

RESEARCH Report 52

Commercialisation of Land and 'Land Grabbing':

Implications for Land Rights
and Livelihoods in Malawi


Phillan Zamchiya and Joseph Gausi



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WESTERN CAPE



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Acronyms

AGRA	Alliance for Green Revolution in Africa
AU	African Union
CEPA	Centre for Environmental Policy and Advocacy
CSOs	Civil Society Organisations
DCGL	Dwangwa Cane Growers Limited
DCGT	Dwangwa Cane Growers Trust
DFID	Department for International Development
EU	European Union
FAO	Food and Agriculture Organization
FGD	Focus group discussion
FISP	Farm Input Subsidy Programme
FUM	Farmers Union of Malawi
GBI	Greenbelt Initiative
ILC	International Land Coalition
PLAAS	Institute for Poverty, Land and Agrarian Studies (UWC)
TA	Traditional authority
TSP	Training Support for Partners
VGGT	United Nations FAO Voluntary Guidelines on the Responsible Governance of Tenure on Land Fisheries and Forests in the Context of National Food Security
WORLEC	Women's Legal Resources Centre

Acknowledgments

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Introduction

This study investigates the processes and impact of commercialisation of land in Malawi – specifically the acquisition of huge tracts of communal lands by foreign companies and local elites for sugarcane production in Nkhosakota and Chikwawa districts. The main finding was that ‘land grabbing’ for large-scale commercial agriculture in these two districts negatively affected the livelihoods of the poor communal farmers. The costs to the affected communities outweighed the benefits.

In the two districts studied, land grabbing was driven by a weak communal tenure legal framework and the Malawi government’s support for large-scale agro-investments. The key players behind land grabbing were local elites, traditional leaders, foreign companies, international agencies, the coercive apparatus of the state – the police and army – and politicians. The land acquisition processes in both districts were violent and arbitrary, with no compensation offered to the displaced communities. The way in which the land was acquired resulted in the destruction of people’s properties, crops and household incomes, leading to increased food insecurity and poverty among the rural poor. Even though Malawi is a signatory to international land governance frameworks¹, there was a disjuncture between policy and practice due to the players not complying with the statutes.

Our report acknowledges that not everyone lost out as there were a few elites who benefited through sugarcane out-grower schemes. However, the exclusion of the majority gener-

ated spirited resistance by the affected communities to land grabbing, but with little success because of the alliance of those acquiring land and the coercive apparatus of the state that used brutal force, resulting in the death of some protesters.

The affected communities did not suffer in isolation as civil society organisations (CSOs), such as LandNet, conducted research and public-awareness campaigns to expose the processes of land loss and to offer pro-poor alternatives for land governance. Some of the alternatives suggested include a government-gazetted moratorium on all land grabbing until the necessary laws are in place; to establish a new land tenure system for Malawi that protects communal land rights; operationalisation of some of the progressive principles on agro-investments; and capacitating communities to defend their land rights. The main objective of the study was to support policy-makers and CSOs with credible information to improve the development of evidence-based land governance policies which protect poor people living on public and customary lands from dispossession, and allow them to make informed decisions in relation to any transactions concerning their land.

In order to substantiate our arguments, the report documents how the land was acquired, how the acquisitions impacted on people’s land rights, how the affected communities responded and how civil society and government responded to the land deals. The next section notes why the study is important.

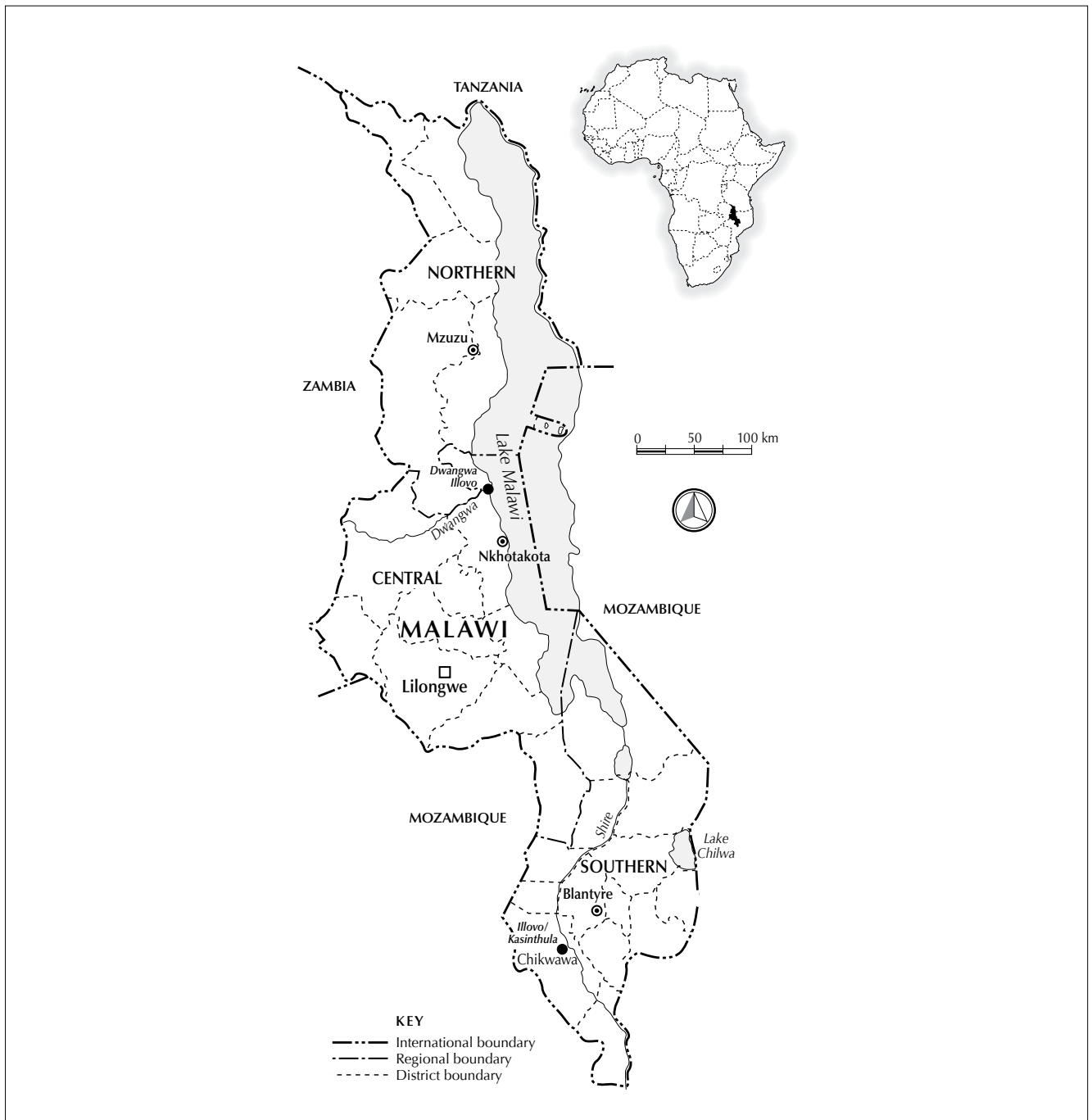
¹ Such frameworks include the Food and Agriculture’s (FAO’s) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) and the African Union’s Guiding Principles (AU GPs) on Large-Scale Land-Based Investment in African Agriculture.

Rationale

This study adds to a small number conducted in Malawi since the rise of the 'land grabbing' phenomenon in 2007–2008, and so contributes to the growing body of empirical work on 'land grabbing' in Southern Africa. As a point of comparison, it can help to highlight the regional picture. First, it provides an opportunity to capture regional variations and the underlying dynamics thereof.

Second, Malawi provides an opportunity to enhance an in-depth understanding of how the land deals are structured, who benefits, how local people respond and the nature of policies in place meant to protect the poor people's land rights. The value is to understand the land deals in a more nuanced and localised context than has been provided by studies which try to give a global picture but are thin on localised detail.

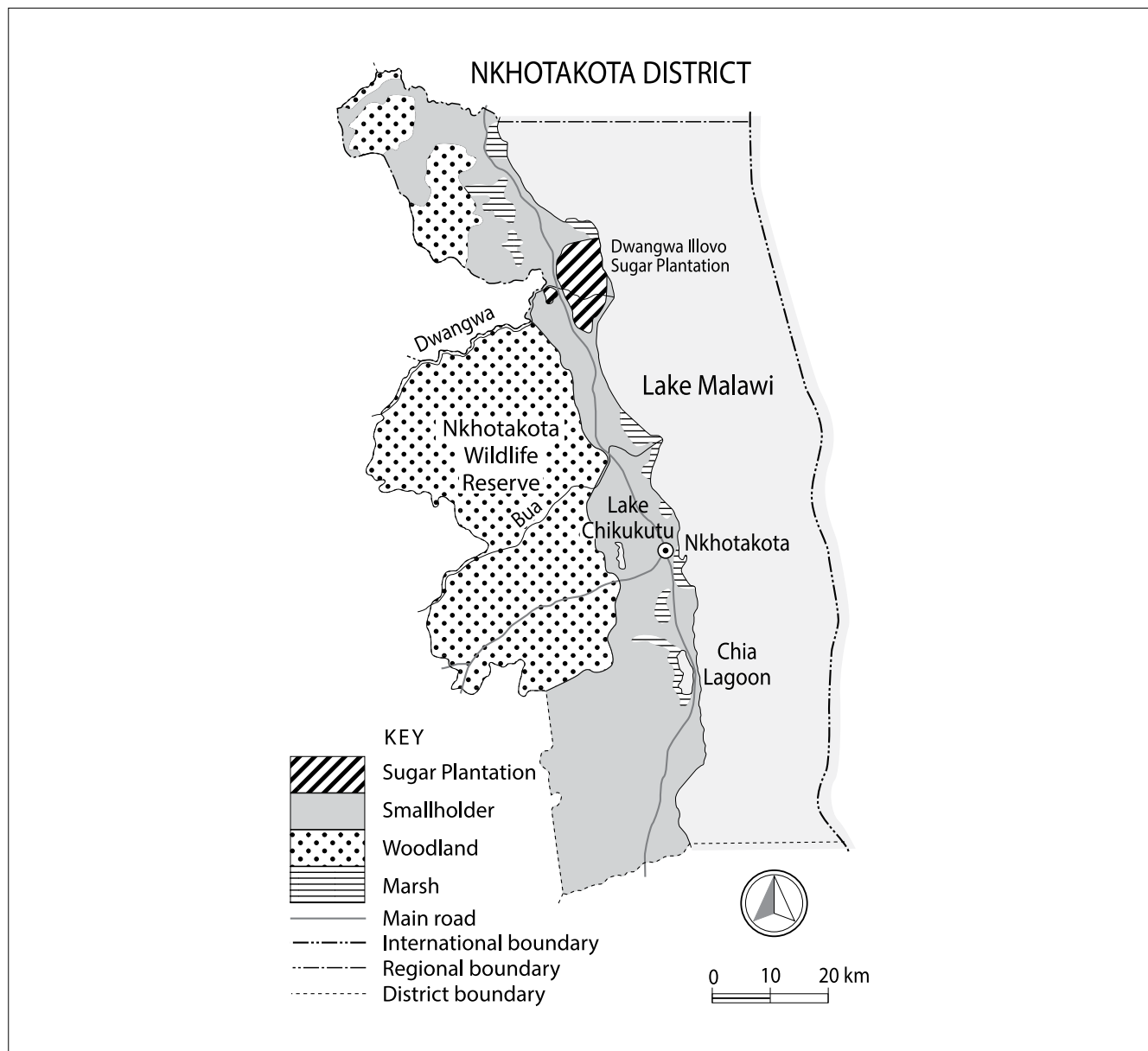
Map 1: Malawi



Third, the study allows a solid empirical investigation, beyond the media headlines that have widely condemned the 'land deals' but have failed to unpack the terms and processes of the land deals; their distribution and impacts on the land rights and livelihoods of local communities; the realisation (or not) of promised benefits for displaced communities, such as contract farming; the nature of the land laws and policies in enabling private companies and local elites to grab land; and the responses of government and civil society.

Fourth, it allows an opportunity to test some theoretical propositions that suggest that land deals can provide a 'win-win' situation. The World Bank and other international agencies have tried to promote the 'seven principles for responsible agro-investment' as a solution to the detrimental effects of displacement. Another popularised model is contract farming. According to proponents of this model, contract farming (often on consolidated blocks) will provide sufficient benefits for the rural poor who lose their land.

Map 2: Nkhotakota District showing land uses. Sugarcane production is done north of the District. Previously sugarcane production was only done on Illovo land but from 2006 it spread to land used by smallholder farmers.



Source: Nkhotakota District Council Social Economic Profile 2013

This study provides an opportunity to subject these propositions to an empirical test through engaging with the affected people in order to get their views.

Study sites

This research was done in two districts, namely Nkhotakota in the Central Region of Malawi and Chikwawa, in the south of Malawi.

Case study 1: Nkhotakota District

Location: Kasitu, Mtupi and Dwangwa communities in Nkhotakota District in the Central Region

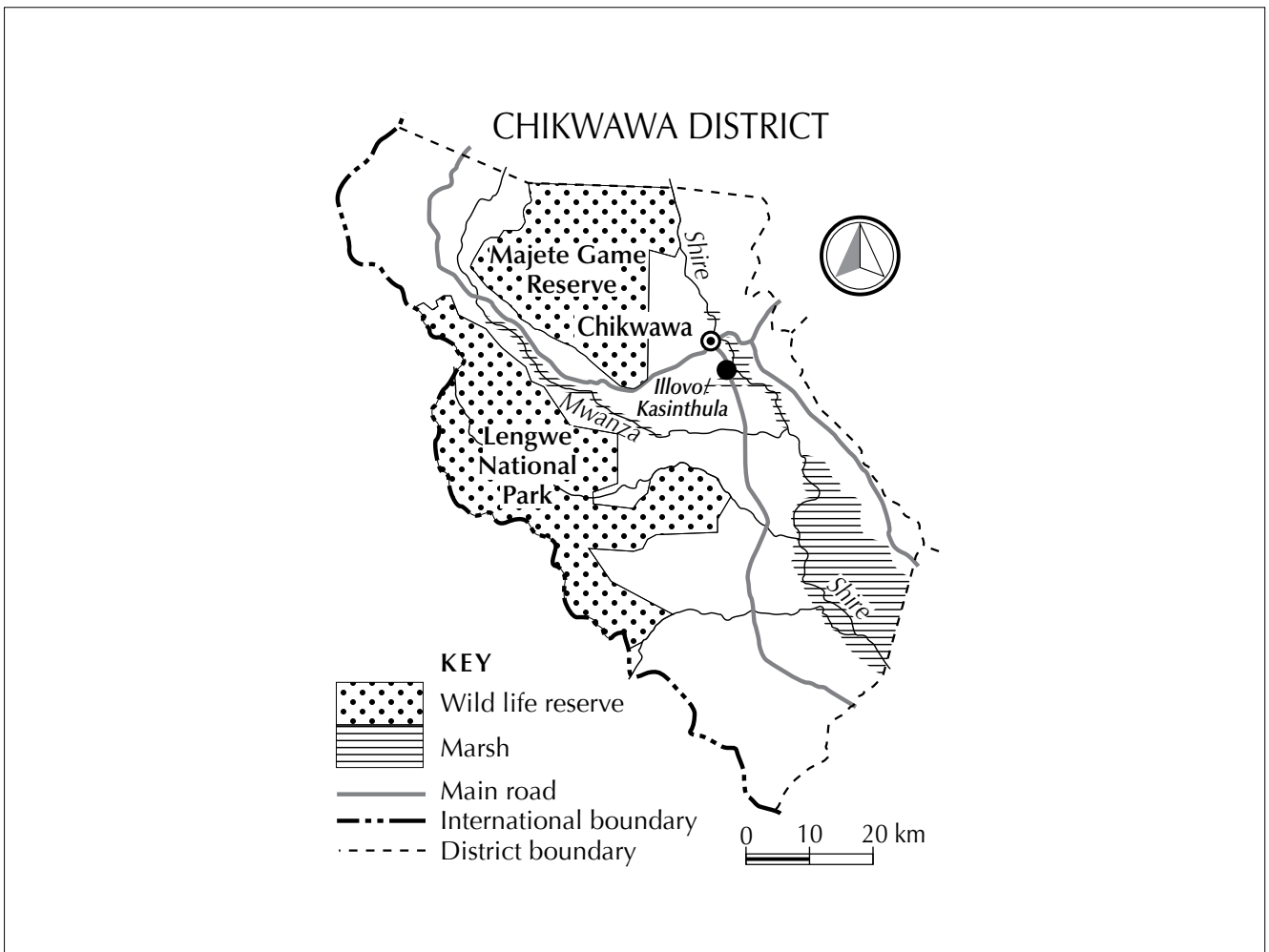
Size of investment: Difficult to obtain

In Nkhotakota District, the field sites were communities locally called Kasitu (under the

Kafuzila Traditional Authority), Mtupi and Dwangwa (both under the jurisdiction of senior Chief Kanyenda). All the three field sites are located along the fertile crescent of Lake Malawi north of Nkhotakota District, as shown in the map below. The areas have good soils and the climate is good for growing sugarcane, as well as other crops.

The main investor in the sugarcane industry is Dwangwa Cane Growers Trust (DCGT) which operates through a company called Dwangwa Cane Growers Limited (DCGL). The amount of hectares on which the investor grew sugarcane could not be easily quantified. It was difficult to quantify because authorities at DCGL were hesitant to provide such information, signifying the murky nature of land deal transactions. DCGT made agreements with

Map 2: Chikwawa District: most sugarcane commercial farming happens in Nchalo and surrounding areas.



Source: Chikwawa District Social Economic Profile, 2013.

traditional authorities (TAs) bordering these areas to make land available for smallholder farmers to grow sugarcane as out-growers. The chiefs signed an agreement before consulting 'their' people on whose land the project was to be carried out.

The implementation process of this deal was problematic and provoked substantial resistance from some members of the community, who saw it as a mechanism by authorities to grab land from them. There was no clear policy on how the people would benefit from this deal if they gave up their land for sugarcane cultivation. However, the communities were told to expect huge profits if they would agree to join the schemes. DCGL promised to provide all the necessary farm inputs and sell their cane to Illovo Sugar (Malawi) Ltd, a subsidiary of Illovo Sugar Company Ltd (a South African company). Most communities became sceptical of this deal and rejected the initiative because neither DCGL nor state authorities had consulted them. The disdain they felt was exacerbated by the chiefs who sought to implement the deal by force, without regard for the land rights of the affected community members. When some people calculated the benefits, they were convinced that they were doing much better with food crops than venturing into sugarcane. For example, the food crop growers could grow crops on their land at least three times a year, while those who had their land used for sugarcane could only grow one crop a year and they were excluded from the process of selling their product, which was done on their behalf by the DCGL. As a result, the deal was also seen as a cause of poverty and food insecurity to the community as the Chiefs and DCGL demanded all the land be turned into sugarcane plantations at the expense of food crops.

Case study 2: Chikwawa District

Location: Ngowe Traditional Area in Chikwawa District

Size of investment: Approximately 15–20,000 hectares

The land deal took place along the Shire River's fertile lands in Chikwawa District where sugarcane cultivation is favourable. Most of the inhabitants survived on livestock produc-

tion and growing food crops. The area is close to Illovo Sugar (Malawi) Ltd which is situated in Nchalo. Below is a map of Chikwawa District.

The first land deal in question in Chikwawa District was initiated in 2010 by a businessman who was also a politician. The investor struck an agreement with the traditional authority, represented by Chief Ngowe who presided over customary land, and who agreed to sell the land belonging to the communities. The investor and the Chief agreed to a lease agreement without consulting the community. The Chief sold the investor about 15,000ha of land. However, before this process was completed, the people got wind of the transaction that the investor and Chief were doing behind their backs and they protested against it. Since the resistance of the community, led by faith-based organisations in collaboration with subordinate chiefs of Chief Ngowe, there have been court cases in which both Chief Ngowe and the investor sued the communities for impeding the sale of the land. All the court rulings have been in favour of the community but the investor has repeatedly obtained restraining orders to prevent the communities from using the land until the cases are resolved. This hugely impacts on the people who depend on this same land.

The second land deal involves disgruntled individual sugarcane smallholder farmers who are members of the Phata Sugarcane Cooperative, which falls under Kasinthula Cane Growers Limited in Chikwawa. The deal occurred in the area of Chief Maseya, who convinced the farmers to abandon their farms on which they grew food crops and merge them into consolidated blocks in a scheme where they would all grow sugarcane. They were promised that they would triple the profits they had previously realised from their traditional food crops. After the scheme was put into operation, the members felt cheated when they realised that the money they received fell far short of their expectations. There were alleged anomalies in the lists of legally registered farmers, with new names being added, resulting in the proceeds being divided among more people than at the start of the scheme. They were also taxed twice – as a cooperative as well as on an individual basis.

The table below shows the number of people who lost land to local elites and foreign investors, as of September 2014.

In Nkhotakota District, the dispossession was mainly through forced participation in out-grower schemes for sugarcane, while in

Chikwawa District it was through conversion of customary land to public land, which was then leased by government to a prominent politician for the purposes of growing sugarcane for sale to Illovo. In the next section we scrutinise the policy context within which such land grabbing is taking place in Malawi.

Table 1: Land lost to local elites and foreign investors

Place	Type of land dispossession	Number of men	Number of women	Total number
Kafuzira traditional authority, Nkhotakota District	Out-growers scheme in Kasitu and Mtupi	1,090	1,272	2,362
Kanyenda traditional authority area in Dwangwa-Nkhotakota District	Total dispossession of Kazililira dambo	172	204	376
Ngowe traditional authority, Chikwawa District	Land alienation to wealthier local large-scale famers	5,331	6,543	11,874
TOTAL		6,593	8,019	14,612

National and international policy frameworks

In Malawi there are three categories of land: public land, customary land and private land (which can either be held as a freehold or leasehold). The amount of land suitable for cultivation is only 5.3m hectares, of which 3.5m hectares is already under estate farming, leaving only 1.8m hectares to be shared among the 89% of Malawi's smallholder farmers. Due to a growing population, land shortages continue to threaten food security of the smallholder farmers and other vulnerable groups of people, leading the government to embark on a Farm Input Subsidy Programme (FISP) to provide subsidised seed and fertiliser for smallholder farmers. However, a growing number of critics have questioned the sustainability of the Programme and also noted that its success is based on 'good luck', essentially good rains. Ongoing food insecurity and reliance on rain-fed agriculture triggered the government's perceived need for and promotion of large-scale irrigated agriculture investments. A number of programmes have therefore been conceived to ensure that agriculture productivity does not suffer during poor rain seasons. These, however, have engendered new concerns about illicit and dubious land acquisition deals.

In 2009 the government of Malawi introduced the Greenbelt Initiative (GBI), whose aim is 'to utilise water from lakes and perennial rivers to enhance the country's production of a variety of crops, livestock and fisheries. This will bring food security to the nation and complement other programmes to bring development to the rural areas'. The GBI seeks to initiate large-scale commercial farms under irrigation, within 20–30km of the country's lakes and large rivers, so as to ensure that the country can achieve food security even when the rains are not adequate. The ultimate desire, as expressed in the GBI concept paper, is to make large tracts of land available to commercial investors (Chinsinga and Chasukwa, 2012).

The GBI is now part of the G8's New Alliance for Food Security and Nutrition and is partly funded by the European Union (EU aid to

Malawi 2012). Under the new alliance, Malawi has committed to release 200,000ha of land for large-scale commercial agriculture by 2015 which, according to the 2014 progress report, is now 2018 (New Alliance for Food Security and Nutrition, Annual Progress Report, 2014). The national export strategy adopted in 2012 states that 'one million hectares of non-smallholder or unused arable land is to be allocated to commercial farming.' This land, it says, will be used for the priority export clusters of oil seed products, sugarcane and manufactured goods (Malawi Export Strategy 2013–2018, December 2012). This entailed acquisition of land within these areas, most of which is under smallholder farmers who have hitherto provided the bulk of food production for the country. Under the aegis of the GBI, the government has advertised large-scale farmland for investment to both local and international investors.

In June 2013, Malawi subscribed to the G8's New Alliance for Food Security and Nutrition in Africa and the initiative was launched in Malawi on 10 December 2013. Government made a policy commitment to improve large-scale investors' access to land, water and basic infrastructure to support food security and nutrition. Government pledged to release 200,000ha of land for large-scale commercial agriculture by 2015, later extended to 2018. The policy commitment indicates that such land allocations will be done after a survey to identify idle land (both private and customary). It remains unclear how government can find 200,000ha of idle land—land sizes are already declining due to pressure from smallholder farmers – other than by alienating customary land from its current users. Despite criticism of the GBI, the government of Malawi has committed to several policy actions aimed at increasing opportunities for large-scale land acquisitions as a route to agricultural investment.

With the experiences of the GBI, civil society is sceptical whether the fruits of the G8 New Alliance will trickle down to the poor people or result in another form of exploitation and

dispossession. What has been termed 'idle land' has often been land that the indigenous people use for grazing their animals, cropping in patterns of shifting cultivation, and which they claim as theirs.

While Malawi might arguably be in need of large-scale investments in agriculture, the prevailing legal framework does not adequately protect smallholders' land rights or safeguard the interests of poor land users in the face of pressure towards commercialisation. The processes involved in land-use changes have often been coercive, non-transparent and non-participatory. 'Land transfer' negotiations with local communities have often been unethical and unbalanced, as people are not given full information or choice as to the investment in their areas. The investments are made without due regard for the future livelihoods of the original customary land users. Furthermore, there is an absence of acceptable systems to compensate those affected by land use changes and for expropriation of ownership and all other rights on the land. Processes to determine and award compensation in cases of expropriation are lacking or not enforced. Also, independent and accessible avenues for appeal against expropriation are not available.

To address some of the issues raised above, a process of reviewing land-related laws has been under way since 1995. The political will to have new land laws in place was demonstrated by government when the then President Bakili Muluzi appointed a Presidential Commission on Land Policy Reform (Report of the Presidential Commission on Land Policy Reform, 1999) which reported in 1999. Several studies were also carried out and the findings informed the process of producing the National Land Policy, adopted by Cabinet in 2002 (Malawi National Land Policy, 2002). These studies were as follows:

1. Land Use Study, using air photo interpretation, was used to assess the extent of cultivation within customary areas.
2. A Tracer Study, based on a National Sample Survey of Agriculture, was used to collect additional information in order to estimate the intensity and efficiency of customary land uses.

3. A socio-economic study of Land Tenure was conducted to understand the procedures and processes of customary land allocation and alienation.
4. Estate, public and customary land utilisation and interaction studies to assess land use, effectiveness and socio-economic linkages between land use categories were performed.
5. Specific Land Tenure case studies to evaluate the stability of land tenure arrangements of special programmes and smallholder associations were produced in order to understand their cross-cutting implications for poverty alleviation and land resource management.

The Malawi National Land Policy was supposed to address tenure security of customary land for poor Malawians. After it was adopted in 2002, the expectation was that government would expedite the process of drafting a completely new land law to bring legislation in line with this policy. In 2006, government presented the first land bills, but they lacked substance in protecting the tenure of people living on communal land, as contained in the National Land Policy. The bills were strongly rejected by CSOs and were referred back for review. In June 2013, government presented to parliament a much improved version of the land bills. Of eleven land-related bills, four were debated and the principal land bill of 2013 was passed. But before the other bills could be passed, Presidential assent was withheld, following divergent views from both traditional chiefs (who feared the new laws were meant to take away their power over land issues) and also some CSOs which argued that the new law failed to address women's rights to ownership, access and control over land (the bill that raised discontent was the Customary Land Bill of 2013).

As of 2015, it is expected that government will review the land bills and re-table them in parliament. CSOs hold great hope that the new land bills will be submitted in the shortest possible meeting of parliament because of the political will demonstrated by the current head of state, Professor Peter Mutharika who, in his speech during the opening of parliament in June 2014, stated that the gov-

ernment would expedite enactment of the new land laws to ensure secure land rights and an enabling environment which favours Malawian nationals.

International guidelines and relevance

International frameworks and guidelines have been of use in the review of Malawi's land-related laws. Malawi is one the signatories to the African Union's Framework and Guidelines on Land Policy in Africa and also the United Nations FAO Voluntary Guidelines on the Responsible Governance of Tenure on Land, Fisheries and Forests in the Context of National Food Security (VGGT). Therefore the Malawi government has expressed its commitment to seeing that its policies on land and natural resources reflect the principles outlined in these documents. Most of the issues articulated in the framework and guidelines on land policy in Africa and the VGGT are addressed in Malawi's new National Land Policy – though not yet entrenched in law.

In July 2014, the Ministry of Lands launched the VGGT at a multi-stakeholder conference where participants had the opportunity to engage with the contents of the VGGT and outline key areas relevant to Malawi. The participants included members of academia, CSOs, international non-governmental organisations and the private sector.

These international guidelines can inform both government and civil society of the gaps that exist in the national land policies. For example, the VGGT provides that states should recognise or allocate tenure rights for land, fisheries and forests, and that national laws should protect women and the vulnerable that hold subsidiary tenure rights. The VGGT give further guidelines on responsible investment:

...state and non-state actors should acknowledge that responsible public and private investments are essential to improve food security. Responsible governance of tenure of land, fisheries and forests encourages tenure right holders to make responsible investment in these resources, increasing agricultural production and generating higher income.

Responsible investment has been a challenge in Malawi, with investors taking advantage of the weak laws in place and investing in acquiring access to or control of land without following any due process. The creation of these international and regional frameworks offers an opportunity for Malawians to advocate for the reform of the national legal framework.

Government institutions

Since government completed the process of reviewing the land policy in 2002, the act of bringing in new land bills has proceeded slowly. In the interim, Malawians living on communal land have lost land to foreign investors and local elites because of the weak land legislation which has been in place since independence in 1965. The key institutions in government that are expected to expedite this process include the Ministry of Lands, which is mandated to deal with land administration, the Ministry of Justice and the Malawi Law Commission, which drafts the bills. These key institutions need to collaborate to develop robust laws in compliance with the country's international commitments. Since Malawi's Draft Land Bill of 2013, what is left to be done by these institutions is to re-work this Bill, based on public submissions, to ensure that the Bill addresses all substantive issues which previously led to it being blocked by members of civil society.

Stakeholders

CSOs have an important role to play in the process of reviewing land-related laws. Land-Net, as a network of civil society organisations on land and natural resource issues, has been very instrumental in the land laws review process. Since 1999, civil society has worked with government to push for the revision of land-related laws in Malawi, of which government has been responding positively. It was civil society that suggested that the land laws did not need to be amended but rather that there should be completely new laws which will reflect what the national land policy stipulates on land governance in Malawi. It was also civil society that influenced the rejection of the 2006 Land Bills as they did not reflect the national land policy and the recommendation of the special report of the

Law Commission on land-related laws. Civil society organisations that have been actively involved in the land laws review process include: the Centre for Environmental Policy and Advocacy (CEPA), Training Support for Partners (TSP), the Women's Legal Resources Centre (WORLEC) and the Farmers' Union of Malawi (FUM).

Other important stakeholders have been donor organisations, as well as other international organisations that have supported the land review process in Malawi in the form of grants to civil society organisations. With this support, civil society organisations lobbied and advocated for pro-poor policies on land and natural resource governance in Malawi. Some key donors include Oxfam, the Tiltontse Fund under the Department for International Development (DFID), the Alliance for Green Revolution in Africa (AGRA), ActionAid Malawi, the International Land Coalition and the Institute for Poverty, Land and Agrarian Studies (PLAAS) on the research component, which helped to inform our process of lobbying and advocacy.

Traditional authorities are also influential players in this process since, according to the current land laws, they are the trustees of the communal land on behalf of government. A chief may authorise the use and occupation of any customary land within his area in accordance with customary law. This is called 'Chief's Consent' to convert the customary land, first,

to public land for onward leasing to the large-scale investor. There are no set procedures in the Land Act that obligate the chief to consult the customary land users. Consultation is only assumed. This leaves a gap for connivance between the traditional leaders and large-scale investors. As a result, an increasing number of Malawians have lost their land to foreigners or Malawian large-scale land users, hence threatening their food security.

LandNet has worked with traditional leaders as part of civil society work to raise awareness on what the proposed land bills recommend in regard to the role of chiefs. The importance of chiefs to this process was demonstrated when they rejected the enactment of the land bills with a petition to the president. They feared that the new land laws were a threat to their chieftainship as they would render them powerless with no control over land allocation in their areas of jurisdiction. But with the inclusion of the chiefs in this process, the support from the chiefs for the land bills has been overwhelming. It is likely that when the new land bills are presented again in parliament, chiefs will support the process. The policy framework is important in enriching the understanding of land grabbing in Malawi but the story cannot be complete without field-based research to capture views from on the ground. As a result, the next section details how the field research was carried out.

Research methods

The study is based on a mix of qualitative methods meant to get an in-depth understanding of the nature, processes and impacts of land deals in the two districts. The data collection methods included interviews, focus group discussions (FGDs), observations and desk-top reviews. FGDs, with community members ranging from ages 15–40, were carried out between July and November 2014. The FGDs allowed displaced members to give their own account of how the land deals were initiated, transacted, the impact and the possible solutions. However, there were power and gender dynamics within the groups as the more powerful seemed to have more dominant voices. In order to cater for this, the researchers tried to ensure that a fair range of participants were given a chance to talk. This was complemented through one-on-one interviews with some of the displaced communities.

Individual interviews allowed the affected persons to give an in-depth, first-hand account on what transpired during these land deals and the impact thereof. The individual interviews targeted both men and women, giving a gender-balanced perspective. The other target group for individual interviews was small-scale sugarcane farmers in both Chikwawa and Nkhotakota districts, who 'benefited' from contract farming. The interviews with sugarcane growers were meant to assess the level of benefit. Key informants who had in-depth knowledge about the land deals were also interviewed. These included traditional leaders who had jurisdiction over the affected communities, the sugarcane growers, such as members of Dwangwa Cane Growers Ltd, and government officials who worked in the affected districts.

Observations

During the field visits the research team managed to systematically observe the developments in areas such as the irrigation schemes, the rice fields and the expansion of the sugarcane fields. Observation provided first-hand assessment as well as opportunities to verify information obtained from other data collection methods. As Bentzon et al. (1998: 156)

argue, there might be a difference between what people say are their operative functions and what actually happens in a specific setting. This enabled recording the actual practices: observation provided a context that helped researchers in formulating questions and understanding responses from the interviews.

Triangulation of findings

For triangulation the researchers asked the same questions to different respondents and consulted different sources to enhance the reliability and credibility of the evaluation data. This allowed capturing diverse views on the same question and improved the reliability of data. The approach was complemented by other methods to probe the same questions, including reviewing desk-top reports and research update reports. While the research progress reports were used as a source of information, the validity of the data included was also triangulated during focus group discussions and interviews. Critical observations during field visits helped to strengthen the veracity of obtained data to assess the likelihood of whether what people were saying was their perception of what ought to be rather than what the actual situation was on the ground. In order to further strengthen triangulation, the research team consulted other research reports showing trends on land grabbing in Southern Africa.

Data analyses and report writing

This report was based on analysis from the literature review, observations and individual interviews with beneficiaries and stakeholders, and focus group discussions. Notes collected during the fieldwork were reproduced into transcribed field notes and, where possible, the actual words people said during interviews were noted. The researchers manually highlighted recurring themes in relation to the project objectives. Some of the recurrent themes included loss of land rights, food insecurity, community resistance, contract farming and health and personal security.

A dominant view was then observed within each theme in terms of people's experiences in line with a particular objective. If the particular thread was dominant, then it would be qualified as more reflective of the local situation. However, differences among actors were also noted. The field notes findings were qualified with other sources of data such as the research progress reports. More broadly, data was analysed using the narrative approach so as to provide concrete details of the findings and the illustrative approach so as to relate data to the project.

Limitations to the research process

- Some of the key researchers involved in the project left half-way and left little documented information regarding fieldwork; this affected the quality of the project. As a result, new researchers who joined the project mid-way had to start from scratch and this undermined the

quality of the research. Improved systematic documentation of all activities could have improved the quality of the report. Later, the main researcher fell sick during the project, exacerbating this problem.

- The research relied too heavily on views from the displaced community members, in combination with documentary evidence from own research progress reports. This may be questioned as not being sufficiently rigid in providing evidence-backed findings and policy recommendations. However, triangulation with other findings on similar projects in Southern Africa, as well as the knowledge and expertise gained by LandNet from other studies conducted in Malawi with Oxfam, allowed for further triangulation.

Despite the limitations, the researchers managed to obtain some decent data, as elaborated below under 'Findings'.

Findings

Processes of land acquisition

In our case studies, there was limited consultation with the affected communities during the process of land acquisition. The investors, in alliance with traditional leaders, local elites and state institutions, forcefully evicted people from their land or forced them to turn into sugarcane out-growers.

Since the available cultivable land is under smallholder farming, the smallholder's land is lost when either the land is converted from customary land to public land for onward leasing to a big commercial farmer (as in the Ngowe TA area in Chikwawa) or when farmers were forced to become sugarcane out-growers or face losing their land (as in the situation at Kasitu, Mtupi and Kazililira dambo in Nkhotakota).

Nkhotakota District

In Kasitu, Mtupi and Dwangwa the investor, Dwangwa Cane Growers' Trust, in collaboration with the chiefs of the area, forced the community to give up their land from growing food crops and instead introduced out-grower schemes for sugarcane production. The following quote from Frojala Kaunda of Kasitu (chairperson of a group called Kasitu Mukhuto Farming Group, which is resisting any effort to grab their land for sugarcane cultivation) gives a glimpse of how the process was negotiated with local elites in a way that excluded the majority:

We were surprised to see tractors belonging to the Dwangwa Cane Growers' Trust encroaching into our fields. This was in the year 2009 and when we enquired, we were told that the chief had ordered that all our land be used for the development project for growing sugarcane which our government had directed. We then mobilised our community and went to attack those driving the tractors. We managed to chase them away but the pressure continued coming with our Chief insisting that everybody should obey what the government had agreed and that is to grow sugarcane on our land. We understand that if government wanted to do development in our area, it could have

consulted us first but nobody was consulted or briefed about this idea, including the Chief's subjects. It is only the senior Chief who was involved and we didn't know. We suspect that our Chief received money from elite investors and other politicians to implement this project for their benefit, not us. The way the chiefs and the out-growers association have treated us has been very unfair as most of our land has been taken away (Kaunda, 2014).

The same exclusionary approach in negotiating for land was done in Mtupi and Dwangwa under Chief Kanyenda. A concerned farmer, a village Headman in Mtupi, narrated that:

Chiefs from senior Chief Kanyenda's office made it clear that to us whether we like it or not, we must start growing sugarcane. We felt this was an abuse of our human rights, asking ourselves as to where we are going to grow our food crops. Sugarcane cultivation requires several hectares per farmer and the land we have is not enough for everyone.

Communities complained about the process in which their land was acquired as there was no consensus. This has brought suffering on the farmers whose land was confiscated. Towepasi Banda (interviewed on 10 October 2013) represents women who have been left out of these developments.

The sugar company here is not honest. They brought this development saying that it is for the local people. How come we find Illovo employees having sugarcane plots here? Is this not a way of taking away our land? They are already working and earn money at the end of the month whereas we do not. Why do they want to get the little that is meant for us as well? Unfortunately, we do not know how they find themselves in the scheme.

I would rather continue with the crops that I grow because they bring enough money to my family. I am energetic and I harvest rice twice a year, maize twice or three times a year and very good type of cassava that I sell to vendors from the cities. If government thinks we can only develop through growing

sugarcane, I say, let them support us with good extension services and inputs and we will prove to them that there is more money in these crops than in sugarcane. All these houses with burnt bricks and iron sheets come from the food crop sales and not from sugarcane. Our children are going as far as the university with proceeds from our gardens.

Another complainant is an aged woman affected by the process through which the transaction was done. Muziki Longwe of Mpolopoto village in Kasitu (interviewed on 10 October 2013) said:

At my age, these people cannot even consider what will happen to me if they evict me from this land. Nobody cares that I am a woman and therefore need to be heard. Do I look like I have energy to build another house where they want to push me to? Can I start virgin land for farming at my age? I really feel sorry for myself! And the government is talking about supporting elderly people in the villages. How come they always sideline elderly Mkhuto farmers like me? What is so important with this sugarcane? Since I was born, I have never seen a mother feeding her children on money or sugarcane. We eat food and that is what we want to grow here. But our chief has problems understanding that. Tell him that I will die on my land if he wants to kill me but I will not let my garden be used to enrich people I do not even know.

Photo 1: Towepasi Banda, a farmer from Kasitu, explains how women have lost land they relied on to feed and educate their families.



Source: LandNet Malawi 2014

Photo 1: Muziki Longwe, a farmer in Kasitu, speaks about how elderly people are affected.



Source: LandNet Malawi 2014.

Chikwawa District

In Chikwawa District a local businessman facilitated the land deal transaction without the involvement of the communities who were going to lose their land. Anderson Vizyalona, who is referred to as group village Headman Mwanawa Njobvu, one of the respondents, narrated how the deal was done and concluded between the investor and the TA.

We were surprised to be notified that we were no longer supposed to use our land for gardening because the land now belonged to Mr. Khembo. This land covers more than 15,000 hectares of land. It supports a population of more than 10,000 people of which some are orphans and others are widows. We were also surprised to see that our Chief got a restraining order from court stopping us from having access to the land. We then mobilised our community members to be resilient and block every attempt at taking our land because we knew that if they succeeded, many poor people in the village would suffer greatly as land is the only economic asset they have to sustain their livelihoods. Besides, in Chikwawa many of us are livestock farmers and that would mean that our cattle would not have adequate grazing area. When applying for the land, the buyer and our chief alleged that it was idle land and that they want to use it for sugarcane cultivation. But this is a lie; we do not have idle land in this place. Most of that land which they call idle is

grazing land for our livestock. We are now losing our resources in fighting the court orders and injunctions they are obtaining to restrain our people from farming on our land. Even though the judgement was in our favour, they have applied for another injunction which is posing a huge threat on us as we may not be able to raise money to hire lawyers to represent us. We are so poor that we cannot raise huge sums of money to meet the costs of justice, which include hiring expensive lawyers. (Njobvu, 2014)

This was not an isolated version. Group village Headman Brown Bissenti Konzere, a victim of the same land transaction, narrated how the traditional chief and business elite cheated the people:

I am one the chiefs that has people whose land was sold to a businessman in this community. The deal was negotiated secretly between our chief and the businessman when they processed a lease without our consultation and had to use a fake community to give consent to the lease when the affected land is within our territory. We think our traditional chief has treated us unfairly by failing to negotiate with us and selling our land without our knowledge. If the businessman wanted to buy this land, then we should have been consulted for our opinion. (Headman Konzere, 2014)

A different version of the story is told of the community in the same Chikwawa District which, unlike the situation in Ngowe area, decided to cede their land to a sugarcane scheme with the expectations of huge profits as promised by the investor, Kasinthula Cane Growers Limited. The farmers, who formed the Phata Sugarcane Cooperative, a smallholder farmers' scheme, laments being betrayed and accuses the scheme's managers of being dishonest in the way they distributed money to the registered farmers. An affected farmer within the pressure group of the Phata Scheme narrated their ordeal:

These people promised that if we allow our land to be used for this investment, our lives will be transformed as we will get a lot of money. We feel we have been cheated because now when distributing our money, they have on the list names of people who did not participate in the scheme and hence

our money is divided against a number that is not real; as such we are getting less than we expected. On top of that they have charged tax twice for the whole amount as a cooperative and also each individual is taxed again, thereby reducing our earnings much less. If we compare what we have earned, we feel this is not profitable anymore as the money is not sufficient to sustain our families. (Affected farmer, 2014)

Community resistance

The communities were not just passive victims. They engaged in overt and covert resistance against the land invaders and state security forces. The communities in both Chikwawa and Nkhotakota districts tried to resist the land invasions through physical battles with the police. This often resulted in riots, with the police using brutal force, leading to injuries and death of some villagers. The resistance itself also often took a violent form. For example, in 2009 at Kasitu in the area of Kafuzila TA, the DCGL company took occupation of land with the presence and support of the police, but villagers fought them using stones and pangas². The villagers also put blockades in the roads and in one instance they set the vehicle that had come to survey the land on fire. One of the respondents, Frojala Kaunda, said on 8 July 2014:

In 2012, when the police came we went to fight with the police, we went with pangas and knives, but police had guns and one of our villagers was shot.

The affected people used songs to mobilise other villagers to fight the land invaders. They also made spiritual appeals to God to help them fight the invaders. One of the appeal songs had these lyrics:

God, fight the war for us, we do not have capacity, we need God's hand. God, help us, fight the war for us.

Villagers also tried to engage relevant government authorities to stop land invasions, but to no avail. As one person from Dwangwa in the area of Kanyenda TA explained:

We have been going to different places complaining about the programme. We went to the District Commissioner, Ministry of Lands and the President's office, among

² Pangas are knives similar to machetes which are used to cut thick vegetation or sugarcane, and which can also be used as a weapon.

other offices, but we were told that land belonged to us the people but nothing was done in action.

In addition to overt resistance and engagements, the Dwangwa community also used the courts as an arena for their struggle against land invasions. The affected community members (owners of the Kazilira dambo) took the company (Dwangwa Cane Growers Limited) and government to court on 3 December 2007 at the High Court in Blantyre. They sought an interdict to stop the digging of canals in their fields for the investor's irrigation and they demanded compensation for their properties that had been destroyed or damaged. The Court ruled that the devel-

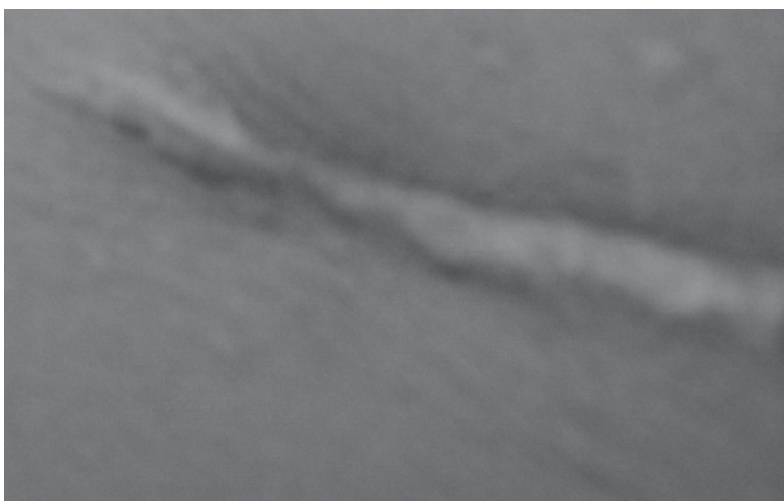
oper and the government had a right to dig the canals because, according to the judgement, 'the legal position is that when one is allocated customary land one has a right to use... the surface only, in respect of what one can grow or build on the land'. Nevertheless, Judge Justice Tweya ordered compensation for the crops destroyed, but did not make an assessment of the damage and did not indicate the amounts to be compensated. As this did not assist the community, they mobilised their own resources and engaged new lawyers who transferred the case from Blantyre High Court to Mzuzu High Court. The judge in Mzuzu upheld the ruling of Justice Twesa and ordered in October 2014 that the company compensate the affected community for the damage caused by the tunnel, but the court did not make any ruling with regard to restoring land rights to those affected.

Photo 3: Emily Wadisoni explains how she suffered from an attack by police during the reoccupation of the land.



Source: LandNet Malawi 2014

Photo 4: The scar resulting from her injury.



Source: LandNet Malawi 2014.

The communities are still landless and have not received any compensation from DCGL, despite the latter accepting to honour the court ruling and the pay the community in instalments. Leader of the community Augustine Kalirani (interview, 10 January 2015) says they wonder why there are no enforcement mechanisms to force the company to pay them based on the court order. They are considering submitting another case for the court to determine the loss of the land that was grabbed from them, but this new case has not yet entered the courts because of financial constraints; the communities have exhausted their resources in hiring lawyers and yet they have not seen justice being enforced.

The communities in Kasitu have managed to slow down the pace of land invasions but have not been able to completely ward them off because of the alliance of private investors and the coercive apparatus of the state.

When the people in the Mtupi community, which is under Chief Kanyenda's jurisdiction, successfully managed to resist intrusion of sugarcane into their area, they noted that their chief started neglecting them from other government benefits, as John Kachala, one of the subordinate chiefs of Kanyenda, narrates below.

The struggle to resist the introduction of sugarcane into our area has cost us a lot. Apart from losing our leader John Nyolosa,

who died in police custody, government has since 2011 branded us rebels and that we do not want development in our area. Before this incident we used to be a beneficiary under the Malawi Farm Input Subsidy Programme but we no longer receive anything. If we go to the district council to ask, he does not give us a convincing answer. We have written many letters to the office of the president and cabinet and we have not received any response. We tried to meet with our parliamentarian in this constituency Nkhotakota North but he hasn't been of any help, despite him being the speaker of the national assembly. We are convinced that government is doing this through our senior chief to force us to accept sugarcane but we will not. We do not understand why development must be forced on us rather than accepted by ourselves if indeed the benefits will be for us.

Health

The land invasions left many villagers with physical scars. This has affected people's physical well-being. For example, Emily Wadisoni, an old woman in her 60s from Dwangwa village, narrated her ordeal:

In 2006, we went to fight the police that had come to assist the company people to invade our land. The police had guns and I was caught by the police and beaten by a gun on my back. They then took a knife which was attached to the gun and cut my back. I sustained a deep wound and my back is still painful today.

The case of Emily is not an isolated case. Villagers in Kazilila dambo³ also raised serious concerns about the brutality of the police. In a letter to the President of the Republic of Malawi they raised these points:

The police in the month of November 2008 demolished people's houses, bruised land owners, others were taken into custody... The police are government machinery and are called Police Service. Their duties include protecting the lives of people and their property. But not in this way. They bruised and harass[ed] people on their own land and used tools to grab our land, leaving us without food, houses and economic hope, because we have seen for ourselves our

land being given to rich businessmen and -women.

It was clear that people were subjected to degrading and inhumane treatment.

Land rights

From our focus group discussions and interviews with various respondents in the two districts, it was clear that rural farmers lost their land to the private companies who worked in collusion with local elites, politicians and traditional leaders. This meant that farmers lost their rights to gain access to land, a major source of their livelihoods. This is best illustrated by a displaced farmer from Kasitu, who explained his situation:

I have been a farmer on my land for 36 years and my land was taken by the company with the assistance of the traditional leader. I no longer have anywhere to cultivate and the land was my livelihood. The only land one can get is the adjacent hilly areas with stones and [it is] difficult to cultivate or even grow anything. The good land we have been using has been taken away. This means that my life has been taken away. They take land from the poor and give it to the rich companies. The chief even gave some of the land from my neighbours to the politicians. A lot of politicians were given land so that they could not represent us.

The acquisition of poor people's land led to dispossession of land in a manner that is reminiscent of the colonial era, where the black poor farmers were forcefully pushed out of their fertile land into hilly areas that were not conducive for agricultural production. The alliance between the traditional leaders and the politicians showed how elites manipulate weak tenure systems for their own material aggrandizement. The loss of land also meant that household food security was compromised, as elaborated below.

Food security

The private companies across the study sites worked in alliance with the coercive apparatus of the state, and slashed down maize, cassava and rice which was central to people's food self-sustenance. As one of the respondents narrated,

³ A dambo is a low-lying area in the floodplain of a river.

The community relied on growing maize, cassava and mainly rice for family food and to sell some to the market. However, when Illovo Company came in 2013, they cut down the crops, some of which were ready for harvest. This left many households without food for the year, and as a result many have been starving. Even those who grew sugarcane have been starving and asking for food from adjacent communities that managed to retain their land. We cannot have sugarcane as food. We need to grow our food crops. Even the President said in a statement this year that the main priority was for people to cultivate food for themselves. So our main issue is food security which cannot be guaranteed by sugarcane.

This was prevalent in most cases. For example, Dwangwa Cane Growers Trust, under the auspices of the government, dug canals that were 2 metres deep to lay irrigation pipes in Kazilila area in Nkhoskhota District. In the process the developers destroyed people's crops and buildings. In a letter seeking assistance from the President of Malawi, community representatives clarified that:

Since 2007, Dwangwa Cane Growers Trust and Dwangwa Cane Growers Limited have been destroying our staple food: cassava, our sugarcane, maize, potatoes and fruit trees where we spent a lot of money and energy. Above all the houses have been destroyed completely. We are crying for our fertile land. We are the poor Malawians of Kazilira.

The crops that the communities lost were not

only meant for food but were also a major source of household income as farmers could afford to sell surplus. As one of the respondents who lost his crops explained:

Rice was both a food and cash crop. We would produce surplus and sell for household income. That was the money we used to build brick houses with asbestos and corrugated iron roof, as well as send our children to school and buy other household necessities. Our sources of income were reduced. Even farmers who agreed to grow the sugarcane have not been making any significant investments because they are still to realise the profits.

Even though some farmers defied instructions to shift to sugarcane and grew their preferred crops of rice and cassava, when we visited them in 2013, they lived in fear because the company officials promised to slash down the crops at anytime. There was uncertainty over people's investments and tenure. A woman who grew her crops in defiance of the company directive explained that:

Nothing is as painful as living each day in fear of the unknown. You do not know when the company will come to take your land, slash your crops. You keep your ears to the ground for the sound of the tractor. This is tortuous.

The DCGL company involved in the land grabbing in Nkhoskhota did not compensate the villagers for the destroyed crops and properties. As a result, the villagers sought a court order compelling the company to pay compensation. There was a ruling, from the High Court of Malawi in December of 2007 and another in October of 2014, that ordered the company to compensate for crops and trees destroyed. Despite the ruling, the amount assessed for the damage leaves a lot to be desired because the current law does not recognise customary land having a market value, where compensation can be calculated based on the market value. By April of 2015, the company had requested that the High Court pay the concerned communities in three instalments but the first instalment has not been paid; this delay has brought so much discontent and mistrust in the justice system.

Photo 5: Moribund irrigation equipment.



Out-grower schemes

Some of the theoretical propositions from the World Bank and other International Development Agencies are that small-scale farmers would gain benefits as out-growers as a result of large-scale commercial land investments. However, our data from our case studies in the two districts seems to indicate otherwise. It seemed that sugarcane out-growers' schemes have failed to improve the people's livelihoods significantly. Illovo, for example, promised the out-growers that it would provide the farmers with irrigation and make sure that they were able to harvest three times in a year. However, the irrigation equipment that was provided by the company is not working and is lying idle on the farms, as shown in the picture below.

Some farmers were given inputs by the company on credit and have been struggling to repay their debts. There is a danger that these farmers will end up in perpetual debt to the company. As one of our respondents, who had not switched to sugarcane, articulated: 'Those who lost their land and agreed to be out-growers now depend on us for food. They have outstanding debts, no food but lost their land.' It also emerged that most of the farmers who agreed to be out-growers were not skilled in negotiating with experienced commercial companies. As a result, most of the benefits have remained imagined rather than real.

However, not everyone lost out as a result of the out-grower scheme, as some local petty bourgeoisie seemed to be benefiting. These are households that had capital to invest in the farms, labour, agricultural equipment such as tractors, and close links with the politicians and officials from the private companies, who could give them support. For example, the Chief in Dwangwa benefited from the sugar plantation as there were many developments on his homestead. One could see newly built houses, new farm equipment and healthy crops on his homestead. The Chief was not willing to disclose the source of his accumulation. During our focus group discussions other beneficiaries were said to be businesspersons, wholesalers and those with money.

A sugarcane farmer, Try Kondwesa Phiri, narrated the advantages of growing sugarcane:

I have seen that growing sugarcane is better off to me and my family. The goodness is that one is able to realise a lot of money at one time which helps you buy things which other farmers who grow food crops like rice and maize cannot realise. I started growing sugarcane in 2011 and up to now I don't regret although the profits I am now getting are going down. In 2011, I realised K300,000.00. In 2012, I realised K250,000.00. In 2013, I got K100,000.00 and this year I am waiting to receive my money. The reason for the decline in my profits is due to poor rains and inadequate inputs. Even though the decline in profits is bad, I am still better off than the other farmers who cannot realise money amounting to what I am getting.

Towepasi Banda, also from Kasitu and a farmer and member of the Mukhuto group which was against commercialisation of land under sugarcane cultivation, had divergent views:

This initiative to force us to give up our land for cultivation of sugarcane is the worst thing that has happened to us. The benefit is only to the rich people and our chief and not to us poor people. There is more loss than gain from cultivating sugarcane. We have seen that sugarcane bring conflicts, and poverty to us poor people. What they promise is not true because if you join sugarcane, you are completely alienated from the process of production and harvesting and you do not have powers to bargain as everything is controlled and done by the company. So when we compare what we realise from what we grow on our land with food crops, sometimes twice a year we are better off than those who are sugarcane farmers as the benefits only go to the rich people. There is so much lost, especially the land and the freedom to grow what one wants. In addition, if the land is turned into a sugarcane scheme, you cannot pull back should you realise it is not benefiting you.

Although these local elites were few, they supported the land acquisition because it helped them to accelerate wealth accumulation. Given this situation, LandNet tried to help the affected communities with some advocacy interventions, as elaborated below.

Practical interventions

LandNet employed a number of advocacy strategies to put pressure on the relevant authorities to adopt pro-poor policies on land and natural resource governance. The prominent three were media campaigns, civic education on land rights and direct engagement with policymakers.

Media campaigns

The first intervention was media-awareness campaigns. LandNet carried out media-awareness campaigns on the detrimental effects of 'land grabbing' on the poor in both Chikwawa and Nkhotakota districts. The media campaign was designed to have journalists personally interface with affected community members so that the media could hear about their experiences on the land grabs and the continued threat of land dispossession. The displaced farmers had a rare moment to interact with journalists from both the electronic and print media. The issues were broadcast on national radios and in newspapers.

The impact of the media-awareness campaigns was significant as it raised the cost of land invasions. It put the reputation of the investors in the court of public opinion. The public was informed about the negative impacts on livelihoods of the land deals and resulted in the poor losing their land rights. As confirmed in focus group discussions, the media-awareness campaigns helped to discourage potential investors to acquire more land and convert it to sugarcane production against the will of the communities. According to Frojala Kaunda, Chairperson of Kasitu Mukhuto Farming Group in Nkhotakota, LandNet's media-awareness campaigns discouraged some investors to employ coercive and brutal means of dispossession:

We would like to appreciate the role of LandNet in our community. We have seen that the sugarcane farmers are now afraid to come and slash our crops as they did previously because they know that we have partners who will stand for us. They know that now if they come and try to take the land away, it will be heard on the radios and in newspapers because of LandNet. We used

to guard our farms but now we are at peace as they have stopped coming to bother us.

Civic education on land rights

The second intervention was civic education on land-rights awareness among the affected communities. LandNet carried out civic education on the proposed land bills with support from the Alliance for Green Revolution in Africa (AGRA). The civic education focused on empowering communities with knowledge so that they can be proactive in demanding their rights and avoid becoming passive victims of land grabs. Civic education helped to enhance the confidence of communities to defend their land against land grabs. The communities could now make reference to the National Land Policy to defend their land rights. As a result, the communities were able to petition government concerning the land transactions that affected their rights, livelihoods and food security. For example, villagers from Chief Ngowe's area in Chikwawa organised a peaceful demonstration to protest against the sale of their land to an investor on 28 February 2014. LandNet also empowered some sugarcane contract farmers with negotiating skills at the Phata Scheme under Kasinthula Cane Growers Ltd in Chikwawa. The contract farmers were educated on how to bargain for better payment comparable with the market value of their products.

Policy engagement

The third intervention was policy engagement. LandNet engaged government and other stakeholders at international level on the need for progressive, pro-poor and gender sensitive land policies. For example, LandNet lobbied government to reflect on its programmes to reduce food insecurity, like the new G8 New Alliance on Food Security and Nutrition and other government projects such as the Green Belt Initiative.

Our research and practical interventions led us to formulate some tangible lessons and possible policy recommendations which could promote pro-poor land governance policies. We outline these lessons and recommendations below.

Lessons learnt and policy responses

Some of the lessons we have learnt through this study are as follows:

- Malawi's land tenure security laws are archaic, weak and open to manipulation by foreign investors, state authorities and local elites who seek to displace communal farmers for large-scale commercial production.
- Ongoing large-scale land acquisitions for commercial agriculture have contributed to the destruction of the livelihoods of poor farmers who live on communal land.
- Investors rarely follow consultation and compensation procedures when grabbing poor people's land for their own private investment.
- State institutions, such as the police, play a significant role in aiding foreign investors to invade and acquire land.
- Traditional leaders play a significant role in land deal transactions and are usually convinced to support the investors at the expense of 'their people'.
- Gaining access to information and knowledge can motivate communities to confidently defend their land rights against invaders.
- Community-organised resistance can help to ward off the threat of massive 'land-grabbing' initiatives.
- Legal processes as a mechanism of defence against land invaders is less effective for the poor communal farmers as it is expensive, time-consuming and complex.
- Public-awareness campaigns can deter some investors from engaging in brutal, inhumane and illegal land deal transaction processes that can damage their reputations.
- Partnerships among CSOs, universities and communities are an important

and effective alliance in the struggle to strengthen people's land rights and create alternatives to 'land grabbing'.

- International guidelines and frameworks on responsible agriculture investments are very relevant for Malawi but are not being implemented.

Recommendations for land policy and land law in Malawi

- The Malawi Government must urgently revise the current land laws, and formulate and adopt a new legislative framework for land governance in line with the Malawi National Land Policy as approved on 17 January 2002. The Malawi National Land Policy embraces both the spirit of the Malawi Constitution and best international practices of land governance, as recommended by the FAO's VGGT.
- The new land law must provide mechanisms for formal recognition of group and individual rights under customary tenure (despite gender) with clear definitions of traditional leaders' roles and responsibilities. The law should be complementary to existing laws relating to the registration of land, and in harmony with key legislation on inheritance law, the Chiefs' Act and the dispute resolution system.
- Government, private investors and international development agencies should operationalise some of the popularised guidelines for responsible investments at international level. We summarise these principles as including inclusive and transparent

land deal negotiations; free, prior and informed consent; protection of the customary land rights of local communities; fair compensation to affected communities; equitable distribution of benefits between local communities and inves-

- tors; environmental sustainability; and promotion of food security.
- Stakeholders should develop a land dispute resolution and mediation mechanism. There should be conflict resolution mechanisms to deal with disputes that arise during land transactions on customary land and the conversion of customary to public land. Government, traditional leaders and affected communities must find a way to resolve the land disputes in an amicable manner that takes into consideration the rights and priorities of the communal farmers threatened with land loss.
 - Universities and CSOs must continue with programmes on empowerment and capacity building of local communities on their land rights. The communities threatened with land losses must be empowered with skills to negotiate and resist land deals that are not in their interests. They must also be provided with access to justice to protect their land from powerful and influential people.
 - The Malawi Government must immediately declare a moratorium on all large-scale acquisition of communal land until a new pro-poor legislative framework for land governance is in place.
 - International agencies, like the European Union and Africa Development Bank, and other financial backers, must only support projects that respect the national laws, the land rights of affected communities and progressive principles of agro-investments.

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