

# TILITONSE GUIDANCE SESSIONS LOCAL GOVERNANCE THEMATIC AREA

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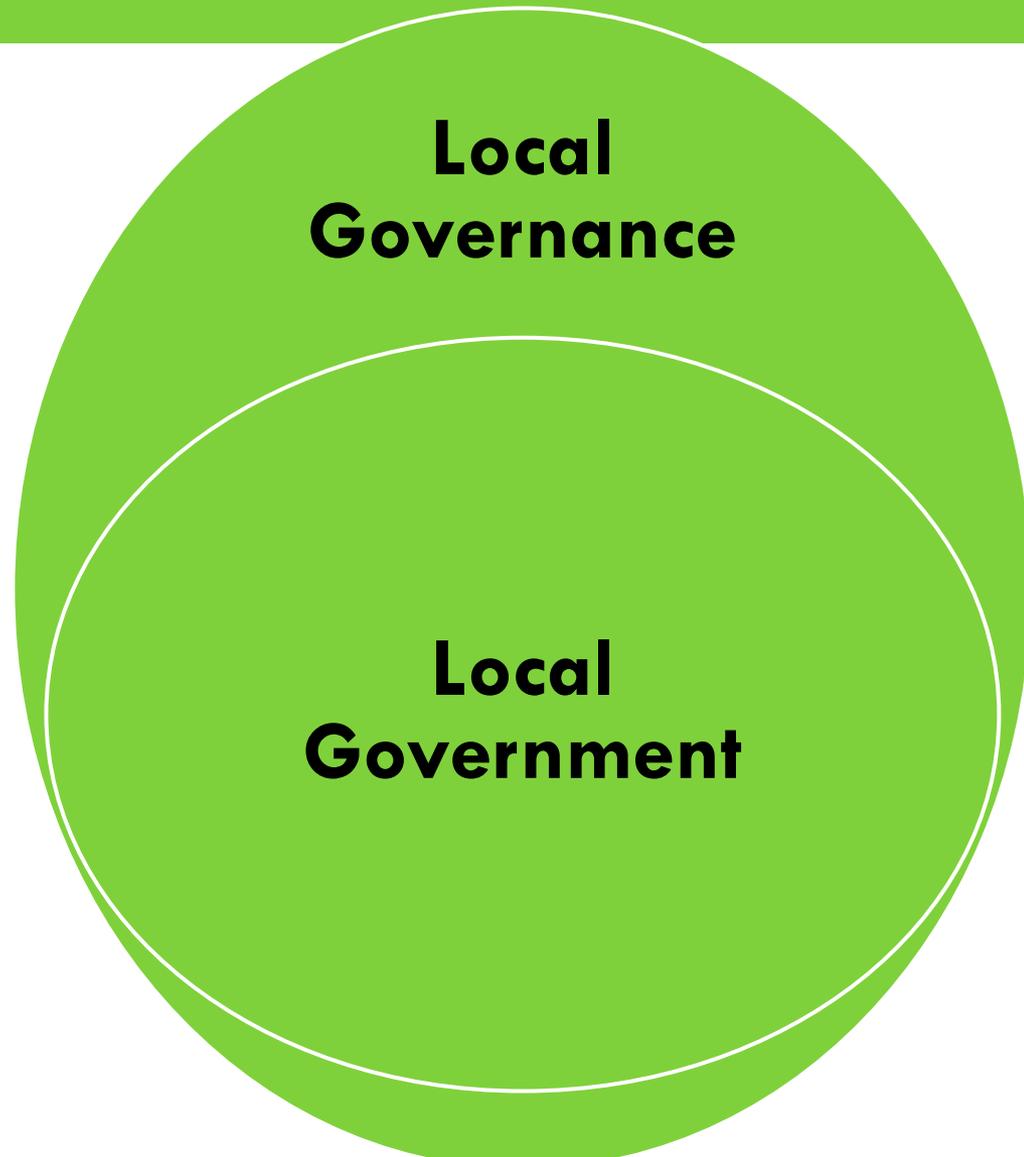
# PRESENTATION OUTLINE



- Understanding Local Governance
- Legal and Policy Framework of Local Governance in Malawi
- Institutional Framework of Local Governance and Key Actors
- Key Issues affecting Local Governance in Malawi
- Current Interventions Dealing with Local Governance
- Priority Issues for Tilitonse Thematic Call.
- Eligibility Criteria

# Understanding Local Governance

- There is some confusion between these two terms.
- Others use these terms synonymously
- However, the two are different but they are related

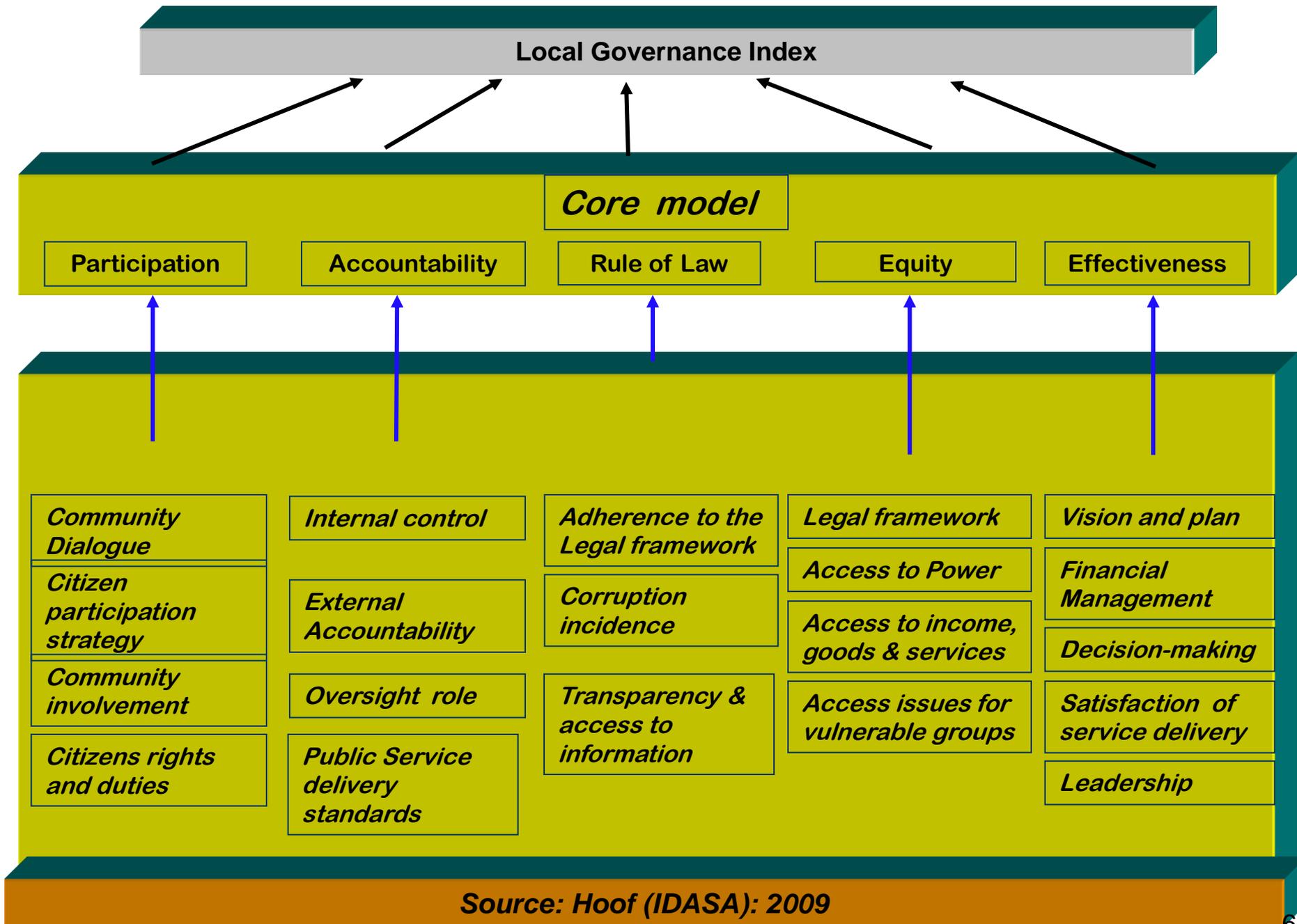


# Local Governance and Local Government

- **Local governance** refers to the ways in which local level power is exercised and the manner in which important local level decision-making is carried out.
- It 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).
- **Local governments** are formal organisations (political and administrative bodies) mandated to carry out certain public functions and deliver a variety of public goods and services at the local subnational level.

## Local Governments are important elements in Local Governance but local governance

- Emphasises engagement and partnership between local government institutions, and other non-state actors such as civil society organizations, and private sector for participatory, transparent, accountable and equitable service delivery and local development.
- Necessitates empowering local governments with authority and resources and building their capacity to function as participatory institutions that are responsive and accountable to the concerns and needs of all citizens.
- Is also concerned with strengthening of grass roots democracy and empowering citizens, communities, and their organizations such as CBOs, FBOs, NGOs so that they can participate as equal partners in local governance and local development process.



# The Legal & Policy Framework of Local Governance In Malawi

## 1. The constitution of the Republic of Malawi

- In Section 146-148 The Constitution provides for the establishment, composition, functions and powers of rural and urban local government authorities.
- The constitution makes local government authorities responsible for
  - the representation of the people over whom they have jurisdiction, for their welfare,
  - infrastructural and economic development & promotion of business enterprises
  - the consolidation and promotion of local democratic institutions and democratic participation,

## 2. Decentralisation Policy (1998)

- In order to translate the constitutional aspirations, a Decentralisation Policy was adopted in 1998 with the following objectives :
  - To create a democratic environment and institutions in Malawi for governance and development in order to 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

# 3. Local Government Act 1998

- It specifies the objective of local government
  - To further the constitutional order based on democratic principles, accountability, objectives of local transparency and participation of the people in decision-making government and development processes.
  
- It defines rural and urban Local authorities and specifies the composition of the Councils
  
- Gives guidance on the institutional framework of local government authorities.
  
- Makes provision for the financing of local government authorities

## 4. The Local Government Elections Act (1996)



- The Local Government Elections Act No. 24 of 1996 governs the process of local government elections in Malawi.
- It stipulates candidature Provisions for Local Councillors:
- Stipulates the organisation and conduct of the local elections

## 5. The Malawi Growth and Development Strategy II

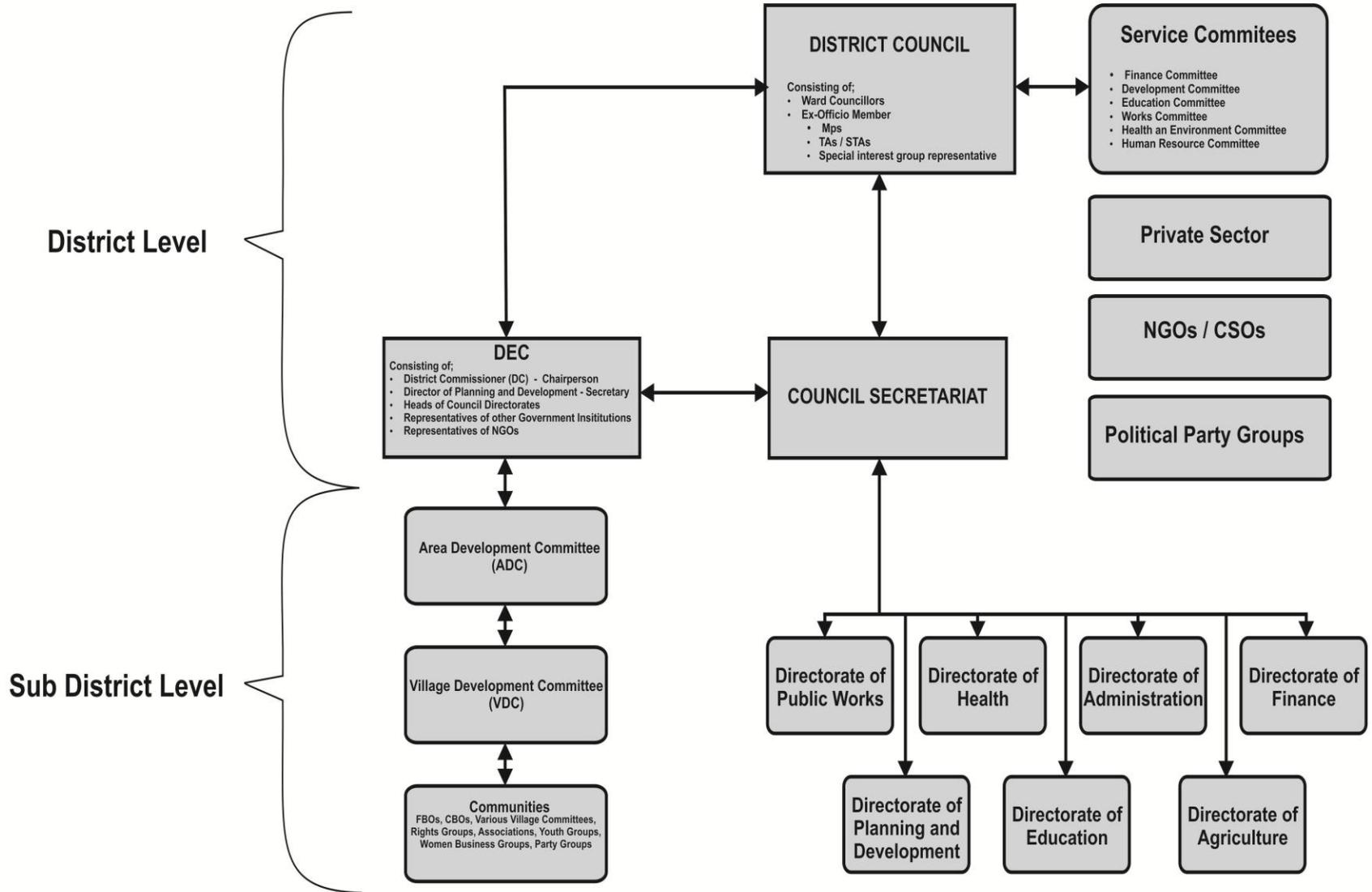


- Also recognises local government as key to national development and good governance.
- Local governance is believed to enhance both the legitimacy of government (by strengthening participation and accountability in policy-making) and the efficiency of public-service delivery (by improving information, input and oversight).

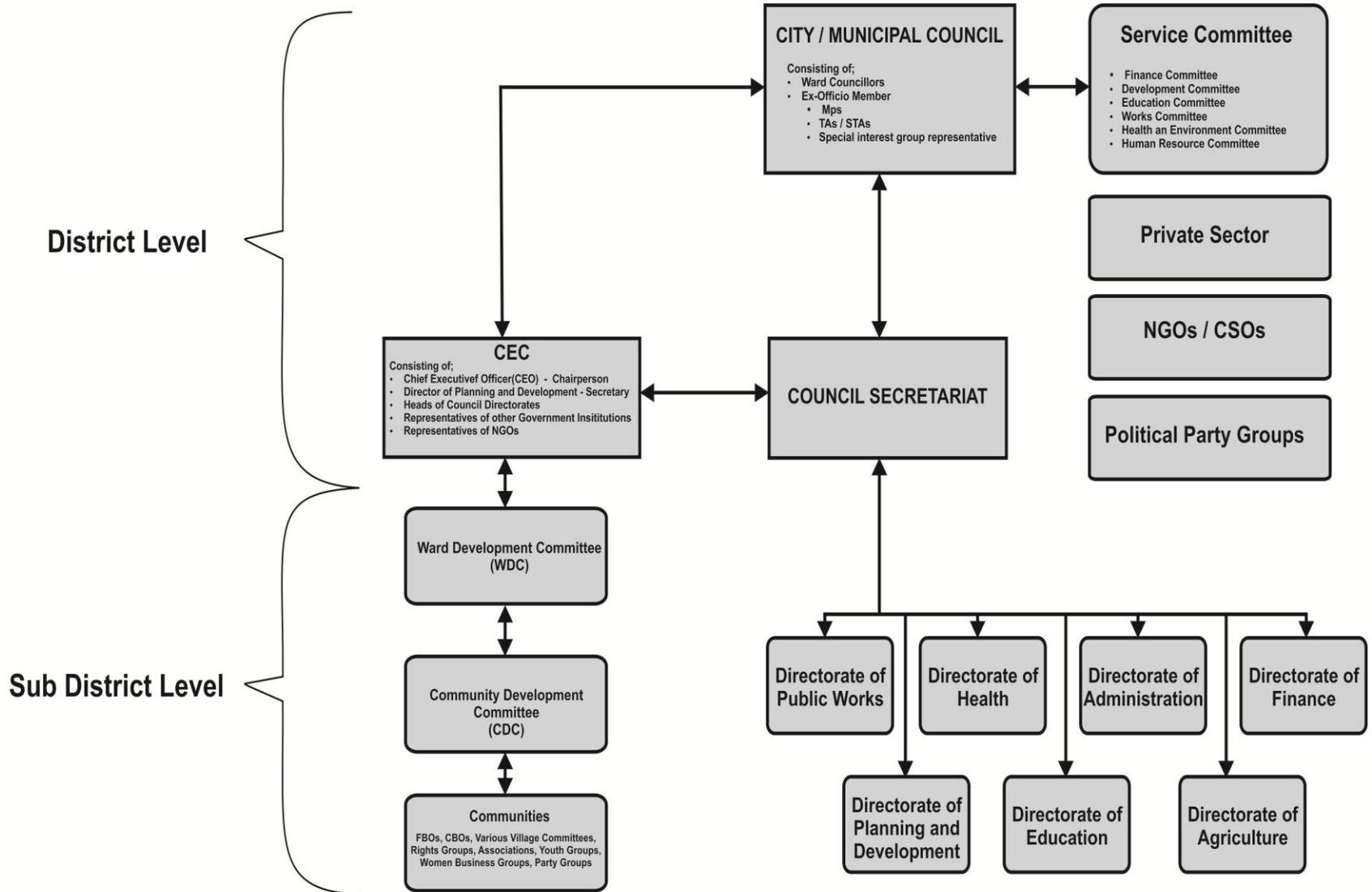
# The Institutional Framework

- Comprises Rural and Urban Local Government Authorities, NGOs/CSOs, Private Sector, Traditional Institutions, Political Party Groups etc.
- Local government authorities comprises of two structures:
- The political arm (the elected body) called Council
  - Headed by chairperson to make decisions, monitor implementation, and providing oversight
- The Secretariat:-
  - Headed by the District Commissioner or Chief Executive supported by directorates to run the day to day management of the council and implement decisions taken by the Council;
- Supported by planning structures such as DEC, ADC, AEC, VDC which include participation of NGOs/CSOs operating at various levels

# RURAL LOCAL GOVERNANCE INSTITUTIONAL FRAMEWORK



# URBAN LOCAL GOVERNANCE INSTITUTIONAL FRAMEWORK



# What is the key message coming out of the legal, policy and institutional framework of local governance in Malawi?

- A signal of commitment on the part of the post 1994 democratic government to do the following:
  - Democratised decision making at the local level in Malawi, improve public service delivery.
  - Bring services closer to people through democratically accountable and representative local institutions.

# What has been the experience so far- What does our Political Economy Analysis show?

- The Analysis reveals that two political trends that have been present over the last 100 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 open spaces for genuine political autonomy at local level by postponing local elections, for fear that opposition parties could capture local government and pose a threat to the ruling party.

# PEA Findings cont.

- These trends have had a huge impact on
  - the design and implementation of local governance reforms that the country has experimented since the colonial period through to the democratic era.
    - The picture emerging in Malawi is of a highly selective commitment to implementation of constitutional provisions and various decentralisation policy reforms with a variety of interests pushing or slowing down reforms.
  - the financing and functionality of the local government councils to achieve their service delivery, developmental and democratic objectives.

## Key issues identified requiring attention if prospects of having a vibrant local governance system in Malawi are to be realized

1. Compromised local governance legal framework;
2. Limited functionality of the local government institutional framework;
3. Lack of a harmonised approach to District Development Financing
4. Absence of robust vertical transparency and accountability mechanisms;
5. Fragmented approach to development;
6. Limited coordination of donor, government, & NGO local level development initiatives in the District Councils
7. Limited participation of citizens in decisions at the local level
8. Poor information flows and limited feedback from the council, ADC, and VDC system to the communities and
9. Limited knowledge and understanding of local governance among the CSOs, and limited focus of local governance initiatives promoted by CSOs.

# What do these findings mean?

- These key gaps suggest that
  - the much awaited 2014 local elections while they are constitutional and are an important element of local governance, they are not the full answer to having an effective local governance system.
  - Capacity building alone will not lead to transformed local governance
  - For the 2014 local elections to translate into improved governance and sustainable socio-economic development for Malawians, there is need for serious advocacy attention towards reform in the key areas identified
  - **BUT WHAT IS ALREADY BEING DONE?**

# Current Interventions largely focus on 3 areas



1. 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.

- A variety of donors such as UNDP/UNCDF, GIZ/KFW, Irish Aid, World Bank, AfDB in conjunction with the Ministry of Local Government and Rural Development, LDF/TST are dealing with this issue.
- 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.

# Current interventions cont.

## 2. Citizen Participation and Citizen Engagement with duty bearers

- Most of the CSO local governance projects supported by Democracy Consolidation Programme, Liu Lathu, National Democratic Institute and other donors. The projects deal with
  - Revitalising 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 LDF/CDF & other projects,
  - promoting dialogue and engagement of citizens with duty bearers.
- For the Tilitonse Fund, a majority of the CSOs that were provided funding under the accelerated grants & the first open call also fall in this category.

# Key observations on CSO local governance initiatives supporting participation and citizen engagement

- Most of these initiatives :
  - Emphasise creation of small rights groups or committees to spearhead the initiatives in the locality.
  - Are heavily localised with very little attention to dealing with policy issues
  - use Capacity building as the main intervention, interface meetings and radio listening clubs as avenues and mechanisms of facilitating citizen engagement with leaders.
  - Focus on improving knowledge of human 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.
  - Predominantly focus on rural local governance not urban.
- Other studies shown that there are knowledge gaps among CSO actors advocating for change in local governance

# Current Interventions cont.

## 3. Budget Tracking & Service Delivery Monitoring

- These projects focus on systematic service delivery satisfaction surveys and budget tracking in areas such as health, education and agriculture
- Spearheaded by CSO networks such as Malawi Economic Justice Network, CISANET, and MHEN.
- World Vision is implementing Citizen Voice and Action Programmes focusing on health & education service delivery monitoring.
- NICE in collaboration with IDASA is working on Local Governance Assessment (Local Governance Barometer) in a variety of districts
- The Kalondolondo programme as well as the World Bank are supporting some CSOs/CBOs to promote Social Accountability processes using Citizen Score Card Methodology

# What is the aim of the Tilitonse Thematic Call on Local Governance

- Seeks to avoid duplication but would like to complement current existing efforts on local governance.
- By dealing with some of the identified institutional and capacity issues that are likely to impact on local governance and service delivery even after having the 2014 elections.
- Through promoting alliances of CSOs with other partners that can share knowledge and skills on local governance in Malawi, engage with the policy and legal issues effectively, train duty bearers and citizens, 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 policy and legal reforms.

# Projects on Local Governance should focus on three priority areas:

## 1. Strengthening of the legal and policy framework to address. Why?

- A variety of amendments were made to the Local Government Act 1998:
  - Status of MPs was changed from ex-officio to voting members.
  - Local Policy Making role of the Councils was removed.
  - Second, ward sizes were increased, reducing the number of Local Councillors to two per constituency, with Blantyre and Lilongwe cities not exceeding 30, Mzuzu not exceeding 15 and Zomba City not exceeding 10.
  - Minister of Local Government was given power to appoint District Commissioners and Chief Executives.
  - Tenure of Council chairmanship was varied with 1 year for rural Councils & 5 for Urban Councils.
- ***How are these changes likely to impact on effective local governance and what needs to change?***

## Legal and Policy Framework continued

- The Local Government Act does not clearly specify the roles of Councillors and the attendant obligations of councillors vis-à-vis other players and structures operating at the local level.
- The experience of local governance between 2000 and 2005 shows that there were hostile conflict relationships that prevailed amongst the key local power elites: chiefs, councillors, and MPs within the framework of local governance. These revolve around the three key issues:
  - 1) who is the legitimate authority to represent the grassroots.
  - 2) the apparent lack of clarity of the functions and responsibilities of these key actors in local governance processes
  - Political interests of MPs and Local Councillors.
- ***Unless functions and responsibilities are clarified, this will remain a great challenge to the effective operations of locally elected councillors .***

## Civic empowerment to complement Clarification of roles



- The clarification of roles needs to be complimented with Civic Empowerment- training of train duty bearers such as MPs, Councillors, and Chiefs.
- To avoid confusion and ensure consistency any proposed training programmes should use standard materials that are consistent with relevant legislation and approved by the Ministry of Local Government and Rural Development.

## Legal and Policy Framework continued

- The position of traditional chiefs in Urban Local Governance is ambiguous and needs clarity.
  - 1967 Chiefs Act (Section 3(5)) explicitly states that PCs, TAs and STAs have no jurisdiction in urban areas while the Local Government Act (1998), TAs and STAs sit on Council, including Town/City Councils, as ex-officio members.
  - Overtime there has been a trend towards block leaders- town chiefs
- Candidature provisions of Local Government Councillors in the 1996 Local Government Elections Act are vague in view of the challenging monitoring and oversight work the Councillors are expected to perform.
  - 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)

## Legal and policy framework cont.

- The Decentralisation Policy and Local Government Act are 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 2012 situation gender analysis in the Councils 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.***

## 2. Improving resource oversight for improved service delivery

- What is the problem here?
  - Studies have shown there is a lot of political influence and weak use of evidence and data in distributing resources within the District (intra-district allocation).
  - Limited oversight and accountability of Management of Council resources
  - Audits conducted in Local Councils since 2006 to date have revealed significant weaknesses in financial management within Councils.
  - Most NGOs are not transparent on resources they bring into the district.
  - Budget Tracking Surveys have mainly been done for national level ministries but very little at the district level.
  - ***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.***

Tilitonse seeks to support district level oversight mechanisms and create trust for more channelling of resources to districts



Projects in this category should focus on:

- ❑ Budget tracking of central government including donor/NGO resource flows to local authorities in key areas such as water, health, education, and agriculture.
- ❑ District Expenditure tracking surveys.
- ❑ Interrogating rules guiding CDF, LDF and other resources and advocating for reform.
- ❑ Promoting citizen monitoring of District Development resource allocation and utilization e.g. CDF, LDF.

### 3. Strengthening Functionality of local government authorities and their sub-district structures

- What is the problem here?
- There is ineffective working linkages between the Council and sub-district structures
- Limited feedback and accountability between the structures
- Projects of interest include those that:
  - Interrogate the functionality of the local government authorities with its sub-district structures-
    - Area Development Committees (ADC) and Village Development Committees (VDC) in the rural areas and Community Development Committees (CDC) and Ward Development Committees (WDC) in urban areas &
  - Promote effective linkages among the structures.
  - Promote innovative mechanisms of downward accountability, flow of information and feedback.

# Eligibility Criteria



- Registered civil society organisations (CSOs), including non-state actors, research and policy advocacy organisations, faith-based organizations, the media, the academia, trade unions and professional bodies, registered coalitions/networks/platforms **that are already active and have the requisite expertise in the fields of local governance, budget and expenditure tracking, district resource monitoring and gender.**

# Mutu Umodzi Susenza Denga

- Tilitonse is emphasising collaboration and working together.
- Therefore organisations are encouraged to build partnerships with various stakeholders/actors to enable more innovative and effective linkages between sub-national and national level actions.
- Particular priority will be given to proposals that build partnerships and alliances with various stakeholders including other non-state actors at the national level, CBOs & FBOs at the local level, the media, the academia, central ministries, and their agencies to come up with strategic activities in any of the issues identified.

# Further Reading

- *Local Government Act 1998*
- *Decentralisation Policy 1998*
- *Local Government Amendment Bill 2010*
- *Electoral Commission Amendment Bill 2010*
- *Key issues on Local Governance Paper (2013),*
- *Political Economy of Local Governance in Malawi (2011),*
- *Report on the Review of Decentralisation Process (2010),*
- *Joint Review of Decentralisation in Malawi(2004).*
- *A Baseline Assessment of the LDF and its potential impact on the financing of the Water and Sanitation Sector in Malawi (2011),*
- *Draft Report on the Review on the Constituency Development Funds Management Guidelines.*

# TOGETHER WE CAN IMPROVE OUR LOCAL GOVERNANCE SYSTEM!

