



Republic of Malawi



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REPORT

ON

**THE REVIEW OF THE SECOND NATIONAL DECENTRALISATION
PROGRAMME**

(NDP II)

A Joint Review of the Ministry of Local Government and Rural Development
(MoLGRD) and the United Nations Development Programme (UNDP)

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ACRONYMS AND ABBREVIATIONS

ADB African Development Bank

ADC	Area Development Committee
ADD	Agricultural Development Division
AEC	Area Executive Committee
ARV	Anti-Retro-Viral
CBO	Community Based Organisation
CCJP	Catholic Commission on Justice and Peace
CCLGRT	Cabinet Committee on Local Government and Rural Transformation
CDF	Constituency Development Fund
CDPD	Capacity Development Programme for Development
CEO	Chief Executive Officer
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
DC	District Commissioner
DCF	District Consultative Forum
DDP	District Development Plan
DDPS	District Development Planning System
DEC	District Executive Committee
DEM	District Education Manager
DHO	District Health Officer
DHRMD	Department of Human Resource Management and Development
DPD	Director of Planning and Development
GOM	Government of Malawi
GRF	General Resource Fund
HIV/AIDS	Human Immune-deficiency Virus/ Acquired Immune-Deficiency Syndrome
HRMIS	Human Resource Management Information System
IFMIS	Integrated Financial Management Information System
IMTC	Inter-ministerial Technical Committee on Decentralisation
IRD	Integrated Rural Development
JCDPLG	Joint Capacity Development Programme for Local Governance
LAPA	Local Authorities Performance Assessments
LDF	Local Development Fund
LGA	Local Government Act, 1998
LGR	Locally Generated Revenue
LOGSIP	Local Government Strengthening and Investment Programme
MALGA	Malawi Local Government Association
MDGs	Millennium Development Goals
M&E	Monitoring and Evaluation
MGDS	Malawi Growth and Development Strategy
MGPDD	Malawi Germany Programme for Democracy and Decentralisation
MIDA	Management and Institutional Development Associates
MLGRD	Ministry of Local Government and Rural Development
MP	Member of Parliament
MPC	Management Procurement Committee
MRA	Malawi Revenue Authority
MVP	Millennium Villages Project
NDP	National Decentralisation Programme
NGO	Non- governmental Organisation
NICE	National Initiative for Civic Education
NLGFC	National Local Government Finance Committee
NNR	Net National revenue
ODPP	Office of the Director of Public Procurement
OPC	Office of the President and Cabinet
ORT	Other Recurrent Transactions

PAC	Public Affairs Committee
PFMA	Public Finance Management Act, 2003
RA	Roads Authority
RBM	Reserve Bank of Malawi
RFA	Roads Fund Administration
SEP	Socio- Economic Profile
TA	Traditional Authority
UNCDF	United Nations Capital Development Fund
UNDP	United Nations Development Programme
VDC	Village Development Committee

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some traditional leaders and members of several Area and Village Development Committees who provided vital information on the management and implementation of development activities at the community level. We also met representatives of the private sector and Civil Society Organisations operating at the community level and vital Key Informants, all of whom provided very important insights to the Team. More details about the institutions and individuals met during the review are presented in Annex 3 of this report.

EXECUTIVE SUMMARY

1.0 Background

1.1 This is the report on the Review of the Second National Decentralisation Programme (NDP II) that Management and Institutional Development Associates (MIDA) has prepared in response to the Terms of Reference presented in Chapter One of the report. The composition of the Review Team appears on the title page of the report. The review is a follow-up to the 2004 review of the first National Decentralization Programme (NDP I) that was implemented over the period of 4 years from 2001 to 2004. That review concluded that although significant progress had been made in implementing the programme, there were many implementation challenges that needed to be addressed. The findings and recommendations of that review informed the design of a successor programme, the NDP II, which has been under implementation mostly from 2008 to 2013.

1.2 The overall objective of the review is to assess the extent to which NDP II outputs and impacts were achieved through the implementation of its sub programmes. It also seeks to identify the key implementation challenges and successes experienced so as to generate lessons that would inform the design and implementation of follow-up decentralisation programmes or activities. The findings, lessons learned, and recommendations of this review are therefore expected to assist the Ministry of Local Government and Rural Development; other Government Ministries, Departments and Agencies; and Cooperating Partners in designing a new programme on decentralization and integrated rural development.

1.3 In the course of carrying out the review, a number of stakeholders consulted were of the view that there were a number of challenges or issues that were not part and parcel of the original terms of reference which were very crucial to successful implementation of decentralisation. The Review Team was therefore requested to examine these challenges and issues and make recommendations on how they should be addressed in a future decentralisation programme. These issues included the Political Dimensions of Decentralisation, Legal Reforms for Decentralisation, Revenue Collection, Management and Local Economic Development, Linkages between Decentralisation and Integrated Rural Development, and Areas of Possible Devolution for the Ministry of Local Government and Rural Development.

1.4 The major findings, conclusions, and recommendations of the Review are discussed in Chapters 3 to 12 of the report. However, a Summary of the Conclusions and Recommendations of the Review is presented in tabular form in Appendix 1 of the Report. The Review Team found a general consensus that, despite the challenges that were faced in the implementation of NDP II, the country should continue on the decentralisation path. Stakeholders at the national, council, and community levels agreed in various consultations that *decentralisation should remain Government's priority programme for increasing the efficiency and effectiveness of public service delivery and the design and implementation of socioeconomic development projects though local authorities at the council and community levels*. It is in this regard that the Review Team has recommended in Chapter Twelve of the report some strategic areas of action that should be considered in designing a new decentralisation programme for the country.

2. Summary of Key Recommendations of the Review

As indicated above, we have drawn up a set of key findings and recommendations of the Review which are summarised in Annex 1. Some of the recommendations simply require various stakeholders, especially the Ministry of Local Government and Rural Development and the Office of the President and Cabinet, as key stakeholders to the decentralisation process, to make informed decisions and take specific actions in order to accelerate the decentralisation process. Those recommendations do not require any serious programming or financial resources but the administrative and political will to move the country in the direction of devolution. However, others require certain change processes of a structural nature, careful programming and financial and other resources and these would need to be factored into a carefully designed follow-up programme. We present in the next paragraphs what we consider to be the most pressing recommendations that should be prioritised whether they require the detailed programming or not.

2.1 Resistance to Devolution-Political and Administrative Leadership: We found some subtle forms of resistance to devolution in various government line ministries, as did the 2004 review of NDP I. That review had recommended that the President of Malawi should provide the leadership for, and champion, the decentralisation process in order to address the bureaucratic resistance encountered. That Review also recommended that the then position of Secretary to the President and Cabinet (now Chief Secretary to the Government) should serve as the administrative champion for the process for the same reason. We have analysed this issue thoroughly in Chapters 5 and 12 of the report and concluded that the two recommendations remain valid in 2014 and beyond. We therefore **recommend** that the President of Malawi should continue to provide political leadership for decentralisation while the Chief Secretary to the Government should provide administrative leadership for the same. In addition, **a comprehensive brief for the new President**, on the current state of decentralisation based on the current report, should be prepared and submitted to the President by OPC with technical support from MoLGRD.

2.2 Institutional Framework and Co-ordination Arrangements: Several institutions were put in place to coordinate the implementation of the National Decentralisation Programme both at the national and local council levels. At the national level were the Office of the President and Cabinet, the Cabinet Committee on Local Government and Rural Transformation (CCLGRT); the Inter Ministerial Technical Committee on Decentralisation (IMTC); the Joint Donor/ Government Committee on Decentralisation and the Ministry of Local Government and Rural Development. At the local government level, the City, Municipal and District Councils were the key coordinating institutions. Each institution faced implementation challenges which are discussed in detail in the report. During the review, we found that a new Sector Working Group on Decentralisation and Integrated Rural Development was under establishment. Because it represented several

stakeholders, unlike the other institutional structures that were solely for government officials, we found this Group to be the most appropriate one for coordinating decentralisation issues and/ or activities with the support of various stakeholders. However, for it to be effective, we **recommend** that both OPC and MoLGRD should provide **pragmatic leadership** to the Group and that MoLGRD should include as many varied key stakeholders in the Group as possible so as to enhance its impact.

2.3 Areas of Possible Devolution for the Ministry of Local Government and Rural Development: The review identified areas that the Ministry of Local Government and Rural Development should consider devolving or letting go because they were affecting its capacity to manage the implementation of decentralisation activities. In this regard, the following areas were identified for possible devolution: the Management of Chiefs and the Recruitment and Management of Council Staff. In addition, we **recommend** that the Local Government Service Commission should be accorded some degree of autonomy in its operations by allocating it with a budgetary vote. We also **recommend** that the National Local Government Finance Committee and the Local Development Fund Technical Support Team should be merged to form one entity because they both deal in the financing of local authorities' recurrent budgets and development activities.

2.4 Institutional Development and Capacity Building: We noted that the Department of Human Resource Management and Development (DHRMD) has played an important role in collaborating with the Ministry of Local Government and Rural Development and other key institutions in conducting Functional Reviews both at the ministry's headquarters and in the Local Councils; developing human resource management and development systems; facilitating the preparation of strategic plans; and conducting orientation of Local Council employees on the performance management system. However, the implementation of most of the initiatives pertaining to staffing in the Local Councils remains a key challenge. We recommend that OPC, MOLGRD, and DHRMD should jointly address the remaining challenges of devolving the staff of line ministries to councils in collaboration with the devolving institutions.

2.5 Decentralisation of the Payroll System: This is one of the key reforms essential for effective and efficient service delivery. We noted that with the exception of the Ministry of Education, the payroll system remains centralized. The Ministry of Education has managed to roll out the payroll to almost two Divisions. We therefore **recommend** that this should later be rolled out to the other Education Divisions in the country and ultimately to District levels, based on the lessons learnt. We further recommend that the same lessons be applied in undertaking the devolution of the payroll in the other line ministries.

2.6 Fiscal Devolution: We found that some achievements were made in this area. The main aspects of devolution undertaken relatively well are (i) the allocation a vote to each Council and NLGFC; (ii) the appointment of District Commissioners and Chief Executives of Urban Councils as Controlling Officers; (iii) the roll-out and running of the Integrated Financial Management Information System (IFMIS) to almost all the councils; (iv) and the appearance of councils' Controlling Officers before the Public Accounts Committee. These developments will go a long way in improving service delivery and financial management and reporting in Councils. Although progress was registered in these areas, the planned devolution of sector budgets did not happen satisfactorily because the devolving sectors were not provided with the necessary direction and guidelines and only the recurrent expenditure budget was devolved while the development budget was not. Central Government Transfers, which were targeted at 5 % of Net National Revenue, were low at below 1%. Furthermore, the allocation of funds to councils is done through a formula while allocation below the council level is discretionary. We therefore **recommend** that the Ministry of Finance should develop guidelines and lead the fiscal devolution work effectively. Furthermore, the Ministry should increase funding to councils each year until a strategic balance is attained between national level and council level financial needs for service delivery and socio-economic development. It should also work with the National Local Government Finance Committee to develop a formula for the allocation funding below council level.

2.7 Revenue Collection, Management and Local Economic Development: We found that all the four City Councils (Blantyre, Lilongwe, Mzuzu, and Zomba) depended on property rates as their main source of revenue. However, only 44% to 46 % of the budgeted revenue from property rates is being collected in a year. Property rates are very high and far beyond most property owners' ability to pay. Valuation fees are based on the market value of the property and not the actual work that has been done by valuers. The property valuers allegedly deliberately inflate or over-value properties so as to realise more fees. In addition, the City Councils impose a penalty or surcharge of 4% per month on unpaid three or six months property rates bills after 60 days of issuing the bill and the charge is compounded every month, as provided for in Section 86 (3) of the Local Government Act of 1998. This penalty exaggerates the bills because of the very high rate of 4% per month. Consequently, there is very high default on the bills and the scale of the default makes it politically and economically unfeasible to seize property in default as provided for in Section 91 of the Act. In view of the above issues, we **recommend** that fees for the valuation of property should be based on the actual work done and not on the market value of the property. Furthermore, Section 86 (3) of the Act should be amended to reduce the penalty to about 1.5 % to reduce the default and increase councils' revenue and the penalty should fall due at the end of the billed period.

2.8 Revenue Collection Effort in Councils: We found that councils collected small proportions of the revenue required to meet their budgets, except in the City Councils where property rates assist them to collect significant amounts of revenue. For example, Contribution of Locally Generated Revenue (LGR) to Other Recurrent Transactions (ORT) or recurrent expenditure in District Councils is minimal and is between 1% and 21%. Urban Councils LGR is higher than that in District Councils. However, it is not enough to cover Personal Emoluments and development programmes even in the urban councils. All councils are relying on the centre for financial support. Therefore, councils should be encouraged to collect more local revenue if they are to achieve autonomy.

Departmental Receipts are being collected by Ministries and Departments and there is lack of consolidated data and information on all the departmental receipts collected in each council. All the Departmental Receipts collected in Councils are sent to the centre. It is recommended that the collection of departmental receipts should be transferred to Councils. Similarly, the Malawi Revenue Authority (MRA) collects more Tax Revenue than LGR collected by Councils yet no portion of the Tax Revenue is retained in Councils to finance development programmes. We **recommend** that a certain percentage of the tax revenue should be retained and passed on to Councils. This approach is being implemented in other countries and the results in terms of stimulating economic growth and development are much better than the experience in Malawi.

2.9 Linkages between Councils and the Malawi Revenue Authority: Councils and the Malawi Revenue Authority work in isolation and yet more would have been achieved if they worked together. Multiple-taxation was identified as a challenge and the private sector raised a concern on this matter. We recommend that Government should develop a system and procedures for enabling the MRA and Councils to work together. The current multiple-taxation should be harmonised and the MRA should be appointed the collecting Agent for all the taxes/revenues.

2.10 Local Development Planning and Financing Mechanisms: Councils were at different stages of preparing the Socioeconomic Profiles (SEPs), Development Plans, Strategic Plans, and Physical Development Plans and the timing of the SEPs and plans covered different time periods. There was no consistency in the processes of preparing District and Urban Development Plans, Strategic Plans and Physical Development Plans. This indicates that there is need to synchronise the processes so as to aid conceptual and operational linkages with the national planning framework which normally has a fixed time-frame. ADCs and VDCs made little or no reference to

the SEPs as sources of information to guide the preparation and implementation of their development projects. We **recommend** that the Ministry of Finance, Economic Planning and Development, the Ministry of Lands, Housing and Urban Development, and MoLGRD should work together to synchronise the processes so as to aid conceptual and operational linkages with the national planning framework. There is also need to increase the use of information from communities in the preparation of SEPs in order to increase the relevance of local development plans to community level priorities.

2.11 Integrated Rural Development Concept and Approach with Mwandama Millennium Village Project as Case Study: The Mwandama Project has generated some important lessons which if adopted could assist Government in implementing its Integrated Rural Development Programme. Rural transformation, for instance, is possible through integrated or holistic interventions. The MoLGRD should systematically document lessons from the major attempts at integrated rural development implemented in the country, such as the Mwandama Village Project. The lessons should be widely discussed with relevant and key stakeholders.

2.12 Debates on Federalism and Links to Decentralisation: All the councils were disenchanted largely by the current practice of allocating at most 5% of Net National Revenue to councils and leaving 95% of the resources for the centre with little developmental impact. All councils visited lacked resources for service delivery as well as development activities. The formula for the distribution of national resources should be revisited so that increasingly significant proportions (not less than 20%) of the national resources are allocated to councils. Furthermore, indices of infrastructural development in councils should be used to target national resources to councils with low development. We also recommend that the current four regions of the country be re-demarcated into up to 8 developmental or service impact areas that diffuse tribal and ethnic connotations and divisions and not political or administrative units.

2.13 Broadening Political Support for Decentralisation through Improved Civic Engagement: The Review has noted that a long history of lack of civic engagement in Malawian society has resulted into narrow support for local governance and decentralisation as participatory structures for efficient service delivery and development activities. Effective implementation of a strategy to promote civic engagement and democratisation in Malawian society should be adopted.

2.14 Legal Reforms for Decentralisation: During the national and council levels consultations, several stakeholders pointed out numerous gaps and inconsistencies in the legal framework that

impinge on the decentralisation process. The Review Team analysed the gaps and inconsistencies and recommends that the following areas be revisited:

- a) Sources of Revenue for Councils in The Third Schedule of the Local Government Act 1998
- b) Challenges in the Collection of Property Rates
- c) Surcharge on Property Rates
- d) Comprehensive Review of the Local Government Act
- e) Legal Status of the National Local Government Finance Committee (NLGFC)
- f) Gaps in the Chiefs Act
- g) Gap in the Public Finance Management Act (PFMA) of 2003
- h) Review of the Land-related Laws
- i) Gaps in the Malawi Revenue Authority Act
- j) Review of Sectoral Laws, and
- k) The Formulation, Review and Implementation of By-Laws

3. The Future Direction for Decentralisation: In view of the challenges, achievements, and opportunities that are emerging, we **recommend** that government, through the MoLGRD and other key stakeholders should prepare a new decentralisation programme that will deepen the decentralisation process. There is need to learn from the challenges and take advantage of the achievements and emerging opportunities in the design of such a future programme. We further recommend that such a future programme should include the following **strategic areas** of action that would maximise impacts without requiring significant financial and other resources:

- (i) **Full devolution and integration of sectoral and central ministries' staff** and other resources in councils in the broader context of Public Sector Reforms;
- (ii) **Enhancing Revenue Collection, Retention, and Accountability in councils** in direct support for efficient service delivery and socio-economic development (including Integrated Rural Development) activities;
- (iii) **Legal Reforms for Decentralisation;** and
- iv) **Promoting Civic Engagement and a Democratic Culture in Malawian society** with a focus on central government ministries, councils, and communities.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Decentralisation Process in Malawi

1.1.1 This report presents the findings and recommendations of the review of the Second National Decentralisation Programme (NDP II) in Malawi which was undertaken by **Management and Institutional Development Associates (MIDA)** between March and September 2014. The review was commissioned by the Ministry of Local Government and Rural Development (MoLGRD) and the United Nations Development Programme (UNDP) Lilongwe Office. The background to this evaluation is that in 1998, the Malawi Government adopted a National Decentralisation Policy and Parliament passed a new Local Government Act that is premised on the 1994 Constitution which enshrines fundamental principles of local government. The Policy and the Act provide for the establishment of autonomous local authorities or councils as the key institutions for local democratic governance and efficient and effective delivery of local public services. The purpose of decentralization is thus to restructure central government ministries and other institutions so as to foster *efficient service delivery to the people and socio-economic development* through local councils. It seeks to enhance democratic participation and accountability while central government focuses on national level services provision and development priorities. Decentralisation is therefore a key aspect of Malawi's Public Sector Reforms and it should be synchronised with the other reform initiatives that are being carried out to improve public service delivery.

1.1.2 The Policy and the Act embrace the devolution model of decentralisation, as opposed to de-concentration. Devolution entails the transfer of powers, functions and corresponding resources from central government to the local authorities in line with the principle of subsidiarity. On the other hand, de-concentration entails central government ministries establishing their own offices at field levels while retaining decision making power and resources. Government adopted a phased approach to the implementation of the devolution process, with the first phase covering the period from 2001 to 2004. During that phase, the National Decentralization Programme (NDP I) had the following seven (7) components:-

- i. Legal Reforms
- ii. Institutional Development and Capacity Building
- iii. Building a Democratic Culture
- iv. Accounting and Financial Management

- v. Sector Devolution
- vi. Local Development Planning, and
- vii. Fiscal Devolution

1.1.3 NDP I was reviewed in 2004 and the review concluded that although significant progress had been made in implementing the programme, there were many implementation challenges that needed to be addressed. The findings and recommendations of that review informed the design of a successor programme which is NDP II. NDP II was intended to further develop functional local governments for efficient service delivery at the urban council, district council, and community levels. The Programme was initially designed to cover the period from 2005 to 2009 and had the following six components:-

- (i) Sector Devolution
- (ii) Institutional Development and Capacity Building
- (iii) Legal Reforms
- (iv) Local Development Planning
- (v) Fiscal Devolution, Financial Accounting and Management and
- (vi) Local Governance and Building a Democratic Culture

1.1.4 The first phase of NDP II, covering the period from 2005 to 2009, was not formally launched and this resulted in its limited implementation. However, NDP II was reviewed and extended to cover the period from 2008 to 2013. In the review, the number of programme components was reduced to four which were:-

- (i) Sector Devolution
- (ii) Institutional Development and Capacity Building
- (iii) Local Development Planning and Financing Mechanisms, and
- (iv) Fiscal Devolution, Financial Accounting and Management

This shows that two components, namely Legal Reforms and Local Governance and Building a Democratic Culture, were left out of the 2008- 2013 Programme. More details about the scaled down programme are presented in Chapter 2 below.

1.1.5 In addition, a Project Support Document for an NDP II Sub-programme called Capacity Development Programme for Decentralisation (CDPD) was drawn up to support the implementation of NDP II. The other sub programmes were the UNDP-sponsored Malawi Local

Government Strengthening and Investment Programme (MLOGSIP), the Irish Aid-sponsored Joint Capacity Development Programme for Local Governance (JCDPLG) and the GIZ-sponsored Support to Implementation of Local Authority IFMIS through PFEM. Implementation of some of these activities was extended to 2013, to cover the whole NDP II cycle.

1.2 Objectives of the Review

1.2.1 The overall objective of the review is to assess the extent to which NDP II outputs and impacts were achieved through the implementation of its sub programmes. It also seeks to identify the key implementation challenges and successes experienced so as to generate lessons that would inform the design and implementation of follow-up decentralisation programmes or activities. The findings, lessons learned, and recommendations of this review are therefore expected to assist the Ministry of Local Government and Rural Development; other Government Ministries, Departments and Agencies; and Cooperating Partners in designing a new programme on decentralization and integrated rural development. This is in view of the fact that decentralization is a key means of improving public service delivery to ordinary people in a democratic environment whereby service delivery is based on the principles of transparency, accountability and responsibility of public officials to the citizenry.

1.3 Specific Terms of Reference

1.3.1 The specific terms of reference of the evaluation or review are:-

- (i) To review the implementation process of NDP II/CDPD, in view of the recommendations of the NDP I Review (2004) as well as the objectives of the NDP II document;
- (ii) To assess the extent to which the programme was efficient and effective in facilitating improvement of financial management, transparency, and accountability in the local governments;
- (iii) To review the capacities and appropriateness of institutional and implementation arrangements for the NDP II in view of the available financing, political, and administrative capacities and climate at the material time and suggest how to improve them;

- (iv) To review the extent to which the various sub programmes contributed to the achievement of NDP II outputs and identify, if any, implementation bottlenecks why the gaps existed, and recommend how these could be addressed;
- (v) To identify shortfalls in the local government system resulting from the absence of councillors in the councils;
- (vi) To identify specific areas or components of focus for a future programme on decentralization and integrated rural development strategy , the various NDP II sub – programme documents as well as emerging issues on local governance and decentralization in view of the forthcoming elections that will usher councillors into office; and
- (vii) To propose practical and effective coordination mechanisms for making use of government and donor support for implementation of the future decentralization programmes.

The Review Team has addressed the first (i) Term of Reference (ToR) throughout the report, especially in Chapters 3, 5, 6, and 8 that examine the achievements made by each of the four components of the programme. The second (ii) ToR has been covered largely in Chapter 6 while the third (iii) and seventh (vii) ones have been addressed in Chapters 3 and 9. The fourth (iv) ToR is covered in Chapters 3, 5, 6, and 8 while the fifth (v) one is tackled in Chapters 6 and 9. Finally, the sixth (vi) ToR is covered in the last Chapter of the report, Chapter 12.

1.4 Additional Tasks for the Review or Evaluation

In the course of carrying out the review, a number of stakeholders consulted were of the view that there were a number of challenges or issues that were not part and parcel of the above original terms of reference which were very crucial to successful implementation of decentralisation. The Review Team was therefore requested to examine these challenges and issues and make recommendations on how they should be addressed in the future decentralisation programme. These included:-

1.4.1 The Political Dimensions of Decentralisation: Several stakeholders noted that effective decentralisation in Malawi will require creating sufficient demand for decentralisation by the citizenry. The Review Team was therefore requested to examine and make recommendations on how to broaden the political base/support for decentralisation and cultivate civic traditions or a democratic culture that would facilitate the accountability and responsibility of public officials to the citizenry. This task is undertaken in Chapter 10 of this report.

1.4.2 Legal Reforms for Decentralisation: Several stakeholders noted that certain pieces of legislation impinged on the decentralisation process, especially those that are in conflict with the devolution approach. The Review Team was therefore requested to identify some legal challenges that impinged on decentralisation and recommend how they should be addressed. This task is undertaken in Chapter 11.

1.4.3 Revenue Collection, Management and Local Economic Development: Stakeholders observed that significant amounts of revenue were collected from all the Councils and yet there was very little to show in terms of improved service delivery and local economic development. The Review Team was thus requested to conduct an analysis of this issue and generate recommendations that would help to improve service delivery by the Councils without over relying on transfers from central government. That analysis is conducted in Chapter 7.

1.4.4 Linkages between Decentralisation and Integrated Rural Development: Several stakeholders observed that the operational linkages between Decentralisation and Integrated Rural Development were largely unclear. The Review Team was therefore requested to examine the two and clarify their relationship in order to provide guidance on how the two should interface in the next phase of the decentralisation programme. The Team was advised to tersely review the experience of the Mwandama Millennium Villages Project in Zomba District as a case study. That assessment is presented in Section 8.6.

1.4.5 Areas of Possible Devolution for the Ministry of Local Government and Rural Development: While devolution was primarily associated with line Ministries/ Departments other than the Ministry of Local Government, the Review Team was required to examine aspects of the Ministry's work that could be devolved to the Local Councils and other institutions. This was intended to examine how service delivery by local authorities can be enhanced if the Ministry were to devolve some of its functions to local authorities. This task is undertaken in Chapter 4.

1.5 Methodology

1.5.1 A mixed methods approach was adopted for the review. It comprised four elements the first of which was the review of the existing literature and other documents on decentralisation. Secondly, the Review Team carried out consultations with national level institutions which included NDP II lead institutions, devolving sector ministries, Development Partners, and Civil Society Organisations working on local governance issues. At the Council level, the consultations covered District Commissioners/ Chief Executive Officers and Members of the Councils

Management Teams, NGOs, CSOs and private sector institutions operating in the 19 (54%) of the 35 local councils that had been sampled for the review. The selection of the 19 councils was purposively done so as to cover a nationally representative sample of rural and urban councils thereby rendering the findings representative at the national and local levels. The councils selected are M'mbelwa, Mzuzu City, and Nkhata Bay in the North; Kasungu District and Kasungu Municipality, Ntchisi, Lilongwe City and Lilongwe District, Dedza, Salima, and Nkhota Kota in the Centre, Mangochi District and Mangochi Municipality, and Zomba City and Zomba District in the Eastern Region; and Blantyre City, Luchenza Municipality, Mwanza and Chikwawa in the South. Thirdly, the District Commissioners, Chief Executives of Urban Councils and members of Councils' Management Teams were, in addition to participating in group discussions, requested to complete questionnaires which provided useful data and information additional to what was obtained through group discussions. The participation of females in the consultations averaged 15% at the national and about 50% at the community level, resulting in an overall average participation rate of 40%. In some councils, people with disabilities participated in the meetings while others could not do so because of some challenges. Furthermore, some councils had facilities to aid the mobility of people with disabilities while others were considering providing such facilities. Finally, below the local council level, the Review Team held Focus Group Discussions with Area Development Committees, Village Development Committees, Neighbourhood Committees and other community leaders in urban communities, and other key informants. A list of the individuals and institutions consulted is attached as Annex 3 of this report. Data for the report was analysed in line with the mixed methods approach and the report has been written in such a way that it captures both qualitative and quantitative data in an integrated manner. One of the key assessments was the rating of the performance of various players in their localities in terms of their service delivery.

1.6 Outline of the Report

1.6.1 In the next chapters, we present our findings, conclusions and recommendations on the Second National Decentralisation Programme (NDP II). In Chapter 2, we present more details about the design of NDP II in order to set the pace for the assessments that follow in the subsequent Chapters. Its institutional framework and coordination arrangements and possible areas of devolution by the Ministry of Local Government and Rural Development are presented in Chapters 3 and 4, respectively. Sector Devolution, Fiscal Devolution, Revenue Collection, Management and Local Economic Development; Local Development Planning and Financing Mechanisms; and Institutional Development and Capacity Building are assessed in Chapters 5, 6,

7, 8 and 9, respectively. In addition, political dimensions of decentralisation and legal reforms required for the effective implementation of decentralisation activities in Malawi are discussed in Chapters 10 and 11. Finally, Chapter 12 summarises the key findings, conclusions and key aspects of a possible future programme on decentralisation and integrated rural development.

CHAPTER TWO

THE SECOND NATIONAL DECENTRALISATION PROGRAMME (NDP II)

2.0 Background

This Chapter presents the Second National Decentralisation Programme (NDP II) in detail. It sets the pace for the review by providing more information on how the programme was designed and its core components. It is therefore an important source of information especially for the very large number of stakeholders who indicated in our consultations that they knew little about NDP II. Furthermore, the Chapter indicates how and where in the report the assessment of the implementation of activities under each component is conducted in relation to the original ToRs for the assignment.

2.1 The Design of the Programme

2.1.1 The Second National Decentralisation Programme 2005 – 2009 (NDP II) was designed in 2004 and was ready for implementation from January 2005 onwards. Its design was based on the implementation lessons, gaps and emerging strategic issues uncovered by the 2004 review of NDP I. In this regard, the choice of components was relevant to the challenges identified at that time which are also relevant a decade later. Unfortunately, NDP II was not presented to all its key stakeholders, including donors, the civil society, government ministries and departments, the private sector, and others for support. Unlike NDP I, no stakeholders' resource mobilisation round table was held for NDP II allegedly because the postponement of Local Government Elections in 2005 and 2009 made it difficult for the Ministry of Local Government and Rural Development to justify the programme to development partners (Chiweza 2010:25). *This point underlines the need for multiple stakeholders' consultations for a programme of this nature so as to mobilise the stakeholders' political, technical, financial and other forms of support that such programmes require.* There was need to solicit the support of such key stakeholders as the Office of the President and Cabinet, the State House, the key Ministries of Finance, Economic Planning and Development, and Foreign Affairs and International Cooperation, Justice and Constitutional Affairs, the Department of Human Resource Management and Development, Civil Society Organisations, the Private Sector, and Development Partners who were expected to play strategic roles in the implementation of NDP II. Due to this inadequate mobilisation, little implementation of the programme took place between 2005 and 2013.

2.1.2 NDP II 2008 – 2013 was prepared in the light of government’s adoption of the Malawi Growth and Development Strategy (MGDS I) 2006 – 2011. The MGDS had a theme called “Improved Governance” which had a sub-theme on “Decentralisation”. NDP II 2008 – 2013 was thus viewed as a means of implementing this theme and the decentralisation sub-theme of the MGDS. Its goal was to have functional and accountable local government that provides quality services to Malawians as provided for in the Constitution of the Republic of Malawi, the Local Government Act, the National Decentralisation Policy and other relevant policies and legislation. The inclusion of decentralisation in the MGDS signifies government’s commitment to decentralisation despite the perception among some national stakeholders that decentralisation in Malawi lacked political support. The MGDS, therefore, provided a basis for stakeholders in decentralisation to mobilise sufficient resources for NDP II since decentralisation and integrated rural development had been singled out by Government and other stakeholders as priority developmental issues.

2. 2 Components of NDP II 2008-2013

The choice of the components of NDP II 2008-2013 was made bearing in mind the following criteria:-

- i) The expected strategic contribution of an action area to the decentralisation process;
- ii) The complementarities of an action area with other action areas that were deemed to be crucial to the devolution process; and
- iii) The optimal number of action areas that can be implemented, managed and coordinated with the capacities that were expected to be available at various levels of programme management.

In the light of the above 3 considerations, the 2008-2013 phase of NDP II had the following four components:-

2.2.1 Sector Devolution

2.2.1 The objective of this component under NDP II was to ensure the effective transfer of functions and responsibilities from central government to local authorities in order to:-

- (a) Promote effective participation of communities in development projects;
- (b) Improve effective and efficient delivery of services; and
- (c) Improve transparency and accountability in the use of public resources.

The main task was to overcome resistance to the devolution process. This resistance had been thoroughly analysed by the 2004 review of NDP I. That review had found that the devolution process had been hindered by resistance by the devolving ministries and lack of technical capacity to handle the devolution process. These challenges were attributed to lack of a devolution strategy which resulted in failure to translate devolution plans into implementable activities. Furthermore, this component was expected to assist in building the capacities required for ministries, assemblies and sub-district structures such as Area Development Committee and Village Development Committees and communities to appreciate the importance of, and manage, the devolution process. More details about the component are discussed in Chapter 5 as part of the assessment of the programme's implementation process.

2.3 Fiscal Devolution, Accounting and Financial Management

2.3.1 This component was expected to facilitate the decentralisation process through the strengthening of local authorities' capacities to manage and account for financial resources transparently. It was aimed at strengthening the relationship between central and local governments in the provision of funding for devolved functions, review of the revenue mobilisation process, resource allocation mechanisms, and the management of, and accounting for, public funds and other resources. The implementation of activities under this component was coordinated by the Ministry of Finance, mostly through the National Local Government Finance Committee. The assessment of the implementation of this component, to address the first, second, fourth, and fifth ToRs for the assignment, is conducted mostly in Chapters 6 and 7 of this report.

2.4 Institutional Development and Capacity Building

2.4.1 The objective of this component was "to have functional and effective institutions for the management of decentralisation fully institutionalised at the national, local authority (council) and community levels by 2013". The Ministry of Local Government and Rural Development was expected to ensure that capacities required for the effective implementation of decentralisation activities were in place. The Ministry, in collaboration with Development Partners (especially UNDP, GIZ and Irish Aid) prepared a Capacity Development Programme for Decentralisation (CDPD) which supported the implementation of NDP II. The Department of Human Resource Management and Development was required to coordinate the implementation of this component and provide an overall policy direction on the capacity development strategies and activities at the central and local levels. The assessment of the implementation of this component, to address the

first, third, sixth, and seventh ToRs for the assignment, is conducted mostly in Chapters 3, 9 and 12 of this report.

2.5 Local Development Planning and Financing Mechanisms

2.5.1 This component was expected to promote mechanisms for participatory local development planning and empowering people at the community level so as to ensure that public services are delivered in an efficient and effective manner. It was also aimed at strengthening the operational linkages between development planning frameworks at the community, local authority, and national levels. This was expected to ensure the full integration of a District/Council level planning system with the country's decentralisation agenda and national economic and development policies and programmes such as the MGDS. It also sought to assist councils to plan effectively for the growth of their local economies with sound physical development planning in line with MGDS priorities. This would also entail effective and efficient utilisation of community-level development planning structures such as Area and Village Development Committees and plans or projects in tandem with those at council and national levels. The implementation of this component was coordinated by Ministry of Local Government and Rural Development in collaboration with the Ministry of Economic Planning and Development. The assessment of the implementation of this component, to address the first, fifth and sixth ToRs for the assignment is conducted mostly in Chapters 8, 9, and 12 of this report.

2.5.2 Despite the resource mobilisation challenge encountered, some development partners who were willing to fund the implementation of decentralisation (such as GIZ, Irish Aid, and UNCDF/UNDP) developed specific programmes with the MoLGRD. UNCDF/UNDP sponsored the Malawi Local Government Strengthening and Investment Programme (MLOGSIP), GIZ sponsored the Malawi Germany Programme for Democracy and Decentralisation (MGPDD) and Irish Aid sponsored the Joint Capacity Development Programme for Local Governance (JCDPLG). Only those activities of the NDP II and the districts that were within the ambit of the three specific programmes received funding. The challenge was that each of those programmes had a separate steering committee with the MoLGRD and there was limited opportunity for regular dialogue and synchronising of activities between the three programmes and the components of NDP II. Other donor funding continued to flow through other sector programmes directly to districts such as in agriculture, health and education. This is an enduring problem about the implementation of decentralisation in Malawi. There is a clear need to address it so as to enhance

efficiency and effectiveness in this area by improving coordination of donor support for decentralisation.

2.5.3 We assessed the extent to which various stakeholders were involved in the design of NDP II and the feedback that we received indicates that, unlike NDP I, the design of NDP II did not involve many stakeholders at the national and council levels and no communities indicated that they were involved in the design of the programme. The findings of the questionnaire survey of responses from district and urban councils' staff indicated that only about 8 per cent of respondents had heard of the design of the programme but were not involved in that process. This indicates that there is need for thorough consultations in the design of such important programmes as NDP II so as to enhance their visibility and implementation prospects.

2.5.4 It is worth noting here that although decentralisation activities were expected to be undertaken in the context of NDP II, many such activities were actually implemented outside NDP II, especially when the programme was not prominent, between 2005 and 2008. In most cases, important decisions, such as the appointment of District Commissioners and Chief Executives of Urban Councils as Controlling Officers, did not require financial resources but political, technical and administrative support. More details about those activities are discussed in the remaining Chapters of the report.

CHAPTER THREE

INSTITUTIONAL FRAMEWORK AND CO-ORDINATION ARRANGEMENTS

3.0 Background

This Chapter of the report assesses the capacities and appropriateness of the institutional and implementation arrangements of NDP II, in view of the available financing, political, and administrative capacities at the material time and suggests how to improve them. In so doing, it addresses the third (vi) and seventh (vii) ToRs of the Review. The Review Team noted that several institutions were put in place to coordinate the implementation of the National Decentralisation Programme both at the national and local council levels. At the national level were the Office of the President and Cabinet, the Cabinet Committee on Local Government and Rural Transformation (CCLGRT); the Inter Ministerial Technical Committee on Decentralisation (IMTC); the Joint Donor/ Government Committee on Decentralisation and the Ministry of Local Government and Rural Development. At the local level, the City, Municipal and District Councils were the key coordinating institutions.

3.1 The Office of the President and Cabinet (OPC)

3.1.1 The role of the Office of the President and Cabinet is to ensure that government policies are implemented efficiently. In respect of decentralisation, its responsibility was to provide overall leadership and guidance to the implementation process and also ensure that the Political and Administrative Champions for decentralisation play their rightful roles, within the context of public sector reforms. Decentralisation was therefore viewed as a key aspect of the Public Sector Reform Programme.

3.1.2 The Review Team noted that during the period under review, there were challenges in the implementation of decentralisation that called for the intervention of the Office of the President and Cabinet, some of which were:-

- (i) Failure by Government to hold the Local Government Elections which were postponed in the years 2005, 2007, 2009 and in 2010. The consequence is that the Local Councils functioned without the much needed political leadership of councillors for the entire 10 year period up to May 2014 when councillors were elected.

- (ii) The enactment in 2010 of amendments to the Local Government Act through the Cabinet Committee on Constitutional, Legal and Parliamentary Affairs which were not in the spirit of devolution but de-concentration.
- (iii) The Local Government Service Commission (a body responsible for the appointments promotion, and discipline of staff in the Local Councils), did not have Commissioners from 2009 until 2012. The absence of Commissioners resulted in Councils having huge gaps in staffing levels and many unresolved disciplinary cases, which negatively affected service delivery by the Councils.

3.1.3 In view of the above factors, we conclude that there was weak top level political and administrative leadership in the implementation of NDP II which resulted in the weakening of the Local Councils. In this regard, we **recommend** that the Office of the President and Cabinet should regain its centrality in championing the decentralisation implementation process as it did for NDP I. This would involve reflecting the interests of the political and administrative champions in decentralization. In addition, there is need to engage dedicated staff conversant with decentralisation at Deputy Director, Director and higher levels (in OPC and MoLGRD) who should provide professional advice to top administrative and political leadership on decentralisation.

3.2 The Cabinet Committee on Decentralisation [The Cabinet Committee of Local Government and Rural Transformation (CCLGRT)]

3.2.1 This Committee was one of the nine Cabinet Committees. Its mandate included providing political guidance on the implementation of the National Decentralisation Programme, and it was required to meet on a regular basis. The Committee was chaired by the Minister of Local Government and Rural Development. We established that between 2008 and 2013, the Committee met only twice in 2006 and 2013. The main reason for the failure to meet regularly is that its members accorded low priority to decentralisation.

3.2.2 The Review Team however noted that in 2014, prior to the Tripartite Elections, the Committee had met twice. The Team observed that the nine Cabinet Committees have recently been collapsed into five Committees, and that issues of decentralisation will now fall under the Cabinet Committee on Economy and Public Sector Reforms, chaired by the Minister of Finance,

Economic Planning and Development. The Committee has eleven members including the Minister of Local Government and Rural Development.

3.2.3 The Review Team **recommends** that the Ministry of Local Government and Rural Development should play a proactive role in identifying issues that need to be brought to the attention of the Committee for consideration. The ministry should be preparing and submitting the necessary documentation to the Cabinet Office for consideration by the Committee on a regular basis in order to sustain the prioritisation of decentralisation at the Cabinet level.

3.3 The Inter-Ministerial Technical Committee (IMTC)

3.3.1 This Committee is composed of technical experts from all devolving sectors, the Office of the President and Cabinet, the Ministry of Local Government and Rural Development, and the Ministry of Finance, Economic Planning and Development. The IMTC is responsible for providing technical support for the decentralisation process. It reported to the Cabinet Committee on Decentralisation and Rural Transformation through the Ministry of Rural Development and Rural Development prior to the appointment of the Cabinet on the Economy and Public Sector Reforms. The Committee was chaired by the Secretary for Local Government and Rural Development and it was expected to meet on a quarterly basis.

3.3.2 We noted that during the period under review, meetings of the Committee were not regular and the reason for this was reportedly lack of financial resources. We believe that meetings of this committee would not cost much if they were held within Lilongwe. We therefore attribute this failure to the other Ministries' and Departments' low prioritisation of decentralisation in relation to their own activities such that they did not see much benefit in participating in IMTC meetings.

3.3.3 We therefore **recommend** that the Ministry of Local Government and Rural Development should take proactive action that will enable Ministries and Departments to appreciate the need for them to address their needs and interests through decentralisation. This should include an articulation of the strategic benefits of ministries' participation in the meetings. MoLGRD should also provide appropriate orientation to members of the Committee on the technical aspects and challenges of decentralisation and how they can be resolved.

3.4 The Joint Government of Malawi/Donor Committee on Decentralisation

3.4.1 This Committee is composed of representatives of Development Partners and senior government officials. It supports the decentralisation process by providing an avenue for

communication and coordination between government and development partners in technical aspects of decentralisation. We noted that, unlike the Cabinet Committee on Local Government and Rural Transformation and the Inter- Ministerial Technical Committee on Decentralisation, this Committee meets on a regular basis. However, we learned that very often, the level of preparedness for the Committee's meetings on the government side was weak. In addition, where resolutions were made for the government side to follow up on certain matters, progress was largely slow owing to institutional capacity challenges. At the time of the Review, we noted that the Committee had been reconstituted to become a Sector Working Group on Local Governance and Decentralisation. Its membership included Government Ministries, Cooperating Partners and Non-Governmental organisations and we presented our preliminary findings of this Review to the Working Group for its input and guidance. *Although this Working Group is new, its multiple-stakeholder composition makes it potentially the most appropriate institutional structure for the coordination of decentralisation and integrated rural development work in the country. However, for it to play its role effectively and efficiently, it will require the **pragmatic leadership** of both OPC and MoLGRD on the government side and UNDP on the development partners' side.*

3.4.2 The Review Team **recommends** that all institutions represented on the Sector Working Group be fully committed to participating in the Group meetings. The Group should also actively follow up on the implementation of the resolutions made during the meetings so as to speed up the implementation of the decentralisation process. Significantly, OPC, MoLGRD, and UNDP should provide **pragmatic leadership** to the Group.

3.5 The Ministry of Local Government and Rural Development (MoLGRD)

3.5.1 The Ministry is responsible for coordinating the decentralisation process through which functions and financial and other resources are supposed to be transferred from Central Government to the local councils. It also ensures that the Local Government System is operating effectively by providing technical guidance and support to the local councils. In this regard, the Ministry facilitates the preparation of Sector Devolution Plans at the centre in collaboration with various Ministries and Departments. At the same time, it ensures that the Councils come up with integration plans that show how the councils are going to take on board the devolved functions.

3.5.2 The Review Team considers the Ministry's capacity to coordinate and manage the implementation of decentralisation to be weak largely due to the existence of high vacancy rates at professional and technical levels. In addition, the key staff that are expected to coordinate and manage the process on a day to day basis are also regularly assigned other activities. Furthermore,

frequent postings of staff resulted in some of the new entrants into the Ministry lacking a solid grounding in technical aspects of decentralisation. The Review Team therefore **recommends** that key vacancies at professional and technical levels be filled as a matter of urgency. Furthermore, a lean entity should be created within the Ministry of Local Government and Rural Development solely to coordinate and manage the implementation of decentralisation in collaboration with or under the Department of Local Government Services of the Ministry. The entity should be staffed by experts in the key technical areas of decentralization such as sector devolution, fiscal devolution, legal reforms, and democratisation.

3. 6 The Local Councils

3.6.1 In the local councils, a Committee of elected representatives to coordinate and monitor the progress of devolution was expected to be formed. In the Secretariat, Council Task Forces were supposed to be formed. Their responsibility was to prepare strategies for integrating the devolved functions, staff, and other resources at the council level. During the review of NDP I (2001-2004), it was observed that these committees were non-existent in some councils and where they existed, they were not coordinating the devolution process effectively. During the current study, we noted that due to the absence of Councillors over the period in question, Committees of elected representatives on devolution in the Councils visited did not exist. Similarly, the Task Forces did not exist in all the councils that we visited and most of the officials met had little or no knowledge of decentralisation. The coordination of devolution activities at the council level was therefore weak.

3.6.2 We consider the election of Councillors in the May 2014 Tripartite Elections to be an opportunity to have elected representatives who can now form committees to coordinate and monitor the progress of devolution. In this regard, we **recommend** that the Ministry of Local Government and Rural Development, in collaboration with MALGA, should facilitate the formation of Committees of elected representatives and Task Forces of officials in the local councils. Their main task should be to coordinate the implementation of devolution at the council level. These Committees should be provided with clear terms of reference and be oriented on how to carry out their roles.

CHAPTER FOUR

AREAS OF POSSIBLE DEVOLUTION FOR THE MINISTRY OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT

4.0 Background

This Chapter presents the findings, conclusions and recommendations on areas of possible devolution by the Ministry of Local Government and Rural Development. As noted in Chapter 1, the need to identify possible areas in which the Ministry should devolve was underlined by numerous stakeholders who argued that the ministry undermined the decentralisation process through its tendency to play roles that the Decentralisation Policy and the Local Government Act transfer to councils. It was thus claimed that the ministry cannot effectively lead the decentralisation process while it engages in centralisation activities in contravention of the Policy and the Act. The assessment conducted in this Chapter was based on comparisons between the provisions of the Decentralisation Policy (1998) and the National Local Government Act (1998) (in terms of the functions earmarked for devolution to the Local Councils by Central Government Ministries/Departments) and the activities and practices that the ministry undertook. This review identified areas that the Ministry of Local Government and Rural Development should consider devolving or letting them go to the councils. In this regard, the following areas were identified:-

4.1 The Management of Chiefs

4.1.1 One of the activities that the Ministry of Local Government and Rural Development engages in significantly is the management of chiefs. This, among other aspects, covers Chiefs' installations, elevations/promotions, sensitisation, and the administration of salaries and other terms and conditions of service for Chiefs. During the 2004 review of NDP I, the Review Team had recommended that the management of chiefs should be handled by a different entity within the Office of the President and Cabinet. This followed observations by stakeholders that the then Department of Local Government was spending most of its time and financial resources on this function at the expense of coordinating the implementation of decentralisation. It was envisaged that District Commissioners, under whose supervision the chiefs work, would have direct links with that Unit. We found that that Unit was not established under the Office of the President and Cabinet and the transfer of the function was not implemented.

4.1.2 We have established that the Ministry of Local Government and Rural Development's involvement in the management of chiefs' affairs continues to take up much of its time and financial resources that should have been devoted to coordinating implementation of the

decentralisation process. Some stakeholders also observed that the role of Chiefs in local governance needs to be clarified because they had become political tools of ruling political parties and not facilitators of development which is claimed to be of their key roles in Malawian society. The review further established that there was only one officer in the ministry's directorate responsible for the management of chiefs' affairs who had no support staff and had a huge workload to cover. A number of options were considered regarding how best the management of chiefs could be executed. The first one was to transfer the function to the Office of the President and Cabinet. This option was considered not to be appropriate as it would create problems of coordination since the Ministry of Local Government and Rural Development, unlike the then Department of Local Government, does not fall directly under the Office of the President and Cabinet. This arrangement would also create dual reporting lines for District Commissioners. The second one was to transfer the function to the Department responsible for culture in the Ministry of Tourism since there were cultural aspects in the role of Chiefs. This, however, would also create problems of coordination and the management of chiefs' affairs would not receive the attention it deserves as it could be treated as a peripheral function of the Ministry. A third option would be to create an autonomous Department to handle the management of chiefs' affairs. This would enable MoLGRD to devote its full attention to coordinating the implementation of decentralisation. However, the setting up of a separate department to manage Chiefs affairs would be costly as it would require coming up with a new institutional structure and provision of appropriate human, material and financial resources. Alternatively, the function could be devolved to the Local Councils, and this would be more sustainable because it would utilise existing mechanisms and resources and is in line with the provisions of the Local Government Act, the National Decentralisation Policy, and the Sector Devolution Guidelines.

4.1.3 Having analysed the four options, the Team **recommends** that MoLGRD should devolve the chiefs' management function to the Local Councils. In this regard, the Councils should be responsible for carrying out operational issues including the administration of chiefs' pay, loans and their general terms and conditions of service while the Ministry should be responsible for policy formulation, setting guidelines and standards, and monitoring and evaluating the performance of the function by the Local Councils. Local Councils should, however, be provided with sufficient financial and material resources for them to effectively carry out the new responsibilities. We further **recommend** that MoLGRD and other relevant stakeholders should openly discuss the role of Chiefs in local governance so as to remove the perception that they are merely political tools of ruling political parties and not facilitators of development.

4.2 The Recruitment and Management of Council Staff

4.2.1 The Review Team noted that the Ministry of Local Government and Rural Development plays a number of human resource management and development functions in respect of staff working in the Local Councils. Some of the key functions include:

- i) Making submissions to the Local Government Service Commission pertaining to the appointments, promotions, and discipline of Local Council employees under the jurisdiction of the LGSC, that is, from District Commissioners (Grade M2) to Officers in (Grade M9);
- ii) Deployment of Local Council employees other than those belonging to Common Services and employees belonging to sectors that have not fully devolved their employees to the Local Councils;
- iii) Appointments, promotions, and discipline of Chief Executive Officers of City and Municipal Councils;
- iv) Deployment of District Commissioners and Chief Executives of City and Municipal Councils; and
- v) Approval of salaries of Councils' employees.

4.2.2 The stakeholders consulted observed that some of the functions highlighted above could be assigned either to the LGSC or the Local Councils. The 2010 amendment of the Local Government Act, which transferred the responsibility of recruiting Council Chief Executives from the LGSC to the Ministry, was considered as not being in the spirit of decentralisation. In addition, while District Commissioners and other senior officers in the Councils in posts equivalent to Grade E and above were under the jurisdiction of the LGSC, it was observed that the actual recruitment, appointment, and exercise of disciplinary control over these categories of staff was handled by the MoLGRD. It was therefore suggested that as the process of decentralisation progresses, there should be a corresponding process of transferring the human resource management and development functions to LGSC and the Local Councils.

4.2.3 We agree to the observations above and we **recommend** that Government should revisit the 2010 amendment of the Local Government Act, to give full responsibility to the LGSC as the recruiting and appointing authority for all Local Council employees including Chief Executives. Similarly, LGSC should assume responsibility over all Council employees from District Commissioner (Grade M2) to Grade M9, while the Local Council Appointments and Disciplinary

Committees would continue to have jurisdiction over employees in Grades M10 and M11. The deployment of Local Council employees should be exercised by MoLGRD only in the short term. After human resource management and development systems developed under NDP I and NDP II have been adopted, movements of staff from one Council to another should be a subject of consultation among the Councils themselves in line with the guidelines.

4.3 The Degree of Autonomy for LGSC, NLGFC and the Local Development Fund.

4.3.1 The Local Government Service Commission is an institution established under Section 147 (4) the Constitution of the Republic of Malawi and its powers and functions are elaborated under the Local Government Service Commission Act. The National Local Government Finance Committee is also established under the Constitution, under Section 149 (1), and like the LGSC, it is an institution under the Ministry of Local Government and Rural Development. On the other hand, the Local Development Fund is an Inter-governmental Fiscal Transfer Mechanism that allows for a harmonised national resource mobilisation, equitable allocation of development resources, effective development implementation capacities and results accountability. As a fiscal instrument, the LDF provides a nation-wide harmonised, transparent and sustainable local development financing mechanism for Local Councils and Community levels. The current status of LDF is that it is a project under the Ministry of Local Government and Rural Development. During the consultations, each of the three institutions expressed the need for some autonomy in order to operate more effectively than they do under the current institutional arrangement. We examine each of these institutions' degree of autonomy and make relevant recommendations in the sections below.

4.3.1 The Local Government Service Commission

4.3.1.1 The Local Government Service Commission's key challenge is that it is a cost centre under the Ministry of Local Government and Rural Development. The Commission's financial resources are channelled through the Ministry which eventually decides how much to allocate to the Commission on a monthly basis. During the review, the Team learned that the Commission was receiving as little as MK200, 000 per month as its ORT funding which was not sufficient for it to carry out its mandated functions. Besides inadequate funding, the Commission does not have an opportunity to clearly articulate its requirements before Treasury and the National Assembly.

4.3.1.2 In view of the above situation, the Review Team **recommends** that the Ministry of Finance should provide the LGSC with its own Vote so that it is funded directly by the Treasury. This is so

due to the important roles it is required to play in the appointment and disciplining of Local Councils' staff. In addition, the Commission should be accorded the opportunity to articulate its financial challenges and their implications for local governance to the Treasury and the National Assembly. The Team further **recommends** that LGSC should remain under MoLGRD while at the same time ensuring that it operates independently from the Ministry, when it comes to decision making on matters under its mandate.

4.3.2 The National Local Government Finance Committee

4.3.2.1 The National Local Government Finance Committee's key challenge is that under the existing arrangements, its terms and conditions of service and pay structure are not significantly different from the mainstream Civil Service. The Committee employs professional staff whose expertise is on high demand on the labour market. As a result, the Committee has not been able to retain its talented personnel. The Team considers the Committee's role of ensuring effective mobilisation, equitable distribution, and efficient utilisation of financial resources by the Local Councils as a challenging one, which requires the retention of talented personnel.

4.3.2.2 The Review Team therefore **recommends** that government, through MoLGRD and the Ministry of Finance, should establish a National Local Government Finance Commission, with competitive remuneration and terms and conditions of service to facilitate the attraction, retention and utilisation of talented personnel.

4.3.3 The Local Development Fund (LDF) Technical Support Team (TST)

4.3.3.1 In terms of the Local Development Fund Technical Support Team, consultations revealed that due to the on-going nature of work for the Fund, there were proposals to establish a permanent entity in the form of a Trust or an Authority, which would also operate with some degree of autonomy. While this is the preferred direction by the LDF Technical Support Team, the Review Team noted that there were a lot of similarities in the nature of work between the LDF TST and the NLGFC. While the NLGFC was primarily concerned with mobilising and allocating financial resources for recurrent financing for the Councils, the LDF TST was primarily concerned with mobilising and allocating development financing for the same councils. The Review Team therefore considers it appropriate to have one entity responsible for financial issues for the Local Councils.

4.3.3.2 In view of the similarities discussed above, the Review Team **recommends** that Government, through OPC, the Ministry of Finance and MoLGRD, should merge the NLGFC and

the LDF to form one entity which will be concerned with both development and recurrent financing for the Local Councils. The exact determination of the detailed functions, institutional structure, and staffing levels should be the subject of a detailed study.

CHAPTER FIVE

SECTOR DEVOLUTION

5.0 Background

This Chapter presents the findings of the NDP II Review on the implementation of the Sector Devolution component and performance of NDP II. It thus contributes to addressing the first Term of Reference for the review which relates to the assessment of the implementation of NDP II and the CDPD, in view of the recommendations of the NDP I Review of 2004. This is so because Sector Devolution was a key component of NDP II and reviewing it in detail provides important insights into the underlying factors that affected the implementation of the programme. The Chapter reviews the approach adopted and the roles and performance of the key stakeholders of the component, principally the Office of the President and Cabinet, the Ministry of Local Government and Rural Development, other NDP II Components' Coordinators, Sector Ministries, Rural and Urban Councils, and Communities. It also examines the legal challenges that affected the implementation of the component.

5.1 The Sector Devolution Approach

5.1.1 The Policy: The National Decentralisation Policy recognises local authorities (Councils, Wards, Area Development Committees and Village Development Committees) as the appropriate sub-national structures to which political and administrative authority, functions, and resources should be devolved. It is in line with this policy that Regional Administrators' offices were abolished and similar sectoral intermediary structures are supposed to be discontinued. The devolution that is embraced in the National Decentralisation Policy and the Local Government Act is that of transferring administrative and political power, functions and resources (financial, physical, human and others) from central government (Capital Hill) to local political actors and institutions or local authorities at the council and sub-council levels. It follows the principle of subsidiarity whereby the transfer is to the lowest or least centralised authority which is capable of addressing issues or problems holistically and effectively. It includes increasing the participation of citizens and the private sector in governance, service delivery and the management and implementation of economic and development activities. By the end of NDP I, Sector Devolution Guidelines had been prepared and approved by a Cabinet Committee on Decentralisation and were in use. In addition, seven operational manuals had been prepared.

5.1.2 The Target Set: The component was expected to facilitate the transfer of 80% of functions and responsibilities identified for devolution to local authorities by 2013. The implementation of this component was coordinated by the Office of the President and Cabinet and the President of Malawi was expected to serve as the political champion for the whole decentralisation process. At the same time, the Chief Secretary was expected to serve as the administrative champion of the process. This arrangement was made so that the two offices would drive the process through any forms of sectoral and administrative resistance and technical delays in the devolution process. The championships would include advocacy for decentralisation and the deployment of human and other resources in the sectors to councils and lower structures.

5.1.3 Guidelines: The Guidelines for Sector Devolution provide for the decentralisation of central government functions to local authorities and they specify the ministries whose functions would be devolved. Each of these ministries was required to produce a devolution plan which would provide a detailed list of the functions to be devolved, legal, staffing and financial implications of the devolution and provision for training local authorities in the devolved functions. It would also include a work plan indicating the activities to be undertaken (Republic of Malawi Undated: 20). Originally, a list of eleven (11) ministries to be devolved was prepared and these were expected to submit their devolution plans by 30th June, 2002 and their implementation was supposed to commence thereafter. The 2004 Review of NDP I found that out of the eleven (11) ministries, ten (10) had at least prepared and submitted their plans and they were at various stages of implementing them. During the 2014 Review of NDP II, we found that an additional five (5) had embarked on the devolution process, bringing the total to fifteen (15).

5.1.4 While the guidelines were thorough in their coverage, we found that they left some room for ministries to resist the devolution of their functions since they were given the leeway to determine what to devolve and what to retain as their core functions. In addition, the guidelines use the words “sector” and “ministry” interchangeably and this has created some ambiguity in terms of what exactly was expected to be devolved in relation to the forging of operational linkages between the sectors that were prioritised in the national planning frameworks such as the MGDS and those prioritised in the devolution process. For example, the MGDS prioritises the economic sectors of mining, tourism, and energy and yet these do not feature in the priority sectors for devolution. Furthermore, while the MGDS fully recognises the private sector as the engine of growth, the guidelines and sector devolution plans give little or no attention to matters of private sector engagement in the devolution process. In view of the above challenges, we **recommend** that MoLGRD should facilitate a thorough review of the Sector Devolution Guidelines to remove the

leeway for sectors to single-handedly determine what they devolve and to clarify the meaning of a sector in relation to national development planning frameworks.

5.1.5 The Role of the Private Sector and NGOs / CSOs: We also found no clearly articulated roles for the Civil Society Organisations or Non-Governmental Organisations in the devolution process. Consequently, the devolution that has been pursued has not resulted in the creation of sufficient or broad-based demand for the efficient and cost-effective delivery of public services through the local authorities. While starting with the devolution of ministries was a good starting point in the devolution process, after a decade of implementing the initiative, avenues should have been created for the effective participation of the private sector, NGOs, and ordinary people in the sector operations rather than expect government ministries to be the sole agents in the devolution of sectors to local authorities. There is need, therefore, to widen the scope of sector devolution so that it involves other strategic players in the process so as to make its implementation more effective than has hitherto been the experience with it. We therefore **recommend** that MoLGRD should take measures to ensure the effective engagement of the private sector, CSOs, and NGOs in the devolution process.

5.1.6 The Role of Regional or Intermediary Structures: We also noted that the Sector Devolution Guidelines and the Local Government Act do not say anything about the future of sectoral ministries' intermediary structures of a regional nature such as regional offices, zones and Agriculture Development Divisions. For example, the Ministry of Education has retained the Education Divisions while the Ministry of Agriculture has retained the Agriculture Development Divisions (ADDs) and the Ministry of Health has retained Zonal structures. Furthermore, the Ministries of Lands, Housing, and Urban Development, Irrigation and Water Development, Labour, and others have retained their regional offices. In some cases, the retention of regional structures has been justified on the ground that legal frameworks provide for the regional offices while in others the justification was that there is inadequate capacity in some of the districts and that the officers located at the regional offices provide technical support in the execution of assignments in those districts. These structures serve as intermediary layers of authority and decision-making in sectoral operations. During the early stages of the decentralisation process, a policy decision was made to phase these structures out in the spirit of devolution to local authorities. During the NDP II Review consultations, we found that the key sectors of agriculture, health, education, lands, transport, labour, and water are some of those that had retained these structures. Technical arguments were advanced for their retention largely in terms of the need for technical/sectoral supervision and quality control and the high cost of providing technical expertise

and equipment in each and every council. It was suggested that economies of scale were being realised through the use of these structures to cater for clusters of councils. After weighing the arguments for and against the retention of these intermediary structures, and in the best interests of enabling councils to efficiently deliver services to the people, we **recommend** that OPC and MoLGRD initiate and embark on the preparation of a comprehensive strategy for eventually dissolving these structures while strengthening councils' capacities to provide the technical support services that they provide.

5.1.7 Performance Vis-à-vis Set Target: During field work, it was clear that sectoral/ministerial staff seconded to councils exercised dual allegiance and reporting to the relevant ministries through the above intermediary structures and demonstrated little recognition of council management as their superiors. This served to defeat the very essence of sector devolution. This practice has merely led to the de-concentration and not the devolution of sectoral operations to local authorities. As noted above, the component was expected to facilitate the transfer of 80% of functions and responsibilities identified for devolution to local authorities by 2013. During the consultations for this review, stakeholders estimated that between 50% and 60% of the functions were actually transferred during NDP II. The underperformance was attributed to inadequate support for devolution in both OPC and MoLGRD to counter subtle forms of resistance to the devolution process by the devolving ministries and departments.

5.2 The Role and Performance of the Office of the President and Cabinet (OPC)

5.2.1 As indicated in Chapter 2, the Office of the President and Cabinet (OPC) was designated as the coordinator of the Sector Devolution Component and process. Our inquiries revealed that this role was not played satisfactorily. Stakeholders informed the Review Team that resistance to the transfer of power, functions and resources from the centre to local authorities was a known fact to OPC. However, there was no evidence that OPC took action to overcome this. In most cases, what was required of OPC was to simply write the concerned sectoral heads to take specific directions and actions. Even the sectoral heads expected to move in the direction of devolution but the absence of documentary instructions on how resistance to devolution should be addressed prevented sector heads from devolving their sectors fully. This point was stressed by the sectoral heads that had intermediary structures such as regional offices and zones. We noted that institutional changes within OPC had led to a situation whereby there was lack of a centre for action in respect of decentralisation and sector devolution in particular. This was unlike the situation during NDP I when the then Department of Local Government was part of OPC and there was constant communication on decentralisation between that department and OPC. In view of the

changes that OPC has gone through since the Review of NDP I, we **recommend** that OPC should designate a specific part of its structure and empower it to handle matters of sector devolution effectively.

5.3 The Role and Performance of the Ministry of Local Government and Rural Development

5.3.1 We found that stakeholders rated the performance of the Ministry of Local Government and Rural Development in the area of sector devolution poorly due to the many devolution issues that remained unresolved. In some cases, ministries claimed that they had moved to devolve their functions and resources to councils but they lacked direction and support from MoLGRD. In certain ministries, it was claimed that sectoral heads had approached MoLGRD for support to prepare their Sector Devolution Plans but no guidance or support came about. This was said to have led to their frustration and conclusion that decentralisation was not a priority to the Ministry of Local Government and Rural Development.

5.3.2 We noted that the Ministry of Local Government and Rural Development lacked dedicated capacity to handle the devolution task. While a Deputy Director and a Chief Local Government Officer in the Department of Local Government Services were responsible for decentralisation, this number of staff and their grading were grossly inadequate for them to effectively and efficiently grapple with decentralisation and devolution in particular. The design of NDP II included the involvement of staff in the other departments of the Ministry of Local Government and Rural Development in the NDP II implementation process but those staff were too occupied with their day-to-day work to pay sufficient attention to devolution issues. *Decentralisation issues were largely handled as add-on matters mostly due to lack of a well-staffed dedicated unit to grapple with the challenges of devolution on a day-to-day basis, as discussed in Chapter 4.* Consequently, the performance of the Ministry of Local Government and Rural Development in supporting sector devolution work was weak. There was need to designate at least the two (2) very senior MoLGRD officers (possibly at the P2 grade) solely to work on sector devolution alone, as a component under NDP II, on a day-to-day basis in support of the various devolving ministries and the thirty-five (35) councils.

5.4 The Role and Performance of Other NDP II Component Coordinators

5.4.1 For effective sector devolution to be undertaken there was need to draw on the technical and financial support from the other components of NDP II. Institutional reforms and capacity building needed to be undertaken to aid sector devolution. Legal reforms were also required to

harmonise sectoral operations and legal frameworks with the provisions of the Local Government Act of 1998. Financial resources, sectoral staff and physical assets also needed to be devolved fully to councils. This was expected to happen through the Ministry of Local Government and Rural Development's effective coordination of work across the NDP II components. This entailed the Ministry of Local Government and Rural Development working closely with the other component coordinators, especially the Department of Human Resource Management and Development, the Office of the President and Cabinet, the Ministry of Finance and the then Ministry of Economic Planning and Development. We found that the Ministry of Local Government and Rural Development worked closely with Department of Human Resource Management and Development but not the others such that sector devolution was largely incomplete. This was evidenced by a failure to detach sectoral and common services staff from the centre into councils. As noted in Section 5.3 above, this was largely due to lack of capacities to address this in the Ministry of Local Government and Rural Development.

5.5 The Role and Performance of Sector Ministries

5.5.1 The devolving ministries were key actors in the devolution process. They were required to identify the functions and resources that were to be devolved in sector devolution plans. According to the National Decentralisation Policy, the ministries were supposed to remain with overall policy coordination, setting and enforcement of sectoral guidelines and standards, quality control, efficient allocation and use of resources, international representation, and provision of services of a national character. The purpose of devolving the sectors/ministries is to bring service delivery close to the people who would hold public officials accountable and responsible for their failures and successes thereby enhancing effectiveness and efficiency in service delivery.

5.5.2 As was noted by the 2004 Review of NDP I, we found that sector ministries continued to resist sector devolution. In most cases, they argued that they did so because government did not seem to support devolution because of its desire to use national level staff in tasks that could best be undertaken by local authorities' staff. A clear example was that of the Farm Inputs Subsidy Programme which in several cases by-passed council staff. The health drugs procurement work had also suffered a similar fate with reversals of decisions on who should procure drugs for hospitals and health centres in councils' jurisdictions.

5.5.3 Significantly, as noted in Section 5.1.5, sectoral ministries established and sustained intermediary/regional structures as ways of resisting sector devolution. They commonly argued that they needed these structures for purposes of providing technical support to their sector staff working in councils. Most council staff, on the other hand, attributed this to a desire among

politicians and government officials to retain control over resources thereby influencing voting patterns in elections. We noted that narrow sectional interests, as opposed to pursuance of a common national good, were at the centre of the forms of resistance to sector devolution. This is partly due to the fact that sector devolution has so far been supply-driven as it lacks broad-based demand from the people that are supposed to be served by public officials.

5.5.4 We found that few sector ministries' staff had a solid understanding of the devolution process such that most of the staff of sector ministries did not appreciate the devolution roles that they needed to play even without donor and other external financial support. The clear exception to this was in the education sector whereby senior management clearly saw that sector devolution was an important means of delivering quality education in a cost-effective manner. Consequently, education has emerged as the best devolved sector with financial resources flowing all the way down to the primary school level. We saw some evidence of the Schools Investment Grant of K600, 000 per annum making a big difference in the quality of primary education delivery in several schools. This is a positive achievement in sector devolution that can be replicated in the other sectors.

5.5.5 Most stakeholders rated education, agriculture and health as the best devolved sectors within the context of NDP II. The worst performers were said to be transport, lands and water. This rating was largely in terms of the sectors' willingness and capacities to facilitate the transfer and smooth flow of funds and other resources from the centre to the councils. The worst performers, such as water, released as little as K12, 000 per month as their recurrent funding for District Water Officers during the 2014/2015 financial year. While the rating of the ministries may be correct, we found that the Ministry of Lands, Housing and Urban Development had undertaken one of the most comprehensive sector reviews in the devolution process. To its credit, it undertook a comprehensive review of all the land-related laws with a clear orientation towards devolving its powers, functions, and resources to councils. We therefore **recommend** that devolving sectors should learn from this approach so that they may undertake effective sector devolution that addresses their needs with satisfactory legal reforms. More details about the review of land-related laws are discussed in Chapter 11 of this report.

5.6 The Role and Performance of Rural and Urban Councils

5.6.1 We found clear evidence of the failure of sectors to devolve their functions and resources at the council level. However, we noted the positive development that the appointment by the

President of Malawi on 04 March 2005 of District Commissioners and Chief Executives of Urban Councils as Controlling Officers had facilitated the integration or coordination of the delivery of public services at the council level. This was very important evidence of political commitment to decentralisation which should have been utilised fully in support of sector devolution. Nevertheless, in rural councils, there was fragmentation of staff arising from their recruitment and management as either belonging to the councils or sector ministries. In council secretariats, there was also the division of staff between those from the old council recruited by the Local Government Service Commission (LGSC) and the civil servants seconded to councils. There were also civil servants who belong to such common services as Accounting, Human Resources and Administration who were managed from the centre.

5.6.2 We found that sectoral staff working in councils exercised dual reporting and allegiance because they had not yet been devolved to the councils. In some cases, sectoral staff reported what they considered to be technical work to sectoral ministries headquarters without the knowledge of the District Commissioners. In other cases, they reported to sectoral ministries with copies to the District Commissioners and this indicated that they were more accountable and responsible to the sectoral ministries than the District Commissioners. Some of the sectoral staff explained that this was so because sectoral ministries managed their files, payment of salaries, and career prospects. This is a key hindrance to the decentralisation process and we analyse it in more detail in Chapter 9 below.

5.6.3 We also found the weakest form of sector devolution in the urban councils. There were inconsistencies in the institutional structures, such as directorates, between the rural and urban councils. While the directorates in rural councils correspond to some sector ministries, this was not the case in urban councils. For example, agriculture, education, health and water offices in rural councils had clear linkages to the corresponding sectoral ministries. In contrast, urban councils lack such strong linkages to the sector ministries. This has created the impression that decentralisation is largely for rural councils and that the Ministry of Local Government and Rural Development is more oriented for rural councils than the urban ones. In fact several urban councils informed us that the Ministry's work is biased in favour of rural councils as opposed to them as evidenced by its name and that the guidelines for decentralisation refer mostly to district councils. While these sentiments may not reflect the ministry's official policy, we found that these assertions have some element of truth. We therefore **recommend** that the ministry should enhance its capacity to analyse and support urban development issues in relation to the devolution process.

Furthermore, the ministry should consider setting up a unit within its structure to handle urban development and management issues on a day-to-day basis.

5.6.4 At the sub-council or community level, sectoral fragmentation was the order of the day. Integration of sectoral development activities and service delivery was poor. Although Area Development Committees, Village Development Committees and Urban Neighbourhood Committees had been established in most of the councils, these committees had little or no capacities to hold sectoral staff at those levels fully accountable to them. Patron-client relationships and patrimonial social structures, coupled with the dual reporting system at the council level, undermine the committees' abilities to influence the work of the sectoral staff, efficient service delivery, and effective and efficient use of the services. There is need, therefore, to inculcate a civic culture in Malawian society so as to generate sufficient demand for efficient and effective public service delivery and use of resources, as part of the devolution process. It is in view of this that we **recommend** that MoLGRD and the Ministry of Education should take measures to facilitate the re-introduction of Civics as a subject in primary and secondary curricula and the promotion of a democratic culture as possible key activities in future decentralisation initiatives. We further **recommend** that MoLGRD should take measures to ensure that future decentralisation work take on board more devolution activities so as to address the gaps identified in the above assessment.

CHAPTER SIX

FISCAL DEVOLUTION, ACCOUNTING AND FINANCIAL MANAGEMENT

6.0 Background

This Chapter assesses the implementation of NDP II in terms of the achievements made under the component of the programme called **Fiscal Devolution, Accounting and Financial Management**. It assesses the extent to which the programme was efficient and effective in facilitating the improvement of financial management, transparency, and accountability in the local governments. It thus contributes to addressing the first (i), second (ii), fourth (iv) and fifth (v) Terms of Reference for the Review. It also reviews the roles played by such key actors in this area as the Ministry of Finance, the National Local Government Finance Committee, the National audit Office, the Local Development Fund, Councillors, District Commissioners and Chief executives of Urban Councils, and Civil Society Organisations, in facilitating fiscal devolution under NDP II. The major areas of interest are councils' budget preparation and execution, financing or resource mobilisation for councils, expenditure management and payments systems, and financial reporting, external scrutiny, and social accountability.

6.1 The Role of the Ministry of Finance

6.1.1 For devolution to succeed there must be a clear and strong fiscal relationship between the Central and Local Governments in terms of budgeting, funding, and reporting on the utilization of funds by local councils. The Ministry of Finance is at the centre of this function and plays a critical role in this regard. In recognition of this role, the coordination of the Fiscal Devolution Component in NDP II was given to the ministry. Although the Component was not implemented as expected, there have been some successes worth pointing out in this report. In furthering the decentralisation process, each Council was allocated a vote in the National Budget (Votes 601 to 928 and Vote 121 for the NLGFC). In addition, as noted in Chapter 5, District Commissioners and Chief Executives of District and Urban Councils were under the Public Finance Management Act (2003) appointed Controlling Officers. These two developments constitute a remarkable achievement in fiscal devolution as District Commissioners and Chief Executives now appear before the Public Accounts Committee of Parliament to answer audit queries raised by the Auditor General. This is an important way of inculcating a culture of transparency, accountability and responsibility in the management of public resources at the council and lower levels and it should be supported by all key actors in local governance. The ministry should also assist MoLGRD to mobilise adequate resources for a future decentralisation programme.

6.2 The Devolution of Sectoral Budgets

6.2.1 From the 2005/2006 fiscal year, Government started the process of devolving ORT Sector Budgets to local councils in three (3) sectors namely Health, Education and Agriculture with a total budget of MK3 billion. By the 2013/2014 fiscal year, the total sector budget that had been devolved to Councils stood at MK22.45 billion of which MK9.96 billion was for Health (MK3.848 billion was for drugs), MK9.7 billion was for Education, and MK1.038 billion was for Agriculture. The total number of devolved sectors in the 2013/2014 budget was 15, including Youth and Sports which devolved in that year. Some activities for the monitoring of the Farm Input Subsidy Programme within the Agriculture Sector had also been devolved to local councils at the time of field work. The Development Budget and Personal Emoluments had not been devolved. However, the Ministry of Education was in the process of devolving its Payroll Budget to councils. During the review, a number of ministries indicated that they were ready to devolve some functions and the budget but lacked directions or guidelines on this.

6.2.2 Budgeting for sector activities follows Treasury Guidelines similar to those released for Ministries and Departments. Treasury submits Sector Budget Ceilings to the NLGFC for allocation to Councils. The allocation of sector budget ceilings to councils is through relevant sector formulas. A number of sectors had developed their own formulas while others were in the process of doing so. After sector ceilings have been allocated to Councils, the sector ministry is consulted for comments before they are released to Councils. On receipt of ceilings, sector estimates are prepared and District Commissioner and Chief Executives of urban councils are expected to take a lead in that exercise. However, we found that, in a number of councils, it is the Head of the Sector who takes the lead in preparing the estimates.

6.2.3 Each sector is given its own template. After the exercise of preparing estimates is completed, the NLGFC convenes estimates meetings which are held in each of the four regions. Sector ministries are invited to these meetings and so is the Ministry of Finance. However, attendance has always been poor due to the fact that each ministry is required to meet its own cost of attending the meeting. The NLGFC does not have a budget line for estimates meetings. After the regional meetings, the NLGFC submits Council Budget Estimates to the Ministry of Finance for consolidation. Estimates for the Development Budget take place between the sector ministry and the councils. The NLGFC is not invited to such meetings since the Development Budget has not been devolved to Councils. The Ministry of Education, however, invites the NLGFC to such meetings. In view of the above challenge, we **recommend** that the Ministry of Finance should

provide the NLGFC with financial resources for it to convene the estimates meetings with the full participation of sectoral staff.

6.3 The Financing of Councils' Operations / Resource Mobilization

In the next few sections, we assess the financing of councils' recurrent and development budgets and other forms of resources or revenue for councils in the context of fiscal devolution. The major sources are Central Government Transfers, Sector Funds, the Local Development Fund, and the Constituency Development Fund. Locally Generated Revenue has been combined with the specific Section on Councils' Revenue Performance in Chapter 7 so as to avoid or minimise unnecessary repetition of assessments.

6.3.1 Central Government Transfers

6.3.1 According to the Decentralisation Policy and the Local Government Act, the Government is expected to transfer 5% of Net National Revenues (NNR), that is, excluding grants to Local Councils, as General Resource Fund (GRF) or Unconditional Grants. As observed by the 2004 Review of NDP I, we noted that this requirement might not be easily achievable even in the long term as Central Government has to service other obligations such as the ever growing domestic debt and arrears. Our examination of the financial statements, presented in Table 6.1 below, has disclosed that the allocation to the GRF for the 2012/2013 financial year was K1.153 billion against the actual NNR of K214.3 billion, representing 0.5% of the NNR. In the 2014/2015 financial year, the allocation to the GRF is estimated at MK2.37 billion against the estimated NNR of K525.3 billion, representing 0.45% of NR.

Table 6.1: Central Government Transfers

Fiscal Transfers	2012/2013	% of NNR	2013/2014	% of NR	2014/2015	% of NR
Approved	1,153	0.47	1,122	0.42	2.37	0.45
Revised	1,153	0.47	0.761	0.27	N/A	N/A
Actual	1.153	0.53	0.761	0.27	N/A	N/A
Total NNR:						
Approved	242.3		270.4		525.3	
Revised	242.5		278.9		NA	
Actual	214.3		283.5		NA	

Source: Ministry of Finance, Financial Statements 2012/13, 2013/14 and Draft for 2014/15.

The allocation of the GRF to councils is based on a formula which takes into account councils' population sizes and the incidence of poverty in terms of the proportion of the population that lives below the poverty line of US\$1 per capita per day. The formula has recently been reviewed to include such factors as literacy rates and the infant mortality rates of councils but the review had not been finalised by the time of the field work for this report. Nevertheless, we examined the question of whether the formula generated disparities in the budgetary allocation as well as actual funding between councils and found no such disparities. We noted, however, that there is need to consider including some index of infrastructural density across the councils so as to assist in addressing any proven inequalities in infrastructural development between councils.

6.3.2 Sector Funds

6.3.2.1 These are funds that are exclusively earmarked for the implementation of sector programmes or activities by councils. The use of these funds cannot be changed by the Council. As indicated above, at the time of the review, 15 sectors had devolved their functions. However, councils argued that apart from the Ministries of Agriculture, Health and Education, funding or budgets for other sectors were not proportional to the activities of the devolved functions. Funding had been drastically reduced and, as a result, activities in those sectors suffered. The Review Team therefore **recommends** that the Ministry of Finance should not reduce budgets for devolved functions regardless of the justification at the centre as this compromises the effective delivery of services to the people and local socio-economic development.

6.3.3 The Local Development Fund (LDF)

6.3.3.1 The Local Development Fund was created as a financing mechanism for local development investments and to support local councils in service delivery. The LDF replaced the District Development Fund (DDF) which for a number of years supported development programmes in District Councils. The DDF had a limited number of donors that provided financial resources and it was hence felt that, with the establishment of the LDF, more development partners would participate in it and it would release funds into the LDF basket. In terms of design, the LDF was expected to serve as a nation-wide transparent financing mechanism that would support decentralised and sustained development in District and Urban Councils. The ultimate goal of the LDF was to empower local communities to take part in service delivery and the decision-making processes through improved local governance and development management. It is a major source of financing for micro projects. However, its main areas of focus at the time of the review were the construction of school blocks and teachers' houses, public works (cash transfers), water and

sanitation. Three development partners have committed funds to support the LDF and these are the World Bank, the African Development Bank, and the German Government through KfW and GIZ.

6.3.3.2 The LDF was supposed to be reporting to the Ministry of Local Government and Rural Development. However, a decision was made to change the supervising Ministry to the Ministry of Finance. The LDF has a vote in the National Budget (Vote 272). During the national level consultations, however, we learnt that OPC had informed the LDF that it would be reporting to MoLGRD. In view of the frequent changes in the LDF's supervising ministries, we **recommend** that Government (OPC, MoF, and MoLGRD) should avoid destabilising the LDF by settling its ultimate home base. In making such a decision, consideration should be given to the recommendation that that it should be merged with the NLGFC made in Chapter 4 of this report.

6.3.3.3 The LDF has four operational windows. They are:

a) The Community Window

6.3.3.3.1 The Community Window is designed to finance demand-driven community socio-economic infrastructure investments and services which are directly managed by communities. Currently, this includes the Primary School Staff Housing Project (PSSHP), the community managed subprojects (open menu) and complimentary services for enterprise development. Water and sanitation projects eligible for funding under the community window include: construction, installation and rehabilitation of protected wells, springs and boreholes; rehabilitation or extension of communal piped water supplies; construction of ventilated improved pit (VIP) latrines for public facilities; rehabilitation, expansion and construction of water supply and sanitation systems for primary schools, health centres and other community based institutions; cattle water troughs and dip tanks; and communal township water supply.

b) The Local Authority Window

6.3.3.3.2 This window is designed to finance projects that cut across more than one community or Traditional Authority. Under this window, some members of poor households are engaged and earn a wage for working on the investment projects that also benefit their communities. Projects under this window are identified by the Council from within an Annual Investment Plan. Depending on the type of the project, beneficiary communities will be involved in discussions relating to the location, ownership, operations, and maintenance of the asset once completed.

c) The Performance Window

6.3.3.3.3 This is basically a Local Authority Capacity Enhancement window designed to finance capacity development requirements identified by local councils in the management of their core functional areas and to reward good performance through annual performance assessments. In these assessments, factors like how the community is being assisted by the Council, project performance and technical support from the Council are considered. Performance reward has been revised from MK1 million to Mk5 million additional funding. It was reported during the review that Mangochi and Zomba District Councils were so far the only beneficiaries of the scheme. Two sets of tools are supposed to be used: the Community Score Card and Citizen Report Card but the latter is yet to be applied.

d) The Urban Window

6.3.3.3.4 This window was designed to finance socio-economic infrastructure in urban areas (including growth centres) which are both labour and capital intensive as prioritised in the District Development Plans or Urban Development Plans. Projects are expected to support potential economic growth points and improve the capacity of local councils for revenue generation and provision of services.

6.3.3.4 The Disbursement of LDF to Councils

6.3.3.4.1 The process of financing projects in Councils is that District Development Plans are submitted to the LDF Technical Support Team for scrutiny and approval by the LDF Steering Committee. Only those projects which have been approved receive financing. Councils observed that projects for Primary School Staff Houses and School Blocks receive more funds than other projects and that water and sanitation projects are supported to a less extent while other projects are ignored. It was also claimed that the LDF alone decides which projects it will finance in a given year and mostly the area of focus has been School Blocks and Staff Houses. The financing of projects is through the NLGFC using a formula that is based on population and poverty indicators. Councils claimed that this approach frustrated them as they did not see the value of submitting project plans to the LDF Technical Support Team as they felt they should be deciding which projects should be funded. In this regard, we **recommend** that MoLGRD and the Ministry of Finance should review the alleged current project focus on School Blocks and Staff Houses and

begin to respond to additional development needs of councils. Discretionary funding, as opposed to earmarking, is a preferred option by a number of councils.

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6.3.4 The Constituency Development Fund (CDF)

6.3.4.1 The Constituency Development Fund (CDF) was established in the 2006/07 financial year to provide Members of Parliament with financial resources to implement micro projects within their Constituencies. The main justification for the CDF was that it would ensure equitable spread of development throughout the country thereby eliminating the existing political bias whereby opposition MPs are side-lined and deprived of resources. The Fund is expected to respond to immediate or short term community development needs such as constructing medium size rural bridges and repairing blown off roofs of school blocks the benefits of which accrue to communities rather than individuals.

6.3.4.2 Following its establishment in the 2006/2007 financial year, CDF management guidelines were developed collaboratively by the Ministry of Finance, the Ministry of Local Government and Rural Development, and the National Local Government Finance Committee. These guidelines are meant to provide direction to Members of Parliament and the Local Authorities in the management and administration of the CDF. However, since the introduction of the Constituency Development Fund, there have been a number of observations and issues raised by various stakeholders including the National Audit Office on the operations of the CDF. A number of stakeholders have raised concerns over the management of the CDF, including the identification, implementation, and monitoring of projects. The quality of projects, procurement processes, and accounting for project activities have also been a matter of concern among members within and outside Councils. However, on a positive note, a number of Councils reported that there are limited challenges in the disbursement of funds to Councils. Disbursement is every quarter and MPs are informed about these appropriately.

6.3.4.3 From the interviews, it was clear that guidelines have not assisted MPs due to limited sensitisation. Procurement procedures are ignored, local structures are bypassed and a parallel political structure normally for the party in power is created and given the power to implement projects. It was further reported by one Council that an MP could procure and store materials in his personal warehouse without the involvement of the Council staff. It was apparent during interviews that such tendencies in the management of the CDF resulted into the down fall of some sitting MPs. In view of the above inadequacies, stakeholders requested that the guidelines be reviewed, amended, and approved in a consultative and transparent manner so as to enhance their

applicability. They also suggested that the CDF should be managed by committee structures at the local level so as to integrate community level development projects with the availability of development resources through the CDF. It was therefore argued that the CDF should be changed to a Ward Development Fund and we **recommend** that MoLGRD should make recommendations to government to effect that change through Parliament.

6.3.4.4 In view of the above challenges, the Review Team makes the following specific **recommendations**:

- (1) The National Audit Office should audit the CDF every year
- (2) District Commissioners as controlling officers should be vigorous in providing timely and accurate CDF project and financial reports to the Council, now that Councillors are in place. In view of the challenges faced in the management of the CDF, there is need for MoLGRD to make proposals to Parliament that the CDF be converted into a Ward Development Fund or some other similar naming;
- (3) DEC should thoroughly appraise micro projects before being implemented;
- (4) CDF Guidelines should be revised and orientation should to be given to all MPs, Councillors, ADCs , VDCs and Council staff to enhance their participation in it;
- (5) The MP and the community should together identify projects and not to be personalized. This approach will allow completion of the project even if the MP loses his seat during the next election;
- (6) Every Constituency should have a Government Office for Government Business. All records including projects approved by the community should be kept there. In-coming MPs should be briefed by the Constituency in terms of projects that were completed by the predecessor, those still work in progress, and approved projects yet to be implemented;
- (7) ADCs and VDCs should be strengthened through Civic Education and Civil Society Organisations should play an active role in this area. In terms of social accountability communities are not aware of their rights;
- (8) In the Guidelines on CDF, a timetable to bring projects to the Council should be very clear and those MPs living in town should equally get the information.
- (9) Regarding abandoned projects, Councils should take stock of those projects and discuss them with the community, the Councillor and the MP the need to complete those projects;
- (10) Operational expenses should be built into the CDF to minimize delays in assessing projects by DEC

- (11) CDF should be used for micro projects and not large projects. Financing of large projects should be taken to Parliament as a national project.

6.3.5 The Financing of Roads in Councils

6.3.5.1 During the review, most stakeholders complained about the poor condition of roads especially in rural areas. In the case of rural roads, two factors were responsible for this state of affairs: inadequate funding and that only one grader of the 28 graders that were sent to Councils was in working condition. Repairs and maintenance costs are very high and beyond the ability of Councils to pay. In light of these challenges, a number of roads had not been graded for the past 3 to 4 years. Village roads that are graded with hoes call for redress. Due to lack of supervision, the quality of work on village roads has continued to be of sub-standard. The responsible Ministry argued that Councils are not yet ready for this job. An example was given to support the argument. It was reported that when the grading of roads was under the Roads Directorate, over 800 Km were covered in a year with funding to the tune of K1 billion while under the management of Councils and with the same funding only 200km are covered due to capacity issues in local Councils.

6.3.5.2 It was further observed that funding for district roads has its own challenges. Firstly, the procedure was considered to be unnecessarily cumbersome as councils prepare Annual Work Plan on maintenance and grading of roads. The plans are submitted to the Roads Authority (RA) for technical scrutiny and financing by the Road Fund Administration (RFA). Approved roads are submitted to the RFA by the RA for funding and the RFA releases the funds for road maintenance or grading to RA. It was alleged that tendering and the selection of contractors is done by RA without Councils' involvement. This practice has been a major concern to all Councils. It was also claimed that contractors are selected and sent to work in the Council without informing the Councils. Often times the Councils are surprised to see Contractors working some their roads. Owing to the fact that the Councils are side-lined by the RA, the work is not supervised by them. Where the RA is reported to be supervising the work, visits were observed to be irregular due to transport costs. It was also claimed that labourers hired by the contractors get stranded when they have not been paid by the contractors. The Councils do not provide any assistance in this case as they are not involved in the recruitment process.

6.3.5.3 In view of the above problems, we **recommend** that the Ministry of Local Government and Rural Development, the NLGFC, the Ministry of Transport and Public Works, the RFA, and the RA should review the procedures and funding arrangements for council level rural and urban roads

maintenance with a view to increasing the involvement of councils in road maintenance activities. There is need to increase transparency and accountability in the procedures and funding arrangements so as to enhance efficiency and cost-effectiveness in the maintenance of these roads.

6.3.6 The Allocation of Funds to Lower Structures of the Councils

The NDP I Review of 2004 recommended that funding to lower structures such as ADCs and VDCs should be based on a formula so as to minimise subjectivity. Due to resource constraints, the formula has not been developed. However, the NLGFC is in the process of identifying a donor to support this important work. We, therefore, reiterate the earlier **recommendation** that a formula for allocating funds to the lower structures should be developed. The allocation of funds to ADCs should depend on the number of projects to be implemented in a particular area.

6.4 Financial Management and Accounting

In this sub-section, we assess the effectiveness of the implementation of activities such as the computerisation of the financial management information system, asset management and transfer arrangements, financial rules and regulations, and capacity strengthening for financial management in councils.

6.4.1 The Computerization of the Financial Management Information System (IFMIS)

6.4.1.1 The Integrated Financial Management Information System (IFMIS) has been rolled out to all councils except the Lilongwe City Council. That council operates a system known as Rdata which was bought in 2010. In spite of having the system, the accounting system is not fully computerised at that council. Some functions, such as the preparation and writing of cheques, are being performed using the manual system. Rdata, was at the time of field work in the process of being replaced by IFMIS (Serenic). Techno Brain is the supplier and this computerisation is funded by GIZ. In Blantyre City Council, the story is slightly different as IFMIS has been installed. However, billing is a challenge there. For example, a bill of K2.00 could be printed as if it was for K2, 000,000. It was however reported that this problem was being addressed. In most councils, the major challenges faced with the roll-out of IFMIS include: (a) limited training as the majority of sectoral staff have not been trained in IFMIS and they face challenges in using it whenever a trained member of staff has been posted away; (b) whenever there is a technical problem with the IFMIS, it takes too long to address it as technical staff have not been adequately trained to manage it and councils rely on the supplier (Techno Brain) who operates from Lilongwe;

(c) Sector and Secretariat Accountants are not accommodated in the same office blocks and this minimises contact between them; (d) as in the case of other Sector personnel, there is a problem of dual reporting in the Accounting Service; (e) the system has not been upgraded in the light of devolved functions; and (f) the roll-out of IFMIS to councils was financed by Irish Aid, GIZ and the Malawi Government (about 22 Councils benefited from Government resources). It was reported that there are outstanding payments to be made to the supplier by the Government.

6.4.1.2 In spite of the challenges mentioned above, IFMIS has enhanced accountability and transparency in the councils. There has been a significant improvement in the production of Financial Statements, Management Accounts and Bank Reconciliation between the 2004 Review of NDP I and that of NDP II in 2014. In addition, receipting of revenue is through IFMIS thereby facilitating timely expenditure decisions. The Director of Finance is also able to check items in the system as transactions are being processed. With the coming of Councillors, it is expected that more will be done in the area of accountability and transparency as Councillors are supposed to perform their oversight function. We therefore **recommend** that the NLGFC and the Accountant General's Department should take measures to resolve all the above and other challenges so as to entrench IFMIS in councils' financial management systems.

6.4.2 Asset Management and Transfer Arrangements

6.4.2.1 The 2004 Review of NDP I recommended that assets in Councils should be formally transferred to councils in order for them to be recorded in the books of accounts. As at the Review of NDP II, that recommendation had not been implemented especially in terms of buildings, staff houses and other fixed assets like equipment. During discussions, it was reported that some council level staff houses and other buildings have been occupied by private individuals without paying rent to Government while others have remained unoccupied for quite a long time and were in a dilapidated state.

6.4.2.2 The Review Team would thus like **to recommend** that Government should undertake a comprehensive assessment of its assets in Councils and make appropriate arrangements to transfer them to councils. In line with the devolution approach, this exercise should be led by OPC to avoid certain forms of resistance. On the valuation of buildings, the Ministry of Lands, Housing and Urban Development, in consultation with MoLGRD, should carry out this exercise. The Review Team further **recommends** that DCs should take stock of all assets in their jurisdictions and as a matter of urgency compile their Asset Registers.

6.4.3 Financial Regulations and Guidelines

6.4.3.1 Financial Regulations similar to Treasury Instructions at the Centre were developed in December 2003 while a Financial Management and Accounting Procedures Manual was prepared much earlier, in August 2001. In view of the age of these documents, we **recommend** that the Ministry of Finance and NLGFC should review the two documents in the light of the recent developments in accounting and financial management, including the roll-out of IFMIS.

6.4.4 Capacity Strengthening for Financial Management in Councils

6.4.4.1 The hiring of Financial Specialists and the posting of sector accountants and accounting officers from the Accountant General's Department to councils greatly assisted in strengthening accounting and financial management capacities in the councils. We **recommend** that NLGFC and the Accountant General's Department should facilitate the conduct of an IFMIS Training Needs Assessment in all councils and support training in the relevant training areas to be identified. The review has further observed that the vacancy rate is around 40% and it is **recommended** that necessary steps should be taken to fill vacant positions as recommended by the Functional Review.

6.5 The Role of Councillors and Effects of their Absence in the Recent Past

6.5.1 Local Councils have been without Councillors for about a decade and makeshift arrangements were made for the councils to be supervised by District Consultative Forums. With Councillors in place from May 2014, it is the expectation of the general public that there will be improved service delivery and that Councils will become more accountable to the public. **The absence of Councillors had the following effects on councils' financial management:**

- Oversight functions were compromised. Councils are managed through Committees and one of the key committees is the Finance and Audit Committee which monitors budget execution in terms of expenditure management and revenue collection.
- Service delivery suffered in all Councils. For example, in most urban councils, waste management was compromised, recreation parks have been neglected, roads are in the bad state of repair, public toilets were neglected and illegal developments were unchecked.
- Development programmes did not have appropriate leadership at the community level. Although in some Councils ADCs and VDCs were functioning, there was need for an elected Councillor to represent communities at the District Council or City Council Meetings as the case may be.

- Subsidiary legislations could not be revised. The current by-laws were developed in 1970s and it was not possible to produce new by-laws in the absence of Councillors.
- Enforcement of by-laws was challenged in a number of Councils.
- Interface between the community and councils was limited although in some District Councils temporary arrangements were made whereby Chairpersons of ADCs and Chiefs attended council meetings to represent communities;
- Fees could not be adjusted upwards legally.
- Donors reduced their support to decentralisation

6.5.2 In 2010, the Local Government Act was amended and that development brought with it some anomalies which will need to be revisited through legal reform and in the interest of democratisation. Included in the amendments is a provision that gives Members of Parliament voting powers in the Councils. Several stakeholders at the national, council, and community levels considered this amendment to be out of tune with the democratic environment in Malawi. It was widely observed that Members of Parliament have their own platform where they vote which is the National Assembly and that giving MPs voting powers in the Council compromises the freedom and ultimate right for Councillors to vote. More details about the roles of councillors are outlined in the ‘Guidebook on the Local Government System in Malawi produced by MoLGRD in 2013. The Guidebook also details the roles and responsibilities of MPs and Chiefs in the Council.

6.5.3 As pointed out above, there is need to review the section in the Local Government Act 2010 (Amendment) that gives the MPs voting powers in councils. The Review Team was also informed by various stakeholders that there would still be challenges in the delivery of services in spite of Councillors being in position. Some of the anticipated challenges are that:

- a) In some constituencies, if Councillors and the MP are from the same party, the two are likely to ignore projects coming from VDCs or ADCs, as past experience has showed that they typically seek to implement their party’s agenda rather than communities’ priorities;
- b) Some Councillors and MPs create their own ADCs and VDCs although they might implement projects coming from those established structures;
- c) ADCs and VDCs require technical support from Councils but in some situations such support is limited; and
- d) The relatively high frequency of council meetings may result in resources being used in serving council meetings at the expense of service delivery, unless councils’ revenue collection is enhanced significantly.

6.6 The Procurement of Goods and Services by Councils

6.6.1 Procurement procedures in Councils require that each Council should have a Management Procurement Committee (MPC) that should be responsible for overseeing and approval of procurement of goods and services. Membership of the MPC comprises all Directors in the Council. Previously, the Director of Planning was the Chairperson. This policy has however been changed. Members select the Chairperson, the Vice Chairperson, Secretary and the Vice Secretary among themselves. The quorum for any Committee is 51% of membership which includes the Chairperson or the Secretary.

6.6.2. Procurement methods are similar to those of the centre which are issued by the Office of the Director of Public Procurement (ODPP). Depending on the threshold, procurement is either by quotation (three quotations) or by tender. Current procurement limits issued by ODPP are that for goods and services above K5 million should go to tender, while for public works the limit is K8 million. Any procurement above K8 million should go to tender. During the review, no major procurement challenges were cited at the council level. However, the challenges were noted at the lower ADCs and VDCs levels where procurement procedures were not being followed. Consequently, they have been a source of audit queries. There is need to sensitize ADCs and VDCs on procurement procedures since Councillors are now in place. We also found that most District Councils do not have professionally qualified procurement specialists to advise on technical aspects of procurement, much as large sums of money are channelled to the Councils for the procurement of goods and services. We therefore **recommend** that MoLGRD, in collaboration with the Office of the Director of Public Procurement, should make specific arrangements for Procurement Units in all the District Councils to be staffed with qualified procurement specialists.

6.6.3 The Procurement of medical drugs was devolved to Local Councils together with the budget. For some time, the procurement of drugs in Councils proceeded well. The Review has noted that this function was centralised due to some procurement challenges that were observed by the Centre. This policy reversal was reported to have caused serious drug supply challenges which are a matter of big concern among DHOs and Councils who would like a reversal of the decision so as to gain some efficiency in health services delivery. The Review Team **recommends** that the Ministry of Health should revisit the policy reversal while resolving the problems that led to the reversal of the procurement arrangement.

6.6.4 The Procurement of teaching and learning materials has been devolved to councils by the Ministry of Education. The devolved procurement is specifically of notebooks or exercise books and chalk. However, the ministry has not devolved the procurement of text books to local councils due to copyright challenges. The Review Team would like to urge the Ministry to work on and resolve the challenges that are hindering the full devolution of the procurement of teaching and learning materials to local councils as this used to work very well in the past.

6.7 Operations of NGOs

6.7.1 Financing from NGOs is usually earmarked to specific programmes or geographical parts or locations of a council. Depending on the nature of the programme or activities, funding from NGOs can be direct to Councils or NGOs may choose programmes from a council's development plan and implement those programmes themselves. Regardless of the method of disbursement of funds, there is need for good working relationships between Councils and NGOs. Some NGOs have signed Memorandums of Understanding (MOUs) with Councils and in that respect NGOs are invited to Council meetings. It was further reported that in such Councils, working relationships were good and NGOs had added value to operations of the Council. However, we also came across some cases whereby NGOs' operations by-passed the councils. Where NGOs were operating outside the Council or where there had been limited disclosure of NGO activities to the Council, sharing of information between the two entities was a challenge as NGOs are perceived as intruders and not partners. We therefore **recommend** that NGOs should consult the DCs and Chief Executives of Urban Councils before establishing themselves in places of their choice. Where practical, an MOU should be developed and signed between the Council and the NGO. This will minimise overlaps and duplication of resources and enhance the alignment of NGOs' development activities with councils' development priorities and plans.

6.8 The Audit of Councils by the National Audit Office

6.8.1 Following the introduction of the IFMIS in Councils, the auditing of council operations by the National Audit Office has improved. At the time of the review, auditing of the 2010/2011 and 2011/2012 financial years had been completed. Audits of these two financial years were financed by Irish Aid. There has also been an improvement on audit queries. Audits for 2012/13 and 2013/14 were waiting for the production of Financial Statements. KFW was expected to finance the exercise. The Review Team urges Councils to speed up the production of Financial Statements in order to allow the National Audit Office to carry out the audits soon as possible. The audit for

2012/13 has already been delayed and is beyond the statutory deadline. In view of the importance of audits in enhancing efficiency in resource utilisation, transparency, accountability, and responsibility in financial management, we **recommend** that Government, through the Ministry of Finance, the NLGFC, and the National Assembly, should provide adequate financial resources for audit purposes in the budget instead of waiting for donor support.

6.9 District Commissioners and Chief Executives as Controlling Officers

6.9.1 As noted in Chapter 5, in March 2005, District Commissioners (DCs) and Chief Executives (CEOs) of Urban Councils were appointed Controlling Officers. That development meant that for the first time in the history of Council operations, DCs and CEOs became accountable to the public by appearing before the Public Accounts Committee of Parliament (PAC) to respond to audit queries. Previously, it was the Principal Secretary (PS) for the Ministry of Local Government who appeared before PAC as the Controlling Officer for the Ministry and Councils. This approach had its own challenges as often times the PS was not on top of Council issues.

6.9.2 The Review Team would like to commend Government for appointing DCs and CEOs as Controlling Officers thereby making them accountable for their decisions and practices. During the review, DCs, CEOs and senior councils' staff raised concerns about the manner in which the DCs and CEOs were being posted from one council to another. It was observed that some DCs were transferred to other stations within 3 to 6 months of being at a station. It was argued that, as Controlling Officers, they could not contribute meaningfully to council's affairs let alone developing and driving council's development agenda. Administratively, such DCs could not be meaningfully held accountable to the public. It was thus recommended that DCs or CEOs should be allowed to work in a council for **a minimum of 3 years**.

6.9.3 The Review Team endorses the **recommendation** made by DCs/CEOs and senior council staff that frequent transfers should be discouraged and that 3 years should be the minimum period the DC or CEO should be allowed to stay at a Council. It is further **recommended** that during Public Accounts Committee hearings, the NLGFC and the Ministry of Local Government should be invited as observers so that they appreciate the challenges that councils face and assist in resolving them.

CHAPTER SEVEN

REVENUE COLLECTION, MANAGEMENT, AND LOCAL ECONOMIC DEVELOPMENT

7.0 Background

This section presents the findings of the review on the revenue performance of the councils and related implications for councils' capacities to deliver basic services to their residents and to facilitate socio-economic development. This analysis was demanded by stakeholders at the national, council and community levels who felt that councils had the potential to collect and use sufficient funds from within their jurisdictions but that potential was not realised because of certain legal and institutional constraints that need to be resolved. We discuss below some of the challenges with councils' revenue collection efforts and how they could be addressed.

7.1 Councils' Sources of Revenue

7.1.1 The main sources of councils' revenue are outlined in the Third Schedule of the Local Government Act, 1998 (page 49), and the Malawi Decentralization Policy, October 1998 (page 11). Both the Act and the Policy identified three main sources of revenue for Councils which are: (a) **Locally Generated Revenues** which include Property Tax, Ground Rent, Fees and Licences, Commercial Undertakings and Service Charges; (b) **Ceded Revenue (Non- Tax Revenue)** which includes Toll Fees, Gambling and Casino Fees, Fuel Levy/Fee (Road Maintenance levy), Motor Vehicle Registration Fees, and Industrial Registration Fees; and (c) **Central Government Transfers** which are made available to Councils as at least 5% of national revenues excluding grants, as discussed in Chapter 6. We examine each of these sources below, where it is necessary to do so.

7.1.1 Locally Generated Revenue

7.1.1.1 Property Tax

7.1.1.1 Section 63 of the Local Government Act 1998 extended property rating to all Councils thereby giving District Councils the right to collect property rates. In spite of the passing of the Act in 1998, the valuation of property has been carried out in six District Councils only namely, Nkhata Bay, Blantyre, Thyolo, Chiradzulu, Mchinji and Dedza. However, these Councils cannot raise property rates since they are not declared rateable areas. Valuation of property in the other Councils has been a challenge due to several factors including the cost of carrying out such an exercise and the prolonged absence of Councillors. Property tax is being charged in City Councils

and the Municipal Councils of Kasungu, Mangochi and Luchenza. This is the main source of their revenue. However, compliance is low as only about 44% to 46 % of the budgeted revenue from property rates is being collected in a year. The property rates in all the City Councils are very high and far beyond the property owners' ability to pay. The problem rests with the calculation of valuation charges. Valuation fees are based on the market value of the property and not the actual work that has been done by the valuers. In this case, the higher the market value of the property is, the more fees will be payable to the valuer. It is the considered view of property owners and other stakeholders that valuers collude to deliberately inflate or over value properties so as to realise more fees.

7.1.1.2 A striking feature that came out during our discussions with Councils is that as the bill is being prepared, there is a built-in 4% penalty charge or surcharge that becomes effective if 60 days pass from the date of issuing the bill without paying it. The penalty is compounded over the subsequent months and years. This is provided for under Section 86 (3) of the Local Government Act. It was not explained clearly why a penalty is imposed on the bill that does not have arrears. In fact it is an advance collection or advance payment when viewed from the landlord's platform. It was further noted that the bills are not aged as they simply indicate an amount brought forward from a previous billing period. Due to the highly punitive property tax charges, City Councils are faced with huge unsettled property rates bills. At the time of the review, Lilongwe City Council had property tax arrears of about K6.5 billion. Blantyre City Council had a slightly different story. That Council made a strategic move of using more affordable values and reducing the property tax bill and the rate payers' response was positive. A significant number of landlords paid their bills and arrears are currently manageable. With the support of GIZ, Mzuzu City Council was able to carry out innovative property registration and valuation exercises that are likely to boost its revenue from property rates.

7.1.1.3 Valuation of property is supposed to be carried out every 5 years. The last comprehensive valuation for all urban councils was carried out in 2005 and plans are underway for the next valuation. Councils are in the process of identifying resources and possible institutions or entities to do the valuation. Blantyre City Council, for example, would like the Polytechnic to carry out the property valuation next year using modern technology such as satellite mapping. With satellite mapping, the valuer is concerned with houses or structures which have gone through some alterations or new structures. The assignment is reportedly not tedious and its costs are expected to be reasonable. With modern technology, Blantyre City Council is projecting valuation fees to be

around K240 million while using conventional techniques would cost K400 million to K500 million.

7.1.1.4 In view of the above observations, the Review Team makes the following **recommendations for the NLGFC and Councils:**

- i) Valuation fees should be based on the amount of work done. The practice of charging fees based on the market value of the property should be discontinued as it inflates property rates. This recommendation was also made in the NDP I Review of 2004.
- ii) Age analysis should be indicated on property bills so as to make the billing transparent and facilitate queries by payers.
- iii) Mass valuation should be adopted for rating purposes so as to minimise property valuation costs thereby reducing property rates.
- iv) Councils should adopt modern technology in property valuation as has been piloted in Mzuzu City Council with GIZ support. It is reportedly cheaper and faster than those currently in wide use.
- v) The billing system whereby a 4% surcharge is included in the bill should be discontinued. It makes the bill unnecessarily expensive and beyond the property owner's ability to pay the rates. There is need to amend Section 86 (3) to reflect this. Chapter 11 of this report discusses this in detail.

7.1.1.2 Ground Rent

7.1.1.2.1 The NDP I Review of 2004 recommended that Government should transfer the collection of Ground Rent to Councils. The NDP II review has observed that the transfer was not done. We therefore reiterate the previous **recommendation** that Ground Rent should be a local tax and should be collected by Councils as provided for in the Third Schedule of the Local Government Act. In this context, there is an urgent need to amend relevant provisions in the Land Act to reflect this. Chapter 11 of this report discusses this in detail.

7.1.1.3 Business Licences and Fees

7.1.1.3.1 During the NDP I Review of 2004, it was noted that the Ministry of Industry and Trade had devolved the collection of fees and business licences to Local Councils. However, the devolution was only for businesses that are owned and run by Malawians. The function of issuing business licences and the collection of fees from businesses owned by foreigners is still centralised. The Ministry of Industry and Trade issues business licences and collects fees for these businesses. The earlier review had **recommended** that all business licences and the collection of fees thereof should be devolved to Councils and that there should be consultations among the three

players namely, the Ministry of Finance, Ministry of Local Government and the Ministry of Industry and Trade on this matter. We reiterate the **recommendation** made by the 2004 Review that the issuing of business licences and the collection of fees from businesses owned by foreigners should be devolved to Councils as provided for in the Local Government Act. The Ministries of Finance, Local Government and Industry and Trade should meet to chart the way forward on this matter.

7.1.1.4 Commercial Undertakings

7.1.1.4.1 Councils run commercial undertakings of various types. Notable among these undertakings are Markets, Parks and Recreation Facilities and the Hiring Out of Councils' Halls. In a number of Councils, and in compliance with Government Policy and recommendations from previous studies, a significant number of commercial undertakings such as Restaurants, Rest Houses, and Bottle Stores have been privatized or out-sourced. This is a commendable achievement. However, there is need for Councils to monitor the implementation of the provisions in the Concessional Agreements so as to ensure that privatisation and out-sourcing do not result in poor service delivery and that Councils generate sufficient revenue from out-sourced or concessional businesses. Furthermore, the Review Team **recommends** that Councils that have not yet privatized some of their commercial undertakings should review and privatize those which are a drain on Councils' resources.

7.1.1.5 Service Charges (User Charges)

7.1.1.5.1 Cost recovery or a service charge is concerned with recouping a portion of (or all) costs associated with a particular service provided by the local council to the public, normally by way of fees or charges. Fees and charges are expected to be a significant source of income for councils. The level of fees or charges determines the percentage of service costs that is recovered. It is important that Councils are clear about whether the use of cost recovery or user charges is justified and can show that all necessary steps are taken to ensure that fees and charges are applied efficiently and effectively. Although the general case for charging for services is clear, determining the proper domain and design of user charges is a challenging task in practice. One of the primary policy issues to consider when establishing fees and charges is the desired level of cost recovery for the services being provided. Some charges are established to recover 100 per cent of the costs while others recover less than the full cost of providing the services.

7.1.1.5.2 In all Councils that the Review Team visited, revenues from service charges or user charges are insignificant and this requires an in depth study of the system. Services in most council are minimal and in other instances they have been abandoned. Services which a number of Councils provide or ought to render to the public include Solid and Liquid Waste Disposal, Parks and Recreation Services, Tolls and Transportation Services, Car Park Services, Building Plan or Scrutiny, Hire of Halls, Billboards and Banners, Clinic Services, Plot Development Functions, and Public Health Residual Spraying in residential buildings.

7.1.2 Ceded Revenue (Non-Tax Revenue)

7.1.2.1 Through the Decentralisation Policy, Government decided to cede some revenues to Councils. Included on the list are toll fees, gambling and casino fees, part of the fuel levy (road maintenance levy), motor vehicle registration fees, and industrial registration fees. It was pointed out during the review that gambling and casino cannot be transferred in the medium term. The structures to support the service have not been developed. The Review Team assessed the implementation of the decision to cede revenues to Councils during the period 2005 to 2013. Owing to several factors, collection of revenues earmarked for transfer to Councils is still centralised. The Review Team therefore **recommends** that Central Government should cede all revenues that were identified for the transfer to Council as per the Third Schedule of the Local Government Act. The Ministry of Finance should spearhead the implementation of the transfer of ceded revenues to councils.

7.2 Departmental Receipts

7.2.1 Departmental receipts are non-tax revenue collected by Ministries Departments and Agencies even in areas of councils' jurisdiction. Revenue in this area is collected by Revenue Collectors who are mostly accounting personnel who have been designated as such by the Receiver of Revenue who is the Controlling Officer. Apart from some formal training in accounting, this group of people does not receive any formal training in revenue collection.

7.2.2 Our consultations revealed that the major sources of Departmental Receipts or non-tax revenue that are collected even where councils should be doing so are from Immigration services, the Road Traffic Directorate, the Forestry Department, the Fisheries Department, the Police, and the Ministry of Lands, Housing and Urban Development. In the 2012/13 financial year, Non Tax Revenue amounted to MK27.7 billion and in the 2013/14 financial year it was expected to rise to MK53.2 billion while in 2014/15 it is projected to be around MK55.2 billion. In Key Informant

and Focus Group discussions with councils' officials, ADCs and VDCs, it was widely alleged that the collectors of departmental receipts routinely charged their customers informal fees that they personally used and in some cases even failed to remit the collections to government. *The practice of demanding informal fees from customers allegedly inflated the cost of public services thereby denying the poor access to them.* There was also the problem of multiple revenue collectors at the council level and revenue payers regarded the system as a multiple taxation drive that increased the cost of doing business thereby reducing the income and employment opportunities of ordinary people.

7.2.3 In view of the above challenges, stakeholders in most councils pointed out that if the collection and reinforcement of non-tax revenue was in the hands of professional revenue collectors whose main job was revenue collection, more government revenue would be realized. It is in view of this that the Review Team would like to **recommend** that the collection of departmental receipts or non-tax revenue should be placed in the hands of the MRA. This is not new to MRA which had piloted it with the Immigration Department and the Road Traffic Directorate. It is therefore important that discussions about the possible transfer of this function to the MRA should begin as soon as possible even during the 2014/15 financial year, starting with the Road Traffic Directorate, the Immigration Department, the Forestry Department, the Fisheries Department and others that operate in places where MRA operates. The MRA should also consider using private operators or agents to collect some of the revenue on a commission basis so as to minimise its administrative costs of collecting revenue.

7.3 Contribution of Locally Generated Revenue (LGR) to Other Recurrent Transactions (ORT)

7.3.1 Based on discussions with Councils, it became necessary for the Review Team to assess revenue and expenditure trends in each of the councils in Malawi for which reliable data was available over the past 5 years. The prime objective was to determine LGR potential in each council, especially in terms of how revenue has performed over the past five years and the extent to which it contributed to Council's total revenue and expenditure. However, obtaining financial data for the past five years (2009/10 to 2013/14) was a challenge and so the period was reduced from 5 years to 2 years, that is, the 2011/2012 to 2012/2013 financial years. Considering that Development Expenditure and Personal Emoluments (PE) have not yet been devolved to District Councils, the focus of the assessment was on the contribution of LGR to Other Recurrent Transactions or Expenditure (ORT). Table 7.1 below presents the contribution of LGR to ORT in the councils in the 2011/2012 and 2012/2013 financial years.

Table 7.1 Contribution of Locally Generated Revenue to Other Recurrent Transactions 2011/2012 and 2012/2013

Council	2011/2012 Financial Year			2012/2013 Financial year		
	ORT (MK Million)	LGR (MK Million)	LGR/ORT (%)	ORT (MK Million)	LGR (MK Million)	LGR/ORT (%)
Balaka	412.93	36.88	9	411.57	34.51	8
Blantyre City	578.65	999.45	173	809.86	1,165.77	144
Blantyre District	813.61	103.33	13	873.99	90.21	10
Chikwawa	496.70	25.25	5	644.86	29.84	5
Chiradzulu	399.62	30.50	8	471.84	22.80	5
Chitipa	-	-	NA	370.97	11.34	3
Dedza	621.00	44.59	7	732.21	59.16	8
Dowa	628.90	42.41	7	686.77	4.48	1
Karonga	383.63	53.77	14	476.18	97.74	21
Kasungu District	601.81	23.88	4	814.62	24.98	3
Kasungu Municipal	39.48	61.74	156	51.72	89.10	172
Likoma	79.42	2.18	3	112.51	2.59	2
Lilongwe City	710.72	983.79	138	778.48	1,161.27	149
Lilongwe District	1,216.35	50.06	4	1,472.42	83.51	6
Luchenza Municipal	35.38	33.26	106	-	1.36	-
Machinga	474.5	58.43	12	162.5	117.21	72
Mangochi District	795.92	67.36	8	865.19	73.54	8
Mangochi Municipality	-	-	-	-	-	-
Mchinji	335.31	14.21	4	411.60	63.86	16
M'mbelwa	487.56	22.64	5	999.70	44.98	4
Mulanje	576.08	35.26	6	638.21	39.42	6
Mwanza	273.92	12.00	4	280.33	16.14	6
Mzuzu City				87.74	131.66	147
Neno	267.32	13.40	5	347.24	54.98	16
Nkhata Bay	376.69	48.68	13	442.82	24.53	6
Nkhota Kota	392.70	20.43	5	537.28	25.63	5
Nsanje	219.86	17.40	8	422.66	21.59	5
Ntcheu	597.77	29.16	5	698.08	26.44	4
Ntchisi	306.94	9.32	3	407.14	7.47	2

Phalombe	360.62	16.24	5	428.60	9.77	2
Rumphi	322.99	17.88	6	327.45	22.13	7
Salima	453.43	47.12	10	506.98	88.14	17
Thyolo	581.65	31.56	5	779.29	30.35	4
Zomba District	580.55	2369.	4	758.70	30.30	4
Zomba City	113.98	192.80	169	112.89	148.64	132
TOTALS	14,535.99	3,168.67	22	17,924.40	3,825.15	21

Source: Calculated by Review Team from Data Provided by the NLGFC, May to September 2014

Our calculations showed that in 2011/2012, LGR contribution to ORT ranged from 3% to 14% with Ntchisi and Likoma registering the lowest percentage (3%), Mwanza, Zomba and Mchinji District Councils registering 4%, Blantyre and Nkhata Bay District Councils registered 13%, while Karonga District Council was the highest at 14%.

7.3.2 Performance in 2012/2013 shows a slight improvement in some councils although other Councils registered even lower contributions than in 2011/2012. For example, Likoma and Ntchisi have dropped from 3% to 2%, while Karonga and Mwanza have recorded improvements from 14% to 21% and from 4% to 6%, respectively. Machinga has registered the highest increase from 12% in the previous year to 72% in 2012/2013. The increase is on account of increased revenue on Fees and Service Charges and a drop in ORT. In 2011/2012, Fees and Service Charges were K58.43 million which had increased to K86.2 million in 2012/2013. At the same time, ORT which was K474.5 million in 2011/2012 had dropped to K162.5 million in 2012/2013. The Review Team is yet to receive an explanation from the NLGFC and Machinga District Council as to what happened to both items. However, regardless of the level of performance in both years, it can still be concluded that all District Councils are **over-relying** on the centre for financial support and there is need for them to do more work to enhance their revenue collection.

7.3.3 The table also shows that LGR performance in urban councils is higher than in District Councils mostly due to property tax revenue. In Blantyre City Council, for example, LGR as a percentage of ORT was 173% in 2011/2012 and 144% in 2012/2013, respectively. In both years, the Council was able to finance ORT. However, meeting the cost of Personal Emoluments and development activities was a challenge. This observation was similar in other urban councils. Lilongwe City Council, for example, recorded 138% in 2011/2012 and 149% in 2012/2013, respectively. This Council too can barely finance PE and development programmes. Although

urban councils are collecting more revenue than District Councils, they too are becoming more and more dependent on the centre.

7.3.4 There is also a sharp difference in revenue (LGR) performance between District Councils and Urban Councils. While Urban Councils can finance ORT from LGR, District Councils are heavily dependent on the Centre (GRF) for their recurrent expenditure financing. Both the revenue base (in terms of those provided for in the Third Schedule of the Local Government Act) and revenue collection effort for a number of district councils are very weak. This is why this study has recommended several measures aimed at improving revenue collection, retention, and accountability in councils.

7.4 Tax Revenue

7.4.1 The Malawi Revenue Authority is responsible for the enforcement and collection of tax revenue in Malawi. As at the time of field work for this review, the MRA Act did not mandate the Authority to collect non tax revenue or Departmental Receipts. The Authority is keen to extend its functions that far but it was felt that there was need for a directive on that approach to come from the Ministry of Finance. There would also be some legal implications of this which are discussed in detail in Chapter 11 of this report. The Authority has a network of offices throughout the country and in the majority of Councils there is an MRA presence. Therefore it would not be a challenge to collect Departmental Receipts, especially if the authority can consider contracting some agents, such as banks, to collect some of the taxes on its behalf. The MRA works very closely with the Revenue Division in the Ministry of Finance, the Accountant General's Office, the Reserve Bank of Malawi, and the Commercial Banks. There is a Memorandum of Understanding between Government and Commercial Banks through the RBM on the collection and depositing of tax revenue with the Commercial Banks. In summary, when revenue is collected it is deposited into a commercial bank account in places where the RBM does not have its presence. After two days, the revenue is transferred from the Commercial Bank to the RBM. In this context, the Non-tax revenue would have received the same treatment.

7.4.2 In terms of the Local Government Act and the National Decentralisation Policy, at least 5% of the net national revenue is expected to be transferred to Councils as the General Resource Fund (GRF). Over the years, this requirement has not been fulfilled due growing demand on resources at the centre and the impression on the ground is that it will take a long time for this rate to be achieved. This challenge has also been encountered in other African countries where alternative

approaches have been adopted. These new approaches, which stress the importance of retaining a certain portion of public revenue collected from jurisdictions of local authorities, have been adopted as part of the modernisation of revenue or tax administration which is also a priority for the MRA.

7.4.3 To appreciate the relevance to Malawi of the approaches whereby a percentage of the tax revenue is retained and passed on to Councils, the Review Team analysed revenue performance (Tax and LGR) for each Council for the years 2011/2012 and 2012/2013. In Councils where MRA does not have offices such as Thyolo, Chikhwawa, Chiradzulu, Mwanza, Neno, Rumphi Chitipa and others, a workable approach was to group those Councils and the Tax Collecting Station (Council) into one cluster. Results have shown that in both years, LGR as a percentage of Tax Revenue under- performed and is even much lower when compared to total revenue (Tax and LGR combined). It is therefore imperative that part of domestic tax revenue should be retained in the councils to support local development. This point is even buttressed by the widely held view in the councils that in councils and communities where Large Corporate Tax Payers were operating, there were no local tangible benefits of the operations yet the concerned firms paid significant taxes to the centre. All the taxes are sent to the centre and nothing remains in the council. It will not be environmentally, economically, socially and politically sustainable for the concerned firms to operate in those areas if the current practice of retaining nothing for the localities continues. In view of this observation, the Review Team would like to **recommend** that a policy should be developed (even if it means changing tax laws) that will see to it that part of the tax revenue from taxation is retained in the Council where companies or factories are operating.

7.4.4 It is in view of the above findings and experiences in other African countries such as Uganda and other countries that the Review Team **recommends** that a certain percentage of the tax revenue should be retained and passed on to Councils. There are various methods of implementing this recommendation and some of them are as follows:

- 1) The Government would work out a percentage (say initially 20% to 30%) that should be retained by the Council while the remaining amount is remitted to the centre. Councils with low revenue base could be compensated by the Centre through an Equalisation Arrangement.
- 2) The Government would work out a turnover threshold. Taxes on businesses above a certain level of turnover would be remitted to the Centre while those below that threshold would

be retained in the councils. In the initial stages, the tax to be retained in the councils should be collected by the MRA until an appropriate capacity is built in the councils.

- 3) Taxes from mining and mineral royalties should also be shared with councils and concerned communities in accordance with African Mining Vision prescriptions as recommended by the African Union.

The above recommendations will require strengthening the capacities of the MRA and, at a later stage; Council staff should be professionally trained in revenue assessment, enforcement, and collection so that they can satisfactorily complement MRA tax collection initiatives.

7.5 Linkages between Councils and the Malawi Revenue Authority (MRA)

7.5.1 The MRA operates in 23 districts where it collects different types of tax revenues. Councils and other government departments, on the other hand, also collect different types of revenue often times from the same taxpayer. As noted earlier, the collection of taxes or revenues by several organs of the same government, even in different areas or sectors, was viewed by many as unnecessarily inconveniencing to tax payers and cost-inefficient. Although Councils and MRA are Government structures, there was little evidence that the two worked together. In some councils, the MRA was not considered to be a Government structure. Evidently, MRA was in most cases not even invited to council's meetings. Discussions, however, revealed that there was a desire on both sides to work together in many respects but there was lack of a policy push and Government direction on this matter.

7.5.2 The Review Team would like to **recommend** that Government develop a system and procedures for enabling the MRA and Councils could work together. It is the considered view of the Review Team that if Councils and MRA worked together, synergies would accrue to both parties and more revenue would be collected. The tax base would also be widened as the informal sector, which is difficult to bring into the tax net by the MRA alone, could be reached through the Council machinery.

7.5.3 The issue of multiple- taxation was also raised during interviews with MRA Staff and councils. Taxpayers feel that all the taxes should be collected or paid to one agent as opposed to the current situation where MRA, Councils, Ministries and Departments collect different revenues at different times. The Review Team therefore **recommends** that the current multiple- taxation

should be harmonised and that the MRA should be appointed the key collecting Agent of most of the types of revenue. As discussed in Chapter 11, there would be need to review the appropriate laws for this to happen.

7.6 Revenue Potentials and Local Economic Development

7.6.1 The Local Government Act has expanded the sources of revenues of councils, as discussed earlier. The Government is yet to cede some revenues to Councils and, as indicated above, part of the tax revenue should be retained in the Councils. With this approach, more resources will be available for local economic development. The GRF has not achieved the 5% mark and it will take time to achieve that level. Transfer is still below 1% of the national revenue. In view of the GRF performance, Councils need to do more on their own in enhancing their revenue base and collection. It is clear that increased local revenues will strengthen local economies, promote accountability, enhance economic governance and local ownership and contribute to the realisation of decentralization efficiency gains whereby expenditure decisions will be closely linked to revenues.

7.6.2 In the majority of Councils, there is no motivation to collect their own revenues. With the exception of the city councils, almost all the councils look to the Centre for assistance. This attitude is destroying initiatives to do more. In general, councils' revenue collection is low and enforcement is almost non-existent. The major obstacle to successful local revenue mobilization has been weak administration combined with lack of political and administrative will to enforce significant amounts of revenue.

7.6.3 In view of the above, the Review Team would like to **recommend** the following:

- 1) Councils should improve service delivery to promote voluntary compliance. The taxpayer needs to be convinced that services are being delivered and that the taxes and fees are being administered fairly in order for their willingness to pay taxes to increase.
- 2) Effective administrative procedures in the collection of local revenues should be established.
- 3) The attitude of looking to the centre for all resources should be discouraged
- 4) Local Council capacity should be strengthened through targeted training and technical assistance. Staff with potential to undertake advanced academic training should be supported.

- 5) Follow up arrangements should be established for non-compliance.
- 6) Close supervision of Revenue Collectors by those in authority should be a priority.
- 7) The use of IFMIS in managing revenues should be strengthened.
- 8) Other sources of revenue such as tourism should be identified and implemented.

Councils should also develop local economic development plans that reflect a careful prioritisation of economic growth sectors and strive to implement them using local resources. As at the time of the field work for the review, most councils looked to central government for support for almost all local development activities but it is not possible for central government to meet such demands hence the need to enhance local revenue collection to meet local development priorities.

7.7 Corporate Social Responsibility

7.7.1 The Review Team discussed the Social Corporate Responsibility (SCR) initiatives of factories or companies that were operating within Councils so as to assess the extent to which companies were contributing to Councils or communities as a social responsibility. It was striking to note that nearly in all councils the Review Team visited, there was limited contribution or no contribution at all to Councils or Communities coming from companies which were operating in those Councils. The little CSR that was undertaken in some councils covered very small areas around the companies' operations. Some Chief Executives argued that they were paying high taxes to Government and did not see why they should also contribute to Councils or develop communities. That responsibility, it was pointed out, rests with Government. This partly explains why Councils like Chikhwawa, Nkhota Kota, Mzimba and Mangochi do not benefit much from industries or factories which are operating in these districts. In view of this, the Review Team strongly **recommends** that relatively large businesses that operate in various councils' jurisdictions should take deliberate measures to participate in councils' development plans and projects effectively. This is important for the environmental, social and political sustainability of their operations. Similarly, MoLGRD should assist councils to forge strategic alliances with relatively large businesses that operate in their jurisdictions.

7.8 Extractive Industries Revenue Governance

7.8.1 During field work for the Review, we found that the MRA has a specialised unit that deals with the taxation of extractive industries. However, its technical capacities to calculate extractive industries production quantities, sales volumes, and taxes payable are weak and this results in massive revenue losses. It was, however, disclosed during a meeting with the MRA that the

Australian Government is assisting it to build its capacities in these areas. Various stakeholders also stressed the need to strengthen mechanisms for extractive industries governance which is a new area in Malawi. In several African countries, CSOs are playing important roles in extractive industries revenue governance. We therefore **recommend** that CSOs such as the Public Affairs Committee and the Centre for Human Rights Rehabilitation (CHRR) work with government and development partners to mobilise support for the establishment of an Extractive Industries Transparency Initiative and a Natural Resources Charter that would assist Malawi to maximise benefits from its natural wealth.

CHAPTER EIGHT

LOCAL DEVELOPMENT PLANNING AND FINANCING MECHANISMS

8.0 Background

The Local Development Planning and Financing Mechanisms component sought to enable local governments to plan and manage economic, social and physical aspects of development with popular participation by 2013. It was expected that councils' development plans would be initiated at the local level using designated community structures and that the plans would have practical linkages to national level structures. As noted in Chapter 2, this planning was expected to be guided by the processes of preparing Socio-Economic Profiles (SEPs), District and Urban Socio-economic and Physical Development Plans. Previous reviews of this planning system had documented the following challenges faced within the context of decentralisation:

- (i) Poor linkages between the local development planning systems and the national one;
- (ii) Inadequate participation of communities in the preparation of SEPs, Socio-economic Development and Physical Development Plans and their inadequate use;
- (iii) A bias towards preparing social infrastructure projects and lack of initiatives to spur economic growth in the district and lower economies to enhance livelihood systems; and
- (iv) Poor linkages between physical planning and social-economic plans.

NDP II sought to address the above challenges through this component and we analyse below the performance of this component under NDP II, bearing in mind the above four challenges.

8.1 The Roles of the Ministries of Economic Planning and Development and Local Government and Rural Development as Coordinators of this Component

8.1.1 We found that the NDP II programme document, especially the one for the period 2008 to 2013, lacked clarity on whether the then Ministry of Economic Planning and Development or the Ministry of Local Government and Rural Development was the coordinator of the component. Consultations with the former suggested that they were involved in the implementation of NDP II largely in relation to setting up a monitoring and evaluation system in all the councils. The Ministry of Local Government and Rural Development was supposed to set up structures for local development planning such as ADCs and VDCs and promote the preparation of SEPs, District/Urban Development plans, and councils Strategic and Physical Development Plans. There was need to clarify the role of the then Ministry of Economic Planning and Development under

this component, as was the case with the other components. Furthermore, as was the case with the other components, the then Ministry of Economic Planning and Development should have been in the fore-front in spearheading the monitoring and evaluation of the whole programme so as to subject it to close scrutiny and minimise the implementation challenges faced.

8.2 The Preparation and Utilisation of Socio-Economic Profiles, District and Urban Development Plans, Strategic Plans, and Physical Development Plans

8.2.1 We found that, as part of the local development planning, each council was required to prepare and use a Socio-Economic Profile, a Development Plan, a Strategic Plan, and a Physical Development Plan. Clearly, the preparation of a socio-economic profile for a council was an important starting point. Councils typically set up committees of sectoral and other technical staff to prepare the SEPs under the leadership of the Director of Planning and Development. We found that the councils were at different stages of preparing the SEPs and the timing of the SEPs covered different time periods. This indicates that there is need to synchronise the process to aid conceptual and operational linkages with the national planning framework which normally has a fixed time-frame. We also analysed the content of SEPs in relation to those found in the Review of NDP I. We found that there was generally an improvement in the quality of the documents over the intervening period. This was evidenced by attempts to link the analysis of sectors to the economic sectors prioritised in the MGDS and the quality and potential usefulness of the information included in the SEPs.

8.2.2 As noted by other previous reviews, there continued to be inadequate input into the SEPs from communities as most SEPs relied on aggregated data and findings from national and sectoral analyses. Consequently, the top-bottom and highly technocrat orientation in the preparation and outlook of the SEPs reduced their relevance to local development planning processes. Due to this, consultations with ADCs and VDCs on their engagement in the preparation of the SEPs suggested that these two important community-level structures made little or no reference to the SEPs as sources of information to guide the preparation and implementation of their development projects. There is therefore need to increase the use of information from communities in the preparation of SEPs so as to increase the relevance of local development plans to community-level priorities.

8.2.3 We found that each council is required to prepare a set of 3 different plans: the District/Urban Development Plan, a Strategic Plan and a Physical Development Plan. As was the case with the preparation of SEPs, there was no consistency in the processes of preparing these plans within each council as well as between councils. It was also common for council staff, including

management, to confuse one plan for another. We found the same problem even at the Ministry of Local Government and Rural Development headquarters where not even a single copy of any of the 3 plans could be found when demanded. In view of the capacity challenges faced by councils and MoLGRD in this area, we **recommend** that MoLGRD, the Ministry of Finance, Economic Planning and Development, and the Ministry of Lands, Housing and Urban Development should streamline the plans into a more manageable planning system with a smaller number of plans than are being produced, but not used fully, at the moment. The refined system should enable councils to take into account their diversity in economic, social, ecological and physical contexts so as to facilitate the developmental effectiveness of the plans.

8.2.4 In our assessment of the variations in the quality of SEPs and plans between urban and rural councils, it was found that district councils had generally higher capacities to produce SEPs and socio-economic development plans than urban councils. In contrast, urban councils had higher capacities to prepare physical development plans than district councils. Urban councils attributed these greater capacities in district councils to greater investment by government in rural councils than in urban councils due to a purported bias toward rural development in the MoLGRD. This purported bias was also said to be manifested in the tendency to refer to both rural and urban councils as “district councils” and to use the title of “District Commissioner” as a substitute for a Chief Executive of an urban council. Furthermore, some urban councils noted that the name of the Ministry of Local Government and Rural Development and the existence of a Rural Development Department in it coupled with the absence of a unit or department to deal with urban development characterised this alleged “rural bias” in the Ministry. On the other hand, their high capacity to prepare physical development plans in urban councils was attributed to efforts to increase their revenue base through property rates and construction projects scrutiny fees. In addition, there was donor support for this provided for urban councils by GIZ and Irish Aid which had made a positive impact, especially in Mzuzu City Council where the urban Development Plan for the period 2013 to 2018 was apparently prepared with inputs from communities.

8.2.5 The preparation of District Physical Development Plans had been undertaken by the then Department of Town and Country Planning in the Office of the President and Cabinet from 1987 onwards. Four such plans were prepared by the Department through a project sponsored through UNDP. The plans were aimed at contributing to the stimulation of economic and development activities through sound control and zoning of development activities. The four districts that benefited from this initiative are Mwanza, Mzimba, Machinga and Mchinji. The Local Development Fund, through the Local Economic Development Project sponsored by the African

Development Fund, has supported the preparation of similar plans for the rural growth centres of Jenda (in Mzimba District), and Chitekese (in Phalombe). In view of the current high prioritisation of the integrated rural development approach in Malawi and many other developing countries, we recommend that the physical development aspect in local development planning be strengthened so as to promote orderly integrated rural development. The Department of Physical Planning in the Ministry of Lands, Housing and Urban Development should be strengthened to support the devolution of some of its functions and technical resources to the council level so as to catalyse integrated rural development.

8.2.6 We found little evidence of use of the 3 sets of plans to influence the patterns and directions of socio-economic development in both rural and urban councils. In contrast, urban councils demonstrated a greater capacity and commitment to use physical or spatial development plans to “control” the development of property and other infrastructure or facilities and land use patterns. The “control” aspect was rather controversial due to its legal and political ramifications as enforcement of building regulations and standards led to legal and political battles that councils often lost. Consequently, undesirable physical structures and flea markets have mushroomed in most of the urban areas with serious deleterious effects on the environment and sanitation. There is need to address this challenge with councils playing facilitative roles of enforcing the regulations and standards and increased civic education of their residents or citizens.

8.3 Linking Local and National Level Planning Frameworks

8.3.1 The 2004 Review of NDP I documented inadequate linkages between local development planning and the national development planning frameworks. In the late 1980s and the early 1990s, this was done by linking the 4 district physical development plans cited in 8.3.5 to the National Physical Development Plan and the overarching Statement of Development Policies. There was no district socio-economic planning at that time. We noted that, as reported by the 2004 NDP I Review, gaps still existed between local development planning and national level planning systems during the implementation of NDP II. While the SEPs and District and Urban Development Plans recognised the Malawi Growth and Development Strategy (MGDS) as the overarching national development framework that they should translate into action, only the SEPs did this satisfactorily. The economic sectors prioritised in the MGDS are agriculture, transport, energy, mining and tourism. Most District Development Plans prioritised agriculture satisfactorily but not the others. There continues to be a bias towards the social development projects perhaps in line with the traditional prioritisation of basic education and health by previous local governments.

Consequently, the plans did not significantly influence both public and private sector investment in the economic sectors prioritised by the MGDS and it cannot be claimed that the plans stimulated growth in the local economies. The NDP II assigned the task of forging these linkages to the Rural Development Department in MoLGRD but we found that this Ministry lacked the technical capacity to play that role which should have been assigned to the then Ministry of Economic Planning and Development. In view of the above gaps, we **recommend** that the economic sectors prioritised in the MGDS should also be prioritised in the local development plans at the council and lower levels. The current Ministry of Finance, Economic Planning and Development should assist MoLGRD to achieve this.

8.3.2 In addition to the above gaps, we found that there were poor linkages between local development planning, budgeting, and service delivery. The national development planning framework prioritises national and sectoral development projects through the Public Sector Investment Programme (PSIP). The prioritisation of these projects is supposed to be based on the priority sectors spelt out in the MDGS. The priorities in the PSIP are then translated into the national development budget. Although councils had priority projects identified in their plans, they lacked the mirror images of the PSIP and a funded development budget that would be used to implement the prioritised projects. The failure to fund the priority budgets reduced the usefulness of the plans and the motivation of council staff, ADCs and VDCs to implement their priority development projects. As a result of this, most councils were not implementing development projects at the time of consultations with them. This resulted in the lack of physical infrastructure such as roads, water facilities, and inadequacies in health and education facilities and these had negative effects on the quality of services delivered by councils. In view of the above challenges, we **recommend** that the Ministry of Finance, Economic Planning and Development, MoLGRD, and the NLGFC should develop and strengthen linkages between local development planning, budgeting, and service delivery by setting up a coherent mechanism for financing both recurrent and development priorities.

8.4 The Monitoring and Evaluation (M&E) System for NDP II

8.4.1 The design of the programme recognised the importance of Monitoring and Evaluation (M & E) in the implementation and assessment of the impact of the programme in terms of its contribution to achievements of the objectives of the MGDS. MoLGRD was expected to devise an M & E system for the programme implementation process in line with the government's Monitoring and Evaluation Systems Master Plan coordinated by the then Ministry of Economic Planning and Development. In addition, the Office of the President and Cabinet was assigned the

responsibility of monitoring progress at the central level while MoLGRD was responsible for monitoring the progress of decentralisation at the local authority level.

8.4.2 The design of the programme phase also included arrangements for the evaluation of the programme through two assessments: one mid-term evaluation and one end-of-programme evaluation which is the current one. We found no evidence of the mid-term evaluation but, in 2010, aspects of the programme's implementation experience were assessed for the Ministry of Local Government and Rural Development and Concern Universal but it covered four councils (Ntcheu, Dedza, Rumphi and Mulanje) out of the 35. That review uncovered some programme implementation challenges which contributed to the inadequate implementation of NDP II in the remaining period of the programme to 2013.

8.4.3 As noted earlier, NDP II monitoring and evaluation should have been easy because a detailed logical framework was prepared for it. The framework had clear component-by- component objectives, outputs, activities, targets, indicators of progress, lead institutions, and estimated US\$ costs for the 5 year period. Despite the existence of the framework, there was no evidence that emerging implementation challenges revealed by the framework were being resolved effectively. Although M & E staff existed in most of the councils, there was no evidence of their involvement in the NDP II M & E work. Rather, most of them indicated that their role was to monitor councils' and sectoral ministries' programmes and projects through data collection and analysis under the Director of Planning and Development. In some cases, even the monitoring of sectoral programmes by the M & E staff was negatively affected by inadequate sharing of data and information between them and sectoral staff, lack of resources for field visits and data collection and analysis, inadequate staffing, and poor access to computing and communication facilities. In view of this challenge, we **recommend** that all councils should mandate their M&E staff to monitor the implementation of future decentralisation initiatives in addition to their "normal" tasks. There is also need to provide them with training and resources for their effective involvement in monitoring and evaluation work at the council level.

8.4.4 We also found that, generally, the institutional arrangements for monitoring and evaluating the programme were inadequate. Neither OPC nor the Ministry of Local Government and Rural Development played the M & E leadership satisfactorily. At the national level, the leadership for programme monitoring was ambiguous as no institution was assigned this role as an independent entity. The Office for the President and Cabinet should have focused on its leadership for sector devolution and MoLGRD should have focused on overall programme implementation coordination. There was also need to clarify how NDP II M & E activities would be undertaken at

the community (ADC and VDC) levels. To address the above challenges, the design of the programme should have included a specific M & E function as a component or sub-component of the programme. We therefore **recommend** that MoLGRD should ensure that future decentralisation programmes or initiatives should have their own components or sub-components for their own monitoring and evaluation.

8.5 The Integrated Rural Development Concept and Approach

8.5.1 Background

8.5.1.1 This section assesses the operational linkages between the integrated rural development approach and local government structures for decentralisation, with the Mwandama Millennium Village Project as a case study, in the context of the Zomba District Council. The lessons learnt are expected to inform the design and implementation of integrated rural development initiatives in strong collaboration with the local government machinery, thereby enhancing their effectiveness and addressing their sustainability challenges.

8.5.1.2 In September 2000, the United Nations General Assembly for Heads of States and Governments adopted the Millennium Declaration. This declaration committed member states to achieve a set of eight Millennium Development Goals (MDGs) by 2015. In the early 2000s, it was observed that progress towards the attainment of those goals had been mixed. While some countries had made significant progress in this regard, others were likely to miss numerous goals and targets and others still were retrogressing. To increase chances of attaining these goals among low income countries, the UN system, through Professor Jeffrey Sachs, assembled a team to come up with the Millennium Villages Approach (MVA). Ten African countries, including Malawi, participated in the MVA on a pilot basis. Results from the MVA experiment were expected to be expanded upon and replicated in other communities thereby putting the participating countries on the path to achieving MDGs by 2015. With this understanding in mind, the Earth Institute of the University of Columbia, the Millennium Promise, and the United Nations Development Programme (UNDP) partnered with the Government of Malawi (GOM) to launch the (MVP) in Malawi.

8.5.1.3 The Millennium Villages Project started in 2005 with the establishment of the Mwandama Millennium Village Project (MVP) in Zomba. The Ministry of Agriculture assisted with the identification of the Mwandama Village which had a population of 35,000. This was followed by Gumulira Millennium Village project in 2006 located in Mchinji District with a population of

6,700. It is estimated that when the MVP started, the site profile for Mwandama in particular indicated that nearly three-quarters of the population depended on subsistence farming and 74% of them lived on less than US\$1 per day or in poverty. Food security was pervasive and chronic, with nearly half the children under five years of age exhibiting stunting and signs of chronic malnutrition. Mwandama Village also lacked basic infrastructure. HIV prevalence was estimated to be 12% of the population. Access to water was limited as the community drew water from unprotected shallow wells. Most children did not go to school and they spent their time as casual labourers in the estates within the area.

8.5.1.4 To address the above developmental challenges, an integrated rural development approach was adopted through several interventions implemented in various sectors. In **health**, this included the provision of essential health services such as maternal health services to reduce maternal deaths to the extent that for 3 to 4 years after launching the intervention, there were no maternal deaths in the area. The other health services were Tuberculosis (TB) Control, Malaria Control, Combating HIV/AIDS, and Preventing Mother to Child Transmission of HIV/AIDS. In **agriculture**, farmers were provided with two bags of fertilizer (top dressing and urea) and extension services. Farmers who did not get project fertilizer received subsidised fertilizer from the Ministry of Agriculture. A grain bank was also constructed using materials contributed by the community thereby promoting **food security** and **community empowerment** through a self-help spirit. Business enterprise development for **economic empowerment** was also promoted by providing local loans and access to telecommunications and mobile banking services. There was also **infrastructural development** which included the provision of small scale irrigation facilities, water supply facilities, road networks, and improved sanitation facilities.

8.5.2 Achievements and Challenges

8.5.2.1 Our inquiries and some review of the literature on the performance of the project indicated that the project had made tremendous progress in terms of improving people's health status, food security, sanitation and water supply, and raising the number of school-going children. However, we also noted that the Project largely depended on donor support, and by 2011 when donors started pulling out, it became difficult to sustain it using local resources. By design, the project was supposed to be sustainable at least at the end of the 5 year period. However, salaries of staff were very high compared to what was payable elsewhere in the local labour market such that it was not possible for the village to pay the staff on its own. The project also used the UNDP Direct Execution method and the rationale for the UNDP to directly implement the pilot phase of the

MVP is well understood and justified. Nevertheless, this approach side-lined both the MoLGRD and the Zomba District Council who were not involved in the implementation of the project such that Government ownership was not created. MoLGRD was brought into the project rather late and there was no financial provision in the national as well as district budgets for the continuation of the project beyond donor support.

8.5.2.2 At the local or village level, the Chief or the Village Headman was the unifying factor for the project. However, when he became sick, differences emerged among people in the village to the extent that even the legal status of the project was challenged. The local life of the project thus depended on one person, the chief, and there was limited collective ownership of the project. Other neighbouring villages felt that Mwandama Village was being favoured unnecessarily. They considered themselves as living below poverty line as well and that they should have received equal treatment to that received by Mwandama Village. With the death of the chief, some misunderstandings arose among the relatives of the chief and at the time of the review, there were few project activities going on in the village. People had gone back to their “normal” lives and there was little evidence to show that families had graduated from poverty.

8.5.3 Key Lessons from the Mwandama Millennium Village Project

8.5.3.1 The Mwandama Project has generated some important lessons which, if adopted, could assist Government in implementing its Integrated Rural Development Programme. We highlight the major ones which are:

- i) Rural transformation is possible through integrated or holistic interventions. The project’s experience suggests that integrated or holistic interventions are more effective than stand-alone interventions in putting poor rural communities on the path to eradicating absolute poverty. This is so because implementing interventions as a package simultaneously generates synergies among sectors that may fast-track the progress towards attaining sustainable rural development.
- ii) Integrated agriculture interventions involving fertilizer and high yielding seed subsidy, coupled with intensive extension services, can enable impoverished farmers with small landholdings to increase food productivity and food security thereby eradicating extreme hunger and contributing to sustainable livelihoods for poor people. In addition, farmers can be mobilized to contribute maize for school meals program and to grain banks to support a revolving fund thereby improving access to education and food security at the community level.
- iii) In health, the project showed that in the absence of clinics in remote areas, mobile outreach clinics can provide adequate health services that effectively address health related MDGs. In

addition, the project experience shows that community-based HIV/AIDS support groups can exert strong influence to inspire confidence to facilitate voluntary disclosures of HIV/AIDS status, eradicate stigma, and encourage members to access ARVs so as to prolong lives.

iv) In education, the project has shown that integrated interventions do attract children from poor households to attend schools. Further, it has been shown that community supported self-help efforts provide sustainable means of scaling up rural-based school infrastructure and inculcating a strong spirit of ownership and commitment to the process of building the schools.

v) On water and sanitation, it has been learnt that community based governance structures are essential element in the drive to scale up rural water supply schemes to provide safe drinking water.

v) Integrated rural development initiatives require a careful understanding of the roles of various stakeholders or actors at the national, local authority, and community levels for them to be sustainable. There is also need to carefully come up with exit strategies for each of the project interventions at the design stage so as to ensure the continuity of project outputs and outcomes in the absence of external support.

8.5.3.2 The above findings indicate that the Mwandama Village Project managed to deliver basic economic and social services in an integrated manner to the community effectively which is what the Zomba District Council is mandated to do by the Local Government Act and the National Decentralisation Policy. The project experience has also showed that integrated rural development approaches require massive financial resources to invest in the integrated interventions. However, for such investments to be sustainable, all key stakeholders at the community, local government council, and the national levels ought to play their roles effectively. In view of the above findings, we **recommend** that the MoLGRD should systematically document lessons from the major attempts at integrated rural development implemented in the country, such as the Mwandama Project. The lessons should be widely discussed with such key stakeholders as the devolving sectoral and central government ministries, local authorities, Development Partners, CSOs, the private sector, and communities so as to create a practical platform for undertaking sustainable integrated rural development projects.

CHAPTER NINE

INSTITUTIONAL DEVELOPMENT AND CAPACITY BUILDING

9.0 Background

In the design of NDP II, the Institutional Development and Capacity Building component encompassed all interventions and activities aimed at establishing functional and effective institutions for service delivery, local governance, and the management of decentralisation at the national, local authority and community levels by 2013. The specific issues to be addressed included (i) limited human resource capacities; (ii) high staff turnover and vacancy rates in local governments; (iii) poor office accommodation and lack of vehicles and equipment; and (iv) inappropriate organisational structures and systems at the local government level. It also sought to address the central government structures of devolving sectors that were not aligned with the decentralisation process, lack of effective and efficient human resources management systems, and unclear institutional structures below the council level. As noted in Chapter 2, a comprehensive Capacity Development Programme for Decentralisation (CDPD) was prepared to complement NDP II in addressing these specific aspects of the decentralisation process. It was expected that by the end of NDP II, decentralisation would be fully implemented in terms of the transfer of designated staff and central structures of devolving sectors and other ministries to councils. It was also planned that adequate and appropriate office accommodation would be made available, human resource management systems would be fully implemented, and that the payroll system would have been decentralised. We examine in the next sub-sections the extent to which these were achieved by the end of NDP II in 2013.

9.1 National Level Institutional Development and Capacity Issues

9.1.1 The Department of Human Resource Management and Development (DHRMD) is responsible for the administration and management of the Public Service. It provides human resource management and development services across the public service and also manages one of the largest common services. Its role in the implementation of the decentralisation process is to ensure that appropriate structures are in place in all the Local Councils, including human resource capacities. It is also expected to facilitate the re-design of structures at the centre, taking into consideration the provisions of the decentralisation policy and advise on how best staff at the centre, whose functions are delinked from the centre, can be re-deployed to the Local Councils.

9.1.2 We noted that DHRMD has played a crucial role in collaborating with the Ministry of Local Government and Rural Development and other key institutions in conducting Functional Reviews both at the ministry's headquarters and in the Local Councils; developing human resource management and development systems; facilitating the preparation of strategic plans; and conducting the orientation of Local Council employees on the performance management system. However, the implementation of most of the initiatives pertaining to staffing in the Local Councils remains a key challenge. For instance, the line ministries' structures are yet to be modified to reflect the requirements of the decentralisation policy and employees are yet to be de-linked from the relevant line ministries and departments, including those belonging to common services. In addition, human resource management systems developed for the Local Councils are yet to be adopted and implemented. This means that, as at the closure of NDP II in 2013, more work remained to be done at the centre in order to effectively devolve the staff of line ministries and departments to councils.

9.1.3 In view of the outstanding work at the centre, the Review Team **recommends** that OPC, MoLGRD, and DHRMD should jointly address the remaining challenges of devolving the staff of line ministries to councils in collaboration with the devolving institutions. In addition, MoLGRD should support an in-depth orientation of DHRMD key personnel who work regularly with the Ministry and Local Councils on decentralisation so that they ably advise on the implementation of the various human resources management and development initiatives in the Local Councils.

9.2 The National Local Government Finance Committee (NLGFC)

9.2.1 The National Local Government Finance Committee is established under Section 149 of the Malawi Constitution. Its role is to ensure that councils have funds to enable them to perform their functions and that these funds are managed well. The NLGFC consolidates the budgets of all councils and supervises their accounts. At the time of the review, the Secretariat had 30 posts out of 44 filled, and the 14 vacant posts were mostly at senior professional levels below the Executive Director post, representing a 32% vacancy rate.

9.2.2 The Review Team noted that NLGFC's capacity to support and monitor financial performance in the councils was weakened by its lack of appropriate legal framework that would empower it to audit the Local Councils. Its institutional structure also does not facilitate effective monitoring of the financial performance of the Local Councils which is compounded by the NLGFC's high vacancy rate caused by its financial inability to retain key professional staff. In this regard, the Review Team **recommends** that DHRMD should conduct a Functional Review of the

NLGFC in order to come up with its appropriate institutional structure. In addition, an appropriate legal framework should be put in place to allow the NLGFC to audit the Local Councils.

9.3 The Local Government Service Commission (LGSC)

9.3.1 The Local Government Service Commission is established under Section 147 (4) of the Malawi Constitution. Its operations are guided by the Local Government Service Commission Act. The LGSC is responsible for the recruitment, promotion, and discipline of staff in the councils up to the level of Director. District Commissioners and Chief Executive Officers are recruited, promoted and disciplined by the Ministry of Local Government and Rural Development. The Commission also sets rules and procedures for Council employees.

9.3.2 While LGSC has an important responsibility of ensuring that the Local Councils have the right quality and quantity of staff to deliver services effectively and efficiently to the public, the Commission faces a number of challenges. In the first place, the Commission operated without Commissioners from 2009 to August 2012. During this period, LGSC could not make any decisions on the appointment, promotion and discipline of Council employees. Secondly, after the appointment of Commissioners in 2012, LGSC's performance in terms of recruiting staff for the Councils has been negatively affected by inadequate funding. The funding situation is worsened by the fact that the Commission operates as a programme under the Ministry of Local Government and Rural Development which decides how much of its funding to allocate to the Commission for its operations. Most of the personnel recruited and promoted by LGSC after being re-constituted in 2012 have been for the City Councils, which fully funded the cost of conducting interviews. Other challenges experienced by the Commission include inadequate transport facilities and office equipment.

9.3.3 In view of the above challenges, we **recommend** that Government, through the Ministry of Finance, should provide adequate financial resources to the LGSC to enable it to recruit the right numbers and quality of personnel for the Local Councils in the short term. In the medium to long term, government should create a separate Vote for LGSC so that it receives its funding directly from Treasury, as is the case with the Civil Service Commission which was in the past funded through the Department of Human Resource Management and Development.

9.3.4 We also considered the question of the future of the Commission in terms of whether it should continue recruiting and exercising disciplinary control on staff for the Councils. Some stakeholders suggested that the Commission should wind up in the long term so that the Councils recruit, promote, and discipline staff on their own as autonomous entities, in keeping with the spirit

of devolution and as provided for in the Local Government Act. We noted that the greatest challenge the local councils are likely to encounter if they assume full responsibility to appoint, promote, and discipline staff on their own would be nepotism. We learnt that some councils had the tendency to favour the recruitment of staff from within their geographical area purely on nepotistic grounds. In this regard, we **recommend** that the LGSC should continue performing these functions on behalf of the local councils in order to guard against nepotism, until such a time when effective mechanisms are put in place to enable the councils to appoint, promote and discipline employees in an objective and impartial manner.

9.4 The Malawi Local Government Association (MALGA)

9.4.1 MALGA is an umbrella voluntary organisation of the 35 local government authorities in Malawi. It has been in operation since 1966. Prior to 2001, it was known as the Association of Local Government Authorities in Malawi (ALGAM). All local councils are represented in MALGA by their elected Chairpersons/ Mayors. MALGA's main role is to represent, lobby for, and defend the interests of councils. Its objectives are to:-

- (a) Provide a strong and coherent voice for local government issues at all levels of society,
- (b) Provide an effective link between local government and central government,
- (c) Work in collaboration with other non- government organisations on issues involving local governance at all levels,
- (d) Provide a wide range of value added services to local authorities, and
- (e) Generate additional income to expand the work of the Association.

9.4.2 We noted that MALGA has a significant role to play in assisting local councils to improve service delivery. However, its performance over the years has been weakened by two key factors. The first one is the absence of councillors since 2005 which resulted in a leadership vacuum. This was so because policies of the MALGA Executive Council could not be formulated in the absence of councillors. In addition, MALGA's financial base has been weak since its major source of financial resources is the membership subscriptions which are not paid consistently by the councils. Following the May 2014 Tripartite Elections, Councillors are in place. Efforts to re-constitute and strengthen MALGA should include filling the positions in the governance structure, conducting meetings of its council and the Executive Committee, conducting a Functional Review of the institution, publicising and raising the profile of the institution, and training Councillors and other council members on their roles and responsibilities.

9.4.3 We recognise that the efforts made to re-constitute and strengthen MALGA are important and should be pursued as planned. However, the newly elected office bearers for MALGA should devote much of their attention to finding viable strategies for making MALGA financially sustainable. Since councils' revenue performance is generally weak, their subscriptions to MALGA are low and MALGA should assist councils to enhance their revenue performance for its own financial sustainability. In addition, councillors should engage in serious discussion about issues facing local councils including the quality and numbers of council staff, revenue generation, and identifying ways of ensuring that local councils improve service delivery to their communities.

9.5 The Devolution of Sectoral and Common Services Staff and Payroll Processing

9.5.1 The Review Team noted that Sectoral and Common Services staff from devolving ministries and departments remain under Central Government since decisions on their recruitment, promotion, deployment, discipline, training, and career advancement are made from the Centre. While some of the staff in councils expressed their desire to become permanent employees of the Councils, others had not made up their minds. Their uncertainty is largely because they feel that there may be minimal prospects for career advancement in the Councils. This indicates that the devolution of both Sectoral and Common Services staff has not happened as planned under NDP II.

9.5.2 As regards the decentralisation of the payroll system, we noted that with the exception of the Ministry of Education, the payroll system remains centralised. In the case of the Ministry of Education, the decentralisation of the payroll system has been implemented in two educational Divisions with effect from July 2014. The process, as at the time of our field work, was that headquarters staff travelled to the Shire Highlands Education Division in Mulanje and the South Western Education Division in Blantyre each month to carry out IFMIS payroll processing. At the same time, the headquarters staff provided on-the-job training to employees based in the two districts so that later on they should do both the HRMIS and IFMIS payroll processing on their own. It is envisaged that the workload on payroll processing at the Ministry headquarters will be significantly reduced when payroll processing has been devolved to all the Divisions. The key challenges being encountered in decentralising payroll processing include delays in funding headquarters teams required to travel to the two divisions, inadequate equipment, and inadequate skills in payroll processing on the part of district staff. The Ministry is, however, taking steps to address these challenges.

9.5.3 The Review Team commends the Ministry of Education for taking the initiative to decentralise payroll processing and **recommends** that the Ministry should later roll it out to the other Education

Divisions in the country and ultimately to District levels, based on the lessons learnt. In addition, other devolving Ministries and Departments should initiate decentralisation of their payroll processing, drawing lessons from experiences of the Ministry of Education. It will also be cost effective to share resources such as staff and equipment when processing the payroll at the council level when ministries and departments work together on the devolution of their payrolls, at a later stage.

9.6 The Transfer of Physical Assets from Ministries to Councils

9.6.1 Line Ministries with offices at the district level, including at District Commissioners' offices, possess various assets like buildings, motor vehicles, motor cycles, photocopiers and computers. In the Councils visited, the Review Team noted that administrative arrangements were made to share resources among the different offices. However, the District Commissioners' offices did not have a record or an inventory of all government assets at the council level. The assets remained the property of different line ministries. In addition, the Team learned that some ministries had transferred some assets from their district offices to headquarters in Lilongwe in fear of losing them to councils. The Team therefore **recommends** that MoLGRD should request all councils to prepare inventories of all the government assets in their councils, as a first step towards the implementation of the transfer of government assets at the district level to the councils.

9.7 Council Level Institutional Building

9.7.1 As noted above, this Institutional Development and Capacity Building component sought to strengthen district institutions for the effective management of decentralisation by supporting the preparation of strategic plans for councils, training of management teams of councils, constructing new offices, procurement of office equipment and vehicles, and rendering on-the job support. Local Authority Performance Assessments (LAPA) of the districts carried out by MoLGRD in collaboration with the National Local Government Finance Committee, between 2010 and 2013, consistently showed average and unsatisfactory performance of the majority of councils in all seven functional areas, namely governance, monitoring and evaluation, participatory planning and budgeting, supervision, service delivery, financial management, capacity building and learning. By 2013, forty per cent of the 35 councils that were assessed were in class D which was average performance while 51.4 per cent of all the Councils were in class E which was unsatisfactory performance. Implementation of these activities was largely *ad hoc* and was dependent more on donor or NGO funding than government or councils' own initiative and resources. Furthermore,

the implementation process did not satisfactorily utilize important information that was coming through the annual performance assessments.

9.7.2 Table 9.1 shows the patterns of institutional development in councils derived from questionnaire responses of key management and sectoral council staff in all the 20 councils visited during field work. They were asked to indicate the nature of institutional development that had occurred in their sectors or in the Council Secretariats between 2008 and 2013. The table shows that the purchase and donations of computers was the activity that occurred most, followed by the strengthening of management systems, the purchase or donation of vehicles, and the refurbishment of buildings, in that descending order of prevalence.

9.7.3 We found that one of the factors contributing to the high rates of unsatisfactory performance is that district institutional development and capacity development programme activities were not implemented in a systematic manner and in accordance with the NDP II priorities and councils' strategic plans. The refurbishment of office buildings was done to a limited extent through

Table 9.1: Nature of Institutional Development in Councils (2008-2013)

Nature of Institutional Development	Yes		No		Don't Know		Not Indicated	
	Count	%	Count	%	Count	%	Count	%
a. Strengthening of management systems	66	51.6	48	37.4	1	0.8	15	10.2
b. Purchase or donation of vehicles	63	49.2	51	39.8	1	0.8	15	10.2
c. Refurbishment of office buildings	34	26.6	79	61.7	1	0.8	16	10.9
d. Purchase or donation of computers	87	68.0	27	21.0	1	0.8	15	10.2

Source: NDP II Review Survey Data, May to June 2014.

sectoral projects mainly in the Education and Health sectors. Where the refurbished buildings existed, mostly in Education, they were extremely helpful in facilitating District Executive Committee and other Council meetings. In view of the above patterns in institutional development, we **recommend** that MoLGRD, DHRMD, and NLGFC should consider innovative ways of developing the council level institutions, especially buildings. Priority should be given to the efficient utilisation of existing resources such as office buildings, vehicles, and computers as discussed in Section 9.4.

9.7.3 Capacity Development in Councils

9.7.3.1 NDP II raised the need for collaborative capacity building for local councils' secretariats and sectoral staff using standardized packages with inputs from all sectors which should pay attention to core activities of public expenditure management, participatory planning and development, service delivery, and decentralisation orientation. However, Local Authority Performance Assessments have since 2010 shown that training plans are drawn up by Councils but are not implemented. In addition, most training plans at the council level are for staff from the DC's central office and are not consolidated training plans that should include devolved sectors (MoLGRD 2013: ix).

9.7.3.2 Table 9.2 shows that not much of what was envisaged by NDP II took place and less than half of those interviewed had gone through some kind of orientation on decentralisation (32.6%), public expenditure management (27.9%), development planning (28.7%) and service delivery

Table 9.2: Capacity Building Areas that Most Council Staff Participated in (2008 to 2013)

Capacity Building Area	Yes		No		Don't know		Not indicated	
	Count	%	Count	%	Count	%	Count	%
Strategic Planning	63	48.8	56	43.4	1	.8	9	7
Result based Management	26	20.2	93	72.1	1	.8	9	7
Human Resource Management	26	20.2	93	72.1	1	.8	9	7
Gender Training	24	18.6	95	73.6	1	.8	9	7
HIV/AIDS Training	67	51.9	52	40.3	1	.8	9	7
Decentralisation orientation	42	32.6	77	59.7	1	.8	9	7
Development Planning	37	28.7	81	62.8	1	.8	10	7.8
Service Delivery	30	23.3	89	69.0	1	.8	9	7
Public Expenditure management	36	27.9	83	64.3	1	.8	9	7
Procurement	61	47.3	58	45.0	1	.8	9	7
Local Revenue Enhancement	36	27.9	83	64.3	1	.8	9	7
Local Economic Development	16	12.4	103	79.8	1	.8	9	7
On the job support	43	33.3	76	58.9	1	.8	9	7
Other	13	10.1	107	82.9	0	0	9	7

Source: NDP II Review Survey Data, May to June 2014.

(23.3%). In the design of NDP II, the decentralisation orientation workshops were meant to focus on providing practical examples that distinguish devolution from de-concentration to enhance the

understanding by stakeholders of the decentralization policy as well as devolution and its organizational implications. However, lack of regular orientation training on decentralisation, frequent transfer of District Commissioners/Chief Executives and other key sectoral staff, coupled with poor record keeping, have contributed to loss of institutional memory and limited knowledge of decentralisation and the working of a local government system among many new staff who are usually transferred from central ministries. This is a challenge for the effective working of local government councils as well as interface with elected members. During one of the Council meetings, Council staff stressed the importance of sound orientation for decentralisation when they narrated that:

“As Council officials we are able to notice a difference when we work under the old DCs who had proper and intensive orientation on decentralisation and the new ones who have hardly gone through such orientation. The way these two sets of DCs manage the Councils, how they organize activities, and how they promote team work is entirely different.” (Excerpts from a meeting with Council staff, Lilongwe District Council).

9.7.3.3 Table 9.2 also shows that most Council staff (52%) had gone through HIV/AIDs training, followed by strategic planning (49%), and procurement (47%). Training on strategic planning and the development of those plans was one of the important institutional development capacity building activities provided to the Councils with support from GIZ and the Local Development Fund. Strategic plans and associated action plans are important tools for providing strategic direction and coordination in the implementation of development programmes in the councils. However, most councils faced the key challenge of failing to utilise the plans that were produced to improve service delivery and facilitate development activities. Our observation was that the Councils did not appear to own these processes. Most local councils visited were unable to provide the Review Team with copies of the plans, while others possessed the documents in draft form. In addition, most of the local council staff interviewed were quite ambivalent about their council's use of a strategic plan to guide council activities. Only about 26 per cent said they use the strategic plan regularly. This finding indicates that the preparation of a strategic plan alone does not necessarily yield much result without a deep focus on results based management that would ensure that the Councils' managers focus on achieving results.

9.8 Institutional Integration and Performance

9.8.1 The Decentralisation Policy (1998) seeks to integrate governmental agencies at the district and local levels into one administrative unit, through the process of institutional integration, manpower absorption, composite budgeting and provision of funds for the decentralised services. To-date, institutional integration has not been fully achieved. Although some teamwork was evident among staff through the District Executive Committee (DEC) meetings, the effectiveness of the DEC as an integrated strategic technical arm in guiding and assessing council performance was limited. The team noted that most of the Local Authorities visited held regular monthly DEC meetings that involved all Heads of Department but most of the meetings were briefing and sensitization sessions initiated by other development partners, including NGOs wishing to work in the district. DEC meetings have had little focus on assessing the performance of the Local Authority, discussion bottlenecks, and possible solutions. These observations have also been raised by the Local Authority Performance Assessments that have been carried between 2010 and 2013 by the MoLGRD in conjunction with the LDF. These assessments found that, in most local authorities, both management and DEC meetings did not have separate action sheets to summarize agreed actions. As a result, there was limited follow-up on the implementation of agreed actions. The assessments also revealed inadequate enforcement of governance processes and procedures due to the absence of Councillors. There was also lack of firm resolve by the centre to provide solutions to shortfalls in local authorities and lack of capacity at the centre in terms of numbers and technical expertise to backstop operations of councils across virtually all functional areas (MoLGRD, 2013: ix).

9.9 The Impact of the Absence of Councillors on the Effectiveness of Councils

9.9.1 The postponement of local elections contributed to the limited effectiveness of Councils. Section 15 (1) of the Local Government Act stipulates that the power of Councils to enact by-laws cannot be delegated to other institutions. In the absence of Councillors between 2005 and May 2014, District Consultative Forums were set up but these entities could not approve revisions of outdated by-laws, or enforce existing by-laws or other Council resolutions. This has had a huge impact on local revenue generation. Local Authorities also operated without any elaborate committee system and oversight structure. For example, the Finance and Audit Committee monitors budget execution in terms of expenditure management and revenue collection. The absence of such committees affected the supervision and detailed scrutiny of Council activities, resource allocation and budget implementation, and projects and service delivery monitoring. The

absence of councillors also negatively affected the interface between communities and their councils although in some District Councils temporary arrangements were made whereby Chairpersons of ADCs and Chiefs attended council meetings to represent communities. As a result of this, the transmission of information to and from communities as well as financial accountability and transparency were compromised. Similarly, development programmes did not have appropriate leadership at the community level. Service delivery, such as waste management, also suffered in all Councils. In addition, Recreation Parks have been neglected, roads are in the bad state of repair, public toilets were neglected and illegal developments were unchecked.

9.9.2 The review noted that despite these shortfalls, there is huge expectation from the general public that the coming of Councillors will result in improved service delivery and that Councils will become more accountable to the public. However, other stakeholders were of the view that unless some steps are taken to fully orient Councillors in their roles and responsibilities, voting powers of MPs are removed at Council level, and CDF management guidelines are revisited, there would still be challenges in the ability of Councillors to make meaningful contribution to the running of the Councils. We therefore **recommend** that government, through MoLGRD, should take proactive steps to fully train Councillors in their roles in improving council effectiveness and service delivery. Government should also take steps to resolve the issues of voting powers of MPs and the status of CDF, in order to ensure harmonious working relations between MP and Councillors, by revisiting the 2010 Local Government Act Amendments in a comprehensive review of the Act.

9.10 Sub-District Structures

9.10.1 The review noted that the presence and institutionalisation of sub district structures varied from one council to another. However, Village and Area Development Committees existed in most districts and most actors such as NGOs undertaking development work in rural areas utilized these structures to introduce their interventions and connect with the grassroots communities. In the districts where NGOs were operating, they were also instrumental in supporting Councils to revamp and train the committees that had outlived their mandated term of office on their roles in areas where they operate. The review found that some Village and Area Development Committees are very vibrant and members are very enthusiastic about the potential of local citizens to participate in development processes. These structures also play key roles in mobilizing communities for self- help work and community contributions.

9.10.2 One positive development that we came across is the current practice of electing the leadership of these committees. We found this to be important as it may result in increased effectiveness and efficiency of the committees in the planning for and implementing development activities. This is so because, previously, these committees were routinely chaired by traditional leaders regardless of their capacities to do so. Due to the anticipated benefits of electing the leadership of these committees, we **recommend** that Councils should provide the elected leaders and members of these Committees with training in matters of decentralisation and their roles in the decentralisation process to enhance the realisation of the benefits cited above.

9.10.3 Most Village and Area Development Committees (ADCs) conduct meetings almost on a monthly basis but the focus of these meetings is largely on development wish lists based on the consolidation of development needs from the villages without paying sufficient attention to reviews of projects implemented within the ADCs. This is ironical in the sense that councils are supposed to develop Annual Investment Plans that are a consolidation of investments to be implemented within a specific financial year whose source should be development priorities identified through a planning process that goes through the ADCs. This was evidence that there are some capacity deficiencies at the ADC level in relation to issues that ought to be given priority and dominate ADC meetings. Capacity building at the community level was supposed to be linked directly to planning, decision-making and implementation as well as management of actual projects based on capital funding provided through the LDF and any other channels. The Review Team found that both rural and urban sub-council structures faced the following challenges:

- a) In Urban Councils, most community and ward structures had become defunct since the last local government election;
- b) Current rural sub-district structures of VDCs and ADCs are organised around the Traditional Chieftaincy system and are not synchronised with the Local Government sub district structure and jurisdiction of the Councillor, the Ward.
- c) Over the years, these community committees have been prone to politicisation, especially after national elections. Despite clear procedures stipulated in the District and Urban Development Planning System Handbook about the formation and role of such committees, incoming MPs choose to deliberately ignore these guidelines and dissolve existing committees under the pretext that they belonged to the previous MP.
- d) The orientation of the VDCs and ADCs is largely towards planning processes and compiling development project wish lists and transmitting them to the Council than service delivery *per se*.

Where these structures are working, their emphasis is on development projects being implemented in the district and serving as channels for submitting village development project priorities to the District Council. They therefore play limited roles in monitoring the quality and efficiency of service delivery and assessing the implementation of development projects within the ADC. While some investment by the MLGRD has gone towards developing District Service Charters with support from GIZ and Irish Aid, more effort has been placed on the charter development processes than on how citizens and sub-district level structures can utilize the charters as tools for monitoring local public services delivery.

e) At the sub-council or community level, sectoral fragmentation was the order of the day. Integration of sectoral development activities and service delivery was poor. Although Area Development Committees, Village Development Committees and Urban Neighbourhood Committees had been established in most of the councils, these committees had little or no capacities to hold sectoral staff at those levels fully accountable to them. Patron-client relationships and patrimonial social structures, coupled with the dual reporting system at the council level, undermined the committees' ability to influence the work of the sectoral staff, efficient service delivery, and effective and efficient use of the services. The review also noted that VDC and ADC members possess very limited knowledge of public service standards, including their obligations to influence the quality, efficiency, and accountability of public services. As a result, they operated mostly as subjects and are unable to hold Council front line staff (AEC members), NGOs, and district level Council staff accountable for their behaviour and practices.

9.10.4 In view of the foregoing challenges, we make the following **recommendations**:

i) As a matter of urgency, urban councils should facilitate the return of Community or Ward Development Committees. In the rural areas, Ward Development Committees should be institutionalised and formed as the appropriate local government sub district planning structures, interface point between councillors and communities, and as rallying points for ward level activities;

ii) The District and Urban Planning handbooks should be revised to institutionalise the Ward Development Committee and ensure a service delivery focus in the roles and responsibilities of the sub-district structures; iii) Members of the Community or Ward Development Committee structures should also be properly oriented in service delivery standards including their roles in service delivery monitoring and accountability. There is also need to inculcate a civic culture in

Malawian society so as to generate sufficient demand for efficient and effective public service delivery and use of resources, as part of the devolution process; and

iv) To deal with politicization of the structures, the MoLGRD, in conjunction with the Councils, should enforce guidelines relating to the formation and overhaul of sub- district structures.

9.11 Other Sub-district Structures in Local Authorities

9.11.1 Apart from VDCs and ADCs, a variety of sectoral specific committees such as parents' teacher associations, school management committees, village health committees, CBOs, and associations exist. These committees and associations play important roles in their respective sectors but their linkage and working relationship with the local government structures, the Area and Village Development Committees, is weak. There is very little collaboration, networking and dialogue among the various structures working with communities on issues of service delivery. VDCs and ADCs rarely have dialogue with committees and associations working within their jurisdictions unless there was some infrastructural development project involved such as building a school, a health centre, etc. CDF and LDF Project implementation committees in most cases work in isolation, with limited scrutiny of the ADC. We therefore **recommend** that MoLGRD should institute a review of how to come up with an effective mechanism for creating linkages and working mechanism among various service delivery committees and the Ward.

CHAPTER TEN

POLITICAL DIMENSIONS OF DECENTRALISATION

10.0 Background

During our national-level stakeholder consultations, we were requested to analyse some of the major political factors that had affected the implementation of decentralisation in Malawi and recommend how they can be addressed. We present some of those factors in the paragraphs below.

10.1 Political Support for Decentralisation

10.1.1 Several stakeholders observed that most political parties embraced elements of decentralisation during the campaign for the May 2014 Tripartite Elections. This was not only evidenced by the parties' sponsoring of candidates for Councillor positions in various wards, but also their explicit articulation of decentralisation approaches both in their party manifestos and in their pronouncements at campaign mass rallies. Stakeholders also stressed the need to translate that commitment to local governance into political support for decentralisation as an efficient and effective means of improving service delivery to the electorate and of managing the implementation of development activities at the community level even after the elections.

10.1.2 The national level consultations also uncovered the general perception that local governance and decentralisation lacked political support at the highest levels of decision-making. This perception was based on the long absence of councillors which was viewed as evidence of lack of commitment to democratisation. However, we found no concrete evidence of rejection of decentralisation as a means of improving service delivery to the people. There were also some sentiments to the effect that during the NDP II implementation period, decentralisation had been sold to the political leadership by civil servants and politicians who had little or no grounding in the decentralisation process. The fact that decentralisation was highlighted as a priority area of action in the Malawi Growth and Development Strategy demonstrates that there was some political commitment to it. In this regard, we contend that it is the Ministry of Local Government and Rural Development and the Office of the President and Cabinet that should have facilitated the translation of that commitment into tangible forms of political commitment to local governance and decentralisation, as was done under NDP I. This did not happen largely because these two key institutions experienced systemic, structural and staff changes that contributed to the loss in the decentralisation momentum. Decentralisation is necessarily a political process as the required re-distribution of power and authority over national resources affects the interests of different groups

in government as well as in the public. The two institutions should have presented the political benefits of implementing the decentralisation to the political leadership in terms of improving the delivery of services and implementing development activities through the local government machinery as has been done for the conduct of elections. There was also need to popularise NDP II across the varied stakeholders' interests such as those of donors, the private sector, the civil society, and the communities so as to broaden political support and demand for decentralisation. Some of this was achieved under NDP I through a broad-based Information, Education, and Communication national campaign that generated high demand for decentralisation as “*mphamvu ku anthu*” which means “power to the people”.

10.1.3 In view of the above findings, we **recommend** that the Ministry of Local Government and Rural Development and the Office of the President and Cabinet should play an active and effective role in sustaining the decentralisation process through the political leadership regardless of who heads the 2 institutions. The headship and management of the 2 institutions will naturally keep changing but their machineries should have some capacity to undertake the above tasks. Government should also **enhance the stability of its institutions** that manage such key national development programme as NDP II by minimising changes in staff. We also **recommend** that, as was the case under NDP I, OPC, MoLGRD, NICE, the Public Affairs Committee, and others should take measures to broaden the political support for local governance and decentralisation based on a thorough understanding of the interests of various stakeholders. In this regard, we **recommend** the President of Malawi should serve as the Political Champion for Decentralisation and the Chief Secretary should also serve as the Administrative Champion for Decentralisation, as was recommended by the 2004 Review of NDP I.

10.2 Bureaucratic Politics and Decentralisation

10.2.1 We came across bureaucratic tendencies to resist decentralisation in subtle ways in certain central and sectoral government ministries. Some of the forms in which these tendencies were displayed were:-

- (i) Superficial devolution of ministerial / sectoral processes and functions to councils coupled with a failure to transfer resources (funds, vehicles, buildings and staff);
- (ii) The creation and retention of intermediary (zonal and regional) structures based on the flawed argument that councils cannot retain specialised sectoral skills; and
- (iii) A failure to prioritise service delivery to the people at the community level while concentrating resources at the centre – through control-oriented ineffective systems.

10.2.2 We contend that the above 3 factors, coupled with institutional performance failures at the centre, have contributed to a big failure for the country to make positive developmental strides since independence in 1964. This is so because our inquiries uncovered some evidence of political support for decentralisation during the period of NDP II which facilitated the implementation of some crucial requirements for decentralisation, especially in the area of fiscal devolution, as discussed in Chapter 6 of this report. The same support can be gained in the other areas of decentralisation such as sector devolution. Should bureaucratic politics continue to work against local governance and efficient delivery of services through councils, the country is likely to remain under developed for a long time to come because of poor service delivery and failures to implement development projects at the national, council, and community levels. We therefore **recommend** that the Office of the President and Cabinet and the Ministry of Local Government and Rural Development should support the Political and Administrative Championships for decentralisation, as recommended by the 2004 Review of NDP I. This would enable them to play their positive roles in decentralisation by removing the unnecessary forms of resistance to local governance, especially in the civil service.

10.3 Councils as Autonomous Local Governments

10.3.1 During our consultations with stakeholders at the national, council, and community levels, it was widely perceived that, contrary to constitutional and legal provisions in the Local Government Act 1998, central government, including the Ministry of Local Government and Rural Development, failed to appreciate the autonomous status of local authorities. This was characterised by a desire to appoint and post council staff from the centre, a failure to provide sufficient funds for councils' operations, and a failure by the centre to relinquish its control of sectoral staff in the councils. It was also suggested that the absence of councillors for almost a decade was a deliberate attempt at rendering council staff accountable and responsible to the centre. However, the Ministry of Local Government and Rural Development and the Office of President and Cabinet clarified that Government considers and treats councils as autonomous and very important channels for delivering services and development activities to the people. Nevertheless, due to the high prevalence of that perception, we **recommend** that the Office of the President and Cabinet and the Ministry of Local Government and Rural Development should take concrete measures to address the perception that central government is not in support of service delivery and undertaking development activities through the local government machinery.

10.4 Debates on Federalism and Links to Decentralisation

10.4.1 During the field work for this review, the country was rife with debates on the merits and demerits of federalism as a system of political governance that Malawi could adopt. The proponents of federalism argued that narrow and sectional interests had biased the allocation of national resources and development experiences against the Northern Region and to a certain extent the Central Region and in favour of the Southern Region. During our consultations in all the Northern, Central, Eastern, and Southern Regions, we found that all the councils were disenchanted largely by the current practice of allocating at most 5% of Net National Revenue to councils and leaving 95% of the resources for the centre with little or no local developmental impact. All councils visited lacked resources for service delivery as well as development activities. Furthermore, we did not find any evidence of the National Local Government Finance Committee applying the formula for allocating financial and other resources to councils in any biased manner so as to justify the demands for change of the architecture of the state from the current unitary one to a federal one. Nevertheless, it is important that, in the spirit of democratisation of Malawian society, the proponents or advocates of federalism be provided with opportunities to articulate their thoughts objectively and responsibly.

10.4.2 Our review of the literature on the history of local governance in Malawi has also revealed that the Northern, Central and Southern Regions are actually a legacy of the country's colonial administration system that was based on the concept of indirect rule. These three regions were meant to assist with the administration of tribes through chiefs. In the period after gaining independence in 1964, these colonial structures of indirect rule have been left intact although they should have been dissolved in favour of councils as espoused by the National Decentralisation Policy. At 50 years of independence, the current debates on the merits and demerits of a federal system of government point to the need to critically review the relevance of a region as a governance structure with a view to accelerating developmental impacts not only in one region but in all the regions of the country. Some stakeholders consulted on the same issue have actually suggested that the current regions be re-configured or re-demarcated into between 5 and 8 socio-economic areas not of political organisation but developmental impact. In this regard, urban and district councils would still remain the most appropriate structures for local governance under the leadership of the elected councillors and in line with the principle of subsidiarity. As noted in Chapter Five of this report, regional structures are widely viewed as serving as an additional layer of decision-making and public spending, inefficient control of public servants and other resources, not in touch with ordinary people's needs and priorities, and a major cause of delays in service

delivery and implementation of development activities. It is for these reasons that regional structures are being dissolved in favour of councils.

10.4.3 In view of the above findings, we **recommend** that MoLGRD, NLGFC, and the Ministry of Finance should review the formula for the distribution of national resources so that increasingly significant proportions (at least 20%) of the national resources are allocated to reach the people by way of improved service delivery and implementation of development activities through councils. In this regard, we **recommend** adoption of concrete and objective measures of the distribution of development using Global Positioning System data on the spread of socio-economic infrastructure and service centres across councils. The information generated can be used to target specific types of development to areas of priority need rather in addition to the financial resources allocations by council. Furthermore, there is need to re-configure or re-demarcate the current regions into socio-economic areas of developmental impact (and not political groupings) in a manner that effectively addresses the perceived geographical, ethnic, and tribal inequalities and increases strategic balance in the allocation of national resources between the centre and councils.

10.5 Broadening Political Support for Decentralisation through Improved Civic Engagement

10.5.1 Our inquiry into the political drivers of decentralisation in Malawi with social and political analysts revealed that a long history of lack of civic engagement in Malawian society has resulted in narrow support for local governance and decentralisation for efficient service delivery and development activities. Patron-client relations make citizens reliant more on vertical hierarchy and less on horizontal collaboration in resolving service delivery and developmental challenges. Citizens also expect leaders to direct them in their day-to-day activities and look to central government to provide for almost all aspects of their lives. Neo-patrimonial structures also prevent citizens from questioning ill-conceived decisions and practices of their leaders. It was also argued that the driving factor in seeking leadership positions at work and in communities is largely to extract public and institutional resources more for personal benefit than to serve (and be accountable to) people. It was noted that a **rent-seeking culture** (which results in massive wastage of resources in public service, the private sector, the civil society, and at the community levels currently) prevails at all levels of Malawian society to the detriment of service delivery and the country's development prospects. This was said to be promoted through a system of inflated work-related allowances, endemic legitimised corrupt dealings in public procurement, and unwarranted bribes in service delivery which inflated the cost of delivering public services and minimised the quality of services, including through councils, tremendously.

10.5.2 Indeed civic engagement is vital in enhancing institutional performance at all levels of society. One of the major challenges in service delivery arises from failures to hold public, private sector, and civil society actors to account for their actions and decisions through horizontal collaboration and this results in poor institutional performance including at the Council, Area Development Committee, and Village Development Committee levels. In view of the constraints to efficient service delivery and implementation of development activities through local governance arising from the dominance of patron-client relations and a rent-seeking culture, we **recommend** the adoption and effective implementation of a strategy to promote civic engagement and democratisation in Malawian society. MoLGRD, the Public Affairs Committee, the National Initiative for Civic Education, the Kalondolondo Programme, the Centre for Multiparty Democracy, and other key stakeholders should lead the design and implementation of that strategy all over Malawi. That strategy should constitute one of the key components of a future decentralisation programme.

CHAPTER ELEVEN

LEGAL REFORMS FOR DECENTRALISATION

11.0 Background

During the national level consultations, stakeholders requested the Review Team to identify gaps and inconsistencies in the legal framework that impinge on the decentralisation process. Their main interest was to see that laws that negatively affect the implementation of the various aspects of the decentralisation process, especially the devolution of power, authority and resources from the centre to the periphery, including some sectoral laws, are reviewed in a comprehensive legal reform strategy. The Review Team has therefore undertaken that analysis and identified the gaps and inconsistencies discussed in the rest of the paragraphs in this Chapter.

11.1 Gaps in the Local Government Act

Several stakeholders observed that the Local Government Act currently has some provisions that need to be reviewed in order to facilitate the implementation of decentralisation activities and the specific gaps and inconsistencies identified are presented in the next paragraphs.

11.1.1 Restricted Sources of Revenue for Councils in the Third Schedule of the Act: Section 44 of the Local Government Act provides for the sources of revenue of Councils which are listed in the Third schedule of the Act. The schedule can be amended by the Minister of Local Government in consultation with the Minister of Finance. Stakeholders requested the Review Team to examine the possibility of addressing the under-funding and poor revenue performance of councils in revenue collection, as noted in Chapter 7 of this report. They suggested that this could be achieved by broadening the sources of revenue covered in the Third Schedule of the Act and authorising the Malawi Revenue Authority to collect some revenue for councils. We found that indeed Section 44 of the Local Government Act empowers the Minister responsible for Local Government to agree with such a public body as the Malawi Revenue Authority (MRA) to collect revenue for councils. Furthermore, it provides for the possibility of the Minister broadening the scope of the locally generated revenue by agreeing with the Minister of Finance any possible additional revenue such as the smaller ones collected by MRA. We therefore **recommend** that the Ministry of Local Government and Rural Development should negotiate a broader revenue base for councils with both the Minister of Finance and MRA. We also **recommend** that the Minister of Local Government and Rural Development should propose amendment to the Third Schedule of the Local Government Act accordingly. However, we recognise the legal and institutional

challenges that this may pose and we recommend how these can be addressed, in Section 11.7 below.

11.1.2 Challenges in Gazetting the Collection of Property Rates: Councils identified several challenges faced in the collection of property rates due to some provisions in the Local Government Act. The first one is that Section 61 of the Act provides for the Minister responsible for Local Government to declare by notice in the Government Gazette areas or parts of councils as rateable areas. During both national and field consultations, it was claimed that the requirement for the Minister to gazette areas of councils as rateable affected councils' abilities to levy property rates due to the complexity of the process of gazetting such areas. As a result, many rural councils are not gazetted and they do not collect property rates and this affects their revenue performance. We **recommend** that Section 61 of the LGA be re-visited with a view to allowing councils to determine the areas of their jurisdiction that are rateable, with adequate participation of their citizens in the determination of rateable areas.

11.1.3 Surcharge on Property Rates: Stakeholders noted that Sections 86 (2) and (3) of the Local Government Act provide for councils to make a surcharge on any property rate remaining unpaid sixty days after the date on which the rate bill is issued. The Act imposes this penalty at the rate of "four per centum per month or part thereof". All the 4 City Councils (Mzuzu, Lilongwe, Zomba and Blantyre) face enormous challenges in enforcing this penalty due to high levels of default on the property rates bills. The bills are exaggerated by the monthly compounding of the bill at the relatively high geometric growth rate of 4% per month even when the bill has no arrears. We have discussed this serious problem at length in Chapter 7 of this report and concluded that this penalty rate be reviewed to enable councils to raise significant revenue from this source, as councils collected an average of 45% of billed property rates. The highest proportion of collected rates was reported in Mzuzu City where the billing period was half (3 months) of that of the other City Councils (6 months) and the surcharge commenced at the end of the billing period. To address the problem of high default, almost all the urban councils offered defaulters 50 per cent discounts on the amounts due but this created a disincentive for loyal property rates payers.

11.1.4 Although Section 91 of the Local Government Act provides for the seizure of property in default for a period of 3 years after the date upon which the sum became payable, there are also serious challenges in implementing this. The property is supposed to be sold by public auction to satisfy the rate due. Some of the city councils attempted to seize property using this section. However, the scale of the default undermined the extent to which councils could practically

recover the rates through mass property sales without creating a serious crash in the property market and attracting serious political problems. In view of the above challenges and to enhance revenue collection in councils, we **recommend** a thorough review of Section 86 (3) of the Local Government Act to make it more implementable. We also **recommend** that the surcharge commence at the end of the billing period and that the surcharge rate should be less punitive than the 4% per month, perhaps at 1.5% per month, which would translate to around 18% per annum. In addition, Section 85 should be reviewed so as to include a discount, perhaps of 50%, for socially disadvantaged groups such as the elderly, the disabled, and retirees so as to enable them to pay their property rates in an affordable manner.

11.2 Comprehensive Review of the Local Government Act

11.2.1 During the consultations at the national level, we came across two initiatives that were aimed at facilitating a comprehensive review of various provisions in the Local Government Act. These were initiated by the Ministry of Lands, Housing and Urban Development and the Government of Malawi – Civil Society Organisations through the Public Affairs Committee. That Ministry has conducted a thorough review of all land-related laws with a view to harmonising them with the Local Government Act 1998 and details about that review are discussed in Section 11.6 below.

11.2.2 The Public Affairs Committee (PAC) through its “Consolidating Democracy, Good Governance, Human Rights and Rule of Law in Malawi” programme, commissioned a study to review the status of the implementation of the National Decentralisation Policy and to assess the extent to which the existing legal framework underpins the policy and its implementation process (PAC 2014:4). The preliminary findings of that study show that the legal framework underpinning decentralisation, especially the Local Government Act, has gaps, inconsistencies and ambiguities that negatively affect the devolution of political power, administrative authority, functions, and resources to councils and their citizens. The study notes that the letter and spirit of decentralisation had been reversed through the enactment of laws that have centralised power of particular significance. A clear example of this is the Local Government (Amendment) Act of 2010 which transferred the power of appointing and disciplining District Commissioners and Chief Executives of urban councils from elected local government authorities to a central government minister. The Act also granted the Minister powers to set the allowances of the Chairpersons and Vice Chairpersons of local government councils and empowered Members of Parliament to vote in these councils. All these 3 elements have the potential to reverse the accountability of District

Commissioners and Chief Executives of urban councils and the elected officials to the people and this runs counter to the spirit of democratisation and decentralisation. That study **recommends** that the Local Government Act be amended to provide that District Commissioners and Chief Executives of councils should be appointed and accountable to their councils and to remove the right of Members of Parliament to vote in councils. One of the key gaps in the Local Government Act documented by the study and stressed by other stakeholders is the failure to provide for such key local government structure as Area Development Committees (ADCs) and Village Development Committees (VDCs) and the key financing mechanisms, especially the Local Development Funds (LDF). However, the ward is recognised as a legal local government structure such that there is need to define the ADCs and VDCs as possible sub-structures of the ward in the Local Government Act. We **endorse** the recommendation of the GoM-CSOs study that a comprehensive review of the Act be undertaken as soon as possible to address the above and other gaps in the Act.

11.3 Legal Status of the National Local Government Finance Committee (NLGFC)

The 2007 Constitutional Review Report discusses the need to change the name of this institution from a “Committee” to a “Commission”. The reason for the required change was that there was need to improve the legal and operational aspects of the committee since it had only been established in the Republican Constitution without an Act of Parliament to clarify its legal status and mandate. During field work, we found out that the Law Commission was in the process of preparing a bill to clarify the legal mandate and composition of the National Local Government Finance Committee. The challenges faced by the NLGFC due to this lack of clarity have been discussed in Chapters 3 and 6 of this report. In the draft bill, the name of this institution had been retained as a “Committee” and not “Commission” as had been recommended by the 2007 Constitutional Review because Parliament had not passed the Constitutional amendments. The implication here is that the Committee will have to continue using its “Committee” title until the constitutional amendments are made. We **commend** the NLGFC and the Law Commission for the work done to clarify the legal status of the NLGFC so as to enable it to support the implementation of the National Decentralisation Policy effectively.

11.4 Gaps in the Chiefs Act

11.4.1 During the national level, council level, and community level consultations, stakeholders stressed the need for Government to clarify the role of chiefs in local governance and the decentralisation process. We also learnt that the Law Commission was in the process of reviewing

the Chiefs Act so as to resolve some of the challenges that the country faces in relation to the roles and management of chiefs or traditional leaders. In addition, stakeholders at the national level observed that the management of chiefs by the Ministry of Local Government and Rural Development had been affected by:-

- (i) Lack of technical and administrative capacities in MoLGRD;
- (ii) Understaffing and under-financing of the Directorate for Chiefs in MoLGRD; and
- (iii) The remoteness of the Ministry of Local Government and Rural Development from the local politics surrounding the selection of successors of deceased chiefs which resulted in inefficiency in the resolution of chieftaincy wrangles.

11.4.2 We found that the Ministry of Local Government and Rural Development had only one official at the Director level who was handling chiefs' affairs from Lilongwe. He lacked support staff and funds to support his work such that he was persistently out of the office attending to matters pertaining to the elevation of chiefs as well as resolution of chieftaincy wrangles. We also found that on days when chiefs were being elevated, all senior staff of the Ministry went to attend such functions at the expense of their own duties. Similarly, we noted that the management of chiefs consumed significant financial resources of MoLGRD at the expense of its other key functions such as implementing the decentralisation programme.

11.4.3 All the above challenges point to the need for the function of managing chiefs to be clarified even in the Chiefs Act. Stakeholders recommended amendments of the Act to include:-

- (i) The clear role of chiefs in rural and urban councils and wards;
- (ii) Clarity on the legal status of urban chiefs or block leaders in view of the important roles that they play in urban communities;
- (iii) Provision for the devolution of the management of chiefs from MoLGRD to councils;
- (iv) Clarity in the roles of councils in the management of chiefs' affairs i.e. the operational areas to be handled by chiefs;
- (v) Clarity in chiefs' roles in national and local politics as they claim to be non-partisan while practising party politics which affects the delivery of services and the implementation of development projects; and
- (vi) Provision for local authorities', rather than MoLGRD's, determination or resolution of chieftaincy wrangles which claims significant financial resources of MoLGRD as well as Councils.

We endorse the above recommendations as these are valid observations. We therefore **recommend** that MoLGRD and the Law Commission should consider the above issues in the on-going review of the Chiefs' Act.

11.5 Gap in the Public Finance Management Act (PFMA) of 2003

11.5.1 Stakeholders identified a gap in the Public Finance Management Act of 2003 which impinged on the decentralisation process in Malawi largely in terms of the appointment of Controlling Officers for Councils. The appointment of Controlling Officers is the legal mandate of the President, under Section 2 of the Public Finance Management Act 2003. In 2005, the President appointed District Commissioners and Chief Executives of City and Town Councils as Controlling Officers. In accordance with Section 7 of the Public Finance Management Act (PFMA), the Secretary to the Treasury communicated the appointment to all the relevant authorities and District Commissioners and the Chief Executives have since served as Controlling Officers in their councils.

11.5.2 During the review of NDP II, we came across debates as to whether the Secretary to the Treasury or the Chief Secretary should have powers to appoint Controlling Officers. We examined this issue and its implications for the decentralisation process. Our conclusion is that it is important to retain the powers of the President to appoint Controlling Officers, including District Commissioners and Chief Executives of urban councils. However, there is need to amend Section 2 of the Public Finance Management Act so as to include local governments in its paragraph (a). In the spirit of democratisation and decentralisation and the principle of subsidiarity, local governments or councils ought to be self-accounting entities with high degrees of transparency, accountability, and responsibility in the management of councils' financial and other resources. We therefore **recommend** the amendment of Section 2 of the Act as indicated above.

11.6 Review of the Land-related Laws

11.6.1 The review of land-related laws represents an example of a comprehensive review of sectoral laws which other sectors should emulate in terms of sector devolution. The Ministry of Lands, Housing and Urban Development worked with the Ministry of Local Government and Rural Development, the Ministry of Justice and Constitutional Affairs and the Law Commission to review the land-related laws. Cabinet approved the Land Policy in 2002 following the work of the Presidential Commission of Inquiry on Land Policy Reform which had reviewed the land tenure

and administration systems. The Commission recommended the repeal of both the Land Act (Cap 5:01) and the Registered Land Act (Cap 58:01) through a comprehensive review in line with the National Decentralisation Policy and to increase efficiency and modernisation in land administration and settlement of land disputes at the community level.

11.6.2 In the Land Bill (2012), land administration including issuance of title deeds has been devolved to councils such that each council would have lands officers, physical planners, and surveyors. The Bill was, at the time of the national consultations for this Review, with Parliament as the President did not assent to it although Parliament had passed it. This was due to protests by traditional authorities who felt that some of their powers to manage land affairs had been diluted in the Bill. However, consultations were being held with them to clarify their roles as stipulated in the Bill.

11.6.3 The Land Bill (2012) has been synchronised very well with the Local Government Act 1998 to ensure that land administration is sufficiently devolved to councils. In this regard, the Bill contains a Local Government Amendment Bill (2012) which specifies the necessary amendments to sections of the Local Government Act so that councils can perform land administration functions effectively. In view of the importance of the Land Bill for the devolution of the lands, physical planning and surveys functions to councils, we **recommend** that MoLGRD and the Ministry of Lands, Housing and Urban Development facilitate the re-passing of the Land Bill (2012) by Parliament and the assenting to it by the President, as soon as possible.

11.7 Gaps in the Malawi Revenue Authority (MRA) Act

11.7.1 One of the key areas of legal reforms for decentralisation requested by national, council and community levels stakeholders was that the Malawi Revenue Authority should be empowered to collect tax revenue in local authorities' jurisdiction on behalf of councils. The reasons for this have been discussed in depth in Chapter 7 of this report. We presented the request to MRA staff in the councils' jurisdictions, regional offices, and at the MRA Headquarters in Blantyre. The MRA staff agreed to the soundness of harmonising public revenue collection especially in rural councils. This approach was considered to be in line with their own plans to broaden the tax base and increase tax collection from the growing informal sector. It was noted that councils have significant amounts of information on potential and actual tax payers which MRA staff lacked due to weak institutional relations between MRA staff and councils. While MRA maintains offices in 23 districts out of the 35 councils, there were no formal linkages between the two sides although it

was noted that the two needed each other. It was stressed, however, that the Ministry of Finance's approval would be required for the MRA to take a new approach to revenue collection in councils.

11.7.2 It was noted that to enable the MRA and councils to work harmoniously, Section 4 of the MRA Act would need to be amended so as to broaden its areas of revenue collection. Furthermore, the Act would have to be amended to require individual small tax payers to file returns on their earnings and operations. It was also noted that for MRA to collect some of the departmental receipts, some sectoral laws would have to be amended such as land or property taxes, rents and taxes in extractive industries such as minerals and oil production. We therefore **recommend** that the NLGFC and MoLGRD discuss the proposal that MRA collect revenue on behalf of Councils and departmental receipts with the Ministry of Finance, Economic Planning and Development, the MRA, Councils, and all relevant stakeholders so that the relevant Sections of the MRA Act, the Local Government Act, and sectoral laws can be reviewed as soon as possible.

11.8 Review of Sectoral Laws

11.8.1 The importance of reviewing sectoral laws to facilitate the decentralisation process was seriously underestimated in the design of the 2008-2013 phase of NDP II. Consequently, no arrangements were made for the necessary comprehensive review of sectoral laws to effectively deal with the challenges to sector devolution that had been uncovered by the Review of NDP I. We therefore **recommend** that MoLGRD should ensure that future decentralisation work undertakes a comprehensive review of sectoral laws to entrench the devolution process. We also **recommend** that the Ministry of Finance Government should allocate sufficient funds for the review of each sector's laws with full input from MoLGRD and the Law Commission.

11.9 The Formulation, Review, and Implementation of By-Laws

11.9.1 We noted during the consultations with councils that few council staff were familiar with the formulation, review, and implementation of councils' by-laws. In fact, some council staff had attempted to formulate, review and implement by-laws even in the absence of councillors and this attracted legal action which councils lost. This underlines the poor understanding of by-laws among council staff. As recommended by the 2004 Review of NDP I, we **recommend** that the MoLGRD develop capacity building initiatives to enhance councils' capacities to understand, formulate, review and enforce by-laws in line with Sections 103 to 106 of the Local Government Act 1998.

CHAPTER 12

CONCLUSIONS AND FUTURE DIRECTION

12.1 The Review Team was tasked to assess the implementation of NDP II and the complementary CDPD with reference to the recommendations of the 2004 Review of NDP I and the inquiries under the NDP II review. Specific ToRs were provided to guide the Team in the review process. The Team has undertaken the review and its findings are covered in Chapters 2 to 11 above which discuss the programme design and implementation challenges and achievements under each of the programme's components. For each challenge and achievement, we have made a corresponding recommendation for the future direction of decentralisation in Malawi. The recommendations appear in each Chapter but, for purposes of clarity and emphasis, we have prepared a matrix or table summarising the key findings and recommendations in Annex 2 of this report.

12.2 Our analysis of the design of NDP II has found that the design reflected the recommendations of the Review of NDP I satisfactorily, especially in the programme for the period 2005 to 2009. We also found that NDP II was designed with a careful choice of components that reflected the need to deepen the decentralisation process based on lessons learned from the implementation of NDP I. We observe that frequent staff changes at senior management levels in OPC, MoLGRD, and other ministries and departments affected the support for and continuity of the decentralisation process. This was compounded by MoLGRD's failure to provide sufficient numbers of senior and technically qualified staff to work on NDP II on a day-to-day basis, unlike the case under NDP I. Very few officials in government and civil society organisations and communities, including ADCs and VDCs were involved in the design of NDP II. As a result, few stakeholders were aware of the existence of NDP II and this information gap undermined the implementation of the programme.

12.3 Despite the widespread perception that decentralisation lacked support from the country's political leadership, we found some evidence of political commitment to decentralisation in the forms of prioritisation of decentralisation and integrated rural development in the MGDS and the fundamental decisions and actions that government undertook to devolve the national budget to councils. Furthermore, government also appointed DCs and Chief Executives of urban councils to be Controlling Officers at the council level in the spirit of the decentralisation. We contend that failure to translate those forms of commitment into implementable actions within the context of decentralisation, bureaucratic politics within the civil service, and widespread and frequent

postings of staff between central government and local councils created losses of synergies and institutional memory for the decentralisation process.

12.4 The Review has also uncovered sufficient evidence that the absence of councillors during NDP II affected the decentralisation process enormously. Similarly, the 2010 amendments of the Local Government Act signalled to several stakeholders that government was not committed to decentralisation and local governance and that it had engaged in a centralisation drive thereby contradicting certain Constitutional provisions. The stakeholders suggested that these two factors pointed to the fact that democratisation of Malawian society was in its infancy as its ideals were not shared by political leaders. We also came across overwhelming calls for Government and Civil Society Organisations such as NICE, PAC, and the Centre for Multiparty Democracy, CCJP, and the Kalondolondo Programme to take deliberate measures to promote a democratic culture for effective service delivery and socioeconomic development and poverty reduction in Malawi. In this regard, specific recommendations have been made to promote civic engagement, transparency, accountability, and responsibility at all levels of leadership and among the citizenry, as summarised in Annex 1.

12.5 Despite the challenges faced in implementing NDP II, we found evidence of some achievements in the decentralisation process and in some of the components of the programme. In the area of Fiscal Devolution, the appointment of Controlling Officers for councils, the devolution of the national budget to the council level, the roll-out of IFMIS to councils, the reduction of the councils' external audit back-logs, and the appearance of councils' Controlling Officers before Parliament's Public Accounts Committee are indicators of success under the component. Evidently, the sub-programmes sponsored by GIZ, KfW, Irish Aid and UNDP contributed to these achievements. It is also significant that Government played a very crucial role in the policy and institutional changes that brought about these positive changes without spending much money. This shows that implementing important decentralisation measures does not necessarily require funding from donors or the government but a sound understanding of the decentralisation policy coupled with some political commitment. There was also some progress in the area of sector devolution as demonstrated by the relatively high consolidation of council level staff under the leadership of DCs and Chief Executives and the experiences in the education and lands sectors. We found that sectoral staff at the council level were working more directly, though not fully, under the DC during NDP II than was the case during the implementation of NDP I. Similarly, the flow of funds from the centre to primary schools and the devolution of the pay roll for teachers were elements of success in the education sector *that resulted in improvements in service delivery*.

The related positive development was the enactment of land-related laws that seeks to devolve land management functions and resources from the centre to councils in earnest.

12.6 We also came across some important changes in the arrangements for the leadership of Area and Village Development Committees. In most areas, the leaders of the Committees are now elected and this is likely to result in more effective community-level structures for planning and implementing development activities than when traditional leaders routinely chaired the Committees regardless of whether they played the role effectively or not. The election of Councillors in May 2014 and the capacity building initiatives that have been undertaken to strengthen their capacities and reduce role conflict with support from various development partners is another positive development that could enhance the decentralisation process.

12.6 In view of the above challenges, achievements, and opportunities that are emerging, we **recommend** that government, through OPC , MoLGRD and other key stakeholders, should prepare a new decentralisation programme that will deepen the decentralisation process. There is need to learn from the challenges and take advantage of the achievements and emerging opportunities in the design of such a future programme. In terms of adding value to the decentralisation process, we suggest that such a future programme should include the following **strategic areas** of action that would maximise impacts without requiring significant financial and other resources:

- (i) Full devolution and integration of sectoral and central ministries' staff and other resources in councils in the broader context of Public Sector Reforms;
- (ii) Enhancing Revenue Collection, Retention, and Accountability in councils in direct support for efficient service delivery and socio-economic development (including IRD) activities;
- (iii) Legal Reforms for Decentralisation; and
- iv) Promoting Civic Engagement and a Democratic Culture in Malawian society with a focus on central government ministries, councils, and communities.

In addition, we **recommend** that OPC and MoLGRD should set up dedicated units to spearhead the design and day-to-day implementation of that future programme.

Annex 1 - Summary Table of Conclusions and Recommendations

MEANING OF TIME-FRAME

1= Immediate, action should be taken and completed soon

2=Short-term, action should be taken and completed within 3 months

3=Medium-term, action should be taken and completed within 6 months

4=Long-term, action should be taken and completed within 12 months, where Applicable

Issue/component	Conclusion	Recommendation	Time frame
2.0 Programme Design			
3.0 Institutional Framework and Coordination arrangements			
3.1 The Office of the President and Cabinet	There was weak top level political and administrative leadership in the implementation of NDP2 (2005-2013)	1. The Office of the President and Cabinet should regain its centrality in championing the decentralisation implementation process as it did for NDP1 (2000-2004).	1
		2. The Office of the President and Cabinet and MoLGRD should engage staff conversant with decentralisation at Deputy Director, Director and above to provide professional advice to top administrative and political leadership on decentralisation.	2
3.2 The Cabinet Committee on Local Government and Rural Transformation	The Cabinet Committee on Local Government and Rural Transformation rarely met to provide the required political guidance on implementation of NDP 2.	The Ministry of Local Government and Rural Development should be proactive in identifying issues that need to be brought to the attention of the Cabinet Committee on Economy and Public Sector Reforms under which issues of decentralisation now fall.	2

3.3 The Inter Ministerial Technical Committee	The Inter Ministerial Technical Committee on Decentralisation was not effective in providing technical support for decentralisation largely because its members accorded low priority to decentralisation	<p>1. MOLGRD should take proactive action that will enable Ministries/Departments appreciate that they can attain their needs and interests through the decentralisation.</p> <p>2. MOLGRD should provide appropriate training to IMTC members on technical aspects and challenges of decentralisation and how they can overcome them.</p>	2
3.4 The Joint Government of Malawi and Donor Committee on Decentralisation	The Joint Government of Malawi and Donor Committee on decentralisation worked satisfactorily although greater initiative was coming from the Cooperating Partners	All members of the re-constituted Sector Working Group on Local Government and Decentralisation should be fully committed to participating in meetings of the Group and actively follow up on implementation of the resolutions made during its meetings so as to speed up the decentralisation implementation process. However, for it to play its role as the key institutional structure for coordinating decentralisation in the country effectively and efficiently, both OPC and MoLGRD on the government side and UNDP on the development partners' side should provide the Group with pragmatic leadership .	2
3.5 Ministry of Local Government and Rural Development.	MOLGRDs capacity to coordinate and manage implementation of decentralisation was weak largely due to existence of high vacancy rates and an inappropriate institutional structure.	<p>i. MoLGRD should speed up the filling of vacancies at professional and technical levels with appropriately qualified and experienced officers.</p> <p>ii. MoLGRD should take measures for GoM to create or establish a dedicated unit within the Ministry to coordinate and manage the implementation of decentralisation in collaboration with or under the Department of Local Government Services.</p>	3 3
3.6 Local Councils	Committees of elected representatives and Task Forces of officials to coordinate implementation of decentralisation in terms integration of the devolved functions at Council level were non-existent.	<p>1. MoLGRD and MALGA should facilitate the formation of Council level Committees to coordinate the implementation of decentralisation.</p> <p>2. The Committees should be provided with clear terms of reference and orientation on how to carry out their roles.</p>	3 3

4. Areas for possible devolution by MOLGRD			
4.1 Management of Chiefs	MOLGRDs involvement in managing Chiefs affairs continues to take up much of the time that should have been devoted to coordinating implementation of decentralisation	<p>1. MoLGRD should devolve the Chiefs management function in terms of operational tasks to the Local Councils while retaining the policy formulation, setting guidelines, standards and monitoring and evaluating performance of the function by the Local Councils.</p> <p>2. MoLGRD and other relevant stakeholders should openly discuss the role of Chiefs in local governance so as to remove the perception that they are merely political tools of ruling political parties and not facilitators of development.</p>	<p>3</p> <p>1</p>
4.2 The recruitment and management of council staff.	MOLGRD is heavily involved in the appointments, deployment and disciplining of Local Council personnel which is not in the spirit of decentralisation	<p>1. MoLGRD should initiate amendment of the Local Government Act to provide full responsibility to the LGSC as the authority to recruit or appoint all councils staff.</p> <p>2. Government, through MoLGRD, should revisit the 2010 amendment of the Local Government Act, to give full responsibility to the LGSC as an appointing authority for all Local Council employees including Chief Executives. Similarly, LGSC should assume responsibility over all Council employees from District Commissioner (Grade M2) to M9, while the Local Council Appointments and Disciplinary Committees would continue to have jurisdiction over employees in Grades M10 and M11.</p> <p>3. MoLGRD should leave the deployment of staff from one council to another with the Councils themselves, guided by human resource management and development systems.</p>	<p>3</p> <p>4</p>
4.3 The degree of autonomy for LGSC,	The Local Government Service Commission (LGSC) operates as a Vote under the MOLGRD which negatively affects the level	The Ministry of Finance should provide the Local Government Service Commission with its own Vote so that it is funded directly from Treasury and is in a position to articulate its financial	4

NLGFC, and LDF.	of funding it receives from Government for its operations	challenges to the Treasury and the National Assembly.	
	The National Local Government Finance Committee's terms conditions of service are not competitive enough which results in failure to retain talented personnel	Government, through MoLGRD and the Ministry of Finance should establish the NLGFC as a Commission with competitive remuneration and terms and conditions of service to facilitate retention and utilisation of talented personnel	3
	The National Local Government Finance Committee and Local Development Fund are two institutions primarily concerned with mobilising and allocating financial resources for the Local Councils, one focusing on recurrent financing and the other on development financing.	Government, through OPC, the Ministry of Finance, and MoLGRD should merge the NLGFC and the LDF into one entity as their function is to do with the financing of the Local Councils.	3
5.0Sector Devolution			
5.1 Sector Devolution Guidelines.	Sector devolution guidelines left some room for Ministries to determine what functions they would devolve and what to retain. In addition, the use of the words Sector and Ministry interchangeably was confusing.	MoLGRD should facilitate a thorough review of sector devolution guidelines to remove the leeway for Sectors to single-handedly determine what to devolve, and clarify the meaning of a Sector in the context of national development planning frameworks.	1
	The roles of Civil Society Organisations or Non-Government Organisations in the devolution process were not clearly articulated. Sector devolution guidelines and the local government Act do not clearly provide direction on the future of intermediary ministries structures of a regional nature such as regional offices, Zones and Divisions.	1. MoLGRD should take measures to ensure the effective engagement of the Private Sector, COSs and MGOs' in the devolution process. 2. OPC and MoLGRD should initiate and embark on a comprehensive strategy for eventually dissolving these structures while strengthening the Councils' capacities to provide the technical support services that regional structures provide.	2 3
5.2 Role and Performance	OPC did not play its role of coordinating sector devolution satisfactorily.	1. OPC should designate a specific part of its structure and empower it to handle matters of Sector devolution effectively.	1

6. Fiscal Devolution			
6.1 The Role of the Ministry of Finance	The Ministry of Finance was expected to coordinate this Component. However, since NDP II was not launched, the Ministry did not play its role as planned. In spite of this observation, we would like to register that after the 2004 NDP I Review, two positive developments took place, allocating a vote to each Council and NLGDC; and District Commissioners/ Chief Executives were appointed Controlling Officers	The Ministry of Finance should continue to play its critical role of facilitating Fiscal Devolution so as to enhance the mobilisation of financial resources for service delivery and socio-economic development at council and lower levels. The Ministry should also assist MoLGRD to mobilise adequate resources for a future decentralisation programme.	1
6.2 The Devolution of Sector Budgets	<p>Sectors lacked direction and guidelines. Sectors which had devolved during this period did so from own initiatives.</p> <p>A part from Ministries of Education, Health and Agriculture, sector funding is not proportional to devolved functions.</p>	<p>1. The Ministry of Finance should develop Sector Budgets Devolution Guidelines and should coordinate this function. The ministry should also provide the NLGFC with financial resources for it to convene estimates meetings involving sector ministries.</p> <p>2. The Ministry of Finance and devolving ministries should ensure that funding for councils is proportional to devolved functions in order to achieve effective service delivery and local socio-economic development.</p>	
6.3.1 Central Government Transfers	The transfer of 5% of national revenue excluding grants has so far not been achieved	The Ministry of Finance and Parliament should review the formula for allocating funding to local authorities and increase funding to	1

	as allocation is below 1%.	councils each year so that at least a 20% mark is reached as soon as possible.	
6.3.3 The Local Development Fund(LDF)	<p>The Line Ministry for LDF is not quite clear.</p> <p>LDF alone decides which projects it will finance in a given year and mostly the area of focus has been School Blocks and Staff Houses.</p> <p>The financing of projects is through the NLGFC using a formula</p>	<p>1. The Government, through OPC, should come out very clearly on the ultimate supervising Ministry for LDF between the Ministry of Finance and the Ministry of Local Government and Rural Development.</p> <p>2. MoLGRD, Ministry of Finance, and NLGFC should arrange for the LDF to provide discretionary funding as opposed to earmarked to Councils.</p>	1
			1
6.3.4 The Constituency Development Fund	Procurement procedures are ignored, local structures are bypassed and a parallel political structure normally for the party in power is created and given the power to implement projects. Other challenges are detailed in the appropriate section.	Detailed recommendations are in the report. Suffice to state that the Fund should be audited every year by the National Audit Office, and the District Commissioner should provide timely expenditure reports to Council now that Councillors are in place. MoLGRD, Ministry of Finance, and Parliament should review CDF guidelines and widely publicise them for accountability and transparency purposes.	2
6.3.5 The Financing of Roads in Councils	Several challenges were noted including funding from Road Fund Authority being channelled through RA which is a concern to Councils.	The Ministry of Local Government and Rural Development, the NLGFC, the Ministry of Transport and Public Works, the RFA, and the RA should review the procedures and funding arrangements for rural and urban councils' roads maintenance.	1
6.3.6 The Allocation of Funds to lower Structures of the Council	Allocation is not through a formula	NLGFC, in collaboration with the Ministry of Finance, should develop a formula in order to avoid subjective allocation of resources to lower structures' development priorities.	
6.4 Financial Management and			

Accounting			
6.4.1 The Computerization of the Financial Management Information System (IFMIS)	IFMIS has assisted in improving accountability and transparency through timely provision of financial information. Lilongwe City Council is in the process of computerizing its Accounting System; Blantyre City Council has billing challenges.	NLGFC and the Accountant General's Department should resolve the current challenges in the billing system as part of enhancing the roll-out of IFMIS to councils.	3
6.4.2 Asset Management and Transfer Arrangement	Government Assets have not been transferred to Councils. Councils do not have Asset Registers	OPC, MoLGRD, and the Ministry of Lands, Housing and Urban Development should coordinate the valuation and transfer of ministries assets to Councils. Each Council should prepare an Asset Register.	4
6.4.3 Financial Regulations and Guidelines	Financial Regulations were prepared in 2003 while the Accounting Manual was prepared in 2001 and they have not been reviewed in the light of IFMIS.	The Ministry of Finance and the NLGFC should review the Financial Regulations and Accounting Manual in the light of IFMIS.	3
6.4.4 Capacity to Support Financial Management in Councils	Hiring of Financial Specialists and the posting of sector accountants and accounting officers from the Accountant General's Department to councils assisted in strengthening accounting and financial management capacity in the Councils. Training needs has not been carried out. Vacancy Rate is 40%	NLGFC and the Accountant General's Department should take measures to resolve the various challenges to the entrenchment of IFMIS in councils' financial management. This should include conducting training needs assessment and undertaking relevant training and facilitating the recruitment of accounting and other relevant staff.	3
6.5 The Role of Councillors	Local Councils did not have Councillors at the time of the Review and Councils were supervised by the District Consultative Forums	Councillors should fulfill their statutory responsibility of oversight of Council's operations.	

	as makeshift.		
6.6 The Procurement of Goods and Services	<p>Lack of professional procurement staff in councils</p> <p>Procurement procedures not followed at the ADC and VDC levels especially in relation to the CDF.</p> <p>The procurement of drugs had been recentralized due some challenges.</p> <p>Procurement of Textbooks has not been devolved.</p>	<p>MoLGRD and the Office of the Director of Public Procurement should ensure that all councils' procurement units are staffed with qualified procurement personnel.</p> <p>Councils should train ADCs and VDCs in Public Procurement Guidelines.</p> <p>The Ministry of Health should revisit the policy reversal while resolving the problems that led to the reversal of the procurement arrangement.</p> <p>The Ministry of Education should work out and resolve possible challenges which are hindering full devolution of the procurement of Teaching and Learning Materials to local councils.</p>	On going
6.7 Operations of NGOs	Some NGOs did not establish a clear work relationship with the Council	NGOs to establish a Memorandum of Understanding with Councils	2
6.8 The Audit of Councils by the National Audit	Following the introduction of IFMIS, auditing in Councils is progressing well and is up to	Government, through MoLGRD, the Ministry of Finance, and the National Assembly should provide adequate financial resources for	1

Office	date. However funding is being provided by Development Partners in particular KFW/GiZ.	the audit of Councils instead of waiting for donors.	
6.9 District Commissioners and Chief Executives as Controlling Officers	<p>In March 2005, District Commissioners (DCs) and Chief Executives of Urban Councils were appointed Controlling Officers.</p> <p>There were frequent transfers of District Commissioners, Chief Executives and Senior Staff in Councils</p>	<p>1. OPC, MoLGRD, and the Ministry of Finance should support DCs and CEOs in their roles as Councils' Controlling Officers. DCs and the CEOs should enhance their appearances before the Public Accounts Committee to account for public funds as required by the Public Finance Management Act.</p> <p>2. OPC and MoLGRD should cease the frequent transfers of DCs. 3 years should be the minimum period the DC or CEO to stay at a Council.</p>	1
7 Revenue Collection, Management and Local Economic Development			
7.1 Council's Sources			
7.1.1 Locally Generated Revenue (LGR)			
7.1.1.1 Property Tax	About 44% to 46 % of the budgeted revenue from property rates is being collected in a year. Property rates are very high and far beyond the property owners' ability to pay. Valuation fees are based on the market value of the property and not the actual work that has been done. Valuers collude to deliberately inflate or over value properties so as to realise more fees.	NLGFC and Councils should ensure that fees for the valuation of property should be based on the actual work and not on the market value of the property.	2
7.1.1.2 Ground Rent	Government has no transferred the collection of Ground Rent to Councils	The Ministry of Lands, Housing and Urban Development should transfer this revenue to Councils because it is a local tax.	2

7.1.1.3 Business licences and Fees	The function of issuing business licences and the collection of fees from businesses owned by foreigners is still centralized, with the Ministry of Trade	Ministry of Trade and Industry should devolve this revenue to Councils.	2
7.1.1.4 Commercial Undertakings	Monitoring of implementation of Concessional Agreements for privatized commercial undertakings is not being done.	Councils should monitor compliance of Agreements by business owners.	3
7.1.1.5 Service Charges/User Charges	Determining the proper domain and design of user charges is a challenging task in Councils. Revenue from this source is insignificant.	NLGFC should conduct an in-depth study of user charges as a robust source of revenue for councils so as to broaden councils' revenue base.	4
7.1.2 Ceded Revenue (Non-Tax Revenue)	Through the Decentralisation Policy, Government decided to cede some revenues to Councils. Owing to several factors, collection of revenues earmarked for transfer to Councils is still centralised	The Ministry of Finance and other concerned ministries should cede revenue that is identified for transfer in accordance with the Local Government Act.	
7.2 Departmental Receipts	This revenue is being collected by Ministries and Departments	The Ministry of Finance should transfer the collection of departmental receipts to Councils.	
7.3 Contribution of LGR to ORT	Contribution of LGR to ORT in District Councils is minimal, between 1% and 21%. Urban Councils LGR is better than that in District Councils. However it is not adequate enough to cover PE and development programmes	Councils should enhance their efforts in the collection of LGR to cover at least their personal emoluments and other recurrent costs.	2
7.4 Tax Revenue	Collection of Tax Revenue is more than LGR in all Councils, Proportion of the Tax Revenue is not being	The Ministry of Finance and MoLGRD should take measures with MRA and councils arrangements for a certain percentage of the tax revenue to be retained and passed on to Council. This approach is	3

	retained in Councils to finance development programmes.	being implemented in other countries with significant improvements in service delivery and socioeconomic development.	
7.5 Linkages Between Councils and the Malawi Revenue Authority	Councils and the Malawi Revenue Authority work in isolation. Multiple taxation was identified and the private sector raised a concern on this matter.	<p>1. The Ministry of Finance, Economic Planning and Development and MoLGRD should develop a system and procedures for enabling the MRA and Councils work together.</p> <p>2. The current multiple- taxation should be harmonised and that the MRA should be appointed the collecting Agent for all the taxes/revenues.</p>	4
7.6 Revenue Potentials and Local Economic Development	In general, councils' revenue collection is low and enforcement is almost non- existent. The major obstacle to successful local revenue mobilization has been weak administration combined with lack of political and administrative will to enforce increased collection of revenue.	<p>MoLGRD and the Ministry of Finance should establish effective administrative procedures in the collection of local revenues should be established.</p> <p>The attitude of looking to the centre for all resources should be discouraged.</p> <p>Other recommendations are contained in the appropriate section.</p>	1
7.7. Corporate Social Responsibility	Factories or companies that operate within Councils make limited contribution or no contribution at all to Councils or communities as a social responsibility.	Councils should ensure that relatively large businesses that operate in their jurisdictions take deliberate measures to participate in councils' development plans and projects effectively.	3
7.8 Extractive Industries Revenue Governance	This is new area in taxation and MRA is in the process of developing capacity.	<p>MRA should continue to develop its capacity to effectively and efficiently administer extractive industries taxation. The Australian Government should continue supporting MRA in this Area.</p> <p>CSOs such as the Public Affairs Committee, NICE and the Centre for Human Rights Rehabilitation (CHRR) should work with government and development partners to mobilise support for the establishment of an Extractive Industries Transparency Initiative and a Natural Resources Charter that would assist Malawi to maximise benefits from its natural wealth</p>	3

8 Local Development Planning and Financing Mechanisms			
8.2 Roles of the Ministry of Finance, Economic Planning and Development and MoLGRD as Coordinators of the Component	NDP II programme document, especially the one for the period 2008 to 2013, lacked clarity on whether the Ministry of Economic Planning and Development or the Ministry of Local Government and Rural Development was the coordinator of the component.	In future programmes, the Ministry of Finance, Economic Planning and Development should be in the fore-front in spearheading the monitoring and evaluation of the whole programme so as to subject it to close scrutiny and minimise the implementation challenges.	3
8.3 Preparation and Utilisation of Socio-Economic Profiles, District and Urban and Development Plans, Strategic Plans and Physical Development Plans	<p>Councils were at different stages of preparing the SEPs and the timing of the SEPs covered different time periods. This indicates that there is need to synchronise the process to aid conceptual and operational linkages with the national planning framework which normally has a fixed time-frame.</p> <p>ADCs and VDCs on their engagement in the preparation of the SEPs made little or no reference to the SEPs as sources of information to guide the preparation and implementation of their development projects.</p> <p>There was no consistency in the processes of preparing District/Urban Development Plan, a Strategic Plan and a Physical Development Plan</p>	<p>The Ministry of Finance, Economic Planning and Development and MoLGRD should work together to synchronise the council level development planning system and process so as to enhance its conceptual and operational linkages with the national planning framework.</p> <p>Councils should increase the use of information from communities in the preparation of SEPs in order to increase the relevance of local development plans to community level priorities and enhance local developmental effectiveness.</p> <p>Councils should strengthen the physical development aspect in local development planning should be strengthened so as to promote orderly integrated rural development.</p>	2
8.4 Linking Local and National Development Planning Systems	Gaps still exist between local development planning and national level planning system	The Ministry of Finance, Economic Planning and Development and MoLGRD should ensure that the economic sectors prioritised in the MGDS are also prioritised in the local development plans at the	2

		council and lower levels.	
8.5 The Monitoring and Evaluation (M&E) System for NDP II	No evidence of the mid-term evaluation was observed during the Review, but in 2010, aspects of the programme's implementation experience were assessed for the Ministry of Local Government and Rural Development by Concern Universal but it covered four councils.	Councils should mandate their M&E staff to monitor the implementation of future decentralisation initiatives in addition to their "normal" tasks. There is also need to provide them with training and resources for their effective involvement in monitoring and evaluation work at the council level.	3
8.6 Integrated Rural Development Concept and Approach with Mwandama Millennium Village Project as Case Study	The Mwandama Project has generated some important lessons which if adopted could assist Government in implementing its Integrated Rural Development Programme. Rural transformation for instance is possible through integrated or holistic interventions	MoLGRD should systematically document lessons from the major attempts at integrated rural development implemented in the country, such as the Mwandama Village Project. The lessons should be widely discussed with such key stakeholders as devolving sectoral and central government ministries, local authorities, Development Partners, CSOs, the private sector, and communities so as to create a practical platform for undertaking sustainable integrated rural development projects.	3
9.0 Institutional Development And Capacity Building			
9.1 The Department of Human Resource Management and Development.	There are a lot of remaining issues regarding devolution of Human Resources to the Local Councils including modification of institutional structures for line Ministries/Departments, and the actual de-linking of staff from Line Ministries (Both Departmental and Common Service Staff) to the Local Councils.	<p>1. OPC, MOLGRD and DHRM&D should jointly address the remaining challenges of devolving staff of line Ministries to Councils in collaboration with the devolving institutions.</p> <p>2. MoLGRD should support an in-depth orientation of DHRM&D key personnel who work regularly with the Ministry and Local Councils on decentralisation so that they ably advise on the implementation of various human resource management and development initiatives in the Local Councils.</p>	<p>3</p> <p>2</p>

9.2 The National Local Government Finance Committee	NLGFC's capacity to support and monitor financial performance of the Councils is weakened by its lack of appropriate legal framework and institutional structure	<p>1. MoLGRD and the Law Commission should prepare an appropriate legal framework for NLGFC commission a functional review of the institution should be conducted to come up with an appropriate institutional structure.</p> <p>2. DHRMD should conduct a functional review of the NLGFC so as to come up with its appropriate institutional structure.</p>	
9.3 The Local Government Service Commission	The Local Government Service Commission experiences a variety of capacity challenges including inadequate financing for its operations, inadequate transport facilities and office equipment.	<p>1. The Ministry of Finance and Parliament should provide adequate financial resources to LGSC to enable it recruit the right numbers and quality of personnel for the Local Councils in the short term.</p> <p>2. The Ministry of Finance and Parliament should create a separate Vote for LGSC so that it receives its funding directly from Treasury.</p> <p>3. LGSC should continue performing the functions of an appointing authority on behalf of the Local Councils until such a time that mechanisms are put in place for the Councils to carry out the said functions in an objective and impartial manner.</p>	<p>2</p> <p>2</p> <p>4</p>
9.4 Malawi Local Government Association (MALGA)	There are efforts to re-constitute MALGA, such as filling positions in the governance structure, conducting meetings of the Council and Executive Committee, Functional Review of the Institutions and training of councillors and other council members on their roles and responsibilities.	<p>1. Newly elected office bearers for MALGA should devote much of their attention to finding viable strategies for making MALGA financially sustainable.</p> <p>2. Councillors should engage in serious discussion about issues facing Local Councils including the quality and numbers of council staff, revenue generation and identify of ways of ensuring that Local Councils improve service delivery to their communities.</p>	<p>1</p> <p>1</p>
9.5 Decentralisation of Payroll Processing.	Payroll processing remains centralised in all Ministries/Departments except for the Ministry of Education which has devolved the function	1. Ministry of Education should roll out the decentralisation of payroll processing to the remaining divisions.	On-going

	to two of its divisions.	2. Other Ministries/Departments should initiate decentralisation of payroll processing drawing on lessons/experiences of the Ministry of Education.	
9.6 The Transfer of Physical Assets from Ministries to Councils	Physical Assets in the Councils still belong to line Ministry field offices and the District Commissioners do not have a record of such assets.	MOLGRD should request all District Councils to prepare inventories of all government assets in the Councils as a first step towards implementation of the transfer of government assets at district level to the Council.	2
9.7 Local council level institutional development and capacity development	Some institutional building and capacity development initiatives have been implemented at the Council level but this has been largely inadequate to make them effective institutions for service delivery to the communities.	MOLGRD, DHRM&D and NLGFC should consider innovative ways of developing council level institutions especially the buildings. Priority should be given to the efficient utilisation of existing resources such as office buildings, vehicles and computers.	On-going
9.10 Sub-District Structures	<p>Sub-district structures, namely village and Area Development Committees exist but are largely weak due to high turnover of membership and inadequate skills in planning, decision making.</p> <p>VDC and ADC members possess very limited knowledge of public service standards, including their obligations to influence the quality, efficiency, and accountability of public servants and services. As a result, they operated mostly as subjects and are unable to hold Council front line staff (AEC members), NGOs, and district level Council staff accountable for their behaviour and practices.</p>	<p>1. The next programme should emphasise the on-going orientation of Councillors, Members of ADCs and VDCs and other sub-district structures in order to enhance their effectiveness in promoting service delivery.</p> <p>2. As a matter of urgency, urban Councils should facilitate the return of community and Ward Development Committees. In the rural areas Ward Development Committees should be institutionalised and formed as the appropriate local government sub district planning structures, interface point between councillors and communities, and as rallying points for ward level activities</p> <p>3. The District and Urban Planning handbooks should be revised to institutionalise the Ward Development Committee and ensure a service delivery focus in the roles and responsibilities of the sub-district structures.</p>	On-going

		<p>4. MoLGRD should ensure that Members of the community and Ward Development Committees structures are properly oriented in service delivery standards including their roles in service delivery monitoring and accountability. The Constituency Development Fund should also be changed into a Ward Development Fund to support development activities identified at the Ward and lower levels.</p> <p>5. To deal with politicization of the structures, the MoLGRD, in conjunction with the Councils, should enforce guidelines relating to the formation and overhaul of sub- district structures</p>	
10. Political Dimensions of Decentralisation			
10.1 Political Support for Decentralisation	<p>The national level consultations also uncovered the general perception that local governance and decentralisation lacked political support at the highest levels of decision-making. This perception was based on the long absence of councillors which was viewed as lack of commitment to democratisation.</p> <p>OPC and MoLGRD experienced systemic, structural and staff changes that contributed to the loss in the decentralisation momentum.</p>	<p>1. OPC and MoLGRD should play active and effective roles in sustaining the decentralisation process through the political leadership regardless of who heads the 2 institutions. The President of Malawi should continue to serve as the Political Champion for Decentralisation and the Chief Secretary should continue to serve as the Administrative Champion for Decentralisation, as was recommended by the 2004 Review of NDP I.</p> <p>2. Government should ensure that there is staff stability in OPC and MoLGRD since they are implementing key national programmes such as decentralisation by minimising staff and other related changes.</p>	1
10.2 Bureaucratic Politics and Decentralisation	<p>During NDP II, bureaucratic politics worked against local governance and efficient delivery of services through councils. Unless bureaucratic politics is controlled, the country is likely to remain under developed for a long time to come because of poor service delivery and failures to implement development</p>	<p>The Office of the President and Cabinet and the Ministry of Local Government and Rural Development should support the Political and Administrative Championships for decentralisation, as recommended by the 2004 Review of NDP I. This would enable them to play their positive roles in decentralisation by removing the unnecessary forms of resistance to local governance especially in</p>	

	projects at the national, council, and community levels.	the civil service.	
10.3 Councils as Autonomous Local Governments	It was widely perceived by numerous stakeholders that, contrary to constitutional and legal provisions in the Local Government Act 1998, central government, including MoLGRD, failed to appreciate the autonomous status of local authorities. This was characterised by a desire to appoint and post council staff from the centre, a failure to provide sufficient funds for councils' operations, and a failure by the centre to relinquish its control over sectoral staff in the councils.	The Office of the President and Cabinet and the Ministry of Local Government and Rural Development should take concrete measures to address the perception that central government is not in support of service delivery and undertaking development activities through the local government machinery.	
10.4 Debates on Federalism and Links to Decentralisation	Some stakeholders supported federalism and argued that narrow and sectional interests had biased the allocation of national resources and development experiences against the Northern Region and to a certain extent the Central Region and in favour of the Southern Region. Furthermore, all councils in the Northern, Central, Eastern, and Southern Regions, were disenchanted by the current practice of allocating at most 5% of Net National Revenue to councils and leaving 95% of the resources for the centre with little developmental impact. All councils visited lacked resources for service delivery as well as development activities.	<p>1. MoLGRD, the Ministry of Finance, Economic Planning and Development, and the NLGFC should review the formula for the distribution of national resources so that increasingly significant proportions (to at least 20%) of the national resources are allocated to reach the people by way of improved service delivery and implementation of development activities through councils.</p> <p>2. Government, through OPC and MoLGRD, should consider re-configuring or re-demarcating the current regions into socio-economic areas of developmental impact (and not political groupings) in a manner that effectively addresses the perceived geographical, ethnic, and tribal inequalities and increases strategic balance in the allocation of national resources between the centre and councils.</p> <p>3. MoLGRD, the Ministry of Finance, Economic Planning and Development, and the NLGFC should introduce the use of GPS-</p>	

		based indices of socio-economic infrastructural distribution across councils for targeting councils with priority development projects.	
10.5 Broadening Political Support for Decentralisation through Improved Civic Engagement	<p>Patron-client relations make citizens reliant more on vertical hierarchy and less on horizontal collaboration in resolving service delivery and developmental challenges. Citizens also expect leaders to direct them in their day-to-day activities and look to central government to provide for almost all aspects of their lives. Neo-patrimonial structures also prevent citizens from questioning ill-conceived decisions and practices of their leaders.</p> <p>A rent-seeking culture, which results in massive wastage of resources in public service, the private sector, the civil society, and at the community levels currently prevails at all levels of Malawian society to the detriment of service delivery and the country's development prospects.</p>	The Public Affairs Committee, the National Initiative for Civic Education, the Kalondolondo Programme, the Centre for Multiparty Democracy, and other key stakeholders should, in collaboration with Ministry of Local Government and Rural Development, lead the design and implementation of a strategy for promoting civic engagement and democratisation in Malawian society.	
11. Legal Reforms for Decentralisation			
11.1 Gaps in the Local Government Act	Need to address the under-funding of councils and the poor performance of councils in revenue collection by broadening the sources of revenue covered in the Third Schedule of the Act and authorising the Malawi Revenue to collect some revenue for councils.	MoLGRD should negotiate a broader revenue base for councils with both the Minister of Finance and MRA. If successful, the Minister should propose amendment to the Third Schedule of the Local Government Act accordingly.	
11.1.2 Challenges in gazettement of the Collection of	The requirement in Section 61 of the LGA for the Minister to gazette areas of councils as	MoLGRD should facilitate the review of Section 61 of the LGA with a view to allowing councils to determine the areas of their	

Property Rates by rural councils	rateable affected councils' ability to levy property rates due to the complexity of the process of gazetting such areas. As a result, many rural councils are not gazetted as such and they do not collect property rates and this affects their revenue performance.	jurisdiction that are rateable, with adequate participation of their citizens in the determination of rateable areas.	
11.1.3 Surcharge on Property Rates	All the 4 City Councils (Mzuzu, Lilongwe, Zomba and Blantyre) face enormous challenges in collecting property rates. Sections 86 (2) and (3) of the Local Government Act provide for councils to impose a surcharge or penalty on any property rate remaining unpaid sixty days after the date on which the rate bill is issued. The Act imposes this penalty at the rate of "four per centum per month or part thereof". The bills are exaggerated by the monthly compounding of the bill at the relatively high geometric growth rate of 4% per month even when the bill has no arrears. Councils fail to enforce this penalty due to high levels of default on the bills.	MoLGRD should commission a thorough review of Section 86 (3) of the Local Government Act to make it more implementable. The surcharge should commence at the end of the billing period and the surcharge rate should be less punitive than the 4% per month, perhaps at 1.5%, which would translate to around 18% per annum. In addition, Section 85 should be reviewed so as to include a discount, perhaps at 50%, for socially disadvantaged groups such as the elderly, the disabled, and retirees so as to enable them to pay their property rates in an affordable manner.	1
11. 2 Comprehensive Review of the Local Government Act	The legal framework underpinning decentralisation, especially the Local Government Act, has gaps, inconsistencies and ambiguities that negatively affect the devolution of power and authority to councils and their citizens.	MoLGRD should commission a comprehensive review of the Local Government Act to provide that District Commissioners and Chief Executives of councils should be appointed and accountable to their councils and to remove the right of Members of Parliament to vote in councils. The Act should also provide for such key local government structure as the Ward, Area Development Committees (ADCs) and Village Development Committees (VDCs) and the key financing mechanisms, especially the Local Development Funds (LDF). It should also define the ADCs and VDCs as possible sub-	1

		structures of the ward in the Local Government Act.	
11.3 Legal Status of the National Local Government Finance Committee (NLGFC)	The Law Commission was in the process of preparing a bill to clarify the legal mandate and composition of the National Local Government Finance Committee.	NLGFC and the Law Commission should continue the work being done to clarify the legal status of the NLGFC so as to enable it to support the implementation of the National Decentralisation Policy effectively.	1
11.4 Gaps in the Chiefs Act	Lack of clarity on role of chiefs in local governance and the decentralisation process. The Law Commission was in the process of reviewing the Chiefs Act so as to resolve some of the challenges that the country faces in relation to the roles and management of chiefs or traditional leaders.	<p>MoLGRD and the Law Commission consider the following issues in the on-going review of the Chiefs' Act:</p> <ol style="list-style-type: none"> 1. The role of chiefs in rural and urban councils and wards; 2. Clarity on the legal status of urban chiefs or block leaders in view of the important roles that they play in urban communities; 3. Provision for the devolution of the management of chiefs from MoLGRD to councils; 4. Clarity in the roles of councils in the management of chiefs' affairs i.e. the operational areas to be handled by chiefs; 5. Clarity in chiefs' roles in national and local politics as they claim to be non-partisan while practising party politics which affects the delivery of services and the implementation of development projects; and 6. Provision for local authorities', rather than MoLGRD's, determination or resolution of chieftaincy wrangles which claims significant financial resources of Ministry of Local Government and Rural Development and Councils. 	1
11.5 Gap in the Public Finance Management Act (PFMA) of 2003	Section 2 of the Public Finance Management Act does not include local governments in its paragraph (a).	MoLGRD, Ministry of Finance and the Law Commission should facilitate the amendment of the Act to include local authorities in Section 2 (a) of the Act.	2

11.6 Review of the Land-related Laws	<p>The Land Bill (2012) was not assented to by the President due to protests by traditional authorities who felt that some of their powers to manage land affairs had been diluted in the Bill. However, consultations were being held with them to clarify their roles as stipulated in the Bill.</p> <p>The Land Bill (2012) has been synchronised very well with the Local Government Act 1998 to ensure that land administration is sufficiently devolved to councils. It is a good example of a comprehensive sectoral legal reform for decentralisation for others to follow.</p>	<p>1. MoLGRD and the Ministry of Lands, Housing and Urban Development facilitate the re-passing of the Land Bill (2012) by Parliament and the assenting to it by the President, as soon as possible.</p> <p>2. Line ministries should learn from the comprehensive review of the land-related laws as a crucial aspect of their devolution plans.</p>	1
11.7 Gap in the Malawi Revenue Authority (MRA) Act	Section 4 of the MRA Act limits the areas of revenue collection that MRA can cover.	MoLGRD, Ministry of Finance, NLGFC, MRA, and other relevant stakeholders should discuss the proposal that MRA collect revenue (directly or indirectly) on behalf of Councils and departmental receipts so that the relevant Sections of the MRA Act, the Local Government Act, and sectoral laws can be reviewed as soon as possible.	1
11.8 Review of Sectoral Laws	Lack of arrangements for reviewing the sectoral laws that impinged on sector devolution	MoLGRD should ensure that future decentralisation work takes on board a comprehensive review of sectoral laws so as to facilitate revenue collection and sector devolution which are fundamental ingredients of decentralisation for effective service delivery. Government should allocate sufficient funds for the review of each sector's laws with full input from the Law Commission.	1
11.9 The Formulation, Review and Implementation of By-Laws	Few council staff are familiar with the formulating, review, and implementation of councils' by-laws. In fact, some council staff had attempted to formulate, review and implement by-laws even in the absence of councillors and this attracted legal action which councils lost.	MoLRD should develop capacity building initiatives to enhance councils' capacities to understand, formulate, review and enforce by-laws in line with Sections 103 to 106 of the Local Government Act 1998.	1

<p>12. Conclusions and Future Direction</p>	<p>During the implementation of NDP several challenges were encountered and some achievements were also made. New opportunities for deepening decentralisation in the country have also emerged.</p>	<p>1. OPC and MoLGRD should take a lead in the preparation of a new decentralisation programme that will deepen the decentralisation process. There is need to learn from the challenges encountered and take advantage of the achievements and emerging opportunities in the design of such a future programme. The future programme should include the following strategic areas of action that would maximise impacts without requiring significant financial and other resources:</p> <ul style="list-style-type: none"> (i) Full devolution and integration of sectoral and central ministries' staff and other resources in councils in the broader context of Public Sector reforms; (ii) Enhancing Revenue Collection, Retention, and Accountability in councils in direct support for efficient service delivery and socio-economic development (including IRD) activities; (iii) Legal Reforms for Decentralisation; and iv) Promoting Civic Engagement and a Democratic Culture in Malawian society with a focus on central government ministries, councils, and communities. <p>2. OPC and MoLGRD should set up dedicated units to spearhead the design and day-to-day implementation of that future programme.</p>	
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Republic of Malawi (2009) National Decentralisation Programme II 2008 – 2013. Lilongwe: Ministry of Local Government and Rural Development.
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Annex 3: List of Persons and Institutions Consulted**OFFICE OF THE PRESIDENT AND CABINET**

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1	Mr W.W. Samute	Acting Chief Secretary	P/Bag 301, Lilongwe 3	0999 466 577	Willie_samute@yahoo.com
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3	Mr E.M.J. Kantchentche	Clerk to the Cabinet	P/Bag 301, Lilongwe 3	0999 277 780	Ernestmk2002@yahoo.co.uk
4	Mr S.T. Ngutwa	Deputy Director of Cabinet Services	P/Bag 301, Lilongwe 3	0999 567 321	ngutwas@gmail.com

MINISTRY OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT

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4	Mr L.D. Makonokaya	Director of Chiefs Administration	P.O. Box 30312, Lilongwe 3.	0888 526 073 0993 314 208	lawrencemakono@yahoo.com
5	Mr H. Bota	Deputy Director of Local Government Services	P.O. Box 30312, Lilongwe 3.	0999 321 214	hbota@localgovt.mw
6	Mr Darwin Pangani	Chief Local Government Officer – Decentralisation	P.O. Box 30312, Lilongwe 3.	0999 576 895	darwinpangani@gmail.com

7	Mr F.A.M. Sakala	Chief Rural Development Officer	P.O. Box 30312, Lilongwe 3.	0888 385 881	Francissakala@yahoo.co.uk
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9	Mrs C. Namaona	Human Resource Management Officer	P.O. Box 30312, Lilongwe 3.		
10	Mr Douglas Mkweta	Deputy Director of Local Government Service (M)	P.O. Box 30312, Lilongwe 3.	0888 860 564	douglasmkweta@yahoo.com
11	Ms Muhlabase Mughogho	Public Relations Officer	P.O. Box 30312, Lilongwe 3.	0999 647 577	Muhlabase@yahoo.com
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16	Ms Doreen Msendema	Procurement Officer	P.O. Box 30312, Lilongwe 3.	0999 899 200	dmsendema@gmail.com
17	Kin Mjumira	Chief Accountant	P.O. Box 30312, Lilongwe 3.	0884 460 678	mjumiraksw@hotmail.com
19	Ms Esther Nyirenda	Deputy Director – Administration	P.O. Box 30312, Lilongwe 3.	0888 898 519	emnyirenda@yahoo.com
20	Mr Charles Chinyumba	Chief Internal Auditor	P.O. Box 30312, Lilongwe 3.	0888 860 284	charleschinyumba@yahoo.com

21	Mr Edwin Wochi	Deputy Director of Human Resource Management and Development	P.O. Box 30312, Lilongwe 3.	0991 739 652	edwinwochi@ymail.com
22	Mr L. Katsache	Driver	P.O. Box 30312, Lilongwe 3.		
23	Mr J. Chikalusa	Driver	P.O. Box 30312, Lilongwe 3.		

NATIONAL LOCAL GOVERNMENT FINANCE COMMITTEE

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2	Mr S. Chuthi	Chief Planning Analyst	P/Bag 31162, Lilongwe 3		
3	Mr S. Mwamondwe	Chief Financial Management Analyst	P/Bag 31162, Lilongwe 3		

LOCAL GOVERNMENT SERVICE COMMISSION (LGSC)

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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2	Mrs. A.G. Ngoma	Deputy Secretary	P.O BOX 766, Lilongwe	0888 858 987	

MALAWI LOCAL GOVERNMENT ASSOCIATION

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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UNDP

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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3	Ms Katarzyna Wawiernia	Deputy Resident Representative -Operations	P.O BOX 30135, Lilongwe	0999960112	Kasia.wawiernia@undp.org
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5	Dr Agnes M. Chimbiri	Assistant Resident Representative-MDGs	P.O. Box 30135, Lilongwe 3.	0999 980 874	Agnes.chimbiri@undp.org
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MINISTRIES AND DEPARTMENTS**1. EDUCATION**

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2. AGRICULTURE AND FOOD SECURITY

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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2	Mr B.B. Kumwembe	Director of Finance and Administration	P/Bag 30134, Lilongwe 3	0999 957 600	

3. LANDS, HOUSING AND URBAN DEVELOPMENT

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3	Mr Felix Tukula	Commissioner for Physical Planning	P/Bag 311, Lilongwe 3.	0999 950 751	
4	Mr G.L. Nthachi	Chief Housing Officer	P/Bag 311, Lilongwe 3.	0888 868 288	
5	Mr K.K. Ngwira	Controller of Lands	P/Bag 311, Lilongwe 3.	0888 876 584	
6	Mr W.B. Gondwe	Chief Quantity Surveyor and Contracts Officer	P/Bag 311, Lilongwe 3.	0888 833 119	
7	Mr M.S.C. Mzunzu	Deputy Surveyor General	P/Bag 311, Lilongwe 3.	0999 944 370	

4. IRRIGATION AND WATER DEVELOPMENT

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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2	Mrs. J. Milanzi- Kalemera	Controller of Human Resource Management	P/Bag 390, Lilongwe 3.	0999 511 589	
3	Mr. P.W.C. Mleta	Deputy Director of Water Resources	P/Bag 390, Lilongwe 3.	0888 855 119	
4	Mr M.G. Mpasa	Director of Sanitation and Hygiene	P/Bag 390, Lilongwe 3.	0999 965 097	
5	Mr F. Sichinga	Deputy Director of Administration	P/Bag 390, Lilongwe 3.	0888 876 818	
6	Mr K. Lapukeni	Senior Deputy Director	P/Bag 390, Lilongwe 3.		

7	Mr J. Mwanza	Director of Water Supply Services	P/Bag 390, Lilongwe 3.	0999 950 369	
8	Mr R.F. Malata	Chief Economist	P/Bag 390, Lilongwe 3.	0999 094 184	
9	Mr D. Kang'oma	Under Secretary	P/Bag 390, Lilongwe 3.	0884 537 174	

5. HEALTH

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2	Mr S. Sumaisi	Controller of Human Resource Management and Development	P.O. Box 30377, Lilongwe 3.	0888 781 943	
3	Mr R. Kachala	Deputy Director of Planning and Development	P.O. Box 30377, Lilongwe 3.		
4	Mrs L. Horea	Zonal Coordinator	P.O. Box 30377, Lilongwe 3.		

6. FNANCE (TREASURY)

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2	Mr K.C. Matupa	Acting Director of Revenue	P.O. Box 30049, Lilongwe 3	0888 857 832	

7. DEPARTMENT OF HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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8. ECONOMIC PLANNING AND DEVELOPMENT

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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9. TRANSPORT AND PUBLIC WORKS

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3	Mr Francis Dimu	Director of Planning and Design	P/Bag 322, Lilongwe 3.	0888 843 906	fdimu@ra.org.mw
4	Mr Stewart Malata	Chief Executive, Road Fund Administration	P/Bag 322, Lilongwe 3.	0995 761 478	smalata@.....net
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7	Mr Macleod Phiri	Senior Engineer	P/Bag 322, Lilongwe 3.	0888 843 914	mphiri@ra.org.mw
8	Mr John B.Y. Phiri		P/Bag 322, Lilongwe 3.	0888 395 797	Jb.phiri@yahoo.com

OTHER GOVERNMENT AGENCIES

1. MALAWI LAW COMMISSION

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
1	Mrs. Gertrude Hiwa	Law Commissioner		0999 950 421	
2	Mr. W. Msiska	Chief Law Reform Officer			

2. MALAWI REVENUE AUTHORITY

No	Name	Designation	Contact Address	Phone No.	E- mail Address
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2.	Mr T. Makhamba	Deputy Director-Policy Planning and Research			
3	Mr Cosby Phiri	Deputy Commissioner (Technical Division)	MRA Headquarters, P/ Bag 247, Blantyre	01823211	
4	Mr Donald Chambukira	Deputy Commissioner(Operations)	MRA Headquarters, P/Bag 247, Blantyre	01823211	
5	Mr William Chagona	Technical Division-Domestic Taxes	MRA Headquarters, P/Bag 247, Blantyre		
6	Mr W Gondwe	Station Manager	MRA, Mzuzu		
7	Mr Phiri	Tax Payer Services Officer	MRA, Mzuzu		
8	Mr Kumilonde	Station Manager	MRA, Kasungu Office		
9	Mr Nyirongo	Station Manager	MRA Mzimba Office		
10	Mr P. Zumba	Station manager	MRA Salima Office		
11	Mr M. Chapola		MRA Salima Office		

3. LOCAL DEVELOPMENT FUND (Technical Support Team)

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1	Mr Sam Kakhobwe	Executive Director	Private Bag 352, Lilongwe 3	0999957256	
2	Mr Charles E. Mandala	Director, Advocacy and Knowledge Management	Private Bag 352, Lilongwe 3	0888824673	
3	Mr Alufeyo Banda	Director, LACE	Private Bag 352, Lilongwe 3	0888 519 034	

UNIVERSITY OF MALAWI- Chancellor College

1	Mr Lloyd Kambwiri	Registrar	P O Box 280, Zomba	0888864083	lkambwiri@cc.ac.mw , lkambwiri@gmail.com
2	Dr Wiseman Chijere Chirwa	Professor	P O Box 280, Zomba		
3	Dr Fidelis Edge Kanyongolo	Associate Professor	P O Box 280, Zomba	0888716610	ekanyongolo@yahoo.co.uk
4	Mr Kondwani Farai Chikadza	Lecturer	PO BOX 280, Zomba	0888787512	kchikadza@yahoo.com

CIVIL SOCIETY ORGANISATIONS/NON GOVERNMENTAL ORGANISATIONS/PRIVATE SECTOR

1. KALONDOLONDO PROGRAMME

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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2	Mrs Cecilia Phiri	Project Officer	P.O. Box 2053 Lilongwe.		
3	Mrs Ruth Nkhwazi	Project Officer	P.O. Box 2053 Lilongwe.		

2. CENTRE FOR MULTIPARTY DEMOCRACY (CMD)

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
1	Dr. G. Chigona	Programme Officer			
2	Mr Boniface Chibwana				

3. PUBLIC AFFAIRS COMMITTEE

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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4. NATIONAL INITIATIVE FOR CIVIC EDUCATION (NICE)

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2	Mr Edwin Msewa		P.O. Box 1046, Lilongwe.		

5. MZUZU COFFEE PLANTERS COOPERATIVE UNION LTD

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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6. INSTITUTE FOR POLICY RESEARCH AND SOCIAL EMPOWERMENT

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CITY/MUNICIPAL/DISTRICT COUNCILS**1. LILONGWE CITY COUNCIL**

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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2	Mr J. Sibande	Director of Finance	P O BOX 30396, Lilongwe 3	0999 917 764	
3	Mr H. Kamela	Director of Planning and Development	P O BOX 30396, Lilongwe 3		

2. LILONGWE DISTRICT COUNCIL

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
1	Mr. Peter Dokali	Director of Administration	PO BOX 93, Lilongwe	0999 264 082	
2	Mr Justine Kathumba	Director of Planning and Development	PO BOX 93, Lilongwe	0888 875 415	
3	Mr D. Chikunkhuzeni	Director of Finance	PO BOX 93, Lilongwe	0881 037 945	
4	Mr Mathews Lungu	Director of Public Works	PO BOX 93, Lilongwe	0882 898 555	
5	Mr Biswick Mlaviwa	Environmental District Officer	PO BOX 93, Lilongwe	0998 666 134	
6	Mrs Annie Kamwendo	District Community Development Officer	PO BOX 93, Lilongwe	0888 350 197	
7	J.K.K. Munyenembe	District Forestry Officer	PO BOX 93, Lilongwe	0999 792 427	
8	A.K.B. Ntandika	District Education Manager (W)	PO BOX 93, Lilongwe	0999 336 122	
9	Mr Hastings Yotamu	District Agricultural Development Officer	PO BOX 93, Lilongwe	0999 212 081	

10	Mr Ignatious Kaulendo	District Fisheries Officer	PO BOX 93, Lilongwe	0999 493 943	
11	Emma Mandala Ms	District Educational Manager (E)	PO BOX 93, Lilongwe	0888 503 425	
12	Mariette Kadewere	Principal Administrative Officer	PO BOX 93, Lilongwe	0999 557 074	
13	Kondwani Chitosi	District Information Officer	PO BOX 93, Lilongwe	0888 339 188	
14	Kizito Mhango	National Intelligence Officer	PO BOX 93, Lilongwe	0999 296 075	

3. Blantyre City Council

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2	Dr. E. Kanjunjunju	Director of Health and Social Services	P/Bag 67, Blantyre	0999 343 872	ekanjunjunju@yahoo.com
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4	Alfred Nyengo	Human Resource Manager	P/Bag 67, Blantyre	0999953566	Nyengo2005@gmail.com

4. KASUNGU DISTRICT COUNCIL

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4	E. Nema	Director of Administration	P/Bag 1, Kasungu	0995586653	ericnema@hotmail.com
5	Charles Mwenda	District Water Development Officer	P/Bag 1, Kasungu	0997319696	Cmwenda32@yahoo.com
6	C.T. Nyirenda	Chief Accountant	P/Bag 1, Kasungu	0999596611	

5. KASUNGU MUNICIPALITY

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3	Daniel M. Banda	Director of Administration	P.O. Box 333, Kasungu	0884506355	danielmattiasbanda@gmail.com
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6	A. Mphingu	Director Commerce and Trade	P.O. Box 333, Kasungu	0881182974	amidumphingo@gmail.com

6. M'MBELWA DISTRICT COUNCIL

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2	Charles Mhone	Director of Finance	P.O. Box 132, Mzimba.		charlmhone@yahoo.co.uk
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5	Thom Munthali	Director of Administration	P.O. Box 132, Mzimba.		tnthalie@yahoo.com
6	Lemon E. Mvula	District Education Manager	P.O. Box 132, Mzimba.		lmvula57@gmail.com
7	Dr. Alinafe Mbewe	District Health Officer	P.O. Box 132, Mzimba.		nafekmbewe@gmail.com

7. MZUZU CITY COUNCIL

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3	Mr. Y. Simwaka	Director of Planning and Development	P.O. Box 1, Mzuzu.		
4	Mr. K. Masankhula	Director of Finance	P.O. Box 1, Mzuzu.		

8. NKHATA-BAY DISTRICT COUNCIL

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8	E. Lupoka	District Intelligence Officer		0999247960	
9	M. Kamanga	Acting District Agriculture Development Officer		0888951154	mavutokamanga1@gmail.com
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11	E. Sibande	District Sports Officer		0881762129bande@gmail.com
12	M. Munthali	Reporter, Mzimba Radio		0881567399	mauricemunthali@gmail.com

9. NKHOTA-KOTA DISTRICT COUNCIL

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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3	K.Mphande	District Education Manager	P/Bag 18, Nkhotakota.		kossammphande@gmail.com
4	M. Chawala	Agriculture	P/Bag 18, Nkhotakota.		Mchawala12@yahoo.com
5	B. Marley	Sports	P/Bag 18, Nkhotakota.		Blessings.marley@yahoo.com
6	G. Mhango	Director of Planning and Development	P/Bag 18, Nkhotakota.		griffinmhango@yahoo.com
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9	A. Chisenga	Administration	P/Bag 18, Nkhotakota.		Alinafebanda@hotmail.com
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12	G. Kulemeka	Forestry	P/Bag 18, Nkhotakota.		gorymuntha@yahoo.com
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10. SALIMA DISTRICT COUNCIL

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
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3	R. Pande	District Council	P/Bag 53, Salima.	0999723541	

4	G.E.D. Yotamu	District Council	P/Bag 53, Salima.	0995402660	
5	W. Chungwa	Water Development	P/Bag 53, Salima.		wchungwa@gmail.com
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8	C.M. Kumikundi	Education	P/Bag 53, Salima.	0999266431	kumikundi@yahoo.com

11. NTCHISI DISTRICT COUNCIL

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2	N.P. Kamtedza	Deputy District Education Manager	P/Bag 1, Ntchisi.	0996141758	
3	B. Maenje	District Labour Officer	P/Bag 1, Ntchisi.	0999241414	
4	Mrs. H.M. Jere	District Agriculture Development Officer	P/Bag 1, Ntchisi.	0991588792	
5	D.H. Sikwese	Social Welfare Officer	P/Bag 1, Ntchisi.	0885884171	
6	P. Maluwa	Monitoring and Evaluation Officer	P/Bag 1, Ntchisi.	0999645815	
7	T. Munthali	Assistant Accountant	P/Bag 1, Ntchisi.	0999944714	
8	D. Phiri	Project Officer (NOYD)	P/Bag 1, Ntchisi.	0999257991	
9	C. Mangira	Data Officer	P/Bag 1, Ntchisi.	0888114385	
10	Z. Mafuleka	World Relief Health Education Supervisor	P/Bag 1, Ntchisi.	0999630710	

11	A. Kachingwe	MISO	P/Bag 1, Ntchisi.	0999939715	
12	M.J. Jenifer Mwale	Assistant Registration Officer	P/Bag 1, Ntchisi.	0999723604	
13	M. Chindungwa	NECCOSS	P/Bag 1, Ntchisi.	0999355541	
14	E. Yamini	Assistant Accountant	P/Bag 1, Ntchisi.	0992767771	
15	H.C. Banda	Health	P/Bag 1, Ntchisi.	0999368969	
16	T. Mboma	District Forestry Officer	P/Bag 1, Ntchisi.	0999134022	
17	P.D. Mambala	Assistant Accountant	P/Bag 1, Ntchisi.	0999150150	
18	P.R. Kachitifu	District Rural Housing Officer	P/Bag 1, Ntchisi.	0997704290	
19	H. Malithano	Education	P/Bag 1, Ntchisi.	0999445041	

12. DEDZA DISTRICT COUNCIL

No.	Name	Designation	Contact Address	Phone No.	E-mail Address
1	S.L. Gwedemula	Director of Planning and Development	P.O. Box 140, Dedza.	0888 869 494	sgwedemula@yahoo.com
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3	Ms. Tabitha Chinula	Assistant Accountant	P.O. Box 140, Dedza.		
4	Mrs. S. Mbewe	Assistant Accountant	P.O. Box 140, Dedza.		

13. CSOs IN LUCHENZA MUNICIPAL COUNCIL

No.	Name	Organization	Designation	Contact Address	Phone No.	E-mail Address
1	MaxfordMulume	People Living with Disability	Chairperson	C/O, Kanthawire, P. O. Box 12, Luchenza	0996/512/322	
2	ChisomoMakata	Inde Bank		Box 3058	0999/010/984	cmakata@indebank.com
3	George Banda	CBO	Coordinator	Box 98	0888/625/657	
4	Vincent Saikonde	Hope for Destitute Children Organization	Chairperson	Box 179, Luchenza	0888/625/792	
5	Leonard Chikafa	Hope for Destitute Children Organization	Member	Box 179, Luchenza	0888/584/598	leonardchikafa@yahoo.com
6	ToizaNathaya	Admarc		Box 121, Luchenza	0888/561/301	
7	Gerald Munthali	Chonde Community Hospital	Clinician	Box 227, Luchenza	0884/359/013	
8	Fredrick Tambala	Southern Regional Water Board	Supervisor	Box 189, Luchemza	0888/336/652	
9	MadalitsoLamwa	Social Welfare	Child Protection	P/Bag 9 Mulanje	0999/719/994	
10	Elton Sambani	AHL Commodities Exchange	Manager	Box 5088, Luchenza	0999/694/343	esambani@ahcxmalawi.com
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14	Phillip Nyoni	CYDT	Director	Box 33, Luchenza	0999/276/821	phillipnyoni@yahoo.com

13. LUCHENZA MUNICIPAL COUNCIL

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14. MULANJE DISTRICT COUNCIL

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15. CHIKHWAWA DISTRICT COUNCIL

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16. ZOMBA CITY COUNCIL

No.	Name	Organization	Designation	Contact Address	Phone No.	E-mail Address
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7	M. C. C. Kumbani	Zomba City Council	DOES	P. O. Box 1128, Zomba	0888 357 375	kumbartin@yahoo.com

17. ZOMBA DISTRICT COUNCIL

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18. MANGOCHI DISTRICT COUNCIL

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