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The Role of Chiefs in Land Management in Peri-Urban Customary Areas Of Blantyre, Malawi: The Case of Mpemba

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THE ROLE OF CHIEFS IN LAND MANAGEMENT IN PERI-URBAN CUSTOMARY AREAS OF BLANTYRE, MALAWI. THE CASE OF MPEMBA.

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Master of Urban Studies (Housing and Human Settlements)

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THE ROLE OF CHIEFS IN LAND MANAGEMENT IN PERI-URBAN CUSTOMARY AREAS OF BLANTYRE, MALAWI. THE CASE OF MPEMBA.

Chimwemwe Edith Magwede

A research report submitted to the Faculty of Engineering and the Built Environment, School of Architecture and Planning, at the University of Witwatersrand, Johannesburg (Republic of South Africa), in partial fulfilment of the requirements of the degree of Masters in Urban Studies (Housing and Human Settlements).

Johannesburg, 2022.

DECLARATION

I Chimwemwe Edith Magwede declare that this research report is my own unaided work. It is being submitted to the degree of Masters in Urban Studies (Housing and Human Settlements) to the University of Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university.

Signed by:



Chimwemwe Edith Magwede

On 30th April 2022

ABSTRACT

Peri-urbanisation is a new form of urbanisation and the peri-urban area is a new kind of multi-functional landscape for urban development. How peri-urban areas are managed matters because they are close to the city and due to high urbanisation rates in most developing countries, these areas will soon be part of the city. If urban peripheries are not well-managed, they will be a challenge for sustainable development. In Malawi, peri-urban areas fall under customary land and chiefs are the custodians of customary land. The study unpacks the role of chiefs in land management, how the National Land Policy and land-related legislation position customary leadership in the governance of land management and how municipal and customary land management systems interact with each other in the peri-urban areas. The study employed a qualitative approach. Semi-structured interviews were conducted and policy and legislation were reviewed. The 2002 National Land Policy of Malawi and land-related legislation were reviewed focusing on the role of chiefs in land management. Although the peri-urban areas fall under the jurisdiction of chiefs, the research reveals that this area is treated as no man's land as there exists an overlap of authorities in the peri-urban areas. The chiefs witness land transactions, advise their people on how to secure their land, and partially guide and manage land, although they are not aware of land regulations and standards. The findings also disclose that there is a lack of coordination within municipal land management systems and between municipal land management systems and customary land management systems. Although the legislation states that chiefs have to be incorporated in land management, these laws have not been fully implemented as there are still in the pilot phase.

DEDICATION

I dedicate this work to Chris Nyambalo, my husband.

ACKNOWLEDGEMENTS

Am grateful to God for giving me this opportunity and people who have helped me fulfil this dream.

To Amanda Williamson, my supervisor, thank you so much for your support, encouragements, patience and understanding. Through the uncertainties of COVID-19 and my illness you have always stood by my side and helped me through until the end. Am so grateful to you.

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LIST OF ACRONYMS

BDC	Blantyre District Council
BCC	Blantyre City Council
DC	District Commissioner1
DPD	Directorate of Planning and Development
DPP	Department of Physical Planning
GVH	Group Village Headman
MP	Member of Parliament
NLP	National Land Policy
SDG	Sustainable Development Goal
TA	Traditional Authority
VDC	Village Development Committee

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CHAPTER ONE

Introduction

1.1 Background

Urbanisation is an integral aspect of modern economic and social development. African cities are some of the fastest urbanising cities in the world. The UNDP (2016) estimates that by 2030, 60 % of the population will live in cities and towns and over 90 % of this growth will happen in the developing world, especially in Africa and Asia. Due to the high rates of urbanisation, cities are growing in terms of population and geographical spread. With such growth, urban development is sprawling into more rural areas on the periphery. Peri-urban areas are fast-growing in terms of population settlement and density due to their nearness to the city.

According to UN-Habitat (2016), peri-urbanisation is one of the new forms of urbanisation patterns. This zone is neither urban nor rural (Amoateng et al., 2013). Some scholars further describe peri-urban areas not only as the zone on the edge of the city but a new kind of multi-functional landscape for urban renewal. In addition, they argue that 'the peri-urban area is a zone of social and economic change and restructuring, a zone of intensive and sometimes even chaotic development', (Nilsson et al., 2014:3). Various authors such as Geneletti et al. (2017) and Chiweza (2019), emphasize the need to direct and manage development in the peri-urban areas, arguing that if urban peripheries are not attended to, they will be a challenge for sustainable development. As much as urbanisation is an integral aspect of economic and social development, uncontrolled and unmanaged urbanisation will lead to more problems than gains.

1.2 Problem Statement

Although there is still low-density development in the cities of Malawi, the growth of peri-urban areas is being experienced. More people especially from the middle- and high-income groups, are moving to the peri-urban areas due to high costs of property rates and user fees paid to the city councils (Manda, 2013). Those from lower-income groups are often reliant on employment and other economic opportunities in the city and cannot move to peri-urban areas due to high transport costs they would incur. The very poor and lowest income groups mostly stay in squatter areas within the city. Low-income households found in the peri-urban areas live on land that they inherited and are mostly involved in farming, small business activities or domestic work for more prosperous households living within the peri-urban

areas. Most land on the periphery of the city is under customary tenure and the authority of such lands falls in the hands of chiefs (Blantyre District Council,2017).

In order to address the issues of managing land in Malawi to ensure sustainable development and growth, the National Land Policy (NLP) of 2002 came up with recommendations on how land should be managed. Most importantly, the policy addressed the issue of how the conflicts between chiefs and planners should be resolved and it encouraged these parties to work together. The NLP therefore, proposed introduction of customary land committees to manage land in customary areas. Chiefs are part of these committees (Government of Malawi, 2016a).

Mpemba is one of the peri-urban areas bordering Blantyre City. It is located in the south-western part of Blantyre, 12km from Blantyre's central business district. This area was predominantly rural but due to urban growth, the area has transformed into a peri-urban area. Since it is an area outside the city, Mpemba is under the jurisdiction of the Blantyre District Council (BDC). In her study Chirwa (2017) found that the area is fast-growing but there is no guidance and management of development in Mpemba. Un-guided and mismanaged development pose a question of who guides and manages development in the peri-urban area. According to Blantyre District Council (2017), it is the chiefs that authorize the use and occupation of this land (Blantyre District Council, 2017). Although chiefs authorize the use and occupation of customary land, their role in land-use management is not clear.

This unresolved situation provides the basis for the research to explore the roles of chiefs in land-use management in peri-urban customary areas. The focus is on how municipal and customary land management systems interact with one another in the Blantyre District intending to work towards clearer and more harmonious relations.

1.3 Aims and objectives of the study

The aim of the study is to explore the role of chiefs in land-use management in peri-urban customary areas. The objectives of the study include;

1. To identify the roles of chiefs in land management in Blantyre,
2. To analyse the extent to which the recently amended land-related legislation (Physical Planning Act, Land Act and Customary Land Act,) have considered customary land systems to the National Land policy,
3. To investigate the extent to which municipal and customary land management systems interact with each other in Blantyre District Council,
4. To explore alternative, collaborative institutional arrangements between planners and chiefs in peri-urban areas that respond to the challenges of rapid urbanisation.

1.4 Research question

In what ways do chiefs manage land-use in peri-urban customary areas.

Sub-questions include:

1. What are the roles of chiefs in land management?
2. How does National Land Policy and land related legislation position customary leadership in the governance of land management?
3. How do modern and customary land management systems interact with one another in the Blantyre District?
4. What are the alternative ways of managing land-use in peri-urban areas to ensure orderly development which responds to the challenges of rapid urbanisation?

1.5 Rationale for the study

With rapid urbanisation in most African cities including those in Malawi, cities are growing in population, space and density (Manda, 2013). Such growth is being felt in areas bordering cities (peri-urban). Peri-urban areas are areas which were predominantly rural and are taking a new form (having a mixture of both rural and urban characteristics) since more people are moving to these areas due to the growth of the cities (Amoateng et al., 2013). Rural areas and

these peri-urban areas in Malawi are mostly under the authority of chiefs. How chiefs manage these areas especially peri-urban areas is not clearly defined in Malawi. Geneletti et al. (2017) state that if not addressed, urban peripheries will create complexity and will be a challenge for sustainable development. There are a few studies that address the issue of urban peripheries and their sustainable growth in Malawi (Chirwa, 2017), hence the need for the study.

1.6 Research Method

The research sought to examine how chiefs and municipalities in peri-urban customary areas manage land-use in their area. It is particularly concerned with exploring the relationship between municipal land management systems and customary land management systems and how the National Land Policy relates to the recently amended land-related legislation concerning the role of chiefs in land-use management in peri-urban areas. The study therefore, adopted a qualitative approach, a case study. According to Mouton (2001), this kind of approach allows an in-depth description of a behaviour. A case study of Mpemba has been used to explore the current relationships between planners and chiefs. A case study can be used in the case where you want to cover contextual conditions.

According to Mounton (2001), some strengths of using a case study include in-depth insights and the establishment of rapport with research subjects. Some of the limitations of using a case study include a lack of generalisability of results, and data collection and analysis can be very time consuming (ibid). To address these limitations in this research, questions were tailored in such a way that respondents understand the idea easier and give straightforward answers. This made the interviews shorter. On the generalisability of results, Yin (1994) states a case study is not a sample; its essence is to expand theories and not enumerate frequencies. Therefore, as there are few studies done relating to this topic, this study will add knowledge to this field which will help in the expansion of theories relating to such.

1.6.1 Data collection

The sources of data are documents (grey literature) and people (key respondents). The key respondents were all selected through purposive sampling. These key respondents included: a Lands Officer from the Blantyre District Council (BDC), the Regional Commissioner for Physical Planning (south) and a Physical Planning Officer from the Department of Physical Planning (DPP), three chiefs from Mpemba, and two academics researchers who have done different research on issues similar to this study in Blantyre (one from University of Malawi

and the other from Malawi University of Business and Applied Sciences). For all key respondents, interviews were conducted using interview guides presented in annexures 1, 2 and 3. Semi-structured interviews combine both restricted and open-ended questions and take mostly about 45-60 minutes (Simon, 2006). Therefore, I adopted semi-structured interviews to get some in-depth explanations from respondents and to limit the interview time. All interviews were done online through telephone calls and WhatsApp. WhatsApp recordings were used where network problems were encountered. It was not easy to conduct interviews online as I encountered different problems such as network problems, unanswered calls, and time constraints which meant that interviews for some respondents were cut short and this limited further explanations by the respondent.

I planned to conduct three semi-structured interviews with officials from the BDC in the first category which included the Director of Planning and Development and two Lands Officers. However, during the first interview with the Lands officer at Blantyre District Council I was told that they do not have planners in their directorate. Therefore, Blantyre District Council could not answer all the questions on the interview guide as they only have limited information. The Lands officer then directed me to the Department of Physical Planning in the southern region which is called the Regional Physical Planning Office (south) where I interviewed two people: the Regional Commissioner for Physical Planning (S) and a Physical Planning Officer. These officials provided the necessary data.

There are about 12 chiefs in Mpemba. I planned to conduct semi-structured interviews with 4 chiefs. 4 chiefs were chosen because there are 4 Group Village Headmen in the area and the Customary Land Act stipulates that GVHs shall be the chairperson of customary land committees. Due to the COVID-19 pandemic, the University of Witwatersrand Ethics Committee ruled that all interviews were to be conducted online and not face-to-face. Initially, I did not manage to find any of the chiefs' contact numbers as such I did not interview any. In an attempt to obtain information about the chiefs' views, I interviewed two academic researchers who have done several related studies in which they have worked with the chiefs in the peri-urban areas of Blantyre. Both of them are academics; one is a PhD holder and a lecturer in planning and development geography and the other is a lecturer in architecture who holds a Master's degree in housing and is a PhD student. These academic researchers were recommended to me by panellists during the interim research presentations and I used them to collect data on chiefs. However, I managed to interview (face-to-face)

three chiefs in Mpemba due to the easing of COVID-19 restrictions and as recommended by the examiners. I interviewed three chiefs due to limited time and availability. Therefore, data from both chiefs and academic researchers have been presented. In chapter 4, the academic researchers have been referred to as researchers.

On the data collected from documents, I did a desktop review using the NLP to the Physical Planning Act, Land Act and the Customary Land Act concerning the role of chiefs. I also went further to look into the guidelines that expand some of the matters written in these Acts such as the Land-use Planning and Development Management Guidelines and Standards and Customary Land Regulations.

1.6.2 Data Analysis

Thematic analysis (inductive approach) has been used as the data analysis tool. In thematic analysis, data is closely examined to identify common themes and ideas that come up repeatedly (Creswell, 2009). Such kind of an approach allows one to find out views, opinions, knowledge and experience. Therefore, in the analysis of this research, data was allowed to determine the themes. I familiarized myself with the data I collected from all key respondents, coded it, generated themes out of it, reviewed and related the themes, and defined the themes. Finally, the defined themes were described and interpreted and related literature review and desktop policy review as well.

1.7 Ethical considerations

Ethics is one of the important aspects of research. To carry out research, the University of the Witwatersrand requires that each researcher obtains ethics clearance (refer to Annexures 4 and 5). To obtain ethics clearance, the researcher supplied information such as the purpose of the study, the study area, number of respondents, level of risk and an explanation of how data will be protected. The interview guides which were used in data collection have been presented in annexures 1 to 3. All this was reviewed by the University and permission to undertake the research was given to me. Signing the ethics form meant that the researcher agreed to abide by the ethics throughout the research and afterwards. In addition, I obtained permission to conduct interviews from the Blantyre District Council as shown in Annexure 6.

Once I had obtained the ethical clearance, I presented a Participant Information Sheet to potential participants, and upon their agreement to participate, they provided formal consent before proceeding with the interview. The Participant Information Sheet explains the purpose

of the study and how the chosen respondent is relevant to the study, the protection of the interview information, the confidentiality of the interview data and shows how their identity will be kept anonymous throughout the research process. The consent forms were signed by the respondents to show their formal agreement with the conditions of the research as explained in the participant information sheet.

1.8 Limitation of the research

One of the limitations of using a case study is that the findings are context-specific and cannot be generalised (Mouton, 2001). Due to the COVID- 19, times are uncertain therefore, I encountered some problems during the research, especially during data collection. Firstly, the limited availability of officials hindered data collection. For those that were not available, I sent the interview guide to them so that they could answer in their own free time and later send a copy of their answers. There was a positive response from all respondents I sent an interview guide. Secondly, finding the contacts for the chiefs was a difficult task. The District Commissioner's office was unable to give me this information and so I initially conducted interviews with the academic researchers. However, at a later stage, three chiefs were interviewed. Finally, network problems and telephone breakdowns delayed data collection, but relevant information about the study was captured.

1.9 Organisation of the research report

The first chapter is introductory. It gives a background, problem statement and rationale which presents the need for the study. The chapter also presents the aim of the study, objectives and research questions. The research design, data collection methods and data analysis tools have also been included. Lastly, it presents the ethical considerations followed and the limitations of the research.

The second chapter gives an in-depth literature review of customary and statutory land management systems and a conceptual framework based on reviewed literature. It has unpacked the main concepts of the research of peri-urban areas, urbanisation, land management and customary versus modern institutions. It also discusses the interaction between customary and statutory land management systems by giving several examples. The chapter is concluded with a diagram illustrating the conceptual framework.

The third chapter is a contextual. It gives a detailed description of the case study area, the study map area, and responds to sub-question two of the research about legislation and policy

on customary land development and management processes. It also presents recommendations for future research. The fourth chapter gives a detailed description of the research findings and an analysis of the interview findings and policy analysis. The findings have been presented according to themes. At the end of each theme, the findings are discussed and analysed.

Finally, the fifth chapter is concluding. It answers the research question and sub-questions by summarizing the research giving major findings, and conclusions.

CHAPTER TWO

Understanding customary and statutory land management systems

2.1 Introduction

This chapter defines land management, urbanisation and peri-urban areas and their characteristics. It then describes cases in other countries to examine how chiefs guide development in their areas of jurisdiction, especially in peri-urban and customary areas. The chapter discusses the interaction between customary and 'modern' institutions of land management in peri-urban areas. The terms chiefs and traditional leaders will be used interchangeably.

2.2 Sustainable Urbanisation

According to Ben-Eli (in Mensah, 2019:5), sustainability is 'the process of interaction between the population and the carrying capacity of its environment such that the population develops to express its full potential without producing irreversible adverse effects on the carrying capacity of the environment upon which it depends.' According to the World Commission on Environment and Development (1987:41), 'sustainable development is the development that meets the needs of the present without compromising the ability of future generations.' Further, sustainable development is a mechanism to help society on efficient use of natural resources to avoid exhaustion of them (Mensah, 2019). Sustainable development seeks to achieve economic (smart growth, long-range planning, cost of living), environmental (resource management, environmental protection, habitat restoration and preservation) and social (quality of life, education, community development, laws and ethics) continuity. As such sustainable development has three pillars including social, economic and environmental sustainability. There is a need for these three pillars to interact and balance with each other to achieve sustainable development.

Urbanisation is the increase in the proportion of people living in towns and cities which results in the growth (in the size of the urban population and the extent) of urban areas. As one of the rapidly growing areas (in terms of population and space) urban areas have been singled out as areas to be supported so that they demonstrate sustainable urbanisation or sustainable urban development. Sustainable development is a general concept while sustainable urban development specifically focuses on urban environments. Wheeler (1996:

iii) defines sustainable urban development as a process that 'seeks to create cities and towns that improve the long-term health of the planet's human and ecological systems by promoting the efficient use of natural resources.' Sustainable urbanisation is interdisciplinary. According to the Scientific and Technical Advisory Panel of the Global Environment Facility (2014), it includes water, land, climate change, construction, energy, food, transportation, chemicals and biodiversity. All of these components occur on land. This means land-use planning and management are of paramount importance in achieving sustainable urbanisation.

It is evident that both developing rapid urbanising countries and developed highly urbanised nations have challenges in sustainable urbanisation. In sub-Saharan Africa … 'cities are growing … through informal land development processes and self-built housing' (UN-Habitat, undated:5). As such the New Urban Agenda, Habitat III process and Sustainable Development Goals (SDGs) (specifically SDG-11 on cities and human settlements) encourage and promote planned and sustainable urbanisation. SDG-11 is a call to 'make cities and human settlements inclusive, safe resilient and sustainable', (United Nations, 2015:25). In a special way, SDG-11.3 emphasises the need to promote inclusive and sustainable urbanisation by improving the capacity of participation and integration in the planning and management of sustainable human settlements (United Nations, 2015). Therefore, SDG 11.3 encompasses all three pillars of sustainability; participation and integration in social sustainability and management of human settlements covers both economic and environmental. Further, Evans et al. (2005) state that one of the preconditions for achieving sustainable development is good governance through public debate, partnerships, interaction and dialogue between citizens, organizations and local governments. Areas on the urban periphery are very likely to become part of the city due to rapid urbanisation. Therefore, to achieve sustainable urbanisation, land planning and management must be extended to peri-urban areas.

Achievement of sustainable urbanisation depends on looking at and integrating all pillars of sustainable development. Unlike environmental and social sustainability, social sustainability is complicated and overwhelming (Mensah, 2019). According to Daly (in Mensah, 2019) social sustainability deals with equity, empowerment, accessibility, participation, cultural identity and institutional stability. This research, therefore, mainly focuses on the social pillar which deals with interactions, partnerships and dialogue in land management systems in peri-urban areas with the aim of achieving sustainable urbanisation.

2.3 Land management defined

Land management is the process of putting land resources into good use which is concerned with sustainable management of land, natural resources and the built environment (Biitir and Nara, 2016). Activities associated with the management of land include land tenure, implementation of land policy, land-use planning and land readjustment (Magel and Werhrmann, 2001 in Masum 2009). Land management is interdisciplinary therefore, to achieve good land management all involved disciplines have to work together. Issues of land management have to be guarded highly because all developments depend on land and land is fixed it does not grow. Therefore, every activity happening on land has to be monitored and well managed to lessen land-related problems as Masum (2009:49) states 'land management is the existing day to day and routine state interventions and regulations in the existing land system of a country.' The land has to be managed from the grassroots upward, everyone has to be involved in these activities. The grassroots have to monitor and guide day to day activities and report to top authorities where need be so that the relevant authorities come for inspection and monitoring and technical expertise. Involving the grassroots can reduce the workload and capacity gap that is there in land-related disciplines. This also implies that the grassroots have to be well informed on land-related laws and regulations and trained in their roles in land management.

2.4 Land management in peri-urban areas

Peri-urbanisation is a new form of urbanisation (Dupont, 2007; UN-Habitat, 2016). A peri-urban area is an area formed midway between urban and rural spaces (Dupont, 2007; Amoateng et al., 2013; Nilsson et al., 2014). Nilsson et al. (2014:3) describe a peri-urban area as a 'zone of social and economic change and restructuring, a zone of intensive and sometimes even chaotic development'. Further, Nilsson et al. (2014) and Bajracharya and Hastings (2018) state that peri-urban is not only the zone on the edge of the city but a new kind of multi-functional landscape for urban renewal. According to Dupont (2007), there are competing land uses in the peri-urban zone which include housing the poor, maintenance of green belts, and industrial developments. The middle- and high-income groups also form part of this competition as they seek large plots of affordable land for residential purposes. Some of the developments and settlement patterns taking place in peri-urban areas include new housing settlements (traditional to modern types of housing), and new economic activities such as light industries.

However, areas for traditional agricultural production and green spaces are slowly diminishing and pollution levels are rising. Although many people use landfills for waste disposal, some resort to dumping waste along the roads and in rivers causing land, air, and water pollution. In addition, there is a lack of access roads to other plots, loss of green belt and no order for the preservation of public spaces such as playgrounds. Geneletti et al. (2017) state that if urban peripheries are not attended to, they will be a challenge for sustainable development. If not guided, haphazard development in the peri-urban areas may be difficult to correct and present a challenge to sustainable development. Scholars emphasize the need to direct development in peri-urban areas. There is a need to manage peri-urban areas (Geneletti et al., 2017; Chiweza, 2019). In her study, Dupont (2007) states that management of peri-urban areas becomes problematic when situated beyond administrative limits as these zones are 'generally not recognised as specific entities of planning' (Dupont, 2007:89). Below are examples of approaches to land management in peri-urban areas.

Zhang et al. (2020) conducted a study in Gaobeidian, a former rural village which is now part of Beijing in China. In the 1990s Gaobeidian was a typical village that became semi-urbanised in the late 1990s due to Beijing's urban expansion and is currently under large scale renovation (ibid). In their study to understand self-organization and formal institutions in peri-urban transformations, Zhang et al. (2020) identify three dominant planning approaches: self-organization, self-governance, and shared governance. All of them are bottom-up approaches. In bottom-up approaches, initiatives or ideas begin from the bottom (community or at the grassroots) and are taken up to the local and central government. Self-organization means that individual people have their own solutions to the problems they are facing. Self-organization led to unco-ordinated individual actions that then laid a foundation for self-governance in Gaobeidian.

Self-governance emphasizes communication and participation among community members and within community organisations. There is no immediate official involvement (officials only come in where need be) and collectively communities shape their environment according to their preferences (ibid). For example, poor waste disposal was one of the problems in the Gaobeidian, therefore, people organized themselves for a clean-up project. The community made their own regulations, collected voluntary donations from community members to finance the project, and used village committees to publish announcements and obtain and share information (Zhang et al. 2020). Other issues tackled by the community

itself included hygiene standards and hosing decoration and safety. In all these projects no external agent was involved.

Lastly, shared governance means there is official institution involvement in which officials facilitate and guide stakeholders in their activities. The Chaoyang District Government introduced a co-initiated renovation programme which involved the demolition of old houses and the construction of three-storey terraced houses (Zhang et al., 2020). The programme was agreed upon by local villagers and the district government. The villagers did the demolition work and covered the building costs. The government supported with low-interest loans, free building permits and provided public facilities. In this case, the government did not dominate the process but rather only facilitated the process.

Zhu and Guo (2014) find that urbanisation in the peri-urban areas of Nanhai, in China, was chiefly driven by autonomous rural collectives but this created a fragmented urbanising landscape. These collectives used land sub-optimally and contributed to the ecological deterioration of the natural environment. Therefore, Zhu and Guo (2014) argue that rural collectives or village committees should not be left to guide development by themselves (self-governance). Although decentralisation and empowerment of communities are essential for inclusive development, Zhu and Guo (2014:1141) conclude that there should be a 'balance between rural autonomy and urban integrity' to maintain and ensure sustainable urbanisation. Zhu and Guo (2014) support shared governance and they propose that village committees should work closely with official institutions to ensure optimum use of land.

Bajracharya and Hastings (2018) separate regional planning from urban planning: for them, urban planning is confined to the urban areas, whereas regional planning includes peri-urban and rural areas. In contrast, Fang et al. (2006) suggest that the peri-urban areas should be part of urban environmental planning and they should be strongly influenced by urban planning. Therefore, there is a need to incorporate the peri-urban areas into urban planning or introduce integrated systems so that urban planners with local teams, including chiefs and other institutions, will work together in the management of peri-urban areas.

Nilsson et al. (2014) suggest restricting the growth of cities by encouraging containment and densification as one way of managing land in the peri-urban areas. Instead of incorporating peri-urban areas into town planning or extending city boundaries, they argue that the urban periphery should be protected as they contain agriculture and green spaces (ibid). There

should be an improvement of transportation routes between the urban, peri-urban and rural areas so that people can commute easily and in a short time between these areas.

2.5 Customary and modern institutions

A wave of liberalisation swept across Sub-Saharan Africa in the 1990s which saw traditional leaders reasserting their authority in countries like Malawi, Mozambique, South Africa and Uganda (Hussein and Muriaas, 2013). The resurgence of chieftainship brought mixed reactions and led to the formation of two groups: traditionalists and modernists. Modernists are of the view that traditional institutions are a contradiction to democratic governance. In contrast, traditionalists argue that chiefs are legitimate and relevant in democratic political systems (Hussein and Muriaas, 2013).

Traditions or customs are long-established practices considered unwritten laws. They are a normative pattern of thought or behaviour of doing something and are specific to a particular society, place or time. Traditional or customary practices are practices based on customs or tradition. Modern relates to the present. Modern culture came from western countries. Modernity is a cultural template of liberation from traditional ways of thinking.

2.5.1 Customary and modern land management systems in developing countries

Developing countries have approached the issue of incorporating customary systems into modern land management systems in different ways. Chiefs have been regarded as a hindrance to modernity and democracy and the inclusion of chiefs as part of government and governance remains controversial (Kompi, 2018). It remains controversial because no agreement has been reached on whether to include or disregard chiefs. Issues of where, how and to what extent to incorporate chiefs in land management remain unresolved.

According to Mwathunga and Donaldson (2018), integrating modern and customary ideas has been a problem in most developing countries. The problem is that modernity is imposed on the people (Mwathunga and Donaldson, ibid). Most developing countries have adopted policies from the developed world as a result this has undermined the primacy of the local circumstances to inform planning. Kompi (2018) argues that in South Africa during apartheid, the government regarded the interests of the white minority to be of greater importance than chiefs. ‘Most developing countries follow planning tools whose characteristics have been developed in European countries which are not at all applicable for developing countries considering socio-economic, political and technical aspects’ (Masum,

2009:36). Traditional land management practices are often ignored in developing countries (Masum, 2009). However, adopted policies are often rigidly applied and several aspects or issues in the policies are not applicable in developing countries. Dave (2010) emphasizes the issue of culture in applying the compact city model presented by planners in the global North. When planning and regulating land development, the cultural aspect has to be respected and incorporated. History and culture shape land use and environmental resource management (Alidri, 2016).

Alidri (2016) emphasises that total adoption of modern ideas into land-use and resource management without regarding culture is more of a threat than an opportunity. 'Historicizing the local environment provides an understanding of the cultural practices and possible alternatives' (Alidri, 2016:3). The consideration of culture can lead to the adoption of planning approaches that require locally available resources in developing countries as suggested by Jenkins et al., (2007) and solve the problems of human and technical capacity as highlighted by Mwathunga and Donaldson (2018). The following section presents examples of how customary versus modern land management systems interact with each other in some countries in Africa.

2.5.2 Case studies

After gaining independence most African governments such as Mozambique, Zimbabwe, Uganda and Botswana tried to disregard chiefs but these efforts were unsuccessful. Consequently, Mozambique, Zimbabwe and Uganda later incorporated the chiefs (Kompi, 2018).

Lesotho

In Lesotho, before the 1950s the chiefs' management of land was not challenged. However, reforms were brought about around the 1950s due to dissatisfied commoners who were unsatisfied with the way chiefs handled land allocation and management (Mosito, 2014). These reforms led to the call for the formation of land boards. Land boards were a threat to chiefs because chiefs thought these boards would undermine their authority. Thus, there were conflicts between land boards and chiefs. After Lesotho gained independence in 1973, two land laws were passed. The first law introduced new tenure innovations such as lease, land revenue and negotiability of land rights were introduced which affected the power of chiefs in land allocation and management. Subsequently, the second law introduced development committees whose responsibility was to advise chiefs on land allocation, no major changes

were made to the customary land tenure system. The first was never implemented because it would 'substantially affect the powers of chiefs in land allocation and management,' (Mosito, 2014:75). The second law only introduced development committees which would advise chiefs on land allocation and management.

In Lesotho, traditionalism has persisted despite the government's attempt to transform it. During the colonial period, Lesotho adopted law from Britain and it was applied concurrently with the Sesotho customary law. Lesotho's post-colonial legal system is also a dual system, and neither of these laws is superior to the other (Mosito, 2014). Chiefs are responsible for both allocating and inspecting the land to make sure that the land is put to best use. In Lesotho, the introduction of formal, Western-inspired governance systems has not ousted customary systems (ibid).

Botswana

Similarly, in Botswana land boards were introduced to get rid of chiefs. Land boards took away the exclusive role of allocating tribal land for different development activities from chiefs. The transitional period was challenging because chiefs were not willing to cooperate with the land boards due to the frustration of the loss of land allocation authority (Karlsson et al., 1993). Due to complaints from chiefs and difficulties land boards faced in the execution of their duties, chiefs were reconsidered, however, to a limit (Sharma, 2005). The government resolved that there is a close link between chiefs and the land boards and the need to establish formal links between the two (ibid). Land boards were also instructed to consult chiefs.

Uganda

Alidri (2016) did a study in northwestern Uganda that examined traditional wisdom in land use and resource management. The study explores modern and customary land-use and resource management. In pre-colonial times the Lugbara people used indigenous knowledge to develop traditional law to guide the management of land and other natural resources. The ways they used to manage land and natural resources were deemed by themselves to be sustainable, (ibid). The traditional law was unwritten but it was passed on from generation to generation orally. At this time land and the environment was the only source of survival, therefore people took the law seriously and heeded it. Colonialism in 1894 brought with it alternative means of survival other than dependence on land alone such as businesses and changes in land use and value (Alidri, 2016). Population growth and urbanisation also

challenged customary systems. With colonialism, Uganda saw the adoption of European concepts and customary laws and rights were introduced. The aim of the British colonial government in introducing the customary laws was to be in control over subjects and resources. With the new laws, customary resource management systems slowly began to be neglected. Although they were called customary laws, the adopted customary laws from the colonialists were not based on tradition and indigenous knowledge of the native people.

With modernity, resource management has shifted to local government authorities undermining customary resource management. After gaining independence in 1962, Uganda inherited colonial land law. The transformation of land rights from predominantly communal or customary tenure alone to allowing both private and communal land tenure systems has given individuals more power over land use and management and as a result removing traditional authorities' control over land (Alidri, 2016). Awinsong (2017) adds that during the colonial period land that was not private was regarded as royal land. After gaining independence it became government property hence moving away from the communal land ownership system. Although there have been so many changes on land including changes in land use and population growth which have also required some change in the management of land, customary ways of managing land should not be ignored, some customary ideas can be employed and be blended with modern ideas (Alidri, 2016).

The role of chiefs in post-colonial times has been challenged with the adoption of modern systems wanting to do away with customary systems, for instance, the adoption of land boards in Lesotho and Botswana as discussed above. Awinsong (2017) discusses that the rise of the educated class of Africans has opposed and condemned the position of chiefs giving chiefs a passive role in governance consequently reducing their powers. The use of democratic institutions such as local councils and national legislatures has aided the reduction of chiefs' powers. 'There is a general tendency by local and national governments to view systems of traditional leadership as 'competitors for political power' and not as usual partners but in different settings' (Kompi, 2018:8). The customary land laws which have been introduced in most African independent states do not depict customs.

The post-independence customary laws are guided by modern ideas and give no room to customary ideas and are presented by the government to chiefs to be used as they are. Despite this, chiefs and customary systems still persist and find their way in the modern era. The modernists have opposed the influence of chiefs due to their acts of serving colonialists at the

expense of the indigenous people knowing or unknowingly. Mahmood Mamdani in Awinsong (2017) argues that chiefs benefitted from new land tenure systems as they worked with colonialists for their own mutual economic benefits. However, modernists adopted the colonialists' laws and continue to use ideas from the western countries. Traditional laws and systems are said to be backward and undeveloped but provide some valuable means of managing resources which can also be applied in the present day. Kompi (2018) suggests that there is a need to empower traditional leaders and bring harmony between democratically elected leaders and traditional leaders.

South Africa

Like Uganda, South Africa's private land was protected over chiefly authority during apartheid (Awinsong, 2017). Kompi (2018) also comments that in South Africa the apartheid government took advanced policies and goals of the white minority to be of more importance than chiefs. Although they also benefitted economically in some cases, chiefs were used to advance the interests of colonialists (Awinsong, 2017). Initially, the chiefs were the ones who had more wealth than their people because they were in control of the land. But with new economic activities, some people became wealthier than chiefs making chiefs lose their prominence (ibid).

2.5.3 Development Committees

According to Mofuoa (2005), in many African countries' development committees were established during colonial rule. Development committees were established as part of devolving powers to ensure that decision making is brought close to the grassroots from the central government. Chiefs are either part of the Village Development Committees (VDCs) or VDCs report to chiefs. Thus, VDCs are the lowest level committee. Nevertheless, after gaining independence most countries in Africa abandoned local government institutions, especially the development committees (Mofoua, 2005). Such local government institutions were taken as a threat to the central government on local sources of revenue. Leaving out of development committee's endangered participation.

Although some local government institutions persisted, they lacked technical and managerial expertise as such the jobs they were assigned were not fulfilled and were not representative enough (ibid). for Botswana, with statutory land management systems, the problem is that there are no physical planners at the district level and thus it is difficult to guide or advise on

planning at the local level (Karlsson et al., 1993). In Botswana, Village Development Committees promote and coordinate development at the village level. However, problems with VDCs include limited capacity, poor leadership and inactive members. On the other hand, Zimbabwe did it in a different way, between 1980 and 1992 VDCs took over many roles and responsibilities of chiefs. In the case of Zimbabwe VDCs operated without chiefs unlike in Botswana and Lesotho as discussed by Maiden, Guzman and Bleck (2020) and Mosito (2014).

2.6 Conceptual framework

A conceptual framework is 'an alignment of key concepts of a study which helps to position it in the bigger research enterprise' (Henning, 2004:26). One of the purposes of the conceptual framework is to explain relationships among key factors; it helps to appropriately and logically connect all aspects of inquiry in the research. Based on the literature reviewed in this chapter, I developed the study's conceptual framework. Figure 2.1 presents the conceptual framework. The framework shows approaches to the land management of peri-urban areas and the possible outcomes. As earlier defined, land management is the process of putting land resources into good use which is concerned with sustainable management of land, natural resources and the built environment (Biitir and Nara, 2016). The peri-urban being an area of transition there exists both customary and modern institutions. As such both modern and customary land management systems are present. As noted in the literature, managing land in the peri-urban using one system either customary land management system or modern land management systems is not feasible as they can ignore other important aspects thus leading to unsustainable urbanisation. For instance, depending on customary institutions alone to guide land management may bring problems like suboptimal use of land as observed by Zhu and Guo (2014). Similarly, Alidri (2016) states that employing all modern ideas without regarding culture is a threat to sustainable development. Therefore, Different scholars such as Fang et al. (2006); Zhu and Guo (2014); Mosito (2014); Alidri (2016) suggest that the integration of customary and modern land management systems will ensure sustainable urbanisation.

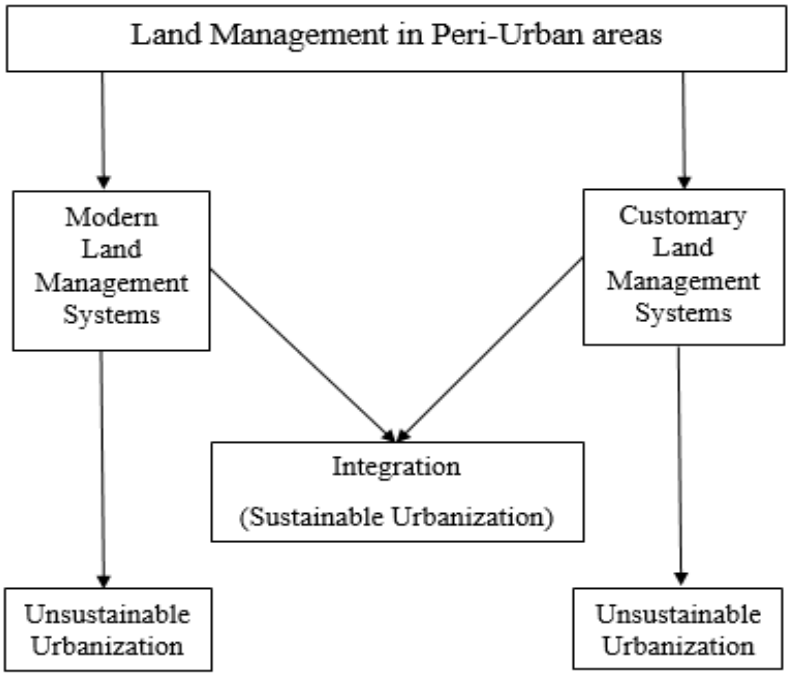


Figure 2.1: Research conceptual framework (Source: Author's own creation, 2021)

2.7 Conclusion

The struggles between customary and modern institutions in land management have a long history and persist until today and remain a challenge. This shows how complicated and overwhelming social systems are as noted by Benaim & Raftis (in Mensah, 2019. But looking at the examples from Lesotho, South Africa, Uganda, and Botswana, it is clear that both traditional leaders and planners play important roles in land management although in most cases there are conflicts between these institutions. As such, Zhu and Guo (2014) emphasize the need to balance 'rural autonomy and urban integrity' in order to ensure and maintain sustainable urbanisation.

Although they are ignored, chiefs remain crucial figures in land management (Mosito 2014; Biitir and Nara, 2016; Mwathunga and Donaldson, 2018; Maiden et al., 2020; De Boeck, 2020). Biitir and Nara (2016) note that traditional leaders have a crucial role to play in land management but are not aware of government policies, programmes and practices in relation to land.

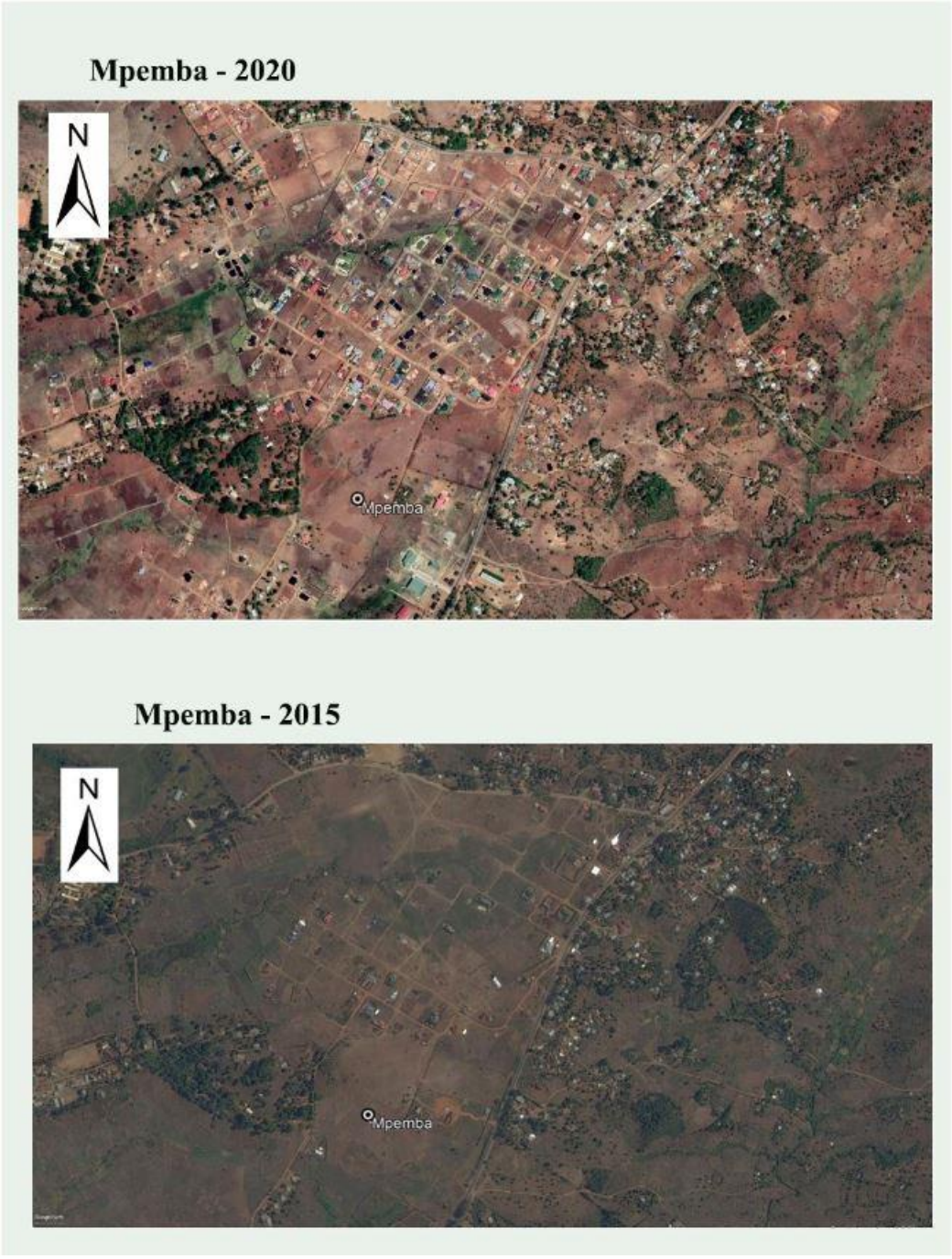
CHAPTER THREE

Land management in Malawi

3.1 Introduction

This chapter gives a background of local governance in Malawi, the responsibility of land management in Blantyre District Council (BDC), shows how Village Development Committees (VDCs) work and explains the state of peri-urbanisation in Malawi. It also describes the study area, stating its location and presenting a map comparing developments in Mpemba between 2015 and 2020. Finally, it serves to respond to sub-question 2 of the research: how do the National Land Policy and land-related legislation position customary leadership in the governance of land management? It discusses why the National Land Policy of 2002 was formulated, its propositions on the chiefs' role in land-use management and those regarding peri-urban areas and how the recent amended land-related legislation has considered customary land systems in relation to the National Land Policy of 2002.

Blantyre district is one of the districts in the southern region of Malawi located between longitudes 33 to 35 degrees east and latitudes 9.4 to 17.5 degrees south. Mpemba is located in the southwestern part of the district and lies on the periphery of Blantyre City. Figure 3.1 presents the study area map.



Source: Google Earth 2021

The area was previously dominated by farming activities due to its fertile soils and was characterised by sparsely populated traditional housing. Most of the land in this area is customary but when an individual or company buys land from local residents (those who have stayed on the land for many years (either since birth or it was given to them by chiefs in these areas or inherited it from their parents) it becomes private land. Individuals have been buying land from the local people for different purposes, residential use being the most

common use. Since 2013 the area has been experiencing a rapid increase in the purchase of land and construction activity, as well as population growth. The area has transformed from a predominantly rural area to a peri-urban area. Mpemba has therefore been chosen because it is one of the peri-urban areas of concern of the Blantyre District Council (BDC) due to the rapid growth of developments.

3.2 Land management in Malawi

The Ministry of Lands, Housing and Urban Development is a government agency responsible for land management in the country. Its mandate is to 'provide land services to the public in an efficient and effective manner in order to promote and encourage sustainable utilization and management of land and land-based resources' (Food and Agriculture Organisation, undated). Under this Ministry are the following departments; Department of Lands and Valuation, Department of Physical Planning, Department of Housing, and Department of Surveys. The Department of Housing deals with the provision of shelter and housing. Some of the roles of the Department of Lands and Valuation are processing and granting leases and title deeds and allocation of plots. The Department of Surveys is the sole land surveying and mapping agency in Malawi. It provides surveying and mapping services to the public and private sectors and gives guidance relating to spatial information generation and dissemination. The Department of Physical Planning deals with land-use planning and the enforcement of development control and standards. All these departments are involved in land matters. Most of these departments perform their duties at the headquarters in Lilongwe and regional offices (North: Mzuzu, Central: Lilongwe, South: Blantyre and Eastern: Zomba regions). At the local government level, the Directorate of Planning and Development, which falls under the District Assemblies is responsible for land development and management issues. Some of the legal instruments that govern land management in Malawi include the Land Survey Act of 2016, Land Act of 2016, Customary Land Act of 2016 and the Physical Planning Act of 2016.

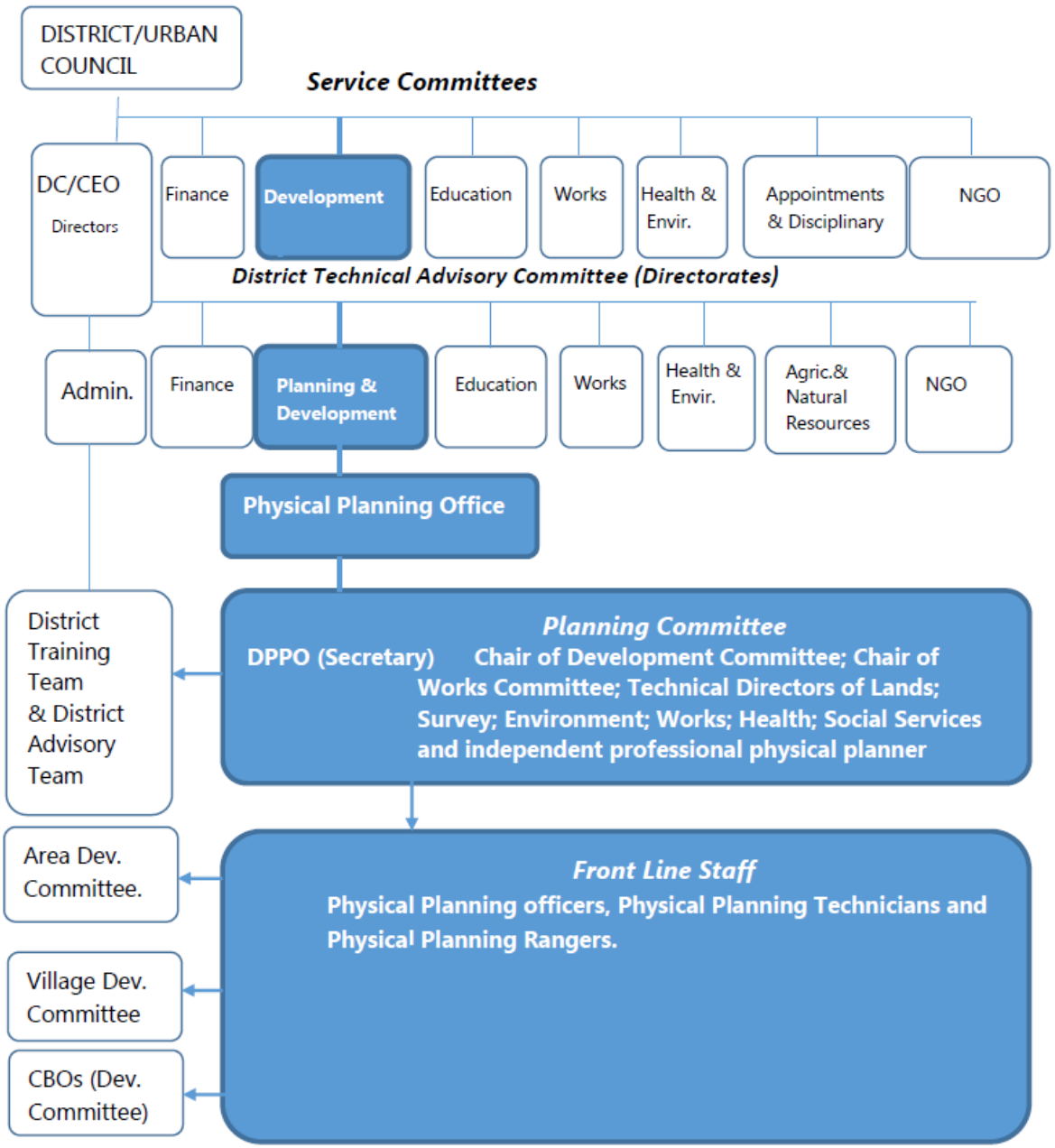
3.3 Local government in Malawi

The local government system is backed by section 146 of the Constitution of the Republic of Malawi (2010) and the Local Government Act of 1998. Malawi has a single tier of local government comprising four city councils, 28 district councils, two municipal councils and one town council. Blantyre is the commercial city of Malawi and the area is demarcated into city and district. Developments in the city are guided by Blantyre City Council whilst outside

the city boundaries development is guided by the Blantyre District Council. According to the Local Government Act of 1998, some of the functions of the District Council are to consolidate and promote local democratic institutions and democratic participation and to promote infrastructure and economic development through the formulation, approval and execution of district development plans. There are a number of administrative structures in the council and the structures are both formal and informal.

The District Council is made up of two parts, namely the political arm, the Council itself, and the administrative arm, the Council Secretariat. The Council and the Council Secretariat have to work hand in hand. The Council consists of elected councillors, Members of Parliament (MPs) within the district, paramount chiefs, senior chiefs, full Traditional Authorities (TAs) and five representatives of special interest groups such as women's groups, the youth, people with disabilities, people living with HIV and AIDS, and the elderly. The council secretariat is managed by permanent council employees (officials) and is headed by the District Commissioner (DC). The DC is the senior administrator in the district and is appointed by the central government.

The council secretariat is further divided into directorates which are led by directors who report to the DC. Directorates include; the Directorate of Administration; Directorate of Agriculture, Environmental Affairs and Natural Resources; Directorate of Planning and Development; Directorate of Education, Youth and Sports; Directorate of Finance; Directorate of Health and Social Services; Directorate of Public Works; Directorate of Commerce and Industry and Directorate of Engineering. The district council together with its service committees is linked with development committees at the local levels. These development committees include the Area Development Committee (ADC) and Village Development Committee (VDC). Figure 3.2 below shows an institutional set-up of the District Council and a proposed institutional framework for integration of Physical Planning at the district level.



Source: Ministry of Lands and Housing (2014)

3.3.1 Traditional authorities/chiefs in Malawi.

Traditional leaders range from family leaders to paramount chiefs but for this research, chiefs will be confined to village headmen, group village headmen, sub traditional authority, traditional authority (TA) and paramount chiefs. Figure 3.3 below shows a hierarchy of chiefs in Malawi

Hierarchy of chiefs in Malawi

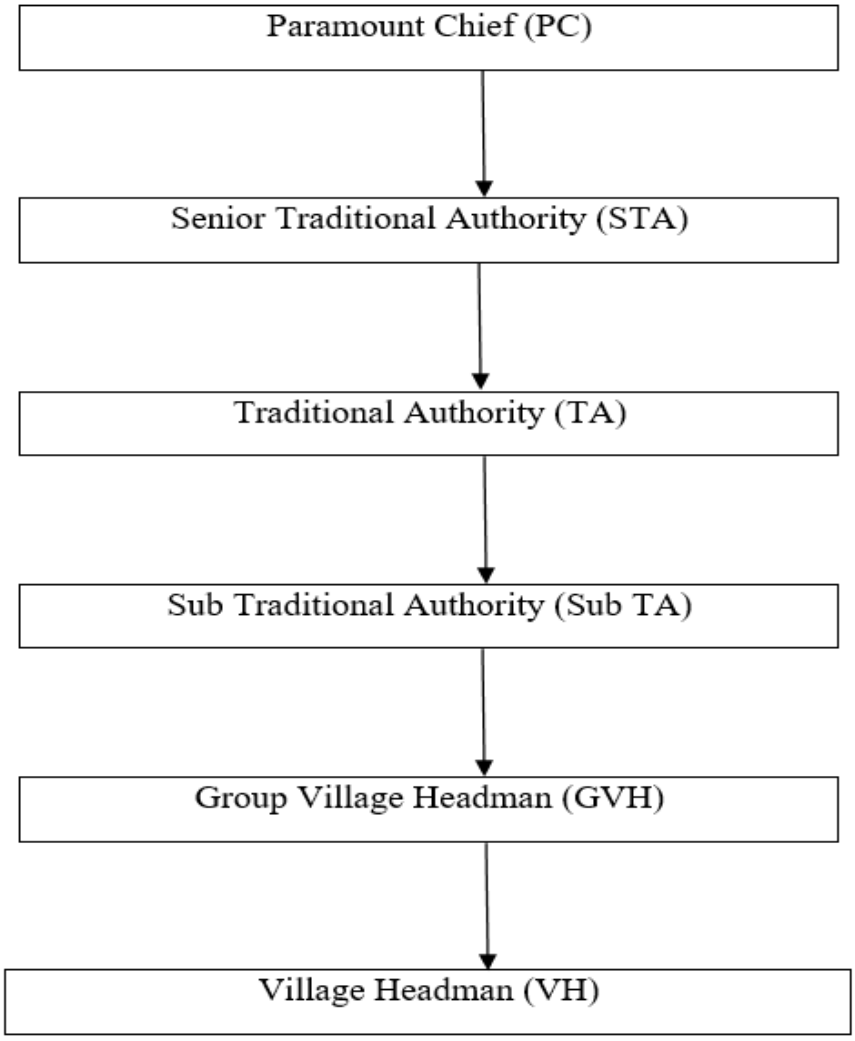


Figure 3.2

The paramount chief is the head of a tribe and covers several districts. For example, Paramount Chief Ngolongoliwa is the head of all Lomwes (one of the tribes in Malawi) in Malawi. Mostly Lomwes are found in the southern districts of Malawi namely Thyolo, Mulanje and Phalombe. From Senior Traditional Authority to Village Headmen these are found in one district, under one District Council. If we are to link chiefs and development committees, the TA is at the Area Development Committee and the Group Village Head is at the VDC level. The village headman is the lowest level of the hierarchy and heads a village. The Group Village Headman is in charge of a collection of villages. The sub-Traditional Authority is responsible for a number of group village headmen. The TA is in charge of sub-

TAs or group village headmen at other times and operates on a larger administrative scale. The senior Traditional Authority is responsible for a number of TAs. According to the Local government Act (1998) paramount chiefs, senior traditional authorities and TAs are ex-officio members of District Councils. In most cases, the hierarchy begins with TAs and District Councils mostly work with TAs. The hierarchy mostly begins from the level of TA because there are a few senior and paramount chiefs as shown in table 3.1 below.

North			Centre		South		Total	
	1998	2009	1998	2009	1998	2009	1998	2009
Paramount Chiefs	1	3	1	1	1	3	3	7
Senior Chiefs		3		11		14		28
Chiefs	30	31	56	74	74	68	160	173
Sub-Chiefs	12	13	27	25	10	23	49	61
Group Village Heads	583	887	1015	1544	750	855	2348	3286
Village Heads	2903	4058	8352	10991	7169	7675	18423	22724

Table 3.1 showing Traditional Authorities in Malawi in 1998 and 2009. Source: (Hussein and Muriaas, 2013).

TA refers to a particular position in the traditional hierarchy but is often used interchangeably with the word chief referring to all levels of chiefs in the hierarchy (Hussein and Muriaas, 2013). As experienced in South Africa, Botswana and Uganda, in the colonial era the British also made a deliberate move to crush the supremacy of chiefs' rule in Malawi in order to consolidate the British Empire (Chiweza, undated). In Malawi, chiefs were also paid to act as agents of the British government.

In the post-colonial era, chiefs' powers were also reduced. There was also a reduction of chiefs' powers in Malawi but soon after gaining independence the President saw political potential in chieftaincies and retained them (Hussein and Muriaas, 2013). The president preferred traditional courts over the British ones so the chiefs were mostly used in the courts. However, the president used chiefs for his political interests and that is why chiefs chaired VDCs as well (Hussein and Muriaas, 2013). To date chiefs, are usually used by politicians to gain electoral support and paramount chiefs, senior chiefs and Traditional Authorities are

appointed by the president. Politicians on the ground are the ones that recommend people to the president to be appointed in the chiefly positions. One of the major reasons there has been an increase of chiefs between 1998 and 2009 is attributed to politics. In the legal framework just after independence, the roles and functions of chiefs were insufficient and confusing (Hussein and Muriaas, 2013). According to The Chiefs Act of 1967, some of the chiefs' functions included, carrying out traditional functions under customary law, assisting in general administration, mobilising rural people for socio-economic development, and acting as a link between their subjects and central government through the District Commissioner (Hussein and Muriaas, 2013).

3.3.2 Land administration in Blantyre District Council

The Blantyre district covers 201,696 hectares of land. The form of land tenure in the district is categorized into public (54%) private (4%) and customary land (42%) (Blantyre District Council, 2017). Public land covers areas where there are government buildings. Private land or leasehold is the land formally leased from customary land. Land administration and land-use planning and management fall under the Directorate of Planning and Development which is led by the Director of Planning and Development (DPD). The allocation of customary land is controlled by traditional chiefs, group village headmen and village headmen subject to the overall direction of the District Commissioner

In planning and decision-making processes, the BDC recognises the importance of empowering people to plan for their own development. In line with the decentralization policy, the district has put in place structures to ensure coordination and participation of stakeholders and community members in planning, implementation, and monitoring of development activities (Government of Malawi, 2013). TAs are part of the formal structures and are responsible for development management through various development committees such as ADCs and VDCs. TAs are ex-officio members of the Council's committee and as such they are involved in the decisions that affect activities of the council.

3.3.3 Roles of VDCs in Malawi

A VDC is the lowest democratic institution at the local level which facilitates the participation of the grassroots in decision making. It is a committee which facilitates planning and development at the grassroots level (Msewa, 2005). It is made up of representatives from a village or a group of villages. The VDC is important in the planning system of the Council because it is a structure closest to the citizens. This committee is composed of one elected

member from each village covered by the VDC, a councillor of the ward in which the VDC is located, four women representatives, an extension worker and a group village headman as an advisor. Some of the functions of the committee include initiating community self-help projects, supervising, monitoring and evaluating the implementation of development activities in the village and reporting to the GVH on the discussions and activities of the committee.

VDCs have been present in Malawi since 1967, however, these were used to serve political interests and chiefs were the chairmen of these committees (Hussein and Muriaas, 2013). Currently, there are 137 VDCs in Blantyre which were reconstituted in 2014 and they play a crucial role in the social and economic development of the district. These development committees were established to devolve powers from the central government. 'Decentralisation allows each local authority to examine the priority needs of their area and come up with programmes or projects to deal with such issues,' (Government of Malawi, 2013:13). VDCs are involved in different projects in their areas and these projects can be from different sectors such as health, education, agriculture, roads, and forestry. VDCs are responsible for project identification, implementation, monitoring, and supervision (Blantyre District Council, 2017). VDCs identify and prioritise community needs and prepare project proposals, communicate with Area Development Committees and District Executive Committees on community-based issues, supervise monitor and evaluate the implementation of development activities in the village, mobilise resources from the community for self-help projects, and report to their Group Village Headman on discussions and activities of the committee (Government of Malawi, 2013).

In their study Maiden et al. (2020) explain the importance of VDCs, how they work and how people in the customary areas value them. VDC members are elected to serve for three years. Chiefs are unelected representatives in the committees and cannot chair them. Village members rate VDCs highly (Maiden et al., 2020) and they have been found to coordinate well with local actors, including chiefs, Non-Governmental Organisations and their fellow community members. VDCs and chiefs have been rated more highly by village members than elected members (councillors and members of parliament). Community members regard chiefs and VDCs more highly than elected members. Community members trust local governance structures (chiefs and councillors) more than those of central government (Maiden et al., 2020). 'VDC members and chiefs alike refer to the VDCs as the eyes of the

chief, the bridge between the chief and the people and the key implementers of development,' (Maiden et al., 2020:11).

3.4 Peri-urbanisation in Malawi

Rapid urbanisation comes with a high demand for land for housing, industrial activities, commercial activities and others. In the city when one wants to build the city council demands development charges such as ground rents, city rents and scrutiny fees which are high and when people calculate such charges, they are equal to the amount of constructing a house (Manda, 2013). As a result, new migrants especially those of the middle to high class have been forced to seek land in the peri-urban areas, especially along major roads radiating from the city (ibid). Land in peri-urban areas is more affordable and there are fewer charges compared to that in the city. Many people who move to the peri-urban areas are of the middle- and high-income groups because they can afford the daily commuting cost to and from town. Most of the people in the low-income group remain in the inner city, often informally housed where rents are lower and they can access work and other economic opportunities easily.

Blantyre District Council (2017) acknowledges that most areas in the district are not developing in an orderly manner especially peri-urban areas and informal settlements within the city. Some of these activities include non-observance of road and river reserves, poor waste disposal, closure of existing footpaths without providing alternatives and vending along main roads. Un-orderly development is being attributed to unco-ordinated relationship between the council (in particular the planning department) and developers (local people including their representative organisations) and lack of local physical development plans (Blantyre District Council, 2017).

The National Land Policy states that as small towns and service centres transform themselves from rural to urban centres, local authorities should respond by extending their statutory boundaries and services into surrounding areas (Government of Malawi, 2002). However, instead of managing these areas by working hand in hand with the current peri-urban areas managers (chiefs and the district council), city authorities (city council) have reacted by extending the city boundaries outward in order to capture developers in the peri-urban areas 'even when most of the land remains undeveloped within the gazetted city boundaries' (Manda, 2013:25). Manda (2013) states that nearly all urban councils have proposed to extend their boundaries.

According to Dupont (2007), management problems in peri-urban areas occur when these areas are beyond administrative boundaries. Most peri-urban areas in Blantyre fall within the jurisdiction of the Blantyre District Council which has a directorate of planning and development which is responsible for the planning and management of land. The directorate is responsible for the orderly development of such areas and other areas within the district. However, developments are happening in a disorderly manner in the area, which shows that development is not being effectively regulated.

3.5 Land management-related legislation in Malawi (policies, acts, and guidelines)

3.5.1 Land reform in Malawi

Previous land policies had some shortfalls one of them being that 'prevailing attitudes encouraged degradation and a rejection of traditional land resource management ethos in many rural communities,' (Government of Malawi 2002:5). With these challenges, land reform was proposed. In 1996, a presidential commission on land reform was formulated and took up the land reform proposal. With recommendations from this commission, a National Land Policy was drafted and adopted in 2002 (Matope, 2013). The National Land Policy sets out 'principles and guidelines which will give substance to Malawi's quest for a comprehensive land law with immense economic and social significance,' (Government of Malawi 2002:1). It also 'presents a coherent socio-economic framework for promoting environmentally sustainable management of Malawi's land resources for development,' (Government of Malawi 2002:5). However, since its enactment in 2002, the National Land Policy was not functional because some of the existing land-related legislations were outdated and needed revision to incorporate issues of the National Land policy. Therefore, in 2005 a special law commission on land matters was established to examine all land-related laws (National Planning Commission, 2021). In 2010 the commission recommended that 12 land-related laws are revised and between 2010 and 2013 bills were drafted (ibid).

Implementation of the land reforms made in the National Land Policy depends on the amendment and enactment of land-related laws (Jere, 2012). Finally, in 2016, parliament passed and enacted the amended land-related legislation, which includes the Physical Planning Act replacing the Town and Country Planning Act of 1988, the Land Act replacing the Registered Land Act of 1987 and the Customary Land Act replacing the Customary Land Development Act of 1967. Therefore, the passing of these laws necessitated the implementation of reforms posed in the National Land Policy.

Proposals made by the National Land Policy regarding peri-urban land and the roles of chiefs include the extension of land-use planning to all rural and urban areas (Government of Malawi 2002). Previously it was done in cities and a few selected areas. Local planning authorities and community agencies (that may include VDCs and those formulated in the NLP such as the Customary Land Committees) were required to develop management tools to guide rural and urban land-use and development decisions (Government of Malawi 2002). They empower the communities and chiefs to be involved in development control and land-use management which was previously not the case. In addition, it encourages the relationship between the Department of Physical Planning and chiefs together with local agencies to work hand in hand. The NLP also proposes the preparation of planning schemes for trading centres and settlements by District Assemblies/Councils which will contain simple land-use development proposals to guide the orderly development of settlements (Government of Malawi 2002).

3.5.2 Land Act and NLP

The NLP proposes the extension of land-use planning to rural areas and the empowerment of communities and chiefs to be involved in development control and land-use management which was previously not the case. In the Registered Land Act of Malawi (1987), traditional leaders were denied the authority to act independently in matters relating to customary land. Decisions concerning traditional land management were therefore subject to the direction of the minister (Government of Malawi, 1987). Despite the new Land Act not discussing anything about chiefs, it clarifies the different types of land and their implications. Issues on the involvement of chiefs in land management have been discussed in the Customary Land Act. The Land Act explains that there are two types of land, private and public land. According to the Land Act, public land is either government land or unallocated customary land (Government of Malawi, 2016b). Government land is 'land acquired and privately owned by government… dedicated to a specific national or public use,' (Physical Planning Department, 2011:35). Unallocated customary land is land-used for the benefit of a community as a whole (Physical Planning Department, 2011). Private land is either freehold, leasehold or customary estate (Government of Malawi, 2016b). Freehold is an estate in land inherited or inherited for life. The customary estate is also known as allocated customary land and is the 'land allocated exclusively to a clearly defined community or other groups of people as private land holding' (Physical Planning Department, 2011:36). Therefore, the customary land committees are responsible for managing both the customary estates and

unallocated customary land. However, the government through the Minister or local government can come in at any point to either acquire the land for public use or be in control where the committees are failing. Once one has bought land in the customary area and is leased it becomes private land. Therefore, section 24 (2) of the Land Act states that where the lessee wants to develop, they have to obtain development permission from the planning committee in the area (Government of Malawi, 2016b).

3.5.3 Physical Planning Act (PPA) and NLP

On issues concerning planning and development control, the NLP proposes that land-use planning should be extended to all areas (all rural and urban areas) and local planning authorities and community agencies to develop management tools to guide rural and urban land-use and development decisions (Government of Malawi, 2002). In addition, the NLP also proposes the preparation of planning schemes for trading centres and settlements by District Assemblies/Councils. Planning schemes will contain simple land-use development proposals to guide the orderly development of settlements (Government of Malawi, ibid). Firstly, extending land-use planning to all areas means the whole country will be a planning area however, the PPA does not come out clearly on the whole country becoming a planning area.

Secondly, the involvement of local planning authorities and community agencies in land-use and development decisions. Section 20(b) of the PPA presents the composition of the District Planning Committee. The members include a district lands officer, district engineer, district surveyor, district agricultural officer, district educational officer, district public health officer, district environmental officer, a member of the district development committee, a member of the district works committee and a registered planner. However, chiefs are not part of the planning committee formed at the district level.

Thirdly, the PPA in section 43 recognises the customary land committee in customary areas to authorize the use and occupation of any customary land within the area (Government of Malawi, 2016c). However, it does not discuss the management of these areas. Only the authorization and allocation part which has always been there in the previous laws is mentioned. Chinsinga (2015) argues that the Local Government Act (1998) does not provide a detailed institutional framework for development activities.

Lastly, an interesting part of the PPA is part VI of the Act which discusses special areas. More focus is on section 66 which explains an 'accelerated development area order' which can be related to peri-urban areas. An accelerated development order 'may be made in respect of any area of land designated for the purpose of effecting rapid physical development or which in the opinion of the Minister is undergoing or likely to undergo rapid physical development' (Government of Malawi, 2016c:35). This order assists in the planned development of an area and applies to both urban and rural areas. Upon serving an order that an area is an accelerated development area, the responsible authority has to make known this throughout the area in which the order relates.

In connection to the accelerated development order, the minister may require the responsible authority to plan for the area, ensure a coordinated approach to development approach to development within the area, and take other actions as will in his opinion facilitate the planned and orderly development of the area (Government of Malawi, 2016c). In addition, the minister may specify developments or classes of development which will and will not require development permission (ibid). Such an order can be made to peri-urban areas, especially those lying on the edges of major cities since such areas are experiencing rapid growth. The conditions of the order are flexible and can incorporate community members, their chiefs and committees which are readily available. Although the order was there in the previous Town and Country Planning Act of 1987 and has been implemented in the PPA, it has not been applied to any peri-urban areas.

3.5.4 Customary Land Act and NLP

The NLP proposes the establishment of customary land committees to manage customary land as indicated in the Land Act. According to the NLP, Customary Land Committees include Village Land Committee, Group Village Land Committee and Traditional Land Committee**.** According to the NLP (Government of Malawi 2002), some of the principal functions of the chiefs are the allocation of land for settlement, cultivation, grazing, and cultural, historical, and public uses, enforcement of national and community land management policies and providing advice to the government on traditional affairs. The land-use management functions of chiefs include serving as agents of the government for enforcing conservation and environmental regulations throughout the Traditional Land Management Area (the geographic area of land held by a community and administered by a Traditional Authority on behalf of the communal group').

Chiweza (2019) observes that there are many conflicting issues within the framework. Section 5 of the Customary Land Act (Government of Malawi, 2016) stipulates that a customary land committee should be established. The overall responsibility of this committee is to manage all customary land in a Traditional Land Management Area (ibid). There are already existing structures at the same village level called VDCs which are responsible for project identification, implementation, monitoring and supervision (Blantyre District Council, 2017). VDCs are involved in different projects in their areas. In their study Maiden et al. (2020) find out that village members rate VDCs highly and coordinate well with local actors, including chiefs, Non-Governmental Organisations, and their fellow community members. At one point the NLP states that the District Planning Office has to work with Area Development Committees (ADCs) at the Traditional Authority level and village assemblies to ensure rural land-use planning (Government of Malawi, 2002). Nevertheless, the NLP has not clarified how ADCs, VDCs and customary land committees will relate to each other. The NLP and the land-related Acts focus on Customary Land Committees. VDCs have been in existence for long and customary land committees are just being established and chiefs are part of both committees. Therefore, to avoid confusion and conflicts of duties there is a need for clarification on the distinction and relationship between VDCs and customary land committees.

3.5.5 Implementation of NLP through land-related legislation

Implementation of the NLP through the newly enacted land-related legislation such as the Physical Planning Act, Customary Land Act and Land Act is in the pilot phase. The first pilot phase has been done in Phalombe, Kasungu and Rumphi (Harris and Chilonga, 2020). There was no peri-urban area which was targeted in the first phase; however, the second phase has Rumphi peri-urban area which had not yet started at the writing of paper by Harris and Chilonga. One of the lessons which were learnt in the first pilot phase about chiefs is that the relationship between chiefs and families in the village is a strong one (Harris and Chilonga, 2020). Thus, public awareness activities are always done through and with the blessing of the chiefs (ibid). One of the arguments against modern institutions is that they fail to penetrate rural areas and the state uses chiefs' influence over community activities such as managing land tenure, communicating policy issues and mobilising votes for contesting politicians (Hussein and Muriaas, 2013). This is what has been experienced in the pilot phase of implementing the NLP.

3.6 Planning roles and responsibilities

In Malawi, land-use planning and the enforcement of development control and standards are the responsibility of the Department of Physical Planning, which is a national department with its headquarters in the capital city of Malawi, Lilongwe. The headquarters has regional offices operating in the north, central, south and eastern regions of the country. Development control, planning and infrastructure in Malawi are backed by the existing legal framework including all land-related Acts, policies, manuals and guidelines. With conflicting legislation, multiple areas of jurisdiction, and ambiguous role definitions between planners and chiefs, the role of chiefs in land management and their relationship with municipal planners is not clear in Blantyre, Malawi.

According to the Local Physical Planning Manual (Ministry of Lands and Housing, 2014), local physical development plans are 'essentially urban and rural land-use plans which form the basis for development control'. In most cases, local physical development plans are prepared for land that falls within planning areas. However, due to the growing population and un-orderly developments in some areas, the BDC has decided to start formulating local physical development plans for unplanned areas especially peri-urban areas to guide development (Blantyre District Council, 2017).

There are conflicting issues between planners at the district council and chiefs when it comes to extending land-use planning controls to areas under customary tenure. When planners extend their services to peri-urban areas they tend to ignore the chiefs. As a result, the chiefs feel that planners have interfered in their duties and responsibilities and argue that they hold the authority to allocate the use of rural and peri-urban land. In their study, Mwathunga and Donaldson (2018) found out that tensions between planners and chiefs increase when city boundaries are extended (when rural spaces are reclassified into urban spaces).

According to Bikam and Chakwiriza (2014) traditional leaders only participate but do not make decisions on issues of land-use planning in their areas of jurisdiction. Mwathunga and Donaldson (2018) add that the problem is that chiefs are not involved in the reclassification process because chiefs are not recognised in the city. Nevertheless, at the time of reclassification, the chiefs in the peri-urban have not yet become city chiefs. When disregarded, chiefs perceive their efforts in shaping the rural spaces are not recognised (ibid). With legislation, planners feel that they are more powerful and can go into any land including customary land sometimes without consulting the chiefs or against their permission. Chiefs

are powerful in their area of jurisdiction and want any development of their area to go through them first. According to Malawi Habitat III Report (Malawi Government, 2015), the Chiefs want to be part of all discussions concerning the development of their land and their decisions should be heeded because it is the chiefs who are given the power to allocate and guide development in these areas. Therefore, most conflicts between planners and chiefs are power conflicts.

Kompi (2018) states that there is a need to bring harmony between democratically elected leaders and traditional leaders. One of the proposals of the National Land Policy (2002) is to devolve land management to the grassroots level using committees found at this level, it sought to resolve the conflict between planning authorities and chiefs in land allocation matters.

3.7 Conclusion

This chapter has looked at how the National Land Policy and land-related legislation position customary leadership in the governance of land management. The NLP proposes the extension of land-use planning to rural areas and the empowerment of communities and chiefs to be involved in development control and land-use management. However, in the Physical Planning Act chiefs are not part of the planning committee formed at the district level. In addition, the Physical planning Act only recognise chiefs duties to authorise and allocate land which has always been there in the previous laws but their duty in land management has not been clarified. The NLP also proposes the establishment of customary land committees to manage customary land as indicated in the Land Act. However, these committees have not been related to existing structures such as the VDCs. Such can lead to duplication and confusion. Devolvement of land management to the grassroots is one of the goals of the NLP, nevertheless, if the legislation does not clarify these the goal will not be attained.

The next chapter addresses how modern and customary land management systems interact with each other. How these systems interact on day-to-day basis will reflect the extent NLP and land-related legislation is being implemented and may possibly point out areas that need adjustment.

CHAPTER FOUR

'I do things the way I know them'

4.1 Introduction

This chapter responds to sub-question three: how do modern and customary land management systems interact with one another in the Blantyre District? It presents an assessment of the findings from semi-structured interviews and thereafter gives an analysis in relation to the literature review. In the course of this research, eleven interviews were conducted; three officials (one Land Officer from BDC, Regional Commissioner for Physical Planning and a Physical Planning Officer from the Department of Physical Planning (south), two academic researchers and three chiefs. Interview guides were used for officials, chiefs and academic researchers and these have been presented in annexures 1, 2 and 3. For ethical reasons, the names of participants have not been used to protect their identity. In the proceeding sections, academic researchers have been referred to as researchers.

4.2 Growth in peri-urban areas

Chief A acknowledges that peri-urban areas are growing. She stated, 'people are happy to be selling their land which is somehow out of my control but the growth and the change that is happening means development. I am happy with this because my area is looking differently,'. Researchers 1 and 2 also agree with each other that peri-urban areas are a response to the housing pressure in urban areas. 'Peri-urban areas are active in terms of providing human settlements and housing'. 'Land in the city is also expensive and it is difficult to access land using the formal systems of land acquisition, making people rush in the peri-urban areas for land for development.' 'In fact, peri-urban areas are potential areas for urban growth, and if you notice there is a lot of development that is happening in the peri-urban areas now because the cities are congested'. 'Therefore, there is a need to guide development in these areas to make sure that social services and utilities are well planned for.' Similarly, researcher 1 stated that 'as the cities are expanding, they take up part of the peri-urban areas and this should have been the more reason why the Departments of Lands and Physical Planning should be able to plan developments in the peri-urban area knowing that that's where development is currently taking place.'

As pointed out by Bajracharya and Hastings (2018), it is a challenge to limit the outward expansion of urban areas in developing countries, and this is the situation in Blantyre. The evidence given by the respondents shows that Blantyre city is growing outward with an increase in developmental activities happening in the peri-urban areas. Therefore, this calls for a need to manage and direct growth in peri-urban areas as suggested by Geneletti et al. (2017) and Chiweza (2019).

On the other hand, Nilsson et al. (2014) argue against the growth of cities outward. The scholars advocate for the protection of the peri-urban areas as they contain agriculture and green spaces (ibid). Loss of green belt and areas for traditional agricultural production are slowly diminishing is being experienced in the peri-urban areas. Nilsson et al (2014) suggest that instead of transforming peri-urban areas, they should be protected. There should also be an improvement of transportation routes between urban, peri-urban and rural areas for easy commuting. The suggestion by Nilsson et al (2014) raise the concerns about how far the city will be extended in the coming years. This calls for a further study on the containment of city growth in relation to environmental sustainability of peri-urban areas and the city.

4.3 Overlapping authorities in peri-urban areas

All interviewees show that there is an overlap of authorities in the urban periphery leading to ambiguity and lack of coordination. The responsible authorities include individual landowners, chiefs, BDC, Department of Lands and Department of Physical Planning (DPP). ‘And then there is this peri-urban where different operators overlap and overlapping of authority is also reflected in the way land is managed in these areas’, researcher 1. The Lands officer stated that ‘issues to do with land-use management mostly are done by the Department of Physical Planning.’ However, the Lands Officer also revealed that the BDC deals with issues concerning lease application: ‘check the suitability of the land, the land-use that they're proposing in their lease applications, not especially all the issues that may be considered as the land-use planning or land-use management.’ The Regional Commissioner for Physical Planning stated that BDC is responsible for land-use management issues in the peri-urban area. Researcher 1 stated ‘beyond the city boundary most of the interaction is between the chiefs and lands ministry, district council and sometimes the physical planning department but largely, they interact with the Department of Lands’.

Another instance of overlapping is shown when Chief C stated that there is a clinic in his area which is owned and managed by the city and that the clinic area has been encroached

upon. Chief C admitted that the clinic area has been encroached on because it is not under the supervision of the chief. However, other public spaces such as schools or cemeteries cannot be encroached upon because they are secured by him. This shows that the city and the chief work in isolation. If the chief was given the authority by the city to take care of the clinic, then the clinic land would not be encroached upon. As noted in Chapter 3, there are several land authorities in the peri-urban because there are different types of land in the peri-urban including private land, public land and customary land. However, there is uneven coordination between these authorities thus making management of land in the peri-urban difficult. Researcher 2 stated that no one is in control of peri-urban land management. Similarly, researcher 1 observes that 'there is a kind of vacuum in terms of who is managing this space so it's like it's a no man's land'

The Regional Commissioner and the Physical Planning Officer stated that there is little or no control of development in peri-urban areas by the planners. The Physical Planning Officer attributes the lack of management to the land being customary. 'Because the land is still under the control of chiefs who in most cases disregard the plans, enforcement of plans by planners is made difficult since the land is under customary tenure system'. The Regional Commissioner for Physical Planning stated that the reason why there is no development control in the peri-urban areas is 'because the old laws provided for advisory planning which could not be enforced'. However, 'new laws will hopefully address this problem because they now subject the whole country to statutory planning which can be enforced in the peri urban'.

The Physical Planning Officer observed that the 'customary tenure system has been said to be a hindrance to the enforcement of plans by planners. Chiefs do not want to comply with the plans.' Although planners state that chiefs are their co-workers in development control, the above statement made by Physical Planning Officer shows that there is a gulf between the planners and chiefs. The Physical Planning Officer explains that there is a problem in peri-urban areas because most peri-urban areas do not have land-use plans to guide development and Mpemba is one of them. According to the Lands Officer, there are only a few land parcels in Mpemba which belong to BDC which are planned.

The peri-urban area is 'taken as a vacuum' because there is a poor relationship between the Department of Lands, the Directorate of Planning and Developments office at the district

council, the Department of Physical Planning and the chiefs who are all responsible authorities for land management in the peri-urban areas.

4.4 Roles of chiefs in land management

The Physical Planning Officer stated that before the National Land Policy, the role of chiefs was to work with councils and planners to ensure that there was compliance with plans. The Lands Officer stated that it is the Department of Land's duty to inspect development on private land to ensure compliance with the land use proposed in the lease, and chiefs only witness the transfer of ownership. According to the Lands Officer, chiefs resolve land conflicts at the village level including private landowners, and they are witnesses and signatories of customary consultation forms. The customary consultation form is one of the forms which needs to be signed when leasing land and the chief signs to confirm ownership which is signed when individuals are selling land to each other in the chief's area of jurisdiction. Apart from being witnesses and signatories, Chiefs A and B stated that they advise their people on land issues. Chief B stated 'I advise my people not to sell land anyhow and to secure their land through leasing it. If they are selling, I advise them to use the money to buy another piece of land.' Chief A stated 'If one of my people are selling land, I make sure that they sell it for a valid reason and when selling, I advise them to keep land for farming'.

With the absence of direction and guidance from the Department of Lands, Blantyre District Council and Department of Lands, chiefs take up the role of managing land. Researcher 2 stated that 'generally chiefs in customary areas only know about traditional land management guidelines and there is confusion when it comes to formal land management laws and regulations because it is not explained better to the chiefs. Chief B stated 'I do things the way I know them'. Chief C added that, when authorities such as the 'BDC, Physical Planning or Lands comes to intervene in issues of land within the chief's area of jurisdiction, there are fights between the chiefs and the other authorities.

In addition to being witnesses, chiefs ensure that access roads are provided which is part of land management. Chief C stated 'when people are buying and selling a piece of land, I make sure that access roads are provided. However, the roads are not standard'. The Public Roads Act classifies and provides standards for all roads both in the urban and rural areas. According to this Act, internal access roads for building plots, farms and other purposes are called estate roads. With consultation with the Minister of Physical Planning, the Minister

responsible for Transport ‘make regulations for the designation, provision, planning, designing, construction, care and maintenance of estate roads in any area which is in course of development other than a Planning Area’, (Government of Malawi, 2017). The cost of construction, care, and maintenance of estate roads is borne by owners and occupiers of the land in the area (ibid). Therefore, Chief C entails that the roads he provides are not up to the standard of estate roads as provided by the Public Roads Act.

On the other hand, Researcher 1 believes that ‘the chiefs are not very serious about managing land because of low levels of awareness of land legislation and regulations and do not put their full effort because they know that sooner or later the city will come and grab their land’. Researchers 1 and 2 agree that one of the problems being faced in peri-urban is that chiefs are not involved in the extension of the urban boundaries. ‘These decisions are mostly imposed on chiefs. Local government does not know how to approach chiefs when it comes land claiming from chiefs, they do not want to understand the position of chiefs and sometimes want to ignore their presence and authority.’ ‘With already misunderstandings of formal laws by chiefs, they seem to challenge the systems because they feel left out.’ Chief B stated ‘Rural land is both the governments and chiefs’ and the government is the one that comes to take up land and demarcate plots. But they have never come to consult us or ask our views and suggestions on such issues so that we could see how to help those who have not leased their land’.

Concurring with researchers 1 and 2, Chief B affirms that the expansion of the city outward is a threat to the people and the chiefs as well ‘how the people are building shows the city is coming in so you can lose your land’. Chief B said he had been advised by a lawyer to be careful: ‘she told us that if you want to secure your land, lease it or just sell it because people will come to grab the land’. As a result, he leased his land so that when the city is coming my land is secure and that is why you see many people selling land so that they find the money and not lose everything’, (Chief B). Chief B further stated that those that cannot lease rather sell their land. Others are willing to lease their land, but Chief B complained that the lease process delays: ‘For instance, one of the people here started the process of leasing but later when we went to check progress, we were told that the officer who had started the process had passed away. That was in 2017 and we have not seen any progress up to date. This is not the only one, there are several of them who are facing this delay’, Chief B. Once land is taken away, chiefs no longer have authority over that land in terms of use and management. As a

result, it makes it difficult for chiefs to guide development in their area. They sometimes use the land to their benefit as they get paid by the buyer and seller as a witness in land transactions when customary land in their area of jurisdiction is being sold. While chiefs don't directly guide development, their willingness to process these transactions means that indirectly they are changing the spatial form of peri-urban areas.

The partial commitment of chiefs in managing development in peri-urban areas firstly can be due to a lack of awareness of land laws and regulations. As a result, as highlighted by Chief B they do things as they know them. The fear of losing authority and land also contributes to the partial commitment of chiefs to the land management of peri-urban areas. According to Kompi (2018), traditional leaders are regarded as competitors and not partners. For instance, the introduction of land boards in different countries such as Lesotho and Botswana was a threat as it undermined their authority (Mosito, 2014; Sharma, 2005). For Botswana, indeed land boards took away all the authority until chiefs complained and were reconsidered (Sharma, 2005). Similarly, Mwathunga and Donaldson (2018) highlight that, planners ignore chiefs when extending land-use planning controls to customary areas. As such, chiefs feel planners have trespassed and take planners as a threat. Trespassing without consultation and involvement contributes to non-compliance to plans by chiefs as raised by the Physical Planning Officer. In general, chiefs' authority on land continues to be threatened thus partially committing themselves to land management in peri-urban areas.

Bikam and Chakwiriza (2014) note that chiefs only participate but do not make decisions on issues of land-use planning in their areas of jurisdiction. But according to Malawi Government (2015), chiefs want to be part of discussions and decisions on developments taking place in their area of jurisdiction. If not involved, chiefs feel their efforts in shaping the rural spaces are not recognised (Mwathunga and Donaldson, 2018). This raises the need to consult and involve chiefs. The involvement of chiefs may help to ensure ownership of development activities and compliance with plans. About development problems being faced in peri-urban areas, GVH Chief B stated: 'I wish we could be engaged as MPs do. Most of the time I interact with the MP, when I need anything or have any development problems like water problems, I go to him. The MP also involves me in different things. ... At one point the previous MP took us to parliament to listen to the deliberations of the house.'

4.5 Chiefs' knowledge of land legislation and regulations

Although land-related legislation was enacted between 2016 and 2017 following the National Land Policy of 2002, which saw more involvement of chiefs in land management, all interviewees acknowledged that these laws are still in their pilot phase and have not yet been implemented fully. 'The pilot phase and sensitization of the new laws are being done by the central government (Ministry of Lands, Housing and Urban Development) and a non-governmental organisation called Landnet' (Lands Officer). The Lands Officer does not know the extent to which chiefs are aware of legislation and related policies. He suggested that those conducting the pilot phase are in a better position to know if the chiefs are aware of the new legislation. The Regional Commissioner for Physical Planning stated that 'it is only chiefs whose areas are in the pilot phase are aware of the new laws'. Areas around the study area of this research are yet to be involved in the pilot phase. Commenting on knowledge of regulations Chief B stated 'on taking up of land and selling of land we do not know what the regulations say. If we knew them, we would follow that.'

The Lands Officer referred to new legislation when he was responding to the question of chiefs being aware of the legislation. Further, researcher 1 stated that the level of knowledge varies between urban to rural chiefs: 'most of the urban chiefs are well informed and they know some of the procedures for land-use management. Only that the laws conflict with their status as chiefs so they decide to ignore it'. He stated that there are very low levels of awareness for chiefs in the rural areas. Nevertheless, for chiefs in the peri-urban areas, researcher 1 acknowledges partial awareness of land-use management legislation. 'If you go as far as in Mpemba, we find that these people are aware because they interact with Lands or Physical Planning authorities daily. Most of the chiefs also interact with state instruments. In my view, they are aware of some of these are regulations'. In confirmation of researcher 1's opinion, Chief A and Chief B state that they partially know about the new laws. However, Chief C stated that he only knows about the old laws but was not able to clarify. Chief B went on to state that, 'mostly I have heard about the new land laws through the radio. ... The TAs have briefed us on them but not in details. The problem is we are not involved in the consultation; it is the TAs who are consulted and briefed and the TAs share the information with us. However, they do not give the information in detail.' Chief A also states that they have heard information from the TAs since TAs are the ones that attend such meetings and relay the information to those below them. The TAs are ex-officio members of the council committee and they are the ones that are involved in the decisions that affect the activities of

the council (Government of Malawi, 2013). The statements made by chiefs suggest there is a problem with the flow of information between TAs and their subordinates (Sub-TAs, GVHs and village headmen).

Interaction of chiefs with the Departments of Lands and Physical Planning on daily basis does not mean knowledge of land laws and regulations or sharing information on land laws. As highlighted by Lands Officer these interactions mostly are on land allocation matters and addressing conflicts to do with land allocation and encroachment not necessarily issues to do with land management in their areas. As acknowledged by the Lands Officer, the chiefs lack of knowledge of the law is due to the partial implementation of the laws where it is in their pilot phase. Only chiefs who belong to areas in which the pilot phase has been conducted can ably explain the law in detail and their duties. Therefore, the assertion by chiefs in Mpemba that they know the laws in passing is because pilot studies have not been done in their area yet. Language and low literacy levels of TAs can be some of the factors that affect the dissemination of information on land laws and regulations as they can only pass the information they have understood to their subordinates.

On a different note, Chiefs' partial knowledge of the law may also be attributed to wilful (deliberate) ignorance. Presumably, the chiefs could find out about the new law and regulations but have not done so because they are likely to undermine their authority in the area and the financial benefits, they are receiving from land transactions. Although lack and partial knowledge of land-related laws by chiefs have been attributed to the fact that these laws are in the pilot study. Biitir and Nara (2016) argue that most traditional leaders are not aware of government policies, programmes and practices concerning land. Researcher 2 concurs with Biitir and Nara (2016) that formal land laws and regulations are not well explained to chiefs. Thus, there is a need for modern institutions such as the BDC, Department of Lands and Department of Physical Planning, in coordination, to inform the chiefs. In the same way, the issue concerning the language barrier raised by Chief B can be addressed by simplifying and writing the legislation and regulations in vernacular so that chiefs have these at hand and can easily consult the documents where need be.

4.6 VDCs involvement in land management

According to the Lands Officer, VDCs operate in peri-urban areas but they are not involved in land management: instead, they mainly deal with 'development projects like construction of schools, clinics, but they have not yet taken that path of land-use management.' Chief A

concurred there are VDCs in her area but they do not deal with land issues. Confusingly, researcher 1 and the Regional Commissioner for Physical Planning stated that there are no VDCs in the peri-urban areas. But there is ‘some resemblance of VDCs in terms of committees that are formed in these peri-urban areas to manage other issues. It may not be land, it will be other issues, maybe funeral, maybe MASAF (Malawi Social Action Fund) projects, for example, a public works programme, etc.’

Researcher 1 said that Malawi is 'still experimenting with the formulation of new land committees as stipulated in the Customary Land Act, such as customary land committees, land registration committees, the issue of having land clerks. ... We’re in a transition period from the old land laws to the new land laws,’. According to Chief A, B, and C, there are no committees in their areas which specifically deal with land issues as stipulated in the Customary Land Act. New rules require that there should be committees at various levels at Village tradition and district levels but there are no structures on the ground. Although they are not legally binding, old laws are still in use. In other words, in the peri-urban areas, there are no committees specifically managing land. Either individual landowners manage their land or the chiefs continue to administer land within their jurisdiction. Currently, the old laws are still in use although new laws have been adopted.

A VDC consists of a member from each village covered by the VDC, a councillor of the ward in which the VDC is located, four women representatives, an extension worker and a group village headman as an advisor. On the other hand, a customary land committee comprises a group village headman who is the chairperson; six other persons elected by and from within the community, at least three of whom are women. the VDC and the customary land committee share more similarities than differences. The group village headman is present in both only that he acts as an advisor in one and chairs the other; women representatives are available in both. Land management is of sole importance in development and can be incorporated into the VDCs responsibilities. Therefore, to avoid confusion and duplication, a suggestion would be to reconcile the two committees and come up with one which will carry the duties of both VDCs and customary land committees. The reconciled committee could be called a VDC but should consist of the group village headman as the chairperson, a land clerk, an extension worker, a councillor of the ward in which the VDC is located and a member from each village covered by the VDC, of which three members are women.

4.7 Relationships between chiefs, BDC and planners

Researcher 1 stated that it is the Department of Physical Planning, Department of Lands, and the chiefs that are responsible for land-use management in peri-urban areas. These three authorities have to interact. One of the land-related roles the BDC plays is checking whether the developments are in line with the proposed land use on the lease. The Physical Planning Officer stated that it is the Department of Lands that deals with customary land laws and they are the ones capable of responding to issues related to customary land. However, the Lands Officer commented that the working relationship between BDC and the Department of Physical Planning is ‘not all that strong’ and that ‘issues to do with land-use (in customary areas) are not all that intensified at our council’. He claimed that issues to do with land management are mostly done by the Department of Physical Planning and the problem is that this department has not decentralized yet. The BDC office does not have a physical planning officer and therefore do not have enough capacity information on issues to do with land-use management. However, the Regional Commissioner for Physical Planning stated customary land clerks at the BDC are responsible for land-use management and interact with chiefs. However, the Lands Officer who works for the BDC did not mention customary land clerks. It would appear that the Department of Physical Planning and BDC offices have minimal interaction.

The Lands Officer stated that the BDC consults the chiefs 'when there are projects that will take place in their area so that they can negotiate with their people on their willingness to provide land for the projects’. Negotiations may happen directly or through committees. Chiefs are also needed to certify land lease applications. The other way in which chiefs are involved by the BDC is during town planning meetings which happen periodically and normally the TA attends. The Physical Planning Officer explained that chiefs are consulted when making a plan in their area and when the need arises. He stated that chiefs are meant to be their 'co-workers in development control' as they are supposed to be guided by land-use plans, but many areas do not have land-use plans.

Chiefs do not interact much with the BDC land department. According to Chief A, they interact mostly with the Departments of Agriculture, and Health, and to some extent with the Department of Education. Chief B said that interacted once with the people from lands where they discussed a connecting road to pass through his area. There is a problem with the relationship between planners and chiefs because not all areas have land-use plans. This

means that in such areas without land-use plans, planners do not interact with chiefs unless other planning issues arise in the area, such as projects. Most responsible parties seem to work in isolation from the other which does not show an integrated approach.

The Department of Lands and Department of Physical Planning (DPP) need to plan developments in the peri-urban areas knowing that is where development is currently taking place. However, the challenge is that once the Physical Planning intervenes, the land increases in value and thus, higher purchase prices. Researcher 1 suggests that these are issues that people will always be worried about. Even in the absence of chiefs, the Department of Lands and DPP need to intervene to curb and prevent ad-hoc development happening in peri-urban areas. To ensure land-use management in peri-urban areas, the Physical Planning Officer called for the adoption of an integrated approach to land management that incorporates the old laws. Researcher 2 agrees: 'There is a need to come up with innovative planning systems that will suit the Malawian systems; systems which are real and will embrace the presence of chiefs.' Researcher 1 stated that 'it is high time the DPP becomes more proactive than reactive.' The Land officer, Physical Planning Officer, and researcher 2 argue that chiefs must be involved in land management, which concurs with Mosito (2014), Alidri (2016), Biitir and Nara (2016), Mwathunga and Donaldson (2018), Maiden et al. (2020) and De Boeck (2020). Evans et al. (2005) explain that one of the preconditions for achieving sustainable development is good partnerships, and interaction and dialogue between citizens, organizations and local governments.

4.8 Conclusion

This chapter has given a detailed presentation of the research data findings and analysis thereof. Results show that although chiefs are custodians of peri-urban customary areas, they only allocate land and do not have the powers to monitor and guide developments in their areas of jurisdiction. The problem of multiple authorities over land in urban areas as highlighted by Chinsinga (2019) also exists in the peri-urban areas. In addition, there is poor coordination between these authorities. Management of peri-urban areas driven autonomously by rural collectives created a fragmented urbanising landscape (Zhu and Gio, 2014). Similarly, Alidri (2016) states that the total adoption of modern ideas in land-use management is more of a threat than an opportunity. However, data collected from this research has revealed that both rural collectives (chiefs) and modern institutions (BDC, Department of Lands, and Department of Physical Planning) play the functions of land

management in the peri-urban but they all work in isolation. They have a common ground (peri-urban areas) and goals (sustainable urbanisation through land management) but are working independently of each other. Such isolation also brings about fragmentation (as shown in the conceptual framework). In this case, integration is still a solution to improve the development of peri-urban areas which in return helps towards the achievement of sustainable urbanisation.

To achieve sustainable urbanisation there is a need to respond to the problems being faced in peri-urban areas and give a direction to the growth of these areas. All responsible authorities have to come together to set out their responsibilities, be coordinated and work together which will help in orderly development and growth of the peri-urban areas leading to sustainable urbanisation. Since chiefs are the ones on the ground and one of the locally and readily available resources, they should be given the authority to monitor and guide development in these areas. Simple to follow planning regulations should be set to help chiefs guide development. As suggested by the NLP, now is the time to adopt and put into use planning schemes in peri-urban areas. The new laws are good as they advocate for integration but delay in the implementation of these laws may lead to complications and complexity of the existing problems in peri-urban because growth is continuing unimpeded. Further studies should be done on how the best integration of customary land systems and modern land systems in the land management of peri-urban areas can be implemented. In addition, there should be a study on the containment of city growth in relation to environmental sustainability of peri-urban areas and the city.

CHAPTER FIVE:

Conclusions and recommendations

5.1 Introduction

The research report has discussed the role of chiefs in land management in peri-urban customary areas with a focus on Mpemba, an area in Blantyre Malawi. This chapter therefore, gives a conclusion based on the research questions and sub-questions and gives recommendations.

5.2 Conclusion

The main research question guiding this research looks at how chiefs manage land use in peri-urban customary areas. Chiefs do manage land use in their areas. They make sure there is a provision of access roads and advise their people on how to use and take care of the land. However, the literature I reviewed and the realities of the case study show that they do it partially. Firstly, because they are not aware of land laws and regulations so they do things the way they know them. Secondly, chiefs are sometimes not consulted and if consulted their decisions are not taken into consideration so they feel they do not own the developments. Lastly, chiefs are not fully dedicated to land management because they know that sooner or later, they will lose control of the land due to the reclassification of city boundaries by the city council or the Department of Lands.

The first and second sub-questions of the study look at the roles of chiefs in land management and the National Land Policy and land-related legislation position customary leadership in the governance of land management. The recent policy and legislation recognise the role of customary leadership in the governance of land management. Proposals made by the National Land Policy regarding peri-urban land and the roles of chiefs include the extension of land-use planning to all rural and urban areas. However, firstly concerning the customary land committees the NLP and Customary Land Act does not recognise existing structures such as VDCs and do not provide the relationship between the two. Secondly, although the NLP discusses the incorporation of chiefs in land management, the Physical Planning Act, Customary Land Act and Land Act does not discuss at length how the chiefs will work. According to the research findings, in practice chiefs partially guide development to their knowledge in these areas. Mainly, they are only witnesses and signatories of land transactions happening in their areas. There is a delay in the implementation of the National Land Policy and land-related legislation (which is in the pilot phase now).

The third sub-question leads to how modern and customary land management systems interact with one another in the Blantyre District. The literature I reviewed shows that there have been conflicts between customary and modern institutions in land management. the findings of the study show that there are indeed conflicts between customary and modern institutions. Further, findings show that there is a lack of coordination firstly within the municipal land management systems and secondly between the municipal and customary land management systems. Everyone works on their own.

The last sub-question leads to alternative ways of managing land use in peri-urban areas to ensure orderly development which responds to the challenges of rapid urbanisation. According to Geneletti et al. (2017), if urban peripheries are not attended to, they will continue to impede development. If not guided, haphazard development in the peri-urban areas may be difficult to correct and present a challenge to sustainable development. The research findings show that the peri-urban area is treated as a no man's land however, more developments are happening in the area. Figure 3.1 shows the transformation that has happened within five years between 2015 and 2020 in Mpemba. Looking at the pace which peri-urban areas are growing; implementation of the National Land Policy and related legislation is slower as it is only in the pilot phase. To catch up with developments in the peri-urban areas and avoid complex problems in the peri-urban areas that can be a challenge to sustainable development, the use of chiefs and local committees such as VDCs to monitor and guide land management in these areas may help. To empower the chiefs and VDCs to work, all land authorities involved in the management of peri-urban areas have to come together, clarify their roles and help chiefs and the local community to understand and accept their role in land management.

5.3 Recommendations for implementation

The character of chiefs as noted by Hussein and Muriaas (2013), Maiden, Guzman and Bleck (2020) and Harris and Chilonga (2020) shows that chiefs are capable of handling land management, only that they need clear demarcation and clarification of their roles in land management. Evans et al. (2005) explain that one of the preconditions for achieving sustainable development is good partnerships, interaction and dialogue between citizens, organizations and local governments. Responsible authorities have to work hand in hand to enhance the sustainable development of peri-urban areas leading to sustainable urbanisation. Department of Physical Planning, Department of Land and the Directorate of Planning and

Development at the District Council have to be well-coordinated as they have a common ground, the peri-urban. Then these departments should interact and work with chiefs and local committees. Doing this will create a harmonious environment for working towards sustainable urbanisation and land management.

To avoid overlapping of responsibilities existing in the peri-urban areas, there should be a clear definition of duties and responsibilities of all concerned authorities. Such definitions should be made known and clarified to all authorities so that each knows their limits and whom to consult where the need arises.

Apart from the newly amended land laws, to ensure land-use management in peri-urban areas and promote orderly and sustainable development to respond to the challenges of rapid urbanisation. Firstly, there is a need to accept and embrace the presence of chiefs by formal authorities such as the Department of Physical Planning, Blantyre District Council and other related authorities. As experienced in Gaobeidian, communities should also be encouraged to indulge in self-help initiatives which will help the sustainable growth of their areas. These self-help initiatives should start at the grassroots levels and be shared with the local governments.

According to Masum (2009), land management is a day-to-day routine which entails that any activities that are happening on land have to be monitored and managed. This shows that land management has to start from the grassroots and everyone has to be involved. Chiefs are custodians of people at the grassroots level therefore they are a good resource to be used to guide land management activities at the grassroots level. Using the existing VDCs in land management may lessen confusion rather than employing new committees altogether as suggested by the Customary Land Act.

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ANNEXURE

Annexure 1

Key Informants Semi - structured Interview Guide for BDC Officials and Planners

(Title: The role of chiefs in land management in peri-urban customary areas of Blantyre, Malawi. The case of Mpemba.)

Hello, my name is Chimwemwe Magwede from Blantyre, Mpemba currently studying for my masters in South Africa at Witwatersrand University. As my participant Informant Sheet explained, this is a purely academic study. Thank you for agreeing to be interviewed. Please feel free to interrupt me at any time and please let me know if you are uncomfortable with any of the questions l ask.

1. What is the role of chiefs in land-use management (what powers do they have in land management and to what extent)?

2. Are chiefs aware of the land-use management legislation and guidelines and their role in planning and land-use management?

3. How often do you have meetings with chiefs and what issues are discussed concerning land-use management during these meetings?

4. How do you involve chiefs in issues concerning land management especially those in the peri-urban areas?

5. How do you look at development in the peri-urban areas and who is managing development in these areas?

6. In the case where you have given a lease to an occupant do the chiefs have authority to monitor if the actual development is similar to the use that was suggested in the lease or do you have the authority to monitor it or it does not matter even if the client changes the use?

7. What criteria is used to secure space for public uses such as schools, clinics, playgrounds, green spaces and cemeteries in the peri-urban areas?

8. What are the challenges being faced in peri-urban areas?

9. What is your take on involvement of chiefs in land-use planning and management especially in the peri-urban?

10. As the Directorate of Planning and Development do you work with VDCs on issues concerning land-use management? If yes, how do you involve them? If no, why?

11. What is your take on the introduction of customary land committees as proposed by the National Land Policy?

12. Apart from urban structure plans and regional plans to guide development, what other alternative ways and suggestions do you have to manage land-use in peri-urban areas?

Annexure 2

Key Informants Semi - structured Interview Guide for Academic researchers

(Title: The role of chiefs in land management in peri-urban customary areas of Blantyre, Malawi. The case of Mpemba.)

Hello, my name is Chimwemwe Magwede from Blantyre, Mpemba currently studying for my masters in South Africa at Wits University. As my participant Informant Sheet explained, this is a purely academic study. Thank you for agreeing to be interviewed. Please feel free to interrupt me at any time and please let me know if you are uncomfortable with any of the questions l ask.

1. What do chiefs know about land-use management and to what extent? What roles do they play?
2. Are chiefs aware any of land-use management related legislation
3. Who is responsible for land-use management in peri-urban areas?
4. Are there customary land committees/ village development committees (VDCs) in the peri-urban areas? If there are VDCs, are they concerned with issues of land management?
5. How do chiefs in the peri-urban areas guide development (do they give advice on use of land, how do they deal with waste management, access roads and road reserves in the case of land along main roads, do they land for public services or uses such as green spaces, cemeteries, clinics, schools and institutions? If yes, what criteria do you use?)
6. Do chiefs have any meetings or talks with officials from Blantyre District Council concerning land management? If yes what issues are discussed during these meetings?
7. Are you satisfied with how the peri-urban areas are developing?
8. What challenges are chiefs facing in the land-use management of peri-urban areas?
9. How can land-use management be improved in peri-urban areas?

Annexure 3

Semi - structured Interview Guide for CHIEFS

Hello, my name is Chimwemwe Magwede from Blantyre, Mpemba currently studying for my masters in South Africa at Wits University. As my participant Informant Sheet explained, this is a purely academic study. Thank you for agreeing to be interviewed. Please feel free to interrupt me anytime at any time and please let me know if you are uncomfortable with any of the questions l ask.

1. What do you know about land-use planning and management?
2. What roles do you play concerning land-use management in your area?
3. Do you have a customary land committee in your area?
4. How do you guide development in your area (do you give advice on use of land, how do you deal with waste management, access roads and road reserves in the case of land along main roads, do you keep or spare land for public services or uses such as green spaces, cemeteries, clinics, schools and institutions? If yes, what criteria do you use.
5. Have you had any meetings or talks with officials from BDC concerning land-use management? If yes, how often do you meet?
6. Do you know the land laws and regulations?
7. Are you happy satisfied with how your area is developing?
8. How do you think land-use management may be improved in your area?

Annexure 4

SCHOOL OF ARCHITECTURE AND PLANNING
HUMAN RESEARCH ETHICS COMMITTEE

SCHOOL OF ARCHITECTURE & PLANNING

CLEARANCE CERTIFICATE
PROTOCOL NUMBER: SOAP061/06/2020

PROJECT TITLE:	Assessing the effectiveness of involving local leaders in physical planning practice and development control. Case of Blantyre, Malawi
INVESTIGATOR/S:	Magwede Chimwemwe (Student No: 2186450)
SCHOOL:	Architecture and Planning
DEGREE PROGRAMME:	Master of Urban Studies (MUS HHS)
DATE CONSIDERED:	05 August 2020
EXPIRY DATE:	05 August 2021
DECISION OF THE COMMITTEE:	Approved

CHAIRPERSON
(Dr Brian Boshoff)

DATE: Signed under lockdown: 10.8.20

cc: Supervisor/s: Amanda Williamson

DECLARATION OF INVESTIGATORS
I/We fully understand the conditions under which I am/we are authorized to carry out the abovementioned research and I/we guarantee to endure compliance with these conditions. Should any departure to be contemplated from the research procedure as approved I/we undertake to resubmit the protocol to the Committee.

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Annexure 5

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Private Bag 3 Wits, 2050
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Reference: Ms Olga Ndlovu
E-mail: olga.ndlovu@wits.ac.za

06 January 2021
Person No: 2186450
PAG

Miss CE Magwede
The Malawi Polytechnic
Private Bag 303
Chichiri
Blantyre 3
Malawi

Dear Miss Chimwemwe Magwede

Master of Urban Studies: Approval of Title

We have pleasure in advising that your proposal entitled *The role of chiefs in land management in peri-urban customary areas of Blantyre, Malawi. The case of Mpemba.* has been approved. Please note that any amendments to this title have to be endorsed by the Faculty's higher degrees committee and formally approved.

Yours sincerely

Mr Yaseen Stoffberg
Faculty Registrar
Faculty of Engineering and the Built Environment

Annexure 6

The District Commissioner
Blantyre District Council
Private Bag 97
Blantyre.

Chimwemwe Magwede
University of Witswatersrand
2186450@students.wits.ac.za
21/06/2020.

Dear Sir / Madam,

PERMISSION TO CONDUCT A RESEARCH IN MPEMBA, BLANTYRE.

My name is Chimwemwe Edith Magwede, I am a Masters student studying Housing and Human Settlements at the University of the Witwatersrand (School of Architecture and Planning) in Johannesburg. As part of my studies, it is a requirement to undertake a research project. Therefore, I am exploring the role of chiefs in land use management in peri-urban customary areas case of Mpemba. The research is being supervised by Amanda Williamson.

According to the topic and set up of my research, data will be collected from planners in the Blantyre District Council and chiefs from Mpemba. With regards to ethics, it is a requirement by the university to get a permission to collect data from relevant authorities before we go into data collection and we are supposed to attach this as we are submitting the research proposal.

It is therefore in this regard that I would like to ask for a permission to conduct research in the areas mentioned. Your timely help will be much appreciated. Thank you.

Yours sincerely,

Magwede

Chimwemwe Edith Magwede .

Cell: +265998754400

District Commissioner
22 JUN 2020
Blantyre District Council
Private Bag 97, Blantyre

Approved permission is granted to conduct the research study

DC 22/06/20