

POLICY BRIEF

LAND AND AGRARIAN REFORM: HISTORICAL BACKGROUND AND CHALLENGES



Designed and edited by:
Chifuniro Mbozi– Programme Officer

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Introduction

Malawi is a landlocked and predominantly an agricultural economy. It has a total of 11.8 million hectares out of which 9.8 million hectares is land. Agricultural estates occupy 1.2 million hectares and the area potentially available for agriculture by smallholder farmers is approximately 4.5 million hectares after adjusting for wetlands, steep slopes and traditional protected areas. In Malawi land is the key to sustainable livelihoods. A large percentage of our basic survival depends on the existence of

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Historical background

Below is a brief history of how we have come to have the policies and laws that govern land ownership in Malawi

300AD- 1500 AD

The original inhabitants of Malawi were the abathwa or the akafula. In the 9th century new groups began coming into Malawi. Firstly the Chewa followed by other groups like the Yao, Ngoni, Sena, and Lomwe. These groups are thought to have driven the akafula into Namibia. The entry of these tribes increased wars among various groups over land. It was the strongest group that acquired land. During this time there were no written records regarding the ownership of land. Land was held through traditional leaders on behalf of the community in accordance with the communities respective of the common laws. Individuals had the right to use land but not sell it although they could transfer ownership or give it someone else as a gift.

Colonial Era

British forces came in and intervened to end ethnic wars. They clearly understood that communities and their chiefs owned the land. However they developed the land ordinance in 1951 which made Malawian citizens tenants of their own land. Hence the establishment of the thangata system of farming which made farmers work on a piece of land as payment of land rent. At the end of the farming season the farmers would not have any food of their own because they would have been busy working on the fields of their landlords

“our customs of holding land in this country, our methods of tilling the land in this country, are entirely out of date and totally unsuitable for economic development of this country”.
Ngwazi Dr. H Kamuzu Banda

Independence

Malawi became independent on the 6th of July 1964. The person who led Malawi into independence in 1964 Dr. H Kamuzu Banda became the first President of the country. This meant that they would no longer be led by the colonialist. The government fully realized that land was the greatest asset. In 1967 Dr. Banda said that the methods of holding land were outdated and unsuitable for economic development. This is when the government committed itself to reform land related policies. This is commonly known as land and agrarian reform. However the type of reform that would be carried out remained undecided.

Land Reform in Malawi

Since independence in 1964 Malawi pursued an agricultural led development strategy. The agricultural strategy had two approaches:

- ◆ promotion of estate agriculture for export earnings and the creation of agricultural employment,
- ◆ encouraging smallholder agriculture for subsistence and food security.

The promotion of estate agriculture, particularly for production of tobacco, reduced smallholder agriculture land, thereby creating more unequal distribution of land, such that by 1997/98 about 33.3% of smallholder farmers were cultivating between 0.5 and one hectare.

Key challenges of land reform

Incomplete land legislation formulation

Although much progress has been made in developing a new Malawi National Land Policy and legislative reforms to support it, several uncertainties remain. The process of legislative reform has been delayed for several reasons:

The new land policy is not well understood at the grassroots and even amongst land related government agencies at central and district level. In addition previous and current awareness projects have been very slow in implementation and coverage remains limited and needs to be expanded. The Draft Land Amendment Bill 2006 was also withdrawn from the Malawi National Assembly.

Integration of new land administration institutions into existing practices and traditional institutions

The Malawi National Land Policy and the Land Bill are for the first time going to enable land administration responsibilities to be carried out by democratic institutions and procedures. Chiefs in Malawi have traditionally had the authority to allocate customary land to their subjects; the reform proposes changes to land administration by bringing in elected local level institutions such as land committees and tribunals. The perception is that democratically elected institutions and market led land ownership will encourage transparency and efficiency in land use and administration.

Unfortunately experience has shown that such institutions tend to conflict with customary norms; hence making implementation difficult. There has also been growing resistance from traditional leaders regarding the introduction of new land administration institutions. At the moment the roles of the two institutions are not clear and have the potential to cause unnecessary tension.



Women constitute over 50% of Malawi's population

Women land rights

Women constitute 52% of Malawi's population and they are the biggest producers of food. In Malawi there are two types of marriage systems, matrilineal and patrilineal. Under matrilineal the man follows the woman and settles at her place. While under patrilineal the woman follows the husband. Although land may be held in the name of a woman under matrilineal marriage system, the majority of such women feel that they have no right to "sell" the land. This is simply because they understand their right as being communally driven so they have no rights to sell it.

Another important point to note is also that although there has been a lot of debate on women land rights, there is little documentation on women access to land in Malawi. Knowledge and information development is one of the least developed areas of Malawi's land rights effort, but for which there is a great need. Awareness raising of the contents of the Malawi National Land Policy so far has been neglected for unclear reasons. Some people suspect lack of funds to implement the suggested actions. Yet this critically constrains land reform implementation, especially because many key people in government, civil society and worse still rural communities do not fully comprehend the concept of land rights and its ultimate purpose.

Limited financial resources for implementation

Resources are required to translate the policy into programmes, create new systems, hire staff, run offices and train those managing the new system. Currently resource allocation by government to the ministry responsible for lands is limited. The result is that the ministry can hardly initiate projects on its own in order to implement the aspirations which have been articulated in the Malawi National Land Policy. Almost all the projects being implemented by the ministry as part of the Malawi Land Reform Implementation Strategy are coming from donors. There is need to lobby for increased funding to the ministry so that it can be able to initiate projects on its own as opposed to solely relying on donors goodwill.

Missing link between land reform and food security

Access to land promotes technological innovations and growth. Studies on poverty also show that access to land is one of the factors that determine poverty.

Several past strategies have been developed in isolation and have assumed that the existing land holdings would enable smallholder farmers to excel. Arguably past policies in agriculture have not been effective partly due to the fact that the critical resource for agriculture development in Malawi – land – has been ignored in the policy agenda.

Pace of land redistribution and resettlement programmes

Malawi's land redistribution programme is based on premise of a willing buyer and willing seller. There have been almost no land owners, particularly white settlers willing to give up their land in districts experiencing land pressure. As such the World Bank supported Land Redistribution Programme has had to rely on leasehold estates owned by Malawians in two districts which are sparsely populated.

In addition, one needs money to get resettled, yet the landless do not have the money to purchase land, they rely on government to finance them. In the short term government will continue seeking support from for such assistance. In the final analysis this has led to the pilot land redistribution programme to appear to be far behind the targets set by the government.

Population growth

Rapid population growth puts pressure on the single most important resource, agricultural land. Population density is estimated at more than 105 inhabitants per square kilometer of arable land. This has contributed to land degradation and accelerated deterioration of natural resources. Population is also unevenly distributed with approximately 50 % concentrated in the southern region. This partly explains the acute land problems in this particular region of the country.

Encroachment

Protected areas such as parks and reserves have been vulnerable to encroachment. In most areas local communities have found it easier to encroach protected areas as opposed to idle land under private leasehold. This is the case because law enforcement in government owned protected areas is weak. In addition, the creation of most protected areas in Malawi on public land was driven by central government. In fact in almost all cases, the original inhabitants of these areas were forcibly evicted during the proclamation of the protected areas. This remains a source of grievance and local communities continue to contest ownership of these areas.

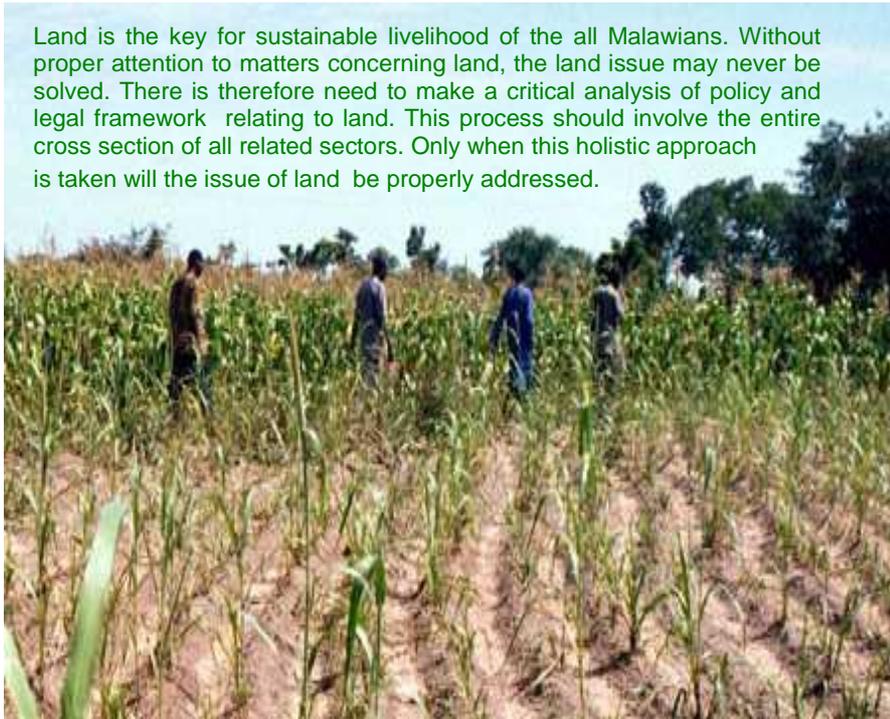
Limited availability of agricultural extension services in rural areas

There is increasing evidence that, agricultural extension advisory services have been almost non existent in most remote parts of the country during the past decade. This has resulted in smallholder farmers not being able to access advice on new improved technological innovations. This has confined most smallholder farmers to primitive technologies. In fact where extension services are available are mostly with resource inputs from non governmental organizations. And as well the extension system has mainly been pre occupied with politically driven agricultural initiatives such as fertilizer subsidies programmes as opposed to long term technological investments.

Lack of agricultural markets information

Concern over lack of agricultural markets for Malawian smallholder farmers is not necessarily a new phenomenon. The recent high production levels of maize in most parts of the country for two successive seasons has highlighted the interconnectedness of the various agricultural reform strategies. The strategy on fertilizer subsidies was implemented independent of improving markets for the anticipated bumper yields as such most Malawian farmers did not have a readily market offering better prices for their produce. Admarc, the state marketing agency, was never ready on time to purchase the produce. As such private traders took advantage of the situation to purchase the maize at very low prices.

Land is the key for sustainable livelihood of the all Malawians. Without proper attention to matters concerning land, the land issue may never be solved. There is therefore need to make a critical analysis of policy and legal framework relating to land. This process should involve the entire cross section of all related sectors. Only when this holistic approach is taken will the issue of land be properly addressed.



ABOUT CEPA

Centre for Environmental Policy and Advocacy (CEPA) is a not for profit public interest non-governmental organization. CEPA seeks to contribute to the development of environment and natural resources management best practices in Malawi and the Southern African Region.

As a think tank organization, CEPA provides advice and conducts research in environment and natural resources management policies and legislation with a view to designing appropriate interventions for promoting sustainable environment and natural resources management.

Our work concentrates on sound environmental governance; in this respect, issues of accountability, institutional strengthening and representation are at the core of our activities.

Our vision

An equitable and just society that values sustainable environment and
natural resource management

Our mission

To be a think tank for ideas and action oriented research institution of environment and natural resource management in Malawi and Southern Africa

Our goal

To promote policy formulation and implementation for sustainable environment and natural resource management