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THE INTERFACE BETWEEN TRADITIONAL AUTHORITY
AND THE STATE IN DEMOCRACY CONSOLIDATION:
A CASE STUDY OF LILONGWE DISTRICT

M. A. (POLITICAL SCIENCE) THESIS

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UNIVERSITY OF MALAWI
CHANCELLOR COLLEGE

JUNE 2010

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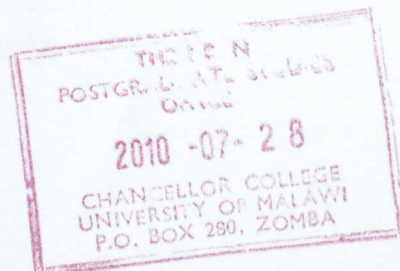
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Submitted to the Faculty of Social Science, in partial fulfilment of the requirements for
the degree of
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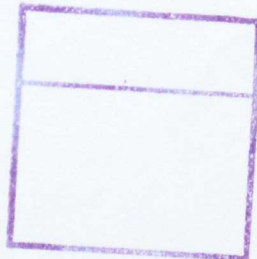
DECLARATION

I the undersigned hereby declare that this thesis is my own original work which has not been submitted to any other institution for similar purposes. Where other people's work has been used acknowledgements have been made.

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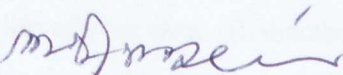
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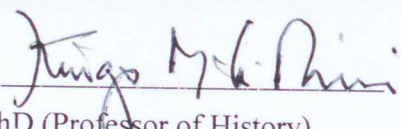


Certificate of Approval

The undersigned certify that this thesis represents the student's own work and effort and has been submitted with our approval.

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DEDICATION

This dissertation is dedicated to my greatly resilient and understanding set of twins who went through untold hardship as I set my bread earner title aside to pursue this study programme in the hope a better future for both them and me. This is unto you Twinies you are the best and mum is the model and inspiration that you need as you develop a life of your own. Remember, we can not choose where we are born but we certainly can determine the kind of life we live.

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Last but not least, My brother Humphreys Kalengamaliro and his family for opening up their home to me personally and my twinnies during the time that I could not meet my parental obligations due to my involvement in this programme of study. No amount of words can express the gratitude that I really feel for all of you. Had it been not for your support, I would not have even attempted to join this programme and broaden my horizon of knowledge as I have now. I owe this to you.

ABSTRACT

This study assesses the effects of the interaction between chieftaincy and the democratic state institutions namely MPs and local councilors on the democratic consolidation process. The aim of the study is to determine whether the interaction between chiefs on the one hand and MPs and local councillors on the other promotes the democratic values of accountability and representation as core values of democracy.

The study is purely qualitative and uses the case study approach. It involved conducting semi-structured Key Informant Interviews (KII), and focus group discussions (FGDs) in Lilongwe district. Lilongwe district was purposively sampled because its population is quite diverse with shades of Ngoni, Yao but predominantly Chewa chieftainships. Three villages in each traditional authority area were simple randomly sampled for both KII and FGDs.

The study, established that the interface between chiefs and MPs and local councillors, presents opportunities for enhancing downward accountability and effective representation for ordinary citizens in Lilongwe district. The study also finds that chiefs have more mechanisms for listening to and giving feedback to their communities which presents them with increased capability to enhance accountability and representation as compared to their elected counterparts. However, the ambivalence of the regulatory frameworks creates overlapping of roles especially between chiefs and local councillors, hence conflicts. Such conflicts present a potential fault-line that would threaten the progression of the process of democracy consolidation. The study concludes that chieftaincy should be systematically integrated into the democratic structure by among other measures, being provided with a forum for deliberation on issues of national concern.

Table of Contents

DECLARATION	II
CERTIFICATE OF APPROVAL	III
DEDICATION	IV
ACKNOWLEDGEMENT	V
ABSTRACT	VI
LIST OF ABBREVIATIONS	IX
CHAPTER ONE: INTRODUCTION AND BACKGROUND	1
1.1 INTRODUCTION	1
1.2 CHIEFTAINCY AND THE STATE IN MALAWI - HISTORICAL BACKGROUND.....	1
1.3 PROBLEM STATEMENT	5
1.4 AIM OF RESEARCH STUDY.....	7
1.5 SPECIFIC OBJECTIVES	7
1.6 JUSTIFICATION FOR THE STUDY	7
1.7 STUDY METHODOLOGY	9
1.7.1 RESEARCH APPROACH	9
1.7.2 POPULATION AND SAMPLING	9
1.7.3 SEMI-STRUCTURED INTERVIEWS.....	10
1.7.4 FOCUS GROUP DISCUSSIONS (FGDs)	11
1.7.5 DATA COLLECTION TOOLS	11
1.7.6 DATA ANALYSIS	11
1.8 LIMITATIONS OF THE STUDY	12
1.8.1 SAMPLE SIZE AND LIMITATIONS FOR GENERALISATION	12
1.8.2 OTHER INTERVENING FACTORS.....	13
1.8.3 INACCESSIBILITY OF SECONDARY DATA SOURCES.....	13
1.9 STRUCTURE OF THE DISSERTATION	13
1.10 DEFINITION OF ESSENTIAL TERMS	14
1.10.1 DEMOCRATIC INSTITUTIONS.....	14
1.10.2 DEMOCRATIC INSTITUTIONS.....	14
1.10.3 TRADITIONAL AUTHORITY.....	15
1.10.4 SECTION 65 DEBATE	16
1.10.5 THE THIRD TERM DEBATE	16
1.11 CONCLUSION	17

CHAPTER TWO: LITERATURE REVIEW	18
2.1 INTRODUCTION	18
2.3 THE BENEFITS FOR THE ELECTED STATE OFFICIALS IN WORKING WITH CHIEFS.....	21
2.4 THE SUPERIORITY OF THE WORKING OF CHIEFS IN EXECUTING ACCOUNTABILITY AND REPRESENTATION FUNCTIONS	23
2.7 CONCLUSION	37
CHAPTER THREE: FINDINGS AND DISCUSSION OF FINDINGS	38
3.1. INTRODUCTION	38
3.2 THE ENTRENCHMENT OF CHIEFS AS A LOCAL GOVERNANCE ACTOR	38
3.2.1 CHIEFS FACILITATE INTERACTION BETWEEN STATE INSTITUTIONS AND THE COMMUNITIES.....	40
3.2.2 CHIEFS ARE A FAMILIAR LOCAL GOVERNANCE SERVICE PROVIDER.....	41
3.8 UNDERSTANDING OF DEMOCRACY THAT SPANS BEYOND ELECTIONS.....	72
3.8.1 DEMOCRACY CONSOLIDATION ROLES OF CHIEFS	75
3.8.2 ECONOMIC FACTORS.....	76
3.8.3 CAUTION IN THE DEFINITION OF HYBRID DEMOCRACY.....	78
3.9 CONCLUSION	80
CHAPTER FOUR: SUMMARY AND CONCLUSIONS	81
4.1 SUMMARY.....	81
4.2. CONCLUSIONS.....	84
REFERENCES	87
APPENDICES.....	90
APPENDIX 1 - PEOPLE'S PERCEPTIONS OF THE PERFORMANCE OF THE DIFFERENT INSTITUTIONS OF GOVERNANCE WITH REGARD TO DEMOCRATIC PRINCIPLES	90
APPENDIX 2 - SUMMARY OF MECHANISMS THAT ARE AVAILABLE TO MPs, LOCAL COUNCILLORS AND CHIEFS FOR EXECUTING ACCOUNTABILITY AND REPRESENTATION RESPONSIBILITIES	91

LIST OF ABBREVIATIONS

ADC	Area Development Committee
ANC	African National Congress
DA	District Assembly
DC	District Commissioner
DCP	Democracy Consolidation Programme
FGD	Focus Group Discussion
KII	Key Informant Interview
MCP	Malawi Congress Party
MGPDD	Malawi German Programme for Democracy and Decentralisation
MoLGRD	Ministry of Local Government and Rural Development
MP	Member of Parliament
OPC	Office of the President and Cabinet
TA	Traditional Authority
UDF	United Democratic Front
VDC	Village Development Committee

CHAPTER ONE: INTRODUCTION AND BACKGROUND

1.1 Introduction

This introductory chapter presents an overview of the study. It gives a background and states justification for the study, problem statement, aims and specific objectives of the study. The chapter also outlines the study methodology including data collection and analysis. Finally, the chapter presents an outline of the structure of the dissertation and also states the limitation of the study.

An increased number of sub-Saharan African countries latched on to the third wave of democratization from the 1990s. Such countries include; South Africa, Botswana, Namibia, Zambia, Mozambique, Ghana and Tanzania. In the same vein, Malawi adopted a multi-party democratic governance system through which a new constitution came into effect on 18 May 1995. Other pieces of attendant legislation were also either enacted or amended in keeping with the new multiparty democratic governance system that recognize the existence of chieftaincy albeit marginally. However, democratic theory (Linz & Stepan, 1996) and institutionalist theories (Mamdani, 1996) caution against maintaining traditional authority institutions if states intend to fully consolidate democracy.

1.2 Chieftaincy and the State in Malawi - Historical Background

While the pre-colonial African authorities tended to vary with some tribes having some level of centralized authorities and others rather decentralized (van Nieuwaal & van Djik, 1999; Nyamnjoh, 2005:1; Fokwang, 2003), the Western derived rather 'imported' state on which democratic governance is built, required centralisation. Consequently, the colonial state which first introduced the 'West Minister style' state into Africa watered down the significance and extent of the reach of the authority of chiefs in day to day governance of the indigenous African communities. The aim for

the restructuring and downgrading of the traditional African authority was to fit it within the colonial state's agenda of subjugation (van Nieuwaal & van Dijk, 1999; West & Kloeck-Jenson, 1999).

The survival of traditional authority alongside a democratic state in most sub-Saharan countries such as Malawi is said to be paradoxical. It is paradoxical in the sense that traditional authority institutions are said to have been transformed by various experiences among which co-habitation with the colonial governments is the most vital (West & Kloeck-Jenson, 1999). These experiences are said to have transformed traditional authority into a mere tool of the state for subjugating the population. For instance the colonial state thrived on an ideology of oppression and segregation on racial lines. Traditional authority served as a tool for subjugating the unwilling population to the foreign imperial power (Baker, 1975; Oomen & van Kessel, 1999). During this time, the legitimacy of traditional authority mostly depended on the goodwill of the state.

Almost throughout this period in Malawi and other parts of Africa, chiefs have been key in handling customary land allocation, settling petty criminal and civil disputes and generally maintaining law and order in their communities (Baker, 1975; van Nieuwaal & van Dijk, 1999; Goncalves, 2004; Chiweza, 2007). The relationship between the chiefs and institutions at the local level, has been characterized by both cooperation and conflict. It is argued that the relationship has been like that right from the colonial experience, through to the African multi-party era (from early 1990s) for most African countries (Nyamnjoh, 2005).

It is important to note that some post independence one party states of Africa tried to suppress chieftaincy either by abolishing it completely or marginalizing it in day to day governance of their populations. For example, in Ghana, Mozambique and Tanzania where this was done based on their socialist belief that the institution had been corrupted by the colonial rule and so they charged that the chiefs had accumulated too much power for themselves and not their communities which was not consistent with their liberation ideologies (Goncalves, 2005). However, recognition of chiefs by the state re-emerged with the advent of multi-party politics in

the 1990s, especially with recourse to the decentralisation process (West & Kloeck-Jenson, 1999; Fokwang, 2005).

On the other hand, capitalist one-party democracies like Malawi, viewed chieftaincies as accentuating tribal identities which suppressed national loyalties. Such states also tried to downgrade chieftaincies in order to nurture their nation-building ideologies. Hence, in trying to downplay the tribal identities and loyalties while promoting nation building the post independence nationalists in these countries highlighted the party structure in linking up the population and the state institutions at the local level (West & Kloeck-Jenson, 1999; Koeble et al 2005).

Despite the differences in reasons for downgrading chieftaincy in national governance systems, chiefs were only made to play peripheral, ambiguous and ambivalent roles in all those Sub-Saharan African countries. The situation was not so different from what it used to be when those countries were under either France or Britain, as expressed by (van Rouveroy & van Djik, 1999). Others also observe that the various chiefs were only seen as useful if they could serve as effective instruments for the implementation of government policies amongst their people. Such policies were those that had been centrally articulated by the 'new elite' in a single party and nation-building context (Nyamnjoh, 2005:5).

Chieftaincy as it is known today in Malawi, was established through re-structuring of the indigenous chieftaincy that the colonial regime found to be too powerful for them to subdue through a series of legislative reforms from 1912 – 1955 (Baker, 1975:6). The initial colonial government legislation that governed the operations of chiefs was the Native Villages Ordinance of 1912. The ordinance was enacted to provide indigenous Africans with their own form of self government. However in practice it was a mere sham as the main purpose of government for doing that was to create a power vacuum in the communities. This would ease the establishment of the authority of the colonial government among the indigenous population (Baker, 1975:7-8-). Then moderate adjustments were made to the Native Authority Ordinance in 1955 in order to create a parallel governance structure that would be significantly

improved for the Africans to govern themselves while at the same time being answerable to the imperial masters (Kandawire, 1975:60).

Considering that nation building ranked high on the agenda of the post-independence one party state in Malawi, it is not surprising that the Native Authority Ordinance of 1955 was adapted into the Chiefs Act of 1967. What is significant to note is the fact that the 1967 Chiefs' Act is the only legislation that is still in force with no amendments for over 40 years to govern the operations of chiefs and their interactions with the multi-party democratic institutions. Another significant point to note is that the 1967 Act did not even at that time substantially alter the roles of chiefs, their operations and levels of authority (Chiefs' Act 1967, sections 1- 3). Most of what it did was to change the language so that it would reflect the transfer of allegiance from the imperial government to the newly independent government. Therefore, chiefs still remained accountable to the president instead of the queen or king of Britain.

The language of the Chiefs' Act (1967) places chiefs solely under the presidency. For example, the President may alter the boundaries that Chiefs preside over, create new chieftaincies, promote chiefs and revise remuneration and pensions as and when he/she individually sees fit (Chiefs' Act sections 1 & 2). Apart from the Chiefs' Act, there has been no other written policy regarding the operations and functions of chiefs in the country. So the current observable seemingly unprocedural promotions of chiefs and salary increases and other singular presidential pronouncements for or against chiefs are well provided for in the Act. For example, it is only the president that may promote any chief. The basis for such a promotion is not spelt out in any operational document. However, according to a Chiefs' Administration department official (KII, Mkweta, City Centre, Lilongwe, 18, August, 2009), the department or the district assembly administration may recommend a promotion of any chief to the President. But the official also acknowledged that there are no operationalising guidelines for the execution of the provisions of the Act. The department was actually at the time of this study in the process of developing such guidelines for presentation to cabinet.

This entails that the legal and policy framework that guides the roles and operations of chiefs in the multi-party democratic governance system presents quite a departure from the spirit of democracy as stipulated in the constitution of Malawi. Maintaining the 1967 Chiefs Act serves as a way of perpetuating the spirit of subjugation on which it was based.

1.3 Problem Statement

Democracy scholars like Linz and Stepan (1996) and Mamdani (1996) discourage the inclusion of traditional authority institutions in a polity that embarks on democratization with the aim of consolidating democracy. Linz and Stepan (1996) describe democracy consolidation as only when democracy becomes the only game in town. Thus all major segments of the population come to agree that elections are the only way to gain state authority. Mamdani (1996), cautions against maintaining chieftaincy if any country intends to consolidate democracy. The author cites the issue of chiefs being a divisive agent of the state which would hinder complete state formation hence the basis for building a democracy. In line with these major democratic state building arguments the Malawi republican constitution stipulates that all that command the authority of the state do so only on public trust, through elections (sub-sections 1, 2 & 3).

Additionally, the Local Government Act (1998) and the Decentralisation Policy (1998) also recognize the possible inclusion of a specific number of chiefs in local development committees and the district assembly but they both do not define the operational relationship between the chiefs and the MP or between the chiefs and the local councillors. Furthermore, the Local Government Act which confers the functions of promoting democratic participation and institutions upon local authorities also recognizes chiefs as ex-officio members of the Assembly. In these processes chiefs are also tasked with overseeing local level committees of the Assemblies (that are supposed to enhance democratic civic participation). These are such committees as the area development (ADC) and village development committees (VDC). Previous studies like Chinsinga (2006), Chiweza (2007) show that local councillors, MPs and local government officials acknowledge that they may not be able to

accomplish their work without the support of the chiefs. More specifically, this refers to the roles that chiefs play in mobilising for, supervising and monitoring development projects within the communities. Using Afro Barometer (2005) data Logan (2009) argues that in Malawi, public perception of chiefs is ranked much higher than either the local councillors or the MPs. As a result, it can be argued that chiefs in Malawi are doing much more than the policy and legislative framework stipulates.

In addition to their local level governance roles, chiefs are also participating in national level governance processes like contributing directly to national level debates (Chiweza, 2007; Muriaas, 2007; Logan, 2009). For example, chiefs have been called upon to express their views on the third term debate of 2002 and the choice for parliament to either start by debating section 65 or the budget in 2007. Local media and the public have tended to look forward to members of parliament to heed the chiefs' opinions in such cases (Malawi News, 24 March 2007:1-2).

Jentzchs, (2005) and Chinsinga (2006) also illuminate on conflicts that have been observed between the chiefs and MPs or local councillors in their interface at the local level. These observed conflicts at that level present a need for indepth exploration of the relationship between the chiefs and the elected officials and effects of that interface on the democracy consolidation process in Malawi. How deep such conflicts are and what could minimise them inorder to maintain a conducive environment in which democracy consolidation may be fostered is not yet adequately explored.

The situation has led to chiefs being more prominent at the local level than the elected state officials (Logan, 2009). The above situation raises the questions of whether democracy could still be promoted where chiefs who are not subjected to elections command more popularity among ordinary citizens than their elected counterparts. Besides, when chiefs are involved in discharging state authority through the provision of such services as dispute resolution, customary land allocation and mobilising for and supervising implementation of government policy how are the democratic values of accountability and representation affected? Are there any ways in which operational relationships between chiefs and their elected counterparts within the

communities may be clarified considering that the regulatory framework does not currently do so?

1.4 Aim of Research Study

The main aim of the study is to examine whether the interface between traditional authority and the democratic institutions at the local level inhibits or promotes democracy consolidation in Lilongwe district.

1.5 Specific Objectives

In assessing the effect of the interface between chiefs and local level elected state officials on the process of democracy consolidation in Lilongwe district, this study intends:

- i. To analyse the regulatory framework that governs the relationship between the elected and the traditional structures at the local level;
- ii. To identify compromises that either chiefs or the MPs and local councillors make to ensure smooth co-habitation;
- iii. To assess the approaches that chiefs and elected officials employ to determine the perspectives, preferences and choices of their constituents;
- iv. To analyse representation and downward accountability mechanisms for traditional authorities and elected officials; and,
- v. To determine the integration modes for institution of chieftaincy and democratic governance structures (modern governance structures).

1.6 Justification for the Study

Three factors demonstrate the importance of this study. First, multiparty democracy is enduring in Malawi since 1994 to the present (Afrobarometer 2005, Logan, 2007). This runs contrary to 'the only game in town' assertion of democratic consolidation as set forth by Linz and Stepan (1996) and Mamdani's (1996) contentions that Africa may not democratise because it has maintained its traditional authority structures or that it has not been able to de-tribalise. Sub-Saharan African states including Malawi

have continued to recognize the significance and roles of traditional authorities in the democratic governance system. On the other hand calls have been made through the media and civil society voices that chieftaincies should be abolished in order to promote democracy consolidation. For example, during the process of developing the decentralisation policy, civil society position was that chiefs should not have a role to play because they are not elected. Deduced from above, this means that democracy in Malawi continues to endure despite the presence of traditional authority institutions. It is therefore necessary that a critical examination and analysis of the interface between the chieftaincy and the local level democratic institutions including Mps and local councillors is undertaken to understand this apparent paradox.

Second, issues that arise from the state recognition of chieftaincy in the democratic governance system confirm and justify the ambivalence of the state in Malawi with regard to the place, role and function of chiefs within the democratic governance system. This ambivalence exists partly due to the inadequate attention that the issue has received from both policy makers and scholars in the country. As a result, specific aspects of this relationship between the chiefs and their elected counterparts are not clear. For example, the literature clearly shows that chiefs are closer to the people therefore they listen more to the people than their elected counterparts.

However, the literature does not show how different those mechanisms are from those that MPs and local councillors employ (Chinsinga, 2006, Chiweza, 2007). This results into less knowledge and understanding among the policy makers with regard to the effect of this relationship towards the democracy consolidation process. This is evidenced by the fact that the Decentralisation policy and the Local Government Act do not prescribe any specific roles for the chiefs nor do they stipulate how chiefs would interface with the elected officials at the operational level. But as Jentzchs (2005) noted, the unsystematic way in which the state interfaces with chiefs leads to compromises in the observance of the democratic values of accountability and representation. Such compromises would better be assessed to avoid impacting negatively on the democracy consolidation process if they were thoroughly understood.

Third, the continued state recognition of traditional authority, the increasing level of popularity of chiefs over and above the elected officials and the dependency of both the local government and the elected officials on the chiefs in mobilising for and implementation of development projects (Chinsinga, 2006) are evidence that chiefs are still significant players in the governance system. The Chiefs Act and other attendant legislation must acknowledge and take into consideration the intricacies of the operational relationship between chiefs and MPs and local councillors within the democratic governance system. The impending review of the Chiefs Act and the rest of the regulatory framework would therefore benefit from the knowledge that this study generates.

1.7 Study Methodology

1.7.1 Research Approach

The study adopted a qualitative approach due to the nature of the research question that is being explored and the nature of information that is required. There was need to reach out to a cross section of segments of the Malawi population in order to determine their views and opinions on the relationship between chiefs on the one hand and MPs and local councillors on the other in light of the democracy consolidation process. In addition, this is a case study that was so designed in order to explore the problem in-depth so as to learn as much as possible within the same area about the problem at hand. Besides, West & Kloeck Jensen (1999) advise that because chieftaincy is such a local institution that is organized and operates differently from one society to another, more localized studies are needed to create even a national picture.

1.7.2 Population and Sampling

Lilongwe district was purposively sampled as the study area because it has a big and diverse population. Although all the T/A level chiefs are all Chewa, there are various Yao and Ngoni chiefs in different areas at the lower levels. Lilongwe district is also

the seat of parliament and the executive therefore, it was hoped that the experiences of the people of Lilongwe with democracy may be enhanced with this environment.

Three T/As were purposively sampled as there was anecdotal information especially from the media that these T/As were among those chiefs who had been quite closely involved in the 3rd term and the section 65 debates. Additionally, one of the T/As had reportedly been seen being driven in a partisan yellow double cabin vehicle which was alleged to have been received from the UDF chairman. These incidences highlighted the controversy that surrounds the democratic values of accountability and representation in the involvement of chiefs in national level significant issues in Malawi politics. Thus where the economic status of the chiefs who were involved in the third term or the section 65 debates suddenly was observed to have changed for the better it raised questions of whether these chiefs acted objectively or they only towed government line of argument in expectation for the economic rewards that they finally got.

The 3 villages that were interviewed in focus groups and key informant interviews in each traditional authority area were then simple randomly sampled while all key informant interviews were purposively sampled to guarantee that all informants were rich sources of information on the issue.

1.7.3 Semi-structured Interviews

Fifteen informal key informant interviews (KII) were conducted with three chiefs who were accompanied by their counselors (*nduna*), two ministry of Local Government and Rural Development officials, two district Assembly officials, three members of parliament, four civil society (democracy promotion programmes) officials, and three local party officials. Respondents in the Key Informant Interviews (KIIs) were purposively selected as rich sources of practical information because they are either government officials in the Ministry of Local Government and Rural Development and Local Assembly, chiefs, MPs, local party officials or officials of organisations that are involved in the promotion of democracy in the country. The government officials were particularly selected because they would give insights into factors that

motivate government to structure the policy and legal framework the way it is and what the perception of government is on how the scantily regulated interface between chiefs and MPs and councillors has on the progression of democracy in the country.

1.7.4 Focus Group Discussions (FGDs)

In addition, three focus group discussions (FGDs) were held with ordinary citizens in each traditional authority area. The FDGs centered on ascertaining the perception of the ordinary citizens on the representation and downward accountability performance of MPs and chiefs and in certain cases that of councillors (since it has been a long time since local government elections were last held). The FGDs also helped to inform the study on whether in collaborating; MPs and chiefs make compromises, and what the ordinary citizens perceive to be the impact of such compromises on the representation and downward accountability capabilities of either the chiefs or the MPs and councillors.

1.7.5 Data Collection Tools

Both the Key Informant Interviews (KII) and FGDs were conducted using interview guides in order to provide the researcher with flexibility to probe further where respondents had more information. This way, the researcher was able to collect much information to sift from during analysis.

A data collection form was designed to help organize information from the different sources under specific preset issues according to the research design.

1.7.6 Data Analysis

The data from the key informant interviews and the FGDs was manually recorded under preset issues and themes of;

- i. roles and functions of the chiefs and the elected representatives,
- ii. mechanisms and approaches that each uses to determine their people's opinions, choices and aspirations,

- iii. perceptions of whether these representatives are accountable and representative of their people,
- iv. whether and how they collaborate and if any of them makes any compromises to accommodate that collaboration.
- v. Emerging issues and themes were also identified in each interview or focus group discussion.

Analysis was done based on those patterns that emerged from the preset themes and issues. Reliability and validity of the data was checked by comparing responses to similar questions from different respondent populations. All those responses were also, where necessary, checked against the data collected from the documentary study.

1.8 Limitations of the Study

This study has three issues that may have limited its potential to accomplish what it set out to achieve as follows;

1.8.1 Sample size and Limitations For Generalisation

Firstly, the field research for this study is apparently small in scope due to lack of funding. This limits its potential to be generalized throughout Malawi since chieftaincy is such a varied and very local institution that it is almost difficult to apply findings in one community to another. However, for the sample, Lilongwe district that was chosen for this study, the district is large and diverse in its experiences of chieftaincies. It has mostly Chewa chiefs but also shades of Ngoni and Yao chieftaincies which are all synchronised under the district administration. As such, the findings and analysis may mostly apply to Lilongwe district but could easily be generalized throughout Malawi.

1.8.2 Other Intervening Factors

The analysis of the findings of the study has dwelled mostly on the democratic theory. However, external factors that may also have affected or been affected by the operational modalities of traditional authority like; The social economic developments, donor and development agency interactions with both the democratic institutions and structures of the state on one hand and the chiefs on the other at both the local and national levels have not been explored in detail.

1.8.3 Inaccessibility of Secondary Data Sources

Thirdly, access to secondary information was limited. Accessing up-to date literature was hard as most important journal articles that could be accessed through the internet needed subscription. At the same time, the University of Malawi Libraries do not stock as much new materials as would be required. For example, I experienced difficulty to access some key literature like Mamdani's book that would have been key to this study. Despite these difficulties, I have managed to access substantial literature from old journals from the Chancellor College library and some current journals from the internet.

1.9 Structure of the Dissertation

The thesis has five chapters, including this introductory chapter. This introductory chapter gives an overview of the research study. It specifically presents the historical background of the relationship between chiefs and elected state officials, the problem configuration, research design and a justification for the study.

Chapter two reviews literature relating to issues outlined in the specific objectives. These include various understandings of democracy consolidation and the empirical studies that were conducted in Malawi and other sub-Saharan countries. The review also focuses on the regulatory framework influences the relationship between chiefs and MPs and local councillors and how that affects the democratic values of

accountability and representation. The chapter also assesses the relationship between the chiefs and the MPs and local councillors for the level and effect of any compromises that either chiefs or the democratic institutions make in fostering co-existence within the democratic governance system. The analysis also covers the mechanisms that either chiefs or MPs and local councillors employ in their discharge of accountability and representation functions. Finally, the chapter examines the modes in which chiefs are integrated into the democratic governance system and how that affects the process of democracy consolidation in Malawi.

Chapter three presents the major findings in this study and discusses them. These relate to the relationship between chiefs on the one hand and MPs and local councilors on the other, the regulatory frameworks and mechanisms that enhance accountability and representation.

In chapter five the major conclusions derived from the findings of this study are presented. The chapter also makes recommendations based on those conclusions.

1.10 Definition of Essential Terms

1.10.1 Democratic Institutions

There are wide interpretations regarding such concepts as 'democracy, democracy consolidation, democratic institutions and traditional authority. Therefore the following section explains these concepts as they have been used in the paper.

1.10.2 Democratic Institutions

In this study, democratic institutions refer to a combination of rules, regulations and organizations that are part of the democratic order. This includes members of parliament, the local government policies governing the democratic order, political parties and civil society organizations. According to (Sangmpam, 2007:208), institutions are arrangements designed to reflect and facilitate the competition over the social product and the exercise of political power. There is a distinction between

formal and informal institutions. The author identifies political institutions including the state and state-related institutions such as bureaucracies, rules, party systems, political actors and agency, and interest groups as formal institutions. Sangmpam (2007) further explains that formal institutions involve some well-defined organizational patterns, regular rules and procedures governing the behavior of groups or collectivities, and some concrete symbols such as the building these groups inhabit or the physical symbols they use (Ibid., 2007: 208). This study regards democracy and all formal state institutions and structures as forming part of the formal institutions. However, Members of Parliament (MPs) and Local councillors are the focus of this study.

1.10.3 Traditional Authority

In the formal/informal institutions dichotomy, scholars argue that traditional authority institutions fall within the informal institutions realm. However, scholars have defined traditional authority in different ways. For instance, Lutz & Linder (2004:5) argue that traditional denotes historic meaning and relates to something that has its roots in the past. Blom as cited by Hussein (2009) further defines traditional institutions as actors and embodiment of customary decision making institutions and the traditional leaders as 'guardians of traditional norms and values that are respected in particular communities from generation to generation.

Lutz and Linder (2004) further claim that informal structures are not based on a constitution but nevertheless determine political interaction among others between them. It also has to be noted that variations in the definition or levels of traditional authority may be found within the same state (West & Kloeck-Jenson, 1999). West & Kloeck-Jenson (1999), discourages viewing traditional authority as if it were homogenous everywhere. This is because traditional authority as it is known today is a product of its history. It has been affected as it has also affected partisan politics in different ways in different places (countries). By this definition traditional authority in this study refers to chiefs at different levels within the local government area within Lilongwe district particularly and Malawi generally.

1.10.4 Section 65 Debate

The (2004 – 2009) parliament was characterized by a dominant opposition in which government struggled to get bills passed in its favour. The (2004 -- 2009) Parliament also saw increased levels of MPs crossing the floor from different parties to join government benches. The development was seen by the opposition as government strategy to boost its support in parliament and it was further viewed as weakening the opposition. As a result, opposition petitioned the speaker to invoke the Republican Constitution Section 65 which states in part that "... the speaker shall declare vacant the seat of any member who was at the time of his/her election a member of any political party represented in the National Assembly..." (The Malawi Constitution, 1994, sec. 65 sub sec.1). The petition was never enforced as government through different mechanisms obtained court injunctions to deter the speaker from implementing the provision of the section 65 of the constitution.

In retaliation, opposition colluded to reject 2007/2008 and 2008/2009 national budgets until the provisions of the section 65 were implemented. These were years closer to the next presidential and parliamentary elections and parliament viewed these as elections budgets that were geared towards mobilizing electoral support for the incumbent. The president Dr. Bingu Wa Mutharika also resorted to appealing directly to the citizens and the chiefs through the media. Newspapers carried articles with headlines like; "Government asks chiefs to Plead with MPs"; "Chief urges MPs to Prioritise Budget"; "Chief Has Overthrown me" and Government Fund Chiefs over Indaba" among others.

1.10.5 The Third Term Debate

In 2002, the ruling party introduced in parliament a motion to amend the constitution so that it allows the incumbent president to contest for a third term (the Malawi Republican Constitution (1994) allows for a maximum of two consecutive five year terms in office). The issue was so contentious in parliament with MPs including those

from the ruling party threatening to vote against it. To avoid losing the motion through a parliamentary vote, the president and the ruling party resorted to garnering the support of chiefs and grassroot communities through a massive media campaign. The campaign was aimed at appealing directly to the citizens and their chiefs so that they may influence or pressure their MP within their local area to vote for the motion when it is tabled (The Nation Newspaper, 6 July, 2002). Government championed a process of setting up a chiefs' council that would participate in debate on national issues starting with the Third Term Bill (Daily Times, 2 July, 2002).

The issue including the involvement of chiefs was covered thoroughly by the media while civil society organizations mounted a counter-campaign to discredit both the Third Term Bill and the involvement of chiefs to pressure MPs to vote in favour of the government position. Several other issues emerged from this controversy that affected the political environment 2002 – 2003 and intensified debate with regard to what roles chiefs should play in the democratic governance system.

Both the Section 65 and the third term debates have engendered the role and functions of chiefs in Malawi especially given their collaboration with the executive and what implications that collaboration may be having on the core democratic values of accountability and representation. These issues have been referred to in this study in order to illustrate the dynamics of the involvement of chiefs at different levels by the various democratic state institutions.

1.11 Conclusion

The chapter has presented an overview of the study. It has outlined the historical background to the state recognition of chiefs from the colonial era and the issues that the interaction between chiefs and the state presented over time. It also defined the research issue, aims and specific objectives of the study. The chapter has also outlined the study methodology including data collection and analysis. Finally, the chapter has laid out an outline of the structure of the dissertation and also stated the factors that might limit the achievement of the intended output of the study.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

This chapter is divided into seven major parts and it draws from secondary data sources. It reviews key issues that emanate from previous studies that are pertinent to the present study. The chapter defines essential concepts that have been used like democratic institutions, traditional authority and democracy consolidation. The chapter also reviews how the regulatory framework influences the relationship between chiefs on the one hand and MPs and local councillors on the other. The chapter also reviews the effects that the interface has on the democratic values of accountability and representation and the mechanisms that either chiefs or MPs and local councillors employ in their discharge of accountability and representation functions. Finally, the chapter reviews the modes in which chiefs are integrated into the democratic governance system and how that affects the process of democracy consolidation in Malawi

2.2 Entrenchment of Chiefs as a Dominant Actor in Local Governance Processes

The ambivalence in the way that multi-party democratic governments have recognized the authority of chiefs has been identified as either the cause or the effect for the diminished levels of accountability by both chiefs and the executive towards their communities. Logan (2009:106) points out that the legislation in Malawi reflects the challenges of recognising traditional institutions in contexts with a continuation of traditional rule. The multi-party democratic governments not only in Malawi have either been unable to or unwilling to clearly stipulate in any programmatic way the roles and functions of traditional authorities (Chinsinga, 2006; Chiweza 2007; Mapedza, 2007; West & Kloeck-Jenson, 1999). This has resulted into

roles and recognition of formal state institutions being overshadowed or sometimes conflicts between the chiefs and the democratic institutions at the local level.

Jentzs (2005) and Muriaas (2007), attribute the problems that arise from the ambivalent regulatory framework towards the deliberate efforts by the executive to benefit from the support of chiefs in elections or for grassroots support in contentious issues even at the national level as outlined above. The studies by Muriaas (2007) and Jentzs (2005) do not consider other motivations nor the environment within which the state set up the regulatory framework as also contributing to the current state of the regulatory framework. For example, the studies do not examine the effect of the history and evolution of the chieftaincy in Malawi on the current regulatory framework.

Furthermore, these studies overlook a possible effect of the very motivations for the state in Malawi to embrace a democratic system of governance. Even more importantly, how the process of embracing democracy was conducted, who had the motivations for change and who supported the movement for change. Answers to these questions may help to illuminate on the type of democracy that was aimed at and if the inclusion of chiefs there in is part of that democracy. According to Ake (2005) the movement that brought about democratic changes in Africa seem to have been composed of various interest groups that may have had differing motivations for supporting change. Even though this study does not conduct a thorough assessment of the interests of the various agitators of change in Malawi towards democracy it probes into the perceptions of ordinary citizens who also supported change towards democracy with regard to the significance of chiefs in the democratic governance system.

Third, the concept of 'neutrality' is interpreted as 'support for the government of the day and not the opposition' in Malawi. This is explained by traditional leaders' dependency on the governments for their maintenance and that the governments have to rely on traditional leaders as allocators of customary land and providers of local justice. Their dependency on the government (executive) makes traditional leaders easy for governments to manipulate whenever the government wants to retain power.

The easy way for government to explain its support for chiefs despite the growing spread and deepening of the democratic experience is the important functions that chiefs play in society (Muriaas, 2008:103).

Explanations for these developments point to the role of patron-client relations in the significance of traditional leaders in the democratic era. However, these explanations of the relationship between chiefs and the government (executive) blurs out the ordinary people's preference of the traditional authorities to the elected officials. These explanations suggest that it is the executive and the chiefs who benefit from the existence of the chiefs in the democratic era. But the high levels of popularity of chiefs as compared to the elected state officials points to the existence of some other factors that endear the chiefs to the ordinary citizens. That is why it is necessary to probe the basis for the ordinary peoples' positive perceptions of chiefs with regard to the kinds of representation and execution of downward accountability responsibilities that are available to either the chiefs or the elected officials. This understanding such issues would help to determine how practical the possible integration models would be for Malawi as far as fostering the process of democratic consolidation is concerned.

Additionally, these authors see the resurgence of the significance of traditional authorities as being largely aided by the advent of multi-party democracy but the power dynamics of the relationship between the chiefs and the specific democratic institutions and structures is not clear. For example, the studies have not outlined whether the authority of chiefs in Malawi should be further regulated, be protected in the policy and legislative framework and how. Furthermore, the studies do not explain what new developments like proliferation of new chieftaincies, the observed dwindling trend of respect for chiefs and the need for education in the progressively changing social economic and political environment are affecting the power dynamics between chiefs and the local councillors or MPs both at the local and national levels. It is not clear whether chiefs need to have a forum where they could form a front through which to galvanise common positions based on their recognised representation of a local order on issues of national concern.

There is need to probe further the need to ensure that the regulatory framework to provide for predictability and curb manipulation trends in the way that chiefs are incorporated into state affairs. Besides, the state has a moral responsibility to ensure a level playing field where all citizens equally enjoy their individual rights and protection by the state. In the issue of chiefs, it has been shown in this study that the democratic values of accountability and representation are being negatively affected. Even so, the state in Malawi and indeed in those other countries where similar issues arise are seen to be taking steps towards rectifying the problem.

Koelble (2005) suggests, that despite a general agreement among various players on the extent to which authority of chiefs stretch, the constitutions of these countries do not succinctly articulate it. Hence the people who live under the authority of chiefs are left to obey authority which is not constitutional hence posing a threat to democratic consolidation. Furthermore, it may not be clear currently as to where the development (interaction between chiefs and state institutions) is heading. It is not immediately clear whether the authority of chiefs will recede in the near future, advance into bigger and stronger units or rather how it is likely to specifically unfurl (Koelble, 2005). The fact that ordinary citizens who live under the authority of the chiefs are the ones who have mostly been left to negotiate how they juggle their allegiance between chiefs and the elected state officials entails that the state has neglected its responsibility.

2.3 The Benefits for the Elected State Officials in Working with Chiefs

It has been noted that chiefs work collaboratively with MPs and local councilors most of the time in various specific democracy and development processes even though instances of conflict have also been observed. Jentzs (2005) claims that chiefs act more freely hence objectively on various issues including those at the national level. The author specifically points out that MPs and local councillors usually try to tread carefully on politically contentious issues because they have a next election to win with the support of the people. However, chiefs do not have to worry about an impending election, therefore they are more able to comment or act on difficult/controversial issues within their communities (Jentzchs, 2005:4). The fact

that chiefs have comparative advantages in executing governance responsibilities over their elected counterparts accounts for the chiefs' higher levels of popularity among the communities as compared to the local councilors and MPs. For this reason, the author argues that chiefs should not be accorded any substantive roles in representation because they overshadow the elected officials. According to Jentzchs (2005) as long as chiefs maintain their conspicuous spot within their communities, they will keep overshadowing the elected officials. This will in turn prevent the process of deep legitimation of these formal state institutions hence inhibit the democracy consolidation process.

However, Chinsinga (2006) and Chiweza (2007) differ with this observation. Chiweza (2007) argues that some of the roles and functions that chiefs perform are currently indispensable because of the inability of the state to provide for structures at the local level that would carry out some of its service delivery responsibilities. For example chiefs' roles in mobilizing for, supervising and monitoring development within their communities currently may not be effectively performed by any other state institutions. MPs and local councillors actually depend on the chiefs to accomplish the same. Based on this, chiefs have a real potential to facilitate an environment within which democracy consolidation would occur (Chinsinga, 2006:268). With the process of decentralization, the level and intensity of the functions that chiefs perform is growing which also denotes the growing importance of the chiefs. That is why it could be concluded that the process of decentralisation has practically accentuated the need for chiefs at the local level instead of necessitating its abolition in keeping with the democratic theory.

Jentzchs (2005) calls for the abolition of chieftaincy based simply on a perceived need to deliberately create and nurture democratic institutions at the local level. This call disregards the collaboration that exists between the chiefs and those local level democratic institutions and more importantly, the fact that as democracy is being promoted, the popularity of chiefs also rises (Logan, 2009). The call further disregards the possibility of adaptation in both the formal and informal institutions that may have occurred in the period that the two have co-existed. Besides, the call does not provide for guarantees of effectiveness of the formal state institutions in the

absence of the informal ones in meeting the needs of their communities. Already, the higher popularity of the chiefs over and above their elected counterparts shows that there is a vacuum in the society that the chiefs fill that the state institutions have failed to fill.

The trend has also been noted in other Southern African states. In Mozambique, as the process of decentralisation began to take root, it was realized that chiefs were so important that in those areas where chieftaincy had been abolished it had to be re-instated. Government officials have sometimes encountered challenges in communicating government policy in certain communities. As a result the government revised its policy on its interaction with traditional authority in order to foster that consensualism (West & Kloeck-Jenson, 1999). In a related study, Goncalves (2005) states that the government has actually had to create new chieftaincies among the communities that originally did not even have any for the same purposes. For example, the Mocumbi community had to figure out how to identify a chief from recollections of their history (Goncalves, 2005).

In Kwa Zulu Natal, (South Africa) the establishment of municipal councils has made the chiefs more recognizable by their people than before. As a direct result, more and more people prefer to seek service from chiefs on issues of land allocation, dispute resolution including disputes arising from communities' participation in development work in their areas (Beall et al. 2005; Koelble, 2005). Additionally, chiefs have also been instrumental in the preparations for and in conducting both national and local council elections (Williams, 2004). It is not surprising that claims that the process of decentralisation has in most cases been influenced by Western donor conditionality in a bid to encourage new democracies to establish and nurture democratic institutions emerge.

2.4 The Superiority of the Working of Chiefs in Executing Accountability and Representation Functions

The legitimacy of traditional authority in a democracy has been called into question among other issues, on the grounds that it is dictatorial, not representative enough of

their supposed subjects' views opinions and preferences and not accountable. The theoretical literature argues that those structures and institutions that are not subjected to elections are undemocratic because they do not exude transparency and accountability (O'Donnell, 1996:2). Thus a lack of elections means that there are no mechanisms or approaches that help to factor in transparency and accountability in the position and functions that traditional authority institutions hold and perform in the democratic society.

However, these assumptions exclude an assessment of the specific mechanisms and approaches through which elections and their attendant democratic institutions are expected to execute that accountability and representation. Besides, these assumptions do not consider from whose perspective and by what measures that accountability will be gauged. Perhaps elections that come once in a specific period show whether ordinary citizens are happy with the services of the elected officials and the institutions through which those elected officials operate. But the system does not provide adequate mechanisms through which citizens may assess the performance of their elected officials and even change their choice in between elections.

Chinsinga (2006) outlines forums, mechanisms and places where traditional leaders on the one hand meet to discuss issues and those where local councillors and MPs on the other meet to discharge their representation responsibilities. Local councillors mostly work through assembly meetings that are rare due to inadequacy of funding at the District Assemblies but they are able to conduct political rallies to communicate with their constituents any time throughout the year. The author further outlines a number of other forums where chiefs have been seen to communicate with the people on the one hand and to communicate with a state institution for service on the other namely; funerals, party rallies or development mobilization meetings (2006:264 – 265). Chinsinga (2006) also points out that such rallies and funerals are common occurrences in the communities in Malawi hence the communication between the chief and members of his/her community may also be that frequent. Even whenever either a MP or a local councillor intends to hold a rally, in their own community, they usually solicit the patronage of the chief. Consequently, traditional leaders are seen to

be more frequently in contact with the people than their elected counterparts (Ibid, 2006).

This literature presents an acknowledgement that mechanisms exist among chiefs that help them communicate closely with their communities. That is why Logan (2009) argues that those who focus so much on the lack of elections in the traditional authority institutions like chieftaincy, often neglect other features of traditional systems that may also account for their compatibility with democratic governance. Such features include the opportunities that chiefs offer for everyday participation (as opposed to periodic voting), as well as their simple familiarity and consequent accessibility. Logan lists community-wide gatherings common to many African societies, known variously as pitso (Lesotho), kgotla (Botswana), shir (Somalia), baraza (Kenya) and by many other names. Logan (2009:205) suggests that such common gatherings may have long offered opportunities for a wide array of community members to voice their opinions on community affairs and participate in consensus-based decision-making. Logan (2009) does not present evidence as to whether these mechanisms that have been observed in other countries also exist in Malawi and to what extent they facilitate the core democratic values of accountability and representation.

In addition, Chiweza (2007) identifies the development mobilization forums like the ADC, VDC as well as the Assembly itself where traditional leaders attend as ex-officio members, as other forums where traditional leaders are seen linking up with state institutions like the executive for service provision. It is not clear what the value of these fora is to ordinary citizens but also to the state institutions. As a result, more exploration of the specific ways in which these fora provide for accountability and representation needs to be done.

Scholars on other African countries like Ghana have highlighted the existence of such mechanisms for enforcing accountability. One such study (Bamfo, 2005) asserts that the mechanisms and systems for checking abuse of power by chiefs have remained intact in those societies that were more centralized even before the colonial experience. As for those communities that rather did not have a well structured

governance system, the mechanisms and systems have been unregulated and usually desperate to the point that they tend to be more violent and destructive (Bamfo, 2005). The author identifies destoolment or dethronement of uncooperative chiefs, loss of trust and respect from their people by getting their services boycotted, being ostracized in the community or even getting physically harmed in extreme cases. Bamfo (2000:150-151) further acknowledges that over the years, citizens have had to adapt and readapt their systems to ensure success in checking the power of chiefs from abuse and despotism.

Besides, these authors do not conduct a comparative analysis between the mechanisms and approaches that are available to chiefs and those that are available to MPs or local councillors for similar purposes. Such variations may present themselves in practice or from various stakeholders' perspectives. The perceptions of the communities that are governed by both the chiefs and the MPs and local councillors would matter most in determining which authority has more effective mechanisms for execution of downward accountability hence more disposed to offer effective representation. Consequently such an analysis has not been used in explaining the positive ratings of either the traditional leaders or the elected officials by the ordinary citizens and suggesting more effective modes of integration of the traditional institution of chieftaincy into the democratic state system or structure. It would be practical to interrogate further in Malawi with regard to the prevalence and comparative advantages of such mechanisms that help ordinary citizens to enforce accountability among their chiefs as compared to among elected officials in Lilongwe district. This study conducts a comparative analysis of the mechanisms from ordinary citizens' perspective to determine which ones are more effective in the execution of downward accountability and representation.

The studies in Malawi do not provide any information with regard to whether it is also possible for the ordinary citizens to enforce accountability among their either chiefs or elected officials. It is clear from democratic theory that accountability is expected to be enforced through people's right to choice of leaders during elections. It would be more informative if more discussion would be presented illuminating on how ordinary

citizens view their options in disciplining, cautioning or sanctioning their leaders as a way of enforcing accountability among them.

2.5 Understandings of Democracy that Span beyond Elections

The following sections present these understandings of democracy as follows;

2.5.1 "... The Only Game in Town" Conceptualisation of Democracy Consolidation

There are three dominant schools of thought that have been employed to illuminate on the understanding of democracy consolidation in the study of the co-existence and interactions between traditional authority and the democratic state institutions in Africa generally and in Malawi in particular. These approaches are; the democratic theory, Institutionalism and the state in society approaches. The dominant democratic theory contentions are "... the only game in town" understanding of democracy consolidation as argued by Linz and Stepan (1996) and Mamdani's (1996) predictions that Africa will not democratise if traditional authority institutions are retained in the democratic era (as cited by Fokwang, 2005). It is these understandings of democracy and democracy consolidation that have presented a controversy among scholars and commentators of democracy in Africa with regard to what the place of traditional authority may be and how it may relate to the democratic state institutions while at the same time fostering the process of democratic consolidation. These conceptualizations have made it difficult for scholars to integrate the chieftaincy into broader theoretical discussions of either the state or democracy in Africa. However, the emergent state in society approach recognizes the significance of the differing nature of the state and its position in society hence recognizes the existence of variant governance models that could exude the core democratic values of accountability and representation.

Linz and Stepan (1996:5) argue that democracy can only be said to be enduring or consolidating if there are no significant anti-system voices in the polity and practically, democracy becomes, in that polity, 'the only game in town'. The authors

claim that democracy becomes the only game in town once elections and their surrounding freedoms are institutionalized, in the polity because only then could one say that democracy is consolidated or is likely to endure. Linz (1996) as cited by O'Donnell (1996:3) argues that there has to be no other body or institution whose members have attained office without elections that has veto powers over elected officials or institutions. Thus no institution whose members were not elected may have veto powers over the decisions made by elected officials. This is because all major political actors, parties, organized interests or institutions would agree that there is no any alternative to democratic processes to gain power (Linz, 1996) as cited by O'Donnell (1996:5).

From the only game in town understanding of democracy consolidation, the persistence of chiefs in democracies that are considered consolidated or rather consolidating is difficult to explain. Chiefs are not an elected office and yet they command a higher level of popularity among ordinary citizens (Afrobarometer, 2005). This entails that democracy is not the only game in town because some significant segment of the population is able to gain office through other means than elections. In the same way, the reliance of the state on chiefs to perform such functions as dispute resolution and land allocation (Jentzchs, 2005; Chinsinga, 2006) runs contrary to the only game in town. Clearly there have to be alternative explanations for the general agreement among the population in Malawi to embrace democracy but acting contrary to the prescriptions of the democratic theory. Similarly, states like Botswana or South Africa as observed by Williams (2004) are progressive democracies. However, chieftaincies still persist alongside that progressive democratization. This entails that there have to be alternative explanations for the observed persistence of chieftaincy while democracy also thrives. It could also entail that this conceptualization of democracy consolidation is incomplete as it does not recognize the possibility of democracy thriving while traditional authority institutions of governance also exist.

O'Donnell, (1996) argues that informal institutions too play significant roles in shaping political interactions between the formal institutions themselves but also between the formal and the informal institutions. As a result, it is imperative that

specific studies need to be conducted that illuminate more on the effects that the interaction between chieftaincy on the one hand and the state institutions on the other is having on the formal state institutions and vice-versa. Such studies would illuminate specifically on the factors that account for the persistence of chieftaincy in a polity where democracy is progressively consolidating.

2.5.2 Mahmood Mamdani's Contentions

Mamdani (1996), cautions that Africa will never democratize if chieftaincies are maintained alongside democratic state institutions in those countries that are newly democratising. The author's reasons for discouraging states from allowing chieftaincies to co-exist with democratic governance systems is that by maintaining the chiefs in a democracy, those people that will be governed by chiefs will fail to enjoy citizenship rights while those that will be living in urban centres will benefit from the direct governance of the democratic state. Hence the former will remain subjects of the chief while the latter will enjoy citizenship rights. Therefore, Mamdani (1996) advises that chieftainships should be abolished to avoid bifurcating the state in which some segments of the population become citizens governed by democratic values, while the other segment get governed by chiefs who operate on anti-thetical terms to democracy, as cited by (Nyamnjoh, 2005). According to this argument, those who are governed by chiefs are still bound by their tribes and that they may not be able to enjoy citizenship rights but remain subjects of the chiefs. Consequently, such a bifurcated state may not be able to democratise because the state is ill-formed and citizens are unable to channel their loyalties to the state but rather to their tribes due to their allegiance to traditional authorities, as cited by (Nyamnjoh, 2005).

Mamdani's arguments are influenced by the institutionalist theory which states that the meeting of democratic state institutions and traditional institutions of governance is a meeting of two differing sets of institutions in a modernity/tradition dichotomy (Fokwang, 2005). The theory states that as democracy which is a modern institution meets with the traditional institutions of governance, the old traditional institutions will recede in significance over time and become obsolete. Only when the traditional

institutions lose their significance and become obsolete would democracy be able to consolidate. Therefore, traditional institutions of governance should deliberately be suppressed so that the formal democratic institutions of the state may begin to assert themselves hence lead into democratic consolidation. (Koelble, 2005:13).

The decentralisation process in Malawi just like in other Southern African countries has been aimed at facilitating the spread and deepening of the democratic experience while at the same time reducing reliance of the population on their traditional institutions like chieftaincy. For instance, in Mozambique (West & Kloeck-Jenson, 1999), South Africa (Williams, 2004) and in Malawi (Chinsinga, 2006, Chiweza, 2007) show that the trend has been for the regulatory framework to leave out chiefs in favour of elected officials. By trying to relegate chieftaincy to a marginal position in the regulatory framework it was hoped that modern democratic institutions would be enhanced in the hope for democratic consolidation. Its outcome has usually been the opposite as despite their being left out of the formal regulations, the significance of and support for chiefs among ordinary citizens has continued to soar.

The resurgence of traditional authority institutions through the decentralisation process, is evidence that it is not realistic to believe that such institutions like chieftaincy will just become obsolete in the face of emerging democracy. Besides, it is not yet clear what the effect of the interaction between democratic institutions and traditional authority institution is on each of the institutions themselves. Nyamnjoh, (2005) argues that this convergence of the two differing sets of institutions brings about change to both the democratic or formal state institutions and the traditional institutions. That change helps these sets of institutions to adapt to their environment hence enable them to foster accommodation between traditional institutions and the formal state institutions in the democratic system. However, Nyamnjoh (2005) states that the result of such an adaptation may be neither a pure traditional nor modern democratic set of institutions but a type that serves the interests of its citizens because it is fogged out of a particular need.

In the case of the convergence of these two differing sets of institutions (chieftaincies and MPs and local councilors) in Malawi it has not been assessed yet to see what the

nature of the resultant system of governance that is emerging could be. Thus if the convergence is not leading towards a pure traditional or democratic system is what is emerging still fit to be termed as a democracy? Owusu (1999) suggests that if choice is one of the tenets of democracy then the people's choice of institutions should also be acknowledged as a democratic practice. Thus whether the people choose to support the traditional institutions like chieftaincy that do not embrace elections, the mere fact that ordinary citizens support them should indicate the prevalence of democracy. As a result, the existence of chiefs in a democratic governance system should not in itself denote lack of democracy. That is why ascertaining whether the core democratic values of accountability and representation are being upheld or not in the interaction between chiefs on the one hand and MPs and local councilors in Malawi would be of great importance.

Nonetheless, Mamdani's argument helps to highlight the need for a state or state-like entity to be properly formed in order for democracy to be built hence consolidated. The idea is that if there is no fully formed state, citizens may not pay allegiance to the state but remain tied up to their tribes through their chiefs. However, there is need to understand the nature and relationship between the chiefs and the state in order to determine whether the authority of the chiefs militate against that of the state in order to be able to explain the possibility of democracy thriving in Malawi.

2.5.3 The State in Society Approach

The State in society approach acknowledges that the state is central to the process of adopting and building of institutions of governance that can be democratised. However, the approach advises understanding the nature of the state and the position it holds in the society in non-western societies differently from the way it is understood in the western world. For example, Lambach (2005) and Sangmpam, (2007) hold that what prevails in non-western societies is a web-like set up of institutions/organisations (both formal and informal) that interact in order to serve specific purposes in the society. Both Lambach (2005 and Sangmpam (2007) argue that in such societies, the state is simply one of such institutions of society to which political players and ordinary citizens refer in their relationships. Therefore the

existence of chieftaincies alongside the democratic state institutions may not be a prime factor in hindering the progression of democracy consolidation. Lambach further argues that according to Joel Migdal's theory of the state, chieftaincies are part of the definition of what the state is in non-western societies.

State institutions rely upon the informal institutions in order to function appropriately because the state as a whole is also just one of the institutions of society like traditional authority (Lambach, 2004:5-6). Sangmpam observes that it is the relationships that the institutions and organizations (including the state) forge that determine the sort of rules that should be set up and the behavior of those organizations as they interact among themselves but also with others outside that web. Such organizations include the state bodies and informal power holders like chiefs. Through different kinds of social order these associations, embody sets of rules that are enforced among their members through relationships of authority which in turn influences politics even at the national level (Lambach, 2004:11).

This approach allows for assessing the level and quality of democracy even in societies that still embrace traditional governance institutions as chieftaincy as opposed to especially the only game in town understanding of democracy consolidation. The state in society approach is more tolerant of adaptations and particularism that prevail from one country to another as opposed to universalism that is largely assumed by the institutionalist and democratic theories. It is also important to note that the state in society approach being an emerging theory, also may not be relied upon to analyse the level of democracy consolidation. This is because the approach does not provide a specific definition of what constitutes democracy and what not to consider in such analyses as democratic practices or institutions. Although this study mostly identifies with this approach in its analyses, the approach is only to explain the understanding of the type of society and conceptualizations of the state in Malawi as a non-western country.

2.6 Challenges that Chieftaincy Faces Due to the Political Manipulation which is Embodied in the Chiefs' Act and the Rather Fluid Regulatory Framework

Despite largely being able to maintain a healthy balance between being part of the state (bureaucracy) and being part of the society, individual chiefs and state operatives have sometimes tilted that balance in favour of the state. Chiefs are seen as mostly more accountable to government than to the people. In such cases, some analysts have observed that democratic ideals of representation and accountability with regard to some members of the communities that are presided over by chiefs get compromised. Jentzchs (2005) attributes this lack of ability among chiefs to be able to balance their position between the state and the society towards the unclear legal framework.

It is claimed that chiefs get dragged into the pathology of Malawi's current political system. Similarly, Chiweza (2007) concludes that the slogan of power to the people translates into power to the chiefs. Thus as the process of decentralisation propels more power to the people, it actually seems to be empowering the chiefs more. Hence Jentzchs (2005) wonders whether power to the chiefs reverts power back to the state or could it mean that the process of decentralisation is reversing the objective of consolidating democracy? This stresses the need for interrogating the basis for the high level of support for chiefs among ordinary citizens.

If indeed empowering the chiefs who are also being drawn into the political pathology of the country means disempowering the people, the issue may have strong implications for democracy consolidation. What could be at stake is the downward accountability and representation of the ordinary citizens that they are supposedly responsible to. The main point is that it has to be recognized that chieftaincies (in Malawi) have been observed to also be politically partisan (Muriaas, 2007). Therefore it is necessary that the effect of the interaction between chiefs who are not elected, command a lot of support among ordinary citizens and have the ability to tilt the balance of the power of the elected officials between the ruling party and the opposition is probed further.

In other countries in the region chiefs who throw their weight behind the opposition parties, or claim neutrality tend to be quite critical of the government and the ruling party. This is evidenced by the fact that conflicts involving traditional authorities automatically get cast in political partisan terms (Goncalves, 2005). Beall et. al. (2005:763-764) claim that when chiefs are drawn into political partisan issues state recognition of chiefs threatens the durability or even the quality of the democratic experience hence it is likely to bring about political instability. For instance, Beall et al. (2005) argue that in Kwa Zulu Natal in South Africa, where chieftaincy remains a "political football" the relationship between the state and the chiefs presents a fault-line from which political destabilization in the country may start. This is because currently, the ruling African national Congress (ANC) benefits from the support of traditional authorities even in winning elections.

In Zimbabwe too chiefs are said to have no any firm pedestal from which to discharge their functions (Mapedza, 2007). As a result, chiefs are coerced into helping the ruling party in intimidating the opposition during campaign rallies as well as favouring members and sympathizers of the ruling party in distribution of food aid. This could either be as a result of the deliberate manipulation of the existent legislation that governs the operations of chiefs or that it has been as a result of unintended effects of democracy on this institution of chieftaincy. The development has led to the institution being so manipulated by the ruling party that chiefs are no longer accountable to their subjects but work mostly to please the government and the ruling party. If indeed empowering the chiefs who are also being drawn into the political pathology of the country means disempowering the people, the issue may have strong implications for democracy consolidation. What could be at stake is the downward accountability and representation of the ordinary citizens that they are supposedly responsible to. The main point is that political partisan neutrality of traditional authority (in Malawi) is a myth (Muriaas, 2007). Therefore it is necessary that the effect of the interaction between chiefs who are not elected, command a lot of support among ordinary citizens and have the ability to tilt the balance of the power of the elected officials between the ruling party and the opposition is probed further.

It has been noted in other countries in the region too that chiefs who throw their weight behind the opposition parties, or claim neutrality tend to be quite critical of the government and the ruling party. This is evidenced by the fact that conflicts involving traditional authorities automatically get cast in political partisan terms (Goncalves, 2005). Beall et. al. (2005:763-764) claim that when chiefs are drawn into political partisan issues state recognition of chiefs threatens the durability or even the quality of the democratic experience. It is likely to bring about political instability. For instance, Beall et al. (2005) argue that in Kwa Zulu Natal in South Africa, chieftaincy remains a "political football" and so it presents a fault-line from which political destabilization in the country may start. This is because currently, the ruling African national Congress (ANC) benefits from the support of traditional authorities even in winning elections. Similarly, in Zimbabwe chiefs are said to have no any firm pedestal from which to discharge their functions. Among other areas, chiefs help the ruling party in intimidating the opposition during campaign rallies as well as favouring members and sympathizers of the ruling party in distribution of food aid. This could either be as a result of the deliberate manipulation of the existent legislation that governs the operations of chiefs or that it has been as a result of unintended effects of democracy on this institution of chieftaincy. The development has led to the institution being so manipulated by the ruling party that chiefs are no longer accountable to their subjects but work mostly to please the government and the ruling party (Mapedza, 2007).

In Malawi, the position of the chiefs vis-à-vis their elected counterparts is further cemented by the fact that chiefs preside over the District Assembly structures like the Area Development Committees, (ADCs) the Village Development Committees (VDCs). Chiefs also sit as ex-officio members of the District Assembly through which they are able to express their views on various issues. Jentzchs (2005) argues that these roles prevent the progression of recognition and significance of the elected representatives like the MPs and the councilors within the communities. In her interpretation, this is a classical case of preference of non-democratic institutions to democratic ones which in turn, according to Diamond (1999), is detrimental to democratic consolidation.

Both Jentsz (2005) and Mapedza (2007), fault the chieftaincy for overshadowing their elected counterparts in the democratic governance system at the local level thereby hindering the effective execution of representation among the MPs or local councillors. In Jentsz's (2005) analysis of the roles that chiefs play at the national level, the author argues that chiefs get manipulated by the executive. For example, in expectation for financial rewards or the opportunity to dialogue with the president, chiefs support government positions among their communities against the opposition in contentious issues (Jentsz, 2005:6). This presents a threat of the chiefs acquiring veto functions against a democratically elected opposition as they collude with the executive.

These studies unravel a trend through which the state manipulates chiefs for the benefit of the executive and the ruling party. Due to the conclusion that these authors make Jentsz (2005 and Mapedza (2007) that the trend seriously impacts on the democratic value of accountability on the part of the chiefs as well as the executive they further recommend that the institution of chieftaincy needs to be abolished.

These authors assume that there is a clearly demarcated line between the state and the society and hence when the chiefs act in favour of the state they act against the people. The other assumption that these authors make is that the prominence in popularity and functions of chiefs represents less representation of and accountability to the local communities. This study undertakes an assessment of the views of the people with regard to their perception of effective representation and the performance of their chiefs on the one hand and their MPs or local councillors on the other in executing the same. Such a comparative assessment would help in determining whether and in what ways chiefs or MPs and local councillors offer effective representation and accountability. The assessment helps to determine the threat that the prominence of chiefs over their elected counterparts poses to democracy consolidation in Lilongwe district.

2.7 Conclusion

The chapter has shown that dominant conceptual understandings of democracy consolidation exclude state recognition and popular support for traditional authority institutions in the democratic governance system. However, empirical studies show that in Malawi like in most other sub Saharan-African countries, chiefs still command higher levels of popularity than their elected counterparts. Additionally, the regulatory framework is ambivalent with regard to what the place and role for chiefs should be in the democratic governance system and how chiefs should interact with MPs or local councillors at the local level. The review has also shown that the effect of the interface between chiefs and MPs or local councillors on the democratic values of accountability and representation need more indepth understanding in order to determine if it really negatively affects the process of democracy consolidation. The review further shows that the mechanisms that either chiefs or MPs and local councillors employ in their discharge of accountability and representation functions contribute towards the popularity of chiefs over their elected counterparts.

CHANCELLOR COLLEGE LIBRARY

CHAPTER THREE: FINDINGS AND DISCUSSION OF FINDINGS

3.1 Introduction

This chapter presents an analysis of the findings of the study along the objectives. The chapter analyses six major issues that emerge from the findings namely; the entrenchment of chiefs as a local governance actor, duplication of the roles of chiefs and those of councillors, the superiority of the functioning of chiefs as compared to elected local state officials, benefits of state officials working closely with chiefs, understanding of democracy that spans beyond elections and the challenges that chieftaincy faces due to the unclear regulatory framework. This discussion ultimately helps in determining whether the interaction between chiefs and local councillors and MPs at the local level in Lilongwe promotes the prevalence of the democratic values of downward accountability and representation within the local communities.

3.2 The Entrenchment of Chiefs as a Local Governance Actor

The roles that chiefs play and the mechanisms through which they operate cement their position as a significant player in local governance processes. Such processes include service provision, supervision of and monitoring local development implementation but also organizing for and conducting elections. Chiefs have also been seen consulted by the executive on issues of national significance.

Roles and functions of chiefs are well understood and could easily be articulated by most respondents in different categories in the study. However, those of the councillors and MPs are understood variously by different groups of people. In Most cases village community members disagreed among themselves in attributing some village development projects to MPs. Instead they preferred to attribute such development projects to either councillors as some respondents did in FGDs or to their village chief. This shows that there has not been much acknowledgement of the

initiatives that MPs have undertaken or the specific functions that they perform for their constituencies. In the three T/As where the study was conducted, only two could recollect their MP having initiated or supported them with some development initiative or even holding rallies within the communities.

Chiefs were credited in all FGDs and KII for the following specific roles and functions in the local communities; dispute resolution on issues including marriage, petty crimes, chieftaincy, land and even development disputes, distribution of land, presiding over preservation of culture, supervision of development implementation and supervision and mobilization of communities for development. The dispute resolution function that chiefs play encompasses disputes between community members or within a family set up. Disputes between any community members and outsiders regardless of whether they are a politician or not, a government official or not are also resolved by chiefs within their communities. The specific development disputes that the chiefs usually help to resolve include unwillingness of some members of the community to participate in community development projects which could be between any lower chief and a higher level chief or between any individual citizens against the community. Traditional authority level chiefs are affectionately referred to as '*Chalo*' which literally means 'owner of the land' a title which recognizes their land allocation function.

The inability of most citizens to understand the operations of parliament and the DA, results into the ordinary citizens assessing performances of chiefs, MPs and local councillors based on whatever development and service outputs that they can easily observe within their communities. For example, various FGDs cited the implementation of the fertilizer subsidy, coupon distribution and identification of beneficiaries that was done jointly by chiefs and Assembly officials as some of the observable tasks that their chiefs had done within their communities. Others cited construction of a local bridge, a school block and a village clinic. Even though such tasks may not easily or directly be attributable to the efforts of either MPs or local councillors emanating from either the DA or through the national budgetary allocations roles of MPs and local councillors (when they existed) are implied.

3.2.1 Chiefs Facilitate Interaction between State Institutions and the Communities

Chiefs get invited to attend all political party rallies and thus, chiefs of all levels. When they do get invited to the party rallies, the chiefs are not given guidelines regarding what they are supposed to say. However, there is a silent pact that all chiefs know that whenever they are invited to a rally, they are supposed to speak well of that individual or party. One chief (T/A) commented thus;

“... However, it is obvious that they want my support and that of my people so I know that I have to be careful at such rallies not to mislead people. I know that If I say that this is a good party or good leader I am hinting to my people how to vote so what I do is *‘ndimapindapinda mau anga’* literally translated; ‘I carefully select my words so that for those officials that would be helpful to my area, I do hint and while I do not for those that I do not necessarily support. So even if they may be unhappy with what I said, they have no way of getting back at me because by the time they discover what I really meant, the rally is over’. As for my people, *‘apao ndi mizu ya kachere’* literally meaning; my people know what I mean. I talk in a way that only the wise would decipher and discover what I meant.” (KII, Lilongwe, 24 July, 2008).

The study also established that of the six levels of chieftaincy there is more interaction between the village headman and the members of the local communities compared to that between the senior level chiefs and the communities. Citizens feel closer to and more trusting of the village level chiefs. For example, it was stated that if the village chief was involved either in the section 65 or the third term debate, they would have known about it because whatever comes through him/her surely gets down to the people. In discussing the role that the chief in their area took during the third term or section 65 debates, those villages that are geographically far from the T/A’s village did not recollect much about the T/A’s involvement and could not recount any role that the village chief took.

The major role of the MPs was recognized as to represent their people at parliament. Thus MPs are required to collect people’s opinions and views for presentation at

parliament on various issues. In that way, MPs help to bring development to the people. MPs also participate in local government business as ex-officio members of the Assembly. The MP is expected to sit in the Assembly contributing to debates by enlightening the members of the Assembly on major policy areas in the way that they are affecting the issues prevailing at in his/her constituency.

3.2.2 Chiefs are a Familiar Local Governance Service Provider

MPs are expected to and sometimes do hold rallies to confer with their people on what issues are pertinent within their areas that parliament should focus on. It was noted that this role has not been performed by MPs as the people expected. MPs confirmed (KIIs, Lilongwe, 30 July, 2008) that sometimes circumstances have not permitted them to consistently follow the process of holding pre-session consultations followed by post session feedback meetings with chiefs or through political mass rallies. No specific reasons were provided for that. This could mean that individual MPs do not feel obliged to follow the consultation process which is quite involving and costly. If there were strict requirements laid down for MPs to do as expected by their constituents, most likely, MPs would ensure that they hold regular consultation meetings within their areas. As a result, some communities question how such officials could represent the communities perceptions on major policy issues at parliament (FGDs, Lilongwe, 3 June 2008).

Some FDGs were most critical of their MPs even though some T/As (chiefs) sympathized with one of the MPs for his area, the Hon. Louis Chimango who was also Speaker of parliament at the time. The community members claimed that the MP never made any contributions in parliament in relation to the issues in their constituency. In one FGD (Lilongwe, 5 June 2008) respondents complained that they did not hear their MP make his contribution towards the section 65 debate although the people in the area were passionate about the implementation of section 65. The chief on the other hand, pointed out that since the MP was also speaker of parliament, it was difficult for him to make his own contributions in sessions but also to make time for such rallies.

However, on a day to day basis, MPs also provide to the needy within their areas by assisting with transportation for patients or transporting remains of members of their communities from major hospitals when they die. Some FGD respondents (Lilongwe, 24 July, 2008) said that their MP only provides transport to the sick and the dead but apart from that, there is not much else that he does. In another area, the focus group pointed out that their MP had helped some of their fellow villagers to erect headstones in their local cemetery and so they believe that she is an MP of the dead. For them they would rather have a MP for the living who would help to direct government to places where there is need for infrastructure like health clinics, schools, bridges and distribution of free handouts especially agricultural inputs. Overall, most areas complained that their MP has not done '*chitukuko*' (development) in their areas.

In the area where the community praised their MP it was said that he conducts regular political rallies in his area. The MP has set up a constituency office which is usually open and there are local party members who provide secretariat services and report back to the MP on a weekly basis. However, this community still is not satisfied with the rate at which feedback is provided to the members who forward their complaints through the constituency office secretariat. "*eni akewo amalandira chithandizo. Ife ndiye ayi*" literally translating to; those who are close to the MP get helped but not us. This could have resulted from the fact that the MP was unable to address those particular problems or issues directly, or that the aggrieved individuals did not get a positive response or no response at all.

In a related finding, some MPs do not know precisely what their specific roles and functions are with regard to their community. It is easy for them to understand that they are supposed to attend parliamentary sittings to represent their people. How they are supposed to specifically translate that to day to day responsibilities within their communities is not clear. Most MPs pointed out that what most people expect of them to do is not part of their job description. For example, MPs believe that even though they were not given a job description at the on-set of their job, they are not supposed to help people with personal problems but rather community development issues. They merely do this because those who came before them had set a precedence so whoever does not do that would risk losing their seat in the next election.

The DA is currently the only forum where both MPs and chiefs are non-voting members that facilitates dialogue between chiefs and MPs. The VDC and ADCs are other potential forums but for similar reasons as for the local Assembly, MPs usually do not attend such meetings. The reason that respondents both in FGDs and KII cited was that most MPs shun the district assembly probably because they have to operate in the shadow of the councillor or as the case is now, of the chief. As a result the MPs feel belittled and so they usually stay out of the local Assembly meetings and even the ADCs and VDCs.

MPs in (KIIs) hesitated in responding to the question of what specific instances do they collaborate with chiefs. This point further affirms the observation that some MPs are not clear on how their parliamentary roles get practically linked to their local area (constituency) roles. As a result, some MPs are not in touch with the status of recent developments within their areas (KII). One local government official also had similar observations;

“... it is a shame when the answer that the MP gets in parliament to their query is for them to go back and check with their Assembly because usually, the Assembly would have already tackled such issues” (KII, Lilongwe, 18 August, 2008).

For those MPs that had also been clear about their community roles on a day to day basis, they indicated that they do visit the chief from time to time just to make sure that there is constant communication between the them (KII, Lilongwe, 11 August, 2008). Such constant communication ensures that there are no lapses of time whenever an issue requiring the attention of the government surfaces and the time that the MP addresses the people to assure them that the matter would be reported to the relevant government offices. For example, the Tonde village community has agreed with their chief that because of the various infrastructure problems in their community including lack of an under five clinic and a community day secondary school, they should start moulding bricks while they contacted the MP of the area to start scouting for service providers like NGOs, donor agencies or government departments to come and help them erect structures. Due to the close collaboration between the chief and

the MP, the community was able to find an NGO which started to build the clinic even before the moulding of the bricks was completed (KIIs & FGDs). This means that the roles and functions of the elected officials get to be highlighted through their collaboration with chiefs within the communities.

Chiefs acknowledge more their relationship with political party officials within their areas and local government officials at the District Assembly as compared to their collaboration with MPs. All chiefs that were interviewed expressed satisfaction with the way that they work with the political party officials. They acknowledged that they grant such officials of different parties equal access for them to hold rallies within their areas. The chiefs highlighted the fact that they try to avoid showing their side politically so that none of the political parties are discouraged as the law requires of them. Local party functionaries and MPs corroborated in subsequent KIIs. The immediate response to the question of whether at all there is collaboration between themselves and chiefs in the area was an overwhelming yes.

The central government would like to see more interface between the MPs and chiefs only at the assembly level. This is because in that way, the MPs as elected officials maintain a grip on their importance as the main contacts between the people with their chiefs and the central government (KII). This means that the chiefs' lack of a forum to communicate on issues of national significance is a welcome development to the central government. It is specifically aimed at promoting the importance of the local councillors. The central government recommends MPs only working in the assemblies in their capacity to assist the councillor or as opinion leaders within their communities because their role is really at the national level. This shows that the prominence that is given to councillors and MPs at the community level has no practical basis but rather a normative adherence to the theoretical assertions.

3.3 Duplication of the Roles of the Chiefs by Other Elected Officials

Roles and functions of councillors are perceived to be more focused on development projects. For example, councillors through chiefs and local party officials and *'their boys'* (volunteer local level party loyalists that undertake most of the donkey work for

the party for small incentives offered from the local party leaders within the area) in the village, used to mobilize people for development projects. Such development projects included; building of local bridges, school blocks, village clinics and any such local infrastructure development. For those people that did not cooperate, the councillors took them to the chief who sometimes sanctioned such people. This is because most councillors had ambitions to contest as MPs so they would desist from sanctioning people themselves. One respondent remarked thus; "who would want to burn their fingers?" (KII, Lilongwe, 16 July, 2008).

Additionally, the councillor is responsible for facilitating citizen participation in identification and implementation of development projects and link up the people's views and opinions on development to the Assembly. This role was mostly acknowledged by MPs. This is because MPs believe that when local councillors are in place the need for the attention of the MP to more local level issues and needs is reduced. Currently that there are no councillors, some respondents expressed pleasure that the chain is shorter for people to connect with the local government, and that the assembly business is running more efficiently. This position was more eminent among the ordinary citizens and local government officials (KIIs, Lilongwe, 13 May 2008). Respondents expressed pleasure with the fact that sometimes people only have to reach out to the chief or the MP and they are sure that their views would be represented both in the Assembly and in parliament. To be sure, the absence of local councillors is being viewed as increasing efficiency to the service delivery machinery of the local assembly.

It is also worth noting that in the study areas, the councillors that these MPs (MCP) had previous experience working with were of a different party (UDF). The dominant MCP (in the area) boycotted the 2000 local elections which resulted in the party not having any local councillors. In most cases the MPs did not recollect much of how they used to work with a councillor. This could mean that there was not much collaboration perhaps except when they met in the District Assembly. It could also mean that there was no substantive business on which they had to work together and so there could have been no incidences of conflict nor collaboration.

In a way this scenario also confirms the claims by most respondents that MPs and local councillors work more with members or sympathizers of their parties. This means that the focus of the efforts and initiatives of the MPs and local councillors is usually on how to promote the party. It was also observed that sometimes in developing strategies for strengthening the party within the local area, the MPs and previously local councillors would come up with commendable development ideas which then would be implemented in collaboration with the chief (KII).

The roles that local councillors play almost absolutely duplicate the roles that chiefs play. This entails that there is no solid basis for the establishment of the position of local councillor. The position of local councillor is there simply as a normative adherence to the democratic theory contentions. Thus, the roles that councillors play are already being played by chiefs in most cases even more effectively. There have been prolonged periods in which local governance has been conducted without local councillors as outlined above. The position of local councillor seems to be an extra structure that may not really be filling any gap in the governance system in Lilongwe district. No wonder their absence is hailed by various segments of the population. Chiefs have also been observed to act more objectively, confidently and able to deal with issues that the MPs or councillors are not able to because they do not have to worry about winning an election (Jenzchs2005:7).

It is still hard for the elected officials to assert their position as the authentic representative of the people because their touch with the communities is incomplete without the chiefs. As a result, the major way in which the democratic values of transparency and accountability can be safeguarded is if the MPs and local councillors work hand in hand with the chiefs. However, efforts to do so have been hampered by an unclear regulatory framework. Instead of the multiplicity of officials in the community bringing forth benefits to the citizens, the co-habitation of chiefs and councillors has shown to be a constraint to efficient operation of the district Assembly. For one thing, the Assembly has to spend more on allowances and time in administering the welfare of chiefs alongside that of councillors. Another good example of a missed opportunity is the lack of civic education that ordinary community members expected from their officials in both the 3rd term and section 65

debates. Citizens remained confused about the controversy and it was hard for them to make choices of which side of the debate to join.

Institutionalism theorists argue that the meeting of modern and traditional governance institutions may result in disarticulation which leads to ineffective institutions (Logan 2009). Discussions in the civil society as well as government circles with regard to institutional set up for democracy consolidation has focused on suppressing chieftaincy in order to highlight the roles of the formal institutions. According to the above stated findings of this study, that approach is not justified. What needs to be suppressed in this case is the establishment of local councillors because clearly chiefs are accomplishing similar tasks and doing it even better.

The fact that local councilors duplicate the roles of chiefs and other elected leaders has not been accorded the due attention through policy debate. It would be necessary to determine whether or not it is a waste of state resources to base the Malawi local governance system on the local councillors instead of utilizing and strengthening the institution of chieftaincy for the same purpose.

3.4 Superiority of the Functioning of Chiefs as Compared to Elected Local State Officials

The study found that there are more mechanisms that are available to or are utilized by chiefs to listen to and provide feedback to their communities than the elected state officials at the local level. This helps to place the chiefs in a better position to provide more effective representation to the communities in different decision making fora. More importantly, the chiefs are able to provide services directly to their communities. This is due to the nature of services that are ordinarily requested from them, the resources that are available to them to be able to respond accordingly and the approach through which they provide that service. For example, for the chiefs to be able to deliver dispute resolution, they need their personal ingenuity assisted by the council of elders and the trust of the people which they easily acquire on the job and are able to successfully serve their communities. Such mechanisms include the following:

3.4.1 Village Meetings

Village meetings are a frequent occurrence in the villages. Such meetings serve as a forum where issues are communicated from leaders to community members or the other way. This mechanism is currently monopolized by the chiefs as MPs and previously local councillors rarely conducted such meetings. The effectiveness of such meetings can not be overemphasized. They are usually quite overwhelmingly attended and community members look out for when the next one would be (FGDs, Lilongwe, 3 June, 2008; 3 June, 2008; 24 July, 2008; KII, Lilongwe, 18 July, 2008; 24 July 2008).

Such meetings do sometimes have an agenda prepared by the chief while at other times, the chief decides whenever it has been too long since he/she last called for a meeting so he/she calls for one without any prepared agenda. For example, some FGDs pointed out that '*Miyezi iwiri siyitha kopanda msonkhano wa amfumu*' (Lilongwe, 24 July, 2008). This was also corroborated by another respondent in a KII and FGDs in other areas.

Such meetings are usually not scheduled but there is an understanding between the village chief and the community members that once either the chief or the members identify an issue that requires deliberation or communication to the entire community, a meeting would be called. Such meetings are communicated to community members through letters, the chief could also use his/her messenger to deliver verbal notification for such meetings. Sometimes the chief's messengers make public calls for such meetings. In some villages they meet at the chief's house or any other such designated open space while others (especially at T/A level chief) they meet at the chief's court or office. This came out in all FGDs and KII with chiefs.

The fact that the meetings are initiated by either the chief (in most cases) or some influential people in the village shows that in a way, citizens have the ability to make demands on their chief which is a clear way of enforcing the chief's accountability. Additionally, change is happening in various ways in which chiefs operate. For

example recently, more and more educated chiefs are coming to power so things like writing letters, recording resolutions at meetings are increasing (KIIs, Lilongwe, 24 July, 2008; 5 June, 2008; KII, 13 May, 2008). In this case, two of the chiefs were able to show their records of meetings or issues that have been discussed over a period of time. Both could comfortably converse in English which shows that they have a commendable level of education by Malawian standards.

MPs too do have community meetings. However, not all MPs adhere to a strict community meeting regime. It was pointed out that some MPs do visit their communities regularly and they too corroborated the account in subsequent KIIs. Both MPs that were commended explained that they have community programmes regularly. Such programmes include, meetings with chiefs, mass rallies atleast once a month and more active constituency office operations (KIIs, Lilongwe, 16 August, 2008; 11 August, 2008). Another two MPs were resented by their constituents who mostly complained that their MPs do not visit their areas, do not hold rallies and the villagers questioned how such people could represent them (FGDs, Lilongwe, 3 June, 2008; 24 July, 2008; 3 June, 2008).

One MP who was resented by her constituents consented that she does not regularly hold rallies citing "it is tiring. So mostly I instruct the constituency committee members to make the rounds in various villages to check out things for me" (KII, Lilongwe, 30 July, 2008). When asked how she knows for sure whether the committee members have really been to the villages the MP said; "I have to trust them otherwise, I would not know for sure". She further stated that in addition to the work of the constituency committee she is in very close contact with chiefs in the whole area. She mentioned that she has distributed cell phones through which she liaises with chiefs to find out if there is anything for which she is needed (KII, Lilongwe, 14 August, 2008).

A number of MPs and local party leaders mentioned that sometimes chiefs summon party leaders to their court so that they all together discuss what problems the people are facing and together work out what could be done to sort out such problems. Announcements for such meetings are best done through community social-cultural

gatherings. In the same way resolutions made in such meetings are also communicated. So overall, the village meetings are quite a versatile tool as they may bring together various combinations of stakeholders all that are glued together by the chief. They are a readily available and affordable mechanism for communicating especially to ordinary citizens even though district assembly officials may also be called to such meetings (KIIs, Lilongwe, 13 May, 2008; Lilongwe, 13 May, 2008).

Small village level meetings that maximize communication and participation among citizens and their leaders also help to actualize essential democratic freedoms of expression and freedom of association. These meetings are the prerogative of the chiefs. The fact that MPs or local councillors do not use them is usually out of their own choice. Some observers cite incidences where local councillors or MPs who belong to a different political party than the village chief or the community have been denied access to hold rallies within certain communities (Chinsinga, 2006). Such instances should be treated as the exception rather than the norm because overall there is no policy or rule that supports chiefs doing so. Such instances would have easily been prevented if the MPs and local councillors were perceived by the local communities as reliable government officials. Any chiefs that deny access to the MPs to hold rallies would be confronted by their own community members in any of the meetings that they have within the communities.

MPs and local councillors are also members of some such communities. If they undertake to conduct themselves in ways that identify them with their villages, MPs and local councillors may not face such problems. Such issues would be effectively dealt with in the same village meetings. The village meetings are quite a versatile tool as they may bring together various combinations of stakeholders all that are glued together by the chief. One KII respondent pointed out that sometimes even the district assembly officials are called to such meetings.

The popularity of chiefs due to the effectiveness of the mechanisms that they use to discharge accountability responsibilities affirm the observation that the principles of democracy and democratic values are neither novel nor alien but rather indigenous to the African continent as argued by Owusu (1999).

On the development front there are major issues that even members of local communities acknowledge that are beyond the scope of the chief alone. Such issues include HIV and AIDS, security and infrastructure development. MPs rarely attend such meetings. Considering that the decentralisation process is the major strategy through which government intends to ensure the consolidation of democracy to the remotest of areas, the absence of MPs from such forums is a big loss of opportunity for representation. It is through such structures that ordinary citizens are consulted and their demands channeled to the assembly for action. Some respondents remarked thus; "what gives them (MPs) the right to represent our views that they do not know including our views on the section 65 or the budget debates" (FGDs, Lilongwe, 3 June, 2008). The absence of the MPs signals strongly their disregard for the community interest in their work hence further highlights the significance of the chiefs.

As O'Donnell (1996:36) argues, the definition of a democratic polity that strictly focuses on elections leaves out an explanation for: "... if, how and to what degree governments are responsive or accountable to citizens between elections and the degree to which the rule of law extends over the country's geographic and social terrain". Even though MPs (through KII) emphasise the illegality of chiefs due to lack of elections, these findings demonstrate that where they themselves have failed, chiefs have covered up. Chiefs are the ones that have enabled government authority to be felt in the remotest of grassroot communities.

3.4.2 ADCs & VDCs

Chiefs have usually had the ADC, VDC structures through which they consult ordinary citizens and channel demands to the assembly. However, as shown in some MPs shun the VDC but the chiefs and their people still benefit from such meetings. It was noted that of late, such meetings have been extremely rare due to inadequate funding so much so that the District Assembly is worried that this denies local communities a chance to participate especially in monitoring implementation of various development projects within their areas (KII, Lilongwe, 13 May, 2008).

On the development front there are major issues that even members of local communities acknowledge that are beyond the scope of the chief alone. Such issues include HIV and AIDS, security and infrastructure development. MPs rarely attend such meetings. Considering that the decentralisation process is the major strategy through which government intends to ensure the consolidation of democracy to the remotest of areas, the absence of MPs from such forums is a big loss of opportunity for representation. It is through such structures that ordinary citizens are consulted and their demands channeled to the assembly for action. Some respondents remarked thus; "what gives them (MPs) the right to represent our views that they do not know including our views on the section 65 or the budget debates" (FGDs, Lilongwe, 3 June, 2008). The absence of the MPs signals strongly their disregard for the community interest in their work hence further highlights the significance of the chiefs.

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Participation of MPs in the VDCs is actually demanded by various categories of respondents because it is envisaged that it would help the MPs to appreciate issues within their communities. Ordinary citizens would like their MPs to be kept abreast of community concerns and efforts being undertaken to deal with those issues. For example, respondents expressed a need for collaboration between chiefs and MPs including local councillors once they are in place on issues of AIDS, security and development within their local areas. Currently the assembly facilitates this kind of dialogue but if some members either MPs or chiefs do not attend it means that the district administration misses contributions from such absent members. Besides, the significance of such officials in district administration is reduced (KIIs, Lilongwe, 13 May, 2008; Lilongwe, 30 July, 2008; Lilongwe, 13 May, 2008; Lilongwe, 13 May 2008).

However, it was established that the Ministry of Local Government and Rural development (MLGRD) are (at the time of this study) implementing reforms that include removing chiefs from chairmanship of the Village and Area Development Committees (VDCs and ADCs) (KII, Lilongwe, 18 August, 2008).

3.4.3 Funeral Functions (*Maliro & Ziliza*) & Other Social Cultural Gatherings

The study further revealed that the positioning of the chief within reach of his/her community enables them to be present to their people whenever they are needed. For example, it was stated in various KII and FGDs that chiefs also take the chance to speak to but also hear from their people through any community cultural and social gatherings like; '*pamilandu*' (*dispute resolution forums*), '*pamaliro*' (*funeral functions*) and any other social cultural forums/gatherings where their people gather for various purposes. It is also important to note that such gatherings are common place in all the communities in which the study was conducted. It was said that at any such gatherings, the chief is either represented or actually present so the chiefs rarely need someone else to inform them about what is going on around the villages. Chiefs are well informed through such forums of the people's opinions on topical issues or even what developments are taking place within their areas because they are always there and a part of their people's lives.

3.4.4 Mechanisms for Selection, Ascendancy and Sanctioning Undesirable Conduct among Chiefs

No one can become a chief if they do not have '*mbumba*' (female members of the chiefly family). In the chieftaincy installation process it is the *mbumba* who go into *kuka* (deliberative house for the '*mbumba*') for any length of time from a few hours to a week deliberating in a closed house their choice of a chief at the end of which they unveil their choice literally '*kugwira mfumu*' (KIIs, Lilongwe, 24 July, 2008; Lilongwe, 3 June, 2008; Lilongwe, 18 July, 2008). This means that despite not undergoing elections, there are rigorous mechanisms for ascendancy and succession of chieftaincy. Possibilities of removing non performing chiefs also exist including other mechanisms for disciplining chiefs even before they are removed (dethroned). This presents opportunities for enhancing accountability and modes of sanctioning abuse of power.

Whenever a chief is to be sanctioned or dethroned, there is a clearly understood procedure that is followed (KIIs; FGDs). However, the chiefly family is supposed to get convinced that the incumbent chief is acting irresponsibly before they can act on requests for dethronement. One respondent observed that; "... to me this is democracy at its best" (KII, Lilongwe, 13 May, 2008). The respondent further suggested that while in power, the chiefs do not hear their own disputes but they seek redress from another chief which represents a high level of accountability. Chiefs always work towards attaining "the common good". Similar sentiments were expressed by FGDs and KII especially with all chiefs and local party officials.

The principle of a chief's counselors (*nduna*) also helps to improve the accountability as the chief never gets to decide on issues unilaterally. Usually the chief would only provide direction while letting the counselors deliberate among themselves and come to a consensus. It would be more appropriate to view chieftaincy as an institution and not an individual. The representative of the people under this system is the whole chiefly family (KIIs, 24 July, 2008; Lilongwe, 13 May, 2008).

A number of mechanisms were identified as instrumental in the way that chiefs are sanctioned by their communities when their conduct is found to be unacceptable. Such mechanisms include; boycotting their services. The community members may decide to stop patronizing services of their chiefs and get service from neighbouring chiefs instead. It was learned that traditionally it is difficult for the ordinary people to question their chief directly. As a result, there are clear mechanisms that are understood in the communities about redressing complaints with their own chief. One such mechanism is that sometimes aggrieved members of the community complain to another chief especially those that are '*nkhoswe za ufumu umenewo*' (each chieftaincy has got a web of relations whose hierarchy is also well known) through which such issues are addressed. It is those related chieftaincies that may arbitrate or rather provide ombudsmanship in such cases. All KII interviews with T/As and FGDs corroborated the account of this process. This is an in-built accountability check that chieftaincy has always had. In extreme and desperate cases too, the community may demand stripping of chieftaincy in favour of another member of the chiefly family. Respondents were not able to identify any specific examples of whether it has happened within their areas, which may be evidence that it is not such a common occurrence.

Some chiefs remarked that "in these days of multi-party where there is close scrutiny on what the chief does by government and everyone else, "we have to be careful" (KII, Lilongwe, 3 June, 2008). The respondent, who is also a chief, cited the example of the sensitivity of what chiefs may or may not say at political party rallies. It gets more sensitive whenever they refer to opposition party rallies because a chief may easily be misinterpreted to have made anti-government sentiments or otherwise. So sometimes to avoid making a mistake, the T/As send group or village headmen to opposition party rallies to represent them. Apart from being checked by their own people, chiefs are also generally checked by the government. The district commissioner (DC) oversees the day to day operations of chiefs and chiefs get their salaries through the DCs offices.

accountable to the people. The fact that ordinary citizens are satisfied with their service also signifies that the extent to which the hierarchy limits the accountability of chiefs may have been overstated.

Another point that illustrates the low level of limitation of chiefs' ability to be accountable is seen in an Afro Barometer (2005) study that found that 64% of Malawians prefer democracy to any other type of government and 78% agreed strongly that there has to be regular free and fair elections. However, 47% indicated satisfaction with democratic governance and only 49% of their respondents rejected traditional rule. Above all 68% registered their trust in traditional leaders who only came second to the army as the most trusted public institutions. Apparently these statistics negate the contentions that elections are an absolute symbol of democracy and the perceived lack of representation capability of chiefs. 62% of respondents in the same study (Afrobarometer, 2005:31) registered that elected leaders never listen to the people. This further strengthens the explanation that mechanisms and approaches that are available to or being utilized by the chiefs to listen to the opinions, preferences and views of and give feedback to their people unlike the members of parliament and councillors matter. Despite all these observations, chiefs in Lilongwe have no effective mechanisms or forums through which to execute any substantive representation functions.

3.6 Benefits for Elected state officials Working Closely with Chiefs

3.6.1 The Complementarity of the Functions of Chiefs to those of Elected State Officials

The study also endeavoured to determine what the nature of the relationship between the chiefs on the one hand and the local councillors and MPs on the other is; and how it affects the ability of either the chiefs or the local councillors and MPs to offer representation or execute downward accountability responsibilities effectively. The study further endeavours to examine the understanding of the complementarity that is claimed to exist in the relationship between chiefs and MPs or local councillors from the ordinary citizens, chiefs, MPs, and government officials' perspectives.

Overall, ordinary citizens mostly perceive harmony and complementarity in the relationship between chiefs and MPs or local councillors while the MoLGRD perceives one. There was a general agreement among respondents in KIIs and FGDs that the lack of clarity in the regulatory framework with regard to how chiefs should relate with the MPs or local councillors leads to misunderstandings and conflicts. This difference in opinion between ordinary citizens and the MoLGRD with regard to the interface between chiefs and local elected officials is significant in that it also affects decisions that are made to correct what seems to be a problem. For example, in this case, the MoLGRD is already embarking on a programme to remove chiefs as chairpersons of VDCs and ADCs in order to reduce the power of chiefs at the local level. Since the initiative is new and it has not yet been implemented in Lilongwe, the study may not determine the consequences of such a move.

The study also found that the interface between chiefs and MPs or even the president on issues of national significance has potential to increase levels of accountability and representation both on the part of the chiefs and the elected state officials if it is properly governed. For example, the decisions that the president makes in instances of contentious issues of national significance would be respected and regarded more as representative of ordinary citizens whenever chiefs are consulted (KII, Lilongwe, June, 2008).

The collaboration between chiefs and the MPs or local councillors helps to endow the whole local level governance with increased levels of accountability whenever it is effectively undertaken. This is because chiefs have more mechanisms for discharging accountability responsibilities to their communities while they are also part of the state which is the basis for building a democracy. This means that the state in Malawi would be inadequately defined if chiefs were not included hence democracy consolidation would not be effectively fostered. Links already exist between chiefs and the MPs or local councillors but also to the executive despite the challenges that emanate from the unclear regulatory framework.

Since local councilors are not in place the assemblies that provide oversight to the district administration are also not in place. There is currently no local mechanism to hold the district administration accountable and transparent. Despite trying to remain consistent with the democratic theory, this case lands the state in Malawi into another predicament. It has been argued that for any polyarchy to claim democratic consolidation it has to ensure that no matter how it deviates from the ideal model, it does not negate the core democratic values of representation and accountability (Diamond, 1999). Without the Assemblies, it is hard to the district administration to exude these democratic ideals.

Arguing that chiefs should not be given any substantial roles in representation is to deny the citizens a chance for effective representation. As this discussion has shown, citizens believe that chiefs represent their views and opinions more effectively than the elected officials. Besides, the fact that chieftaincy in Lilongwe is undergoing changes needs to be taken into account in determining what roles chiefs may be able to undertake effectively. The incorporation of African ways of doing things into the nature and structure of the democratic governance system is very important to policy makers in Malawi. It helps to endow the democratic governance system with the same legitimacy, trust and familiarity with which chiefs are perceived among the citizens which would enhance citizens' trust in the democratic processes.

3.6.2 Chieftaincy is Dynamic Institution that Adapts to Change

The operations of chiefs in Lilongwe are undergoing changes. Specific changes that the study noted include that chiefs are able to document their operations, they have learned about respect for human rights and education has become a factor in their ascendancy criteria. One chief displayed great admiration for the primary justice project that exposed him and his lower chiefs to various information on respect for human rights even in the process of dispute resolution (KII, Lilongwe, 3 June, 2008). He explained that it opened up their eyes so that they should not operate like they are not in a democratic Malawi. This demonstrates that despite being traditional chieftaincy is quite dynamic able to adapt in accordance with the demands of the

modern democratic governance system. As a result, chiefs need to be integrated instead of being left out of the system with the hope that it will drift into oblivion.

The mood in which respondents especially in the focus groups were handling the interview was clearly indicative of a rights conscious society. They seemed quite liberated and expressive as compared to the picture of a chiefs' society that is bound by tradition and not able to hold the leaders to account. For example villagers (in FGD) were quite free to discuss their chiefs in criticizing their chiefs, while in another they praised him. All KIIs with the chiefs pointed out that whenever village meetings are held, village community members demand feedback on previous issues raised but also the chief is able to give responsibility to follow up on issues to various community members that may ably undertake such tasks but be able to report to the chief. That way, both citizens and the chiefs are empowered to accomplish accountability but also to demand it.

This study further reveals that developments are happening to both the chieftaincy and democratic institutions. For example, it was learned that it is no longer as prestigious as it used to be to become either a chief or an MP because people who used to revere leaders like these no longer do so. Additionally, there are more people that hold more enviable positions than simply chief or MP which reduces the admiration that community members used to have of their leaders (FGDs, Lilongwe, 2 June, 2008; Lilongwe, 16 July, 2008). This point helps to further illustrate that chieftaincy may not be condemned as archaic hence non-functional in the democratic environment based on its history because both chieftaincy and democratic institutions are adapting with time in a bid to work more effectively and more efficiently in a changing social economic and political landscape. Ultimately, the perceptions of the people whom they all serve should direct policy towards which changes to embrace and which ones to discard.

It has been observed that in some countries in Africa prominent chiefs have been seen joining the elite ranks of the ruling party and government even at national level like in Cameroon, South Africa or even Botswana. Some chiefs in those countries have ended up as members of the central committee, political bureau, government, and

parliament, and others as chairmen of parastatals or governors of provinces (Van Rouveroy, 1999; Fokwang, 2003; Nyamjoh, 2004; Koeble, 2005). This presents hope that chiefs in Malawi too would be able to undertake even more and higher responsibilities whenever need be considering that changes are taking place within chieftaincy.

Poeschke & Chirwa (1998) Chinsinga (2006) and Chiweza, (2007) argue that chieftaincy is one of the supporting pillars for democracy consolidation in Malawi. This study agrees with these findings. The high levels of popularity of chiefs among citizens, the roles that they play at different levels of governance support this earlier observation. There is a real chance that the elected state officials may improve their modes of interaction with the chiefs in order to maximize the sharing and use of the legitimacy of chiefs even in undertaking day to day business of the elected state officials. This might include on-going civic education programmes to community members through chiefs on the roles and responsibilities of chiefs on the one hand and those of MPs on the other. This is more especially applicable to MPs because they work through parliament a role that chiefs may not take up.

Ordinary citizens too need to understand that chiefs work at the local level while MPs work at the national level but they both serve the same communities. However, closer collaboration between the chiefs and MPs will enhance representation in parliament by the MPs. MPs will be able to speak with authority from the people and through increased collaboration with chiefs, MPs may be able to hold regular pre and post session consultation and feedback meetings as it is required of them.

3.6.3 Elected Officials Share in the Traditional Legitimacy that Chiefs Enjoy

Logan (2009) also observes that according to the Afro barometer studies (2008) wherever ordinary citizens rated their chiefs positively in performance, they also rated some of their elected officials positively. For example, in Malawi, Zambia, Botswana and Namibia perceptions of ordinary citizens with regard to whether the president, traditional authorities, MPs and Local councillors are interested to help the people and whether they are trustworthy, there were no significant differences in scores. All

leaders scored consistently modestly even though traditional authorities scored slightly higher (Logan 2009:113). These statistics entail that those who support traditional leaders are no less committed to democracy than those who reject these leaders. Logan refers to North's thesis that norms and values have a tendency to change gradually rather than abruptly, and the likelihood that new institutions will be integrated into the existing ones rather than replace the existing ones seems high (Logan, 2009:121).

However, the study also found that personal interests, prospects for material gains and manipulation by wealthy political figures may not be completely ruled out in the effectiveness of this collaboration between chiefs and MPs or local councillors. For instance, in the third term and the section 65 debates, respondents attributed some of the positions that chiefs were taking to personal interests or manipulation by certain prominent political figures. When asked about their opinion on the positions that was taken by their chief on these issues, a civil society respondent remarked thus; "I view that as individuals voicing out their opinions" (KII). One T/A level chief also had similar sentiments; "some of those that spoke on the radio and the television were only doing so as people and not as chiefs" (KII). Therefore, as it is argued in a subsequent section of this paper, there is need for the regulatory framework to get clearer on the specific roles, position of chiefs and how they ought to relate to different arms of government.

Ake, (1991) suggests that hybrid democratic systems that embrace chieftaincy or other forms of traditional authority are an inevitable product of institutional reform as per Douglas North's theory of institutions. Thus North according to (Logan, 2009) argues that institutions are dynamic which means that the meeting of the traditional and modern institutions may not lead into one paving way for the other as argues by earlier modernization. What North envisages would happen in the meeting of these differing sets of institutions is that they will each influence the other. As a result, the end product may not actually be one or the other. This entails that the emergent variants of democracy could easily be explained by North's theory of institutions.

3.6.4 Need for Caution to Ensure that Democratic Values are Safeguarded

However, some scholars still fear that any departure from a 'pure' model of liberal democracy is likely a prelude to the failure of the democratization project (Koelble, 2005:13). There are observed issues with the co-existence of chiefs and the democratic state institutions like the observation that traditional authorities actually rival the state's authority because its local services are usually preferred by the locals than the state's provision of public goods. For example wherever the roles of dispute resolution, representation and downward accountability as played by traditional authorities are preferred to those played directly by the state officials, it means that the traditional authority is rivaling the state (York, 2005).

York, (2005) further observes that a lot of the preferences by the population of traditional authorities to the state institutions in service provision stems from the fact that chiefs are closer to the people than the state institutions. The inability of the state in most cases to provide services adequately due to scarcity of resources or in other cases lack of political will to do so contributes to the unpopularity of the state officials. Pragmatism especially in considering what works well and what does not regardless of whether it is modern or traditional will help to curb the undesired effects of the interface between these sets of institutions to foster democracy consolidation.

MPs and local councillors deliver their services through parliament and the assembly respectively hence they are not flexible to respond to immediate calls for service at their own individual level. This explains the observation in the study that people in Lilongwe, attribute their support for chiefs over and above the elected state officials to the ability of chiefs to respond to their immediate needs with locally available resources. Therefore, the inclusion of chiefs into the democracy matrix ensures inclusion of familiar and societal legitimate structures that also help to rub some of their legitimacy off the alien democratic state institutions. This ensures that collaboration between chiefs and MPs or local councillors serves to promote the enrooting of these democratic state institutions as Owusu (1999) argues.

3.7 Challenges that Chieftaincy Faces Due to Manipulation which is embedded in the Regulatory Framework

The link between the state and chieftaincy is rather complicated. The welfare and cultural functionality with regard to chiefs rest with the directorate of Chiefs' Administration in the MoLGRD. Resource allocation responsibilities towards the operations of chiefs remain with the OPC. Thus, the financial allocation with which the directorate operates comes from the OPC. The directorate may not preside over an installation or burial ceremony of a chief without approval from the OPC. More importantly, the directorate gets instructions from OPC regarding gathering and collating data as basis on which the decisions are made as to whether a chief qualifies for a promotion or not. Again it is only the OPC that may grant any such promotions (KII, Lilongwe, 18 August, 2008).

The directorate of chiefs' administration in the MoLGRD is usually manned by one person (only one established position exists), the Director of Chiefs' Administration. The holder of this position is ordinarily appointed by the President. The directorate mostly looks after the welfare of chiefs, organising installation and funeral services for chiefs and entertaining their grievances to the government. The directorate has not had guidelines for the provision of welfare of chiefs and so they ordinarily were only provided with a memo to instruct them of the task. Currently, the directorate is also developing conditions of service for chiefs which once approved by cabinet, will further provide guidance to the staff on how to support chiefs in their operations. The DCs are only individually mandated to look into the affairs of chiefs. As a result, it is usually the DC and sometimes his delegated individuals that may attend to issues of chiefs and not the district assembly (local government administration) as a unit.

3.7.1 Irregular Involvement of Chiefs in Issues of National Significance

Various respondents were asked to make reference to issues of national level significance like the sec. 65 or the 3rd term debates to determine whether it is necessary for chiefs to be involved and in what ways could they be effectively engaged in issues of national significance. Respondents' opinions were also based on

their perceptions of the involvement of chiefs in District Assembly business on a day to day basis. The study found that ordinary citizens strongly support government (executive) efforts to consult with chiefs on issues of national significance like the section 65 and the third term debates. In fact community members would like a more transparent and predictable way through which the president should be doing that because they would like to know exactly how they and their chief could have participated in the previous debates on either the third term or the section 65 debates.

In one FGD respondents wondered how their colleagues from other areas found themselves talking about the issue on the radio thus *"ife timangodabwa anzathu akulankhula pa wailesi ndiye timafunsa kuti anzathuwa amawapeza bwanji kuti akapezeke akulankhula pa radio?"* (FGD). This literally translates into; "we were wondering how our colleagues were identified to find themselves talking on the radio and we wanted to know how we could also be identified to participate in the debate". It was underscored in other FGDs that "as long as the executive consults with our chiefs we are comfortable because we believe that the chiefs speak for us. Thus even if the MPs were to decide in parliament, the people would not have had confidence that the decision was to their benefit unless the chiefs were consulted.

Chiefs themselves were more critical of the Chiefs' Act (1967). One of the respondents who is also a chief (KII, Lilongwe, 5 June, 2008) kept referring to the Chiefs' Act tying up their hands in many things. The chief was rather vague in his responses but insisted on the provisions of the Act that subject the institution of chieftaincy under the Office of the President and Cabinet (OPC) which he indicated as rather overwhelming. The main point that the chief was making and was also corroborated by FGDs and other KIIs was that the chiefs are denied any room for flexibility in opinion especially on issues of national significance. It was stated that according to the Chief's Act, (1967), whenever chiefs are consulted the understanding is that it is because 'chiefs work with the government of the day'. This is because chiefs are supposed to work directly under the President according to the Act (1967, CAP 22:03).

The effect of the current policy and legislative framework on chieftaincy has been diluting the acknowledgement of the institution to produce what van Rouveroy van Nieuwaal (1996) termed an administrative chieftaincy. This is because the roles and functions of chiefs are acknowledged only as far as chiefs are involved with the district assembly. However, within the structure of the District Assembly, chiefs only serve at the level of junior clerks, getting instructions with regard to government policy from the District Commissioner (DC) and the Director of Planning and Development (DPD) for implementation in the community. It could be argued that chiefs are linked to the executive through the district administration by virtue of their membership and sometimes leadership of the ADC and VDCs as well as their participation in the District Assembly.

The link between the OPC and chiefs underscores the existence of another power dimension that chiefs are endowed with. So essentially, while at the same time chiefs are incorporated below the level of junior district administration officers, they are also directly linked to the president. The specific tasks on which they are linked with the president is as outlined in the Chiefs' Act (1967, CAP22:03) with regard to land, development and maintaining the peace and order. Perhaps this, more than anything explains the ambivalence that has repeatedly been referred to in previous studies about this relationship (Chiweza, 2007; Muriaas, 2007). Hence, if mechanisms for governing the linkage either between the chiefs and their elected local level counterparts or between the chiefs and their participation in national level debates, are to be developed, this important duality would have to be taken into account.

There was one respondent (a chief) who was the most cautious in handling the interview. The police and the press had just been to his house separately, to question him in connection with allegations that were rife in the media that the former President Muluzi who was at the time abroad, was going to hold a major rally in his area. He was clearly stirred up and his responses mostly served to clarify his position as a chief who is working with the government of the day.

All these examples illustrate the point that current mechanisms that are being used in the collaboration, consultation and participation of chiefs especially in issues of

national significance are not transparent. They compromise democratic freedoms on the part of the chief primarily but also their people who may have desired to participate in the national debates but just did not know how. This lack of transparency which is not emanating from the operations of the chiefs themselves but the policy and legislative environment, creates uncertainties in the chiefs regarding what is right for them to do under the circumstances. The problem that one of the respondents in the study was grappling with was simply that he was being linked to a former president who had fallen out of grace with the incumbent. As a result, he was being suspected of being anti-government in the topical section 65 issue. However, being anti-government should not be such a big issue in a society that embraces a democratic right to choice and freedom of expression.

The fact that chiefs were consulted to participate in the national debates as individuals and not in their institutional capacity, compromised objectivity and transparency in the process. Respondents in a FGD stated that between the time that chiefs were communicated to about a meeting in Lilongwe to discuss their views about the conduct of parliament with regard to section 65 and the time that chiefs were heard on the radio, no consultations were done with their people. It is also worth noting that based on the traditional approach to power relations in Malawi, chiefs have little choice if any to decline an invitation from the president whom they find to be an elder chief according to the Chiefs' Act (1967). This is because, the whole institution of chieftaincy, has been appended to the presidency through the Chiefs' Act and all other legal and policy instruments that regulate the operations and the relationship between chiefs and MPs and councillors in one way or another only do so marginally. The involvement of chiefs in issues of national significance does not have any specific laid down procedure that would incorporate the traditional ways of consultation. In the absence of the traditional consultations with lower level chiefs, the T/A level chiefs who get involved in national level debates may not be able to convince their own people that the positions that they take for example on the section 65 or third term debates represent the views of the people.

The 'chiefs work with the government of the day' rhetoric is monitored and enforced more among the top level chiefs especially from traditional authority level going

upwards. The perception of various segments of the population including; the chiefs, ordinary citizens and local level political functionaries is that higher level chiefs from Traditional Authority going upwards are more inclined to act more consistently with the 'chiefs work with the government of the day' concept. This was mostly attributed to the fact that such chiefs do not have to answer to the people directly. They mostly address the people by addressing the lower chiefs (village headmen, group village headmen and sub-traditional authorities). Starting from group village headman level, the chief is directly answerable to the people while from the sub-traditional authority to paramount chief, they are more closely linked to the government on the one hand and the lower chiefs on the other. At this level, previous assertions by Jentzchs (2005) that chiefs fail to maintain a healthy balance between being part of the state and being part of the society at the same time, do apply.

This scenario together with the increased involvement of chiefs in consultations with the president on issues of national significance presents a picture where a non-electable office of chieftaincy obtains veto powers over the legislature but also the position of local government councillor gets rendered redundant. Even though previous analyses have focused on what could be done with traditional authority institutions in such cases in order to minimize the conflicts and disarticulation of institutions, this study argues that more in-depth investigation into the formal democratic institutions of MPs and local government councillors needs to be undertaken for similar purposes.

3.7.2 Pragmatism in Building Democratic Institutions for Democracy Consolidation

The significance of chiefs even in a democratic governance system has sometimes been explained as due the nature of politics as it is practiced in most African states. Such politics have been characterised by cut-throat struggles for material and financial gains from the state by different segments of the population (Osaghae, 1995; Sangmpam, 2007). Sangmpam (2007) argues that due to pervasive poverty in most third world countries, the state has access to scarce resources and that various

stakeholders in the polity aspire to get access to those resources. The most direct way of getting to those resources is to get access to state power.

Apparently most power holders in such countries realize the case and so they devise institutions including the democratic institutions in ways that try to be inclusive of various segments of the population as much as possible with the aim of averting widespread discontent with the state. Sangmpam (2007) claims that if any significant institutions or structures within the society are left out of the circle of state institutions they cause chaos and make it difficult for the governing elite to accomplish their work. Hence Sangmpam (2007) contends that the ruling elites are obliged to devise democratic institutions in a way that embraces informal institutions like chiefs to avoid such a situation.

This study also recognizes the fact that the establishment and propagation of formal democratic institutions alongside the traditional institutions is a highly complex task that requires close monitoring and innovation in order to safeguard the intrinsic values of democracy amidst the experimentation. The operation of both formal and informal institutions in Lilongwe on informal rules like *'umunthu'*, *'wamkulu salakwa'* presents destabilising threats towards democracy consolidation. The lack or inadequacy of incorporation of chieftaincy into the decentralized local governance structure through the policy and legislative framework creates tensions and conflict that may harm the process of democratic consolidation. The tensions and conflicts that are so caused by the lack of clarity in the regulatory framework would be hard to resolve in the absence of clear synchronization with the reigning justice system in the country.

The fact that respondents in this study failed to raise any discussion with regard to the normative acceptance of chiefs in the democratic system despite not having being elected testifies to these explanations. Various segments of the population regard chiefs as a part of the state therefore they do not perceive any anomaly in the inclusion of chiefs in the democratic governance system. This shows the pervasiveness of the institution hence justification for its inclusion into the democratic governance system. The manipulation and exchange of rewards in the symbiotic

relationship between chiefs and the democratic state institutions exemplify the cut-throat struggle for access to the state. Consequently, the above outlined explanations for the inclusion of chiefs into the governance system suffice to explain that what has happened in Lilongwe is a pragmatic way of devising democratic governance institutions. Despite chiefs not being elected, the place they hold in society helps them contribute positively towards establishing and maintaining democratic institutions for democracy consolidation to take place. That way, the question of citizens failing to pay allegiance to the state does not arise. Their allegiance to the chiefs is further extended to also mean allegiance to the state because the chiefs are part of the state as much as they are a part of the democracy matrix.

Owusu (1996:141) argues that unchecked executive power, with dummy and ineffectual parliaments or legislatures controlled by the executive, have contributed significantly to most of the governance ills that African states have suffered including decline of democracy. Muriaas, (2007) further observes that most African states are ruled by strong presidencies hence domestication of democracy through pragmatic power sharing does not mean that political competition will cease. It will only serve to promote more openness and accountability. The point is that if the state devises some pragmatic institutional set up that is based on what works well within the society in order to facilitate democracy consolidation, it should not be viewed as outright non-democratic. For instance, besides having unchecked strong presidencies, Owusu (1996) further argues that discovery and establishment of workable institutional structures is the major problem of contemporary African democracy. It is possible to devise and propagate such pragmatic institutional set ups that embody pre-existent democratic values, ideals, and principles (Ibid, 1996:144). This regarded along-side the collusion with chiefs as it was seen in the third term and section 65 issues, renders any other institutions in the system even more dysfunctional. For example, the involvement of chiefs in Malawi in the third term and section 65 debates even after parliament had already made a determination illustrates the dysfunction of the system.

A spiraling increase in chieftaincy succession disputes alongside land disputes have also been reported as essentially constituting the major disputes that the primary

justice system whose major players are chiefs is dealing with in the multi-party democratic era (Weillenmann, 2006). The report argues that the observed disputes are as a result of the expectations of rewards and benefits that chiefs get from the ruling party and influential politicians (Ibid, 2006). If such conflicts persist, one would be compelled to conclude that chiefs would no longer be the most legitimate players to handle the dispute resolution role. That would then entail a vacuum in the justice system which may ultimately affect democratic consolidation negatively.

Scholars note that state institutions function more efficiently, "the more they are congruent with informal institutions and norms. Besides, once they become congruent with informal institutions and norms, they become endogenous to their own societies. That way state institutions get historically embedded in domestic social relations of their societies (Lambach, 2004:13). Owusu (1996) further advises that the integration of chieftaincy into the democratic system would help to make the formal institutions more endogenous and more aligned to the social political norms and values that the society is used to.

The correlation between positive ratings of chiefs and elected officials by ordinary citizens (Afro barometer, 2005) provides empirical proof of this observation. Thus due to the collaboration that exists between chiefs and MPs or local councillors, whenever chiefs get positive ratings among their communities, the elected officials too are viewed the same way. Such collaboration has not been consistent and has not been utilized by all elected officials in the same way. That is why in certain cases, despite chiefs commanding positive ratings there are still exceptions as noted in the study.

Previous studies also noted that the legal and technical logics of reform processes in the democratic era do not neatly fit in the diverse logics of local politics which usually takes on a rhythm of its own (Chinsinga, 2006:257). Integrating chiefs into the democratic governance system with the aim of enhancing its strengths and limiting its weaknesses would be a starting point to synchronise the logics of local politics with the constitution. Besides one sure way of domesticating the state institutions so that they get embedded and operate in expected norms within the society is to regulate and

bring transparency and predictability to their interactions with the informal institutions.

The study finding agrees with Koelble (2005) who argues that traditional authority institutions like chieftaincy are being re-invented in all sorts of hybrid forms to suit their new context. He further reiterates that the useful functions that chieftaincy is serving in the processes of nation-building and democratization endear them both to the democratic institutions themselves and to the communities that they serve. More specifically, Koelble argues that it is the failure of the “democratically elected but ineffective local authorities that has opened up several spaces for traditional leaders to re-affirm their cultural, social, economic and ultimately political power in various ways (2005:13).

Saul (2004) argues that those who suppose that only formal elections eventuate in representation may be making a huge error. Saul (2004) claims that liberal democracy that emphasizes on elections is an elitist approach while popular democracy is a form of democracy that is based on institutions that best serve the needs of the people as opposed to merely serving as voters in liberal democracy. An institution that is responsive to the needs of the citizens would likely be a compatible part of such a popular democracy.

Similarly, Koelble (2005:5) argues that chiefs’ responsiveness to people’s requests for service where the elected officials seem not to succeed is a contributing factor to the survival of the chieftaincy in the democratic governance system. Koelble (2005) further argues that the failure of the “democratically elected but ineffective local authorities has opened up several spaces for traditional leaders to re-affirm their cultural, social, economic and ultimately political power in all sorts of manners. As a result, chieftaincy has evolved in ways that help to locate itself within what could be termed ‘an indigenous version of local democracy’ that incorporates “African ways of doing things” (Koeble, 2005:13). The findings in this study confirm that responsiveness of chiefs to people’s requests for immediate service is a major factor that explains the widespread approval and support for chieftaincy in Lilongwe district.

3.8 Understanding of Democracy that Spans Beyond Elections

Understandings of democracy were clearly non-inclusive of elections but rather included freedoms of expression and association. The issue of elections in relation to how chiefs ascend to their positions, failed to generate much discussion among the respondents. Respondents either did not see the relevance of talking about elections with regard to chieftaincy or it is because of the popular belief that was apparent in the FGDs and KII that elections do not matter much in the determination of good leadership. More importantly, this means that elections are not a huge part of the understanding of the democracy that the Lilongwe village communities envisage.

A specific question was put to respondents asking for their perception regarding the significance of the election of community leaders. Clearly all categories of respondents except the government officials from the Ministry of Local government indicated that among both the elected leaders and chiefs good and bad leaders exist, so they do not think that elections play that big a role in ensuring quality of leadership. Throughout the FGDs even upon prompting, respondents did not express any concerns with the way that their leaders come to power including chiefs. When respondents were probed further into whether they consider the lack of elections among chiefs appropriate code of conduct in a democracy, the most common response was that bad leadership emanates from among either the elected or non-elected ones, as a result the most important issues to consider in any leader either through elections or the '*kulowa kuka*' process is to consider the '*umunthu*' of the particular individuals that aspire for the leadership position. On the other hand, MPs were emphatic about the illegitimacy of chiefs by virtue of not embracing elections (KIIs, Lilongwe, 16 August, 2008; Lilongwe, 30 July, 2008).

It was noted that the concept of '*umunthu*' plays a big role in ensuring accountability on both the side of the rulers and the ruled regardless of whether they were elected or not. '*umunthu*' is a generally, society-wide, understood code of conduct that guides how one behaves in the community. According to this concept, '*umunthu*' guides how

one treats others and how others should treat you. In most of the FGDs and KII respondents concurred that what would help leaders adhere to their responsibilities and duties and be accountable to their constituents would be the individual's "*umunthu*". Respondents explained that everyone is guided by the community generally agreed codes of behaviour. Such codes of behaviour urge leaders and those that the leaders preside over to behave in certain ways. If they do not do that, they are not listening to their *umunthu* and whether they were elected or not, they become bad leaders. This is why the question of accountability of chiefs vis-à-vis elections does not play that big a role independent of *umunthu* of the person involved in this community.

There is a growing realisation in the various democracy consolidation/promotion programmes that are conducted by government or civil society organizations that chiefs are well integrated in the general population therefore already targeted when the general public. Therefore, when identifying target groups chiefs are not specifically singled out. One respondent (KII, Lilongwe, 14 May, 2008) observed the same as an anomaly. The respondent said that there is need for chiefs as belonging to the supply side of democracy to be particularly targeted so that they too as service providers may improve the quality of their service. He explained that the democracy promotion agencies in the country like the MGPDD was (at the time of the study) in the process of reviewing its programme with the aim of incorporating the identification and development of local forms of democracy because they believe that chiefs are a significant part of those local forms of democracy (KII, Lilongwe, 13 May 2008).

Overall, different categories of respondents except local government officials believe that chiefs should be allowed a say on issues of national significance. This would certainly not be tantamount to partisan politics but as their obligation as the keepers of the nation. They are the ultimate voice of the people that is supposedly motivated by the welfare of the people and not any material rewards or the quest for control since their legitimacy comes naturally and it is not competitive.

As noted in chapter two the leading democracy scholars like Mamdani (1996) and Linz and Stepan (1996) contend that democracy consolidation may occur only if

chieftaincy is relegated to marginal positions in the governance system. Thus all major players including ordinary citizens and the elite have to agree that the only way to gain power is through elections. As for Mamdani (1996) it is the state building task for which chiefs are faulted. The assumption that Mamdani's contentions present is that if ordinary citizens maintain their allegiance to the chiefs they may not be able to also pay allegiance to the state. As a result the state will remain ill-formed hence may not be a sound basis for building a democracy. As Carothers (2002) advises only fully formed states can build democracies and only democracies can consolidate democracy. Therefore it may not even be logical to talk about democracy consolidation in a state where chiefs are very much a part of the state and the democracy matrix. This is because in Lilongwe democracy does not seem to be the only game in town.

This observation calls for more explanation for establishing that a transition in Malawi in 1994 and that the transition was towards a democratic system of governance which is alleged to be consolidating. As outlined in chapter two (section 3) Malawi enacted a new republican constitution in 1994 and embarked on a decentralisation process (1998) as the major strategy for ensuring democracy consolidation. Since then, various contingent policies and legislation have been put in place to support actualization of the ideals of the democratic republican constitution. Besides, four consecutive presidential and parliamentary elections that have been characterized as free and relatively fair have been held.

The fact that outside independent democracy indices like the Freedom House, (2008) categorised Malawi as partly free with ratings in civil liberties and political freedoms at 4. The Mo Ibrahim Governance Index, (2009) also places Malawi somewhat midway in various aspects of governance including human rights and political freedoms. Most importantly, the Afrobarometer (2008) survey describes Malawi as a nation where 56% believe that it is a democracy with minor problems shows that the transition that occurred in 1994 in Malawi was indeed towards democracy. However, according to these various democracy measuring indices, the process of consolidating that democracy is still on-going.

3.8.1 Democracy Consolidation Roles of Chiefs

In that democracy that is thriving in Lilongwe district, respondents see elections as the major function of chiefs. One respondent remarked thus; *"ntchito ya Mfumu ndi chiyani ngati sichisankho?"* literally translated; 'what else is the role of chiefs if not elections' (KII, Lilongwe, 30 July, 2008). This is because collaboration between chiefs and MPs has mostly been seen when MPs begin to campaign in readiness for parliamentary elections. The respondent (KII) further suggested that if one does not have the support of the chief, they may not win an election. This view underscores the role of chiefs in organizing for and conducting elections. Besides chiefs also mobilise for and supervise national and local elections.

Chiefs have also been seen consulting and collaborating with the president and the ruling party in national level politics. The Chiefs' Act 1967 mandates chiefs to work with the government of the day because it urges them to work directly under the president. It can be concluded that chiefs in Lilongwe have a real potential for affecting the outcome of the democracy consolidation process. Clearly, democracy in Lilongwe does not mean the same thing as it does in the western countries - elections. Certainly democracy is not the only game in town as previously observed by Logn (2009).

A number of reasons account for the enduring of democracy in a seemingly unfavourable institutional environment. As previously observed societies in Africa are trying to democratise while at the same time they are grappling with the reality of building a state from scratch or coping with an existent but largely non-functioning state which was initiated by the colonial regimes (Carothers, 2002). They require a lot of pragmatism in order to ensure that their populations do not view democracy as an alien value or ideal but endeavour to integrate it within the familiar institutions of governance as long as the core values of democracy like accountability and representation are taken care of.

Some scholars like O'Donnell (1996) argue that the reason why chiefs should be included in any democracy matrix in Africa is because such informal institutions are

pervasive in such societies unlike the formal democratic state institutions. One point that illustrates this pervasiveness of chiefs within the society in Malawi is that apart from being able to respond to people's requests for service more readily than the formal state institutions, chiefs present opportunities for change of choice of officials as and when needed. The mechanisms that exist for citizens to be able to discipline or dethrone a chief are well understood in the communities as it was learnt through the various FGDs.

3.8.2 Economic Factors

The study established that assessment of the performance of both chiefs and MPs or local councillors is based on how well the officials have been able to provide services to their communities. Indicators for good performance of the officials included, construction of school blocks, local bridges and the effect that the official makes on one's personal life. Wherever, citizens have personally benefited from an official, they commend that individual as respondents did in the FGDs. In such poor democracies as Malawi, provision of service and facilitation of improvement of livelihoods among citizens is crucial in the ordinary citizen's perceptions of which institutions of the state perform well or not. This study reveals that the popularity of chiefs is closely linked to their ability to provide service readily as opposed to their elected counterparts. Besides, in the definition of democracy, respondents in Lilongwe insisted that it does not matter whether one was elected or not but what they are able to do for the people determines whether they are a good leader or not.

The main factor that enables state officials to manipulate chiefs in contentious issues is that chiefs are lured by expectation of financial as well as material rewards from the state. The majority of chiefs are peasants or retired civil servants whose main monthly income is the allowance that they get from government. Any expectation of financial or material rewards would be hard to resist. More and more educated individuals are rising to positions of chief. Such individuals increasingly understand their operating environment in a broader sense. As a result, they are able to identify opportunities where they too can exploit the system to reap personal or even their community's benefits. For example, one chief stated that he personally has been able

to call the president directly and ask for a specific service to his community. Much as opportunities like this bring benefits to the concerned communities, they disrupt the democratic principle of fairness. That mechanism of service provision is not institutionalized so that it could be monitored within the democratic system. It is hard to enforce accountability in such circumstances. All these observations demonstrate the salience of economic factors in the dynamics of the interface between chiefs and the democratic state institutions with regard to observance of the democratic principles of accountability and representation.

According to Przewoski (1996:41) once a country has adopted a democratic regime, its level of economic development has a very strong effect on the probability that democracy will survive. There is a threshold of 5% economic growth per annum from which democracies are more likely to endure while below that figure, they are likely to fail. That is why poor democracies, particularly those with annual per-capita income of less than \$1,000, are extremely fragile. There is a probability 0.12 that one of them would die in any particular year. As the per capita income ranges increase, the rate of probability falls significantly (Ibid:1996:40). Similarly Diamond (1999) ponders as to why is it that democracy is the only widely legitimate form of governance. The author argues that it is essential that in response to this question the ability of the democratic state to provide its citizens with safe and secure environments within which citizens enjoy meeting their basic needs, pursue economic activity for prosperity, should be prioritized.

Malawi like most African countries falls well below the threshold of democratic endurance of \$1000 annual per capita income range therefore its democratic system is extremely fragile. The democratic governance system in Malawi survives in an economic environment where the majority of the population is poor, the gap between the 'haves' and 'have nots' is wide, and opportunities for prosperity are limited. Apparently the traditional institutions are more attractive in such an environment to ordinary citizens as institutions of governance because they offer protection for communal rights. As a result, assessment of performance of officials by ordinary citizens turn out to be positive for chiefs than it is for MPs and local councillors. Despite a negative economic environment, democracy in Lilongwe is enduring and

the interaction between chiefs and the democratic institutions emerges as the ameliorating factor. Although these economic factors may not suffice to explain or predict whether the democracy in Lilongwe will endure from this study, they only help to affirm the effect of including chiefs into the governance system while aiming at promoting democracy consolidation.

3.8.3 Caution in the Definition of Hybrid Democracy

Even though such factors (as outlined in the preceding section) help to explain the reality of democracy as it is being practiced in Lilongwe district, not the only game in town, these explanations do not provide for a cut off point from which a regime may no longer be termed democratic. As for this study specifically, these arguments do not offer explanations for when one could say that democracy is no longer consolidating in Lilongwe. Thus the explanations leave the door wide open for possibilities of non-democratic states to claim alternative explanations for what they are doing.

O'Donnell (1996) advises that one way to avoid confusing non-democratic states for democratic and vice versa is to look in the polity for what democratic institutions that are present and not those that are absent. For example, O'Donnell (1996:37-38) cites the presence of informal institutions that are operating fully to guide behavior and interactions just like in a highly institutionalized democratic state in some non western states as a sign of consolidation and not otherwise. This means that a polity like Malawi, may even claim consolidation if such traditional institutions like chieftaincy were formally recognized and highly institutionalized. This is because, as shown in this study, such institutions operate fairly efficiently. For example, in the prolonged periods when local councillors have not been in place, (1993 – 2000, 2005 – 2009), chiefs have performed all local governance functions to the satisfaction of the local communities. The situation has been commended by some citizens as well as district administration officials. They argue that there is less work within the district administration and some of the resources are being channeled to productive items in the Assembly's budget lines instead of serving as allowances for local councillors.

It is important to note that rules that guide how individuals in institutions and individuals interacting with institutions behave stem from a thorough consideration of the society within which the rules need to operate (Sangmpam, 2007). This means that rules have to be consistent with the society within which they will be expected to operate. The regulatory framework including the Republican Constitution (1994), the Local Government Act (1998) and the Decentralisation Policy (1998) place local councillors ahead of chiefs in local governance. In the above stated scenario, the positioning of councillors ahead of chiefs has hindered efficiency in the system. For example, one major reason why assemblies have not been reconstituted without local councilors is because the regulatory framework defines the assemblies exclusively as a house of local councilors with the inclusion of chiefs only as ex-officio members.

Despite the calls for pragmatism in integration of traditional institutions into the democratic structures, Osaghae (1995) cautions that “democratic stability” should not be confused with political stability. The author argues that in a state that boasts democratic consolidation “what sustains government and ensures stability is voluntary support or consent of the citizens rather than reliance on coercion” (Osaghae, 1995:67). Such coercion can either be physical or ideological as argued by Sangmpam (2007). The manipulation trends and expectation of rewards by chiefs raise fears that there is a form of coercion in Lilongwe in the way that chiefs are collaborating with democratic state institutions. This is more conspicuous when chiefs are being involved in issues of national significance like it happened in the section 65 and third term debates. Most likely the Chiefs were coerced into publicly declaring their position on the issues based on expectation for rewards and benefits and fear of punishment through application of the powers of the President according to the Chiefs’ Act (1967).

Clearly from the findings in this study, ordinary citizens support the idea of involving their chiefs in issues of national significance but as long as the regulatory framework remains ambivalent, the element of coercion creeps in and that disrupts the democratic value of accountability. The unprocedural and unregulated ways in which chiefs have been consulted on issues of national significance can be quite detrimental to the process of democratic consolidation given that this is essentially a veto function

for a non-electable office of chiefs. Even more significant is the fact that the policy and legal framework has not embraced the traditional authority institution of chieftaincy so as to be able to govern and regulate its operations. As a result, the involvement of chiefs in issues of national concern has mostly been based on personal qualities and initiatives of the individual chiefs. Interested chiefs have had to maneuver within the system to get known so that they and their communities could be consulted in such instances.

Since multi-party democracy was only re-introduced in Malawi fifteen years ago, it is not possible to determine yet whether it will endure much longer than it did in the immediate post-colonial period (1963 -1971). This discussion highlights gray areas that need to be focused on in any efforts that the state undertakes that are aimed at enhancing endurance of democracy in Malawi. This discussion shows that such efforts could also involve instances of review of the formal institutions in order to foster the creation of a more effective institutional environment for democracy consolidation.

3.9 Conclusion

This chapter has argued that there are sufficient factors that favour the incorporation of chiefs into the democratic governance system both through the policy and legislative framework and in functions and roles in Malawi. This is against the realization that there are potential threats in integrating chieftaincy into the democratic governance system towards the process of democratic consolidation. However, caution has to be exercised in order that the strengths of chieftaincy are enhanced while at the same time its weaknesses which have similarly been found to plague the elected MPs and local councillors are minimized. There is overwhelming support for such an approach in promoting democracy in non-western states including Malawi due to the existence of the particular as opposed to universalized conditions that affect democratic consolidation differently in such countries than in western states.

CHAPTER FOUR: SUMMARY AND CONCLUSIONS

4.1 Summary

As noted from the literature, most sub-Saharan African countries including Malawi have adopted democratic systems of governance but yet they also maintain their traditional forms of governance institutions like chieftaincy. In devising systems and procedures that are aimed at promoting the deepening and spread of the democratic experience throughout the countries, most have adopted the process of decentralization. The legislative and policy frameworks that anchor the decentralization process have sidelined chiefs mainly because they are not elected hence presumed to be undemocratic. However, the ironic outcome of the decentralization process has been the rise in the significance and functions of chiefs and yet the policy and regulatory frameworks are not tailored in ways that are ready to deal with issues that arise from the unforeseen close collaboration between the chiefs and the local level state institutions.

This study has shown the specific ways in which chiefs are deeply entrenched in the local governance processes as a significant player in the system. It has also shown how superior the workings of the chiefs are as compared to their elected counterparts but also the ways in which the elected state officials may benefit through collaborative working arrangements with the chiefs to the benefit of the communities they serve. All these factors point to the conclusion that chiefs are contributing positively towards the democracy consolidation process in Lilongwe. This is observed inspite of the arguments of the democratic theory (Linz & Stepan, 1996) and institutionalist theories (Mamdani, 1996) that caution against maintaining traditional institutions like chieftaincy in order to consolidate democracy. One explanation for this development could be that chieftaincy is not an anti-system traditional institution. It is capable of adapting and making itself useful even to the democracy consolidation

project just as it too has potential to affect the nature of the democracy in which it participates.

Chapter two of the study has shown that the use of the emerging state in society approach in the study of African politics helps to explain the significance of chieftaincy in state building hence democratic consolidation tasks. As a result, it should not be surprising that democracy can still thrive in a governance system that embraces chieftaincy as a significant local governance player. The chapter has shown that in Malawi just like in other countries in sub-Saharan Africa chiefs have been seen taking up various significant roles in local level as well as national level governance processes. In most cases, the regulatory frameworks of those countries do not provide for those significant roles that chiefs play. As a result, the involvement of chiefs in democratic governance processes has remained an area of conflict. Besides, due to the presumption based on the democratic and institutionalist theories that chieftaincy should not be given significance in a democratic governance system for the purpose of allowing democracy to consolidate, both policy makers and scholars have not given much attention to exploration of the specific ways in which chiefs are working. This has led to a lack of progressive debates regarding revision of the institutional arrangements in order to accommodate chiefs in a more transparent manner that would be in keeping with the democratic core values of representation and accountability.

Chapter three has outlined the major issues that arise from the assessment of the interface between chiefs and the elected state officials namely; MPs and local councilors. The chapter notes that chiefs have been deeply entrenched as significant players in local governance. Due to the lack of appropriate policy and regulatory framework, chieftaincy has remained a spare tool for the executive to utilize even in contentious issues of national significance against a strong opposition. Such circumstances threaten to endow chiefs with a veto power that may harm the democratic system which the chiefs also serve. Therefore, the framers of the policy and regulatory frameworks that regulate the operations of chiefs and their interaction with the elected state officials in Malawi need to recognize the same. Such recognition would help to more clearly stipulate the roles of chiefs as compared to

their elected counterparts in various aspects of service delivery at the local level. As roles of each of the local governance players get better stipulated and clarified, a functional review of the system would help to determine whether in the presence of chiefs, the local governance system still needs the establishment of local councilor which duplicates the roles of chiefs currently.

Chapter three also argues that since roles of local councilors almost completely duplicate those of chiefs who are also seen to be performing similar tasks better, it would be necessary for a functional review of the local governance players in order to reduce areas of conflict and rationalize their utilization. Thus in such a review it may not matter if what needs to be eliminated in order to rationalize the utility of these local governance structures may be any of the formal institutions. This is because institutions work better the more they are endogenous to the society. Besides even highly institutionalized informal rules and structures may form part of a highly institutionalized system that sustains democracy. Having noted that chiefs have more mechanisms for executing accountability responsibilities and higher potential for offering more effective representation for their communities than the elected state officials chiefs' involvement in substantive local level as well as national level governance processes needs to be recognized in the policy and regulatory frameworks.

The mere fact that ordinary citizens seem to be pouring significant support towards chieftaincy does not affect the democratic consolidation process negatively but rather present an opportunity for the state to deliberately exploit the opportunities for the benefit of the citizens. The state needs to undertake a thorough functional review of chieftaincy in order to ensure that the legal and policy framework regulates the operations of chiefs and their interface with the MPs and councillors to bring in determinism to the impact that the interface may have on the democracy consolidation process in the future.

4.2 Conclusions

The chapter concludes that the interface between chiefs and the MPs or councillors is beneficial to the represented communities because it presents a multiplicity of opportunities for representation hence better service delivery to the ordinary citizens. But due to the lack of procedures for collaboration to guide both chiefs and the elected officials, conflicts have been observed. Therefore, there is need to develop guidelines for the collaboration between chiefs and local level state institutions that will take into consideration the differing bases of legitimacy for these officials and how best they could execute their roles collaboratively to serve the ordinary citizen.

The study argues that guidelines for the operations and assessment of performance of the VDCs and ADC have to be developed. Such guidelines should encourage the interaction and also formalize these forums as ideal for the elected leaders and chiefs on substantial issues on both local and national significance in so far as they affect their communities regularly. The formalization will ensure the involvement of the state in the operations of chiefs and their subsequent interface with the elected leaders in the provision of oversight to the whole process. That way the state will ensure that it is adequately informed and empowered to manage the development trajectory of chieftaincy and its relationship with the elected leaders in a democratic governance system.

There are challenges to representation and accountability which affects both elected leaders and chiefs. This exposes the shortfalls of both elections as a major means to enforce accountability and the traditional principles that govern conduct of chiefs and their people including '*umunithu*'. This calls for additional specific actions both by the traditional players and the democratic state structures in order to improve the capabilities of both chiefs and elected leaders in execution of representation and accountability for the benefit of their communities. Chieftaincy needs to undergo fundamental developments in order to keep up with the demands of the governance system including factoring education in the criteria for ascendancy into chieftaincy. One of the major factors to be considered is educational qualifications because in the

changing world, education is of the essence in that those without it are likely to depend on those with it for guidance and support.

If the legal and policy framework were to hold chiefs accountable in addition to their traditional accountability mechanisms, chiefs would be more representative and accountable to their people. Representation of their people in issues of national concern would be more effective because chiefs would have to always act in accordance and together with their people. Currently the regulatory framework does not provide guidance either to the elected leaders or the chiefs in the way that they would interact. As a result, the executive manipulates chiefs to act on their own (as individuals) on the pretext that chiefs always represent their people.

Understanding of democracy among most people in Lilongwe is certainly exclusive of elections contrary to the representative liberal democracy that the republican constitution stipulates. Clearly there is no indication that people are longing for anything different from having chiefs who work hand in hand with elected leaders. What they have is what they seem to be satisfied with. Actually, there are complaints against chiefs in some areas but most of them seem to be deriving from personal qualities of the individual chiefs as opposed to the structure and nature of their authority.

Chieftaincy is basically not an anti-system voice and chiefs are integral to the democratic process. Their roles too need to be strengthened and more integrated into the formal institutions and structures of the state especially with regard to issues of representation of local communities on national significance. Such incorporation serves to increase the legitimacy of the elected leaders and the democratic rules and values including downward accountability. In so doing, the quality of the democratic experience among the local communities would certainly improve. From the foregoing literature it is apparent that doing so is only engaging in pragmatic design of governance institutions which is also a democratic practice.

It also follows that in the consolidation of the decentralized local governance system, the roles and functions of chiefs have to be enmeshed with those of the elected leaders to avoid conflicts and inefficiencies arising out of unclear roles and responsibilities of

various authorities within the system. Doing so would help to maintain stability within chieftaincy, between chieftaincy and MPs and councillors but also lessen room for the executive to manipulate chiefs for political gains towards the ruling party. This would further help to bring predictability in the development within chieftaincy itself but also in its interaction with the democratic institutions and structures.

Since democracy can only be built on a supposedly fully constituted state and chiefs in Lilongwe contribute towards the definition of the state therefore, it is also necessary that the place of chieftaincy vis-à-vis the state be clearly stipulated in various pieces of legislation and policies that regulate the operations of chiefs in Malawi. As a part of the state and in keeping with the democratic principles of checks and balances, chiefs need to be provided with a pedestal from which to launch their negotiations with the democratic institutions. This could be in the form of a forum that affords chiefs a platform for forging united voices on issues of national significance and help them maintain that precarious balance between the state and the society. This will further help to galvanise the concept of chiefs working with the government of the day without really disrupting the significance of the elected leaders nor presenting opportunities for manipulation of chiefs which disrupts the democratic principles of checks and balances.

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APPENDICES

Appendix 1 - People's Perceptions of the Performance of the Different Institutions of Governance with Regard to Democratic Principles

INSTITUTION	DEMOCRATIC PRINCIPLE				LEVEL OF PERFORMANCE	MOSTLY COMMENDED BY
	Participation	Elections	Representation	Accountability		
Chiefs	Yes	No	Yes	Yes	High	Chiefs Ordinary citizens MPs, Civil society organizations Local party officials Local government officials
MPs	somehow	Yes	Yes	Somehow	Low	MPs Local Party officials Government officials
Councillors		Yes		Yes		-
Local Party Officials	Yes	Yes	Yes	Some how	Satisfactory	MPs, Government Officials
Local Government	Yes	No	Yes	No	Satisfactory	Chiefs MPs Government officials

Appendix 2 – Summary of Mechanisms that are Available to MPs, Local Councillors and Chiefs for Executing Accountability and Representation Responsibilities

Area of Assessment	Chiefs	Local area party officials	MPs	Councillors
Mechanisms and Approaches for listening to views and opinions of people	Village meetings with or without agenda	Party rallies	Party rallies	development forums,
	' <i>pamilandu</i> ', ' <i>pamaliro</i> '	The constituency committee meetings	development forums	party rallies
	send letters		Communicating through the chief	
	Development forums, Summoning any party officials within their area to their court Being invited to any local community social cultural gatherings		Constituency office	
Mechanisms for ascendancy and succession	Entering into 'kuka' (deliberative house of women) where they deliberate their choices among the eligible people and pick one to be come chief	Elections	Elections	Elections

Area of Assessment	Chiefs	Local area party officials	MP's	Councillors
Mechanisms for Accountability	Holding regular and need-based village meetings Summoning individuals and families to the chiefs court to provide feedback on issues as need be Working with the 'nduna za mfumu' (sort of jury) in all matters of mediation and decision making	Communicate people's complaints to the MP Submit reports to MP	Holding political party rallies before and after parliamentary sessions Maintain close contacts with local party structure and chiefs Constituency visits Phones	Holding political party rallies before and after Assembly sessions Village visits Close ties with the chiefs
Mechanisms for sanctioning	Promotions from government or lack of it Boycott by community members to patronize other authorities/chiefs than their own chief Being reported to 'nkhoswe za ufumu' Community may demand stripping of chieftaincy (in extreme cases)	Lose next local party elections	Lose parliamentary elections	Lose Local council election
Approaches and forums for service delivery	Direct provision of service e.g. land allocation, dispute resolution, material provisions to the needy, moral support Present grievances and give opinions to District Assembly Talking directly to the president by phone or at public rallies	Direct provision of service e.g. provision of moral and material support to acknowledged party members Present grievances and give opinions to MP	Direct provision of service e.g. provision of moral and material support to party members Present submissions to parliament Present submissions to the assembly	Direct provision of service e.g. provision of moral and material support to party members Present submissions to assembly Present grievances to chief

Area of Assessment	Chiefs	Local area party officials	MPs	Councillors
Mechanisms Available for Representation	ADC, VDC, Direct link to the President District Assembly Secretariat	Party Conventions and elections	Parliament, District Assembly Secretariat	District Assembly