

The budget as theatre – the formal and informal institutional makings of the budget process in Malawi

Draft Final Report

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Abbreviations

ACB	Anti-Corruption Bureau
AFORD	Alliance for Democracy
B&F Committee	Budget and Finance Committee
CABS	Common Approach to the Budget
CCE	Cabinet Committee on the Economy
CFAA	Country Financial Accountability Assessment
CIDA	Canadian International Development Agency
CSO	Civil Society Organisation
DFID	Department for International Development
ECAMA	Economics Association of Malawi
EU	European Union
GDP	Gross Domestic Product
IA	Internal Audit
IFMIS	Integrated Financial Management Information System
IMF	International Monetary Fund
MEPD	Ministry of Economic Planning and Development
MEJN	Malawi Economic Justice Network
MCCCI	Malawi Confederated Chambers of Commerce and Industry
MCP	Malawi Congress Party
MEDS	Malawi Economic Development Strategy
MEGS	Malawi Economic Growth Strategy
MoF	Ministry of Finance
MoUs	Memorandum of Understanding
MPRS	Malawi Poverty Reduction Strategy
MPRSP	Malawi Poverty Reduction Strategy Paper
MRA	Malawi Revenue Authority
MTEF	Medium Term Expenditure Framework
NAG	National Action Group
NAO	National Audit Office
NDA	National Democratic Alliance
NDI	National Democratic Institute
NGO	Non-Governmental Organisation
NORAD	Norwegian Development Agency
NSO	National Statistics Office
OPC	Office of the President and Cabinet
PAC	Public Accounts Committee
PFM Act	Public Finance Management Act
PPE	Priority Poverty Expenditure
PS	Principal Secretaries
RBM	Reserve Bank of Malawi
SOCAM	Society of Accountants of Malawi
SPC	Secretary to the President in Cabinet
UDF	United Democratic Front
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
WB	World Bank

Executive summary

1. What can explain the apparent lack of political will to formulate, implement and monitor the budget process and public financial management in accordance with the overall goals of the Malawi Poverty Reduction Strategy (MPRS)? In this study we seek to unpack the concept of political will through an analysis of the formal and informal institutions and enforcement mechanisms determining how government, civil society, the private sector and donors in Malawi interrelate in the budget process.
2. Budgeting involves several stages including long-term planning, annual budget formulation in the executive, passage in Parliament, implementation, and oversight. In this study we understand the budget and public financial management and accountability as interlinked processes that manifest themselves at three main stages of the budget process: i) The formulation of the budget, ii) Budget implementation, and iii) Evaluation/budget oversight. Focussing on the qualitative aspects of the budget process, we ask: *What are the formal and informal institutions that affect the budget process in Malawi?*
3. The actors' adherence to the formal institutional procedures of the budget process is explained by the constraints and opportunities facing the various actors. We understand political will to carry out a budget process that is consistent with a pro-poor policy agenda as explained by: *Capacity* to carry out their pro poor mandate; *commitment* to the pronounced policy agenda (MPRSP); *interests* affecting their policy choices
4. The methodology used in this study is qualitative and the findings are drawn from the content of documents, transcripts of interviews and to some extent, direct observations. 62 key informant interviews (KII) were carried out with stakeholders in the budget process from government, civil society and the donor community.
5. From the process of planning and formulation the budget, through its implementation and oversight, our study finds that the budget process in Malawi provides no realistic estimate of revenue or spending. The budget process is a theatre that masks the real distribution and spending. All the actors, from civil society, government, and donors seem aware that many of their statements and actions have little bearing on actual distribution of resources. Yet, all stakeholders 'act' as if the budget planning and formulation will actually have a bearing on the actual implementation and distribution of resources.
6. At each stage in the budget process, formal and informal institutions interact. Though legislative changes, donor conditionalities, and capacity-building have increased formal institutions, decisions continue to be influenced by informal practices. Their continued prevalence undermines the formal institutions of the budget process in Malawi. Behind the scenes, the actors manoeuvre strategically to ensure that their interests are protected. As a result, despite stated intentions expressed in the Malawi Poverty Reduction Strategy Paper, the outcome of the budget process in Malawi is a budget that secures the interests of the politically powerful actors in the public sector.
7. The study of the budget process concludes that the Government of Malawi does not comply with its contract to its citizens by adhering to a budget

process consistent with the stated objectives. The formulation process results in a budget that is overambitious and do not reflect priorities between expenditures. The Government of Malawi and the international donors both face incentives allowing the budget formation to reflect unrealistic fiscal forecasts and ambitions. At the stage of implementation, the existing rules and regulations are easily circumvented, allowing powerful actors to utilise the budget to serve their own interests. Again, powerful interests and informal incentives allow the oversight institutions weak capacity, commitment and interests to fulfill their mandate.

8. *The Budget formulation process*: The issues of capacity, commitments and interests play out very clearly at the budget formulation stage to produce a budget that is not pro-poor. Even before the budget formulation begins, one third of the resources have been allocated to debt service. The analysis suggests that expenditures that are earmarked for specific purposes (like PPEs) often are switched to expenditures that further political interests.
9. *Implementation of the Budget*: The implementation stage of the budget is most subject to informal influences and interests as funds are limited. Our study observed budget indiscipline, slippages and expenditure that bears little resemblance priorities in the budget. Furthermore, the cash budget system allows a great deal of discretion in the allocation of resources to line ministries.
10. *Budget oversight*: The key to exercising the oversight function over the budget process is capacity and commitment among the main actors. The legal framework as well as the formal rules and regulations in Malawi are well designed to create sufficient capacity in the budget oversight actors. However, the Government of Malawi has not moved much to translate the commitment indicated by passing new legislation into action. While technically sound and feasible, the donor initiatives are not seen as legitimate by the Government of Malawi
11. We identify four main reasons for a continued poor budget process in Malawi:
 - a. Incentives within the executive branch undermine the formal processes and institutions at each stage of the budget process
 - b. Accountability institutions are not effective, because they are deliberately undermined through subversion, under funding and political patronage
 - c. There is at present insufficient demand for economic accountability from civil society in Malawi
 - d. Donor conditionality linked to economic accountability produces unintended consequences.
12. As entry points for a better budget process we suggest that DFID, in cooperation with other donors develop a programme on economic accountability in Malawi., emphasising:
 - a. The strengthening of Parliament and the committee system
 - b. Strengthen demand for accountability from civil society
 - c. Strengthen demand for accountability from civil society
 - d. Utilise the upcoming elections as an entry point for change.

1: Introduction

What can explain the apparent lack of political will to formulate, implement and monitor the budget process and public financial management in accordance with the overall goals of the Malawi Poverty Reduction Strategy (MPRS)?

Since 1994, Malawi's Government has placed poverty reduction at the top of its agenda. Similarly, virtually all bilateral and multilateral donor agencies in Malawi have agreed to make poverty reduction their overriding objective. Nevertheless, for the past five years the Government of Malawi has consistently failed to demonstrate an ability to implement pro-poor policies as well as to raise, allocate and account for public resources. Chronic budget instability has persisted due to inconsistent budget support from donors and domestic borrowing. Measures to strengthen financial management have had limited success.

A number of studies of financial management in Malawi have concluded that the Government of Malawi displays "lack of political will" to implement policies in accordance with stated objectives.¹ But what does political will mean? Why is there a seeming lack of willingness to formulate, implement and evaluate a budget process in consistency with the stated objective of poverty reduction? Who are unwilling, and why? In this study we seek to unpack the concept of political will through an analysis of the formal and informal institutions and enforcement mechanisms determining how government, civil society, and donors in Malawi interrelate in the budget process.

1.1 The political economy of the budget process in Malawi

The objectives of a budget process are to mobilise and allocate resources; review past performance; provide for financial management; and provide a platform for introducing new policies for achieving economic and social objectives. The budget process should determine the distribution of – and who benefits from - limited resources. The budget is, therefore, inherently a political process determined by political power, both formal and informal with winners and losers.

Budgeting involves several stages including long-term planning, annual budget formulation in the executive, passage in Parliament, implementation, and oversight. In this study we understand the budget and public financial management and accountability as interlinked processes that manifest themselves at three main stages of the budget process: i) The formulation of the budget, ii) Budget implementation, and iii) Evaluation/budget oversight. Focussing on the qualitative aspects of the budget process, we ask:

What are the formal and informal institutions that affect the budget process in Malawi?

The formal institutions underpinning the budget process include the legal framework that governs the process such as the Constitution and laws, as well as the international agreements, organisations and formal networks between identified

¹ See Annex 3: Selected literature.

stakeholders. The informal institutions include the myriad of personal, political, and cultural practices that operate around the edges of formal institutions such as informal networks, family relations, village relations, and kin.

As illustrated in our diagram of the budget process in Malawi (Figure 1), the interaction and outcome of the formal and informal processes result in a range of fiscal choices that may be consistent with the stated pro-poor intentions as laid out in the Malawi Poverty Reduction Strategy Paper (MPRSP), or devastatingly different from stated intentions. To the extent that the formal institutional processes are adhered to, we assume that there will be a consistency between the stated intentions of the budget and the actual outcome of the budget process. Whether the fiscal choices resulting from the budget process will have a bearing on economic development and poverty reduction per se is, however, beyond the scope of this study.

The various actors' adherence to the formal institutional procedures of the budget process is explained by the constraints and opportunities facing the various actors. We understand political will to carry out a budget process that is consistent with a pro-poor policy agenda as explained by:

- i) The actors' capacity to carry out their pro-poor mandate
- ii) Their commitment to the pronounced policy agenda (MPRSP)
- iii) The various interests affecting their policy choices

Capacity, commitment and interests

Capacity: We assume that 'political will' to carry out a mandate in accordance with formal institutions and regulations depends on the resources, skills, and knowledge (not limited to technical) that actors have to carry out their mandate.

Commitment: We expect that the extent to which various stakeholders feel part of a decision making process or whether they perceive a given mandate/policy as a dictate will influence ownership and commitment to carry out the mandate. In a poor and aid-dependent country like Malawi various actors' commitment to the budget process may also be affected by 'reform fatigue' and a changing policy agenda. Attitudes and values such as the "national good" as well as integrity and keeping one's word are also part of the commitment.

Interests: Willingness to act in accordance with a formal mandate will also relate to the myriad of interests and incentives facing the various stakeholders. Interests may be short or long term; interests may also be either individualistic or collective. Interests respond to the incentives within the system (formal and informal) for job preservation and career advancement.

1.2 Identification of the main stakeholders in the budget process

The budget process in Malawi involves three main groups of stakeholders that interact both formally and informally at the various stages of the budget process; government/ public actors, civil society, and the donors. Their interests may vary over time and in relation to other actors and we describe them in contextual detail in the study.

Public actors: *The executive:* Ministers, the Office of the President and Cabinet, line ministries, principal secretaries; *The legislature:* Parliament and its committees (Budget and Finance and Public Accounts Committee; *Independent agencies:* National Audit Office (the auditor general); Anti-Corruption Bureau; Malawi Revenue Authority; political parties.

Civil society: NGOs and professional organizations (ECAMA, MEJN, SOCAM); the faith community (PAC); Media; Private sector (NAG, MCCI, Asian businesses, ‘politically connected’ businesses); Trade unions.

Donors: Bilateral (members of CABS: Britain, EU, Norway and Sweden; non-CABS: USAID, Japan, China); Multilateral WB and IMF; International NGOs .

1.3 Methodology and data

The methodology used is qualitative and the findings are drawn from the analysis content of documents, transcripts of interviews and to some extent, direct observations. We utilised a range of data collection methods including written documents, key informant interviews and focus group discussions. We carried out 62 key informant interviews (KII) with stakeholders in the budget process from government, civil society and the donor community.² Four focus group discussions were conducted with representatives from the business community, the Public Accounts Committee and Budget and Finance Committee of Parliament; donor economic governance programmes; and non-governmental organisations. The main written sources were financial documents, Auditor General reports, budget statements and technical assessments of the budget process and public financial management in Malawi.

The interviews were conducted in two stages. In the first phase (first week), a semi-structured interview guide was employed formulating the stages of the budget process, capturing formal and informal institutions and the role of various key stakeholders. In the second week we conducted structured interviews to supplement findings and to address specific questions that emerged from the semi-structured interviews. Using content analysis, we identified core categories of experiences in the process of formulating, implementing, and monitoring the budget. We then identified, coded, and categorised primary patterns. The regularities revealed patterns and divergences that were sorted into themes, coded by category of actors. The data collection and content analysis, linked to the experiences of the people in the core research team, and discussions with reference team members provide the basis for the reported findings and recommendations in this report.

1.4 Explaining the budget process in Malawi as theatre

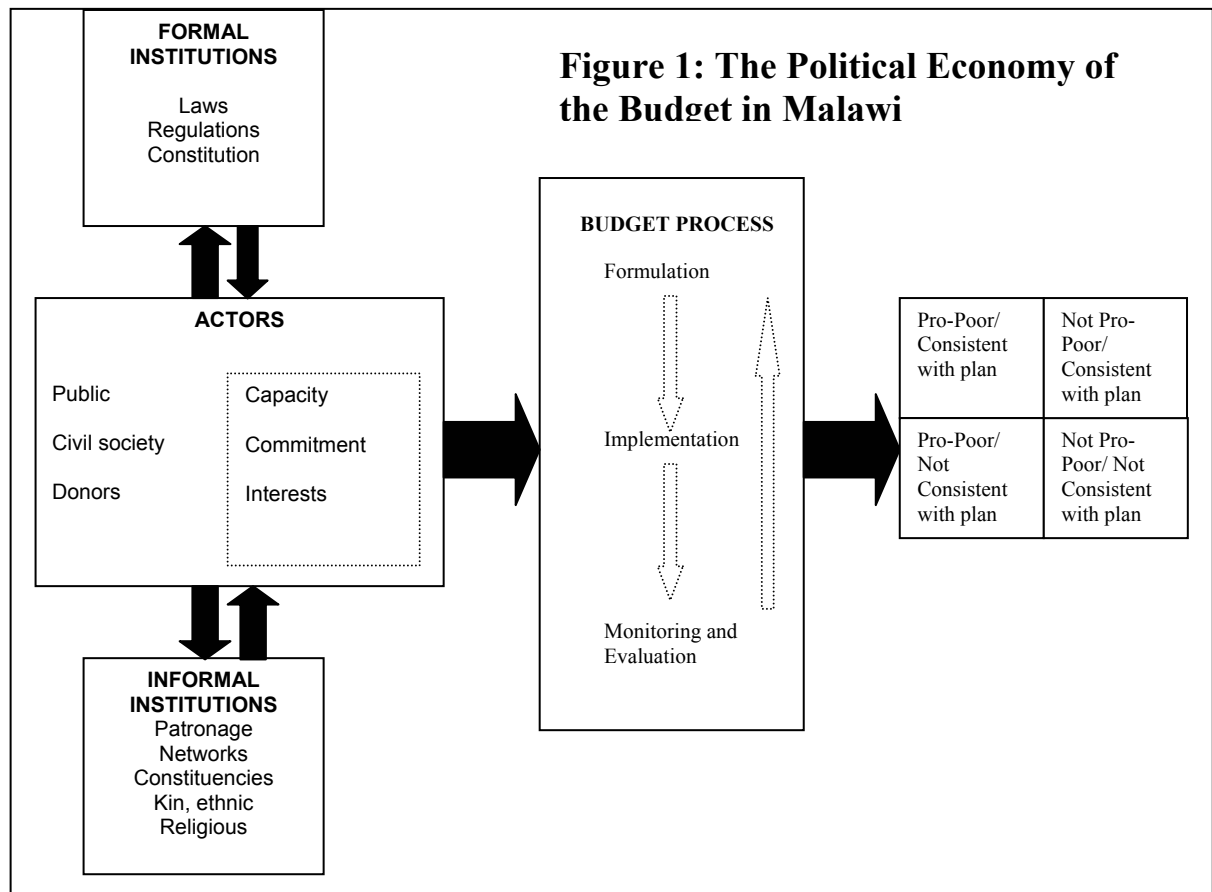
Our observations confirm that the budget process is essentially a political process that engages a large number of stakeholders and that the various actors respond to incentives in the formal and informal institutions. But from the process of planning and formulating the budget, through its implementation and oversight, our study finds that the budget process in Malawi provides no realistic estimate of revenue or

² See Annex 2: List of People Interviewed

spending. Simply put, the budget process is like a theatre that masks the real distribution and spending. This comes as no surprise to any of the stakeholders in the process; all the actors, from civil society, government, and donors seem aware that many of their statements and actions have little bearing on actual distribution of resources. Yet, all stakeholders ‘act’ strategically as if the budget planning and formulation will actually have a bearing on the actual implementation and distribution of resources.

Few are surprised, therefore, when actual implementation is devastatingly different from stated intentions. In Malawi, we observe that this includes divergences that have major macro-economic and political implications including underperformance and major diversions of resources. While less significant in terms of economic outcome limited divergences from stated intentions, such as the President distributing bags of maize at political rallies or the donors agreeing to knowingly unrealistic growth projections, reinforce the notion of the budget process as theatre.

At each stage in the budget process, formal and informal institutions interact. Though legislative changes, donor conditionalities, and capacity-building have strengthened formal institutions, decisions continue to be influenced by informal practices. Their continued prevalence undermines the formal institutions of the budget process in Malawi. Behind the scenes, the actors manoeuvre strategically to ensure that their interests are protected. As a result, despite stated intentions expressed in the Malawi Poverty Reduction Strategy Paper, the outcome of the budget process in Malawi is a budget that secures the interests of the politically powerful actors in the public sector.



2: Political factors affecting the budget process in Malawi

Although Malawi's decade-long experience with multiparty rule displays a number of the 'democratic shortcomings' similarly witnessed across sub-Saharan Africa's new democracies, Malawi's young democracy also displays several unique features. After Malawians voted in 1993 to end the one-party state and the authoritarian rule, Dr. Bakili Muluzi and his United Democratic Front (UDF) secured an electoral victory in Malawi's first multiparty elections in 1994 ousting President-for-Life Dr. Hastings Kamuzu Banda. UDF won reelection in the 1999 parliamentary and presidential elections. Virtually all political actors and institutions respect, in principle, the basic tenets of democracy, human rights and the 1995 constitution. Nevertheless, Malawi's political culture, at both the elite and grassroots level, raises a number of questions with regard to the depth of democratisation. The limited institutionalisation of the democratic process is witnessed by the lack of respect for opposing views; the weakness of the political parties, indicated by rapidly changing alliances and leaders moving between parties; and the weak institutionalisation of the oversight bodies such as Parliament. There is also little distinction between the government and the incumbent party, as illustrated by the UDF's domination of the airwaves and its use of government resources for party functions.

2.1 Economic vulnerability

Poverty in Malawi is pervasive and severe. The 1998 Integrated Household Survey found that 65 per cent of the population could be classified as poor, while 29 were extremely poor. The richest 20 per cent consumed 46 per cent of total goods and services, while the poorest 20 per cent consumed only 6 per cent. Limited access to land, low educational levels, poor health status, limited off-farm employment and lack of access to credit are seen as the principal causes of poverty. However, some of these causes are also consequences of poverty, e.g. poor education and ill health.

The economy of Malawi is based on agriculture, which has constituted about one-third of GDP throughout the 1990s, of which three-quarters is produced by smallholders. Manufacturing and mining account for 17 per cent on average and services 27 per cent of GDP. The bulk of exports, some 85 per cent, are made up of agricultural produce, of which tobacco alone stood for 63 per cent in the 1997–2000 period. The gap between public revenue and expenditure is financed by donor grants and lending, externally and domestically. As a result, Malawi is very aid-dependent and has accumulated huge debts. A debt sustainability study undertaken in 2000 showed a debt service ratio at 19 per cent as compared to the sustainable threshold of 15 per cent; the net present value of debt to exports ratio stood at 267 per cent against the sustainable threshold of 150 per cent; and the net present value of debt to domestic revenue at 472 per cent compared to the threshold of 250 per cent. As a result, in December 2000 the IMF and the World Bank found Malawi eligible for debt relief under the HIPC Initiative (Mkandawire 2001:2–3).

Throughout the 1990s and into the new millennium, Malawi's economic performance has been poor. Most commentators link the poor performance to macro economic instability caused by the government's fiscal policies. Donors have expressed serious doubt about the Malawian government's commitment to

controlling its fiscal deficit. IMF funding was postponed in 2000 in anticipation of improved performance. In 2001/02 the fiscal budget deficit amounted to an estimated 8.9% of GDP and severe expenditure cuts and tax increases were stipulated. The performance during the first quarter of 2002/03 was also very poor. Although revenue collection exceeded the targets set, expenditure was not restrained, resulting in increased borrowing in the domestic market to cover the financial gap left by cuts in budget support.³ Donor inflows were resumed in October 2003. Fiscal performance targets were still not met but the fact that the economy was at the brink of collapse appears to have motivated the IMF to resume lending.

2.2. Political competition

When UDF came to power in 1994, President Muluzi won the presidency but the UDF did not win a simple majority in Parliament, largely due to Malawi's population demographics. Three parties emerged in Parliament, with the AFORD winning seats in the sparsely populated northern region, Malawi Congress Party (MCP) in the central region, and the UDF in the densely populated southern region. During the first Parliament (1994-1999), AFORD and MCP formed an opposition alliance which secured majority in parliament and the position of the Speaker, and the ability to prevent the UDF from passing legislation. After months of negotiations, AFORD finally agreed to join a coalition government with the ruling UDF and UDF gained a stable, working majority. Malawi's experience with "divided government" where one party controls the presidency and another party or parties control the legislature make Malawi's political stability, i.e. peaceful accommodation, quite unique in Africa. After the 1999 elections, UDF once again won a plurality but not an outright majority. However, this time the independent candidates that won seats immediately joined the UDF and finally gave UDF a working majority. This was short-lived, and the emergence of the National Democratic Alliance, a breakaway faction from the UDF, eventually forming a party meant that once again the UDF had to look for a coalition partner to have a majority to pass legislation in Parliament.

The governance effect of electoral competitiveness is often overlooked as an explanation of political phenomena in Malawi. Malawi's shifting political alliances and coalitions result in no one being "permanently out of power" and reduce the incentives for violent alternatives. However, the changing political "marriages for convenience" reinforces the patronage system and has negative governance consequences. The President and government are perceived to have campaigned since 1999, and patronage is often related to the fear of party leaders that even one independent minded Member of Parliament not towing the party line may end the government's ability to govern.⁴ In part, this may explain why party leaders have been unwilling to allow parliamentary committee membership for the life of the Parliament. This illustrates how the competitiveness of the elections may prevent the institutionalisation of democracy as Parliament has been prevented from becoming a truly independent arm of government.

³ The tax increases in the budget included a 20% surtax (value added tax) to the wholesale and retail sectors.

⁴ One prominent UDF leader said, "We have not stopped campaigning since 1999, and we are tired of it. We hope that the coalition with AFORD in the 2004 elections will give us a clear majority so we can start focusing on development of the country."

2.3 Power relationship between political and civil society actors

As with a number of multi-party democracies in sub-Saharan Africa, executive dominance has prevailed in Malawi despite a multiparty system. In Malawi the executive dominance has taken a very personal nature. The personalisation of power under Dr. Banda has persisted throughout the multi-party era, most recently exemplified by Dr. Bakili Muluzi's repeated (and failed) attempts to change the constitution to allow him to stand for unlimited and then a third term of office. The May 18, 2004 elections will lead to succession, but it is likely that Muluzi may continue to control the party apparatus and the party resources. The President derives his power from both formal (Constitutional) and informal sources (patronage based on personal loyalty). Malawi's 1995 constitution provides for a presidential system with extensive checks and balances, with the legislature and the judiciary to provide a check on executive power. But due to executive dominance, in practice the institutions intended to keep check on executive power are hampered with low capacities, sporadic donor support, and intentional underfunding by the executive branch. The formal presidential powers include extensive appointment powers, many of which do not require Parliamentary approval, such as cabinet ministers. The effects of strong executive dominance as witnessed in Malawi are that positions are tied to personal loyalty to the Head of State rather than technical competence or performance for appointment to cabinet, diplomatic posts, or heads of parastatals. Parliament, in particular, is emasculated both by the informal political power of the executive branch as well as the formal constitutional limits on money bills.⁵

Civil society

Civil society in Malawi has had some notable successes, most recently preventing the President from standing for a third term. Before 1994, civic associations were banned, and the only civil society organisations that have an institutional history to build on are the faith organizations, especially the Christian churches. From this perspective, the development of civil society associations witnessed in Malawi in the past decade has been significant. But civil society organisations have been unable and sometimes unwilling to engage on issues such as the budget and economic governance.

Civil society in Malawi can be divided into three categories: membership-based associations, NGOs and media. The churches are the most powerful membership associations in Malawi and the only organisations within civil society that have grassroots support. Very few church NGOs has incorporated economic governance issues into their civic and voter education curriculum. Other membership based associations, such as professional associations (e.g. economists and accountants) and business associations have recently become engaged in the budget process but remain weak largely due to capacity problems and are urban-based and elitist by their very nature. Like the churches, few of the NGOs have a special expertise and focus on issues of economic accountability; they have predominately been occupied

⁵ Section 57: "Except upon the recommendation of the Minister responsible for Finance, signified in writing, the National Assembly shall not (a) proceed upon any Bill or any amendment to a Bill that, in the opinion of the person presiding, makes provisions for any of the following purposes: (i) for the imposition of tax or the alteration of tax; (ii) for the imposition of any charge upon the Consolidated Fund, or the alteration of any such charge; (iii) for the payment or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any increase in the amount of such payment, issue or withdrawal or (iv) for the composition or remission of any debt due to the Government..."

with democratic governance issues or service delivery. The exceptions to this are Economics Association of Malawi (ECAMA) and the Malawi Economic Justice Network (MEJN). Linked to the mandate of non-governmental organisations, however, these associations are reactive, rather than proactive, with government. Some organisations, like Transparency International, are dormant and do not function as an effective anti-corruption unit. Many observers both in and outside of government accuse the active NGOs of being anti-government. The NGO bill, which gives Government a certain amount of control over civil society organisations, has increased the level of distrust between Government and these advocacy organisations. While the ‘service oriented’ NGOs in Malawi are perceived to be less antagonistic (by government), the limitations in terms of economic accountability are similar to other NGOs; they are reactive, and have limited access to government information and dialogue. Finally, the print media in Malawi is relatively free, but only the government-controlled media is accessible to most of rural Malawi. The capacity for economic reporting and investigation is weak in both.

The voice of the private sector, the Malawi Confederated Chambers of Commerce and Industry (MCCCI), has faced challenges since 1994. Many of the leaders in the new UDF government emerged from the Chamber, where the MCCCI was used during the transition to democracy, to help establish the UDF party.⁶ MCCCI claims to be the voice of the private sector but cannot claim to encompass an important section of business community, large companies, and divisions between the large corporate businesses and the small and medium enterprises (the majority of MCCCI members) prevent MCCCI from being a strong, united voice for positive change. Moreover, services provided to its members are limited.

Malawi is one of the most unequal countries in the world with extremely small elite that simultaneously controls both the political and economic spheres of Malawi. The interests of the elite often converge beyond political divisions thereby preventing poor people from having a voice. For example, both ruling party and opposition MPs have businesses in large-scale farming, transport, tobacco, fertilizer, and construction. There is no alternative group of elites articulating a different economic agenda since the political elite often are the major business owners.

Parliamentary oversight

Parliamentary oversight of the budget has improved dramatically despite persistent underfunding by the executive branch. Just four years ago, Malawi’s Parliament did not have a functioning committee system and did not perform any oversight on the executive branch. Although government funding only covers plenary leaving no funding for committee work,⁷ a variety of donors (with a variety of funding arrangements) has facilitated committee meetings. This has produced significant changes in the way that MPs perceive their job as parliamentarians. The Public Accounts Committee’s examination of the Auditor General’s report on corruption in

⁶ These top officials include Harry Thomson, Sam Mpasu and President Muluzi himself.

⁷ The cash budget has exacerbated Parliament’s dependency on the executive branch. Parliament has not been receiving its full monthly budget and therefore the Speaker of Parliament must ask the Minister of Finance or the President for the release of funds for Parliament to be able to sit. Furthermore, Parliament usually has only two sessions per year, except for “emergency sessions” to pass a piece of legislation quickly.

the Ministry of Education in 2000 resulted in the dismissal of three ministers from cabinet.

Although the support for committee meetings and technical assistance has transformed Parliament, this type of support has not produced a comprehensive, Malawian-owned program that goes beyond the various donors' agenda. Of the 13 committees at Parliament, the donors have selected 6 or 7 for funding. The other committees do not meet. Each of the donors engaged in Parliament has a different agenda and has a different form of engagement. No less than four donors have on-going support for committees (World Bank, CIDA, NDI (DFID and USAID), while another three have ad-hoc support (NORAD, UNICEF, and UNDP). Committees do not have their own staff to assist them in their work, but instead rely on donor-provided researchers, with unclear lines of authority as to who they really answerable to.

3: The budget as theatre through formulation, implementation, and oversight

The basis for planning the budget in Malawi is the policy documents that articulate the country's development policies: The Malawi Poverty Reduction Strategy Paper (MPRSP).⁸ These plans determine the policy issues that the budget should address and also the levels of funding that can be available locally and from donors. Poverty Priority Expenditure (PPEs) are specific features of the MPRSP that enable 'ring fencing' of expenditures that could build human capital (health and sanitation, education and food security).

The MPRSP is supposed to be the guiding principle for development planning and funding but in practice several interests have played against this. Immediately after the MPRSP was prepared in draft form, stakeholders from private sector like the National Action Group (NAG) representing big companies and transnational companies, found that it did not clearly articulate their interests since it did not have an investment component.

3.1: Scene 1: The Budget formulation process

The actual budgeting process in Malawi is guided, at least in theory, by the Medium Term Expenditure Framework (MTEF) process. The MTEF was introduced in 1995 in pilot ministries and has since been extended to others. The MTEF aims to arrive at a better definition of a ministry's aims, objectives, outputs and activities, to redefine programs and sub-programs on the basis of this, and to allocate available resources accordingly, through prioritizing of expenditures in line with government policies and available resources. The prioritisation is meant to occur between sectors, within sectors between ministries, within ministries between programs, within programs and between sub-programs. This means that the budget process has moved from annual budgets based on Policy Framework to three year rolling plans

⁸There are also the Malawi Economic Growth Strategy (MEGS) and the Malawi Economic Development Strategy (MEDS) and sector plans like the MASIP for agriculture, the PIF for education and other issue specific action plans in line ministries. These have been brought into the MPRS.

facilitating a forecast of resource envelope, enabling allocations based on prioritisation.

In practice, however, the MTEF has not been followed due to continued shortage of funds, uncertainty of donor funding, and the effects of the cash budgeting procedures which makes planning for activities unpredictable. Below, we illustrate how budget formulation through the formal stages of the MTEF in Malawi has little resemblance to the actual allocation of resources, thus approximates theatre.

Table 1: The formal and informal institutions affecting budget formulation

Formal institution	Informal institution	Outcomes
<i>MTEF Stage 1</i>		
A resource committee formed of the divisions of the MoF, NSO, RBM, and MEPD do macro economic modeling to forecast economic growth and estimate resources available. The process has problems: the modeling is done after budget process has moved to advanced stages. GDP growth rate often over-estimated. MRA tends to under-report its collections or capacity to collect.	Donors influence the modeling. Executive would like to overestimate growth to give a good impression, enable planning for a bigger budget and create positive expectations among economic agents. Stakeholders act as if estimates are robust.	A budget that is set to over-expend, and necessitate borrowing
<i>MTEF Stage 2</i>		
MoF conducts hearings where ministries and departments present their goals, objectives and activities and indicate priorities based on the MPRSP and costings.	An informal process that ignores the MTEF begins as line ministries inflate resource bids to MoF to receive a minimum requirement as it is known that MoF cuts budget even if appropriate budgets are submitted. Due to limited resources, the reallocation is done by some members of the cabinet, CCE meets seldomly. Technocrats know that even if they work to make technical proposals, the president and cabinet will change it to suit their wishes.	A budget that reflects political interests rather than a pro-poor focus. Some departments get too big allocations given their contribution to poverty reduction.
<i>MTEF Stage 3</i>		
The Debt and Aid section of the MoF co-coordinates aid through consultations with donors. All donor aid is supposed to be processed through MoF.	Often donors fund of projects off-budget. Line ministries have incentives to make agreements about projects outside of the national priorities because projects make funds available for staff allowances, vehicles etc.	Many projects are started with and depend on donor funding. The failure to keep conditionalities result in withholding of funds which derails the budget. The government resorts to borrowing to keep paying salaries and other obligations awaiting funds
<i>MTEF Stage 4</i>		
The resource committee reporting	Some members of the CCE play a	The final budget allocations

to the CCE determines sector allocations of resources and advises the ministries and department of ceilings and available resources according to the MPRSP and PPEs.	big role in allocating the resources. PPE's re-prioritise social sectors, but ministries have failed to declare any programme non-priority resulting in PPEs benefiting the most powerful political actors.	are not related to ministries' proposals, or to the MPRSP prescribed allocation.
<i>MTEF Stage 5</i>		
Line ministries prepare expenditure estimates and discuss them with MoF.	Allocation not based on MPRSP but criteria that pragmatically responds to political interests, and the reality of inadequate funding.	
<i>MTEF Stage 6</i>		
MoF holds consultations with the civil society and the private sector. Consultations were introduced in the 2000/2001-budget year. Pre-budget meetings to hear the views of various interests groups in the three regions of the country (MoF). Sometimes post budget consultations are held.	The consultations are regarded as public relation of MoF's, too unstructured and lacking formal process ensuring that outputs are taken into the budget. Often, they degenerate into 'government bashing sessions'. Stakeholders are losing interests in participating.	The pro poorness of the budget remains at the pitch set at stage 5, often very limited.
<i>MTEF Stage 7</i>		
Printing and presenting the expenditure estimates.	Compendious and unwieldy presentation of the budget documents, absence of useful information to aid the understanding of the budget Civil society has responded to the need to increase the knowledge of MPs on the budget, but analyses are based on limited information and not part of the formal budget process.	Constrained capacity of parliament and civil society to influence budget in pro-poor direction.
<i>MTEF Stage 8</i>		
Approval of estimates by parliament. Ministry of Finance (MoF) submits to Parliament and publish by the 1 st of April an economic and fiscal policy statement for the ensuing financial year.	Tendency of MPs to approve a budget that protects particularistic benefits. MPs vote on party lines and those opposing expenditures may be from the opposition, fearing to put up a battle because the refusal to approve a budget may cause the perception or can be used by the ruling party to create the perception that the opposition is anti development.	No real assessment of the budget by parliament of its pro-poor focus, and attention is to personal or party interests. The pro poorness budget remains at the pitch set at stage 5, often very limited.
<i>MTEF Stage 9</i>		
Budget & Finance Committee and National Assembly approves budget. B and F comm. scrutinises for adequacy and prioritisation of key expenditures. Committee makes a report with any recommendations for discussion by the full National Assembly.	MoF submits budget proposals shortly before presentation, knowing that Committee and National Assembly have insufficient time to scrutinise the proposals. MoF wins the MPs vote by including allowances and benefits which accrue upon passing the budget. B&F Committee struggles to	Budget is passed without adequate assessment, particularly the match between stated economic and fiscal policy statement and budget estimates. Parliament's role becomes academic, ineffective and not in the spirit of the laws

	scrutinize the budget in that short period of time without in-house technical support. Pre-budget consultations occur but there is not enough time for consultation with members of the civil society for technical assessments.	on accountability.
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The outcome of formal and informal institutional processes of budget formulation

The issues of capacity, commitments and interests play out very clearly at the budget formulation stage to produce a budget that is not consistent with the MPRSP. Even before the budget formulation begins, one third of the resources have been allocated to debt service. In addition, our interviews with key stakeholders suggest that expenditures that are earmarked for specific purposes (like PPEs) often are switched to expenditures that further political interests.

Effective public budget processes should estimate resources (from local and outside sources) as accurately as possible, have transparent means of allocating those resources to sectors to achieve allocative efficiency, and make sector plans so that technical efficiency is achieved. However, low *capacity* in terms of resources and expertise means that the estimation of locally available resources is poor. The process of estimating and securing donor funding is also fraught with uncertainty and frustration due to problems of meeting conditionalities linked to implementation and reporting requirements. It is evident from our interviews with key stakeholders in the civil service that capacity issues are also central to donor –government negotiations both on individual projects, as well as reporting or execution requirements.

The formulation and use of policy frameworks guiding the budget process is further shaped by limited *commitment* by policymakers. An overt and resented donor role appears to have brought forth a ‘lets-play-along’ role for government. Our study detected a significant degree of ‘reform fatigue’ among stakeholders and a lack of faith in result of the budget process/MPRSP. Furthermore, interviews with officials in line ministries suggest that they see the MTEF as an add-on activity owned by the Ministry of Finance and donors, rather than as an essential tool for public expenditure management. As a result, the MTEF has not transformed the budget into a predictable, transparent and comprehensive tool for the management of public expenditure. In addition, civil society commitment to a budget process based on MPRSP is limited as the means for reaching poverty reduction through MPRSP and PPEs are considered anti growth.

A myriad of *interests* also come into play. The limited resource envelop necessitates stringent rationing. Although the Resource Committee is supposed to allocate resources, the cabinet plays a bigger role. The main outcomes of the informal and formal processes working at the budget formulation stage are that the budget is set to overspend and necessitate borrowing. Some departments get allocations that are too big in relation to their role in meeting social and economic policy goals resulting in allocative inefficiency. In the line ministries resources are not allocated for the most useful activities and this leads to technical inefficiencies.

Finally, the interplay of capacity, commitment and interests constrain Parliament in fulfilling its mandate to scrutinize the budget. The end result is that the pro-poor ness of the budget is compromised. The diversions from stated intentions to outcome at the formulation stage have clear repercussions for the implementation of the budget.

3.2: Scene 2: The budget implementation

The implementation of the budget includes the following stages: Collecting income and allocating and disbursing this to departments or line ministries using the cash budget system; controlling expenditures within the line ministries and departments; maintaining accounting records about expenditure, and conducting audits that enable controlling officers to oversee that expenditures are leading to the effective implementation of the activities.

The main stakeholders in the formal budget implementation process are the President, the various departments of the MoF, the RBM, Controlling officers in line ministries, the civil society and donors. The informal processes originate from the additional roles of some of these actors as either MPs or business persons, when interacting with their families and kinsmen.

Table 2: The formal and informal institutions affecting budget implementation

Formal institution	Informal institution	Outcomes
<i>Allocation of funds</i>		
Once the monthly funds have been declared, the allocation of resources is carried out by MoF's Resource allocation committee. Allocations should be based on the priorities of the voted budget	President and minister of finance have more power to allocate resources, as the Cabinet committee on the economy rarely meets. Some departments overspend and get more resources including state residences and the police. At this point, controlling officers (Budget director) cannot counteract to keep the allocations in line with the voted expenditures.	Political and personal interests and lack of commitment of apex leaders lead to sectoral allocations that are neither pro-poor nor pro- growth.
<i>Controlling expenditures within ministries</i>		
Once funds reach line ministry/department, the controlling officer is responsible for spending according to stated intentions.	Ministers demand that they want to do certain things, like travel, or to provide services under the right line item but for different kinds of goods or in a different place than planned.	The spending is changed from the plans. Funds are moved from operational expenses to administrative functions. Minister and PS plan activities not related to their ministry.
<i>Auditing expenditure</i>		
Record keeping of transactions (for audit purposes) has been manual, but IFMIS project has opened for computerised records.	The proposed electronic system IFMIS, is not being implemented. Resented for removing discretionary power to reallocate resources.	No adequate records of staff and pensions and advances, leading to problems of ghost workers, especially in the education sector. Staff not paid and not motivated Incomplete and doctored records: auditing not done.

<i>Procurements and disbursements</i>		
The Cabinet Committee on the Economy is entrusted to make these decisions	All procurements go across the desk of the Head of State, as well as decisions related to the monthly disbursements to the ministries. The Cabinet Committee on the Economy, rarely meets and all decisions are made by a smaller group lead by the president.	Rampant fraud and corruption.

The outcome of formal and informal institutional processes of budget implementation

The outcomes for this stage of the budget process are that spending is out of line with the budget, and too much expenditure is locked in non-pro-poor expenditures as in say servicing debt. Our study observed budget indiscipline, slippages and expenditure that bears little resemblance priorities in the budget. The implementation stage of the budget is probably the one most subject to informal influences as funds are limited. Furthermore, our study found that the cash budget system allows a great deal of discretion in the allocation of resources to line ministries.

At the stage of allocation of monthly funds the major cause of informality appears to be the various *interests* facing stakeholders. There is ample pressure on controlling officers to allocate funds for political objectives, such as political patronage (distributing gifts like blankets or food at political or social functions, visits to hospitals etc.) or for travel allowances for employees in the department. At this point controlling officer like the Budget Director cannot counteract to keep the allocations in line with the voted expenditures. Controlling officers are removed regularly and advancement/retainment of position is linked to the minister. As a result, controlling officers see their role as to give technical advice, politicians act as they wish. The end result is that political and personal interests and lack of commitment of apex leaders lead to budget sectoral allocations and hence expenditure patterns that are neither pro-poor nor pro-growth. Once the funds get to the line ministry or department, the formal system is that the controlling officer is responsible for making sure that the funds are spent on the right activities. At this sub-stage of implementation, the informal processes are driven by interests personal or political, of ministers and controlling officer who collude with or acquiesce to them.

The accounting and auditing functions are adversely affected by informal processes linked to the various interests facing stakeholders. The staff responds or acquiesces to political interests of ministers' as they are pressured to keep incomplete or destroy records. This is partly due to the abolition of common services that left professional officers exposed to their controlling officers. This is now being reversed. On the capacity, side the accounting and auditing functions are often not given adequate staff and funds. For all these reasons most of the law relating to accounting and auditing is not kept. The weaknesses displayed in the implementation stage necessarily impacts negatively on the oversight of the budget process.

3.3: Scene 4: Oversight of the budget process (monitoring and evaluation)

The budgeting and public financial management functions in Malawi are now guided by an adequate constitutional and statutory framework. The key statutes are

the *Public Finance Management Act No 7 of 2003*, *Public Audit Act No 6 of 2003* and *Public Procurement Act No 8 of 2003*. These three statutes were enacted in place of the repealed Public Finance and Audit Act which was seen as inadequate for modern day demands of state management. These statutes followed the recommendations of the World Bank-led Country Financial Accountability Assessment (CFAA) recommendations. The new statutes provide for well delineated responsibilities between public officers and contain a number of penalties for officers who fail to comply with the laws.

However, our study found evidence of lack of enforcement of the provisions, including failure to meet statutory national financial reporting deadlines, national audit office reporting deadlines and controlling officers overspending beyond authorised budgets, none of which attracted the stipulated penalties.

Table 3: The formal and informal institutions affecting budget oversight

Formal institution	Informal institution	Outcomes
<i>Controlling officers manage and account for resources allocated by Parliament</i>		
Controlling officer's authority to manage and account for resources includes development of appropriate systems to prevent waste of public resources and unauthorised expenditure.	Controlling officers have unclear reporting arrangements. Managerially they are accountable to SPC in the OPC but politically they are accountable to the Minister in charge of the Ministry. Their position tends to be sanctioned by the Minister and less by the SPC. PS feels more secure by not making decisions that annoy the Minister. The officers are also aware that historically few if any PSs have been fired for not acting according to the laws whereas they know that many PSs have been moved before for taking unpopular decisions.	This compromises the controlling officers' ability to manage public resources in accordance with the law.
<i>Internal Audits</i>		
Internal Audit is not part of the statutory obligations as it is not included in the statutes. It is an administrative tool set up to check on Controlling Officers. In 2003, IA moved from MoF to OPC following recommendations of a study funded by WB. Currently headed by a Director who reports to the SPC. All IA reports are submitted to the Controlling officer concerned for action, to the Treasury for action, to the NAO for follow up and to SPC for performance tracking.	IA is poorly staffed and resourced to perform the expected roles. Controlling officers conveniently ignore the IA reports without any sanctions. All IA reports since 2000 have been ignored. IA is not a statutory obligation, any sanctions for ignoring them would be expected to centre on managerial disciplinary action from SPC. SPC has no incentive to take such action. Treasury is limited to providing advice which the controlling officer is not obliged to take.	IA is very ineffective at the moment. IA reports are largely filling up shelves with no tangible action emanating from them. By performing clerical functions, internal auditors lose their objectivity as they cannot be expected to audit transactions that they processed or authorized. IA represents a missed opportunity to add value in ministries. It can help managers to track system failures and prompt managerial corrections.
<i>Oversight function of SPC/OPC</i>		
Controlling officers report to	SPC busy with government	This pushes PSs further into

<p>SPC, technically they are answerable to Treasury for budget and public finance management decisions. Treasury is not empowered to recommend disciplinary action on under-performing PSs .</p>	<p>business emanating from the President and Cabinet leaving insufficient time for systematically tracking PS performance. Will not respond to complaints from ministers and other politicians as a basis for instituting disciplinary action on PS.</p>	<p>inaction or to compromise on demands from politicians. There is no evidence that the performance contracts signed by PSs are being appraised in any systematic manner. This has the effect of making the contract a source of benefits only without any sanction for poor performance.</p>
<p><i>Auditor General audits government accounts and reports to parliament</i></p>		
<p>National Assembly is legally empowered to make sure the NAO receive sufficient funds to allow effective and efficient operations. Auditor General is empowered to make any recommendations deemed necessary in the interest of effective accountability in the use of public resources. NAO is authorised to offer competitive terms and conditions of service outside public service framework.</p>	<p>Auditor General is a year behind in reporting to Parliament. No evidence of disciplinary actions taken on PSs following NAO reports. NAO is not being allocated sufficient budget to cover all ministries and district assemblies. Auditor General cannot affect the improved conditions of service because of insufficient budget. NAO had its budget cut from K61m to K45m in the 2004 supplementary budget. NAO is also subject to cash budget system, further limiting its operations. AG must spend time begging for more money from Treasury and donors impairing his independence.</p>	<p>The NAO reports are no longer serving the full purpose of oversight function such as to bring the executive to account and to deter waste and unauthorised expenditure.</p>
<p><i>The oversight function of parliament</i></p>		
<p>Public Accounts Committee (PAC) receives Auditor General's report and scrutinises it for transgressions and evidence of waste. Committee can summon any persons named in the NAO report to demand explanations for waste and non-observance of the law. PAC can recommend sanctions but is not empowered to take the action.</p>	<p>PAC is not backed by technical support to thoroughly scrutinise public accounts and investigate waste of public resources. Since PAC does not itself effect sanctions, its recommendations can easily be ignored by those empowered to take such action. PAC has had to scout for and depend on donor support. Committees members are not mandated by law to meet at specified times and thus tend not to meet if there are no allowances.</p>	<p>PAC is a statutory oversight body that has a national duty and yet it has not been receiving an allocation from Parliamentary vote for its committee meetings. The committee's dependence on donors may create perceptions that it is answerable to donors. Currently the link with civil society is weak.</p>
<p><i>Oversight role of Anti-Corruption Bureau</i></p>		
<p>Anti-corruption Bureau (ACB) not specifically provided for in the national constitution but created under a section of the constitution. Operates under Corrupt Practices Act of 1998. ACB gets annual subventions from government to cater for administration costs. Donors</p>	<p>ACB is poorly funded. In 2003/2004 its budget request for K126m was cut by MoF to K36m without any adequate explanation, causing ACB to scale down operations. Political influence inhibiting prosecutions taking advantage of the law that requires DPP's consent before prosecution</p>	<p>Without adequate funding ACB becomes an ineffective body. Equally without sufficient power to prosecute without fear or favour, the ACB loses confidence of the population.</p>

<p>tend to support specific projects. ACB Director appointed by the President with confirmation from Public Appointments Committee in Parliament. ACB acts independently from the Executive. ACB can cause special audits to be carried out and can initiate its own investigations.</p>	<p>and this has been the major bottleneck for most cases. Since 1997, about 10000 complaints received, 2800 related to corruption, 72 prosecutions started, 22 cases finalised, 8 convictions, 10 acquittals, 4 awaiting judgments. Currently definition of corruption limited to bribery only and that is being used to exclude a number of cases that otherwise would fall within the ACB remit.</p>	
<p><i>Civil society oversight functions</i></p>		
<p>Civil society is not specifically identified in the law but it is also not barred from participating in the budgeting process. The PFM Act provides for MoF to publish economic and fiscal policy statement, quarterly budget implementation progress reports, national government accounts, annual audit reports of the Auditor General. Civil society may report to Treasury if evidence of waste of public resources.</p>	<p>Civil society lack knowledge of its economic rights and believe that the budget is for the government. Even if they wanted to raise their voice on the budget, they are not sufficiently literate in budgetary matters. Few civil society organisations based in urban areas have picked up issues of the budget but tend to lack legitimacy in the eyes of government because they are mainly donor funded.</p>	<p>Civil society is not complimenting the work of the PAC and Auditor General by bringing citizens demand for economic accountability.</p>
<p><i>The oversight role of political parties</i></p>		
<p>Political parties need to be registered but have no formal role in the budget according to the current laws. Parties have manifestos although these are not widely shared.</p>	<p>The Cabinet, which is usually selected by the President from his own party without any approval from the Public Appointments Committee, tends to pursue the ruling party agenda for the nation. In times of election, the budget tends to be weighed heavily in favour of activities that further the interests of the ruling party including small projects and relief services. AFORD claims that since they joined the ruling coalition, there has been more budget funded development projects in the north of Malawi where the party dominates.</p>	<p>The lack of distinction between party and government leads to public resources flowing into the party structures. Weak parties, with limited ideological distinctions render the opposition a weak oversight function in terms of the budget process.</p>
<p><i>The oversight function of donors</i></p>		
<p>The ‘silent players’ that are not part of the legal framework but wield enormous influence in the budgeting and public finance management processes. Roles are contained in various MoUs with</p>	<p>Donors use the threat of withholding aid to influence policies, in form of performance benchmarks or targets, or demands for action. Donors initiate changes to government systems resulting in lack of government ownership,</p>	<p>Both government and donors are left frustrated as both perceive counterpart as not sincere.</p>

Government and international conventions.	such as changes to the public finance laws.	
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The outcome of formal and informal institutional processes of budget oversight

The key to exercising the oversight function over the budget process is capacity and commitment among the main actors. The legal framework as well as the formal rules and regulations are currently well designed to create sufficient capacity in the budget oversight actors. However in practice, our study finds that the *capacity* remains weak and this severely limits the effectiveness of the oversight players. The National Audit Office has not been receiving sufficient funds to carry out the statutory audits. Subjected to cash budget rationing just like all other line ministries, NAO is further weakened in terms of its ability to implement their audit plans. The failure by the NAO to report to statutory deadlines means that the delayed audit reports are of very little practical relevance in the budget and public finance management process.

Our study suggests that the Government of Malawi has not moved much to translate that *commitment* indicated by passing new legislation into action. Partly, we link this to limited ownership of the reform agenda. Our respondents indicated that donors were active in defining reform agendas, to the extent that donors supported design initiatives on behalf of the government. While technically sound and feasible, our study suggests that these donor initiatives are not seen as legitimate by the government. Donors are seen by key government stakeholders as undermining government. But, because the government is under pressure to find additional resources to support its agenda, they nevertheless sign up to different reform programmes with donors in order to access additional resources.

There are also issues of stakeholder *interests* that shape oversight of the budget. Lack of resources afforded government oversight institutions clearly affects their capacity. The question *why* these institutions are not given resources, is, however, linked to interests. We found that the Auditor General often has to go to the MoF to negotiate for higher cash allocations. This clearly undermines the independence of the auditor. It also provides opportunities for parties to negotiate rents based on common interests. Similarly, our interviews with stakeholders in line ministries suggested that the relationship between principal secretaries (PS) and ministers render their oversight function weak.

4 Why is a poor budget process tolerated in Malawi?

Budgeting is a central policy area not only for generating and allocating resources, the budget process is also key to the institutionalisation of democracy. Democratic practices open budgeting to the public and their representatives and forces government to consult citizens before taking action. By granting power to other actors during policymaking, budget institutions can create checks and balances that force executives to negotiate with other members of the administration, with other levels of government, and with representatives from civil society. Mechanisms of oversight and accountability within budgeting should, in principle, guarantee that executives implement the promises made in the budget document.

Our study of the budget process in Malawi suggests that the Government of Malawi does not comply with its contract to its citizens by adhering to a budget process

consistent with the stated objectives. The formulation process results in a budget that is overambitious and do not reflect priorities between expenditures. The Government of Malawi and the international donors both face incentives allowing the budget formation to reflect unrealistic fiscal forecasts and ambitions. At the stage of implementation, the existing rules and regulations are easily circumvented, allowing powerful actors to utilise the budget to serve their own interests. Again, powerful interests and informal incentives allow the oversight institutions weak capacity, commitment and interests to fulfill their mandate.

The analysis of the formal and informal processes underpinning the processes of formulating, implementing and monitoring the budget suggests four main reasons for a continued poor budget process in Malawi.

1. Incentives within the executive branch undermine the formal processes and institutions at each stage of the budget process.

From the formulation via implementation to the oversight of the budget process, we found that individualistic and immediate incentives facing policy makers circumvented formal political processes and institutions. We found politicians and senior civil servants to have converging interests around government contracts and foreign trips and career promotion. We saw examples of Members of Parliament and NGO managers sharing common interest around issues of allowances and organising workshops that may not always add value to the reform agenda. Examples of the executive branch enticing MPs with increased benefit packages to approve budgets quickly were cited. The team also learnt of MPs from different political parties who found common ground in refusing to have committee meetings without allowances.

Our interviews with key stakeholders in the budget process indicate that civil servants are demoralised by the lack of resources to do their job. As a result, public officers are responding to perverse incentives i.e. ‘what gets paid gets done’. The policy of shifting principal secretaries on a regular basis also suggests that they are not given adequate time to perform in a single ministry.

2. Accountability institutions are not effective, because they are deliberately undermined through subversion, under funding and political patronage.

Our study notes with concern that while the Government of Malawi has passed legislation and an adequate constitutional and statutory framework, this has not been followed up by commitment to actually implement the legislation. Central government institutions, like the Auditor General has not received the funding necessary to put the legislation into effect. Indicating the government’s limited commitment to the oversight functions of government, central oversight institutions had their budgets reduced in the last supplementary budget. Our findings suggest that line ministries are largely frustrated with the budget process and understand the process to entail that the most politically powerful gets the largest proportion of the budget. It is clear that efforts are needed to strengthen the capacity and reputation of this critical institution in order to restore and sustain the citizens’ confidence in the public finance arena. The budget cuts appear arbitrary and unrelated to the intentions of the budget.

The unwillingness to fund oversight institutions is also clearly witnessed by the funding received by Parliament. Government has underfunded committees of

Parliament suggesting Government's limited interest in strengthening the institutional capacity of Parliament. Political parties (Government and opposition) also choose to maintain tight control over their members and have refused to make the tenure of MPs on Parliamentary Committees secure for the duration of the life of Parliament.

3. There is at present insufficient demand for economic accountability from civil society in Malawi.

Malawi's colonial and post colonial history impacts on the nature of institutions and actors in contemporary political debates. First as a protectorate of Britain and later governed through authoritarian means by the rule of the President for Life Dr. Banda, a cultural legacy of complacency with leadership and a limited commitment to and responsibility for national affairs still dominates state-society relations. Our interview data with key informants in Malawi suggests that the majority of Malawians considers the budget as a government document and not something they have ownership to. A Malawian proverb that is roughly translated as "you eat now; I will eat later" suggests that corruption is to some degree tolerated. Those accused of corruption are often viewed as "clever" and are even respected.

In part, the lack of demand for economic accountability is explained by the narrow and 'politically captured' private sector in Malawi. A weak and fragmented business sector at present finds their interest protected through individual negotiations with government. For private sector, challenging government on corruption and mismanagement is associated with risk, as it attracts harassment through tax authorities or immigration for individual firms and persons. In Malawi, there are currently no influential membership based associations providing private sector with a voice. There is limited cooperation and trust between business and government and the existing consultative forum between government and private sector does not lead to executive joint decisions. To the extent that the business leaders and politicians' interests meet we found evidence of successful negotiation over issues of taxation, licenses and export permits. In terms of the budget process, consultations are ad hoc and not based on a set of desired and shared objectives. This undermines the concept of participatory budgeting and brings into question the legitimacy of the national budget in Malawi.

The donor community has tended to work with non-governmental associations rather than professional associations on issues of economic accountability. It is our finding that this may have exacerbated the lack of co-operation between government and civil society. As the mandate of NGOs is to react to government, they do not provide a viable platform for forging consultative links between government and private sector.

The lack of demand for economic accountability also affects the role of MPs and the incentives and interests they respond to. Our study found MPs tending to want to quickly pass the budget as they are under pressure to see money go to their constituencies. However, again, we found a tendency of MPs inclined to defend prerogatives rather than projects in their regions. In addition, we found that political loyalties to the party are preventing some MPs from articulating national issues.

4. Donor conditionality linked to economic accountability produces unintended consequences

A fundamental problem to be addressed in the context of the budget process in Malawi is how international aid both exacerbate, and is party to, the poor financial management and accountability witnessed. Aid is brought into the system, despite poor implementation and performance. The logic behind PRSPs is that aid flows will increase if a recipient government can show results in the form of actual poverty reduction. In reality, however, donors do not reward good performance - and are similarly ineffective in terms of sanctioning poor performance as witnessed in Malawi.

It is evident that donors are partly to blame for the budget as theatre. Donor pledges of amounts and timing of aid rarely meet targets. Government and donors both know that this is likely to be the case, yet nothing is done to take this into account.⁹ Our study finds that Malawi's international partners have not invested sufficiently in creating conducive donor-government relationship. Donor assistance has tended to focus on technical interventions alone without managing the socio-political context of such interventions. The Government of Malawi appears to lack confidence in the donor initiatives. As a result it has been slow in implementing its commitments with the donors. To justify its lack of trust in donors, government has cited the past WB/IMF recommendation to sell maize at a time the country did not need to do that. One senior government official put it simply, "donors are bad, they give you money and make you stupid." Others cite the multiple reporting requirements and the constantly changing goalposts. The continued use of foreign experts coming in as technical assistance and the creation of parallel systems were also cited as reasons why government lacks commitment to donor-funded initiatives. Another government official remarked that "donors come here and create new structures and institutions that are costly. Then they leave and government finds it difficult to support and maintain the institutional structures created." The withdrawal of budget support by donors was also cited as part of the reasons for not trusting donors.

These comments, from key political stakeholders in Malawi, suggest that the donors' sanctioning of poor financial management has not produce the intended effects in terms of greater commitment to formal agreements with its international partners. Clearly, the relationship between donors and Government is not well defined. These views of donors go to the core of government-donor relationship, and we find that at present, government commitment to reforms in the budgeting and public financial management area is clearly undermined by these perceptions about donors. Without securing this commitment, donor funded reforms have limited chances of success.

⁹ Automatically attaching a short delay (1-2 months) and automatically deducting a small percentage (10-20%) from pledged totals would allow governments to plan around a much more realistic resource envelope. For their part, donors could build the same sorts of adjustments into their conditionalities. This would allow both sides to more realistically plan and budget, and could eliminate some of the wiggle room that is currently built into the budget with devastating effects.

5 Entry points for a better budget process: A Joint Donor Strategy on Economic Accountability for Malawi

To make government institutions accountable for how they spend their allocations from the public purse, and prevent officials from abusing or pilfering entrusted funds, is a central concern. The budget process – its formulation, implementation and monitoring - is one of the key mechanisms in place to secure economic accountability. Malawi’s Poverty Reduction Strategy (MPRSP) paper provides a platform for donor influence and buy-in of Malawi’s development agenda through the budget process. But questions facing a donor like DFID in the context of the Malawian budget process are: Do donors “play the game right”? Is donor assistance provided in the right places?

The rationale for offering budget support is based on the assumption that the system is working and what is required is financial assistance to enable recipient governments to carry out fundamental development tasks. However, our study of the budget process in Malawi indicates that there are fundamental flaws in formulation, implementation and oversight of the budget. *How* much financial discipline donors can “purchase” in the context of the formal and informal institutional makings of the budget process is a question the donor community must address. The case of Malawi illustrates that there is need to develop new forms of conditionality, linked to whether governments deliver results and abide by the rule of law. Annex 5 suggests a number of qualitative indicators that could be applied for evaluating the budget process. Qualitative indicators measuring commitment to implementation over time may be a useful place to start this debate in the context of the budget process.

Our analysis has pointed to some major weaknesses of economic accountability of the budget process. We find that formal institutions in Malawi are technically sound in design, but informal institutions are undermining them. Some actors will pretend to be willing to make positive changes but have no incentive to do so given their vested interests. In the long term, we find that only by strengthening actors outside the executive branch, producing countervailing forces, to increase demand for economic accountability will positive change occur in the budget process.

Our study suggests that the current form of donor support for economic accountability has been ad hoc, with too little emphasis on facilitating dialogue between government and the private sector. Furthermore, donor interventions have at times circumvented democratic processes and institutions in order to ‘get the right things done’. For the past decade, most bilateral donors have had consistent and long term programmes to strengthen governance. However, to a large extent, the initiatives have focussed on political governance issues, electoral democracy, rule of law etc. While a number of rather ad hoc measures are in place to strengthen economic accountability, we argue that no donor, including DFID, have developed a long term, consistent programme of strengthening economic accountability. We suggest that DFID, in cooperation with other donors (the CABS group) develop a programme on economic accountability in Malawi. Below we suggest a number of measures and programmes that could be included in this programme. Some elements are already ongoing, but could be strengthened.

5.1 Strengthen Parliament and the committee system

After four years of various donors' parliamentary support to committees in an ad hoc fashion, the elections and the new Parliament provide donors a unique opportunity to plan and design a comprehensive program to strengthen Parliament. In this new program, donors could consider contributions to a basket fund, modelled after the donor support to the National Aids Commission. The program would move beyond allowances for meetings and address the systemic problems at Parliament that inhibit its functioning as an independent institution, e.g. a policy research unit, a legislative drafting unit, as well as offices for MPs. A sector-wide approach (SWAP) may be most appropriate to strengthen Parliament as a vital arm of government.

5.2 Strengthen demand for accountability from civil society

A number of urban-based NGOs receive donor assistance in order to improve political governance more generally and economic governance to a limited extent. But we find that a horizontal coalition of membership-based civil society organisations that can stimulate public interest in national budgeting issues is lacking in Malawi. A number of projects on economic accountability can be initiated without government involvement. However, without a consistent dialogue and cooperation between government and civil society, it is unlikely that the government will respond to the demand for accountability. Civil society organisations such as MEJN and ECAMA need to develop advanced advocacy skills in order to engage government. Consultations on budget issues must be on-going, constructive, and more institutionalised. As argued above, the private sector in Malawi is weak. There are, nevertheless, sectors in the economy that can be mobilised. The sugar industry, the tea industry, the textiles and garment manufacturers, now have associations. These organisations, and the apex body Malawi Confederated Chambers of Commerce and Industry (MCCCI) may become a powerful force for greater economic accountability.

It may also be possible to reach through churches with information on the cost of economic indiscipline. Common interests around provision of basic services, employment and prices of basic commodities create opportunities for discussing how the national budget impacts on these issues. To increase public awareness, we recommend that the three new finance bills are published for parliamentarians, civil society groups, churches, and district assemblies (in English and local languages). Additional opportunities may also exist in supporting popular radio soap operas and performing theatre groups that can create drama around 'bread and butter issues' in more humorous ways in towns and urban areas. To the extent possible, schools may also be targeted for these sorts of educative, informative and entertaining drama.

Strengthening media's role in demands for economic accountability must also be considered. The print media is relatively plural but enjoys very limited circulation only in urban areas of Malawi. Due to high levels of illiteracy, we recommend a focus on radio, especially private radio. All media lack capacity to report more effectively on economic matters. The opportunities may be in funding journalistic awards for the most informative and educative economic reports, training seminars for business and finance reporters.

Making informal processes more accountable to civil society

Malawi's division of political interests cut along regional lines. This informal reality could potentially be turned to the advantage of strengthening parliament and civil society, and creating a realistic debate around the budget. At the moment, politics of patronage in Malawi suggests that the governing party "poaches" legislators from other parties by targeting selected constituencies. However, if the budget was written with respect to different constituencies and regions in a way that was easy for parties and constituents to read, they would have more ability to hold government accountable and also to negotiate with each other.¹⁰ Civil society could more easily understand what was planned for its region and could pressure to obtain more.

5.3 Strengthen demand for accountability from civil society

The National Audit Office already enjoys legal autonomy to perform an effective oversight role. What is currently lacking is the mechanism to make NAO accountable for poor performance. The Public Accounts Committee and CSOs should provide the opportunity for bringing the NAO to account for poor performance. The newly appointed Accountant General provides a potential entry point. Opportunities may exist in supporting his initiatives to professionalise the accounting cadre in government and his attempts to generate complete accurate, timely and reliable accounting data for budget and economic management. This will also help in meeting the statutory reporting deadlines and the requirement for publishing government accounts in newspapers as prescribed by the Public Finance Management Act.

Similarly, the newly formed Internal Audit Department located in OPC is currently under-utilised. Opportunities exist in supporting the work of the Institute of Internal Auditors in Malawi to bring the work of internal auditors in line with international practice. Any training support should be through the IIA in order to emphasise the professional development aspects.

The budget cycle is not well understood by all stakeholders. This has allowed government to omit certain obligations of the cycle with impunity. Effort must be put in producing a well publicised budget calendar including statutory reporting deadlines.

5.4 The elections as an entry point for change

In addition to these institutional drivers of change, the May 18, 2004 elections provide donors with a very critical entry point for change. One cabinet minister urged the donors to recommend reforms just after the elections. He complained that little can be done regarding policy change before the elections, and the only time that Government can attempt fundamental changes is just after the elections. Therefore, we suggest that DFID facilitates brainstorming sessions just after the elections on a sector basis bringing together the new minister, the PS, the new parliamentary committee, as well as the donors involved in that sector. At this time, the donors may be in a position to provide information about the policy changes that are underway, but stalled, or that need to be initiated. Once bad practices become re-institutionalised after the elections, then change will be extremely difficult to produce.

¹⁰ For example, if each ministry had to report its investment budget in terms of regional allocations, the central region deputies could easily calculate how much they were due to receive and negotiate with the deputies and minister from other regions to make sure they could defend or secure more.

Annex 1: Terms of reference Malawi political economy study

1. Introduction and Problem Analysis

1.1 With capita growth less than 1 % p.a in private investment/savings amounting to only 4% of GDP, and Agriculture, (the biggest engine for growth in Malawi) suffering from stagnation in yields, low profitability and vulnerability to weather, making the economy prone to food shortages; Malawi's growth performance since mid-1990 has been modest, volatile and worsened in recent years. The growth potential has also been severely affected by the onset of the HIV/AIDS crisis, with the adult (15-49) prevalence rate at 15%, and antenatal surveillance data indicates among pregnant women, it is at 19.5% (UNAIDS and NAC).

1.2 The 1998 Integrated Household survey identified 65.3% of Malawi's population as poor, representing a total of 6.3 million people and 28.7% of the same living in extreme poverty. With the richest 20% consuming about 46.3% and the poorest 20% consuming only 6.3% of total goods and services, high levels of inequality accompany the poverty levels. (Malawi Poverty Reduction Strategy Paper 2002)

1.3 The social indicators denote an average total fertility rate of 6.3 that gives rise to a 2% per annum population increase, life expectancy at 38 years mainly due to HIV/AIDS and Malaria. Although progress has been made since 1994 in primary education enrolment, there is a low ratio of qualified teachers to pupils, inadequate provision for teaching and learning materials, and too few classrooms.

1.4 Although the MPRSP pillar one identifies sustainable pro-poor growth as key to achieving development in Malawi and a subsequent Growth Strategy envisages a sustainable rate of growth of at least 6%p.a, this is a highly ambitious figure against the backdrop of institutional challenges (that have resulted into freezing of donor aid, shrinking of the private sector, falling of tobacco prices etc) and the prevalence of HIV/AIDS.

1.5 After the Banda regime post 1994, there has been a shift from the goals of development policies (DEVPOL) to poverty reduction. Subsequent years have seen the development of a poverty reduction agenda with a mix of good governance, improved income distribution, food security, environmental management and human resource development. Despite this, recent social policy research indicates that people's basic needs at household and community level have not been addressed. (DFID Country Assistance Plan, 2002).

1.6 Malawi's Poverty Reduction Strategy (MPRSP) paper provides a platform for donor influence and buy-in of Malawi's development agenda. Key challenges to its implementation include linking the PRSP to the budget (and identifying and protecting the PPE's), translating the document into a guide for operational policy and planning and to increase the pace of progress on designing a monitoring and evaluation system. Underpinning all these key challenges are issues of political will, understanding the poor, a weak CSO environment, among others.

1.7 For the past five years, GoM has consistently failed to demonstrate the ability to implement pro-poor policies as well as to raise, allocate and account for public resources (that is, to institute and adhere to sound Public Financial Management and Accountability Reforms). Chronic budget instability has persisted throughout the 1980's and 1990's. Measures attempted to strengthen financial management (MTEF, MFAAP) have had limited success, mainly due to their focus in addressing 'technical weaknesses' of financial systems, attributing to the suspension of DBS in 2001/02.

1.8 With the IMF Board approval of Malawi's PRGF at the end of 2003, the CABS group has resumed DBS, and Government has vowed to 'stick to tight monetary discipline in order to necessitate aid flows to implement the MPRSP'.

1.9 The MPRSP clearly spells out 'what' needs to be done, but the challenge for Government and specifically for donors is to assist in establishing 'how' to make it happen. Emerging pressure and recognition by all development partners in Malawi is the need to move from 'policy' rhetoric to more focus on implementation. Perhaps the biggest challenge for the PRSP/GoM will be to translate the 'what' into the 'how', against the backdrop of GoM's argument that a large part of the 'how' can only be achieved once donors resume DBS.

1.10 However, all experience suggests that aid in itself 'is necessary' but 'not sufficient' to achieve the desired poverty reduction goals. We need to better understand the (longer-term) factors that affect the incentives and capacity to achieve the realization of the MPRSP.

1.11 DFID Malawi is therefore faced with a challenge of understanding why policies that have been excellent and 'technically sound' on paper have not been implemented, leading to questions regarding the effectiveness of aid in Malawi. Although DFID has good technical insight to its programmes, we lack knowledge of the 'institutional picture' of the rules, incentives and enforcement mechanisms determining how our partners (especially, the Government, private sector and the recently emerging CSO's) operate.

1.12 DFID Malawi and Policy Division plan to unpack the so-called 'political will' issues (norms/incentives) that form part of Malawi's political, social and institutional context through a joined up study on *The Political Economy of Public Financial Management & Accountability (PFMA) reforms and the Budget, in Malawi*. This work will feed into the broader 'Drivers for Change' study but also provide a platform for other pieces of work that each sector/thematic team in DFID Malawi (Health, Education, Livelihoods and SSAJ) will embark on.

1.13 The PFMA study will also support the broader Drivers for Change and Levers for Public and Financial Management and Accountability reform study, which will involve specific fieldwork in Malawi and Uganda and desktop research on Ghana and Tanzania.

1.14 The study will build upon a framework of political analysis that the Foreign and Commonwealth Office (FCO) will undertake. This study will provide a platform for Policy Division, DFDM and BHC Malawi to work together in analyzing political economy issues from a development perspective.

Objective

1.15 The purpose of the study is:

- To understand the Political Economy context within which informal power, political structures and incentives, affect PFMA reforms and the budget process as it relates to poverty reduction policy implementation in Malawi.

Scope

1.16 The consultants will be expected to liaise with key Malawi Government Ministries, Budget and Finance Committee and Public Accounts Committee of Parliament, private sector, CSO's including advocacy NGOs, faith organizations, media and trade unions, donor agencies and diplomatic missions, academia, business associations and other professional groups. It will also be important for the consultants to take account of and build on previous studies related to these issues.

1.17 A. Public Financial Management and Accountability (PFMA)

1.17.1 DFID is committed to channelling more of its financial aid as direct budget support (DBS) through developing country budgetary systems where governments have strong commitment to poverty reduction. However DFID retains a fiduciary duty to account for its resources to Parliament and to ensure that its expenditure through DBS is properly accounted for, used for the purpose intended and that the expenditure represents value for money. Although fiduciary risk is present in the use of other aid instruments, there are specific risks relating to DBS because once resources have been transferred to the recipient country, DFID does not have direct control of the use of its funds.

1.17.2 In its policy paper, Managing Fiduciary Risk When Providing Direct Budget Support 2002, DFID set out some conditions necessary for agreeing to provide DBS as follows:

- A thorough evaluation of public financial management and accountability systems, and associated risks, has to be carried out;
- The (recipient) government has a credible programme to improve standards of these systems; and that
- The potential development benefits justify the risks, taking account of any safeguards that can be put in place to buttress and develop these systems.

1.17.3 An assessment of (recipient) government PFMA systems is usually followed by donors supporting government-led PFMA reforms, including capacity building and institutional strengthening in order to improve standards of the systems. Supporting such reforms requires deeper understanding of the socio-economic and political context of the country, particularly the levers of change. We need to understand how the levers of change, particularly the political systems and power relationships can either facilitate or constrain the development of a credible PFMA reform.

1.17.4 Specific Objectives

- Understand (beyond the technical assessments) what incentives and disincentives are important within a country's political systems, institutions and social environment to underpin PFMA reforms and successful implementation of the budget;
- Identify possible entry points in supporting successful PFMA reforms in aid recipient countries;
- Create a set of qualitative indicators that may help measure progress and overall improvement in the country environment.

1.17.5 The study will seek to answer the following questions:

1. Who makes PFMA policy agenda both formally and informally? Who decides/influences the implementation of the PFMA policy?
2. Who are the other stakeholders in the PFMA reform agenda?
3. What are the levels of engagement and interaction among stakeholders, institutions and society on PFMA?
4. What are the levels of each stakeholder's interest and importance in the PFMA reform agenda? (Particular attention should be on the political players)
5. Why is poor PFMA tolerated in the country?
6. What specific incentives and disincentives should be in place in order for PFMA reforms to be successful?
7. Which stakeholders/institutions could be champions for PFMA reforms?
8. What practical steps are necessary to strengthen local ownership of and commitment to the PFMA reform agenda?

1.18 B. The Budget

1.18.1 The budget is inherently a political process, and that genuine political debate about priorities and resource allocation are a healthy and indeed necessary part of budget formulation and implementation. It is when the budget process is politicized through e.g. partisan considerations of individual and party political gain, and unofficial or covert priorities which are at odds with those officially espoused by the government and opposition parties, that it becomes an issue of concern.

1.18.2 Everywhere, politics and power determine the distribution of, and who benefits from limited resources. Such power relations are in most cases implicit, disguised and informal. The unequal power relations in the budget process are evident through the 'level' of involvement of key Government actors in the budget process, 'implicit' priorities contained in the process, structure and content of the budget, as well as links to influential political figures that determine level of budget resource allocation.

1.18.3 The networks of stakeholders who benefit from such un-transparent procedures are diverse and this affects (both positively and negatively) the delivery of policy objectives against planned outcomes. Donors play an important role given the high level of resources that they contribute to the budget in Malawi, and the level of influence and access that they have to politicians. It is recognized that through their ways of working with Government and other stakeholders, donors may reinforce some of the negative political aspects of the budget cycle by playing a role

in enforcing mechanisms and perpetuating networks of stakeholders that benefit from such un-transparent procedures.

1.18.4 Based on the following:

- A comprehensive stakeholder analysis of key participants in the budget process, and the effectiveness of the consultation efforts made by MoF during the past budget processes in the past 3 years in strengthening pro-poor governance.
- A brief analysis of the ‘formal’ arrangements of structures, roles and responsibilities in relation to the budget process, including budget formulation, execution, reporting.

1.18.5 A broad, analytical framework will be established to:

- Establish the informal network setup of stakeholder power and influence in relation to the budget.
- Deduce implicit as well as explicit incentives for action that affect the decision-making process of politicians and officials.
- Outline the norms and values prevailing in key institutions in Government/other organizations that have an impact on budget formulation, execution, monitoring and reporting.
- Establish to what level donors exacerbate negative practices within Government and other institutions as relates to the budget in particular in relation to PRSP.
- Establish the operation of power in its broadest sense: who has the most influence and who sets the rules of the games by which the formal resource allocation and budget execution are played.
- Where possible, determine the real culture (incentives, checks and balances) of institutions responsible for executing the budget in Malawi. The study will also, if possible, ascertain whether any practices are formally illegal, or would be perceived as unethical if publicly revealed.
- Draw from above; to establish lessons learnt under the MTEF.

2. Expected Outcomes and Deliverables

2.1 The consultancy is scheduled to take four weeks and three days commencing 01.12.03. The team will be given three days for reading (DFIDM and Policy Division will provide a list of key texts known to us) and literature review. This will be important to ensure that the study builds on and does not duplicate previous

work. Three weeks are allocated to in-country research and one week for report writing. Towards the end of the three weeks' in country, the team will lead a wrap-up session with partners to report and gather feedback on the main findings and to discuss next steps.

2.2 Within four weeks of the last day of the consultancy, the team should deliver to DFID (Malawi), through the Assistant Policy Adviser, the following:

- A report on the results of the study, no longer than 20 pages excluding annexes and should contain:
 - Generic analyses drawn from cross cutting issues that emerge from the two study areas presented with an executive summary and recommendations of the way forward.
 - Annexes relating to specific questions raised by PFMA and the Budget Analyses should also be attached hereon.
 - A recommended strategy for sharing the study results with partners

An electronic copy of the report should also be made available.

3. Competencies and Expertise Required

3.1 The consultancy team will be required to have considerable expertise in political economy analysis in developing countries and experience of conducting similar analyses in other countries, preferably in Sub-Saharan Africa. A broad range of technical, conceptual and practical skills and experience in public sector finance issues is highly desirable.

3.2 Knowledge of Malawian institutions and networks of key players are essential, and an in-depth knowledge of power, politics and socio-cultural beliefs and value systems in Africa/and or Malawi is highly desirable.

3.3 The consultants are required to be knowledgeable on the use of analytical tools for assessing informal aspects of politics and power relations. They should be familiar with DFID's policy on influencing/ engaging with partner governments and other key institutions.

Terms of Reference for Lise Rakner, Political Economy Analyst

The team leader will lead the review from February to 30th March 2003. Her input will be total 21 days: four days' preparation, 10 days in country and 8 desk supervision of conclusion of study writing up/amendments. They will have overall responsibility for the co-ordination of the team, ensure they complete their individual ToRs and submit their relevant written inputs in order to be able to synthesize the final review report in the format and to the schedule detailed in paragraphs 2.1 and 2.2 above. In addition, the team leader will undertake the following:

- i) To lead in developing a methodological framework for gathering and analyzing data to be collected for the study.

- ii) Lead and contribute to specific areas on Task A: Political Analysis: A Synthesis of FCO political analysis and deduce pointers for the study, Analysis of ‘foundational factors’, Analysis of political competition and mobilization, Analysis of power-sharing amongst institutions
- iii) Support the PFMA and Budget Expert in Task B and C: To understand (beyond the technical assessments) what **incentives** and **disincentives** are important within a country’s political systems, institutions and social environment to underpin PFMA reforms and successful implementation of the budget with a specific review of lessons under the MTEF.
- ii) Lead on managing inputs and organizing meetings with the Reference Team and DFID.
- iv) Lead in developing a communication strategy for sharing and disseminating results of the study.
- v) Lead Team in submitting final reports in time.

Terms of Reference for Kimberly Smiddy, Political Scientist

The Political Scientist will participate in the review from February to March 2004. Their input will total 23 days: 6 days of preparatory work viz: literature review, agreeing on methodology and testing of data tools; 2 days of confirmation of data sources and 15 days in country research work, presentations and submission of final report. They will report to the team leader on their relevant written inputs to be enable the first synthesis of the final review report in the format and to the schedule detailed in paragraph 2.1 and 2.2 above. They will assume the role of ‘in-country team leader’ after Team Leader departs to ensure the Team concludes its assignment.

- i) To assist in developing the methodological framework of data collection and analysis, in collaboration with other team members.
- ii) To set up appointments and focus group discussion meetings with various data sources, as well as confirm on their availability (This will be under separate costing).
- iii) To lead in the testing of data collection tools prior to the commencement of the study, and to feed back any proposed amendments to the team on time.
- iv) Lead and contribute to specific areas on Task A: Political Analysis: A Synthesis of FCO political analysis and deduce pointers for the study, Analysis of ‘foundational factors’, Analysis of political competition and mobilization, Analysis of power-sharing amongst institutions
- v) Support the Team Leader analyze the PFMA and Budget Expert outputs in Task B and C: To understand (beyond the technical assessments) what **incentives** and **disincentives** are important within a country’s political systems, institutions and social environment to underpin PFMA reforms and successful implementation of the budget with a specific review of lessons under the MTEF.
- iv) As of 23.03.01, to take over the role of ‘in-country team leader’ to guide the conclusion and all remaining activities of the study, in collaboration with Team leader.
- v) To ensure all reports are collated and submitted to DFID in accordance with the specified periods.

Terms of Reference for Naomi Ngwira, Budget Expert

The Budget Expert will participate in the review between February to March 2004. Their input will total 21 days: 6 days of preparatory work viz: literature review, agreeing on methodology and testing of data tools and 15 days in country research work, presentations and submission of final report. They will report to the team leader and ensure they complete their individual ToRs and submit their relevant written inputs in order to be enable the synthesis of the final review report in the format and to the schedule detailed in paragraphs 2.1 and 2.2 above. In addition, the Budget Expert will undertake the following:

- i) To assist in developing the methodological framework of data collection and analysis, in collaboration with other team members.
- ii) To assist the Political Scientist in the testing of data collection tools prior to the commencement of the study, and to feed back any proposed amendments to the team on time.
- iii) To lead on specific areas under task D: A comprehensive stakeholder analysis of key participants in the budget process, and a brief analysis of the ‘formal’ arrangements of structures, roles and responsibilities in relation to the budget process, including budget formulation, execution, reporting.
- vi) To assist Team Leader and team members in insights on prevailing informal systems, **incentives** and **disincentives** that underpin the successful implementation of the budget with a specific review of lessons under the MTEF.
- iv) To participate in all consultations and discussions especially with the reference Team and DFID Malawi.
- v) To submit all required inputs to Team Leader in a timely manner.

Terms of Reference for Luke Mukubvu, PFMA Expert

The PFMA Expert will participate in the review between February to March 2004. Their input will total 21 days: 6 days of preparatory work viz: literature review, agreeing on methodology and testing of data tools and 15 days in country research work, presentations and submission of final report. They will report to the team leader and ensure they complete their individual ToRs and submit their relevant written inputs in order to be enable the synthesis of the final review report in the format and to the schedule detailed in paragraphs 2.1 and 2.2 above. In addition, the PFMA Expert will undertake the following:

- vi) To assist in developing the methodological framework of data collection and analysis, in collaboration with other team members.
- vii) To assist the Political Scientist in the testing of data collection tools prior to the commencement of the study, and to feed back any proposed amendments to the team on time.
- viii) To lead on specific areas under task B: A brief analysis of formal impact of PFMA reforms stakeholder analysis (levels of engagement and interaction) of key participants in the reforms.

- vii) To assist Team Leader and team members in insights (beyond the technical assessments) on what **incentives** and **disincentives** are important within a country's political systems, institutions and social environment to underpin PFMA reforms.
- viii) To assist the Team leader in generating a list of qualitative indicators to be used to measure progress and overall improvement on PFMA reforms in Malawi.
- ix) To participate in all consultations and discussions especially with the Reference Team and DFID Malawi.
- x) To submit all required inputs to Team Leader in a timely manner.
- xi) To deduce and produce a road map for use of study within PFMA Team in Policy Division.

Terms of Reference for Reference Team Members

The Reference Team will participate in the review between February to March 2004. Their input will total 7 days: contributing to the preparatory work viz: literature review, commenting and agreeing on methodology and testing of data tools and to in-country research work as well as presentations and submission of final report. They will report to the team leader and ensure they complete their group/individual ToRs and submit their relevant written inputs in order to enable the synthesis of the final review report in the format and to the schedule detailed in paragraphs 2.1 and 2.2 above. In addition, the Reference Team will undertake the following:

- I. Contribute to developing the methodology of the study especially by assisting the Core Team in identifying a limited number of "key informants".
- II. Identify and fill gaps, and make linkages that have not previously been made, providing expert knowledge and other sources of understanding of the issues.
- III. To participate in meetings/focus groups in order to fill specific pre-identified knowledge gaps (what is the real, informal reality inside institution X?) or to enrich or provide critical tests of the emerging interpretations.
- IV. To assist in general facilitation of meetings by contributing through their skills and knowledge of the background issues.
- V. To help in thinking through the implications of the political economy findings for Malawi country programming, and provide insights as to how stakeholders throughout Malawi may use the results of the study.
- VI. To advise, at regular intervals as the work progresses, on the extent of 'trade-offs' between the quality and frankness in sharing the results of the analysis and the extent of sharing with key partners such as the Government, and to suggest strategies to minimize the envisaged distortions.
- VII. To agree with Core team, on precise tangible outputs and allocation of responsibilities within the month of February.

Annex 2: List of People Interviewed

Organizations

Civil Society Organizations

ECAMA

MCCI

SOCAM

CAMA

MEJN

MEHN

Churches/Religious Organizations

PAC

Public Sector

Ministry of Finance

Auditor General

Ministry of Economic Planning and Dev

Ministry of Commerce and Industry

Ministry of Education

Office of President and Cabinet (OPC)

Malawi Development Corporation

Parliament

Parliament (B and F)

Parliament (PAC)

Parliament (Public Appts Comm)

MRA

ACB

Private Sector

Ilovo Sugar Corporation

NICO

Press Corporation

Garment and Textiles Association

Stanbic Bank

Limbe Leaf

Continental Discount House

Imani Development Group

National Bank

Media

Private Radio Owner

Donors/International Organizations

DFID

Names of Individuals and Positions Held

Dr. Khwima Nthara, Chair of the Budget Committee

Dr. Perks Ligoya, Public Relations Officer

George Thindwe, Operations Director

Mr. Gondwe, Communications Officer

Hendrix Mazangera

John Kapito, Executive Director

Collins Magalasi, National Coordinator

Paul Msomali

Robert Phiri

Hon. Friday Jumbe, Minister

Professor Matthews Chikaonda, former Minister

Hon. Phillip Bwanali, former Deputy Minister

Mrs. M Banda, Budget Director

Mr. Soko, Director, Debt and Aid Section

Mr. Kampanje, Accountant General

Mr. Kalangonda

Hon. Khwauli Msiska, Deputy Minister

Mr. Kutangule, Principal Secretary

Hon. Sam Mpasu

Mr. Chikhosi, Principal Secretary

Mr. Dzanjalimodzi, former Director of Procurement

Mr. Y Hassan, Director of Internal Audits

Brian Bowler, Chair Reserve Bank

Hon. Davies Katsonga, Speaker

Hon. Chimango, Chair

Hon. Sikelo (UDF)

Hon. Chome (UDF)

Hon. Mnesa (UDF)

Hon. Chuthi (MCP)

Hon. Chiona, Chair

Hon. Henry Mussa, former chair

Mr. Mtingwe

Justice Mtegha, Director

Mr. Banda, Assistant Director

Brett Stewartson, Managing Director

Felix Mulusu, Managing Director

Dixie Kambauwa, Group Executive Director

K K Desai

Victor Mbewe, Managing Director

Charlie Graham

Mr. Mwanamveka

John McGraff

George Partridge

Mr. Al Osman, Capital Radio

Harry Potter

Jimmy Mawaya

Lindsay Mangham

Allan Whitworth

Christine Wallace

Rob Rudy, private sector advisor

NORAD

Tori Hoven, 1st. Secretary, Economist
Asgeir Rustad, 1st Secretary, Governance
Jerome Ponds, Economic advisor
Jan de Waal

EU

CIDA (PEG program)

NDI

Sylvester Masambvu, Senior Programme Manager
Luckson Chirwa, Programme Manager
Stanley Hiwa
Roger Yochelson, Mission Director
Sirys Chinangwa

World Bank

USAID

Annex 3: Selected Literature

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Annex 4: Statutory instruments of economic accountability in Malawi

Public Finance Management Act No 7 of 2003

1. Sections 3-11 of the Public Finance Management Act provide for the roles and responsibilities of the Minister of Finance, Secretary to the Treasury and Controlling Officers in the budgeting cycle.
2. Sections 11-27 of the PFM Act provide for the budget formulation and approval stages including Section 14 that spells out the MTEF approach. Section 14 clearly states that the Minister of Finance is responsible for the economic and fiscal policy statement as well as the budget policy statement.
3. Sections 28-82 of the PFM Act provide for the Treasury management and accounting including aspects of state borrowings and statutory bodies relationships. Treasury Bills borrowings are limited (section 45 of the Third Schedule) to 25% of annual budgeted revenue at any one time. All overdraft facilities with the Reserve Bank of Malawi shall be paid back together with interest not later than the end of the current financial year (section 59 (3))
4. Sections 83-94 of the PFM Act provide for the reporting of government accounts and Auditor General's report to Parliament. Section 83 clearly states that the Secretary to the Treasury shall prepare and submit the government financial statements for that financial year not later than 31 October of each year. The Auditor General is given another 3 months after 31 October to submit the audited accounts and report to Parliament. Sub section 6 states that the financial statements in a summarised form shall be published in the Gazette and in a newspaper with wide circulation in Malawi. Furthermore the Secretary to Treasury shall within 30 days after each quarter, except the last in a financial year, prepare and submit to the Auditor General a summary of receipts and payments of the Consolidated Fund from the beginning of that financial year to that quarter. After certification (within 2 months) by the Auditor General, the Secretary to Treasury shall cause such a summary to be published in the Gazette and in a newspaper with wide circulation in Malawi. Sections 87-88 provide for various offences under the Act and stipulate the penalties for such offences. Furthermore Section 89 (1) encourages any person who has good cause to suspect that an offence under Section 88 may have occurred to report to the Secretary to the Treasury. Section 89 (2) indemnifies such a person reporting from any lawsuit, provided s(he) acted without malice. Penalties under section 88 include a fine of K100000 and to imprisonment for five years if its an individual and K500 000 if it's a statutory body. However section 87 is bit vague when it says that "an appointing authority" may suspend without pay the controlling officer or chief executive of a statutory body for authorising expenditure or commitment of funds in excess of the approved limit or expending funds where there is no appropriation permitting such expenditure. In defining "appointing authority" it does not seem to distinguish between managerial and political accountabilities surrounding the appointment of controlling officers.

Public Audit Act No 6 of 2003.

1. Sections 3-13 provide for the appointment, duties, responsibilities and powers of the Auditor General.
2. Sections 14-28 provide for the reporting arrangements of the Auditor General.
3. Sections 14-15 require the Auditor General to report to the President and to the Speaker of the National Assembly by 31 December following the end of the financial year on 30 June of each financial year. Section 17 empowers the National Assembly to appropriate sufficient funds on a timely basis to enable the effective and efficient operations of the Auditor General and the National Audit office. Sections 18-24 provide for the role and functions of the Public Accounts Committee (PAC). Section 28 empowers the PAC to appoint a public Auditor to audit the National Audit Office.
4. Section 29 provides for various offences and penalties under the Act.
5. Section 30 provides for any other regulations that may be required to give effect to the Act.

Public Procurement Act No 8 of 2003

1. Sections 4-12 provide for the appointment of the Director and his/her staff together with their functions. Both Director and deputy are appointed by the President with approval from the Public Appointments Committee. Both officers hold office for a period of 4 years and are eligible for re-appointment for one additional and final period of 4 years. With approval from the Public appointments Committee, the President may terminate the Director's appointment on two bases: (1) misconduct or misbehaviour or (2) inability, incapacity or incompetence to performance of the duties of the office. The Director is accountable to and operate under the general supervision of the President. There is no board or committee between the director and the President. All other employees of the Public Procurement authority are members of the public service.
2. Sections 13-36 provide for the procurement processes both technical and administrative.
3. Sections 37-38 deal with reviews and appeals processes.
4. Sections 39-40 provide for external audit of the procurement processes

Annex 5: Qualitative indicators for evaluating the budget process in Malawi

Legislative Compliance Indicators

1. Budget Calendar: Is the budget calendar published by January 31?
2. Auditor General (AG)
 - a. Are AG's queries responded to within 14 days of receipt by the Controlling Officer?
 - b. Did the AG make at least one annual report with specific recommendations to the President?
 - c. Is the AG annual report sent to the President and Speaker of the National Assembly by December 31 following the end of the financial year (Section 15)?
 - d. Is there a government-wide audit plan for each year including agencies and statutory bodies?
 - e. Did the AG issue at least one report with names of person(s) failing to comply with any written law or any recommendations of the AG (Section 16)?
 - f. Did the National Assembly appropriate sufficient moneys to AG to carry out the work (Section 17)?
3. Public Audit Act requirements for the Public Accounts Committee (PAC) at Parliament
 - a. Did the PAC table a report to Parliament which includes the items listed in Section 19 (d)?
 - b. Did the PAC table a report to Parliament at least twice a year that was signed by the Chair and includes all the activities of the PAC (Section 23)?
 - c. Did the PAC appoint external auditors to audit National Audit Office (Section 28)?
 - d. Did the external auditors submit a audit report of the NAO to the PAC?
4. Public Finance Management Act requirements for the Minister of Finance
 - a. Did the Minister of Finance submit by 1st April an economic and fiscal policy statement for the ensuring year (Section 14)?
 - b. Did the Minister of Finance Publish a budget report update (Section 17)?
 - c. Did the Minister of Finance send quarterly reports to the Auditor General (Section 84)?
 - d. Did the Minister of Finance publish quarterly reports (Section 84)?
 - e. Did controlling officers submit monthly reports to Secretary to the Treasury within 14 days of the end of the month (Section 84)?
 - f. Did controlling officers submit annual reports within 4 months of the end of the year to the Secretary to the Treasury (Section 86)?

- g. Did the Secretary of Treasury produce a complete Treasury Instructions for Government (Section 92)?
- h. Have the Treasury Instructions been updated?
- i. Did the Minister of Finance adhere to the statutory limit of Treasury Bills not to exceed 25% of budgeted revenue (third schedule of Section 45)?

Process Indicators

1. Number of pre-budget consultations that occur (and number that occur before the Ministry of Finance sends the budget to Government Printing Office in Zomba)
2. Number of civil society organizations consulted in the pre-budget consultations with the Minister of Finance
3. Number of civil society organizations consulted by the Budget and Finance Committee (disaggregated by pre-budget versus budget monitoring)
4. Number of amendments that are tabled during Parliament (disaggregated by those that are from the B and F committee and those from MPs)
5. Number of changes (also the % of change) in the budget submitted by the Minister of Finance to Parliament and that was passed in the votes (this measures the times that the Minister changes the amounts due to consultations in Parliament)
6. Number of public officers in each year that are submitted to the Public Appointment committee (also number of public officers not confirmed and number of public officers confirmed purely on the basis of a partisan vote in the committee)
7. Number of months taken for AG reports to arrive at Parliament
8. Number of months (after the report's arrival) taken for the PAC to sit to review the AG report
9. Number of occasions that PAC summons public officials to its meetings
10. Was the PAC report tabled in Parliament? Number of months taken for the PAC to table its report to Parliament. Was the report debated?
11. Number of months between promised donor release of funds and actual release of budget support
12. Number of times that the committees receive testimony from NGOs that monitor the budget, number of investigations that the committee does in response to the NGO reports

