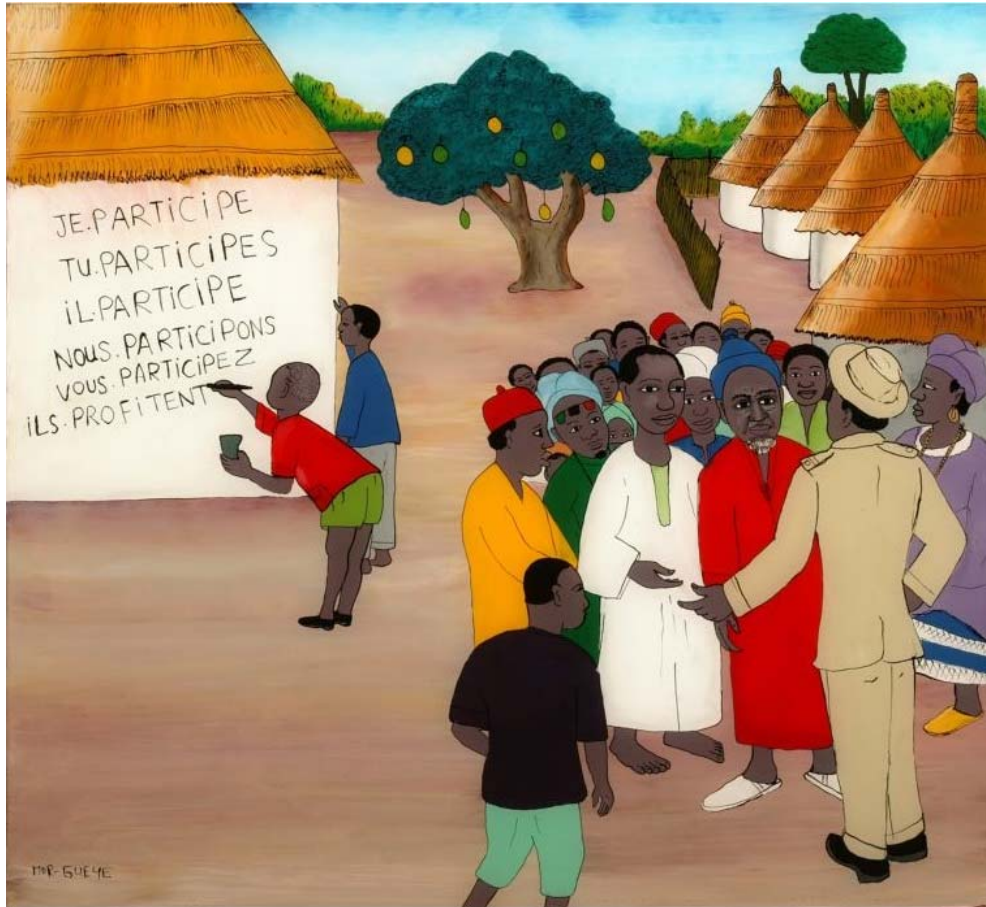


# REPRESENTATION, EQUITY & ENVIRONMENT

## Working Paper Series



### Working Paper 28

## Dilemmas of Democratic Decentralization in Mangochi District, Malawi: Interest and Mistrust in Fisheries Management

by

**Mafaniso Hara**

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**REPRESENTATION, EQUITY AND ENVIRONMENT**

**WORKING PAPER 28**

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Mafaniso Hara

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## **ABSTRACT**

This paper explores the politics of local representation and belonging during the devolution of authority for fisheries management decentralization in Mangochi District, Malawi. To establish ‘participatory’ fisheries management, in 1993 Malawi’s Fisheries Department established democratically elected Beach Village Committees (BVCs) with village headmen as ex officio members. But, the struggle between elected BVC members and traditional authorities over benefits from fisheries undermined the authority of elected members. Legal ambiguity as to whether the appointed or elected elements of the BVC should make decisions facilitated the takeover by some headmen. In addition, because the BVC was elected by universal suffrage, the members reflected the population as a whole—not just fisher interests whom these elected committees were designed to control. Being stacked against the fishing communities, these ‘vested’ interests resisted BVC activities—further hampering their effectiveness. Ironically, reflecting and being accountable to the population as a whole undermined the effectiveness of these elected BVCs. In 1998, a broader decentralization reform placed ‘community inclusion’ in fisheries management under Village Development Committees (VDCs), whose members would be appointed by elected District Assemblies. The proposed establishment of VDCs unleashed a struggle over how to arrange BVCs-VDCs relation. But, due to lack of a shared vision for decentralization and a shared mistrust of local democracy, higher-level battles for authority and relevance among government, politicians and traditional authorities have brought the decentralization process to a halt. In addition, donors supporting these reforms, who also mistrust the new democratic institutions created under decentralization, have an inadequate appreciation of the political complexities involved. The institutions chosen and recognized by government under donor pressure are the site of political struggles in which representation, belonging and downward accountability are losing ground.

## **ACKNOWLEDGEMENTS**

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## INTRODUCTION

In 1993, Malawi's Department of Fisheries (DoF) launched a donor-funded pilot program for decentralization of fisheries management in Mangochi District—the most productive fishing area on Lake Malawi (DoF, 1993). The stated objective was to foster recovery of fish stocks that had been rapidly depleted by legal and illegal over-fishing during the preceding decade (DoF, 1993; FAO, 1993). In 1998, the Government of Malawi (GoM) approved a donor-driven national decentralization policy (GoM, 1998a), detailed in the subsequent Local Government Act (GoM, 1998b). The Policy and Act mandated decentralization of administration and development responsibilities from central government to elected District Assemblies (DAs) (GoM, 1998a and 1998b). The Malawi Growth and Development Strategy recommended decentralization as a means for consolidating democracy and achieving the country's poverty reduction goal (Ellis et al., 2003).<sup>1</sup> The United Nations Development Programme (UNDP) funded pilot implementation of the 'District Focus Approach' to decentralization in Mangochi District (GoM/UNDP, 1998). Under decentralization, fisheries management will be devolved to the district.

These reforms are consistent with current trends in fisheries management worldwide. Many authors argue that central-state management of fisheries is ineffective and costly to implement, causing major problems in fisheries management (Baland and Platteau, 1996; Jentoft, 1989; Pomeroy, 1995).<sup>2</sup> They argue that autocratic centralized management does not take into account fishers' views, which results in illegitimate management structures and policies (Hersoug and Holm, 1999; Jentoft, 1993).<sup>3</sup> These observations have fuelled interest in alternative management set-ups that might improve the biological management, economic efficiency and equity in natural resource utilization (McCay, 1993; Ribot, 2004). Schemes that involve users through devolution of authority and responsibility are increasingly promoted as the most-promising alternatives (Hersoug and Rånes, 1997). There is extensive evidence that bringing management decisions closer to user communities can improve fisheries management by increasing the sense of 'ownership' of decisions and of the resource (Ahmed et al., 2004; Hara and Raakjær Nielsen, 2003; Raakjær Nilsen et al., 2004; Viswanathan et al., 2003). There is growing consensus among managers, scientists and politicians that no management scheme will work unless it enjoys the support of those whose behavior it is intended to affect (Jentoft, 1993; Feldt, 1990).

In the last fifteen years, interest has turned to management models and strategies based on devolution of authority and responsibility to fishers.<sup>4</sup> This recent resurgence of

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<sup>1</sup> The strategy rests on four pillars: pro-poor growth, human capital development, improving the quality of life for the most vulnerable and good governance (GoM, 2002). It guides the allocation of the national development budget and donor funding (Ellis et al., 2003).

<sup>2</sup> Feeny et al. (1990) suggest that interest in devolution of authority and responsibility stems from interests in grass-roots democracy, public participation, and local-level planning. As such, management regimes in which government officials exercise exclusive decision-making powers have fallen into disfavor.

<sup>3</sup> Beetham (1991:11) argues that 'legitimacy ... has to do with compliance with decisions that conform to, or approximate, the values, standards and expectations of those affected'.

<sup>4</sup> This usually takes the form of co-management, which refers to sharing of power, authority and responsibility between government and user groups.

decentralization has also been driven by an increase in donor support for decentralization initiatives, with various United Nations (UN) and other international agencies investing significant resources in decentralization programs (Work, 2002). As Work (2002: 3) states, ‘democratic and decentralized governance are increasingly considered requisite components of development initiatives’. Accompanying this trend, the search for solutions to ineffective regulation has shifted away from the content of management policy and the selection of the most appropriate regulatory mechanisms to the reform of the institutional frameworks within which policies are framed and implemented. In particular, the focus has shifted to the realignment of relationships between the regulators and resource users (Symes, 1997). With this new focus on productive decision-making relations, the most pressing question in fisheries has become how to ensure ‘grassroots’ approval of management decisions (Baland and Platteau, 1996).

Organizing user groups for ‘involvement’ in fisheries management decisions, as with democracy writ large, raises the classic questions of ‘representation’ (Mikalsen, 1996). Mikalsen (1996) argues that a pre-requisite for successful user involvement is a relatively simple organizational structure for representing users incorporating strong individuals that are widely respected by their constituency. Hoel et al. (1996) and Jentoft (1993) outline three key problems areas for user participation: the relationship between *interests and influence*, *representativity* of user groups, and *balancing of special interests against public concerns*. Hoel et al. (1996) and Jentoft (1993) argue that giving power to fishers can be tantamount to ‘letting the fox into the hen house’. Policy makers fear that fishers will capture the immediate benefits while disregarding the long-term impacts on the fisheries. So, they believe fishers should not control management decision making. Resource managers need to strike a balance between the interests of user groups, whose livelihoods depend on management decisions, and the ostensible concerns of the state in its custodial role for natural resources on behalf of the broader public (Mikalsen, 1996; Hara, 2001). To balance special interests against public concerns, Malawi’s Fisheries Department set out to create democratic local fisheries management units. But, as the case of Mangochi District shows, the balance between representation and special interests—including those of the Fisheries Department—brought decentralized management to a standstill. Representation, the accountability and responsiveness of leaders to the population,<sup>5</sup> produced a stalemate in which a range of powerful actors sought to secure their own powers and authority.

Since 1993, Malawi’s Fisheries Department has been experimenting with participatory fisheries management. These experiments, and their institutional arrangements, were legalized in the 1998 Revised Fisheries Act (GoM 1998c: 4). In Mangochi District, these participatory management experiments led to the establishment of elected committees, called Beach Development Committees (BVCs), to represent, in fisheries management decisions, the residents of villages involved in fishing. These committees also included village headmen as ex officio members, as recommended by the Fisheries Department. In 1998, however, the Local Government Act (GoM 1998b) legislated the decentralization fisheries management powers to the District Assemblies. This transfer has not taken place to date and the BVCs are

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<sup>5</sup> See Ribot (2004; 2007) who defines democracy substantively as the accountability of leaders to the people and who views democratic representation as being composed of accountability with responsiveness.

still operating. Discussion and conflicts are taking place concerning the devolution of powers to the DAs and the future relation between DAs and BVCs.

Three factors have undermined the ability of BVCs to function: claims by customary authorities, financial dependence on donors, and resistance by vested interests. First, powerful customary authorities' traditional role in fisheries makes it difficult for the BVCs to assert their new authority—especially when BVCs authority is poorly supported by the Fisheries Department. In an authority struggle between the BVCs and hereditary village headmen, most village headmen are claiming that BVCs draw their authority from village headmen's customary powers and, as such, should fall under their authority. Due to fear of reprisals by fishers<sup>6</sup> and the continuation of exercise of customary authority within villages by village headmen, BVCs cannot sanction offenders within their jurisdiction without the residual authority of village headmen. This concentration of sanctioning power leaves the BVCs dependent on the headmen. Legal ambiguities in naming the BVC as the legal decision-making body further strengthen the hand of the hereditary headmen over that of elected BVCs.<sup>7</sup>

Second, BVCs depend on the Fisheries Department and donors for financial and material resources, making them accountable to the Fisheries Department and making it difficult for them to act independently. Dependence of BVCs on both village headmen and the Fisheries Department diminishes their independence and discretionary powers. They are not downwardly accountable to the members of the fishing community and the fishers do not feel BVCs represent them. They are neither accountable to their constituency nor effective in improving fisher behavior. Third, because BVCs were elected by the population as a whole, their composition did not reflect vested interests of fishers whom it was supposed to regulate. Feeling excluded from their own domain of operation, these vested interests resisted BVC authority. Ironically, the ability of the elected BVCs to function was undermined by being more accountable to the general population than to the sectoral interests it was set up to curb.

In addition, decentralization reforms have further complicated the battles at a higher level among government line agencies, politicians and traditional authorities who lack a shared vision for decentralization. Conflicts between vested interests and democratic structures articulated all the way up the hierarchy through line ministries to the central state and donors. The struggles resulted in the indefinite postponing of elections for the new decentralized DAs. The fishers and the Fisheries Department did not trust the democratically elected BVC enough for it to function as a representative body. The central government and donors did not trust the DAs enough to allow them to be established as representative bodies. Central government ministries and departments as well as donors do not trust the VDCs. Donors and ministries continue to operate through the pre-decentralization sectoral committee-based approach. Every ministry is using this committee approach and committees have proliferated. Headmen

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<sup>6</sup> Fishers can resist arrest and confiscation of their fishing gears and even beat up enforcement officers. For BVC members expressed fears that they did not want to take responsibility for enforcement activities due to fear of reprisals against them or their family members by gear owners or/and crewmembers. In contrast, village headmen usually have enough authority to sanction offenders within their villages.

<sup>7</sup> The Act does not specify the transfer powers to BVCs. Rather, the Fisheries Director can appoint Honorary Fisheries Officers to hold powers.

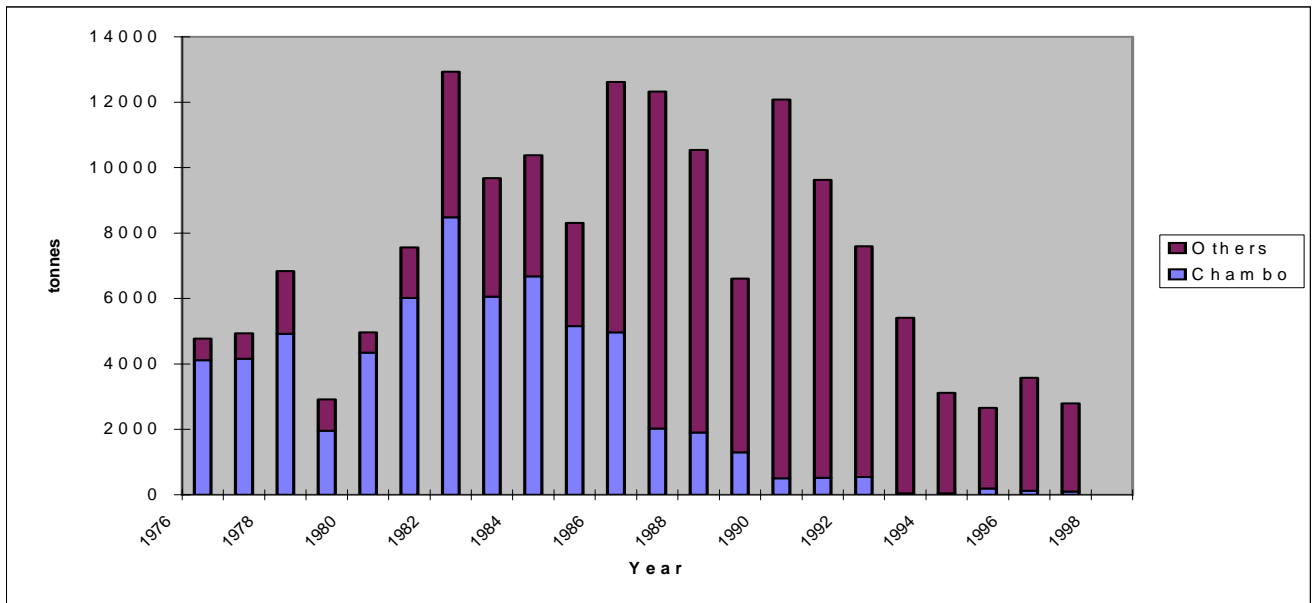
and well-educated villagers are spread thin among committees, leading to ‘committee fatigue’. The ministries do not want to regroup their committees under the VDC and the donors, too, do not trust that the VDC has the skills and resources to oversee sectoral development programs. In addition, the political party in power is trying to limit the powers of the DAs so as to retain the allocation of development projects as part of their strategy to stay in power. Meanwhile, members of parliament and headmen are fighting for voting powers in lieu of their current non-voting ex officio membership in the DA. Thus is the drama of Malawi’s decentralization: those in a position to implement local democratization do not trust its results will serve them well.

This paper draws on material from field research conducted by the author in Mangochi District, Malawi from 1997 to 2001 (Hara, 2001). The author also participated in the Worldwide Fisheries Co-management Project from 1995 to 2003 (Raakjær Nilsen et al., 2004; Hara and Raakjær Nielsen, 2003; Viswanathan et al., 2003), and conducted supplemental interviews with key informants in 2006 and 2007. The paper also draws on the author’s experience working as a Mangochi District Fisheries Officer from 1990 and 1996. The Participatory Fisheries Management Programme (PFMP), the basis of this paper, was launched in 1993 during the author’s tenure as District Fisheries Officer. In this capacity, the author was also a member of the District Development Committee, the precursor to the DA. The remainder of this paper outlines the PFMP legislation and the organization of participatory fisheries management; describes organizational structures and proposed institutional arrangements of decentralization for environmental management; discusses the effects of devolution of authority in Mangochi District on recognition, belonging and accountability for participatory fisheries management and the nesting of participatory fisheries management within decentralization.

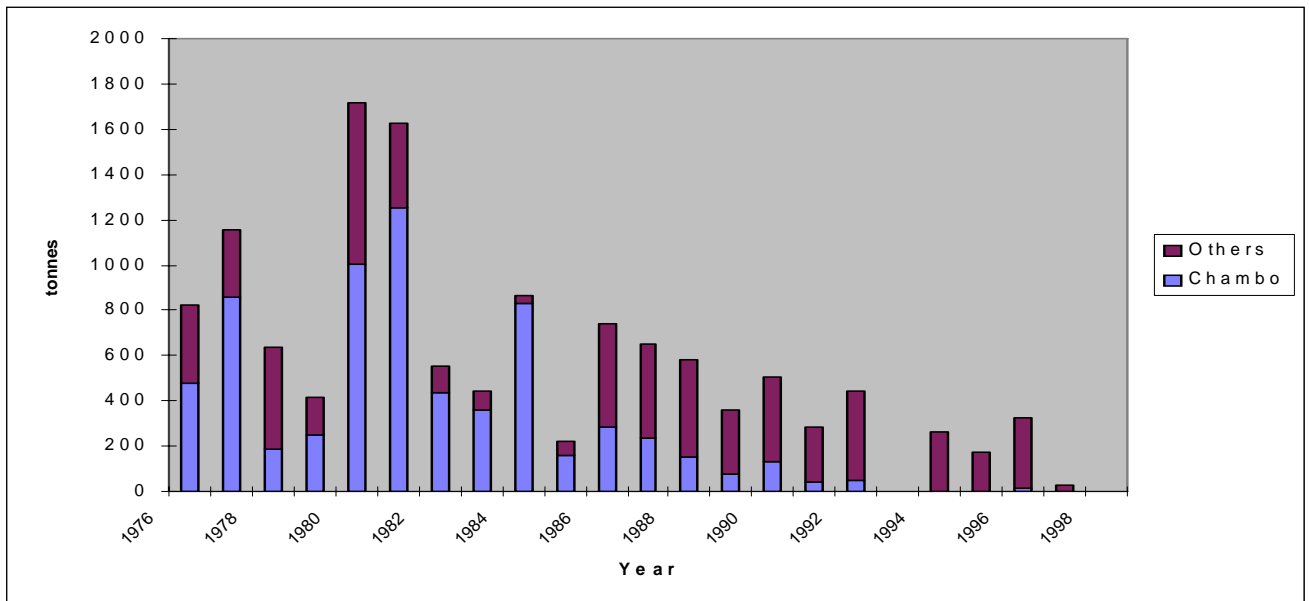
## **PARTICIPATORY FISHERIES MANAGEMENT PROGRAMME**

### **Background and context**

The Lake Malombe and Upper Shire River Participatory Fisheries Management Programme (PFMP) is a pilot programme for user participation in fisheries management in Malawi (DoF, 1993; Hara, 2001). PFMP was motivated by evidence of the growing decline of fish stocks in Lake Malombe and the Upper Shire River in the 1990s (FAO, 1993) due to rampant use of illegal fishing methods. The chambo (*oreochromis spp*) stocks had collapsed and by end of the decade, the other stocks had also been severely depleted (figures 1 and 2). The Fisheries Department believed that sharing management authority and responsibilities with the fishing communities would improve the legitimacy of the management regime among fishers thereby curbing illegal fishing, which would help in recovery of the fishery (Fisheries Department, 1993; Bell and Donda, 1993).



**Fig. 1:** Estimated total catch from Lake Malombe (data source – Fisheries Department, Lilongwe)



**Fig. 2:** Estimated catch from Upper Shire River (data source—DoF, Lilongwe)<sup>8</sup>

While the recommendations for the technical solutions to declining fish stocks in the two water bodies had sound biological basis, the Department of Fisheries realized that, in the past, new regulations or more restrictive controls were not followed by users (DoF, 1993). Experience worldwide is also that imposition of regulations that are not accepted by fishers

<sup>8</sup> Data for 1994 is not available.

hardly succeeds (Flewwelling, 1994). It was therefore imperative to look at alternative management approaches. The regimes that provide the best chance for success around the world are those that involve some amount of self-regulation by the fishing communities (Bromley, 1992; McKean, 1992; McCay and Acheson, 1987; Jentoft, 1989). The Lake Malombe and Upper Shire River PFMP was therefore conceptualized and launched in 1993 as a pilot programme for participatory fisheries management for capture fisheries in Malawi. While the immediate objective of the programme was to redress the collapse of the fisheries in the two water bodies, the long-term objective was institutionalization of the participatory management approach that could ensure sustainable biological and socioeconomic viability of fisheries in Malawi (Hara, 2001; DoF, 1993). A key objective of donors was the introduction of the subsidiarity principle,<sup>9</sup> which privileges more-local organizations, in the management of fisheries, with the view that this would also help meet long-term conservation and socioeconomic objectives (Hara et al., 2002).

### **Legislation for participatory fisheries management**

A participatory management regime was legalized by the Revised Fisheries Act (GoM, 1998c). One of its objectives is ‘the establishment of participatory fisheries management and empowerment of communities for the conservation and management of fisheries resources’ (GoM, 1998c: 4). The act also makes it the duty of the Director of Fisheries (the Director) to facilitate the formation of BVCs for this purpose and to facilitate the role of BVCs in making by-laws for fisheries management in their areas. The Act gives the Director powers to appoint ‘Honorary Fisheries Officers’ for local areas, with powers to enforce fisheries regulations in their areas of jurisdiction. The Act does not categorically require that the BVCs should be elected by universal suffrage, nor does it specify how and who should vote when constituting the BVCs. The Act ‘recognizes’ as legal bodies the institutions representing fishers.

Four aspects of the reform promote the participatory approach: regular policy review, transfer of property rights, sustainable funding, and transfer of management responsibilities. The Act provides for *regular review of policy and legislation* in order to allow for incorporation of changes as lessons are drawn from the pilot program. The act establishes a Policy and Legislation Review Committee composed of the people from Fisheries Department, the mother Ministry and the Department of Justice that would sit whenever necessary to review policy and make recommendations to parliament for amendments. The Act gives the Director powers to grant communities special *fishing rights* in specified areas so as to turn the fishery into a ‘communal access’ fishery as opposed to an ‘open access’ fishery. Such rights would enable BVCs to restrict access for outsiders, control fishing activities within their areas and sanction offenders. The Act permits revenue from gear licensing to be used to *finance* the BVCs, to ensure sustainability of the programme and BVCs beyond donor funding. It also provides for the *transfer of management responsibilities* to BVCs ‘when appropriate’. The Act anticipates that, with time, the fishing communities will progressively assume greater responsibility for management. The Act does not explicitly allude to a legal transfer of

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<sup>9</sup> Subsidiarity is a normative principle for institutional design proclaiming that ‘decisions affecting peoples lives should be taken by the lowest capable social organisation’ (Pinkerton, 1994; also see Ribot 2004). Higher authority has the burden of proof for the need for centralization and has the obligation to exhaust all possibilities of realizing the principle by strengthening the capacity of the lower level institutions to retain or acquire management responsibilities.

discretionary powers to BVCs for management of fisheries in their areas, rather it gives the Director 'authority to delegate powers to appointed 'Honorary Fisheries Officers' for enforcement of regulations' (GoM, 1998c: 6).

### **Organization for participatory fisheries management**

As the national line agency for management and administration, the Fisheries Department establishes District Fisheries Offices in all districts with natural fish resources. The Mangochi District Fisheries Office is the government side in the participatory management arrangement and is also directly responsible for field implementation of the programme. The District Fisheries Office has a network of extension officers (termed 'community liaison officers') living within the fishing communities. The Fisheries Department, the Ministry of Natural Resources, Energy and Environmental Affairs (in which it is located), and the Ministry of Justice are the three entities responsible for ensuring review of policy and legislation (DoF, 1993).

While the Fisheries Department made use of its existing organizational and administrative set-up for Mangochi District, fisher communities did not have an established organizational structure for partnering government for participatory management when the programme was launched in 1993. To this end, the Mangochi District Fisheries Office facilitated the election of beach-village committees, the BVCs, and training of the committees in various skills (such as committee procedures for participatory management). BVCs are supposed to be democratically elected committees for representing beach villages in the participatory management regime. The Fisheries Department recommended to the fishing communities that headmen of the villages represented by the BVC should be included as ex officio committee members. The communities accepted and implemented this recommendation.

BVC elections are organized around fish-landing beaches and the villages using them (Hara, 2001). In some instances, a village can have more than one beach while in other cases, a single beach could be used by more than one village. In the former case, the village headman will sit on more than one BVC while in the latter, a BVC will have more than one village headman. Since the launching of the programme, twenty-nine BVCs representing sixty-nine villages have been elected on Lake Malombe and the Upper Shire River. The BVCs elected an umbrella organization regrouping all of the committees, the Lake Malombe/Upper Shire River Fishermen's Association. Launched using donor funding,<sup>10</sup> part of gear license fees collected by government would be transferred to the BVCs for sustained financing of the BVCs beyond project funding (GoM, 1998c).

## **DECENTRALIZATION**

Soon after the BVC system was set up, it was overlaid by a broader national decentralization reform. The institutional arrangements before decentralization and of the decentralization reform are outlined below.

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<sup>10</sup> German Technical Foundation, UNDP, British Overseas Development Administration and The World Bank.

## **Existing administrative and political organization**

Malawi, a country with a population of approximately eleven million, is divided into thirty-nine administrative districts. Historically, District Administration, headed by the centrally appointed District Commissioner (DC),<sup>11</sup> has been the main channel through which the central government's authority reaches rural communities. To this end, the DC chairs the District Development Committee (DDC), which is the decision and co-ordination forum for development activities at the district level.

Each district is further divided into Traditional Authority areas (headed by a Traditional Authority or Paramount Chief), village groups (headed by a Group Village Headman) and at the lowest villages (headed by a village headman). The village continues to be recognized as the lowest administrative level (GoM/UNDP, 1993). Under the Traditional Authority administrative system, ascendancy to positions of authority is normally hereditary, though under Malawi's colonial 'indirect rule' system, ascendancy to positions of power was subject to government approval (Mamdani, 1996; McCracken, 1987). After independence under the thirty-year (1964 to 1994) one-party rule of the Malawi Congress Party (MCP), this system continued. Ascension to power was subject to confirmation and approval by the government (Chirwa, 1995; Forster, 1994; McCracken, 1987).

The MCP was and is still organized through national, regional and district committees. At district level, the party is further structured into 'area' committees and, at the lowest level, 'branch' committees. Parallel to the main party committees are Youth League and Women's League committees that also run from national level right to the grassroots branch level. This formed a complex network of the party tentacles from national level right into the rural communities. Dr. Hastings Kamuzu Banda, 'president for life', ruled the country with an iron hand until he was forced out of office in 1994 under Malawi's first post-independence multi-party democratic elections.<sup>12</sup> His aura of absolute power was transmitted through the lower party ranks as MCP officials exercised vast powers on behalf of the head of government and ruling party. MCP machinery and structures were routinely used by government departments to implement their policies and programmes in rural areas (Hara, 2006). The new political parties, such as the United Democratic Front (UDF) that was in power for the first ten years of democracy (1994 -2004), have modeled their organization on that of the MCP.

Mangochi District is at the southern end of Lake Malawi, covering an area of 6,273 square kilometers. The estimated population for the district in 1998 was 599,932 and projected to increase to 825,728 by 2001 (National Statistical Office, 2002). The district is divided into 9 Traditional Authorities (TAs), 79 village groups and 735 villages.

## **Democratic Decentralization**

The 1998 Local Government Act (GoM, 1998b) proposes decentralization of political and administrative authority to elected DAs, integration of line ministries and departmental

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<sup>11</sup> DCs are civil servants. They fall under the Office of the President and Cabinet.

<sup>12</sup> The multi-party democratic elections were forced on Malawi by donor pressure though suspension of both bilateral and multilateral aid.

agencies at the district level into one administrative unit,<sup>13</sup> and the creation of sub-district committees at area and village levels. Decentralization is intended to create a democratic environment and institutions for governance and development at district, area and village levels and so make public service provision more efficient and cost effective; and to promote accountability and good governance that would enhance poverty reduction (Environmental Affairs Department, 2001; also see Crook and Manor, 1998).

The DA will be comprised of one councilor elected from each ward in the district. The DA will be presided over by a chairman elected by the DA. Members of Parliament (MPs) and Traditional Authorities will be non-voting ex officio members. Heads of ministries and departments, the clerk of council, religious leaders and heads of NGOs at district level will form a District Executive Committee that will provide advice, monitoring and evaluation and backstopping for development projects for the DA (Mkandawire, 2003; Environmental Affairs Department, 2001). The DA, as a whole, will have the authority to commission the formation of development committees at area (Area Development Committee, or ‘ADC’) and village (Village Development Committee, or ‘VDC’) levels—they also are able to appoint commission members.<sup>14</sup> While VDCs would represent a village, ADCs would represent all village groups under Group Village Headmen within a Traditional Authority.

Although Mangochi was one of the six Local Implementing Areas where decentralization was supposed to be piloted under the UNDP District Focus for Development Programme (GoM/UNDP, 1998), the process has not resulted in a functional DA or the proposed sub-district structures, the ADCs and VDCs. The 2001 local government elections failed nationwide since only fourteen per cent of people voted (Ellis et al., 2003). Fresh elections planned for before the end of the 2006 parliamentary session in order to resuscitate decentralization have been postponed indefinitely (pers. comm. A. Chibwana, Zomba, 2006; pers. Comm. B. Mlaviwa, Machinga, 2006).

### **Decentralization of environmental management**

The Environmental Management Act of 1996 (GoM, 1996)<sup>15</sup> legalizes the devolution of authority and responsibilities for the protection, conservation and sustainable use of the environment to DAs (Mkandawire, 2003).<sup>16</sup> Under this Act, VDCs are supposed to identify service and development priorities and also participate in the compilation of a village-level ‘State of the Environment Report’ to be passed on to the ADC. The ADC would then filter, prioritize, and consolidate all reports from a given area into one report for the Traditional Authority area. The compiled and prioritized proposals from all ADCs would be submitted to

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<sup>13</sup> To this effect, all ministries and departments that intended to decentralize wrote letters to the Ministry of Local Government and DAs in 2005 outlining the functions that would be decentralized (pers. comm. B. Mlaviwa, Machinga, 2006)<sup>13</sup>.

<sup>14</sup> The process by which DAs will appoint ADCs and VDCs is not spelt out in the Act. Presumably, the DA will form subcommittees that can go to each area and form these committees through consultation with village headmen and communities.

<sup>15</sup> Sections 19 and 20 of the Act lay down the obligations of the District Development Committee (the unelected fore-runner of the DA) in terms of environmental management.

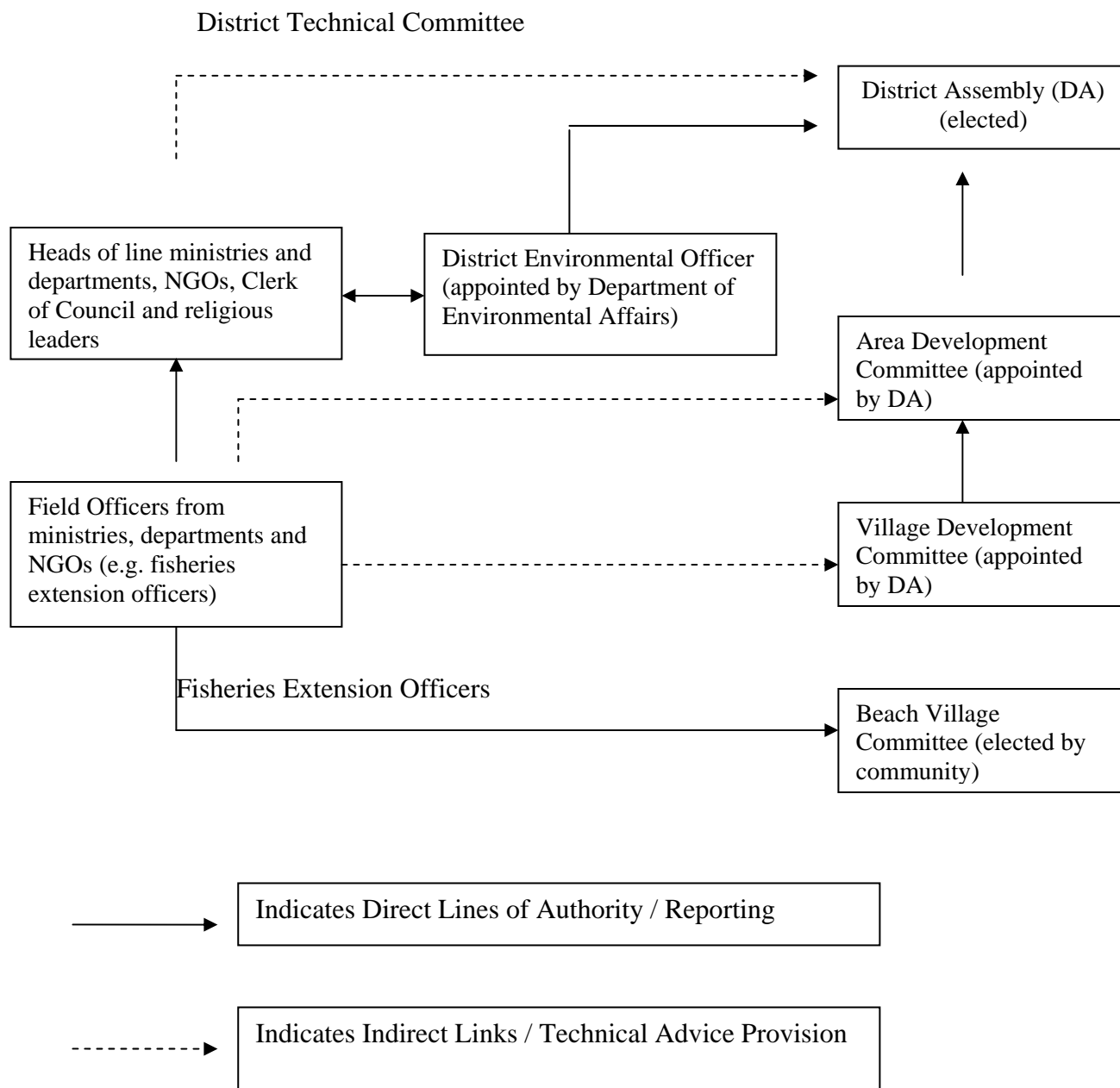
<sup>16</sup> According to section 11.2 of GoM National Decentralization Policy (undated), functions that will not to be decentralized are: policy formulation, policy enforcement, inspectorate, establishment of standards, training, curriculum development and international representation.

the DA. The DA would assess all proposals emanating from all ADCs in the district, and prioritize and approve them for funding. In addition, the DA would compile the district 'State of the Environment Report' which will be used for formulating the 'District Environmental Action Plan'. The 'District Environmental Action Plans' from all the districts would all be used to compile the 'National Environmental Action Plan', as one input into the Malawi Growth and Development Strategy (formerly called the Poverty Reduction Strategy Papers) (Environmental Affairs Department, 2001). The long-term plan is that the District State of the Environment Reports and District Environmental Action Plans will become the main tools for district- and national-level environmental planning and reporting.

The Environmental Management Act (GoM, 1996: art.22) requires the DA to take charge of fisheries management and development in the district. The DA will have the authority to manage fisheries in the district, pass fisheries by-laws (provided these are in line with the mother Fisheries Act) and have responsibility for fisheries development. The key to bringing of fisheries and other environmental sectors under the DA will be an Environmental District Officer appointed by the Director of the Department of Environmental Affairs in the Ministry of Natural Resources, Energy and Environmental Affairs, who is tasked with 'liaising' with environmental sector ministries and departments and bringing all district environmental management and planning activities under one directorate<sup>17</sup> and integrating them under the DA. Assuming the BVCs are integrated into this new system, the organizational structure would look like that shown in Figure 3.

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<sup>17</sup> The proposed directorate is the Directorate of Agriculture, Environment and Natural Resources (pers. comm. A.Chibwana, Zomba, 2006).



**Figure 3:** Organizational Structure for Participatory Fisheries Management within District Administration under Decentralization.

The VDCs will be constituted—via an unspecified process—by the DA and will report to the ADC. The ADCs will also be constituted by and report to the DA. The District Environmental Officer, an employee of the Ministry of Environmental Affairs seconded to the DA will act as liaison officer between the DA and the environmental line ministries/departments (e.g. the District Fisheries Officer). The district heads of departments/ministries (e.g. District Fisheries Officer) and NGOs, the Clerk of Council and religious leaders will form the District Technical Committee that will provide technical advice to the DA. Field Officers from ministries, departments and NGOs will form technical committees that will provide technical advice to ADCs and VDCs in their geographic areas of responsibility.

## **CHOICE AND RECOGNITION FOR DEVOLUTION OF AUTHORITY IN MANGOCHI**

This section analyzes the effects of choices and recognition on institutional arrangements for devolution of fisheries management and decentralization on democratic decision-making, belonging and accountability in the fishing communities of Lake Malombe and the Upper Shire River in Mangochi district, Malawi.

### **Recognition, belonging and accountability for participatory fisheries management**

The Fisheries Department chose to formally create and recognize BVCs as its conduit for authority for fisheries management. Fishers allege that the Fisheries Extension Officers who facilitated the formation of BVCs manipulated elections so as to ensure that people they favored were elected onto BVCs rather than those who would have been favored by the majority within fishing communities. The fisheries extension officers put people they felt had a strong fisheries conservation ethos (the Department's primary objective for the partnership) on the committees. They excluded those whose views they felt might be contrary the Department's. The extension officers did this by outlining the type and characteristics of people who would be desirable to be on the committees. They also hinted to community members the names of people to put forward for the vote (Hara, 1997). As a result, most BVC members felt allegiance to and believed that they derived their authority from the Fisheries Department, having been elected due to the Department's influence. As bodies supposedly elected by the fisher community to represent their interests, BVCs are supposed to derive their authority from and be accountable to the fishing communities. This should include the possibility of standing and fighting for views contrary to those of the Department.

The committee's behavior reflected its accountabilities. When the Department suggested a shift of the closed season from the period November through December to January through March, the BVCs had agreed. The fishers however complained that they had not been consulted. The decision had been taken between the Fisheries Department and the BVCs, without consult with their constituency. Among the fishing communities therefore, most BVCs are viewed as an extension of the Department's authority into communities, resulting in alienation of the BVCs from their constituency (Hara, 2001). Despite their public discourse, as far as Fisheries Department Officers are concerned, BVCs were created in order to assist the Fisheries Department in the battle against illegal fishing that caused collapse of the fishery; not for the autonomous representation of fishing communities in democratic decision-making within the 'participatory' management arrangement.

Under Malawi's 'customary law', traditional chiefs (village headmen, group village headmen and Traditional Authorities) are empowered to handle civil cases in their areas of jurisdiction. Thus village headmen handle civil cases in their villages. It was envisaged by the Fisheries Department and the Ministry of Justice that under participatory management, the residual powers of village headmen to handle civil cases would be used to sanction offenders for fisheries offences that come under civil law (Fisheries Department, 1993; Bell and Donda, 1993). One of the main justifications for including village headmen on BVCs was therefore to give the committees authority to sanction offenders locally. The reform never took place to

make offences under fisheries regulations civil. To date, fisheries regulations remain under the criminal penal code and offenders can only be prosecuted in Magistrates Courts. This was largely due to judicial reforms that abolished the traditional courts (Hara, 2001).

The inclusion of village headmen on BVCs has resulted in contestation for power within BVCs (Hara et al., 2002; Hara, 2001; Hara, 1997). In some beach villages, the village headmen have hijacked the BVCs and used them for their own ends, such as allowing some favored fishermen to fish during the closed season while forbidding the rest (pers. comm. J. Thindwa and M. Bezai, Mangochi, 1999). In these cases, village headmen arbitrarily removed members of BVCs whom they felt were resisting their authority and replaced them with individuals they could control. In some instances, such as Kadewere BVC on the east banks of Lake Malombe, the Kadewere village headman disbanded the entire elected BVC and constituted a new one composed of individuals handpicked by him (Hara et al., 2002; Hara, 1997). Without mincing words the headman referred to the re-constituted BVC as ‘my BVC’. If a BVC is not acceptable to the village headman, it does not matter that it was transparently, fairly and democratically elected by the whole beach village community.

According to the law, the Fisheries Department has delegated the authority over access to and extraction of economic benefits from exploitation of the fishery to the BVCs. Like the BVCs, the Fisheries Department, however, is usually powerless in standing up to village headmen. The headmen are fighting to retain their historical powers that the new BVCs threaten. Migrant fishers historically have to get permission or at least make the village headman aware of temporary residence in the village when they come. As a courtesy, or custom, they have to give the village headman something—usually a bucket of fish every week, called *mawe*—as a token of thanks for being allowed to stay in ‘his’ village (Hara et al., 2002; Hara, 1997). When BVCs came on the scene, this changed as migrant fishers were required to register with BVCs. The attempted transfer of authority over migrant fishers from village headmen to BVCs and the loss of economic benefits for village headmen that this entailed caused friction between village headmen and BVCs. The headmen’s refusal to relinquish their traditional power means that fishers are often confronted with dual authority as village headmen continue to exercise their traditional authority while BVCs attempt to wrestle authority from the village headmen (Hara et al., 2002).

There is confusion over the source of authority of the BVCs, and therefore to whom they are accountable. Do they derive their authority from the Fisheries Department, which facilitated their creation, training and funding for their activities? Is it from the community that supposedly elected them? Or is it from their village headmen who participate in the BVCs? To whom should the BVCs be accountable? This problem is compounded by confusion over the legality of the BVCs, since the revised Fisheries Act does not explicitly allude to a legal transfer of discretionary powers to BVCs for management of fisheries in their areas, but rather to appointed Honorary Fisheries Officers (GoM, 1998c). For BVCs to play their intended role, they need some semblance of independence from the village headmen and the Fisheries Department, and to draw their authority from the fishing communities. If law is taken to be the intention of the state, then it appears that, despite the discourse of participation, the representatives on the BVCs were not intended to play a decision-making role.

Another issue is that of democratic inclusiveness. Who is a member of the fishing community? Who is eligible to stand for membership of the BVC? How does one qualify to vote for BVC members? Fishing communities are comprised of people who can be classified according to their roles within the fishing community (for example gear owners, crewmembers, etc.), fishing gear types they use, residency status (whether they are migrants or permanent residents), socio-economic status, political status, and also gender. Within fishing units, the gear owners and crewmembers relations of production are a vital part of fishing activities (Hara, 2006). Migrant fishermen, who can be both gear owners and crewmembers, reside only seasonally in the fishing villages. Fish traders are usually also not permanently resident in fishing villages. They go as quickly as possible wherever they can find, buy and process the fish. The socio-economic status of these people shapes their influence within the communities. There are those with political status, whether derived from heredity, as chiefs and members of their clan, or from being elected, as Members of Parliament and Councilors. Gender is also an important factor especially in a largely Muslim community, such as Lake Malombe and the Uppers Shire River. When the first BVCs were being constituted in 1993, gear owners and crewmembers, referred to as ‘the vested interests’, were adamant that fish traders, migrant fishermen, and women should not be included on BVCs and should not take part in electing BVC members. Gear owners and crewmembers argued that traders and migrant fishers were not permanent residents of the villages and women were not directly involved in fishing—despite the fact that some women are gear owners.<sup>18</sup>

Even then, only thirty per cent of the BVC members were fishers (gear owners and crewmembers) following the 1993 elections, and seventy per cent were other community members (Hara et al., 2002). Here, the influence of Fisheries Extension Officers in the composition of BVCs was discernible. The logic followed by these officers was that electing a larger portion of gear owners and crewmembers onto BVCs would be counterproductive for improved adherence to regulations since gear owners and crewmembers were the main culprits in illegal fishing. Therefore BVCs would be more effective if the majority of members had no direct link to the actual fishing activities. Even within the thirty per cent of the fishers that were on BVCs, there were few if any crewmembers among them. The thirty per cent were mostly gear owners because the Fisheries Department views the extreme mobility of the crewmembers negatively. Indeed, the Fisheries Department defines a ‘fisherman’ as someone who owns fishing gear. Thus officially, crewmembers are not regarded as fishermen.

Despite such thinking, the role that crewmembers play in fishing operations makes them crucial for the functioning and success of BVCs in fisheries management; they are the ones that make operational decisions on the fishing grounds (Hara, 2006; Hara and Jul-Larsen, 2003). Lack of, or low, fisher (gear owners and crewmembers) involvement in BVCs continued until fresh elections were conducted in 1999. In the first six years of the participatory management regime therefore, fishers were aggrieved about the composition of BVCs and largely ignored the resolutions being passed by BVCs. They argued that BVCs

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<sup>18</sup> Women gear owners find it difficult to exercise control over their gears. Usually, they have to act through a man. In most cases, the head of the crew will act on their behalf and bring the money to them at home after the catch is sold (Hara and Jul Larsen, 2003).

were making decisions over issues they had little knowledge about and that most of the decisions they were taking were either merely to punish fishers or were out of petty jealousies (Hara, 2001). Thus, the composition of BVCs is critical for their acceptability and respect of their functions by the fishers. It is important that the 'vested interests' are adequately represented on BVCs. If they are ignored, they have the ability to stymie the process and frustrate the decisions taken by the participatory regime. In the first six years, due to feelings of alienation, they boycotted meetings called by BVCs for all fishers, continued fishing during the closed season, and used banned under-meshed nets to undermine BVC authority and decisions. As a result, during the 1999 elections, particular attention was given by the Fisheries Department to ensuring that a greater number of gear owners and crewmembers had been included on the BVCs.

In short, three factors undermined the ability of the BVC to function. First, the struggle with powerful traditional authorities over control over fisheries benefits (such as *mawe*) made it difficult for the BVC to assert its ambiguously backed authority. Second, legal ambiguity as to whether the appointed or elected elements of the BVC should make decisions facilitated the takeover by the headmen. Third, by dint of reflecting the population as a whole, the BVC was stacked against the vested interests it was supposed to regulate and hence, these vested interests resisted their authority. Ironically, the ability of an elected authority to function may not be based on how well it reflects or is accountable to the general population, but rather on how it reflects the vested interests it is partly designed to control and their ability to resist its policies.

### **Nesting Participatory Fisheries Management within decentralization**

BVCs, and other sectoral management committees<sup>19</sup> are not part of the institutional set-up for decentralization. Therefore, the relationship between VDCs and BVCs is unclear with respect to fisheries management. Under decentralization, sectoral committees such as BVCs are supposed to be disbanded and absorbed into the VDCs (pers. comm. B. Mlaviwa, Machinga, 2006). Line ministry and department officials are, however, adamant to maintain the sectoral committees as they are vital for mobilizing communities for sectoral user-based development and management activities (pers. comm. F. Njaya, Mangochi, 2006). This view was substantiated by the Environmental Officer and the DC interviewed, who felt that sectoral committees should be seen as sub-committees of VDCs. Disbanding such committees would result in paralysis of activities on the ground level, as VDCs are unlikely to have the drive, resources and ability to ensure that sectoral issues are given the attention they deserve (pers. Comm. F. Njaya, Mangochi, 2006; pers. comm. A. Chibwana, Zomba, 2006; pers. comm. B. Mlaviwa, Machinga, 2006). This raises the question of the role of VDCs if most decisions will continue to be taken in these sectoral committees.

Under sectoral devolutions of authority and responsibility, village headmen have been required to act as chairmen or be ex officio members on all committees in their villages—both strengthening them and spreading them thin. Decentralization will also require village headmen to chair VDCs. Equally, people with special skills or of influential disposition (for

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<sup>19</sup> In the last decade, most sectors (e.g. fisheries, health, forestry, wildlife, agriculture etc.) have been implementing user-based management initiatives resulting in the proliferation of user committees similar to BVCs at the village level.

example those who are literate, retired civil servants etc.) also end up sitting on most committees within their villages. One danger is that the proliferation of committees at local level can overwhelm village headmen and special-skills individuals with responsibilities, in effect diminishing their ability to perform. With so many committees trying to draw participation from people for their activities, communities can become fatigued with participation and become apathetic about attending meetings that remove them from daily survival and livelihood activities.<sup>20</sup>

One of the major conundrums regarding nesting authority for resource management within decentralization is the clash between the current sectoral-based approach and the integrated-development approach being advocated for by Office of the President and Cabinet (OPC) and Ministry of Local Government under decentralization. While the integrated system sounds logical and is a positive departure from the narrowly focused sectoral planning approaches, the main players (OPC, Ministry of Local Government, line ministries and departments, Parliament and Traditional Authorities) have not yet come to terms with its practical implementation (Mkandawire, 2003). As Ellis et al (2003: 1496) indicate, 'central government (including line ministries and departments) has displayed some reluctance about distributing central functions to the district level and granting local government (DAs) new powers, including tax-raising powers'. The Ministry of Agriculture, the biggest and most powerful given that agriculture is the mainstay of Malawi's economy, produced a report in 2001 that was implicitly against ceding its powers and authority to DAs. The Ministry argued that DAs would not have the capacity to handle such a big and important ministry functions (Ellis et al., 2003).

The lack of policy harmonization among the various line ministries and departments could also make the integration of decision-making difficult, since not all government ministries and departments have policies and plans for devolution of authority to district level, let alone ceding authority to DAs (Environmental Affairs Department, 2001). Further, civil servants are reluctant to be subordinate to the DAs. They fear the loss of employment benefits, the lack of clear career paths and they do not trust that DAs will have the capacity to handle technical and human resource related issues (pers. comm. F. Njaya, Mangochi, 2006; pers. comm. A. Chibwana, Zomba, 2006; pers. comm. B. Mlaviwa, Machinga, 2006).

Apart from government foot-dragging, political battles are being fought over decentralization. MPs and Traditional Authorities are not happy with their envisaged role as non-voting members in the DA. They feel that this will put them at a great disadvantage compared to councilors in terms of decision-making for prioritization and funding for development projects. The real fear among MPs and Traditional Authorities is that this is likely to result in loss of status and political power for them while the political stock of councilors will rise. Therefore MPs and Traditional Authorities are not taking the proposed lack of voting powers in the DA lightly. According to one key informant who requested anonymity, MPs have used their parliamentary powers to postpone elections for councilors several times already and

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<sup>20</sup> On committee proliferation and the professionalization of committee membership, see Manor (2004); Namara (2002).

refuse to vote for increased allowances for councillors.<sup>21</sup> In effect, MPs are using their parliamentary powers to frustrate decentralization reform, by assigning themselves voting powers through changing their status from ex officio to full voting members.<sup>22</sup> On the other hand, traditional authorities also want their hereditary authority to be translated into voting powers rather than getting adversely incorporated<sup>23</sup> into DAs.

In addition, political parties will want to get majorities in as many DAs as possible, given the powers of DAs in making decisions over service delivery and development projects within districts. Such majorities would be crucial and decisive for retaining power at the next elections. For the sitting government, it would only be in their interest to hold local government elections if they are absolutely sure of getting control of most DAs, which would enable them hold on to power in rural areas and give them the best chance of retaining power at the next elections. Therefore one of the reasons for the numerous postponements of local government elections since the abortive 2001 elections is that the sitting government is not sure of winning local elections in most districts (United Nations Capital Development Fund - UNCDF, 2006).

Although some donors have shown enthusiasm for decentralization, some remain skeptical that Malawi is ready for such drastic change in governance (Cross and Kutengule, 2001). The main argument is that DAs lack managerial and technical capacity to take over authority for service delivery and development planning, procurement and monitoring and evaluation from central government ministries and departments (Ssewankambo et al., 2004). For example, the World Bank funded the Malawi Social Action Fund (MASAF) under Malawi Government's Poverty Alleviation Programme adopted an approach of funding communities directly rather than through the District Development Committee (the precursor to the DA), arguing that the government institutions are slow in disbursement of funds (UNCDF, 2006). The direct approach, though preferred by local communities, raises questions on the extent to which MASAF supports decentralization (UNCDF, 2006). Apart from slow bureaucracy, donor fears are that resources put in the district fund will be misallocated or misappropriated due to weak systems, poor management and changes in funding priorities that might not be in line with specific donor policies and preferences—reflecting their mistrust of democracy itself (Ssewankambo et al., 2004). Thus while there has been promise of support for the District Development Funds that will drive the decentralization, some donors continue to fund sectors, such as fisheries, directly rather than working through the DAs.

What one sees, therefore, is the lack of a shared vision for decentralization among the authoritative stakeholders, namely 'vested interests', government, politicians, traditional authorities and donors. This does not bode well for communities on the ground, who are supposed to be the target beneficiaries of devolution of authority to natural resource management and decentralization.

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<sup>21</sup>Currently, councillors receive MK1,000 (\$US6.80) per month whereas MPs receive about MK500,000 (\$US3,424) per month in salaries, allowances, and benefits. This is based on the January 2007 rate of exchange of US\$1 equivalent to MK146.

<sup>22</sup> According to the Malawi constitution, local government elections are supposed to be held two weeks after parliamentary and presidential elections (pers. comm. A. Chibwana, Zomba, 2006). The last parliamentary and presidential elections were held in June 2004 and up to now local government elections have not been held.

<sup>23</sup> The term 'adversely incorporated' refers to inclusion on unequal or unfavourable terms.

## CONCLUSION

Devolution of authority is predicated on the assumption that enriching grassroots democracy and participatory decision-making, involving those concerned in processes and decisions that concerns them, will result in more efficient and equitable service delivery and improved resource management. Devolving authority to poor rural populations is supposed to improve delivery of development to the most vulnerable in rural areas, thereby contributing to poverty reduction. Despite these good intentions, devolution of authority for fisheries management in Lake Malombe and the Upper Shire River in Mangochi, Malawi has not so far resulted in recovery of the fishery that could have resulted in greater benefits from fishing for the growing population of fishing communities.

Participatory Fisheries Management has, instead, resulted in creation of three power bases within villages: BVCs, Fisheries Department and village headmen. The empowerment of the fisheries officers at the forefront of the participatory arrangement, village headmen or individuals within BVCs means that fishing communities are not receiving the powers and authority ostensibly being transferred to them. As a result, BVCs have had problems of legitimacy among their constituency, the fishing communities. Creation of appointed VDCs under decentralization will add to the existing struggles. The lack of a shared vision for decentralization at the higher level further diminishes the possibility of decentralization delivering grassroots democracy. These struggles and battles are resulting in fragmented forms of authority, belonging and accountability in effect dampening long-term prospects for delegated authority for fishing communities.

To reduce fragmentation and increase representation in Malawi's fisheries management will require a consistent form of popular representation in the institutional structures at three administrative levels: the district, area and village. In addition, a shared vision for decentralization among all role players is essential. The role of sectoral management committees within these decentralized structures need to be clarified and articulated to local communities. This could be accomplished by clarifying how BVCs will be nested within VDCs while remaining representative and accountable to fishing communities. Without this, communities will have gained little from decentralization and grassroots democracy other than the burden of participation.

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