

THE COMMONS IN THE AGE OF GLOBALISATION CONFERENCE

Transactive Land Tenure System In The Face Of Globalization In Malawi

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Abstract

Globalisation is a major challenge to the sustainability of both the social and economic situation of developing countries like Malawi. Since the introduction of western influence in the 1870s, Malawi has experienced social, cultural and economic transformation. The transformation has been both revolutionary and evolutionary. After ten decades of British influence, Malawi achieved economic progress in the 1970s. However, in the 1980s Malawi witnessed a significant depletion in the savings capability in the face of rising population, decline in economic growth and foreign exchange constraints(UN, 1990). This decline has continued up to the present day despite the globalization of the world economy. In fact, globalization has exacerbated economic growth and development in Malawi.

It is the aim of this paper to identify the policies that need to be applied in Malawi in order to arrest the further deterioration in socio-cultural and economic situation. The fact that almost 80 percent of population in Malawi is rural, implies that land issues are paramount in inducing accelerated sustainable growth and development. The paper will focus on policies that encourage shared responsibility and strengthening of partnerships at all levels of the community. In this analysis, the importance and role of the customary land tenure concepts, practices and their associated hierarchies will be unearthed in order to provide unified concepts that are in tune with the western concepts of land and property stewardship. This is very important because past and present approaches to statutory land tenure systems have focused on the western concepts at the expense of the traditional methodologies of spatial allocation. Specific priorities according to unique endowments and needs of the Malawian society will be formulated regarding land tenure systems based on the evidence of the customary spatial allocation procedures that have existed for centuries in the Sub-Saharan Africa.

In order to unearth the above facts, the customary land issue will be analyzed taking into account issues like the principles of spatial administration, the nature of the governance at all levels, the concept of spatial stewardship and the variation of such concepts in different cultures and social groupings in Malawi. These variations may be influenced by socio-cultural and economic systems of individuals within society. An understanding of the evolution of the western land tenure system will be provided in order facilitate the formulation of alternative land policies that may conform with present globalization challenge most developing countries, Malawi in particular, are faced with. The idea will

be to formulate land policies that take into account the 80 per cent majority who have been marginalized in the past century.

1. Introduction

Malawi is a landlocked country in East Central Africa, south of the Equator. It lies between latitudes 9 degrees and 17 degrees south of the equator. It is in the Eastern part of the Great African Rift Valley and is 896 kilometers in length. Its width varies from 80 kilometers to 160 kilometers. The country has a total land area of 11,832,000 hectares, of which one fifth is Lake Malawi, that extends about 584 kilometers in the North-South direction of Malawi. The country is connected to the outside world through Beira and Nacala ports of Mozambique that are 403 kilometers and 502 kilometers away from Blantyre city respectively.

Malawi shares common boundaries with Mozambique to the East and the South, Zambia to the West and Tanzania to the North East. The country is divided into three administrative regions comprising the Southern, Central and Northern region. These regions are further subdivided into districts. In Malawi, there are four major urban centers; namely Blantyre, Lilongwe, Zomba and Mzuzu.

2. Population dynamics

Since there were no written records before the arrival of the Europeans, the best estimates show that by 1901, the population of Malawi was only 737,000 people. The population trends in Malawi has been growing at a rate of about 3.2 per cent per annum since the beginning of the last century. This has put pressure on the country's resources because although the land area of Malawi is 9,448,741 hectares, it is estimated that only 5,300,000 hectares, representing 56 per cent of the total land is cultivatable (Chipande, 1985). In fact, this cultivatable land is unequally distributed regionally. **Table 1** shows that the population of Malawi had progressively increase to 3,900,000 people in 1964 and it is now estimated at 9,838,486 people (GoM, 1996).

This rapid population growth is causing significant impact on the available cultivatable land. Chipande (1985) has shown that 26 per cent of the land in 1968/69 was under permanent cultivation. The average land holding size was 1.54 hectares per household in 1968/69. By the period 1980/81, the average holding size had declined to 1.17 hectares per household. Chipande (1985) asserts that the pressure on land is mounting and without substantial improvements in technology to raise productivity on the land, a substantial proportion of the smallholding community will abandon the land to search for alternative sources of income.

Table 1: Population changes in Malawi(1901-1998)

Year	Population	Growth rate	Density(Persons/hectare)
1901	737153	-	0.038
1911	970430	2.8	0.182
1921	1201983	2.2	0.227
1926	1263291	1.0	0.238
1931	1573454	4.5	0.294
1945	2049914	1.9	0.385
1966	4039583	3.3	0.769
1977	5547460	2.9	0.955
1987	7988507	3.7	1.507
1998	9838486	1.9	1.856

Source: Malawi Government Population Census, 1966,1977,1987,1998

Note: Density is based on the cultivatable land of 5,300,000 ha

Table 2: Regional population and land balance (1998)

	Population	Area(ha)	Density	Density(cultivable)
Malawi	9838486	9408000	1.04	1.85
N. Region	1229360	2687000	0.40	0.87
C. Region	4041636	3552000	1.08	3.06
S. Region	4567490	3169000	1.55	2.69

Source: GoM, National Statistical Office, Zomba 1996

3. Malawi's economy

Malawi, like most of the developing countries, has an economy that is based on agriculture. This is worsened by the fact that, when Malawi became independent in 1964, it inherited an economy that has been described as distorted and dislocated. Vail (1975) commenting on the economy of Malawi asserted that the colonial experience with decisions taken outside the colony and for reasons that had no relevance to the colony, left Malawi (Nyasaland) with a distorted and dislocated economy at the end of the colonial period. This condition has persisted to the present day, as Malawi has not been able to remedy the economy.

The economy of Malawi has had a significant impact on the management of the natural resources such as land in the country. The colonial land policies, deliberately skewed the wealth distribution in favor of the European capitalists. This is not strange because the same policy was adopted elsewhere in Africa. For example, at the dawn of Zimbabwe's political independence, there were great spatial imbalances that reflected the colonial economic and political background (Underwood, 1986). The Malawi's experience was that in the 1890s, the European settlers introduced negative incentives such as the hut tax in order to release more cheap laborers for their estates. The reason for this was that the agriculture they introduced (coffee, tea and tobacco) was labor intensive. Since the estates were also competing with transport companies that needed natives as porters of

head carried loads from landing places, they asked the British administration to construct a railway that would facilitate transportation of goods without the use of large number of porters.

Despite the fact that the railway was crucial to the development process in Malawi, the economic situation at independence was associated with the railway project that was aimed at connecting Malawi to the Indian ocean and the outside world. The railway project was initiated by the Foreign Office in London in 1903 to build a railway from Chilomo, in the lower Shire to Blantyre. The opening of the railway in 1908, opened Blantyre to the outside world. However, for some technical reasons and a desire to strengthen British interests in the area, south of Zambezi, the railway was extended to the Zambezi river in 1911. This decision was made without the analysis of the due impact on Nyasaland. The extension of the railway outside Nyasaland did not promise to pay back the money. This created an economic crisis because Nyasaland was forced to pay half of her revenue to treasury in London yearly. This prompted the Nyasaland Times of 29th April 1920 to express anger and despair of the Nyasaland administrators:

‘The agreement seems to us to be entirely one sided and we thus see this extraordinary position that we are to be taxed to construct a railway in a foreign country and for the benefit of a foreign chartered company. The feature however is that this burden of taxation for this railway in foreign territory will hamper us in developing our own country’(Vail, 1975)

The extension of the railway necessitated the building of a bridge across Zambezi river at the expense of Nyasaland. The bridge was opened in 1935 and resulted in making the economy of Nyasaland to sink deeper and deeper. At the dawn of political independence, the new breed of administrators realized the mess that was created by the colonial policies. To counter this, the First National Development Plan (1962 –1965) was formulated. This plan had a wage policy whose aims were to:

- Minimize wage gap between rural and urban wages in order to prevent rural-urban migration.
- Broaden the market for local industry and bring about demand induced expansion of domestic manufacturing.
- Prevent wage cost increases in agricultural output.

This means that government wanted to deliberately depress rural smallholder incomes as part of the scheme to boost estate agriculture. To achieve these, deliberate economic policies were designed to allow estate sector to achieve a lion’s share of the country’s land, financial and human resources (Chipande, 1985). This resulted in keeping the urban wages low, thus conflicting with the idea of broadening the market for local industry. This has propagated the colonial policy of creating a gap between the poor and the capitalists. This is reflected in the PMS 2000 report that shows that over 6 million people (65.3%) were living in poverty in 1998 in Malawi.

Despite the economic crisis that was inherited at independence, the Western World regarded Malawi as one of the best economic performers in the Sub Sahara African

(Gondwe et al 1998) in the 1970s. This was mainly because Malawi's economic policy agreed with economists of the neoclassical tradition who dominate the World Bank, The International Monetary Fund and the Ivy- League Universities in the West. These institutions have been recommending agricultural based export led development to all developing countries.

A recent analysis of the economic situation in Malawi carried out by Gondwe et al (1998) has shown that Malawi's economy actually performed very well between 1970 and 1977 when there was an average Gross Domestic Product (GDP) growth rate of 6.3 per cent and GDP per capita growth rate of 4.1 per cent. The economic situation started worsening in the late 1970s due to deteriorating terms of trade, skyrocketing of oil prices, the war in Mozambique and harsh weather conditions. The war in Mozambique had two major impacts on the economy of Malawi, namely the influx of refugees into Malawi and the blocking of the only route to the sea of Malawi's exports. This, plus the rise of Malawi's debts forced Malawi to spend 22.8 per cent of her exports on servicing debts by 1982 (Gondwe et al. 1998) as opposed to only 18.4 in 1980. This made Malawi to become one of the poorest country in the world. **Table 3** shows that Malawi was fifth from the bottom in the World Bank Ranking in 1995. This has certainly deteriorated even further now.

Table 3: Per Capita GDP and World Bank Ranking

Year	GDP/Capita(US\$)	Rank(World poorest)
1976	140	15
1980	230	17
1985	170	8
1990	200	9
1995	170	5

Source: Gondwe et al, 1998
World Bank World Development Reports(Various)

3. Land management

Land is the most fundamental of all the resources because it is the basis of all the life that exists. Primary, secondary and tertiary production, food, shelter and human sustenance all rely on the existence of land. For many communities, land is a symbol of spiritual status and personal dignity. In fact, land tenure systems represent the wider spectrum of socio-cultural-politico-economic environments about land. This is why it is important to understand the dynamics of land tenure systems and how the globalization of the world economy will influence land management concepts in developing countries.

The present dynamics of land tenure systems in Malawi emerged from the colonization process that started in the 1890s. Three main categories of land ownership are recognized in Malawi, which include customary, public and private land tenure. These land tenure systems were first acknowledged by the Africa Trust Land Order in Council in 1950. This acknowledgment was later consolidated by the Land Act of 1965.

Both in primitive and developed societies, land tenure systems involve rights, restrictions and responsibilities of the people in connection with the land. Thus, the ultimate aim of land tenure systems is to embrace institutional arrangements pertaining to land rights. The land tenure system that evolved in Malawi for centuries was instrumental in shaping the patterns of social and economic structures within different communities. The land tenure system was associated with enforcement of rights that could be exercised by the established socio-political structure within the community. The socio-cultural structure in Malawi's society relies much on the hierarchical institutional structures. Thus, the pre-colonization land tenure systems exhibited community-based-land rights enforcement methodology. The western land tenure system, on the other hand, rely too much on external executive control of central or local government. As a result, western land tenure system become effective and efficient in spatial allocation and administration by having enforcement instruments such as regulations and legislation. The customary land tenure system on the other hand, attained effectiveness based on the complexity of the hierarchical structures of traditional institutions and organizations. Traditional structures are very effective because they are simpler, and each villager or anyone within the community knows the unwritten rules of the game.

Thus, before the colonization of Malawi, spatial allocation was associated with the exercising of social power. Colonization brought different spatial allocation concepts. The western concepts of spatial allocation has its roots in feudalism. Despite the fact that customary practices did not have concepts of treating land as a commodity that could be sold, vast land was sold to the European settlers in the Shire Highlands and in Blantyre areas in Malawi in the 1890s. This was against public knowledge and wisdom that the boundary of public space of a tribe was determined by the ability to defend such space. Actually, spatial boundaries were dynamic. The dynamism of the spatial boundaries was a direct response to adaptive and self organizing nature of the social systems in Malawi before colonization.

3.1 Customary land tenure

Customary land tenure is a traditional system of land holding derived from the aspirations and operations of traditions and customs of the people, based on accepted practices and principles underlying those practices. This type of land tenure is hinged on special relationship between man and land, and it exists in different variations. This is why in some tribes, land ownership is viewed as a spiritual entity and is based on the recognition that has a divine heritage, the ancestors expect the land to be preserved and to be handed down to the future generations. Land is considered to belong to the community as a living organism that will never die. Usually, land is held by a family, tribe or village with individual rights to particular plots deriving from the group. The individual rights can not be sold because land belong to a divine being. Buying and selling of land is seen as sacrilege. Even in Biblical times, land ownership was based on tribes. No inheritance was supposed to change hands from one tribe to another. According to Numbers 36:9 of the Holy Bible, every tribe of the children of Israel was supposed to keep their own inheritance. In Malawi, land ownership was associated with inheritance rules. Thus, customary land tenure concepts acknowledged that land can only

be occupied and used by individuals. A house built on land can be owned, and fruits grown on land can be used. Just like in the Biblical times, land rights can pass from one generation to another through inheritance depending on the marriage system recognized by the social structure of the area. Customary land tenure system does not recognize landlord and tenant relationship, but there is guidance as to the way in which people can obtain, use and distribute their rights. This includes the complex relationships that arise between an individual and the community as a result of their occupation and ties with the land. Customary land tenure is thus, a collection of relationships that exist between the members of the society by virtue of their occupation and use of land. In some cases, customary land rights may be acquired by strangers either by contract, grant or marriage. Within the land owning tribe, land rights are passed from one generation to the other and the principle of *nemo dat quod non habet* (you do not give what you do not have) is used to prevent unauthorized alienation of land rights. The selling of land rights is highly discouraged as this is seen as the alienating of spiritual heritage and construed as an ancestral betrayal of the highest magnitude by the tribe.

Customary land tenure regards land ownership as an exclusive right to use and enjoy one's property. This excludes land itself, because it is God given and hence is supposed to be enjoyed by the community as a whole. Ezigbalike et al (1994) lists the following rights that may exist relating to land:

- Surface rights, which is license to enjoy the current use of the land,
- Productive rights, which is a license to make profit from current use of the land,
- Development rights, which is a license to improve the property,
- Pecuniary rights, which a license to benefit financially from development value,
- Disposal rights, which allow the owner to dispose of the land;

Land rights may be owned by one individual or several persons. In the customary land tenure system, there exists a distinction between property and trustery. The community can only possess restrictive rights to the land not the land itself. The strict rules and regulations that are followed in the customary land tenure system tend to strengthen group unity, interdependence and solidarity within the community. The strict customary land tenure system that existed before colonization include pastoral rights, that allowed pastoral people to range freely over large areas in search of grazing land and water. In areas where pastoral people were confined to limited areas, a form of communal land tenure developed. Other tribes were doing some form of farming, which meant that the system of land tenure was dominated by personal relationships and customs. The customary practices consolidates relationship between man and land. Human beings steer towards living together in families and other groupings bound together by common work and beliefs in symbiotic balance with nature.

The hierarchical structure of spatial allocation in customary land tenure has the traditional authority at the top, who allocates land to families, a tribe or a village. The individual rights are allocated to family members by the family head. Individual rights may not be sold because they are more usufructory in nature rather than ownership with the same western connotations of freehold or leasehold. Because there are no written records in the system as to who owns what, there is also no requirement for a precise definition and

determination of the boundary of land rights. According to Rakai et al (1995) customary land tenure is concerned with the way people obtain, use, distribute their rights to land. The circumstances that warrant the reversion of land rights to the large group include land abandonment, allegiance to the group renounced or rejected, expiry of temporary land rights, and alienation of land rights without community consent. These circumstances are common to all customary land tenure systems in Malawi.

3.1.1 Complexity of customary land tenure

The complexity of the customary land tenure made it very difficult for the colonial government to understand the many variations that existed throughout the country. However, the colonial government also realized that customary land tenure system was strongly entrenched in the social organization of the communities. Hence, summary abolition of the system would have almost destroyed the very fabric of society and economic problems than it could hope to solve (Ezigbalike et al 1994). Despite the efficiency and effectiveness of customary land tenure, colonial administrators held the view that customary land tenure is inferior to individual or private ownership. This view has been revived by some of the present indigenous land managers as well as a majority of western academics who argue that customary land tenure was only suitable in the past when the population was low. The basis for this argument is that globalization of the world economy requires natives in Malawi to modernize and hence allow market forces to operate rather than stick to an archaic land tenure system. This may be a plausible theory, but the facts on the ground reveal that customary land tenure has proved to be capable of adapting to radical changes by being sufficiently dynamic and flexible to respond to both economic opportunity and economic growth. This also proves that the western concepts of customary tenure as a major barrier to development, have been based on unfounded colonial myth that was created to justify palpably unjust policies. There is evidence that customary land tenure system is experiencing a change of the pendulum from group ownership to individualization of land rights throughout Malawi. This trend is more pronounced in areas with high population densities. In these areas, traditional leaders have facilitated alienation of land rights to strangers with full ownership rights synonymous with the private land ownership in the western sense. The stranger is usually asked to pay a stipulated fee for the land rights. Once the fee is paid, the stranger possesses absolute rights to use and occupy the land and even to pass it to his descendants using the inheritance system applied in his tribe. The only major difference with the western freehold land tenure system is that the transaction has no written record. Those who are involved in this type of transactions rely very much on the theory that security of tenure is the *certainty* with which an interest in land may be enjoyed. Thus, the belief is that for someone to enjoy the interests in land, one does not require the issue of a certificate or adjudication or registration of title because what is important is the confidence and certainty that no one else will be able to prove a better title as he is covered by the community leadership.

3.1.2 Inheritance systems in customary land tenure

Customary tenure system in Malawi has two major subsystems depending on the inheritance laws of the area. In Malawi, there are three inheritance systems which include:

- **Patrilineal system:** This system recognizes the matrimonial home as the home of the husband and inheritance of land passes through the male line. In this system, the eldest son inherits the land in trust for the rest of the sons. Upon death of the husband, the widow may remain unmarried in the matrimonial home until she decides to marry outside the clan. However, she can stay in the village if she is inherited as a wife of one of the deceased man's clan. It is also possible for the widow to remain in the matrimonial home if she shows good conduct and behavior and does not wish to remarry. In this system, the boy child is favored in terms of land allocation than the girl.

- **Matrilineal system:** Malawi seems to be one of the very few countries in the world that has a matrilineal inheritance system. In Malawi, this inheritance system has two variations depending on the established customs of the tribe. The major categories are:

- ♦ **Chitengwa :** In this subsystem, the matrimonial home is the home of the man just like the patrilineal system, but the inheritance passes through the female line. In this case the children belong to the wife but inheritance of land goes to the man's sister's children i.e. the man's nieces or nephews. In this case, upon the death of the husband, the widow and the children have to go back to their home village. Just like the patrilineal system, the widow may stay in the matrimonial home if she is inherited by one of the deceased man's clan. This is locally called chokolo. In a situation where the wife dies, the children have to go to their uncle i.e. where their mother came from.

- ♦ **Chikamwini:** The wife's village is recognized as the matrimonial home. Like the chitengwa system, the inheritance of land is through the female line i.e. the man's nieces and nephews are supposed to inherit his property but not the land. This means that upon the death of a husband, the widow and the children are not disturbed in terms of land use. This is so because in the traditional system there is clear distinction between property and *trusterty*. However, upon the death of the wife, the man has to automatically leave the children and the matrimonial home because there is a very high probability that he may wish to remarry.

- **Statutory system:** This is where the western system of inheritance is used and it dwells much on the Wills and Inheritance Act CAP 10:02 which expects individuals to write a will. This system does not apply where customary law was used in land allocation. However, where a woman or man dies intestate, the inheritance system to be used will depend upon whether matrilineal or patrilineal customary law would have applied or not.

3.1.3 Problems associated with customary land tenure

The increase in population is the major cause of pressure on customary land that constitutes over 80 per cent of all the land in Malawi. The result has been an ever increase in disputes over land rights. Access rights are becoming restrictive, and

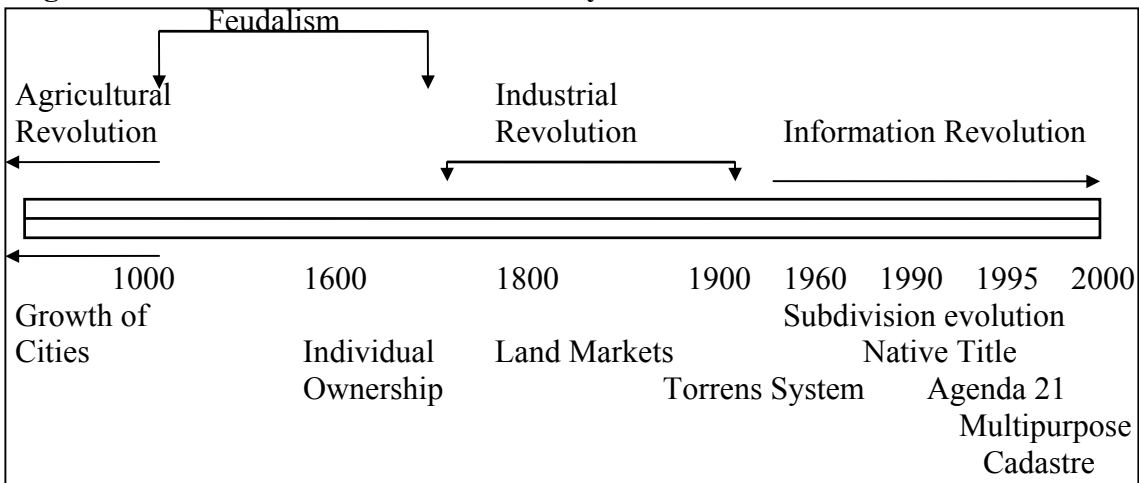
strangers are usually targeted for possible eviction. High population densities are also resulting in falling of yield in the rural areas, decreasing land holding size and an increase in the use of marginal land. High population densities are associated with environmental degradation. Evidence suggests that the policy of alienating customary land to leasehold estates in the rural areas after independence has been the source of the exponential increase in tensions and conflicts between private land rights owners and the local communities. This is mainly because conversion of customary land rights into leasehold tenure was associated with fraudulent access to land rights, especially by the unscrupulous and speculative capitalists. As a result, the local people have now resorted to encroaching into these private estates.

The introduction of the western concepts of land ownership in the 1890s eroded the powers of the traditional authorities in land management. This has resulted in the breaking down of the community resource management system which was part of the social and political structure hierarchy of society. This lack of control and management of customary land rights is manifested in the way natural resources are being indiscriminately abused.

3.1.4 The evolution of western land tenure systems

Land-man relationship has been very dynamic and evolutionary depending on the pressures and priorities of the community. Ting et al (1999) have shown that the western land tenure has evolved due to changes in the aspirations and needs of society. In fact, the evolution process of the western land tenure has taken a very long time. In the west, man was tied to his land physically before and during agricultural revolution through to feudal system. The granting of freehold on a large scale did not occur until the sixteenth century. The industrial revolution introduced the concept of land as a commodity that could be traded and a principal source of capital. This required the individualization of land ownership. A form of cadastre evolved that was aimed at facilitating the transfer of property from one owner to another. The evolutionary nature of spatial allocation process that existed in the west resulted in proper development. In developing countries, the contact with the western civilization at the turn of the twentieth century facilitated the concurrent growth of cities, individualization of land ownership, land markets and the torrens systems of land management within a period of sixty years. In the west, this process took about a thousand years (**Fig. 1**).

Fig. 1 : Evolution of western land tenure system



Source: Ting et al 1999

At the time of colonization, natives were living in villages with each individual having his or her own hut. As external space diminished due to population increase, the natives as a community would self organize by moving to another location. The western concepts of land tenure is based on the old European individual property rights that assumes the existence of an individual-man and land relationship. This assumption is prone to miss the inherent flexibility and the ability of customary land tenure systems to self organize in turbulent situations. The inheritance concept that is the core of customary land tenure systems is absent in the western land tenure systems.

3.1.5 The historical context of western land tenure and feudalism

In primitive societies, the concept of private property never existed because people belonged to their land more than the land belonged to them. They shared the products of the land in times of both feasting and famine. The origins of private property can be traced from the religious belief that was held in medieval ages that land and all it brought forth became property of the temple and the god. Since it was also believed that the peasants belonged to the temple and the land too, then the introduction of the secular kingship powers shifted the concept of land, by making it a property of the sovereign power. This resulted in the belief that all common property was a private possession of the king whose life and welfare were identified with that of the community (Mumford, 1961). This concept of private property was accepted in England and it explains why the monarchy used its sovereign powers to alienate the land from the custody of the native communities to his governors and the settlers in Malawi. However, British monarchy was not identified with the life and welfare of the natives of Malawi.

In the British history of spatial allocation, the Norman Conquest was instrumental in shaping the spatial organization structure. After the war, the new King declared that every piece of cultivable land in England should become part of the feudal manor. This system of land ownership involved spatial allocation that was controlled by an overlord or a hierarchy of overlords. The feudal system was created in order to consolidate Norman control over England. Feudalism was a pattern of land tenure related to

military service (Lloyd 1998) that developed in the northern Europe in the ninth and tenth centuries. The *hierarchical structure* in the feudal system had the king as the ultimate owner who allocated territories to several subservient owners, who were usually barons or magnates. These magnates were mandated to provide the king with armed men when required. The magnates in turn would grant their portions of the territory to lesser lords with the obligation for military support. The livelihood of these magnates depended upon the manor, which was a basic unit of territory. A manor usually consisted of a single village with the fields around it. However, there were some variations because sometimes a manor would consist of a group of villages or only part of the village.

Within a manor, the lord would usually have a personal estate and the rest of the arable land subdivided into individual strips but were farmed communally (Lloyd 1998). Each ordinary villager lived in a primitive cottage set in its own plot. The villagers would have their grazing and other rights from the overlord. This system of land tenure lasted for two or three centuries following the Norman conquest of 1066. With changes in aspirations and needs of society, the feudal tenure system evolved into the present western tenure system with two major forms of freehold and leasehold. The current western land tenure system does not rely on hierarchical structuring of spatial allocation and administration, but on economic factors and land market mechanisms. Private spatial occupation, buying and selling is the dominant activity and assumes perfect competition with a willing buyer and willing seller concept. Thus, the western land tenure system was coerced onto the customary concepts of land tenure. Philosophically, it is agreed that coercion of opinion is a mistake.

3.2 Private land tenure system in Malawi

Private land is defined by the Land Act of 1965 as all land which is owned, held or occupied under freehold, leasehold title or certificate of claim or any land which is registered as private land under the Registered Land Act. Several colonial legal instruments were formulated on land rights appropriation from the natives to the British Crown. The settlers' hunger for private land ownership is revealed by the fact that about twenty three separate treaties were negotiated and signed between the native chiefs and the African Lakes Company between 21st April 1885 to 24th August 1885. During this period, the finest, the most fertile, mineral laden and commercially accessible land was acquired (Brody, 1997). These types of treaties were later regularized by the ordinances. The an unscrupulous nature of the treaties reduced native chiefs and their customary land dwellers to groveling, subservient tenants or slaves.

During the colonial era, private land ownership was only for the white settlers who were granted certificates of claim by the secretary of state and direct grants by the governor after 1893 and 1902 respectively. After independence in 1964, private land rights were granted by the president of Malawi. Dr. H Banda's government propagated the western concepts of private land ownership in Malawi. In Zambia, Kaunda's government chose not to accept the principle of private and individual land ownership because this was considered to be against the philosophy of humanism. According to Kaunda (1971), humanism is based on the view that African society has a setup of mutual aid in which people work cooperatively without losing the identity of the individual for whose benefit

and in whose name all was done. As a result, in Zambia all the land was vested in the president in perpetuity, and all freehold properties were converted to leaseholds of less than 99 years after independence. In Malawi, private land is now owned and controlled by non indigenous and a few elite natives, and this is usually on prime arable and urban land areas.

4.0 Structural Adjustment Programmes

Structural Adjustment Programmes(SAPs) were primarily aimed at transforming the economies of the developing countries towards self sustained development and to enable them to provide at least a minimum standard of nutrition, health, housing, education and job opportunities to the citizens. Despite the promise that the policies were aimed at both the rural and urban poor, the actual social and economic situation of these individuals have worsened since 1980s when the first dosage of SAPs were implemented. As we have observed above, Malawi attained economic success in the 1970s. However, since 1980s Malawi experienced the deterioration of its productive capacity and its physical infrastructure in such a way that the ability to resume growth and development that would meet the basic needs of its population was impaired. This resulted in the erosion of the modest economic gains that Malawi achieved prior to the 1980s. The culprit of these social and economic problems point to the policy shortcomings that were associated with the design and implementation of SAPs, depressed commodity prices, difficulty in accessing commodity markets and war in the neighboring Mozambique. It is important to note that the failure of SAPs was also associated with the fact that they were aimed at short term economic stabilization that would promote long term development. The designers of such policies were unable to make specific attention of the development needs of Malawi. This has been compounded by the fact that our western cousins deliberately depress the prices of our raw materials on international markets. In addition, the international community imposes higher tariffs for any semi-processed forms of products. These policies are very detrimental to the sustainability of development and growth of developing countries. These policies act as disincentives for any attempts by Malawi to process primary products for exports.

Internationally, the rapid population growth of Africa has been tackled with impunity by the World Bank (WB) and International Monetary Fund (IMF). The origin of the Structural Adjustment Programmes (SAP) can be traced back to the World Bank's 1981 Berg Report on social and economic crisis in Africa. The report's primary aim was to analyze the economic crisis in Africa. The findings from the report was the basis for coercing African countries to adopt SAPs, because it was believed that SAPs could stabilize developing countries' external and internal balance of payments, and promote their export growth through devaluation of their local currencies, trade liberalization, privatization and legal reforms. The IMF and WB used police power by threatening sovereign states to adopt these policies as a pre-condition for loans and aid. Instead of adjusting the economy to be able to manage balance of payments, reducing fiscal deficits and increasing economic efficiency, these policies have actually worsened the living conditions of the citizens of developing countries both in rural and urban centers.

The real income of households have declined sharply, and the social services in urban centers have deteriorated both qualitatively and quantitatively.

Potts (1995) cites that IMF and WB imposed Structural Adjustment Programmes (SAP) because of the idea that the scale of rural-urban income gap was too large and that this was part of the cause of inefficiencies in resource allocation. Malawi adopted a deliberate agricultural policy which favored the estate sector at independence. This policy was a source of economic differentiation as the gap between rural and urban poor and the capitalists grew wider and wider. This gap has now been propagated by the imposition of the SAPs. This has made the lives of both the rural and urban poor to become almost an incredible struggle as poverty is juxtaposed with dehumanizing implosion of deepening alienation, anger, and social breakdown.

In conclusion, it is fair to say that the failure of SAPs in many developing countries is due to the political compulsions of government that prevent it from enforcing the most desirable cuts in government expenditures. Governments usually target genuine development expenditures as cuts, which then sends the economy into a tail spin of a falling economic growth, worsening fiscal imbalances, and more structural adjustment requirements, leading to a further fall in economic growth.

4.1 New paradigm of land tenure system in the face of globalisation

Globalisation and economic restructuring are the main contextual changes that are impacting on governance and administration of spatial allocation procedures in developing countries. These changes affect decision making, service provision at all levels of society. The challenge of globalisation and economic restructuring should be understood in the premise of two important views. On the one hand, it has been widely perceived by western analysts that poor people are a drain on local revenues. On the other hand, it is agreed that capitalist economy should be the monopoly of the few private enterprises whose operations and objectives are not morally inclined. This is the dichotomy that land managers face in developing countries. In such a situation, it is difficult to achieve sustainable growth and development as the majority of the population are viciously exploited by the private capitalists. It is therefore necessary to create an atmosphere that provide for material interests of the citizen. To achieve this, there is need for the realization of the benefits of creating interdependent forces between communities, government and non-governmental institutions.

Globalisation in developing countries require institutions to adopt the concept of co-management of natural resources. Co-management involves defining, negotiating and guaranteeing the fair sharing of management functions, entitlements and responsibilities between two or more social actors. The aim of co-management is to seek social justice in the sharing of resources and responsibilities in a sustainable manner. As a result, co-management should be based on the multiplicity of different options that are compatible with both indigenous and scientific evidence. Evidence from traditional spatial allocation procedures suggest that space was managed through very complex interplays of reciprocities and solidarities in what was a closed system. The success of this approach

was the existence of socio-cultural structural hierarchies that accommodated for differences of power and roles. In this system, *property* and *trusterty* were two distinct entities of the social milieu. While property was considered the responsibility of the individual and his immediate family, *trusterty* was the responsibility of the community as a whole. This created some sort of cohesion and solidarity within the community. The distinction between property and trusterty also facilitated extended historical experience, local knowledge and skills to be the cornerstone of spatial allocation procedures. However, the introduction of western land tenure systems that are focused on scientific management, resulted in the weakening the whole concepts of traditional spatial allocation procedures. This was further compounded by the introduction of western money economy that has now yielded the present globalisation impetus. The western concepts of scientific management curtailed the role of traditional authority in such a way that their local knowledge and skills were presumed redundant. This state of affairs has created suspicion and mistrust between local communities and western based scientific managers. This implies that sustainable development and growth in the face of globalisation need to start with removing the suspicion and bringing back trust that communities had in their traditional systems of spatial allocation.

In order to remove the mistrust and suspicion, land managers need to embrace the concepts of adaptive management and governance. In this context, adaptive management is based on the experience and scientific findings that insist on analytical and open investigative methodologies. The investigative methodologies rely on data and information gathering and subsequent scientific analysis. On the other hand, governance involves complex and highly structured hierarchies by which individuals and institutions both public and private, manage and respond to problems through agreements.

5. Conclusion

The economic restructuring that has taken place in the last few years is due to the increased interdependence of national economies. This interdependence has facilitated social and cultural global linkages. This means that economic fluctuations in one nation state will have significant impact on both social and cultural systems globally. The scale and speed of economic transformation and restructuring has been very noticeable in the last two decades. These are the decades when Malawi experienced economic stagnation and debt crisis. The result has been the loss of social policy in employment, environment and cultures of communities. Consequently, there has been also significant impact on other natural, socio-cultural and human designed systems. Some of the policies include:

- Reduction of state intervention in the economy.
- Reduction of government expenditures.
- Privatization of state owned companies.

The above are some policies that have fostered economic hardships, social fragmentation and polarization as well as an increase in the number of people living in

poverty due to the decline of primary incomes of the majority in Malawi. The SAPs have resulted in massive redundancies especially for the urban residents, creating propagation circles of poverty.

Globalisation of the world economy may be a blessing in disguise in the sense that developing countries have to re-orient their management approaches in order to embrace the concepts of co-management and adaptive self organization. Land tenure and management should take into account the potential of traditional and customary approaches to spatial allocation procedures that have existed for centuries in Sub Sahara Africa. This should be done with the realization that the world is becoming smaller and smaller as the economy become global in nature. One thing that needs to be kept in mind in developing countries is that globalisation may lead to landlessness as governments encourage commercial farming to produce export crops at the expense of the majority poor people.

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