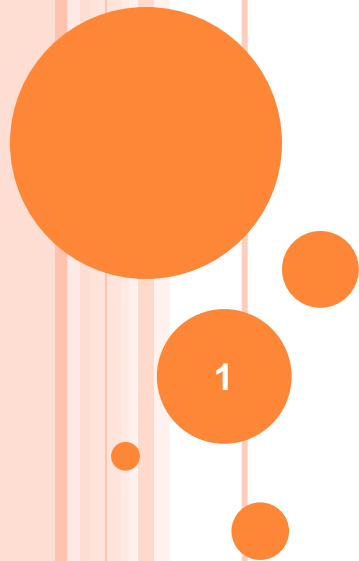


# LITIGATING INTERNATIONAL DEVELOPMENT AID MODALITIES: THE CASE FOR LOCAL GOVERNANCE IN MALAWI

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# PRESENTATION OUTLINE

- Background
- Why development aid and does it work? – Literature survey
- Context: LDF
- Findings – litigating donors- (1) alignment and bypasses and (2) harmonisation
- Concluding remarks

# BACKGROUND

- Development aid continues to catch the attention of development practitioners and scholars.
- Key issues and debates are: magnitude, merits/demerits, modalities, quality and effectiveness.
- On modalities, how best do we deliver development aid?
  - Government Budget Support
  - Project/Programme Aid
  - Non-state actors
  - SWAPs/Pooled funds

# WHY DEVELOPMENT AID?

- 1) Stimulating development
- 2) Financing the gap / deficit
- 3) Ethical / moral
- 4) Helps public service delivery / legitimacy

# DOES AID WORK IN MALAWI (AFRICA)?

- 1) Institutions-Aid paradox
- 2) Aid Amplification Effect
- 3) Corruption / aid capture
- 4) Reduces accountability of duty bearers
- 5) Supporting authoritarian regimes
- 6) Delays reforms

# PREMISES FOR LITIGATION: INTERNATIONAL AID AGREEMENTS

- 2005 Paris Declaration on Aid Effectiveness
  - Ownership, Mutual Accountability, Alignment, Harmonisation and Managing Results
- 2009 Accra Agenda for Action
  - Ownership, Inclusive Partnerships, Delivering Results, Capacity Development
- 2011 Busan Partnership for Effective Development Cooperation
  - Ownership of development priorities by developing countries, A focus on results, Partnerships for development, Transparency and shared responsibility:

## BUT ALSO UNITED NATIONS SPONSORED AGREEMENTS

- 2002 First International Conference on Financing for Development (Monterrey, Mexico, 18-22 March)
- 2009 International Conference on Financing for Development (Doha, Qatar, 29 Nov-2 Dec)
- 2015 Third International Conference on Financing for Development (Addis Ababa, Ethiopia, 13-16 July)
- 0.7% target for ODA

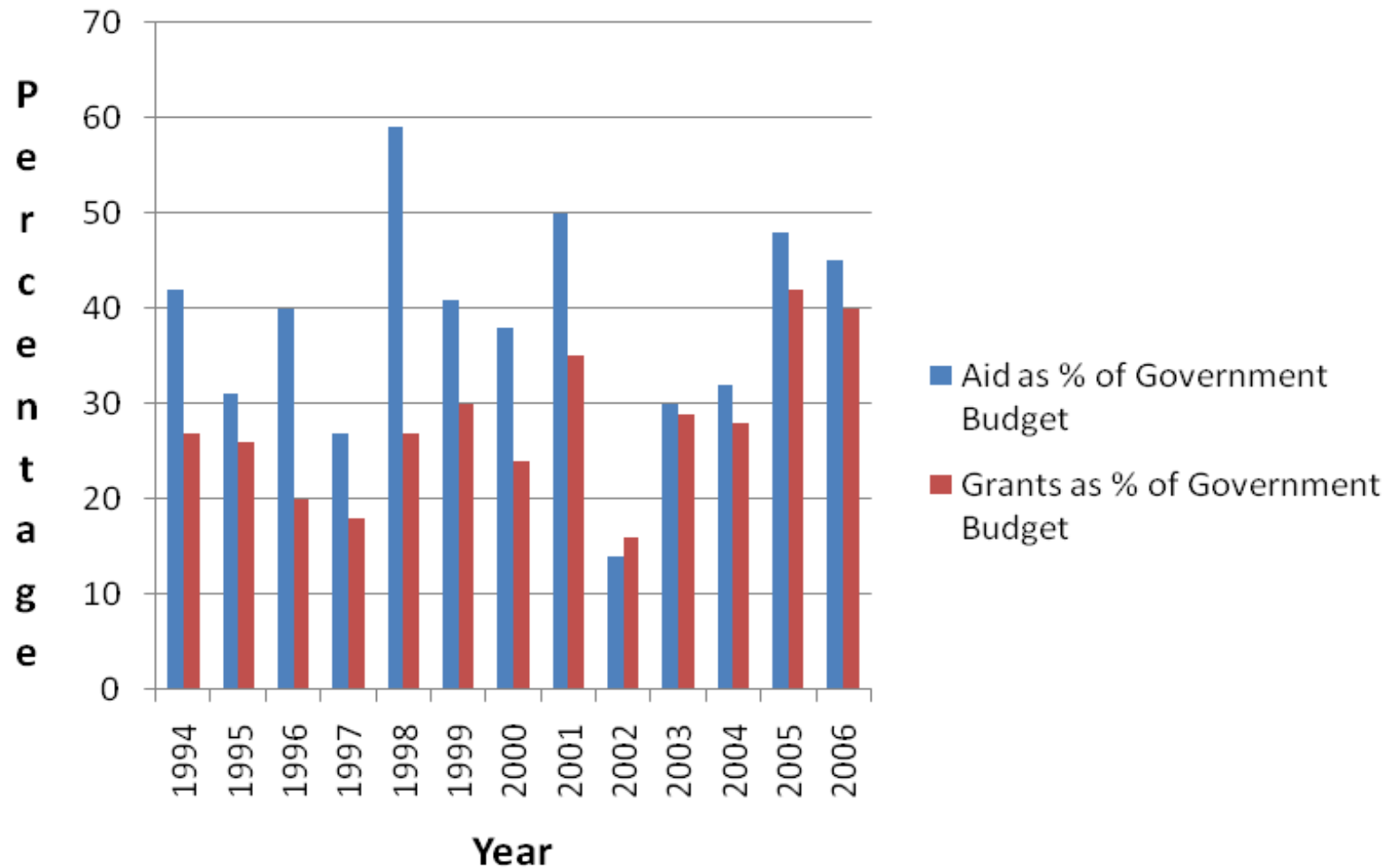
# CONTEXT: MALAWI

- Malawi: one of the most aid dependent countries in the world
- Current estimates: national budget needs 40 % of foreign aid for implementation of activities.
- Malawi Government (2011) recorded \$1,022 million in donor disbursements during 2010/11FY. This constituted a 7% increase from 2009/10FY, which recorded \$955 million in donor disbursements (Resnick 2012)
- The primarily agrarian economy – which contributes over 90% and 39% of the country's export earnings and national GDP, respectively and employs 84% of the population – remains highly vulnerable to external and internal shocks
- Tobacco: main source of foreign exchange -- contributed 60% & 70% of total export earnings (2012-2014); down to 47.7% in 2015.



# THE CONTEXT: MALAWI

## Share of Foreign Aid in Government Budget



## CONTEXT: MALAWI

- The United States protested the detention of political dissidents in 1990, but nonetheless rewarded Malawi for its economic reforms by cancelling US\$40 million in bilateral debt during the same year (Brown 2004)
- In 1991, Norway fully terminated its aid programme, citing human rights abuses, and the United Kingdom reduced aid by US\$8 million (Brown 2004; Ihonvbere 1997).
- In 1992, the Consultative Group of Donors, under the auspices of the World Bank, refused the Malawian government's request for US\$800 million in balance of payments assistance.
- Soon after Consultative Group of Donors, Donors froze another US\$74 million in aid to Malawi (Ihonvbere 1997).
- IMF released loans in 1996 and 1998 worth US\$22 million and US\$27 million respectively upon being satisfied with the progress of economic reform programme on austerity and privatization measures.

## CONTEXT CONTD'

- Majority of assistance is through grants, with loans the second largest, and technical assistance the third largest. Grants (83%=2012-13; 77%=2013-14 and 80%=2014-15FY).
- World Bank providing the majority of loans. 2014/15, the World Bank provided 61% of all assistance delivered through loans.

# TOP 10 FUNDING ORGANISATIONS

	2012-13	2014-15	2015-16
1	World Bank	World Bank	World Bank
2	DfID	DfID	Global Fund
3	EU	USAID	USAID
4	USAID	Norway	DfID
5	Norway	EU	EU
6	AfDB	Global Fund	Norway
7	Global Fund	AfDB	AfDB
8	Germany (KFW)	China	CDC
9	China	India	UNICEF
10	CDC	CDC	India

## LDF AS A POOLED FUND

- Commenced in 2009 for mobilisation of resources in pooled format for all activities at the local level for poverty reduction and democratic decentralisation.
- Is meant to be the only source of discretionary public development grant financing to local governments.
- Funding to councils and communities is through 4 windows
- Started with 3 donors; World Bank, KfW of German and AfDB. Malawi Govt provides matching funds.
- Between 2009-2014, World Bank was the biggest donor contributing 86 % of total funds received by LDF whilst the share for AfDB and KfW was 13 % and 1 % respectively (LDF 2015)
- Since 2009, it is still the same 3 donors in LDF. Why???

# POSITIVE CONTRIBUTIONS BY DEVELOPMENT AID - LDF

- Construction of Stadia



# FLOW OF FINANCES – LDF DISBURSEMENTS TO COUNCILS (2009-2014)

<b>PWP Normal</b>	<b>\$21 256 816.29</b>
PWP ERP	\$46 344 247.49
PSSHHP	\$34 849 939.06
OPEN MENU (community Managed Sub-projects)	\$8 131 860.81
CRISIS RESPONSE	\$4636893.57
ESWAP	\$36 077 117.84
LACE/CAPACITY BUILDING	\$1 232 665.29
<b>TOTAL GRANTS</b>	<b>\$149 529 540.36</b>

# CONSTRUCTION OF TEACHERS HOUSES

2009/2010	2010/2011	2011/2012	2012/2013	Crisis Response (2010/2012)
865	594	190	237	68



# CONSTRUCTION OF CLASS ROOMS

Class under the tree

○ ADB Sponsored School



## ALIGNMENT, BYPASS IN LDF

### 1) **Local Development Fund-Technical Support Unit.**

- Implementing agency of LDF-makes strategic decisions and does day to day operations of the Fund
- Initial institutional design-hosted by NLGFC
- Housed in MoF but also report to MoLGRD (technical)
- NLGFC has no technical capacity, redtape as usual of govt institutions, abuse of funds
- Banned PMUs in 2009-but technocrats change policy position in anticipation of aid-MoLGRD has its own PMUs.
- Fragmentation of aid reflected by PIUs: 2012-13 (30); 2013-14 (23); and 2014-15 (33).
- YES-fast implementation of projects (ESWAP implemented by LDF-TST when government was stuck with procedures for 3 years (2009-11).
- ESWAP (2012-14= \$36 million); 1730 classrooms, 201 teachers houses.

## CAPACITY BUILDING INTERVENTIONS (2009-2014)

Name of Training	No. Trained
Procurement Training	165
Training on Environmental Safeguards	168
Training of M and E Officers	24
Trainers workshop on improved construction techniques	67
Training of PMCs	33 240
Training Accounting Personnel in Financial Management	70
Orientation on the Public Service Performance Management System	128
Training of TST staff in environmental and social safeguards	19

## LDF-TST as a by-passer:

- 2009-2014=funds \$149 529 540.36
- Funds no handled by NLGFC. NLGFC is only a conduit but allocation is done by LDF-TST.
- Using Credit Ceiling Authority System (RBM to Council)
- Procurement procedures done according to the financier not Malawi Government Public Procurement Act
- Though hold contracts with DHRMD, recruitment is not done by Civil Service Commission.
  - Dual reporting-MoF and MoLGRD
  - Competition-LDF-TST and NLGFC on roles
  - No legal backing-not established by law
  - Councils have taken advantage of no legal mandate to challenge LDF-TST-difficult to prosecute mismanagement of funds
  - Fungibility of aid still there (Case of Rural Growth Centres, ED appointments-WB did not approve)

## 2) Project Management Committees

- Local Devt Planning System makes ADCs and VDCs local planning units
- PMCs are taskforces overseeing a particular devt initiative
- Conveniently under ADC/VDCs but are independent
- PMCs are cost centres justified on citizen empowerment and fiscal decentralisation.
- ADCs/VDCs by-passed because they are not functional and entrench patronage too (chiefs, MPs and councillors)
- PMCs members trained-2009-2013 (33 240 members of PMCs) (LDF-TST, 2015:52).
- Decentralisation is a term 'selectively used' and 'abused'

- PMCs are mainly under Community Window funded by WB. WB didn't support pooled fund because that meant weakening MASAF-their flagship. World Bank backed up introduction of LDF-TST which is against decentralisation-another layer of management (WB and UNDP; Annual budget is MK 10 billion; 10 % remains at LDF-TST).
- Communities not cooperating with ADCs and VDCs because they are not paid for activities organised by them.
- Competition of resources- PMCs manage projects in the range of MK 10 million (DDPs vs LDF priorities)
- Institutional and organisational vacuum when PMCs are disband- ADCs and VDCs rebuff the council staff- *“why should we only be recognised when our juniors are gone. They come to us when their favourites are gone.”* (Chief, Mangochi)
- Stretching of staff-two many PMCs-see Thyolo and Mulanje
- Too huge vacuum gap to fill-In 2015-16; 29 Catchment Area committees, 141 Cluster committees and 173 PMCs (Mangochi); 40 Catchment Area committees and more than 400 PMCs (Thyolo District Council, 2015).



### 3) Procurement Committees

- Public Procurement is regulated by Public Procurement Act 2003
- PPA covers all funds in public service as handled by public officers
- LDF is public funds (Vote 272) of National Budget
- LDF allows community procurement done by Community Procurement Committee
- A Community Procurement Committee is elected by the community (different from PMC)
- Handles procurement of goods/services up to MK 3 million.
- Committee members not public officers...LDF/Govt has not prosecuted mismanagement of funds because LDF itself is not legally established, members not covered by PPA and NLGFC is hesitant-politically so!

- ODPP writing LDF-TST *“it is important to hear in mind that powers on procurement decisions in public institutions are vested in Internal Procurement Committees. In order to be in line with legal provisions, the Community Procurement Committees should be taken as Sub-IPCs of the local assembly IPCs-in this case the ultimate responsibility for all procurement decisions at Community Procurement Committees be that of the main IPS at local assembly level.”* Ref. ODPP/03/38 dated 1 October 2012
- Response= *‘ODPP has gone unto a wrong path-You mean they can instruct MoF. Because we are under MoF.’* (Interview with LDF-TST Officer, 2016)
- But its not about instructing, it about regulating. And ODPP has those regulating powers, Public Procurement Act.



# HARMONISATION IN LDF: ARE ALLIANCES FALLING APART?

- 1) **Aid in a Pool is earmarked—a ‘strange’ arrangement**
  - WB-Community Window for construction of classroom blocks and teachers houses
  - KfW-Urban (Challenge) Window for development of Infrastructure; e.g. stadium, bus depots
  - ADB-Local Economic Development/Business related

# HARMONISATION-WHY DONORS ARE NOT POOLING FUNDS IN LDF?

1) **Use of separate accounts** - Donors want councils to have separate accounts specifically for their funds which is contrary to the thinking of Government.

- Government does not want councils to have many accounts because they will be a difficult to manage and administrative burden too.
- Having many accounts is not sustainable as the council keeps on meeting the bank charges when the project is finished.

2) **Reporting on the part of donors** to their country is a difficult if funds are pooled.

- So difficult to attribute results to a particular donor in pooled funds when the constituents and taxpayers back home country want to see those results.

# HARMONISATION-WHY DONORS ARE NOT POOLING FUNDS IN LDF?

## 3) Donors have their own interests too which may not be fulfilled by joining LDF.

- Some donors are concentrated in areas that LDF is not involved.
- Non-traditional donors have less interest in LDF because it offers less of their interests.

## 4) The politics of CSOs is bad.

- They compete with government for aid and use every opportunity to discredit the government
- because they know once donors have lost confidence in the public financial management procedures, the funds will be challenged to them.

# HARMONISATION-WHY DONORS ARE NOT POOLING FUNDS IN LDF?

## 5) Preference for project aid not budget/pooled aid.

- Donors just have preference for project aid because that gives them leeway to push their agenda and things move quickly in projects.
- Differences in the understanding of development approaches and how aid should be delivered.
- The Chinese will not pull their resources in LDF because LDF does not include their 'Development Financing/Business' aspect.
- Even when the Chinese expresses interest to join LDF, Government will be coy about it so as not to annoy World Bank - 'donor envy.'

# HARMONISATION-WHY DONORS ARE NOT POOLING FUNDS IN LDF?

**6) Loss of confidence in public financial management system-** weak and vulnerable systems that make aid fungible. Cashgate made donors' case stronger. 30 % of resources lost through corruption. But NGOs can't account for 90 % of aid (NGO Board, 2015)

## **7) Organisational policies and politics**

- For instance, UNDP does not put funds in a basket managed by other entities.
- Its 'World Bank Project' project, why bother?

## 8) VISIBILITY AND 'COLLAPSING OF FLAGS

EU Projects

World Bank Project



# CHINA'S AID AND INVESTMENTS IN MALAWI (AFRICA)

- ODA vs. Investments
- Lack of information and transparency
- “Win-win”, “mutual respect”, “friendship”, “non-interference”
- “Non-conditional”
- Aid is predictable; promises kept
- Projects completed in time or well ahead of schedule
- Projects “handed over” upon completion
- “Visible and tangible results” (e.g. landmark projects)
- “China is not a developed country and will never be a superpower, but it is a very promising country in the world”



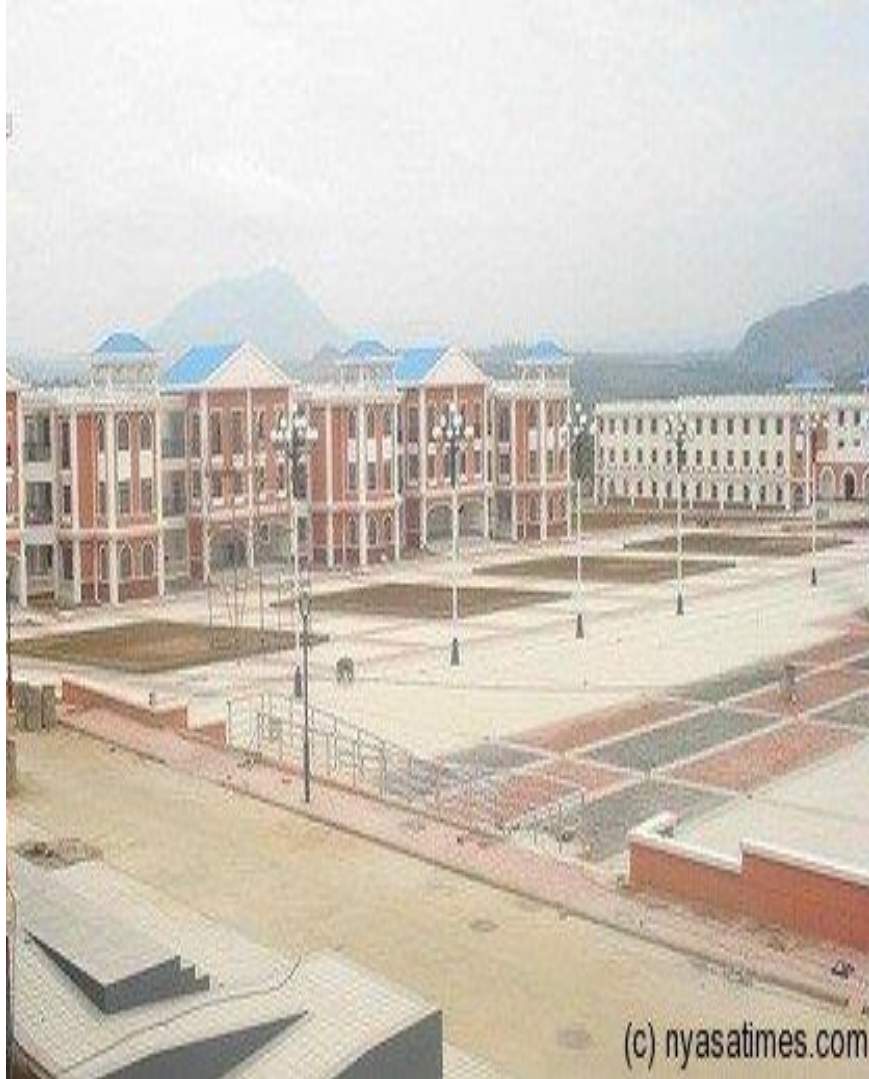
## *CHINA'S AID AND INVESTMENTS IN MALAWI (AFRICA)*

- Effusive praise for ruling party and leadership
- Portrays help to Africa as part of China's international responsibility
- Typical areas of assistance
  - Infrastructure
  - Agriculture and food security
  - Health and medical care
  - Education, human resources and capacity building





# MUST AND BINGU INTERNATIONAL CONFERENCE CENTER (MALAWI)



# CONCLUDING REMARKS

- LDF has encouraged multi-layered and multi-sectoral governance of which is good because it taps on different skills of people.
- Quick delivery of outputs
- Flaw is institutionalisation of bypass structures that run parallel to structures legitimately sanctioned by the government (undermining Paris Declaration, AAA, and Busan Partnership).
- The bypass structures make local governance fragile and unstable because bypassing structures are temporary-taskforces.
- Aid-institutions paradox
- The current scenario appears that LDF is in 'Institutional Design Chaos,' but it is a designed one.
- LDF is a project – not harmonised, lacking country ownership and not aligned.

**ZIKOMO**

**THANK YOU FOR YOUR  
ATTENTION**

