

activity. Other small-scale programmes such as replacement of small livestock like goats, and the Food for Work (FFW) programmes will target poor communities to ensure food security.

Except for disaster preparedness, the strategies under disaster management are in concert with the four main strategies in Pillar 3. Therefore an assessment of the impact of disaster on the livelihoods of the affected individuals, households and areas will be done in terms of the best response. Depending on the assessment, any or a combination of the four safety nets types will be implemented. For example, food distribution will be implemented if food production is affected. Likewise if the disaster requires some rehabilitation of the affected area or if income-generating capacities are reduced, public works programmes will be implemented.

#### **4.4 Good Governance**

Even with the best strategies for pro-poor growth, human capital and safety nets, poverty will not be reduced unless there is development-oriented governance. Good governance in this sense consists of three elements: political will and mindset, security and justice, and responsive and effective public institutions. For example, the technical design of the MPRS will be irrelevant unless there is the political, bureaucratic and popular will to implement it. The poor must also be protected from crime, violence, arbitrary state power and injustice. Finally, public institutions must be transparent and held accountable (including through checks and balances) so that they are responsive to the needs of the poor and effective in the implementation of the strategies outlined in this paper. The overall objective of Pillar 4 is therefore to ensure that public institutions and systems protect and benefit the poor.

##### ***4.4.1 Political Will and Mindset***

A recurring theme of the MPRS process and other recent consultations has been the problems caused by a lack of political will and wrong mindset. In particular, a consensus is emerging that poverty reduction cannot be achieved without a change in mindset and strong political will. This recognition is in itself a major step forward, since there has in the past been a culture of denial of such problems.

However, the issues of political will and mindset cannot be addressed by bemoaning the decline of work ethics or the dominance of short-term individualism over medium to long-

term local and national prosperity. Nor can they be addressed by blaming others for their mindset – all stakeholders must accept their own responsibilities first. Similarly, the issues cannot be solved by civic education – there are underlying reasons for peoples’ behaviour that cannot be addressed by persuasion alone. Instead, the solutions lie in the identification of the root causes of this behaviour, and a concerted effort by all Malawians.

#### *4.4.1.1 Political Will*

In order for development and poverty reduction to become reality, political leaders from all political parties must depoliticise development, make and accept constructive criticism and be prepared to make hard decisions. A strong message emerging from the MPRS District Consultations was the need to depoliticise development. In particular, all stakeholders should be involved in planning, implementation, monitoring and evaluation of all poverty reducing activities regardless of political affiliation, and political leaders must recognise the need to foster development in all districts and constituencies, regardless of political representation. A recurring theme from the stakeholder consultations was the need to reduce political interference in their sector – for example in public expenditure management, security and justice, credit, taxation and infrastructure.

Malawian politics is characterised by patronage and regional relations rather than ideological or policy commitment. There has been an apparent lack of political will on all sides to make and implement the hard prioritisation decisions required to improve the effectiveness of Government activities. In particular, prioritisation requires that certain low priority activities must either be scaled down or stopped altogether.

Again, it is not enough to bemoan the lack of commitment of politicians and their short-term populist focus. There are several reasons for the observed behaviour. Firstly, the dominance of patronage politics is a result of historical experience, and the lack of education and short-term focus of the poor. Similarly, the very nature of politics, particularly in democracies, dictates that politicians favour short-term gains and populist acts over medium to long-term reforms, which often have short-term costs, such as unemployment.

It must also be accepted that politicians are elected to make decisions – many reform proposals involve reducing substantially the scope for altering policy and therefore undermine their democratically justified powers. However, the political leadership is often

not fully briefed on the negative consequences of its actions and the benefits of alternative actions, since those advising the political leadership depend on those leaders for their careers. Finally, donor driven reform programmes are frequently introduced and reformed. Government, therefore, has an incentive to commit to the programme long enough to receive the associated aid, then to abandon it.

These reasons must be recognised and addressed. They suggest a two-tier strategy. In the short to medium term, leaders and technicians should ensure that the design of reform programmes includes short-term benefits, so that the reforms have broad-based support. In addition, the timing of reforms should be linked to the electoral cycle, so that unavoidable short-term costs of reform do not have a disproportionate political impact. Reforms should also be flexible and country-owned so that there is broad commitment to their full implementation. The short to medium strategy should also include efforts to change the terms of political discourse away from undeliverable promises and creating expectations of material gain in return for electoral support. Finally, efforts must be made to restore the neutrality and professionalism of the public service. This, in part, will involve change management training for political leaders, focussing on how to interact with their team of civil servants. In addition, it will involve clearly defining the dividing line between Government and party political roles, functions and resources.

In the long term, the strategy consists of strengthening parliament and civil society so that they are able to play their role of providing checks and balances on the executive. In addition, it is important that the people participate in decision-making processes through decentralisation. Education, both basic and political, is also part of the long-term strategy – only an educated population will be able to hold its leaders to account. Finally, the reduction of donor dependence is crucial if Malawi is to avoid policy reversals.

#### *4.4.1.2 Mindset*

The issue of mindset arises in the public service, the general population, the private sector and in the donor community. In the public service, the mindset is perceived as one of “business as usual”, laziness and personal greed. This is in large part caused by the existing incentive structure in the public service, which is characterised by low basic salaries, lack of performance monitoring, lack of sanctions against poor performance and rewards for good performance, and promotion systems based on regionalism, tribalism, seniority and political

affiliation rather than merit. In this context, an elaborate structure of allowances has emerged as effective salary support that is ripe for abuse and distorts management priorities.

The solutions to this problem of public service mindset lie partially in the public sector reforms described below. In particular, Government should introduce stronger accountability mechanisms and increase salaries whilst simultaneously removing all but essential allowances from the system.

The mindset of the general population is often regarded as one of laziness and dependency on Government. Again, it is important to look at the root causes of this perceived mindset. Firstly, it is due to the lack of economic empowerment of the poor who in many cases lack the knowledge or capacity to seize productive opportunities. This can be addressed through appropriate education and improving access to credit and markets. Secondly, the perceived dependency on Government handouts is based on historical experience that Government and donors will provide for the poor, especially in times of severe hardship. This is further encouraged by the terms of political discourse, which create expectations of material gain in return for political allegiance. The dependency culture can be addressed by ensuring that where possible, safety net activities focus on empowerment, by concerted efforts to change the terms of political discourse, and by disseminating the message that Government has limited resources and cannot do everything.

In the private sector, there is a culture of blaming Government for all its troubles – although this may be partially true, it enables the private sector to deny its own problems, such as poor management skills, lack of entrepreneurial spirit and lack of meritocratic recruitment and promotion. In addition, the private sector simultaneously demands tax cuts and exemptions, higher public infrastructural expenditure, lower utility prices and protection from international competition. These demands are not consistent. The private sector should, therefore, focus on building its own capacities and professionalism whilst working with Government and appreciating its constraints.

There is often an underlying assumption on the part of development partners that because they are benevolent donors, everything they do is in the best interests of Malawians and they are above criticism. However, the reality is that at best, donors do not effectively use their resources for poverty reduction, and at worst, help to exacerbate poverty by undermining

Government's planning and priority setting and adding to Malawi's debt burden. Efforts to build Malawian ownership of programmes, employ more local staff, move from loans to grants, and shift from project to programme funding have begun to improve the situation. However, to a large extent, these shifts are limited to rhetoric – ultimately, donor Governments still make the crucial decisions on funding, and pressure is still put on Government to conform. The MPRS offers an opportunity to move beyond the rhetoric – donors should buy in to the MPRS and genuinely only fund programmes and projects within it. Ultimately, however, Malawi must learn to live on its own resources and not rely on donors.

Another theme related to mindset that has been emphasised throughout the process is that of patriotism. There is consensus that the problems of mindset and political will arise partly because of a lack of patriotism across Malawian society. In particular, it appears that regionalism, tribalism and individualism outweigh considerations of patriotism. In order to reverse this trend, efforts should be made to inculcate positive values and attitudes (including the Malawi First concept) through sports, youth development, community development, information and broadcasting, and cultural events. This will not generally involve additional expenditure or events, but rather involve a shift in the emphasis of existing programmes, events and broadcasts. Secondly, the “Malawi Incorporated” concept should be promoted so as to increase the complementarity between the public and private sectors.

#### ***4.4.2 Security and Access to Justice***

Issues of security<sup>34</sup> and justice are closely linked to issues of poverty. Protection from crime, violence, arbitrary state power and injustice is a fundamental part of welfare. Equally importantly, insecurity makes it too risky for the poor to accumulate assets and wealth, particularly in a rural setting, as any assets or wealth are likely to be stolen. This undermines the ability of the poor to generate their own incomes and reduce their own poverty. Crime has a disproportionate impact on the poor since they are the most vulnerable and least able to cope. An accessible and efficient justice system can help to reduce crime by punishing offenders, and creates a level playing field for the poor so that they can protect themselves from those with more economic and political power.

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<sup>34</sup> Security is defined narrowly as physical security of individuals and assets.

Poverty and crime can also be part of a vicious cycle – crime reinforces and increases poverty, and poverty causes crime. For the ultra-poor, the only means for survival may be stealing food or assets from other poor people. It is therefore important that this cycle is broken – by poverty reduction efforts, by exploring non-custodial sentences for minor offences, and by ensuring that prisoners are well treated and taught skills they can use to sustain themselves once released.

However, it is not only through the theft of the poor's assets that crime impacts on poverty reduction. Crime and insecurity also have significant indirect impacts on the poor. For example, fraud, corruption and tax evasion reduce the resources available for Government to spend on poverty reducing activities. Insecurity also negatively impacts the growth of foreign investment and tourism, which in turn affects economic growth potential.

Security and access to justice in Malawi has a sad history. Between independence in 1964 and 1994, the police was used as a tool of the one party state and was implicated in many human rights abuses. Similarly, the state exercised power arbitrarily, imprisoning opponents and those accused of crimes with little or no recourse to the justice system. Prisons were overcrowded and inhumane.

Since 1994, extensive efforts have been made to reverse this situation through police reform programmes, the closure of the most notorious prisons, and the creation of human rights bodies. However, these efforts have not been able to prevent a rising trend in crime, a continuation of political violence and a general decline in security. The police:population ratio stands at 1:1667 against a regional standard of 1:500. As a result, the rate of crime has risen by 6 percent over the past five years, whilst the crime detection rate has not moved above 20 percent. This has been in part blamed on increases in illegal immigration in the country, which has also contributed to a reduction in economic opportunities for Malawian citizens and has undermined the integrity of Malawian passports. Finally, prisons have remained overcrowded and inhumane. The prison population has risen from 4000 in 1995 to 8000 in 2001, and the warder:prisoner ratio has fallen to 1:14, against an international standard of 1:5.

This situation is partly a result of lack of financial and human resources. There is insufficient police presence, especially in rural areas, and the justice system does not have enough

lawyers, judges or courts to process cases effectively and timely. As a result, the number of prisoners has expanded with many individuals on remand, whilst little additional prison infrastructure has been built. Further, a breakdown of discipline and professionalism coupled with low salaries has contributed to an increase in police corruption and the HIV/AIDS epidemic has worsened the shortage of police officers and lawyers. Finally, some stakeholders have expressed concern that the police and the justice system are becoming politicised, both in terms of recruitment, deployment of the police and protection of certain individuals from justice.

Currently there is little appreciation amongst the general public of the role the law plays and the potential it offers for empowerment. The law is an essential tool for social and economic development since it seeks to establish order in a society. It does not just relate to crime and the Police, but affects virtually every aspect of life. However, the supremacy of the law is currently undermined by a general failure to respect the rule of law.

In response to these problems, an integrated approach to security and justice has been adopted, as reflected in the Malawi Safety, Security and Access to Justice programme (MASSAJ)<sup>35</sup>. This programme recognises that the various elements are interdependent. For example, although crime reduction has traditionally been seen as the sole responsibility of the police, this approach recognises that the police will have a minimal impact on crime reduction if there is an ineffective justice system. The resulting strategy has three interlinked objectives:

1. Reduce crime

In terms of crime reduction, the way forward is on five levels. Firstly, crime control capacity will be increased, particularly by deploying more officers in rural and urban areas and building associated police infrastructure. Secondly, a crime prevention strategy will be reviewed and implemented, to include enhanced community involvement in policing, development of counselling methods at all levels (for example, household, community, police, and prisons), reduction in abuse of firearms and the supporting role of the Malawi Defence Forces in crime prevention. Thirdly, co-ordination with and regulation of private sector security firms will be improved through the introduction of a new regulatory framework. The fourth strategy involves efforts to improve the quality of investigation, using

modern technology. Finally, there will be further organisational development of the Police, Prisons and Immigration services to ensure that they are transparent and accountable. This will also involve ensuring that mechanisms are in place to deal with emerging human resource issues, including putting in place strategies to prevent the spread of HIV/AIDS, mitigating against the impact of the pandemic, and ensuring that the recruitment system is not biased in terms of gender.

2. Improve access to and delivery of efficient and effective justice

The judicial system will work to ensure improved access to and delivery of effective and efficient justice, particularly to the poor and vulnerable. The highest priority will be on increasing the crime prosecution rate by recruiting more prosecutors, lawyers and judicial staff, and by constructing more court-rooms. The independence of the Judiciary must also be strengthened as one of the three branches of Government. The second priority will be to enhance the capacity to provide access by the poor to justice, by increasing the availability of lawyers through the Legal Aid programme, and civic education on their legal rights. The third area of focus will be on safeguarding the rights of victims, suspects and perpetrators of crime, by establishing victim support units, improving prison conditions and encouraging community service for petty offences to relieve pressure on prisons and act as a measure of compensation to the community. Finally, effective rehabilitation programmes for prisoners will be developed so that the cycle of crime and poverty is broken.

3. Ensuring respect for the rule of law

Respect for the rule of law depends to a large extent on strengthening of the capacity and independence of the Judiciary referred to above. For the rule of law to prevail across Malawian society, a clear example must be set by national leaders and institutions. This requires an independent Judiciary that has power to ensure that those leaders and institutions operate within the Constitution and Laws of the Republic of Malawi. It also requires strong political will to respect the independence of the Judiciary and abide by Laws and judicial decisions.

In addition, this objective will involve strengthening the oversight bodies of security organisations, depoliticising the police and justice systems and civic education on rights and

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<sup>35</sup> There are, however, strategies outside the MASSAJ strategy document that are proposed here.



responsibilities under the constitution. A summary of the objectives and associated targets is produced in Table 4.4.1:

*Table 4.4.1 – Security and Access to Justice Indicators and Targets*

<b>Indicators</b>	<b>Current</b>	<b>2004/5 target</b>
Police:Population ratio	1:1912	1:1200
Crime detection rate	20%	40%
Prosecution rate (cases per year, using homicide as proxy)	150	300
Community service cases	525	5000
Warder:prisoner ratio	1:14	1:9

#### **4.4.3 Ensuring responsive and effective public institutions**

The second main element of this pillar consists of strategies that enable Government as a whole to implement its planned strategy, and enable the populace to ensure that the Government keeps its promises and is responsive to the needs of the population.

##### *4.4.3.1 Public Expenditure Management*

Good public expenditure management (PEM) is increasingly being recognised as one of the prerequisites for economic growth and development and hence for poverty reduction. Good PEM guarantees that public resources are allocated to priority areas as identified by the MPRS, produces value for money in service delivery, and ensures adherence to aggregate fiscal policies and targets.

The central tool for public expenditure management is the budget process, which since 1995 has been based on the principles of the Medium Term Expenditure Framework (MTEF). The MTEF was introduced in order to ensure strategic medium term budgeting, bringing together policy-making, planning and budgeting roles of Government into a rolling three-year horizon. The chosen focus was on the reallocation of resources to priority activities. The role of the budget under the MTEF was to change from a centralised inventory of inputs adjusted on an incremental basis to an output focused approach based on costings of priority activities and projections of available resources.

However, there has been dissatisfaction with the implementation of the MTEF. Firstly, the strategic prioritisation process is not influenced by extensive costing of activities. By and large, sector policies remain unaffordable and resources end up being spread too thinly across many activities. Secondly, there have been persistent and significant divergences between approved and actual expenditures, undermining the set priorities. This reveals an apparent

lack of appreciation at both the political and technical level of the significance of resource constraints.

Finally, Budget execution has been undermined by pressures to finance new and unbudgeted activities at the expense of identified priorities. This extra-budgetary funding causes major damage through two channels. Firstly, the process of planning and budgeting stops working effectively. The way Government spends money is no longer decided through a process of careful analysis, discussion and selection of priorities, but through the success of each ministry in winning resources through extra-budgetary requests. Secondly, Government loses control of the macro-economy. Each year Government borrows more money than it can really afford, leading to high interest rates, which destroy the private credit market, and poor control of the money supply, and hence inflation. In such a situation, it is the poor who are hurt more than the rich.

Hence, the major challenge of the PEM in the context of the MPRS will be to ensure an effective, medium-term output focussed system by strengthening the MTEF. The MTEF Review of 2000 identified a number of essential characteristics of a successful MTEF<sup>36</sup>. Government will implement a number of activities aimed at achieving these characteristics, with the overall goal of ensuring effective use of resources for poverty reduction.

1. Improve Budget implementation by creating hard Budget constraints

The first strategy under this objective is to strengthen political leadership of the Budget process so that there is broad-based popular and political participation in the formulation and execution of the budget. This would ensure that political intentions are reflected in stated policies, which are translated into the Budget and reality. This will involve improving the structure and presentation of the Budget (ensuring a transparent activity focus), submitting activity-based expenditure reports to Parliament and the Cabinet and strengthening the capacity of political oversight bodies such as the Budget and Finance and Public Accounts Committees of Parliament. Finally, there will be basic public finance training for MPs, Cabinet Ministers and Controlling Officers, emphasising the impact of expenditure decisions on the economy and on poverty.

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<sup>36</sup> The characteristics are: political involvement and commitment; effective management and coordination of reforms; predictability in the funding of services; clear, consistent and affordable policies; transparent preparation and presentation of the Budget; comprehensiveness of Budget coverage; and accountability

The second strategy is to ensure accountability by improving financial management and expenditure control mechanisms so that fiscal targets are met and unauthorised expenditures are eliminated. In order to achieve this, Government will implement the Integrated Financial Management Information System (IFMIS) and will further strengthen the Credit Ceiling Authority (CCA) system and the Commitment Control System (CCS). To reinforce these measures, the current Finance and Audit Act will be split into a new Finance and Management Control Act with clear and strong public financial management regulations including sanctions against those who break the regulations, and a new Public Audit Act ensuring the independence of the National Audit Office. Finally, Government will strengthen monitoring of expenditure inputs and outputs, and introduce expenditure tracking systems as outlined in Chapter 6.

The third strategy will be to strengthen resource forecasting in order to improve the predictability of resource flows to service providers. This will involve a quarterly review of revenue collections and the according re-alignment of expenditures. Also, there will be regular reviews of donor inflows to ensure that they are less erratic.

## 2. Improve public expenditure planning and Budget preparation

The first strategy under this objective will be to increase the comprehensiveness of the Budget, so that all public expenditures are subject to the same decision-making criteria based on MPRS priorities. In the past, planning has been made difficult by donor-funded projects that have been outside the budget and whose recurrent cost implications have not been planned for. Expenditures by state-owned enterprises and NGOs need also be included to ensure comprehensive planning. Of particular concern is the MASAF project, which needs to be aligned to the MPRS.

Secondly, Government will formalise and strengthen Budget scrutiny, in order to ensure that budgets are clearly focussed on affordable outcomes and policies. Under this strategy, the process of Budget formulation will be revised to ensure that Budget submissions are in line with MPRS priorities, and Ministers will report to parliament annually on achievement of outputs of their respective ministries. In addition, there will be a capacity building programme for the Ministry of Finance and Economic Planning to improve budget scrutiny and monitoring.

#### 4.4.3.2 *Public Sector Reform*

Public sector reform will ensure efficiency and effectiveness in service delivery, which is crucial for poverty reduction. The public sector constitutes the core competence of the nation for formulating, implementing and monitoring national, sectoral and district/community level policies and actions.

Government is undertaking public sector management reform (PSMR) as a key part of governance improvement. The PSMR seeks to develop the capacity of the public sector so that in the long run it can become the national instrument for the attainment of MPRS objectives. Despite some reforms, there is urgent need to strengthen the overall capacity of the public sector to make it an effective instrument for the effective delivery of public goods and services.

##### 1. Improve public sector conditions of service and work ethics

The major challenge for the public sector is the need to establish an effective incentive structure that will improve work ethic and productivity. The first strategy to meet this objective is to review and establish realistic and equitable remuneration. Under this strategy, many benefits and allowances will be monetised and integrated into basic salaries, whilst revising and strictly enforcing equitable regulations on allowances. In addition, Government will review the performance related contract scheme, focussing on setting and monitoring financial management performance criteria. After this review, the scheme will be expanded to all professional levels of the civil service.

Apart from this, Government will devise and implement a comprehensive wage policy to ensure appropriate and equitable remuneration across Government. This will include ensuring that front-line service delivery agents (for example, nurses and teachers) have remuneration packages more in line with their counterparts in central Government headquarters. In order to complement this strategy, Government will simultaneously improve the enforcement of standards for the Civil Service. This will involve developing and enforcing a code of conduct for public officials, designing and implementing a performance based appraisal system for civil servants, and reviewing the Public Service Act.

Finally, Government will introduce a new public pensions system in order to ensure that pensions are linked to the cost of living, and that they have a fixed, predictable budgetary

impact. This will include a feasibility study on the introduction of a funded, privately managed pension fund.

2. Review the structure of the civil service

The second objective of the public sector reform component is to review the structure of the civil service so that it focuses on poverty reduction. This will involve revisiting the functional review process and redefining Ministry functions and staffing on the basis of MPRS priorities. This restructuring will be implemented in the context of decentralisation, which will also help to ensure that Government resources, both financial and human, are used for poverty reduction.

3. Address capacity constraints across Government

The third objective is to address capacity constraints across Government. This is related to the issue of increasing the number of qualified personnel in key posts through a training programme of existing public servants, improving secondary and tertiary education, promoting the training of key professional cadres (such as accountants, lawyers, engineers and economists) as well as mitigation against the impact of HIV/AIDS. Furthermore considerable attention will be paid to the development and implementation of management development programmes so as to build capacity to ensure continuous delivery of quality services to the public.

4. Strengthen public policy-making

The fourth objective of public sector reform is to strengthen public policy-making at all levels. This will include ensuring broad participation in policy-making, particularly through the annual MPRSP review process described in Chapter 6. In addition, the capacity of central Government Ministries (including the Cabinet Office, the Ministry of Finance and Economic Planning and the National Economic Council) will be strengthened, particularly as regards the implications of new policy proposals, including their input on expenditure and poverty. Further, efforts will be made to ensure that the operations of all ministries are governed by clear and transparent policy guidelines.

5. Improving effectiveness of parastatals

The fifth objective is to improve the efficiency and effectiveness of public enterprises. Special measures will be taken to eliminate inefficiencies by recruiting competent managers. In addition, boards of parastatals will be continuously reviewed to improve governance and

only qualified individuals with relevant experience will be considered. Efforts will also be made to ensure charges by utility companies cover costs, and to accelerate privatisation, particularly in telecommunications, power and water. Finally, the Public Enterprise Reform and Monitoring Unit (PERMU) in the Ministry of Finance and Economic Planning will undertake continuous scrutiny of the financial performance of public enterprises and will co-ordinate reform efforts.

#### 4.4.3.3 *Fraud and Corruption*

The MPRS district consultation process showed that corruption is one of the major concerns of the people. High levels of corruption and fraud reduce economic growth by discouraging legitimate business investment, and reduce the public resources available for the delivery of services to the poor. In addition, corruption gives disadvantages to the poor in selling their agricultural produce, and reinforces the unequal distribution of wealth and power in society – only those who can afford to pay a bribe benefit while the poor, the weak and the vulnerable suffer.

In order to address issues of corruption, Government established an independent Anti-Corruption Bureau (ACB) to check corruption of any kind and at any level. However, the Bureau's effectiveness is hampered by weak human and financial capacity and systemic institutional weaknesses. As a result, corruption is still growing in most sectors of the economy.

##### 1. Improve the prevention of corruption and fraud

The key strategy to achieve this objective is to reduce the opportunities for corruption and fraud through the creation of a new Malawi Procurement Authority (MPA). This Authority will oversee decentralised procurement across Government, enforcing clear procurement guidelines so that all public procurement is transparent. In addition, the Anti-Corruption Bureau (ACB) will continue to conduct and encourage anti-corruption campaigns. Finally, the prevention of corruption and fraud is dependent on the improved detection and prosecution of cases so that a clear message is sent to potential offenders.

##### 2. Increase detection and prosecution of corruption and fraud cases

This will involve reviewing the legal framework and relationships between and among the Anti-Corruption Bureau, the Director of Public Prosecutions (DPP), the National Audit Office (NAO), the Malawi Revenue Authority (MRA) and the Public Accounts Committee

(PAC). In particular, steps will be taken to ensure the independence of the ACB so that political interference is eliminated. In addition, the capacity of these institutions must be built, so as to improve coverage and timing of audit, ensure tax compliance, strengthen investigation and prosecution of corruption and fraud cases, and ensure speedy processing and prosecution of corruption and fraud cases. In addition, in the context of decentralisation, efforts will be made to ensure that each district has an officer responsible for anti-corruption activities, co-ordinated by the ACB.

#### *4.4.3.4 Decentralisation*

Decentralisation focuses on the empowerment of the people for effective popular participation and decision making in the development process in their respective areas. In the past, there have been many competing and fragmented development projects, which were largely uncoordinated and managed centrally. This has resulted in substantial duplication of effort and has tended to confuse rather than help the beneficiaries.

In order to address these problems, Malawi is undergoing a process of decentralisation, or more specifically, devolution. In the past, a number of line ministries have undergone a process of administrative decentralisation, or deconcentration. However, this form of decentralisation has not yielded the benefits expected because the decision-making power and resources have remained in central Government. Devolution will fundamentally transform the way Government works and interacts with the public, both administratively and politically. Local Governments have been created at district level to perform functions previously performed by central Government, and crucially will be accountable to the population of their district, through the District Assemblies.

Since the passing of the Local Government Act in 1998, significant progress has been made in establishing the legal and administrative framework for decentralisation. A number of laws have been revised to ensure consistency, local government elections were held on 21<sup>st</sup> November, 2001, and Interim Assembly Administrations have been formed. Progress has also been made in establishing the financial framework for decentralisation, including the design of an Inter-Governmental Fiscal Transfer System, the devolution of business licensing and the functioning of the District Development Fund in most assemblies. Finally, there has been progress in preparing for the devolution of functions to the Districts, through the

preparation of Sector Devolution Guidelines and the establishment of District and community level planning structures and guidelines.

Despite this progress, a number of challenges remain. Firstly, the political will and technical commitment needed to complete the preparation and successful implementation of devolution plans must be sustained. Secondly, capacity building programmes in the Assemblies must be consolidated and accelerated. Also, a sustainable financial base for the Assemblies needs to be developed whilst institutionalising accountability and transparency of resource use at a district level. In addition, there must be continuous consensus building and commitment to the devolution of functions from line ministries to assemblies, whilst building a democratic culture and participatory institutions in the community so that people are empowered to participate fully in local governance of these functions. Finally, there is need to integrate HIV/AIDS issues into training programmes at a district level and to design programmes that address gender equity with regard to decision making and access to and control of resources.

The resulting decentralisation strategy has seven strategies grouped under two objectives:

1. Develop institutional capacity for local governance

The first strategy under this objective is to develop an appropriate accounting and financial management system. This will involve computerisation of local financial management systems, building the capacity of assembly personnel in financial management, and introducing activity based budgeting in co-ordination with Ministry of Finance and Economic Planning. The second strategy is to establish effective administration systems for local Government. This will involve training assemblies and management and strengthening national coordination of decentralisation.

2. Transfer functions, resources and planning to districts

The first strategy under this objective is to establish a local government financing system. This will be attained through fiscal reforms, including the development and implementation, in a phased manner, of a system for Inter-Governmental transfer, the strengthening of revenue collection by assemblies and training of accounting personnel. The second strategy is to devolve functions to the assemblies. The main activity will be to prepare and implement sector plans in a phased manner.



These two main strategies will be backed up by efforts to ensure an effective local development planning and management system integrated in to the national planning system (especially the MPRS), to create a consistent legal and operational framework for decentralisation by reviewing government policies, procedures and regulations and review of bye-laws, and to ensure that the public understands and appreciates decentralisation through civic education programmes and coordination with civil society institutions.

#### 4.4.3.5 *Democratisation*

At the heart of effective governance is democracy. By formally recognising that all legal and political authority rests in the people, democratic constitutions empower the people. However, the authority of the constitution cannot be taken for granted, and in particular, elected leaders must continuously respect the supremacy of the people. In practical terms, this principle operates through elections and the existence of checks and balances on the Executive. Empowering the poor through elections ensures that Government is held accountable to the people and that the poor have an influence over policy. This is crucial when decisions are to be made on the use of scarce national resources. Checks and balances ensure that Government is held accountable for its actions and remains responsive to the needs of the poor between elections. These checks and balances are both formal (for example, Parliament and Judiciary) and informal (such as the media and civil society). A multi-party system offers a transparent choice between potential governments and ensures that Parliament offers effective scrutiny of Government activities.

Malawi adopted a new democratic constitution in 1995. This followed the transition that ushered in a new era of political liberalisation and democratic governance. The constitution established the institutions of democracy outlined above, enshrines fundamental freedoms and rights and established a number of constitutional watchdogs (for example, Office of the Ombudsman, Malawi Human Rights Commission). Since 1994, Government has moved to consolidate the fundamental transformation that introduced multiparty democracy. A second general election was held successfully in 1999, followed by Local Government Elections in 2000. Informal checks and balances have strengthened over time, as demonstrated by the emergence of vocal civil society groups.

However, there is a perception amongst many observers that progress in the consolidation of democracy has slowed down in recent years and that many elements of the previous regime

have been retained or have resurfaced. In particular, there is concern that the principle of a multi-party system is being undermined by the continued dominance of strong patronage networks. Similarly, people have noted that the principle of equitable participation has been weakened by political violence associated with elections and other national functions, the persistence of regionalism, tribalism and nepotism, and the terms of political discourse, which offers direct material gain in return for electoral support.

In addition, there are worries that the rights and responsibilities involved in a democratic system have been misunderstood and the rights abused at the cost of responsibilities. There is a perception that informal checks and balances have been weakened by the inequitable access to the broadcast media, the lack of professionalism of the print media, and the focus of the media on political rather than development issues.

Thus, there is need to strengthen the governance system and institutions enshrined in the constitution and informal checks and balances to ensure popular and equitable participation in governance. Much of this cannot be done technically. The problems of democratisation are largely related to the questions of political will and mindset. However, there are specific actions that can be taken to improve the quality of democracy:

1. Strengthen formal governance institutions

In terms of formal institutions, there is need to further strengthen electoral processes by improving law enforcement related to elections, strengthening the capacity of the Electoral Commission and through civic education to increase voter turnout and create awareness of the respective roles of Members of Parliament (MPs) and local councillors. Also, civic education through traditional modes of communication can help to improve understanding of democratic rights and responsibilities. Between elections, improved participation of the poor in national policy dialogue can be achieved using the MPRS concept, and the Executive can be made more accountable to Parliament by providing support to parliamentary committees, training MPs and strengthening political parties.

2. Strengthen informal governance institutions

Informal checks and balances can be strengthened by ensuring the independence and professionalism of the mass media, particularly radio broadcasters, and by increasing the capacity and accountability of civil society organisations such as NGOs.

#### 4.4.3.6 *Human Rights*

Human rights are also an essential part of democracy and are fundamental to poverty reduction. Declarations of human rights are intended to protect the poor from mistreatment by more powerful individuals and organisations such as Government, and guarantee access of the poor to basic services. Prior to 1994, Malawi's human rights record was amongst the poorest in the region, if not the world. Since then its record has improved. The Constitution through Sections 12 and 13 explicitly guarantees the right to basic economic and social rights. In addition, Government has ratified major international human rights instruments as well as key human rights related International Labour Conventions. A number of civil society organisations (including churches and NGOs) play the role of additional watchdogs. However, there is still limited observance and enforcement of human rights provisions. Issues of human rights have not yet taken centre stage because of conflicts between customary practices and the bill of rights, low level of professional skills in human rights organisations and inadequate systems to monitor human rights violations. In addition, the many human rights institutions in Malawi do not have clear roles and do not use their limited resources effectively.

##### 1. Ensure observance of human rights

In order to address these problems, the capacities of the many human rights organisations will be developed by Government and its development partners. This will involve clearly defining their roles, hiring and training personnel and increasing funding where the organisations demonstrate their effectiveness. In addition, all public servants, particularly those in enforcement agencies, will be trained in human rights issues. Finally, efforts will be made to raise the awareness of citizens about their constitutional rights and obligations.

## **4.5 Cross Cutting Issues**

In addition to the above components of the MPRS, there are a number of cross-cutting issues that are crucial and have been mainstreamed in the four Pillars. A detailed discussion of these cross-cutting issues is meant to underline their importance for poverty reduction.