



SUMMARY OF KEY ISSUES ON LOCAL GOVERNANCE

I. INTRODUCTION

Local governance comprises a set of institutions, mechanisms and processes through which citizens and their groups can articulate their interests and needs, mediate their differences, and exercise their rights and obligations at the local level (UNDP, 2004). It seeks to include the multiplicity of formal and informal relationships between different actors in development (e.g. local government, the private sector, associations, political parties, deconcentrated agencies, CSOs) that shape and influence the output and effectiveness of political and administrative systems at a subnational level. Local Government is an important political and administrative system at the subnational level in Malawi. The building blocks of good local governance include: citizen participation, partnerships among key actors at the local level, capacity of local actors across all sectors, multiple flows of information, institutions of accountability, and a pro-poor orientation (UNDP 2004). This write up presents a brief view of local governance in Malawi, key challenges affecting local governance, what is already happening and two possible options for a thematic call on local Governance. It is mainly based on synthesis of existing literature on local governance in Malawi.

2. DEVELOPMENTS IN LOCAL GOVERNANCE IN MALAWI- GENERAL CONTEXT

The constitution of the Republic of Malawi provides for the establishment, composition and functions of rural and urban local government authorities and places a duty on the central government to ensure that there is adequate provision of resources necessary for the proper exercise of local government functions. The 1994 Constitution expressly makes local government institutions responsible for welfare provision, promoting democratic institutions and participation; infrastructural and economic development through the formulation and execution of local development plans, and the representation to central government of local development plans (Government of Malawi, 1994). In keeping with the constitution, section 3 of the Local Government Act of 1998 identifies the objective of Local Government in Malawi as the furtherance of democratic principles, accountability, transparency, and participation of people in decision making and development processes. Section 6 and the second schedule of the Act also provide a further elaboration of these functions. Similarly, the policy of democratic decentralisation enacted in 1998, popularly heralded by the slogan *mphamvu ku anthu* or literally “*power to the people*,” devolves powers to local communities through elected representatives (Chiweza, 2007). Both the policy and the Act seek to achieve the following objectives:

- to create a democratic environment and institutions in Malawi for governance and development at the level that will facilitate the participation of grassroots in decision-making;
- to eliminate dual administration at the district level with the aim of making public

services more efficient, more economic and cost effective;

- to promote accountability and good governance at the local level in order to help government reduce poverty; and
- to mobilise the masses for socioeconomic development at the local level

Thus decentralisation of power to local authorities was adopted in as a vehicle for poverty reduction in terms of delivering better services to the Malawian population but also as a means for strengthening democratic institutions and participation at the local level. These provisions represent a commitment on the part of the post 1994 democratic governments to democratise decision making at the local level in Malawi and to bring services closer to people. In effect the provisions integrate local governance and development functions and decentralises them to democratically accountable and representative local institutions. The Malawi Growth and Development Strategy II, also recognises local government as key to national development and good governance. Local governance is believed to enhance both the legitimacy of government (by strengthening participation and accountability in policy-making) and the efficiency of public-service delivery (by improving information, input and oversight).

Significant research material exists on local governance in Malawi with much of it focusing on decentralisation processes, Local government, the role of CSOs and their effectiveness. The literature on the history of local governance in Malawi reveals that two political trends that have been present over the last 90 years remain highly relevant today. The first is that national level leaders have consistently looked towards co-opting the power and authority of local government authorities in order to expand and consolidate their own national power. The second trend is a consistent unwillingness of national actors to concede spaces for genuine political autonomy at local level by postponing local elections, for fear that it may be used to organise opposition against them. The picture emerging in Malawi is of a highly selective commitment to democratic decentralisation and a hesitant central government, entrenched in a long tradition of centralized party-based control, worried about the consequences in the localities, particularly where the potential for opposition political affiliations remain high. These trends have impacted on the design and implementation of local governance reforms that the country has experimented since the colonial period through to the present day. They have also affected functionality of the local government councils to achieve their service delivery, developmental and democratic objectives.

3. KEY ISSUES IN LOCAL GOVERNANCE

Presently there are six key issues that require attention if prospects of having a vibrant local governance system in Malawi are to be realized. Addressing these key challenges will create an enabling framework for the 2014 local elections to translate into improved governance and sustainable socio-economic development for Malawian localities. These are a) compromised legislative framework; b) Limited functionality of the local government institutional framework; c) Lack of a harmonised approach to District Development Financing d) Absence of robust vertical transparency and accountability mechanisms; d) fragmented approach to development; f) Limited coordination of donor, government, & NGO local level development initiatives in the District Councils g) Limited participation of citizens in decisions at the local level and h) Poor information flows and limited feedback from the council, ADC and VDC system to the communities and i) Limited knowledge and understanding of local governance among the CSOs, and limited focus of local governance initiatives promoted by CSOs.

4. WHAT IS ALREADY HAPPENING?

A quick preview of current initiatives shows that there are a variety of donors such as UNDP/UNCDF, GIZ/KfW Irish Aid, World Bank, AfDB and other actors in conjunction with the Ministry of Local Government, LDF/TST that are dealing with matters relating to the functionality of

the Local Government Councils and sub-district structures such as VDCs and ADCs, local government financing, and development of Service Delivery Charters. GIZ has been heavily involved in material production on local governance matters and is spearheading work on promoting coordination between CSOs and Local Government Councils.

There are also CSOs and NGOs working in matters of local governance supported by the Democracy Consolidation Programme, Liu Lathu Programme and other donors that are focusing on improving the functionality of Village Development Committees (VDCs) and Area Development Committees (ADCs), promoting the capacity of citizens to demand their right to information and development, promoting capacity of citizens to monitor projects and promoting engagement of citizens with leaders. Much of this has been done since the early 2000s. A majority of the traditional CSOs dealing with local governance that have been given accelerated grants and some within the first open call also fall in this category. Most of the initiatives of these CSOs emphasise creation of small rights groups or committees to spearhead the initiatives in the locality. These projects mainly use training of these small groups in meetings and workshops as the main intervention, and uses interface meetings and radio listening clubs as avenues and mechanisms of facilitating citizen engagement with leaders.

- *The key challenges with most of this work is that it is heavily localised, is done in selected communities mostly focusing on improving knowledge of rights/citizen entitlements and democracy principles, improving practices and behaviours of actors with less attention to broader institutions (as in rules of the game) that are driving or blocking local governance reform in Malawi. Other studies have shown that some of the CSOs in this category have limited knowledge on local governance which limits their ability to go beyond localised activities (Chiweza & Tembo, 2012).*

Other CSO networks such as Malawi Economic Justice Network, CISANET, and MHEN have focused on systematic service delivery surveys in areas such as health, education and agriculture. This is an important element of service delivery monitoring but the surveys are not done in a regular and consistent manner. The Kalondolondo programme and the World Bank are currently working with other CSOs to promote Social Accountability processes to encourage communities to monitor services and project and use Citizen Score Card Methodology to assess service delivery performance in the Local Councils. If linked with the Service Charter Programme, these initiatives hold the potential of improving capacity of citizens to monitor service delivery even with the coming in of councillors.

- *The key challenge here is that while information on local finance issues such as Constituency Development Fund and Local Development Fund is provided to citizens, satisfaction with service delivery is assessed, there is limited attention towards examining rules guiding those Funds and how they lead to inequitable distribution of resources in the district. There is also limited monitoring of intra-district allocation of such development resources and budget tracking at the district level. Intra-district allocation of resources and financial accountability of the Councils has been a key factor that has discouraged or given confidence to development actors to channel resources through Councils.*

5. POSSIBLE AREAS FOR TILITONSE THEMATIC CALL

Issue One: Compromised Legislative Framework

Apart from the Constitution the Local Government Act (1998) remains the principle legislation governing local governance in Malawi. The chiefs Act 1967 is also relevant in matters of local governance because chiefs are members of the Councils and their roles overlap with those of the councillors. The review of this Act was commenced some years ago and a Law reform process commenced, but it is still dragging. The 1996 Local Government elections Act is also important because it stipulates candidature provisions of local councillors and the conduct of elections.

a) Key challenges with the Legislative Framework that need attention

1. Significant steps to alter the rules of the game surrounding local government were taken in 2010 which if not revisited are likely to affect the autonomy and effective operations of the Councils even

when local elections are conducted in 2014. These include granting MPs voting powers within the District Councils alongside councillors, formalisation of appointments of District Commissioners directly by the Executive through the Minister of Local Government other than Local Government Service Commission and removing the policy making powers of the Local Government Councils.

2. The Local Government Act does not clearly specify the roles of Councillors and the attendant obligations of councillors at the community and Council level, as is the case with other countries pursuing similar decentralisation efforts. There is some vagueness regarding the roles of councillors at the ADC and VDC level- what space do they occupy in these structures that are located within a Traditional Authority System in the absence of a Ward Committee in the rural areas? While the legal provisions in the Local Governments Act are very detailed on local governments' duties and functions, they are rather vague on the roles of local councillors vis-à-vis other players and structures operating at the local level. This is a great challenge to the effective operations of councillors.

Previous experience with the Councillors that were elected in 2000 showed that because of lack of role clarity they were a lot of conflicts between councillors and chiefs, between councillors and Members of Parliament (Kutengule et al, Review of Decentralisation, 2004; Chiweza, 2005; Chinsinga, 2008). The problematic relationship between councillors and chiefs arises mainly because the chiefs want to constitute primary structures of local governance in rural areas. They are strongly opposed to the introduction of alternative structures of leadership that appear to challenge the hegemony of their power, prestige, influence and authority. The struggle between chiefs and councillors is intensified by widespread self-seeking tendencies among national level politicians and this is likely to increase with the 2014 elections. Over the years, politicians across the political divide have strategically turned to chiefs in order to entrench and consolidate their legitimacy. Strategies by the ruling parties have included: 1) reinstating chiefs that were deposed during the one party era; 2) appointment of new chiefs; 3) promoting chiefs to higher ranks; 4) building houses and offices for chiefs; 5) and putting all chiefs on the government's payroll. In stark contrast, councillors are not entitled to these privileges, greatly diminishing their importance in the eyes of the public

Similarly, the relationship between the MPs and councillors was very tense with the potential of suffocating the institutional framework of local governance. The main cause of the conflictual relationship between the MPs and councillors is that the former perceive councillors as a threat to their candidacy in the subsequent general elections MPs do not fully support the decentralisation policy reform efforts for strategic political considerations and gains (Chinsinga, 2008). Role clarity is required in the Local Government Act, Chiefs Act, and other documents guiding the work of local government Councillors, Traditional Chiefs and Members of Parliament.

3. Candidature provisions of Local Government Councillors in the 1996 Local Government Elections are vague in view of the challenging oversight work that Councillors are expected to perform at Council level. The provisions only state that a person shall qualify to be nominated as a councillor if at the time of nomination the person has attained twenty one years of age and is able to speak and to read the English language well enough to take an active part in the proceedings of the council (Government of Malawi, 1996a: section 27).

4. The policy and legislative framework (the Decentralisation Policy and Local Government Act) is gender neutral. Results of the 2000 local elections showed that only 9.13% of all the 1860 candidates who stood for local elections countrywide were women. Of the 860 councillors who were elected in Malawi only 8.49% went to women. A recent situation gender analysis in the Councils (Ututalum, Chiweza and Chimombo, 2012) also showed that Gender Representation in Councils and Community Sub Structures findings show that representation in Development Executive Committees (DEC) and the District Consultative Forums (DCF) and Village Development Committees in the councils is predominantly male. The analysis also showed that because of lack of this guidance, many NGOs and donors working in the local councils typically focus on gender number in project committees and nothing much to boost the capacity of men and women to

effectively participate and influence decisions. Engendering the Policy and Local Government Act is a necessary condition for effective local governance and platform for advocacy on issues surrounding gender representation and participation of men and women in local government's political and administrative levels.

b) What can be done?

A call that will interest CSOs that are already working in local governance and gender related issues to work together with the academia, donors who have been working in these areas and Ministry of Local Government and its agencies to come up with strategic activities to engage with the policy process in order to address any of the identified challenges before 2014. The purpose would be to create an alliance of CSOs with other partners that can share knowledge and skills in local governance in Malawi, engage with the policy and legal issues effectively, develop position papers, promote national dialogue among actors dealing with local governance in Malawi, disseminate information, identify opportunities for change and engage with relevant actors who can drive the reform.

Issue two: Monitoring Intra-district allocation of resources and budget tracking

A political economy analysis of Local Governance conducted in 2010 noted that in distributing resources within the district there is a lot of political influence and weak use of evidence. This is more in matters such as Local Development Fund, education desks and other materials. Even where guidelines stipulate use of specific data which is usually available, political interests appear to favour equal distribution of resources or distribution in favour of politically preferred area. Where political influence is most important, then, are the cases where systematic district or intra-constituency inequalities are reproduced year on year. Equally, audits conducted since 2006 to date have revealed significant weaknesses in financial management within Councils. This has potential to lead to ineffective allocation of the Government of Malawi's very limited resources and failure to targeted resources towards areas that are needed. With a variety of demand raising activities in the districts, the problem then, is not one of a lack of demand but the basis upon which District Councils allocates resources; whether they are used to target need or to benefit political allies. An important challenge relates to access to information for partner NGOs which is often problematic, particularly when used for expenditure tracing. Budget Tracking Surveys have mainly been done for national level ministries but very little at the district level.

What can be done?

A call for CSOs and organisations with relevant experience in budget tracking to conduct systematic Expenditure Tracking Surveys for Local Government Authorities with the aim of up scaling accountability for decision making. This should include analysis of the basis for resource allocations, expenditure tracing and value for money assessments. In order to ensure sustainability, build capacity in the districts, and creation of alliances, there is need to oblige experienced CSOs in this area to partner with other district level CSOs. This work would also be of value and interest to the National Local Government Finance Committee as well as MALGA. Working with these organisations would also minimise the information access challenges in the districts. The outputs of the work of grantees in this call should have specific strategies for dissemination of results of the assessments, promotion of national dialogue around the results, and specific strategies to influence reform in institutions guiding intra-district resource allocation and oversight.