

Catalyzing Innovation

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DISCOURSE ON CUSTOMARY LAND ACT OF 2016: Evolution of Land Rights or Devolution of Powers

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INTRODUCTION

- Land question in Malawi has been a major challenge for both colonial and current administration.
- Before the 1884 Berlin Conference, land allocation was based on customary law.
- Europeans arrived and introduced western statutory laws and this resulted in dualism of land tenure; customary and western.
- This fuelled conflicts. Commissions of enquiry have culminated into the approval of the Customary Land Act of 2016 whose aim is to formalise customary land rights in customary estates.
- The Act has met criticisms from NGOs, civil society, traditional leaders and communities. The aim of this study is to establish challenges and opportunities of The Act and to evaluate The Act's structures and its impact on the communities.

MATERIALS | METHODS

METHODS

Extracts from 2005 to 2018, from two Malawian newspapers, The Nation and The Daily Times, were used. A review, of the results from organisations dealing with land, was also undertaken. Multi-methods were employed to establish the challenges and opportunities derived from the implementation of the Act. Sustainable Development Goals relating to land were used to assess The Act.

SLGA and NELGA

FINDINGS

FINDINGS ON OPPORTUNITIES

- Security of tenure for vulnerable groups
- Avoidance of unnecessary divorce
- Improved sanitation
- Less work to the chiefs
- Reduction of corruption and land grab
- Private ownership leading to the ability to use it as collateral

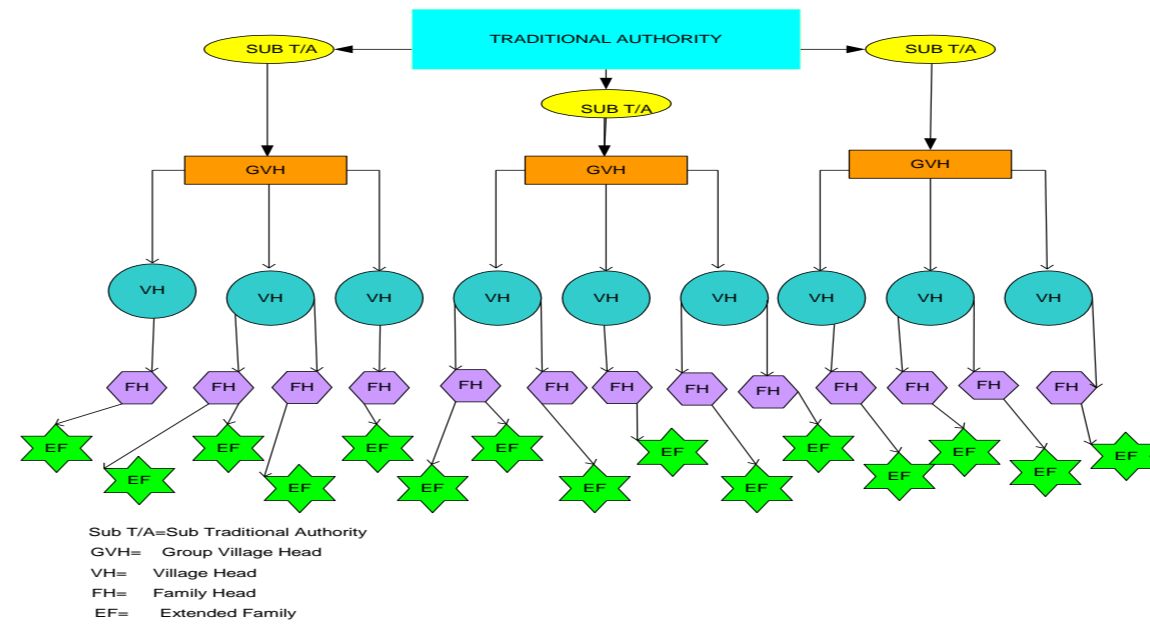
FINDINGS ON CHALLENGES

- Inability to champion development at grassroots
- Gender issues not resolved
- Traditional chiefs stripped off their powers to allocate land
- Alien communities will achieve land tenure leading to eroded culture

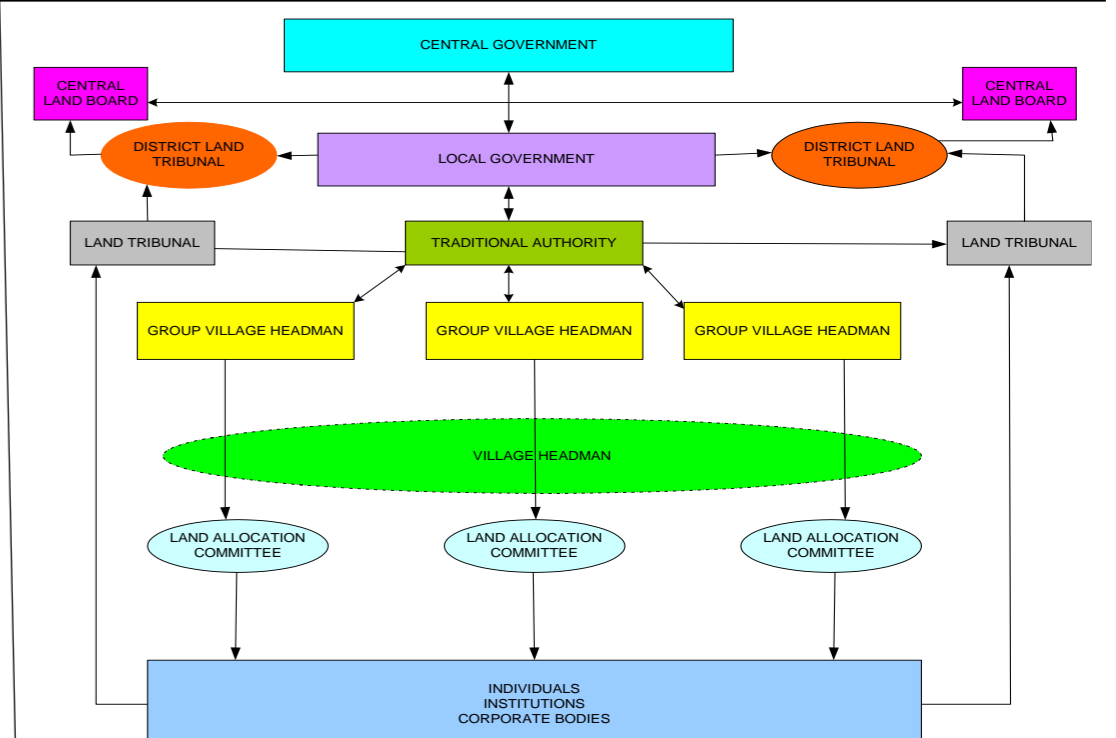
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NELGA(Network of Excellence for Land Governance in Africa)
LandNet Malawi
GIZ(Deutsche Gesellschaft für Internationale Zusammenarbeit)

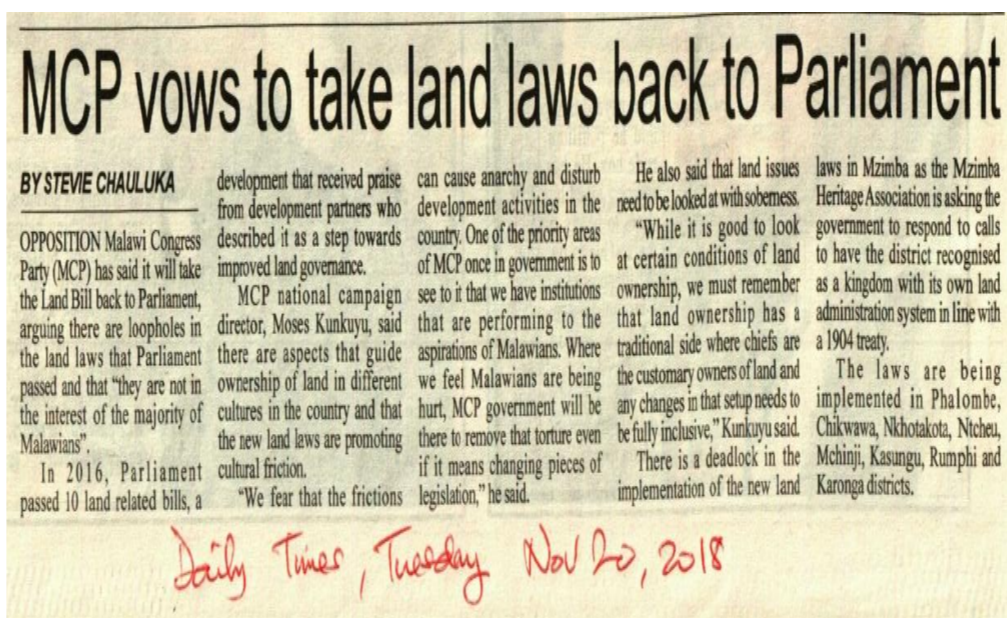
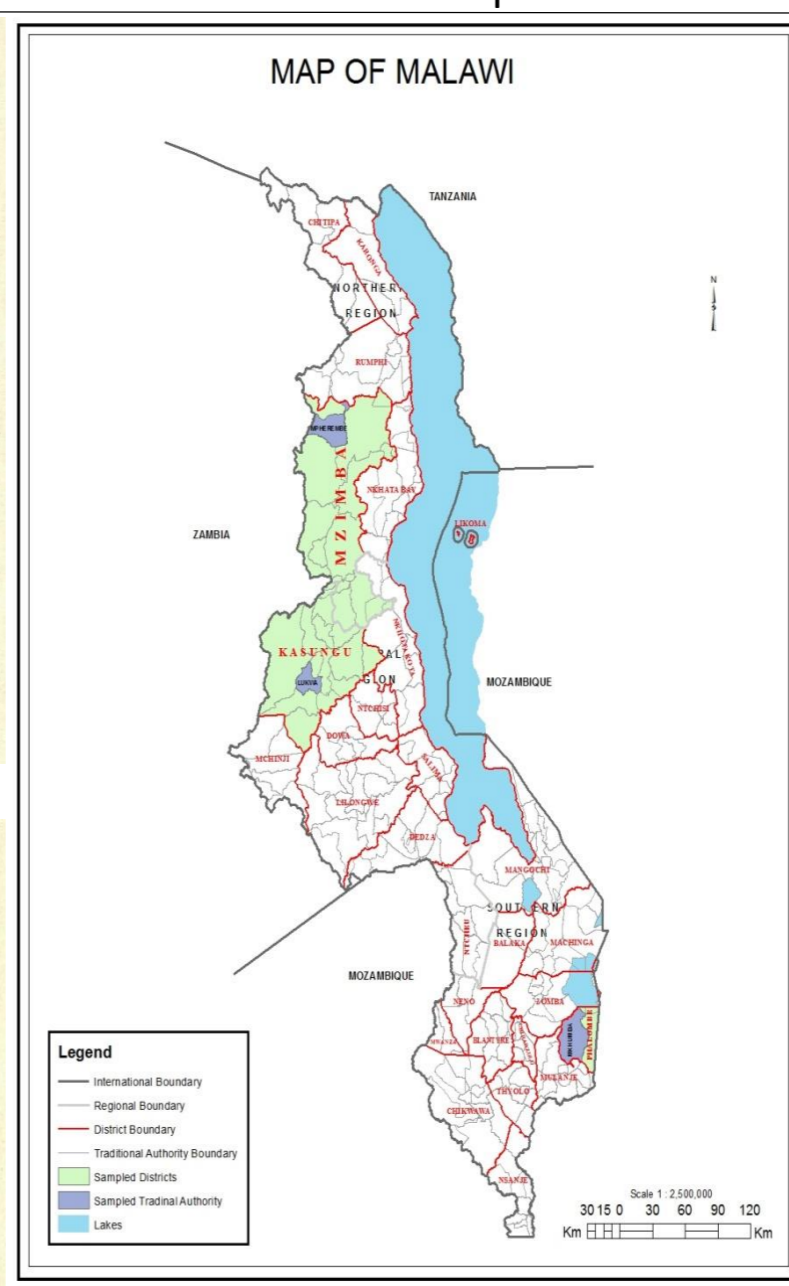
RESULTS



Old Traditional Structure of Land Administration



Proposed Structure of Land Administration



CONCLUSIONS

- Discourse on land indicates the inequalities of gender, evolution of land rights and devolution of powers in land administration
- Dualism of land tenure is combining traditional and western values
- Criticisms against The Act have arisen from all angles
- The Act failed to address gender issues as customary laws have not been amended
- Bypassing of traditional chiefs whose major task was land allocation cannot spearhead grassroots development
- Power to allocate and own land has been given to aliens and or committees
- The Act has given rise to the empowerment of the land holders to use it as collateral
- Protection of orphans and widows as they have documents that prove ownership

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