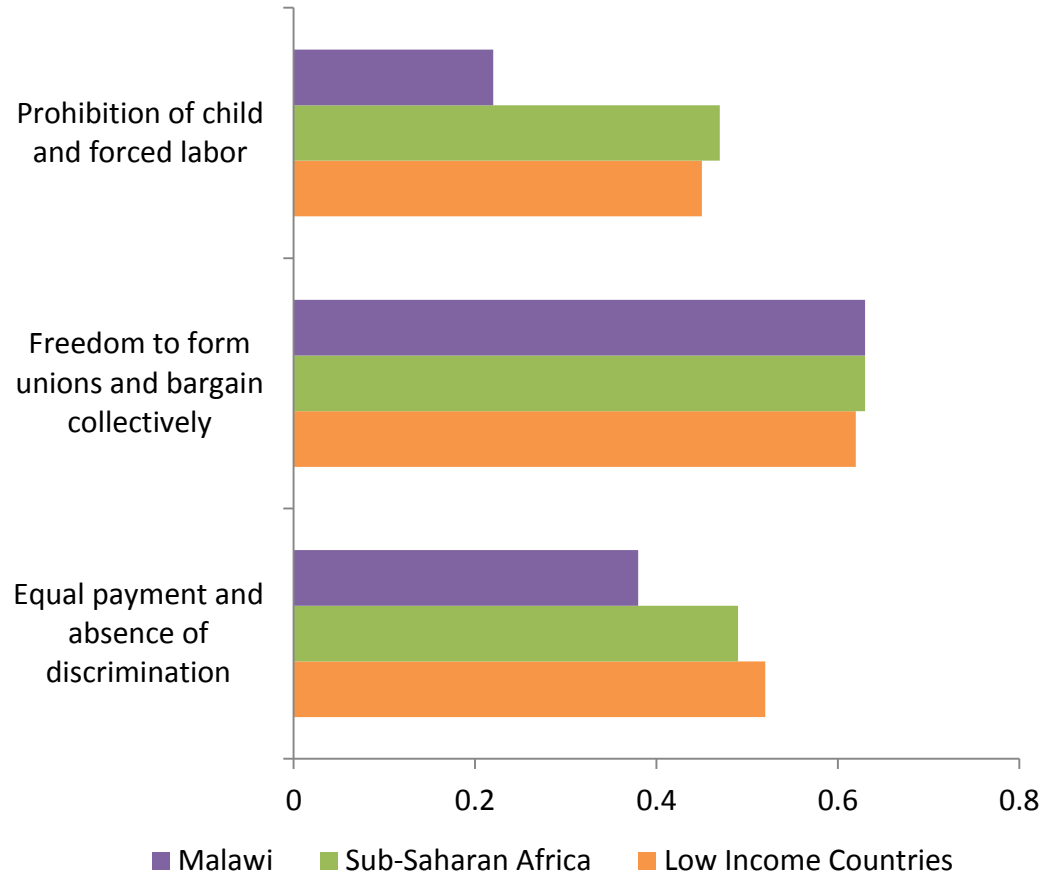
Due process of law and rights of the accused  
Sub-factor 4.3, index score



## Factor 4: Fundamental Rights

When it comes to the protection of fundamental labor rights, Malawi's performance is mixed. While Malawi performs on par with its peers in the protection of the freedom to form unions and collectively bargain, it lags behind its peers in the prohibition of child and forced labor, and in equal pay and absence of discrimination in the workplace.

Protection of fundamental labor rights  
Sub-factor 4.8, index score



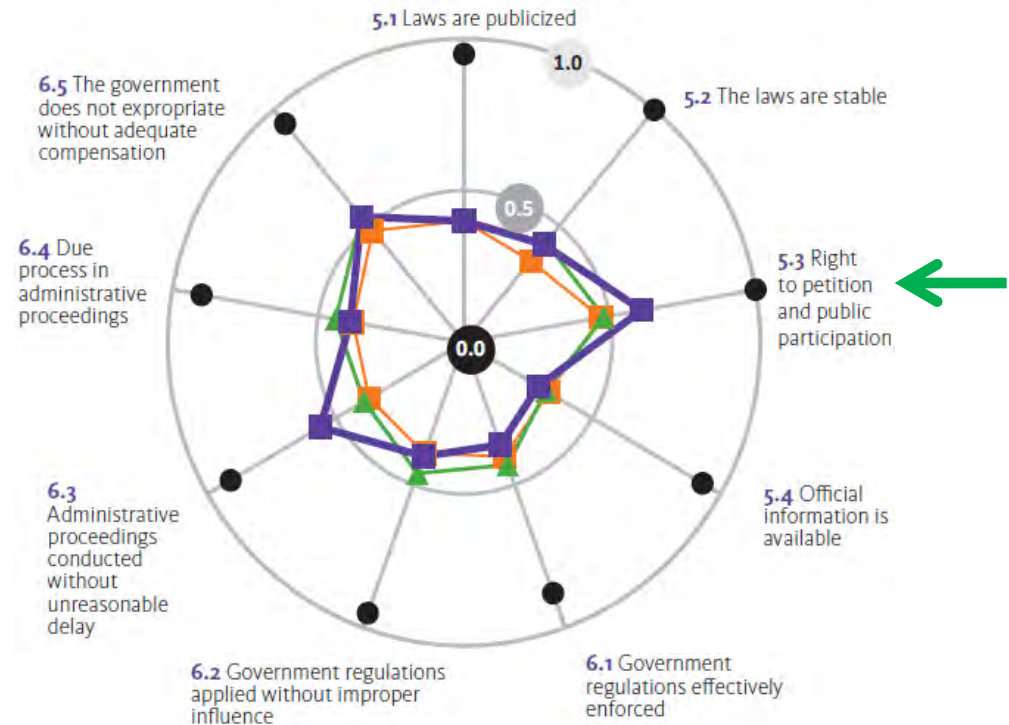
# Factor 5: Open Government

Compared to its peers Malawi has a relatively open government, ranking 6<sup>th</sup> in sub-Saharan Africa and 5<sup>th</sup> among low income countries.

Moreover, in comparison to other countries, citizens in Malawi participate more in discussion on government policies and actions, and are more likely to exercise their right to petition.

<b>Factor 5: Open Government</b>	Malawi
Score	.43
Global Ranking	68/97
Regional Ranking	6/18
Income Group Ranking	5/15

## Open Government and Regulatory Enforcement

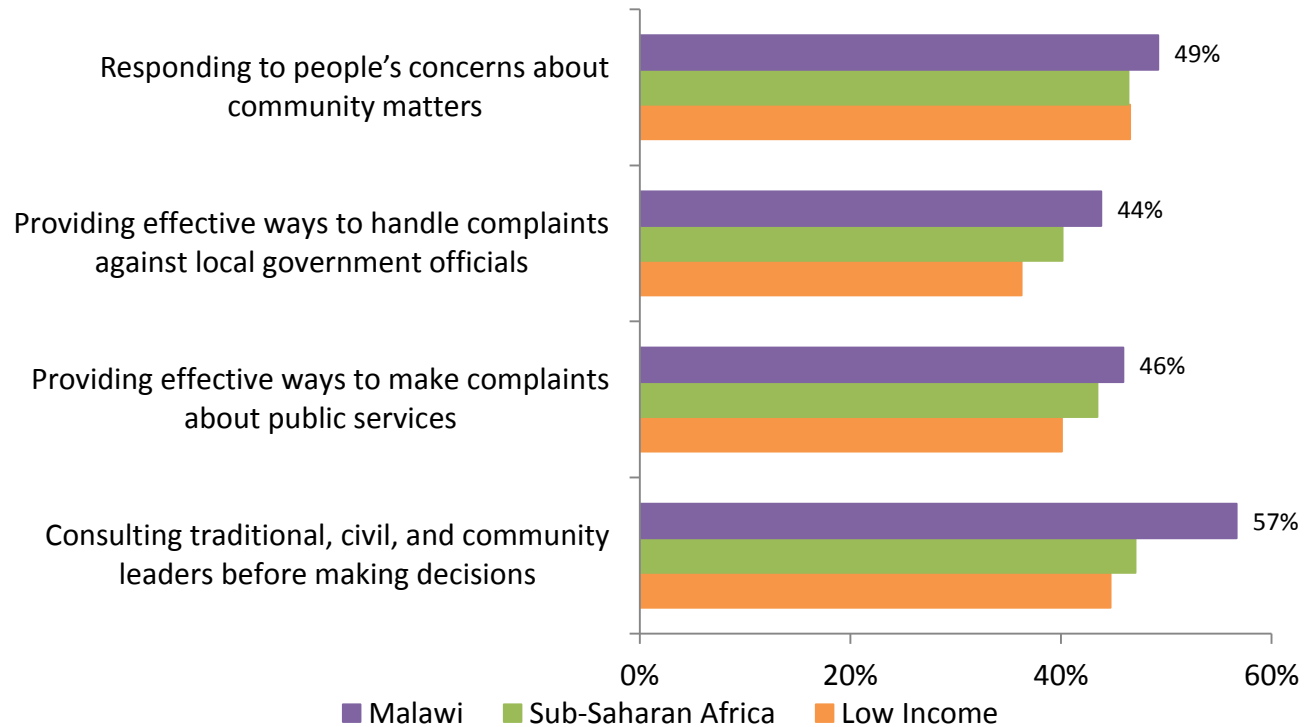


# Factor 5: Open Government

People in Malawi perceive their local government officials to be performing better than their regional or income group peers in many aspects of the right to petition and public participation. Notably 57% of respondents stated that the local government performed “Very well” or “Fairly well” in consulting with community leaders before making decisions.

## The right to petition and public participation in Malawi

% Respondents answering "Very Well "or "Fairly Well"



# Factor 6: Regulatory Enforcement

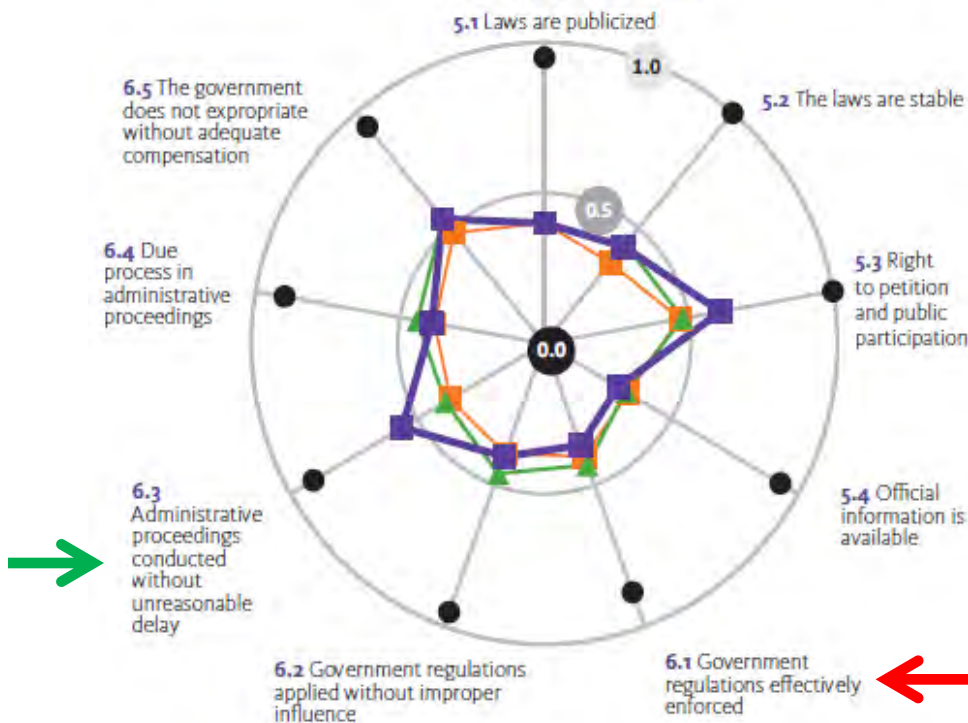
Malawi has a mixed performance in the enforcement of government regulations, ranking 4<sup>th</sup> among low income countries and 8<sup>th</sup> among African countries.

On the positive side, Malawi handles administrative proceedings quickly, and, in comparison to other low income countries, Malawi performs relatively well in the protection of private property rights.

On the other hand, the data show that Malawi struggles to adequately enforce government regulations—slightly underperforming both regional and income group peers.

<b>Factor 6: Regulatory Enforcement</b>	Malawi
Score	.45
Global Ranking	65/97
Regional Ranking	8/18
Income Group Ranking	4/15

## Open Government and Regulatory Enforcement





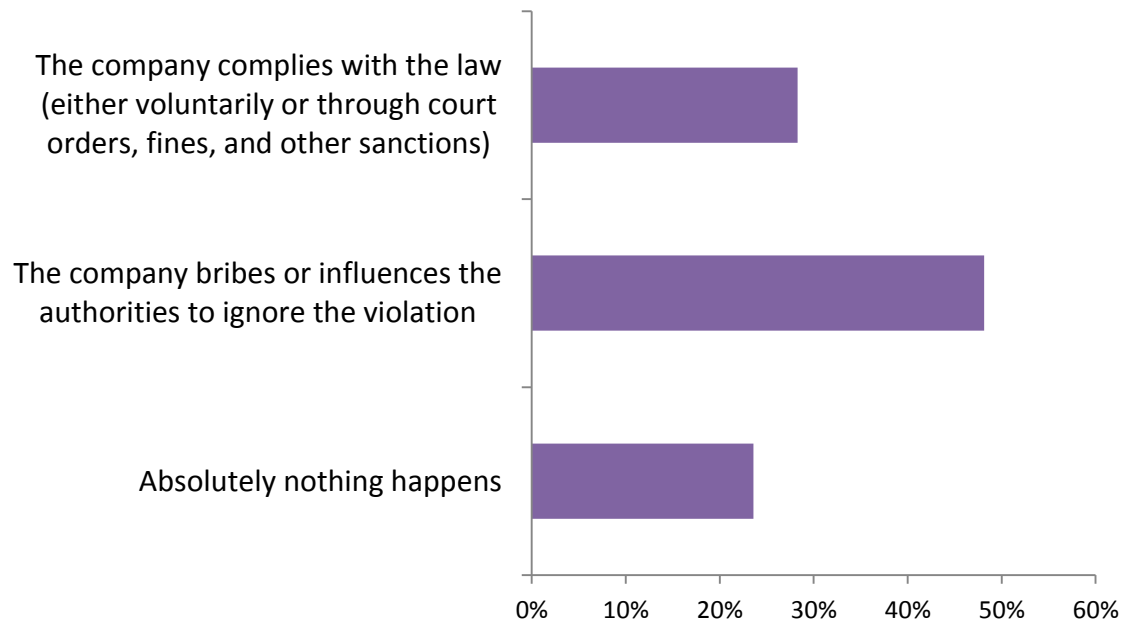
# Factor 6: Regulatory Enforcement

Malawi underperforms other countries in sub-Saharan Africa and other low income countries in the enforcement of government regulations.

Take for example, the hypothetical case of an industrial plant polluting beyond the legally permitted levels. Of 1,000 respondents interviewed, only 28% replied that they thought the violating industrial plant would be forced to comply with the law, while 48% replied that the company would bribe the authorities to ignore the violation, and 24% replied that nothing would happen.

## Regulatory Enforcement in Malawi

*Assume that the Environmental protection authority notifies an industrial plant that it is polluting a river beyond the legally permitted levels. Which of the following outcomes is most likely?*



Source: General Population Poll



## Factor 7: Civil Justice

Overall, Malawi's civil justice system is one of the best in sub-Saharan Africa, ranking third in the region. Globally, Malawi ranks 35<sup>th</sup>, ahead of several countries with higher levels of economic development.

In particular civil justice in Malawi is relatively independent, accessible, effective, and free of corruption.

Other areas still require attention, such as the speed of the civil court system.

	Malawi	Sub-Saharan Africa	Lower Income
Factor 7: Civil Justice	0.59	0.51	0.47
7.1 People have access to affordable civil justice	0.56	0.51	0.49
7.2 Civil justice is free of discrimination	0.75	0.57	0.52
7.3 Civil justice is free of corruption	0.61	0.47	0.38
7.4 Civil justice is free of improper government influence	0.60	0.53	0.51
7.5 Civil justice is not subject to unreasonable delays	0.41	0.37	0.35
7.6. Civil justice is effectively enforced	0.50	0.49	0.44
7.7 ADRs are accessible, impartial, and effective	0.74	0.68	0.60



## Factor 7: Civil Justice

When asked about problems in civil and commercial courts, experts identified three serious problems: lack of enough judges or court personnel, lack of adequate resources to do the job, and lack of mechanisms to track the efficiency of the courts.

On the positive side, experts indicated that corruption within the judiciary and judicial independence are not serious problems.



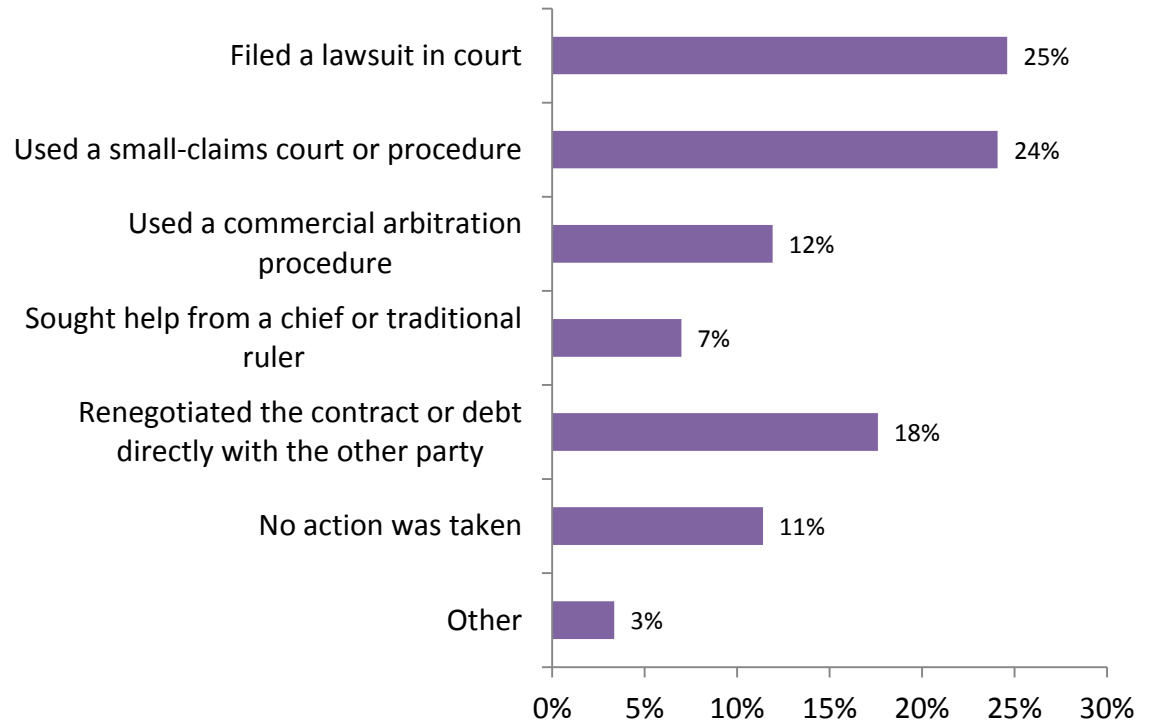
<i>Please tell us how serious the following problems are in civil and commercial courts in the city where you live? (0 means a "very serious problem"):</i>	Malawi
Duration of cases (they take too much time)	0.22
Inefficient enforcement mechanisms (judgments are difficult to enforce in practice)	0.39
Lack of enough judges or court personnel	0.11
Lack of adequate resources to do the job	0.11
Lack of adequate selection or training of judges and clerks	0.39
Lack of deterrents to prevent frivolous litigation	0.61
Inefficient alternative dispute mechanisms to resolve disputes outside the courts	0.39
Corruption of judges and judicial officers (they don't move the cases unless the parties bribe them)	0.72
Insufficient monetary compensation (pay) for judges and court officers	0.39
Lack of mechanisms to track the efficiency of the courts	0.17
Lack of independence of the judiciary from the government's power	0.89

# Factor 7: Civil Justice

When faced with a civil dispute, most Malawians file a lawsuit in court or use a small-claims court or procedure.

## Court Usage in Malawi

Where Malawians take their civil disputes



# Factor 8: Criminal Justice

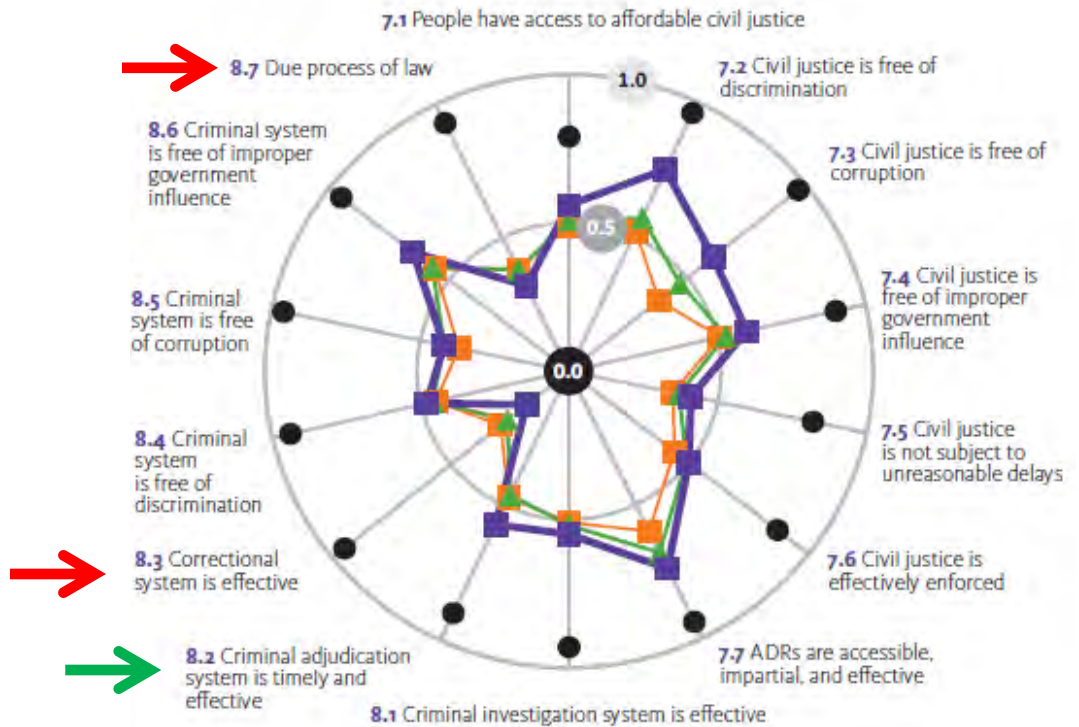
The criminal justice system in Malawi ranks near the top third of countries when compared with its regional and income group peers, but 58<sup>th</sup> when viewed from a global perspective.

In comparison to African countries, criminal investigations are relatively effective, adjudication is fast, the criminal process is relatively free of discrimination and corruption, and the system is relatively free of improper government influence.

On the other hand, Malawi's jails and prisons indicate that they are in need of improvement, ranking second to last among low income countries. Additionally, Malawi's protection of the due process of law for suspected criminals lags behind its regional and income group peers.

<b>Factor 8: Criminal Justice</b>	Malawi
Score	.45
Global Ranking	58/97
Regional Ranking	7/18
Income Group Ranking	5/15

## Delivery of Justice



## Factor 8: Criminal Justice

Criminal justice experts in Malawi identify three serious problems facing the criminal courts. The largest problem they identified is a lack of adequate resources, followed by an insufficient number of public defenders and pro-bono lawyers, and finally congestion in the court system.

Criminal justice experts in Malawi also identified two positive aspects, namely an independent judiciary, and relatively high quality judicial decisions.

<i>On a scale from 0 to 1 (with 0 being a very serious problem, and 1 being not a serious problem), please tell us how significant are the following problems faced by the criminal courts in the city where you live:</i>	Malawi
(a) Excessive length and use of pre-trial detention	0.33
(b) Delays in the criminal justice system (cases take too much time)	0.22
(c) Court congestion and lack of enough judges	0.09
(d) Appeals clogging the criminal justice system	0.47
(e) Poor decisions by criminal judges	0.69
(f) Lack of adequate selection and training of judges and clerks	0.51
(g) Insufficient monetary compensation (pay) for judges and court officers	0.22
(h) Lack of enough judges and court personnel	0.16
(i) Lack of adequate resources	0.02
(j) Insufficient number of state-provided or pro-bono (free-of-charge) attorneys for poor criminal defendants	0.07
(k) Incompetence of state-provided or pro-bono (free-of-charge) attorneys for poor criminal defendants	0.42
(l) Corruption of judges and judicial officers (they don't move the cases unless the parties bribe them)	0.51
(m) Lack of mechanisms to track the efficiency of the criminal courts	0.29
(n) Lack of independence of the judiciary from the government's power	0.73
(o) Lack of translators (language barriers) for criminal defendants	0.67
(p) Bias against marginalized people (discrimination based on social or economic status)	0.58
(q) Insufficient or inefficient alternative dispute resolution mechanisms (conciliation, mediation) to resolve disputes outside the criminal system	0.33



## Factor 8: Criminal Justice

Criminal justice experts in Malawi also highlight two key problems faced by their correctional institutions: harsh conditions and overcrowding, and poor access to health care and malnutrition among inmates.

The following question aims at identifying the main problems faced by the **correctional institutions** in your country. On a scale from 0 to 1 (with 0 meaning a very serious problem, and 1 meaning not a serious problem), please tell us how significant are the following problems faced by correctional facilities (jails and prisons) in the city where you live:

Malawi

(a) Harsh conditions and overcrowding

0.02

(b) Poor access to health care and malnutrition among inmates

0.02

(c) Physical abuse by guards and correctional personnel

0.33

(d) Physical abuse between inmates

0.24

(e) Poor rehabilitative programs and recidivism

0.29

(f) Lack of accessible complaint mechanisms

0.33

(g) Lack of separate facilities for dangerous and less serious offenders

0.11

(h) Poor security that facilitates escapes

0.36

(i) Excessive use of incarceration for minor crimes that could be handled through house arrest

0.11

