

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

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Abstract

To establish ‘participatory’ fisheries management, in 1993 Malawi’s Fisheries Department constituted elected Beach Village Committees (BVCs) with village headmen as ex-officio members. But, struggles between elected BVC members and traditional authorities (TAs) over benefits from fisheries undermined the authority of elected members. Legal ambiguity on who should make decisions facilitated the takeover by headmen. Further, the BVC was elected by the population as a whole, representing more than just the fishers, whom these committees were designed to control. This resulted in the sabotaging of the BVCs activities by the fishers. Under these conditions, representing the whole population undermined the effectiveness of the BVCs. In 1998, decentralisation reforms placed ‘community inclusion’ in fisheries management under Village Development Committees (VDCs), whose members would be appointed by elected District Assemblies (DAs). This reform is likely to unleash a struggle over BVC-VDC relations. But, different visions of decentralisation, shared mistrust of local democracy, higher level battles for authority among the government, politicians and TAs stalled the decentralisation process. Donors supporting these reforms were also mistrustful of representative local institutions. The institutions chosen and recognised by the government under donor pressure are the sites of political struggles in which representation, a sense of belonging and downward accountability are losing ground.

Keywords: fisheries management, democratic decentralisation, recognition, accountability, efficacy

INTRODUCTION

IN 1993, MALAWI’S DEPARTMENT OF FISHERIES (DoF) launched a donor-funded pilot programme for decentralisation of fisheries management in Mangochi district, the most productive fishing area on Lake Malawi (DoF 1993). The stated objective was to foster recovery of fish stocks that had been rapidly depleted by legal and illegal over-fishing during the preceding decade (DoF 1993; FAO 1993). In 1998, the Government of Malawi (GoM) approved a donor driven National Decentralisation Policy (GoM 1998a), detailed in the subsequent Local Government Act (GoM 1998b). The policy and act mandated decentralisation of administrative and developmental responsibilities away from the central government to elected District Assemblies (DAs) (GoM 1998a, b). The Malawi Growth and Development Strategy recommended decentralisation as a means for consolidating democracy and achieving the country’s poverty reduction goal (Ellis et al. 2003).¹ The United Nations Development Pro-

gramme (UNDP) funded the pilot implementation of the ‘District Focus Approach’ to decentralisation in Mangochi district (GoM/UNDP 1998). Under decentralisation, fisheries management was to be devolved to the district.

These reforms were consistent with trends in fisheries management worldwide. Many authors have argued that central-state management of fisheries has been ineffective and costly to implement, causing major problems in fisheries management (Jentoft 1989; Pomeroy 1995; Baland & Platteau 1996).² They argued that autocratic centralised management did not take into account fishers’ views; this autocracy resulted in illegitimate management structures and policies (Jentoft 1993; Hersoug & Holm 1999).³ These observations fuelled interest in alternative management setups that could improve the biological management, economic efficiency and equity in natural resource utilisation (McCay 1993; Ribot 2004). Schemes that involved users through devolution of authority and responsibility were increasingly promoted as the most

promising alternatives (Hersoug & Rånes 1997). Extensive evidence showed that bringing management decisions closer to user communities could improve fisheries management by increasing the sense of ‘ownership’ of decisions and of the resource (Hara & Raakjær Nielsen 2003; Viswanathan et al. 2003; Ahmed et al. 2004; Raakjær Nielsen et al. 2004). There was growing consensus among managers, scientists and politicians that no management scheme could work unless it enjoyed the support of those whose behaviour it was intended to affect (Feldt 1990; Jentoft 1993).

In the last 15 years, there had been considerable interest in management models and strategies based on devolution of authority and responsibility to fishers.⁴ This recent resurgence of decentralisation had also been driven by an increase in donor support for decentralisation initiatives, with various United Nations and other international agencies investing significant resources in decentralisation programmes (Work 2002). As Work (2002: 3) stated, ‘democratic and decentralized governance are increasingly considered requisite components of development initiatives’. Accompanying this trend, the search for solutions to ineffective regulation had shifted away from the content of management policy and the selection of the most appropriate regulatory mechanisms to the reform of the institutional frameworks within which policies were framed and implemented. In particular, the focus shifted to the realignment of relationships between the regulators and resource users (Symes 1997). With this new focus on productive decision-making relations, the most pressing question in fisheries became how to ensure ‘grassroots’ approval of management decisions (Baland & Platteau 1996).

Organising user groups for ‘involvement’ in fisheries management decisions raised, as with democracy in general, the classic questions of ‘representation’ (Mikalsen 1996). Mikalsen (1996) argued that a pre-requisite for successful user involvement was a relatively simple organisational structure that incorporated strong individuals who were widely respected by their constituency. Hoel et al. (1996) and Jentoft (1993) outlined three key problem areas for user participation: the relationship between *interests and influence, representativity of user groups and balancing of special interests against public concerns*. Hoel et al. (1996) and Jentoft (1993) argued that giving power to fishers could be tantamount to ‘letting the fox into the hen house.’ Policy makers feared that fishers could capture the immediate benefits while they disregarded the long term impacts of their actions on fisheries. Therefore, they believed fishers should not control management decision-making. Resource managers needed to strike a balance between the interests of user groups, whose livelihoods depended on management decisions, and the ostensible concerns of the state in its role as a custodian of natural resources on behalf of the broader public (Mikalsen 1996; Hara 2001). To balance special

interests against public concerns, Malawi’s Department of Fisheries set out to create democratic local fisheries management units from 1993. But, as the case of Mangochi district demonstrates, the imbalance between representation and special interests—including those of the Fisheries Department—brought decentralised management to a standstill. The lack of representation, accountability and responsiveness of leaders to the population,⁵ produced a stalemate in which a range of powerful actors sought to secure their own powers and authority.

Since 1993, Malawi’s Fisheries Department has been experimenting with participatory fisheries management. In Mangochi district, these participatory management experiments had led to the establishment of elected committees, the Beach Village Committees (BVCs), to represent the residents (involved in fishing) in fisheries management decisions. These committees also included village headmen as ex-officio members, as recommended by the Fisheries Department. These experiments, and their institutional arrangements, were legalised in the 1998 revised Fisheries Act (GoM 1998c: 4). However, the act handed over the decentralisation fisheries management powers to the DAs. In practice, this transfer had not taken place by the time of this research (October 2007) and the BVCs were still operating as before under the Department of Fisheries. Discussions and conflicts continue concerning the devolution of powers to the DAs and the future relations between DAs and the BVCs.

Three factors had undermined the ability of the BVCs to function: power and authority claims by TAs, financial dependence on donors and resistance to the BVC authority by vested interests. First, the role of powerful TAs in fisheries made it difficult for the BVCs to assert their new authority, especially when the BVC’s authority was poorly supported by the Fisheries Department. Village headmen claimed that the BVCs drew their authority from them; hence, the BVCs had to fall under the headmen’s authority. Due to fear of reprisals by fishers⁶ and the continuation of the exercise of customary authority within villages by the village headmen, the BVCs could not discipline offenders within their jurisdiction without the authority of village headmen. This left the BVCs dependent on the headmen. Ambiguities in the revised Fisheries Act (GoM 1998c) in naming the BVC as the legal decision-making body further strengthened the hand of the hereditary headmen over that of elected BVCs.⁷

Second, the BVCs depended on the Fisheries Department and donors for financial and material resources, which made them accountable to the Fisheries Department and made it difficult for them to act independently. This dependence of the BVCs on both village headmen and the Fisheries Department diminished their independence and discretionary powers. They were not downwardly accountable to the members of the fishing community, and the fishers did not feel that the BVCs represented them. They were neither accountable to their

constituency nor were they effective in improving fisher behaviour. Third, because the BVCs were elected by the population as a whole, their composition did not reflect the vested interests of fishers whom they were supposed to regulate. Feeling excluded from their domain of operation, these vested interests resisted the BVC authority. Ironically, the ability of the elected BVC to function was undermined by its being more accountable to the general population than to the sectoral interests it was set up to curb.

In addition, decentralisation reforms had been further complicated by the battles at a higher level among government departments/ministries, politicians and TAs due to lack of a shared vision for decentralisation. Conflicts between vested interests and democratic structures had gone all the way up the hierarchy through departments/ministries to the central state and donors. The struggles had resulted in the indefinite postponing of elections for the new decentralised DAs. The fishers and the Fisheries Department did not trust the democratically elected BVC enough for it to function as a representative body. As will be demonstrated later, central government and donors did not trust the DAs enough to allow them to be established. Ministries and departments, as well as donors, did not trust the Village Development Committees (VDCs) either. Therefore, donors and ministries had continued to operate through the pre-decentralisation sectoral committee-based approach, resulting in proliferation of committees at village level. With so many committees, headmen and well educated villagers were spread thin among committees, leading to 'committee fatigue.' The ministries and department did not want to regroup their committees under the VDC and the donors, too, did not trust that the VDC had the skills and resources to oversee sectoral development programmes. In addition, the political party in power was trying to limit the authority of the DAs so as to retain the allocation of development projects as part of its strategy to stay in office. At the same time, members of parliament and headmen were fighting for voting powers in lieu of their current non-voting ex-officio membership in the DA. Thus is the drama of Malawi's decentralisation; those in a position to implement local democratisation did not trust its results would serve them well.

This article draws on material from field research conducted by the author in Mangochi district, Malawi from 1997 to 2001 (Hara 2001). The author also participated in the Worldwide Fisheries Co-management Project from 1995 to 2003 (Hara & Raakjær Nielsen 2003; Viswanathan et al. 2003; Raakjær Nielsen et al. 2004), and conducted supplemental interviews with key informants in 2006 and 2007. The article also draws on the author's experience working as a Mangochi district fisheries officer from 1990 to 1996. The Participatory Fisheries Management Programme (PFMP), the basis of this article, was launched in 1993 during the author's tenure as district

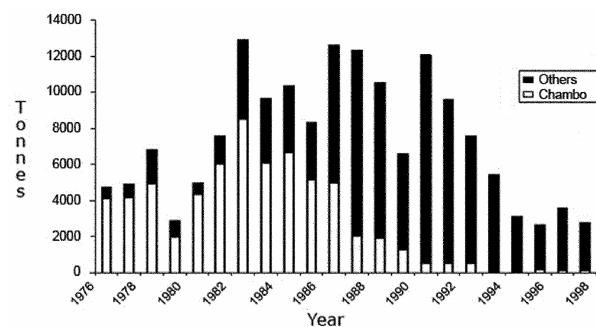
fisheries officer. In this capacity, the author was also a member of the District Development Committee (DDC), the precursor to the DA. The remainder of this article outlines the PFMP legislation and the organisation of participatory fisheries management, describes organisational structures and proposed institutional arrangements of decentralisation for environmental management, discusses the effects of devolution of authority in Mangochi district on recognition, belonging and accountability for participatory fisheries management, and the nesting of participatory fisheries management within decentralisation.

PARTICIPATORY FISHERIES MANAGEMENT PROGRAMME

Background and Context

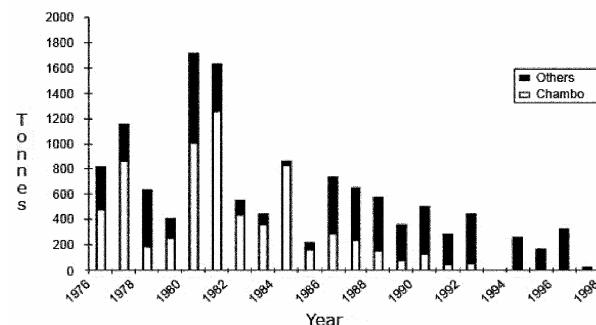
The Lake Malombe and Upper Shire river PFMP was a pilot programme for user participation in fisheries management in Malawi (DoF 1993; Hara 2001). The PFMP was motivated by evidence of the growing decline of fish stocks in Lake Malombe and the Upper Shire river in the 1990s (FAO 1993) due to rampant use of illegal fishing methods. The *chambo* (*Oreochromis* spp.) stocks had collapsed and by the end of the decade, stocks of other species had also been severely depleted (Figures 1 and 2).

Figure 1
Estimated total catch from Lake Malombe



Source: Fisheries Department, Lilongwe

Figure 2
Estimated catch from Upper Shire river



Source: Fisheries Department, Lilongwe⁸

The Fisheries Department believed that sharing management authority and responsibilities with the fishing communities would improve the legitimacy of the management regime among fishers thereby curbing illegal fishing, which would help in recovery of fisheries (Bell & Donda 1993; DoF 1993).

While the recommendations for the technical solutions to declining fish stocks in the two water bodies had sound biological bases, the Fisheries Department realised that, in the past, new regulations or more restrictive controls were not followed by users (DoF 1993). Experience worldwide was also that impositions of regulations that were not accepted by fishers hardly ever succeeded (Flewelling 1994). It was therefore imperative to look at alternative management approaches. The regimes that provided the best chance for success around the world were those that involved some amount of self-regulation by the fishing communities, (McCay & Acheson 1987; Jentoft 1989; Bromley 1992; McKean 1992). The Lake Malombe and Upper Shire river PFMP was therefore conceptualised and launched in 1993 as a pilot programme for participatory fisheries management for capture fisheries in Malawi. While the immediate objective of the programme was to redress the collapse of the fisheries in the two water bodies, the long term objective was institutionalisation of the participatory management approach that could ensure sustainable biological and socio-economic viability of fisheries in Malawi (DoF 1993; Hara 2001). A key objective of donors was the introduction of the subsidiarity principle,⁹ which privileged more local organisations in the management of fisheries, with the view that this would also help meet long term conservation and socio-economic objectives (Hara et al. 2002).

Legislation for Participatory Fisheries Management

Participatory management was legalised by the revised Fisheries Act (GoM 1998c). One of the objectives of the act was stated as ‘the establishment of participatory fisheries management and empowerment of communities for the conservation and management of fisheries resources’ (GoM 1998c: 4). The act also mandated the director of fisheries (the director) to aid the formation of the BVCs for this purpose and to facilitate the role of the BVCs in making by-laws for fisheries management in their areas. It gave the director powers to appoint ‘honorary fisheries officers’ for local areas, and the latter powers to enforce fisheries regulations in their areas of jurisdiction. The act did not categorically require that the BVCs had to be elected by universal suffrage, nor did it specify how and who could vote when constituting the BVCs. The act ‘recognised’ as legal bodies the institutions representing fishers.

Four aspects of the reform promoted the participatory approach: regular policy review, transfer of property rights, sustainable funding and transfer of management

responsibilities. The act provided for *regular review of policy and legislation* in order to allow for incorporation of changes as lessons were drawn from the pilot programme. It established a Policy and Legislation Review Committee comprising members from the Fisheries Department, the mother ministry and the Department of Justice that could sit whenever necessary to review policy and make recommendations to parliament for amendments. The act gave the director powers to grant communities special *fishing rights* in specified areas so as to enable a ‘communal access’ fishery as opposed to an ‘open access’ fishery. Such rights would enable the BVCs to restrict access for outsiders, control fishing activities within their areas and act against offenders. The act permitted revenue from gear licensing to be used to *finance* the BVCs, to ensure sustainability of the programme and the BVCs beyond donor funding. It also provided for the *transfer of management responsibilities* to the BVCs ‘when appropriate.’ The act anticipated that, with time, the fishing communities could progressively assume greater responsibility for management. It did not explicitly allude to a legal transfer of discretionary powers to the BVCs for management of fisheries in their areas; rather it gave the director ‘authority to delegate powers to appointed ‘honorary fisheries officers’ for enforcement of regulations’ (GoM 1998c: 6).

Organisation for Participatory Fisheries Management

As the national agency for management and administration, the Department of Fisheries established District Fisheries Offices in all districts with natural fish resources. The Mangochi District Fisheries Office represented the government in the participatory management arrangement and was also directly responsible for field implementation of the programme. The District Fisheries Office had a network of extension officers (called ‘community liaison officers’) living within the fishing communities. The Fisheries Department, the Ministry of Natural Resources, Energy and Environmental Affairs (in which the DoF is located), and the Ministry of Justice were the three entities responsible for ensuring the proper review of policy and legislation (DoF 1993).

While the Fisheries Department made use of its existing organisational and administrative set-up for Mangochi district, fisher communities did not have an established organisational structure for partnering with the government for participatory management when the programme was launched in 1993. To this end, the Mangochi District Fisheries Office facilitated the election of the BVCs, and training of the committees in various skills (such as committee procedures for participatory management). The BVCs were supposed to be democratically elected committees for representing beach villages in the participatory management regime. The Fisheries Department recommended to the fishing communities that

headmen of the villages where the BVC were situated should be included as ex-officio committee members. The communities accepted and implemented this recommendation.

The BVC elections were organised around fish-landing beaches and the villages using them (Hara 2001). In some instances, a village had more than one beach while in other cases a single beach was being used by more than one village. In the former case, the village headman sat on more than one BVC while in the latter, a BVC had more than one village headman. Since the launch of the programme, twenty-nine BVCs representing sixty-nine villages had been elected on Lake Malombe and the Upper Shire river. The BVCs elected an umbrella organisation regrouping all of the committees, the Lake Malombe/Upper Shire river Fishermen's Association. Launched using donor funding,¹⁰ part of the gear license fees collected by the government were to be transferred to the BVCs for sustained financing of the BVCs beyond project funding (GoM 1998c).

DECENTRALISATION

Soon after the BVC system was set up, it was overlaid by a broader national decentralisation reform. The institutional arrangements for the decentralisation reform are outlined below.

Historical Administrative and Political Organisation

Malawi, a country with a population of approximately eleven million, is divided into thirty-nine administrative districts. Historically, the district administration, headed by a centrally appointed District Commissioner (DC),¹¹ had been the main channel through which the central government's authority reached rural communities. To this end, the DC chaired the DDC, which was the decision and coordination forum for development activities at the district level.

Each district was further divided into TA areas (headed by a TA or paramount chief), village groups (headed by a group village headman) and at the base of the hierarchy, villages (headed by a village headman). The village was (and continues to be) recognised as the lowest administrative level (GoM/UNDP 1993). Under the TA administrative system, ascendancy to positions of authority is normally hereditary, though under Malawi's colonial 'indirect rule' system, ascendancy to positions of power was subject to government approval (McCracken 1987; Mamdani 1996). After independence, under the 30 year (1964–1994) one-party rule of the Malawi Congress Party (MCP), this system continued. Ascension to power was subject to confirmation and approval by the government (McCracken 1987; Forster 1994; Chirwa 1995).

The MCP was (and is still) organised through national, regional and district committees. At the district level, the

party was further structured into 'area' committees and at the lowest level into 'branch' committees. Parallel to the main party committees were the Youth League and Women's League Committees that also run from the national level right to the grassroots branch level. This formed a complex network of the party tentacles from the national level right into the rural communities. Dr. Hastings Kamuzu Banda, 'president for life', ruled the country with an iron hand until he was forced out of office in 1994 under Malawi's first post-independence multi-party democratic elections.¹² His aura of absolute power was transmitted through the lower party ranks as the MCP officials exercised vast powers on behalf of the head of government and the ruling party. The MCP machinery and structures were routinely used by government departments and ministries to implement their policies and programmes in rural areas (Hara 2006). The new political parties established with the advent of multi-party democracy, such as the United Democratic Front that was in power for the first 10 years of democracy (1994–2004), modelled their organisation on similar lines as that of the MCP.

Mangochi district is at the southern end of Lake Malawi, covering an area of 6273 sq km. The estimated population of the district in 1998 was 599,932 and was projected to increase to 825,728 by 2001 (NSO 2002). In 2001, the district was divided into nine TA areas, seventy-nine village groups and 735 villages (NSO 2002).

Democratic Decentralisation

The 1998 Local Government Act (GoM 1998b) proposed decentralisation of political and administrative authority to elected DAs, integration of ministries and departmental agencies at the district level into one administrative unit,¹³ and the creation of sub-district committees at area and village levels. Decentralisation was intended to create a democratic environment and institutions for governance and development at district, area and village levels and to make public service provision more efficient and cost effective, as well as to promote accountability and good governance that would enhance poverty reduction (EAD 2001, also see Crook & Manor 1998).

The DA was to comprise one councillor elected from each ward in the district and would be presided over by a chairman elected by the DA. Members of parliament (MPs) and TAs were to be non-voting ex-officio members. Heads of ministries and departments, the clerk of Council, religious leaders and heads of non-governmental organisations (NGOs) at district level were to form a District Executive Committee that would provide advice, monitoring and evaluation for development projects for the DA (EAD 2001; Mkandawire 2003). The DA, as a whole, would have the authority to commission the formation of development committees at area (Area Development Committee, or 'ADC') and village levels

(VDCs); they would also appoint the committee members at both levels.¹⁴ While VDCs would represent a village, ADCs would represent all village groups under group village headmen within a TA.

Although Mangochi was one of the six Local Implementing Areas where decentralisation was supposed to be piloted under the UNDP District Focus for Development Programme (GoM/UNDP 1998), the process had not resulted in a functional DA or the proposed sub-district structures, the ADCs and VDCs, as of 2007. The 2001 local government elections intended to elect councillors for the DAs failed nation-wide since only 14 per cent of the population voted (Ellis et al. 2003). Fresh elections planned for before the end of the 2006 parliamentary session in order to resuscitate decentralisation had been postponed indefinitely (A. Chibwana, *pers. comm.* Zomba 2006, B. Mlaviwa, *pers. comm.* Machinga 2006).

Decentralisation of Environmental Management

The Environmental Management Act of 1996 (GoM 1996)¹⁵ legalised the devolution of authority and responsibilities for the protection, conservation and sustainable use of the environment to DAs (Mkandawire 2003).¹⁶ Under this act, VDCs were mandated to identify service and development priorities and also to participate in the compilation of a village level ‘State of the Environment Report’ to be passed on to the ADC. The ADC would then filter, prioritise and consolidate all reports from a given area into one report for the TA area. The compiled and prioritised proposals from all ADCs would then be submitted to the DA. The DA would assess all proposals emanating from all ADCs in the district, and prioritise and approve them for funding. In addition, the DA would compile the district ‘State of the Environment Report’ which would be used for formulating the ‘District Environmental Action Plan’. The ‘District Environmental Action Plans’ from all the districts would be used to compile the ‘National Environmental Action Plan’, and inputs from this would contribute to the Malawi Growth and Development Strategy (formerly called the Poverty Reduction Strategy Papers) (EAD 2001). The long term plan was that the district ‘State of the Environment Reports’ and district ‘Environmental Action Plans’ would become the main tools for district and national level environmental planning and reporting.

The Environmental Management Act (GoM 1996: art.22) required the DA to take charge of fisheries management and development in the district. The DA would have the authority to manage fisheries in the district, pass fisheries by-laws (provided these are in line with the mother Fisheries Act) and would have responsibility for fisheries development. The key to bringing the fisheries and other environmental sectors under the DA would be an environmental district officer appointed by the director of the Department of Environmental Affairs in the Minis-

try of Natural Resources, Energy and Environmental Affairs, who would be tasked with ‘liaising’ with the environmental sector ministries and departments, bringing all district environmental management and planning activities under one directorate¹⁷ and integrating them under the DA. Assuming the BVCs were integrated into this new system, the organisational structure would look like that shown in Figure 3.

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

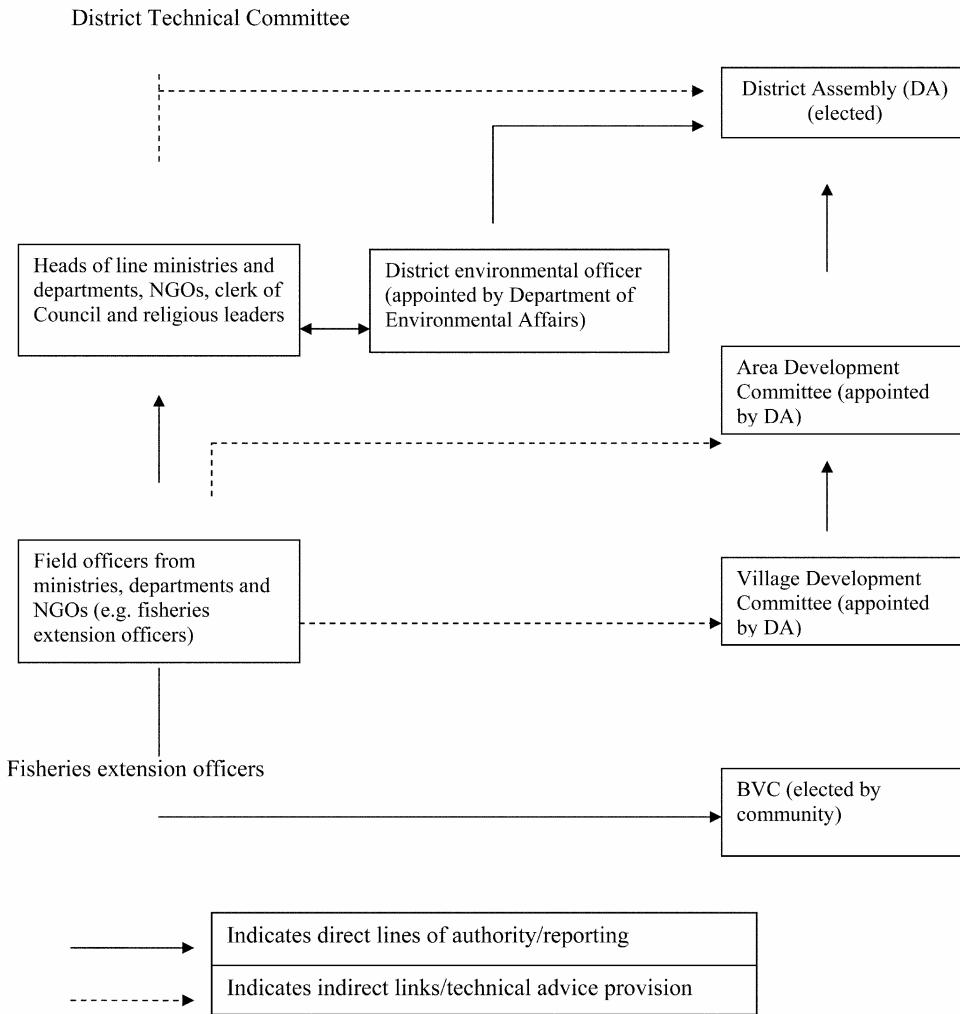
CHOICE AND RECOGNITION FOR DEVOLUTION OF AUTHORITY IN MANGOCHI

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

Recognition, Belonging and Accountability for Participatory Fisheries Management

The Fisheries Department chose to formally create and recognise the BVCs as its conduit for fisheries management. Fishers allege that the fisheries extension officers who facilitated the formation of the BVCs manipulated elections so as to ensure that people they favoured were elected onto the BVCs rather than those who would have been favoured by the majority within fishing communities. The fisheries extension officers placed individuals they felt possessed a strong fisheries conservation ethos (the department’s primary objective for the partnership) on the committees. They excluded those whose views they felt might be contrary to that of the department. The extension officers did this by outlining the type and characteristics of people who would be desirable to be on the committees. They also hinted to community members the names of people to put forward for the vote (Hara 1997). As a result, most BVC members felt allegiance to and believed that they derived their authority from the Fisheries Department, having been elected due to the department’s

Figure 3
Organisational structure for participatory fisheries management within district administration under decentralisation



influence. As bodies supposedly elected by the fisher community to represent their interests, the BVCs are supposed to derive their authority from and be accountable to the fishing communities. This should include the possibility of standing and fighting for views contrary to those of the department.

The committee's behaviour reflected its accountabilities. When the department suggested a shift of the closed season from the period November through December to January through March, the BVCs agreed. The fishers, however, complained that they had not been consulted. The decision had been taken between the Fisheries Department and the BVCs, without consulting their constituency. Among the fishing communities, therefore, most BVCs are viewed as an extension of the department's authority into communities, resulting in the alienation of the BVCs from their constituency (Hara 2001).

Despite their public discourse, as far as the Fisheries Department officers were concerned, the BVCs were created in order to assist the Fisheries Department in the battle against illegal fishing that had caused collapse of the fishery and not for the autonomous representation of fishing communities in democratic decision-making within the 'participatory' management arrangement.

Under Malawi's 'customary law,' traditional chiefs (village headmen, group village headmen and TAs) are empowered to handle civil cases in their areas of jurisdiction. It was envisaged by the Fisheries Department and the Ministry of Justice that under participatory management, the residual powers of village headmen to handle civil cases would be used to sanction offenders for fisheries offences that come under civil law (Bell & Donda 1993; DoF 1993). One of the main justifications for including village headmen on the BVCs was therefore to

give the committees authority to sanction offenders locally. The reform never took place to consider offences under fisheries regulations as civil offences. To date, fisheries regulations remain under the criminal penal code and offenders can only be prosecuted in Magistrates Courts. This was largely due to judicial reforms that abolished the traditional courts (Hara 2001).

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

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

There is confusion over the source of authority of the BVCs, and therefore to whom they are accountable. Do they derive their authority from the Fisheries Department, which facilitated their creation, training and funding of their activities? Is it from the community that supposedly

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

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

Even then, only 30 per cent of the BVC members were fishers (gear owners and crewmembers) following the 1993 elections, and 70 per cent were other community members (Hara et al. 2002). Here, the influence of fisheries extension officers in the composition of the BVCs was discernible. The logic followed by these officers was that electing a larger portion of gear owners and crew-members onto the BVCs would be counterproductive for improved adherence to regulations since gear owners and

crewmembers were the main culprits in illegal fishing. Therefore, the BVCs would be more effective if the majority of members had no direct link to the actual fishing activities. Even within the 30 per cent of the fishers who were on the BVCs, there were few, if any, crewmembers among them. The 30 per cent were mostly gear owners because the Fisheries Department viewed the extreme mobility of the crewmembers negatively. Indeed, the Fisheries Department defined a 'fisherman' as someone who owns fishing gear. Thus officially, crewmembers were not regarded as fishermen.

Despite such thinking, the role that crewmembers play in fishing operations makes them crucial for the functioning and success of the BVCs in fisheries management; they are the ones who make operational decisions on the fishing grounds (Hara & Jul-Larsen 2003; Hara 2006). Lack of, or low, fisher (gear owners and crewmembers) involvement in the BVCs continued until fresh elections were conducted in 1999. In the first 6 years of the participatory management regime, therefore, fishers were aggrieved about the composition of the BVCs and largely ignored the resolutions being passed by the BVCs. They argued that the BVCs were making decisions over issues they had little knowledge about and that most of the decisions they were taking were either merely to punish fishers or were out of petty jealousies (Hara 2001). Thus, the composition of the BVCs is critical for its acceptability as well as for the respect that it needs to be accorded by the fishers. It is important that the 'vested interests' are adequately represented by the BVCs. If they are ignored, they have the ability to stymie the process and frustrate the decisions taken by the participatory regime. In the first 6 years, due to feelings of alienation, they boycotted meetings called by the BVCs for all fishers, continued fishing during the closed season and used banned under-meshed nets to undermine BVC authority and decisions. As a result, during the 1999 elections, particular attention was given by the Fisheries Department in ensuring that a greater number of gear owners and crewmembers had been included on the BVCs.

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

Nesting Participatory Fisheries Management Within Decentralisation

The BVCs and other sectoral management committees¹⁹ are not part of the institutional set-up for decentralisation. Therefore, the relationship between the VDCs and the BVCs is unclear with respect to fisheries management. Under decentralisation, sectoral committees such as the BVCs are supposed to be disbanded and absorbed into the VDCs (B. Mlaviwa, *pers. comm.* Machinga 2006). Ministry and department officials are, however, determined to maintain the sectoral committees as they are vital for mobilising communities for sectoral user-based development and management activities (F. Njaya, *pers. comm.* Mangochi 2006). This view was substantiated by the environmental officer and the DC interviewed, who felt that sectoral committees should be seen as sub-committees of the VDCs. Disbanding such committees would result in paralysis of activities on the ground level, as the VDCs are unlikely to have the drive, resources and ability to ensure that sectoral issues are given the attention they deserve (F. Njaya, *pers. comm.* Mangochi 2006, A. Chibwana, *pers. comm.* Zomba 2006, B. Mlaviwa, *pers. comm.* Machinga 2006). This raises the question of the role of the VDCs if most decisions will continue to be taken in these sectoral committees.

Under sectoral devolutions of authority and responsibility, village headmen have been required to act as chairmen or to be ex-officio members on all committees in their villages, both strengthening them and spreading them thin. Decentralisation will also require village headmen to chair the VDCs. Equally, people with special skills or of influential disposition (for example those who are literate, retired civil servants etc.) also end up sitting on most committees within their villages. One danger is that the proliferation of committees at local level can overwhelm village headmen and special-skills individuals with responsibilities, in effect diminishing their ability to perform. With so many committees trying to draw participation from people for their activities, communities can become fatigued with participation and become apathetic about attending meetings that remove them from daily survival and livelihood activities.²⁰

One of the major conundrums regarding vesting authority for resource management within decentralisation is the clash between the current sectoral-based approach and the integrated development approach being advocated by the Office of the President and Cabinet (OPC) and the Ministry of Local Government under decentralisation. While the integrated system sounds logical and is a positive departure from the narrowly focused sectoral planning approaches, the main players (the OPC, the Ministry of Local Government, ministries and departments, parliament and TAs) have not yet come to terms with its practical implementation (Mkandawire 2003). As Ellis et al. (2003: 1496) indicate:

...central government (including line ministries and departments) has displayed some reluctance about distributing central functions to the district level and granting local government (DAs) new powers, including tax-raising powers.

The Ministry of Agriculture, the biggest and most powerful ministry given that agriculture is the mainstay of Malawi's economy, produced a report in 2001 that was implicitly against ceding its powers and authority to DAs. The ministry argued that DAs would not have the capacity to handle such big and important ministry functions (Ellis et al. 2003).

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

Apart from government foot-dragging, political battles are being fought over decentralisation. MPs and TAs are not happy with their envisaged role as non-voting members in the DA. They feel that this will put them at a great disadvantage compared to councillors in terms of decision-making for prioritisation and funding for development projects. The real fear among MPs and TAs is that this is likely to result in loss of status and political power for them while the political standing of councillors will rise. Therefore, MPs and TAs are not taking the proposed lack of voting powers in the DA lightly. According to one key informant who requested anonymity, MPs have used their parliamentary powers to postpone elections for councillors several times already and have refused to vote for increased allowances for councillors.²¹ In effect, MPs are using their parliamentary powers to frustrate decentralisation reform in order to force change of legislation that would assign them voting powers through changing their status from ex-officio to full voting members.²² On the other hand, TAs also want their hereditary authority to be translated into voting powers rather than getting adversely incorporated²³ into DAs.

In addition, political parties want to get majorities in as many DAs as possible, given the powers of DAs in making decisions over service delivery and development projects within districts. Such majorities would be crucial and decisive for retaining power at the next elections. For the sitting government, it would only be in their interest to hold local government elections if they are absolutely sure of getting control of most DAs, which would enable

them hold on to power in rural areas and give them the best chance of retaining power at the next elections. Therefore, one of the reasons for the numerous postponements of local government elections since the abortive 2001 elections is that the sitting government is not sure of winning local elections in most districts (UNCDF 2006).

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

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

CONCLUSION

Devolution of authority is predicated on the assumption that enriching grassroots democracy and participatory decision-making, involving those concerned in processes and decisions that concern them will result in more efficient and equitable service delivery and improved resource management. Devolving authority to poor rural populations is supposed to improve delivery of development to the most vulnerable in rural areas, thereby contributing to poverty reduction. Despite these good intentions, devolution of authority for fisheries management in Lake Malombe and the Upper Shire river in

Mangochi, Malawi has not so far resulted in recovery of the fishery that could have resulted in greater benefits from fishing for the growing population of fishing communities.

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

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

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Notes

1. The strategy rests on four pillars: pro-poor growth, human capital development, improving the quality of life for the most vulnerable

- and good governance (GoM 2002). It guides the allocation of the national development budget and donor funding (Ellis et al. 2003).
2. Feeny et al. (1990) suggest that interest in devolution of authority and responsibility stems from interests in grassroots democracy, public participation and local level planning. As such, management regimes in which government officials exercise exclusive decision-making powers have fallen into disfavour.
 3. Beetham (1991: 11) argues that 'legitimacy has to do with compliance with decisions that conform to, or approximate, the values, standards and expectations of those affected'.
 4. This usually takes the form of co-management, which refers to sharing of power, authority and responsibility between government and user groups.
 5. See Ribot (2004, 2007) who defines democracy substantively as the accountability of leaders to the people and who views democratic representation as being composed of accountability with responsiveness.
 6. Fishers can resist arrest and confiscation of their fishing gears and even beat up enforcement officers. The BVC members expressed fears that they did not want to take responsibility for enforcement activities due to fear of reprisals against them or their family members by gear owners or/and crewmembers. In contrast, village headmen usually have enough authority to sanction offenders within their villages.
 7. The act does not specify the transfer powers to the BVCs. Rather, the fisheries director can appoint honorary fisheries officers to hold powers.
 8. Data for 1994 is not available.
 9. Subsidiarity is a normative principle for institutional design proclaiming that 'decisions affecting peoples lives should be taken by the lowest capable social organisation' (Pinkerton 1994, also see Ribot 2004). Higher authority has the burden of proof for the need for centralisation and has the obligation to exhaust all possibilities of realising the principle by strengthening the capacity of the lower level institutions to retain or acquire management responsibilities.
 10. German Technical Foundation, UNDP, British Overseas Development Administration and the World Bank.
 11. DCs are civil servants. They fall under the OPC.
 12. The multi-party democratic elections were forced on Malawi by donor pressure though suspension of both bilateral and multilateral aid.
 13. To this effect, all ministries and departments that intended to decentralise wrote letters to the Ministry of Local Government and DAs in 2005 outlining the functions that would be decentralised (B. Mlaviwa, *pers. comm.* Machinga 2006).
 14. The process by which DAs will appoint ADCs and VDCs is not spelt out in the act. Presumably, the DA will form sub-committees that can go to each area and form these committees through consultation with village headmen and communities.
 15. Sections 19 and 20 of the act lay down the obligations of the DDC (the unelected forerunner of the DA) in terms of environmental management.
 16. According to section 11.2 of GoM National Decentralization Policy (n.d.), functions that will not to be decentralised are: policy formulation, policy enforcement, inspectorate, establishment of standards, training, curriculum development and international representation.
 17. The proposed directorate is the Directorate of Agriculture, Environment and Natural Resources (A. Chibwana, *pers. comm.* Zomba 2006).
 18. Women gear owners find it difficult to exercise control over their gears. Usually, they have to act through a man. In most cases, the head of the crew will act on their behalf and bring the money to them at home after the catch is sold (Hara & Jul Larsen 2003).
 19. In the last decade, most sectors (e.g. fisheries, health, forestry, wildlife, agriculture etc.) have been implementing user-based

- management initiatives resulting in the proliferation of user committees similar to the BVCs at the village level.
20. On committee proliferation and the professionalisation of committee membership, see Manor (2004) and Namara and Nsabagasani. (2002).
 21. Currently, councillors receive 1000 MK (Malawi Kacha) (\$US 6.80) per month whereas MPs receive about 500,000 MK (\$US 3424) per month in salaries, allowances and benefits. This is based on the January 2007 rate of exchange of US \$1 equivalent to MK 146.
 22. According to the Malawi constitution, local government elections are supposed to be held 2 weeks after parliamentary and presidential elections (A. Chibwana, *pers. comm.* Zomba 2006). The last parliamentary and presidential elections were held in June 2004 and still local government elections have not been held till date.
 23. The term 'adversely incorporated' refers to inclusion on unequal or unfavourable terms.

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