

THE LOCAL GOVERNMENT SYSTEM IN

MALAWI



1 INTRODUCTION

The Republic of Malawi is a unitary state in south-central Africa. A long, landlocked country, it is bordered by Zambia to the north and north-west, by Mozambique to the south-west, south and east, and by Tanzania to the north and north-east. Its eastern border runs in part through the waters of Lake Nyasa with one of Malawi's districts, the island group Likoma, located within Mozambican territorial waters. Malawi has an area of 118,480 sq km, with a land area of 94,080 sq km and an estimated population of 13,603,181.¹

The president, who is both head of state and head of government, is directly elected for a five-year term, and may be re-elected for one further term. A person must be at least 35 years old to stand for president. A vice-president is elected concurrently with the president, both names appearing on the same

ballot paper. The president may, in the national interest, appoint a second vice-president who must be from a different party. In such cases the vice-president is designated as the first vice-president.

The president appoints a cabinet, whose members need not be members of parliament.

Malawi has a unicameral parliament, the National Assembly. Its 193 members are elected by popular vote from single-member constituencies for a term of five years. The 1995 Constitution also provides for a second house, a senate of 80 indirectly elected members, but to date no action has been taken to create this institution. There is universal adult suffrage at age 18.

Malawi is one of sub-Saharan Africa's most densely populated countries. A largely agricultural country, Malawi has three administrative regions: northern with six districts, central with nine districts and southern with 13 districts. These 28 districts form the basis for the local government, or assemblies, in the rural areas. Urban areas have three city assemblies, one municipal assembly and eight town assemblies. In total there are 40 local government areas.

The capital city is Lilongwe and English and Chichewa are the official languages.

2 POLITICAL AND ORGANISATIONAL STRUCTURE OF MALAWI

2.1 Position of local government in the state

Since 2005 there have been no elected councillors in Malawi. Councils were dissolved according to legislation pending local elections. However, as yet a date for these has not been set by the government, but it is likely that they will take place at the same time as the next national elections which must be held no later than May 2009.

2.2 National political structure and background

In a referendum conducted on 14 June 1993, the people of Malawi were asked to vote for a multi-party democracy or endorse a continuation of the one-party state established by former President Hastings Banda. Following a significant vote for multi-party democracy, the first such national elections to be held in Malawi since independence in 1963 took place in May 1994.

Since 1994 three main policy initiatives have

been driving the governance agenda: Vision 2020, poverty reduction and decentralisation.

The Malawi Vision 2020 is the culmination of a process begun in January 1996 and defines the national goals, policies and strategies designed to improve development management. The vision is derived from Malawi's participation in the United Nations Development Programme (UNDP) African Futures project, and emphasises strategic long-term thinking, citizen participation, strategic management and national learning. Its mission is to ensure that 'by the year 2020, Malawi will be secure, democratically mature, environmentally sustainable, self-reliant with equal opportunities for and active participation by all, having social services, vibrant cultural and religious values, and being a technologically driven middle-income economy'.

A Poverty Alleviation Programme was launched in 1994 with the country's first full Poverty Reduction Strategy Paper (PRSP) endorsed by the World Bank in August 2002. Of the four pillars of the PRSP (good governance, human capital development, pro-poor growth, and safety nets), decentralisation, a component of good governance, has been identified as the main platform for the poverty reduction strategy. It is estimated that 66.6% of the rural population live in poverty and 54.9% of citizens in urban areas. The country, with an estimated adult prevalence rate of 15% (2002), is one of the worst HIV/AIDS-affected countries in sub-Saharan Africa.

The most recent presidential and parliamentary elections were held on 20 May 2004. Five candidates including one independent contested the presidency. Bingu wa Mutharika (United Democratic Front (UDF)) was elected president with 36% of the vote, ahead of John Tembo (Malawi Congress Party (MCP)) with 27% and Gwanda Chakuamba (Mgwirizano Coalition) with 26%.

In the elections for the National Assembly 1,258 candidates contested 188 seats. Almost a third, 372, were independents, many of whom had left their political parties over disputes in the selection process. Of 30 registered political parties, 15 took part in the election with ten parties grouped in two broad coalitions. The ruling UDF canvassed with the Alliance for Democracy (AFORD) and

the New Congress for Democracy (NCD). Seven parties formed the Mgwirizan ('unity' in Chichewa) Coalition: the Republican Party, the People's Progressive Movement (PPM), the Malawi Forum for Unity and Development (Mafunde), the Malawi Democratic Party (MDP), the National Unity Party, the Movement for Genuine Democratic Change (MGODE) and the People's Transformation Party. The five other parties contesting the election were the Malawi Congress Party (MCP), the National Democratic Alliance (NDA), the Congress for National Unity (CONU), the National Solidarity Movement (NSM), and the Pamodzi Freedom Party (PPF).

Nine parties won seats in the National Assembly. The MCP emerged as the largest party with 58 seats. The UDF, which won a majority of seats in the 1994 and 1999 elections, gained 49 seats, with six won by its coalition partner AFORD. The third largest group of assembly members were the independents with 39 seats. The UDF, however, secured a majority by forming a 'government of national unity' with a number of opposition parties.

3 LEGAL BASIS FOR LOCAL GOVERNMENT

3.1 Constitutional provisions

Local government is enshrined in Chapter XIV of the 1995 Constitution. Article 146(3) provides that 'parliament shall, where possible, provide that issues of local policy and administration be decided on at local levels under the supervision of local government authorities'.

3.2 Main legislative texts

The principal legislation is the Local Government Act 1998, which repealed the Local Government (Urban Areas) Act (Cap. 22.01) and the Local Government (District Councils) Act (Cap. 22.02). The Act provides a framework for decentralisation, establishing the assemblies (councils) and providing for their composition, powers, functions and financing. The objectives of local government are 'to further the constitutional order based on democratic principles, accountability, transparency and participation of the people in decision-making and development processes'.²

Responsibility for the administration of the Act rests with the Minister of Local Government and Community Development.

4 LOCAL GOVERNMENT ORGANISATIONAL STRUCTURE

4.1 Main divisions

The local government system has 39 single-tier local authorities called assemblies. The first elections, held on 21 November 2000, were

contested by 1,860 candidates. The ruling UDF won 610 of the contested seats; the MCP gained 84 seats in alliance with AFORD, which won 120 seats. Candidates were returned unopposed in 131 wards including 115 UDF members. Turnout was 14.2%.

The 27 district assemblies, which are predominantly rural, are co-terminous with the boundaries of the former administrative districts. Urban areas within these districts have been designated as districts in their own right, with the creation of three city assemblies, one municipal assembly, and eight town assemblies (townships). The legislation does not distinguish between urban and rural assemblies and their responsibilities. In practice, their functions are influenced by their urban or rural characteristics and assemblies may request exemption from functions specified in the legislation. Each assembly has autonomy within its designated local government area.

4.2 Distribution of local governments and population

The average population of the (rural) districts is 321,503; the largest is the capital, Lilongwe, with a population of 905,889 and the smallest is Likoma with a population of 8,074. The average population of the cities is 343,168, the largest being Blantyre, the main commercial centre, with a population of 502,053. Mzuzu is the smallest city with a population of 86,980. Zomba, the only municipality, has a population of 65,915.

The average population of the eight townships is 19,570: the largest is Karonga with a population of 27,811 and the smallest is Luchenza with a population of 8,842. Some 14% of the population lives in urban areas.

5 DEMOCRATIC AND POLITICAL STRUCTURES IN LOCAL GOVERNMENT

Assembly councillors are elected under the first past the post system, one councillor representing each of the 860 wards in the country for a term of five years under the provisions of the National Elections Act 1996. The democratic system is uniform across the assemblies.

Additionally, assemblies have non-voting members including:

- Traditional and sub-traditional authorities within the local government area
- Members of the National Assembly whose constituencies fall within the local government area
- Five members appointed by the elected councillors to represent special interest

groups determined by the assembly.

Nkhata Bay district assembly has, for example, 22 elected councillors with voting powers. The 23 non-voting members include 10 chiefs and three sub-chiefs, six members of the National Assembly, and five appointed members representing the interests of the tourist industry, the clergy, disabled people, the business community, and non-governmental organisations (NGOs).

The chairmen of the assemblies are elected by the elected councillors. The legislation does not specify the election procedure.

District assemblies are responsible for the overall development of their areas and are required to provide for the participation of local communities and other interests such as the private sector and NGOs in the preparation of their three-year rolling district development plans. To support this process the assemblies may establish area-wide, ward or village committees. The special interests represented in the assembly also serve to broaden democratic participation.

All assembly meetings, together with committee, sub-committee and joint committee meetings are open to the public. The assemblies have a duty to publish information relating to local government and the services available within their areas.

Decision-making within the assemblies is conducted through committees.

Following the local government elections of 2000, 842 people were elected as councillors of whom 70 (8.3%) were women. Two deputy mayors of city assemblies were women.

Local elections were not held as scheduled in 2005 and since then no elected councillors have been in office. These elections are expected to be held by May 2009.

5.1 District assemblies

District assemblies are required to appoint committees for: finance; development; education; works; health and environment; and appointments and disciplinary matters. There is full discretion to establish other committees and sub-committees, with powers to co-opt non-voting members.

The assemblies elect from the elected councillors a full-time chairperson as head of the assembly for a term of five years. In city and municipal assemblies the chairmen may be given the title of mayor. The chairman's allowances are determined by the Minister of Local Government on the recommendations of the Local Government Finance Committee (see Section 7).

The legislation does not specify any executive committees or cabinets nor (including

the decentralisation policy statement) does it specify sub-district governmental structures. In practice, the former district executive committee (DEC) led by the district commissioner has been exercising executive responsibilities, supported by the district development committees (DDCs), area development committees (ADCs) and village committees (VCs) which provided the participative and

Assemblies have discretion to second or exchange officers with any other assembly in Malawi or elsewhere (see section 12.1). They may request the secondment of other public officials (including central government staff) to assist them.

Assemblies are required to appoint a chief executive as head of the paid service. Other senior appointments are not specified

- institutions and democratic participation
- Promote infrastructure and economic development through district development plans
- Mobilise resources for governance and development
- Maintain peace and security in conjunction with the national police service
- Make by-laws which facilitate their functions
- Appoint, develop, promote and discipline their staff
- Cooperate with other assemblies to learn from their experiences and exchange ideas
- Perform other functions and participate in the delivery of essential local services.

The legislation and the decentralisation policy gives assemblies responsibilities for:

- Education, science and technology
- Health and population
- Transport and public works
- Land, surveying and physical planning
- Agriculture and irrigation
- Water development
- Gender, youth and community affairs
- Natural resources and environmental affairs
- Commerce and industry
- Finance
- Home affairs and internal security.

Under the legislation most decentralised functions are mandatory. Decentralisation will take place in phases. Phase 1 sector functions transferred from central government ministries include primary education, primary health, forestry, natural resources and community services. Pilot programmes have been set up for decentralisation but transfer and implementation are slow. Not all assemblies are taking on the first responsibilities to be decentralised given their varying delivery capabilities.

As planning authorities, assemblies are required to prepare district development plans. These plans must explicitly take into account the national development framework as outlined in Vision 2020, the poverty reduction strategy, and the decentralisation policy. Assemblies must also produce disaster preparedness plans and, under the Environmental Management Act 1996, five-year environmental action plans.

7 FINANCE

7.1 Revenue

The total aggregate revenue for local government in 2005/2006 was Malawian Kwacha (MK) 4.8bn (US\$38.7m). Under the constitution the government is required to 'ensure that there is adequate provision of resources necessary for the proper exercise of

Table 1. Distribution of population in the local government assemblies

Type of assembly	Number	Population		
		Largest	Smallest	Average
District (rural)	27	905,889 (Lilongwe)	8,074 (Likoma)	321,503
City	3	502,053 (Blantyre)	86,980 (Mzuzu)	343,168
Municipality	1	65,915 (Zomba)		65,915
Township	8	27,811 (Karonga)	8,842 (Luchenza)	19,570

Table 2. Distribution of district assemblies

Region	Local government assemblies				Population	
	Districts	Cities	Municipalities	Townships		% rural
Northern	6	1	0	1	1,233,560	87
Central	9	1	0	3	4,066,340	86
Southern	12	1	1	4	4,633,968	85
Total	27	3	1	8	9,933,868	86

administrative structure to support the former District Focus for Rural Development (DFRD). Assemblies may establish new or use existing structures, although the latter are not congruent with the ward representation of assembly members.

5.2 Local government staffing

The Local Government Act 1998 envisaged that the assemblies would be responsible for the recruitment, promotion, discipline and dismissal of all employees, together with the determination of their conditions of service, and salaries and allowances.

An amendment to the legislation in January 2001 removed responsibility for the recruitment of senior management staff from the assemblies to the Local Administration Service Committee (LASCOM), reactivating an independent commission established in 1984 to support the then local government system. This is an interim measure until assemblies have capacity to assume full establishment responsibilities. LASCOM's remit extends to the recruitment of the chief executive/district commissioner; the directors of finance, administration, public works, management information systems and internal audit; and two finance officers responsible for recurrent revenue and development matters. The assemblies retain responsibility for all other staffing matters.

in the legislation, nor is any departmental structure other than the requirement to establish an internal audit department. Staffing structures will be progressively developed as functions are decentralised sector by sector.

5.3 Independent scrutiny

The office of Ombudsman was established in 1998.

Under the Local Government Act 1998, the accounts of a district assembly must be submitted to the Local Government Finance Committee (LGFC) which forwards these for audit by the Auditor General, who may also carry out surprise audits and other investigations. The audit report is sent to the assembly, the Minister of Local Government, and the LGFC. After considering the findings of any report the LGFC has powers to disallow expenditure contrary to the provisions of the legislation and to surcharge those responsible.

6 DISTRIBUTION OF SERVICE DELIVERY COMPETENCE

The function of the assemblies, subject overall to national development plans and policies, is to:

- Make policy and decisions on local governance and development for the local government area
- Consolidate and promote local democratic

local government functions'.³

The legislation envisages that local revenues will be generated by:

1. Central government payments and grants	60%
2. Property rates and rents	26%
3. Fees and other charges	9%
4. Market fees	5%

Government transfers to the assemblies are in the form of ceded (non-tax) revenue and grants.

The legislation gives the assemblies responsibility for raising and collecting local taxes and user fees and charges. They may, however, make arrangements with another assembly, or other bodies or individuals, to collect fees and charges on their behalf.

The approval of the Minister of Local Government is required where assistance to an assembly is provided by an NGO. All external assistance must be routed through the Ministry of Finance.

7.2 Revenue-sharing

The non-tax revenue to be ceded to the assemblies is specified in the decentralisation policy statement (not the legislation) as toll fees, gambling and casino fees, fuel levy/fee (road maintenance levy), motor registration fees, and industrial registration fees. These revenues will continue to be collected by central government, then redistributed to the assemblies using a formula approved by cabinet. The procedures for ceding revenues, and the supporting institutional and distribution mechanisms, have yet to be finalised.

Provision is made for at least 5% of national revenues (excluding grants) to be made available for district development. The distribution of this grant, the General Resource Fund (GRF), is made by government based on the recommendations of the LGFC, established under the constitution, in accordance with a formula approved by the National Assembly. The formula takes into account:

- Population size
- Level of development (using agreed poverty indicators)
- Incentives to encourage assemblies to generate their own revenue
- Equalisation measures.

In 2005/2006 MK2.9bn (US\$23.5m) was transferred to local government under the GRF. These funds were:

• Sector grants	14%
• General Resource Fund	79.5%
• Salary subsidy	4%

- Chiefs' honouraria 2.5%.

The GRF is one component of an Intergovernmental Fiscal Transfer System (IGFTS), the others proposed by the UNCDF being two sectoral grant allocations, an education fund and a health fund, together with capital development funds, the latter being integrated into a renamed District Development Fund (see below).

The District Development Fund (DDF) established in 1993 continues as a facility for managing, allocating and monitoring finance for small-scale investments and other development activities under the earlier district planning system. With government recognition that the DDF provided an effective mechanism for earlier decentralisation activities, it is proposed that the fund integrates government and donor assistance in a 'basket-funding' unconditional grant mechanism as a precursor and guide for the potential long-term development of the IGFTS on this basis.

The Local Government Act does not prescribe any ministerial supervision of locally determined taxes and user fees and charges. The Minister of Local Government may, however, prescribe a 'minimum value' on property assessed for rating purposes, and determine a minimum charge to be paid on such property.

7.3 Expenditure

In 2005/2006 the total aggregate expenditure of local government was MK4.8bn (US\$38.7m).

Under the legislation local assemblies will be required to submit their annual estimates of revenue and expenditure to the LGFC for approval, with supplementary estimates following the same procedure. No expenditure may be incurred which has not been included in the approved estimates, but the LGFC may approve reallocations. This system is intended to secure the formulation of realistic budgets by the assemblies, such that they do not generate losses, but create investment opportunities. All assembly budgets will be consolidated by the LGFC and presented to the National Assembly as a local government budget for its approval.

8 ORGANISATIONS OF LOCAL GOVERNMENT

The Malawi Local Government Association (MALGA) is recognised by the government as the body to coordinate local government training, but has no constitutional or legislative recognition.

In 2001/2002 the UK West Midlands Local Government Association worked with MALGA on capacity-building and the development of

its new constitution, following extensive consultation across the country.

MALGA is affiliated to the CLGF.

9 INTERGOVERNMENTAL RELATIONS

Intergovernmental relations are prescribed by the decentralisation programme:

- A cabinet committee on decentralisation meets on an *ad hoc* basis to review decentralisation proposals
- The Ministry of Finance is responsible for fiscal decentralisation and for integrating financial systems at national level with those at assembly level
- The Decentralisation Secretariat (established in 1996, and now housed within the Ministry of Local Government and Community Development (MLGCD) provides an enabling environment for the decentralisation process, and links donor organisations with the elements of the process they are supporting
- The decentralisation policy defines the roles and responsibilities of the sector ministries and the MLGCD in relation to the assemblies. Sector ministries maintain direct links with the district assemblies over professional and operational issues
- The Inter-Ministerial Technical Committee, whose members are drawn from the government of Malawi's paid service together with representatives of donor interests, has a reviewing and monitoring role, and provides guidance to sectoral ministries on the decentralisation process.

Assemblies have discretion to discharge any of their functions jointly and may set up joint committees for these purposes.

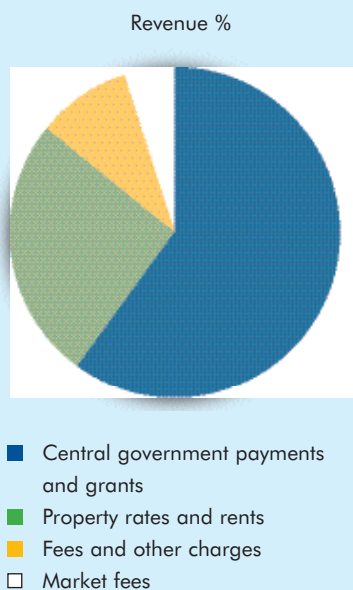
10 E-GOVERNMENT

An e-government policy is being developed as part of the Malawi Information and Communications Technology (ICT). The overall aim is to promote the country's socio-economic development, supporting the aspirations of Vision 2020, with priority being given to ICT activities contributing to poverty reduction. Programme development is the responsibility of the Malawi Information and Communication Technical Authority (MICOTA).

The e-government element focuses on the modernisation and improved efficiency of public services. Specific strategies are to be designed to:

- Improve productivity, efficiency, effectiveness and service delivery through institutional and organisational reforms
- Modernise the public service through the

Figure. 1 The financial structure of local government in Malawi



development and utilisation of ICT to support its operations and activities

- Promote e-government through government-to-government, government-to-business, and government-to-citizens initiatives
- Promote the use of ICT to facilitate the decentralisation of government services and operations, and support the delivery of business and government services in rural areas
- Improve the basic skills of public officers by ongoing training
- Develop and enforce standards and best practice to guide the delivery of services to the public.

The government maintains a web portal at www.malawi.gov.mw, with links to government departments, ministries, and other public bodies. Currently there are no websites for the assemblies, but the development plans of the (rural) district assemblies are posted on the website of the MLGCD.

There were 52,500 internet users in 2005, representing approximately 0.4% of the population.⁴

11 ENVISAGED REFORMS

The Local Government Act 1998 provides a legal framework for the implementation of the decentralisation policy. This legislation will continue to be revised as decentralisation progresses.

Key issues that are being addressed include:

- Building a democratic culture through civic education
- Developing a governmental fiscal transfer system

- Phasing of the devolved functions from sector ministries
- Alignment of district planning systems with evolving sub-district organisational structures
- Assembly capacity-building to support managerial and financial functions
- Providing training support for the elected assemblies and their staff.

12 MISCELLANEOUS

12.1 Malawi AMICAALL

A Malawi chapter of the Alliance of Mayors and Municipal Leaders on HIV/AIDS in Africa (AMICAALL) was launched in November 2003, supported by all local assemblies. AMICAALL was established in 1998 to promote a multi-sectoral response to the HIV/AIDS epidemic at the local level in sub-Saharan Africa. In Malawi a national AMICAALL programme is being developed through a consultative process involving central government, local authorities and MALGA, the UN theme group on HIV/AIDS (UNAIDS), civil society organisations and community leaders.

12.2 International links

East Staffordshire Borough Council in the UK is working with the city of Blantyre on the development of financial management systems. The partnership extends to knowledge transfer initiatives and staff exchanges covering highway maintenance, planning, parks and recreation, refuse collection and disposal, environmental health, information technology, and fire and rescue.

12.3 Traditional leaders

Within the traditional leadership structure each village has a village headsman, with a group village headsman (GVH), selected by the village headsman, being responsible for five or more villages. The traditional authority (TA) voted from the GVHs oversees between five and 15 of their number. At the most senior level a sub-chief has responsibility for a number of TA, with the senior chief having authority over all sub-chiefs in the district. For example, in Dowa district there are seven TAs, with between 25 and 30 group village headsman within each TA, and approximately 10 village headsman to each GVH.

TAs and sub-TAs within each local government area serve, *ex officio*, as non-voting members of the assemblies. They also contribute to the formulation of the district development plans through their involvement in the area and village development committees that are retained in the revised district planning system.

13 SUMMARY

The Republic of Malawi made the transition from a single-party state to a multi-party democracy in the national elections of 1994. Malawi, ranked 164 out of 175 countries for the UNDP Human Development Index, continues to rely on donor assistance for its development. The paramount importance of poverty reduction is reflected in Malawi's major policy statements: Vision 2020, the Poverty Reduction Strategy Paper and the decentralisation programme.

References

- 1 CIA World Factbook 2007
- 2 Local Government Act 1998, Section 3
- 3 Constitution of Malawi, Chapter XIV, Article 150
- 4 CIA World Factbook 2007.

Service	Delivering authority		Remarks
	Central	Assemblies	
GENERAL ADMINISTRATION			
Police	●	●	Assemblies provide community police
Fire protection		●	
Civil protection	●	●	Assemblies also responsible for ambulance services, probation and welfare
Criminal justice	●		
Civil justice	●		
Civil status register		●	
Statistical office	●	●	District statistics service
Electoral register	●		
EDUCATION			
Pre-school		●	
Primary		●	
Secondary	●		Also a few private high schools
Vocational and technical	●		
Higher education	●		
Adult education	●		
Other		●	Distance learning centres
SOCIAL WELFARE			
Kindergarten and nursery			Private provision in urban areas
Family welfare services		●	
Welfare homes		●	
Social security	●		
PUBLIC HEALTH			
Primary care		●	
Hospitals	●	●	
Health protection		●	
HOUSING AND TOWN PLANNING			
Housing	●	●	● Subject to general ministerial direction (all planning in accordance with national policies)
Town planning		●	
Regional planning		●	
TRANSPORT			
Roads	●	●	Roads subject to the national Roads Authority Act
Transport			
Urban roads	●	●	
Urban rail			
Ports	●		
Airports	●		
ENVIRONMENT AND PUBLIC SANITATION			
Water and sanitation		●	● = discretionary service by the local authority
Refuse collection and disposal		●	
Cemeteries and crematoria		●	
Slaughterhouses		●	
Environmental protection		●	
Consumer protection		●	
CULTURE, LEISURE AND SPORTS			
Theatre and concerts		●	● Assemblies may support/aid other bodies in the provision of cultural/leisure services
Museums and libraries	●	●	
Parks and open spaces		●	
Sports and leisure		●	
Religious facilities			
UTILITIES			
Gas services			
District heating			
Electricity	●		
Water supply		●	In liaison with Ministry of Water Development
ECONOMIC			
Agriculture, forests and fisheries	●	●	● Trading/commercial services (eg hotels, restaurants, farms)
Economic promotion	●	●	
Trade and industry	●		
Tourism	●	●	
Other economic services		●	