

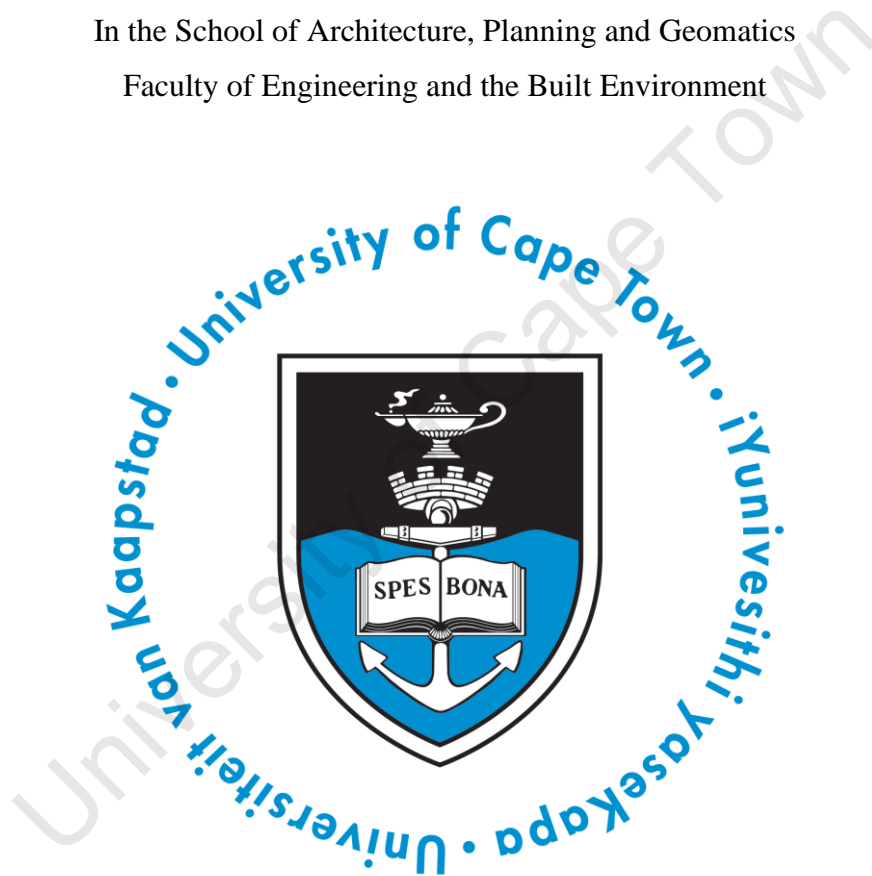
UNDERSTANDING THE CONTEXT OF INFORMALITY:
Urban planning under different land tenure systems in Mzuzu City, Malawi

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Thesis Presented for the Degree of

DOCTOR OF PHILOSOPHY

In the School of Architecture, Planning and Geomatics
Faculty of Engineering and the Built Environment



University of Cape Town

May 2019

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Mtafu Almiton Chinguwa Zeleza Manda

Signed by candidate

Candidate

May, 2019

ACKNOWLEDGEMENTS

The finalisation of this thesis is one of the most rewarding undertakings in my life. For me to realise this, several people and organisations played a part. It is not possible to remember all, but I am most grateful to the following for their different roles in my work:

- (a) Professor Vanessa Watson, my supervisor, for her guidance and support that have helped shape my thinking that is expressed in this thesis. This was undertaken even during the time she was unwell.
- (b) The African Development Bank (ADB) Higher Education Science and Technology (HEST) Project for the financial support for the research leading to this thesis.
- (c) The management of Mzuzu University for making the research funding possible.
- (d) The chiefs, block leaders, councillors and other community leaders in Luwingu, Salisburyline and Geisha Informal Settlements for their personal support and for the valuable information leading to this thesis.
- (e) The officials of Mzuzu City Council, Department of Lands, and Department of Physical Planning, Agriculture Development and Marketing Corporation (ADMARC), Northern Region Water Board (NRWB) and others for the information provided.
- (f) My brother Levi Manda for the encouragement.
- (g) Sally Knox for editing the thesis.
- (h) Gracious Mwenda and Christopher Chiumia for assistance with the maps.

Any errors and omissions in this work remain my own.

DEDICATION

For

Tumbikani Chinguwa Manda

ACRONYMS

AAPS	Association of African Planning Schools
ADB	African Development Bank
ADC	Area Development Committee
ADMARC	Agriculture Development and Marketing Corporation
ALC	African Lakes Company
AMCHUD	African Ministerial Conference of Housing and Urban Development
CCAP	Church of Central Africa Presbyterian
CCDC	Commonwealth Colonial Development Corporation
CCODE	Centre for Community Organisation and Development
CWP	Communal Water Point
DC	District Commissioner
DCC	District Consultative Committee
Devpol	Statement of Development Policies
DoL	Department of Lands
ESCOM	Electricity Supply Company of Malawi
EU	European Union
FMB	Farmers Marketing Board
GoM	Government of Malawi
GVH	Group Village Headman
HEST	Higher Education Science and Technology Project
ILO	International Labour Organisation
LUDEFT	Luwinga Development Foundation Trust
MASAF	Malawi Social Action Fund
MCC	Mzuzu City Council
MGDS	Malawi Growth and Development Strategy
MHC	Malawi Housing Corporation

MHPF	Malawi Homeless Peoples Federation
MLGRD	Ministry of Local Government and Rural Development
MLHUD	Ministry of Lands, Housing and Urban Development
MNA	Malawi National Archives
MP	Member of Parliament
MPRSP	Malawi Poverty Reduction Strategy Paper
NGO	Non-Governmental Organisation
NRWB	Northern Region Water Board
OPC	Office of the President and Cabinet
PPD	Physical Planning Department
PSUP	Participatory Slum Upgrading Programme
RCL	Regional Commissioner for Lands
RCPP	Regional Commissioner for Physical Planning
SCDP	Secondary Centres Development Programme
SDGs	Sustainable Development Goals
SSA	Sub-Saharan Africa
TA	Traditional Authority
THA	Traditional Housing Areas
TPCA	Town and Country Planning Act
TVET	Technical Vocational Education and Training
UDF	United Democratic Front
UN HABITAT	United Nation Human Settlements Programme
URAC	Urban Research and Advocacy Centre
VH	Village Headman
VDC	Village Development Committee
WDC	Ward Development Committees
WWII	Second World War

ABSTRACT

A key feature of urbanisation in African and many other Global South cities is the prevalence and persistence of urban informal settlements. Despite planning attempts and claims to directly address and contain informal settlements, informality nonetheless continues to be the dominant form of shelter. However, there is insufficient understanding of how and why informality persists in the African urban context and why urban planning seems unable to engage with this aspect of urban growth and change. This situation also prevails in Malawian cities. This study sought to explore and understand the role of state-society engagements in the production and proliferation of housing informality in Mzuzu City.

The thesis is informed by a recognition that planning theory has predominantly relied on Global North (Western) ideologies such as Habermesian inspired collaborative and communicative planning approaches which argue that consensus can realise planning goals and visions. The appeal, and hence adoption and application of these approaches in the Global South have largely failed to deliver the kind of planning outcomes seen in the Global North for many reasons, including the different political power dynamics and colonial historical contexts within which planning operates. The state-society engagements in the Global South contexts show that the state, rather than regulating development, is implicated in the production of informality in ways similar to those of inhabitants. These contexts point to the need to develop planning concepts which have a better relevance in rapidly growing and under-resourced urban settlements in the Global South.

The thesis contributes to an emerging body of knowledge that has come to be called the *Global South Planning Theory Project*. The scholars promoting this project argue for the importance of context in planning theory development and in this case the need to consider the contribution of the Global South to planning and understanding of the urbanisation processes. In this regard, the thesis draws on various Global South concepts such as informality as a mode of urbanisation (Roy, 2009), gray spaces (Yiftachel, 2009), conflicting rationalities (Watson 2003), quiet encroachment (Bayat, 2010), insurgency (Holston, 2008) and hidden transcripts (Scott, 1990) to frame the analysis of housing informality in Mzuzu City.

The case study method (Yin 2014) was used to collect and analyse data from three informal settlements of Luwinga, Salisburyline and Geisha each having developed on land of a specific tenure: customary, public and private, respectively. Interviews and discussions were held with state officials, chiefs, block leaders, clan leaders, and senior citizens as well as groups of

inhabitants in form of focus group discussions. Observations, literature review and archival data supplemented the information from the interviews and discussions.

The analysis of the results indicates that state-society engagement in the informal settlements is about the application of the various strategies by each side in seeking to either achieve planned orderly urban growth or the right to land and life in the city. The study also shows that these strategies manifest, from the perspective of the state, through several laws, policies, regulations, and an assortment of practices that the planning system uses as a tool of the state. Among the state strategies are threats of evictions, demolitions and organising citizens to participate in development committees. However, when the state utilises these strategies, it is not always for the achievement of planned orderly urban growth as professed, but on many occasions for revenue generation through property taxation, for land control, for vote-gaining or for personal gain. On the other hand, inhabitants use threats of court action, violence, collaboration with state actors, hidden transcripts (Scott, 1990), spatial protests (Yakobi, 2004) and quiet encroachment (Bayat, 2010) to achieve their objectives to retain their land rights, to provide their basic need of shelter and to stay in the city. The inhabitants seeking survival strategies were also found not immune to the clientelist ambitions of local politicians. The study noted the shifting state discourses of informal settlements from a view of them as utter illegality to gradual political acceptance or regularisation of their existence. Finally, the study found many aspects of rationality conflicts, which either occurred between the state and society directly, among state actors, among citizen actors and across the two spheres. Within the state, ethical conflicts in which state officials deliberately frustrated the visioning of planned orderly urban growth were found to be rampant.

State-society engagements therefore can be said to be a contributor to housing informality. In the case of Mzuzu, these engagements occur in multiple settlements regardless of land tenure situation. These engagements suggest that rationality conflicts occur within multi-layered settings, across state-society spheres as well as beyond specific project interventions implemented within single settlements.

CHAPTER ONE: INTRODUCTION

1.1 INTRODUCTION

The overall aim of this thesis is to explore the role of state-society engagements in the production and proliferation of settlement informality in Mzuzu City, Malawi. The research leading to this thesis was conducted in three selected informal settlements, each with a different land tenure system. This chapter gives the general context of the research and overview of the thesis. Section 1.2 provides the context to the research issue which is located within the debate around the Global South planning theory. Section 1.3 highlights the research aims, questions and the case study method which was used to conduct the research. Section 1.4 provides the structure of the thesis while section 1.5 concludes the chapter.

1.2 CONTEXT OF THE STUDY

Planning emerged in the 18th century and was framed initially by concerns about environmental health and later by social and political ideologies in Western Europe, which can be considered part of the Global North. Focused on assumptions of neutrality of planning (see Faludi, 1973) and on communicative and collaborative approaches (see Forester, 1982; Healey, 1992;1996) among others, these ideas were construed as universally valid, and thus tended to be adopted and applied in many parts of the world including the Global South.

The application of these Global North planning ideologies has been criticised by certain Global South authors for disregarding the contexts that shape urbanisation processes and planning practices (Flyvbjerg, 2004). Several academics under the banner of an emerging body of theory known as Global South planning theory argue that social, historical, cultural as well as economic contexts are central to understanding planning because ‘there is no one truth or answer to planning problems that is applicable to all contexts’ (de Satge and Watson, 2018, p.19). Bhan (2019) elaborates this point by arguing for recognition of place in urban thought, because that thought is currently unrooted in context and thus makes it difficult to influence practice in particular places. Watson (2009; 2014a) has thus argued for ‘seeing’ and also learning from the south in order to best understand problems of Global South cities. This would help planners to learn what planning from the Global South might offer to planning theory. It also can contribute by developing planning concepts which have a better relevance to the different conditions in rapidly growing and under-resourced urban settlements prevalent in the Global South.

The term ‘Global South theory’ refers to critical perspectives which question the assumptions that inform much current planning theory, and which have often been shaped by the context from which they emerge, i.e. Global North. The Global South planning theory project might be criticised for implying either a north-south geographical binary (Watson, 2014a), or that the Global South has uniform characteristics (Bhan, 2019). Connell (2014, p. 218) suggests, however, that for Southern theorists, the question ‘...is not about how does Southern theory add to what we know already but what does Southern theory ask us to do that we are not doing now...?’ In the light of this it can be said that the Global South theorists do not aim to develop planning ideas ‘for’ the South, but rather to develop planning perspectives informed by Global

South contexts which can be relevant both in this part of the world and potentially in parts of the Global North. In relation to diversity across the Global South it can be noted that many countries were colonised but some were not, and that the impacts of colonialism were different among these colonised nations. Furthermore, although rapid urbanisation is one of the key features defining the Global South urban context, there are also variations among nations in this region. For example, a recent World Bank (2016) report on Malawi's urbanisation found that though many Global South countries are urbanising rapidly, the country where this research was conducted, is not.

Apart from rapid urbanisation, another feature of the Global South cities is the prevalence and persistence of settlement informality. This research drew on various concepts and ideas seeking to explain why settlement informality is not only a dominant feature of urban growth in the Global South, but also a persistent one. In explaining the phenomenon, Roy (2005; 2009) used the experience of Indian cities to argue that informality is a form of urbanisation in Global South contexts that implicates the state in its production, intensification and proliferation. Roy (2009) further observes that some forms of informality are criminalised while others enjoy state sanction. To elaborate on state implication in India, Bhan (2019, p.7) explains how the Delhi state provided public services to people by 'squatting' on pavements using the same logic that is used by inhabitants of informal settlements 'that the longer you survive, the more legitimacy you gain.' Based on her work in Mozambique, Lindell (2008) also reports how the local state involved itself in informal governance as a way to control informal settlements. Watson (2003) has argued that informality persists because of rationality conflicts that emanate from deep differences between the way planning authorities envision the city and the aspirations of the ordinary citizens seeking livelihoods. It may be observed however that in many instances the rationalities of the state are not always in the public interest. As argued by Flyvbjerg (1996), planning has its dark side through which the state makes deliberate attempts to deceive the citizens regarding its intentions. It is no surprise that in certain cases the state has created what Yiftachel (2009a) called 'gray spaces' through which certain groups are excluded from public goods and targeted for eviction in favour of state-favoured groups. Sometimes, the state utilises strategies that seek to stabilise its relations with the citizens through, for example, state sponsored participation spaces (Miraftab, 2009).

However, the citizens are not passive victims of state actions and have the potential to use their position and sites to challenge the state through different survival strategies. As Yiftachel (2009b, p.243) has argued, 'communities subject to gray spacing are far from powerless recipients of urban policies, as they generate new mobilizations and insurgent identities, employ innovative tactics of survival, and use gray spaces as bases for self-organization, negotiation and empowerment.' Among the strategies that citizens use is quiet encroachment (Bayat, 2010; 2013), a process through which they appropriate space to acquire basic services and livelihoods while ignoring state prescriptions. In certain cases, inhabitants are known to use hidden transcripts (Scott, 1990), such as doing or saying what they do not actually intend if such strategies can help them realise their goals, such as retention of land rights and a stay in the city. Quiet encroachment and hidden transcripts are non-confrontational everyday resistance strategies that are adopted by communities that perceive themselves to be weak in

the face of domination (see Bayat, 2010; Vinthagen and Johansson, 2013). More confrontational strategies have been observed in some parts of the Global South such as Brazil. For example, Holston (2008) and Miraftab (2018) have explained how the citizens challenge state strategies of stabilisation through insurgency and invented spaces when they collectively confront the authorities. These citizens' responses are reported to emerge over time as the citizens take advantage of the hegemonic state policies and interventions leading to power shifts in urban space.

Under these conditions, the Global North ideas of planning that assume it is possible to use processes of participation and collaboration, and are blindly adopted in countries such as Malawi, lack relevance. The research therefore drew inspiration from these Global South concepts and the arguments for 'new thinking about planning theory and practices' (Watson, 2016, p.37) to explore the engagements between the state and society that contribute to the production of settlement informality. Noting that informal settlements in Malawi grew on public, private and customary land, this research explored how the different forms of land tenure can give rise to different forms of engagement between state and informal settlers. As such, it can be said that it is not just the existence of informality which shapes state-society interactions, but also the nature of land tenure and the nature of claims to land made by the informal settlers.

However, the complexity of the engagements between the state and society, and within and across the various actors, and understanding how and why housing informality persists and how planning is a key factor in this aspect of urban growth, have not been studied so far in Sub-Saharan Africa and specifically in Malawi. This research aimed to fill this gap with a focus on Mzuzu City.

1.3 RESEARCH AIM, QUESTIONS AND METHOD

This research explored the role of state-society engagements in the production, intensification and proliferation of housing informality in Mzuzu City. Specifically, the research wanted to understand how and why the current state approaches to planning in Mzuzu conflict with the attempts of inhabitants of informal settlements to secure land rights, adequate shelter and livelihoods in the city.

The main research question that guided this research was: What has been the nature of changing political engagements between the inhabitants of informal settlements and the planning and governance authorities of Mzuzu City? The subsidiary research questions that guided data collection were:

- i. To what extent and how can the form of settlement be seen as a territoriality of political engagement through which residents negotiate their rights to land and presence in the city?
- ii. How does this political engagement manifest itself through laws, regimes and practices of planning on the one hand, and, on the other, through active engagement or sometimes

violence and resistance on the part of those occupying the land informally in the selected informal settlements?

- iii. How has official discourse defined settlements such as these and what have been the shifts in this discourse over the years to redefine the claim of such settlements to space and recognition?
- iv. Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which perhaps needs to be understood as more than a conflict of two binary positions but may also incorporate conflicts within these two groupings?

The research was conducted in Mzuzu City which is the third largest urban centre in Malawi. The research focused on three informal settlements of Luwinga, Geisha and Salisburylines, each having a different land tenure system, respectively: customary, private and public. Employing the case study approach (Yin, 2014), the research explored the state-society engagements within these settlements and how these engagements produce, intensify and proliferate settlement informality. This research approach is in line with recent Global South planning theory drawing on the argument by Watson (2016) that the case study approach focusing on a single analysis of planning events in real-life can be used to build and test theory without claiming universality or generalisation to other cases.

Data for the research was collected firstly through in-depth ethnographic interviews with the inhabitants and state officials. In the informal settlements I interviewed chiefs, clan leaders, block leaders and senior citizens who were individuals that had lived in these settlements for a long time yet held no appointed or elected positions. I conducted several focus group discussions (FGDs) for households, block leaders, and chiefs within these settlements. I interviewed councillors and government and city officials responsible for planning and land administration. Secondly, I reviewed published and archival documents such as policies and laws, official reports, minutes of meetings, court orders and newspaper articles. During the interviews and on scheduled visits, I also made several observations of the existing situation and practices within the informal settlements.

To ensure validity and reliability, triangulation of information from the various sources and methods was undertaken through follow-up visits to the study sites, cross-checking with archival data and with research participants both during and after the interviews. For example, recorded interviews were replayed immediately after the interviews to allow for explanation or corrections to the points made during the interviews. Full transcripts were shared with each interviewee to make corrections, clarifications and additions. The results of the research were explained in narrative form and interpreted inductively. This inductive interpretation of the results provided the basis of the propositions to theory that have been made in chapter 7.

1.4 STRUCTURE OF THESIS

The chapter provided the background to this research and outlined the research questions and placed these in the context of Global South planning theory.

Chapter 2 provides the theoretical framework for the research by discussing the ideas that have shaped theories of planning including how post-structuralism has informed Global South planning theory. Specifically, the chapter reviews the literature and various concepts about, and related to, planning and how these contribute to the production of settlement informality in Mzuzu City. The chapter discusses the concept of territoriality and how it is linked to rights to land and to the city and then explores the shifts in official discourses of informality and how the state is implicated in its production and proliferation (Roy, 2009; Yiftachel, 2009). Finally, the chapter discusses the concept of conflicting rationalities which shows the significance of context in planning theory and practice (Watson, 2003; Li, 2007). The chapter uses these concepts and planning literatures to contribute to Global South planning theory.

Chapter 3 explains the research problem, the methods used and specific steps that were followed to collect and analyse the data. The chapter explains the case study approach which was adopted for the research and explains how validity and reliability were achieved through cross-checking and verification with research participants during interviews and after transcription. The chapter also explains how consistency was achieved by collecting data from different sources and cross-checking findings. Finally, the chapter explains the measures that were taken to ensure ethical conduct of the research.

Chapter 4 presents the context of planning and land tenure in Mzuzu by showing how land and planning policies, laws and practices impact on the land rights of the informal settlers who may be indigenous people or migrants, and how these contribute to the creation of informality in Malawi's urban centres. The chapter also provides a historical background to trace how the colonial legacy has influenced planning, and to contextualise the current state-society engagements and the discourse on land tenure and planning in Malawi broadly and in Mzuzu specifically. The planning history is presented in two broad periods, starting with the colonial era from 1891-1963 and then the post-colonial era from 1964 to 2018. In both periods analysis focuses on the land, planning and governance policies and practices.

Chapter 5 reports the results of the research in terms of the engagements between the state and society in the three informal settlements, looking at planning interventions, community responses, rationality conflicts, as well as collaborative and complicit practices. It reports on the information gleaned from interviews with the inhabitants of the informal settlements, with relevant state officials and from written and published sources. The chapter presents the results of the research case by case and in line with the research questions and covers the period 1985-2018 over which Mzuzu has grown as a city.

Chapter 6 interprets the empirical results presented in chapter 5. It links the theoretical concepts explored in chapter 2 with the empirical results, and is also informed by the context of urban planning and land tenure discussed in chapter 4. The chapter also discusses how and why rationality conflicts and other engagements exist not only between the state and society, but also among various actors within the state or the society. Chapter 6 thus illuminates how and why informality is a complex, layered and multi-scale phenomenon occurring because of the engagements between different actors located at different levels in different institutions, and those living in informal settlements.

Chapter 7 uses the results in chapter 5 and the interpretation in chapter 6 to reflect on theories discussed in chapter 2 and hence to address the subsidiary and main research questions. The chapter makes theoretical propositions to contribute to Global South planning theory.

Chapter 8 summaries the research results and makes conclusions from these results. The chapter also spells out the limitations of the research and makes suggestions for future research.

1.5 CONCLUSION

This chapter has provided the background context and overview of the thesis by outlining the main issue addressed by the research and how it is positioned theoretically. The chapter outlined the research method used as well as the structure of the thesis. Chapter 2 which follows provides the theoretical framework for the research.

CHAPTER TWO: THEORETICAL FRAMEWORK

2.1 INTRODUCTION

The aim of this chapter is to identify the theoretical framework for the research and to explain the theoretical underpinnings of the study. The research questions developed in this thesis were informed by current theoretical debates on how state and society engage around issues of land tenure and urban planning, more broadly and specifically in a sub-Saharan African (SSA) context. These concepts were tested through field-work in three case study sites in Mzuzu City. The findings are used to test and refine the conceptual thinking in the area of state-society engagement in urban areas. The rest of the chapter is structured as follows: Section 2.2 discusses meta-theoretical ideas that have shaped theories about planning and land tenure. The section outlines post-structuralist thought and how this has informed Global South planning theory. Section 2.3 looks at how Global South planning theories emerged as a critique of dominant mainstream planning theories that evolved from ideas of liberal democracy. Section 2.4 discusses the concept of territoriality and how it relates to rights to land and to the city. In section 2.5 the power relations and engagements between the state and society are analysed in terms of policies, laws and practices on the side of the state and resistance in various forms on the side of society. Section 2.6 reflects on how the state's definition of informality and its actions shift over time. Section 2.7 reviews the concept of rationality conflicts looking at how prevailing Global North planning theories are challenged by the realities of the Global South. Finally, section 2.8 concludes the chapter.

2.2 POST-STRUCTURALISM

While this thesis focuses on Mzuzu and critiques Global North planning approaches when they are applied to the Global South, the long historical links between the two regions fostered exchanges of cultural and intellectual practices. Critical theory including post-structuralism and planning are not inclusive of exchanges between the Global North and Global South. Post-structuralism's aims to explain power relations in knowledge production makes it suitable for exploring state-society relations in Mzuzu.

Post-structuralism, which is closely associated and sometimes used as synonymous with post-modernism, is a theoretical movement that sought to break with structuralism and therefore also the underlying worldviews of modernism (Fox, 2014; Bleiker and Campbell, 2016), such as the belief in universal truth and reason (Short, 2006). A brief review of the overarching modernism and structuralism theories is appropriate as these inform post-modernist and post-structuralist discourses within which post-colonial theorisation is located. The modernist and structuralist theories emerged out of the 20th century enlightenment, during which there was a cultural shift away from realism and religious dogma to a focus on reason. This change has been associated with technological and scientific advances that helped improve human standards of living (Casey, 2002). Within this theorisation are also located the ways of interaction between the state and society that are relevant to discussions of planning policies and practices. Habermas is one of the key modernists and outlines his views in the communicative action theory which argues that democratic, open and free discussions are key

to achieving mutual understanding between the state and society, the only requirement being rationality (Jenkins and Dredge, 2016; Flyvbjerg, 2002).

Structuralist ideology focused on scientifically explaining human culture by looking at individual elements as part of a system (Radford and Radford, 2005). By this approach, structuralism assumed that society has a common basic functioning structure whose elements must be understood in terms of their relationship to the system (Rutherford, 2014; Harcourt, 2007; Radford and Radford, 2005). While giving hope for social change, these ideological and theoretical approaches were dominant during the period of colonialism and imperialism (Bleiker and Campbell, 2016) that aimed to ‘classify and conquer’ other cultures (Short, 2006, p.53). Both modernist and structuralist theories are therefore criticised for promoting the so called ‘grand narratives’ of domination (Fox, 2014) which include the use of urban spaces to ‘experiment’ with new forms of social organization (Home, 2013, p.4).

The main criticism of modernism and structuralism has come from post-structuralists who focus on how power relations impact the relationship between the state and society (Harcourt (2007; Fox, 2014; Radford and Radford, 2005). The modernist and structuralist rationalisations are criticised for not giving a voice to ‘the other’, and hence are viewed as ‘synonymous with domination and [...] totalitarianism in various forms’ (Casey, 2002, p.127; Rutherford, 2014). The paragraphs that follow discuss post-structuralist and post-colonial theoretical ideas.

Post-structuralism focuses on power relations in knowledge production which has come to be known as the “power/knowledge” critique: ‘How, exactly, do we come to believe what we hold as true?’ (Harcourt, 2007, p.21). As noted by Bleiker and Campbell (2016), post-structuralism thus concerns itself with cultural construction and analysis of structures that give meaning to life, in order to bring about transformation. This is why this study investigated actions of both the state and society in the informal settlements of Mzuzu. As structuralism is rooted in modernism, the transformation sought by post-structuralism can be said to depart from structures such as colonialism and imperialism. In this way, as Bleiker and Campbell (2016, p.206; 212) point out, post-structuralism can be seen as an ‘approach rather than a theory.’ With regard to power relations, post-structuralism therefore argues that ‘all identities are understood as effects of power which is materialised through discourse’ (Bleiker and Campbell (2016, p.212). This informs, for example, the engagements between the state and inhabitants of informal settlements. The basic concepts of post-structuralism are summarised thus:

‘What are the subjects of politics? If they are humans, in what way is the human subject constituted historically? How have the identities of women/men, Western/Eastern, North/South, civilised/uncivilised, developed/undeveloped, mad/sane, domestic/foreign, rational/irrational, and so on, been constituted over time and in different places? All of which means that *identity*, *subjectivism*, and *power* are key concepts for post-structuralism’ (Bleiker and Campbell 2016, p.207).

One of the key authors on which much of post-structuralist debate draws is Michael Foucault. Among his many arguments about power relations we find, firstly, that understanding society requires looking at power because the relationships of ‘subject and subjectivity are formed

only through power' (Valikangas and Seeck, 2011, p.5). Secondly, Foucault rejects assumptions about the existence of a centralised power somewhere in the state or ruling class (Casey, 2002; Elden, 2017) arguing that 'power is everywhere' (Foucault, 1980d: 141 quoted by Casey, 2002, p. 130). If power is decentralised or dispersed, post-structuralism therefore acknowledges the possibility of society responding, or as Porter (2017) says, 'speaking back' to actions of the state. Therefore, this thesis seeks to understand how the engagements between the state and society that produce and perpetuate informal settlements are informed both by the nature and also the operation of power. In this regard the thesis recognises the various strands of post-colonial theorising which also argue for a recognition of context. Post-colonial planning theorists such as Libby Porter (who writes from an Australian settler-colonial position) counter those planning theories which assume it is possible to generalise across the globe based on certain (usually Global North) informants. In the case of Malawi and Mzuzu it is recognized that its past history of colonization had (and still does have) an impact on planning approaches and systems (McAuslan, 2003). However, I have chosen not to specifically frame the research through a post-colonial theoretical frame because colonialisation was a form of power relations between the coloniser and colonised and post-structuralist theory could equally be applied in its explication. Instead, I draw on closely aligned theories of Global South planning thought and particularly ideas about planning and informality.

De Satge and Watson (2018, p.230; 19), while not taking an explicit post-colonial position, refer to Global South thought as 'southern theorising project in planning.' Bhan (2019, p.3) calls it 'southern urban theory.' These southern theorists argue that 'place matters in shaping urban thought' (Bhan 2019, p.3) and thus call for recognition of and working with everyday experiences such as conflicting rationalities in the cities of the Global South. The term Global South theorising refers to a critical analysis that suggests that much of the world operates differently from the assumptions embedded in dominant Global North thinking. According to Bhan (2019, p.4), '...South is as much a project as a place, a relational geography that insists on calling out hegemonies of knowledge and dominant forms of practice no matter where they emerge.' Though the 'Global South planning theory project' has been criticised for suggesting a north-south binary (see Watson, 2014a), its main argument is not about 'how does southern theory add to what we know already but what does southern theory ask us to do that we are not doing now...?' (Connell, 2014, p.218), which is a view that shows that context is central to understanding planning because 'there is no one truth or answer to planning problems that is applicable to all contexts' (de Satge and Watson, 2018, p.19). Bhan (2019) elaborates this point by arguing for recognition of place in urban thought; it is currently unrooted in context and it makes it difficult to apply or use to influence practice in particular places. Therefore, Watson (2009; 2014a) has argued for seeing (and also learning) from the south in order to best understand problems of Global South cities, and thus learn what planning from the Global South might offer to planning theory.

The 'Global South planning theory project' shaped the research questions and directed the empirical research to understand how power has been exercised by institutions of government through a myriad of formal planning regulations and less formal discourses and practices in Malawi. The research questions drew attention as well to the concept of planning in Mzuzu

City and to the visions of well-planned settlement form which inform planning, and to the need to ask how and why these ideas emerged and have become entrenched in current planning practice. These concepts also draw attention to how citizens in the selected case studies in Mzuzu City have chosen to resist (and in some cases collaborate with) institutionalised planning practices, turning these settlements into sites of resistance which takes on a range of different strategies and tactics.

2.3 PERSPECTIVES ON PLANNING THEORY, PRACTICE AND PROCESSES

This section focuses on the evolution of planning theories, policies and practices and how these have influenced planning in formerly colonised states including Malawi. This addresses the research question about the connection of the present state-society engagements to production and proliferation of housing informality.

Historically, urban planning emerged in response to the public health concerns that were induced by the industrial revolution and rapid urbanisation in Europe, and what Campbell and Fainstein (1996) describe as the extremes of the free market and self-interests. While in 1930s planning formed part of national agenda, later it was considered important for social reform (Friedmann, 1987) and sought urban order, regulation, and control for a virtuous objective of improving the quality of human life (Short, 2006). The core of planning is to influence collective spatial concerns to realise liberty and social welfare goals (Irving, 1993; March, 2010). Within the modernisation perspective, planning was perceived as a new process that relied only on positivist rationality that was assumed to be universally applicable (Anievas and Nisancioglu, 2017). Over time, however, various strands of planning theory, influenced by different philosophical positions, have considered different ways of explaining the role and function of planning as well as different ways of theorising state-society relations in planning and the different outcomes it can produce. Among the authors that have analysed these various strands of planning thought are Friedmann (1987), Fainstein (2000), Allmendinger (2009) and Taylor (1998).

It is not the intention here to re-track this history of ideas, but it is worth mentioning that planning has been, and some suggest still is, a key tool of domination and discrimination. The shift from earlier rational comprehensive ideas of planning prior to the 1980s to a recognition of the importance of processes of deliberation and decision-making in planning thereafter, is captured in many of the works cited above as well as by Healey (1992; 1997). Such theoretical shifts over time point to the growing awareness about the limits of universal application of the concepts developed as part of the modernist agenda. Faludi (1973), one of the main early advocates of modernist planning approaches, argued that planning was a technical process that required the application of scientific method to policy making, and he therefore focused his writing on the process of planning rather than on the content or outcomes. This apparent normative positivist rational approach to planning which claims neutrality was questioned by authors such as Healey (1992) who argue that rationality locates planning in the modernist worldview, making it subject to state control and power. Drawing on Habermasian theorisation, Healey (1992; 1997; 2003) uses her theory of communicative action to call for democratisation

of planning because ‘the technical and administrative machineries advocated and created to pursue these goals are based on a narrow and dominatory scientific rationalism’ (Healey, 1992, p.233). For this to work effectively requires honesty in deliberations and ensuring that there is no compulsion and coercion in the use of language for participants to agree to the views of the others (see Olson, 2013). Healey (1997, p.242-243) notes that such ‘respectful discussion within and between discursive communities’ was an essential element of planning that can also change and transform ‘established power relations’ between the state and communities. In her collaborative planning approach, Healey (2003), while locating her work in a particular Western experience, also calls for an understanding of the multicultural complexity and diversity of society. These arguments support calls for considering contextual realities in planning.

The collaborative and communicative planning approaches have been questioned by planning theorists who draw on a Foucauldian concept of power (e.g. Flyvbjerg, 1998), and by theorists working in Global South contexts where conflict rather than consensus prevails in planning processes (Yifachel, 2009; Roy, 2005; Watson, 2003). In critiquing collaborative and communicative planning, Flyvbjerg (1996, p.384;2009) argues that assumptions of democracy ignore ‘the real rationalities at work in actual institutions and in actual planning processes’ where planners use power disguised as technical reasoning to manipulate public debates. Viewpoints evolve over time. So, for instance, Healey (2012) recognises the importance of context. Noting that situations differ because of, among others, historical contexts, Healey (2012, p.200) argues that ‘most ideas and examples of practices which circulate in and around the planning field are likely to be shaped by their origins and by the channels through which they have travelled.’ Therefore, in this later work she holds that the ‘planning idea is not a timeless universal which holds for all times and all places’ (p.200).

The Global South authors, that is, those that argue about the need to develop new understandings and positions on planning from a Global South perspective, critique the underlying claims of universality of Global North planning theory (Watson, 2016; 2009; Bhan, 2019). In contrast to Global North planning theory that assumes consensus in planning engagements, the Global South authors argue that conflict and difference rather than consensus are at the heart of all planning engagements. In these contexts, planning engagement more often reveals a conflict of rationalities (see section 2.7 below) between the state ‘driven by the logic of modernisation and control... and poorer communities driven by the logic of survival’ (Watson, 2016, p.37).

Debate on power relation tends to centre on the location of power rather than how power is used, yet various modes of power co-exist and are exercised by different actors (Simon, 1994; Allen, 2004 cited by Lindell, 2008). Power can create the room for resistance because domination and resistance are mutually constituted (Lindell, 2008). Building on the understanding of Foucault’s ‘dispersed power,’ Lindell (2008) notes that power is not equally distributed between the state and society but involves many actors, activities and practices within both the state and society. Li (2007; 2005) pointed to the many actors involved in seeking to improve human welfare and these among others include the state, donors, religious

organisations and civil society, all of which yield a certain level of power to influence communities. To explain how the state uses power, Flyvbjerg (1996 cited by Certoma, 2013) uses his theory of the 'dark side' of planning, to argue that planning is a tool for control and disempowerment when he states that 'power has a rationality that rationality does not know, whereas rationality does not have a power that power does not know' (quoted by Chauncey, 2003, p.3). Flyvbjerg (1998) for example, found that self-serving planners, businessmen and politicians colluded behind the scenes in Denmark and used planning deceptively to such an extent that

'Institutions that were supposed to represent what they themselves called the public interest were revealed to be deeply embedded in the hidden exercise of power and protection of special interests' (Flyvbjerg, 1998, p.318).

Therefore, Flyvbjerg and Richardson (2002) argue that, if planning were to be effective in social change and empowerment, instead of focusing on what planning should do, analysis should focus on what planning actually does. In this case, the dark side of planning was deception and favouring particular interests. According to Porter (2017) the challenge lies in the fact that once someone is immersed in an ideology it becomes difficult to problematize 'what has been taken for granted' or to expose how planners are 'implicated in relations of power that produce domination' (p.15). And any action in that regard requires an understanding of how power works, because 'action is the exercise of power' (Flyvbjerg and Richardson, 2002, p.14). Certoma (2013) argues that in fact, there are subaltern relationships between politics, science and governance of people through spatial planning which, as seen above, work to materialise domination regardless of stated intentions.

Planning's power to control is likewise explored by Yiftachel (1998; 2009) who suggests that planning is actually used to achieve political domination. He, like Flyvbjerg and Richardson (2002), notes the existence of a 'sinister dark side' of planning which 'provides the tools and technologies to classify' (Yiftachel, 2009, p.88) urban societies according to status on the basis of which the state denies services and rights to some urban residents. Yiftachel (2009a; 2009b, p.264) argues that the state does so through creating what he calls 'gray spaces' which he defines 'as the practice of indefinitely positioning populations between the 'lightness' of legality, safety and full membership, and the 'darkness' of eviction, destruction and death'. Though such gray spacing can lead to radicalisation of inhabitants of the informal settlements, by positioning informal settlements in this way, the state and planning authorities get the leverage to control informal settlements and to implement their plans, laws and regulations including demolition of informal settlements of the poor without hindrance (Yiftachel, 2009b). As a system that facilitates discrimination and inequalities, planning therefore divorces itself from its rationality (Yiftachel, 2009). When the state and planners attempt to achieve ordered urban growth, it is not necessarily to achieve the public interest of planning, but to protect the interests of the affluent and the elites (McAuslan, 2003). And, using the sovereign power of the state, the planning system leaves out the poor and the weak, through actions and processes that produce, entrench and perpetuate informality in different forms. Using a legal-historical approach, Home (2014) explained how post-colonial planning and urban space in the Global South was affected by colonial laws that had been 'transplanted' from the United Kingdom.

This theme is also explored by Watson (2009) when she suggests that planning systems in the Global South have not significantly changed from reliance on approaches and systems reflecting planning ideas from the Global North that had been transferred or copied through colonialism and globalisation.

2.4 TERRITORIALITY AND RIGHTS TO LAND AND THE CITY

The question to address here is how informality (see section 2.6) is a territorial strategy that inhabitants of informal settlements use to negotiate their rights to land and presence in the city. But first, what is territoriality? The term territoriality originates from ‘territory’ which is conceptualised as bounded space over which political authority is exercised. In view of this, two definitions of territoriality prevail. The first definition focuses on geographical space. Territory is also used to refer to place and region or indeed as lived space that is not monopolised by political or institutional power (Storey, 2017). In this way territoriality is the process by which individuals or groups claim territory in various ways using different strategies relating to maintaining power or resisting the imposition of power by certain dominant groups (Storey, 2017). From this lens, territoriality relates to geographical space. Storey (2012) also shows how territorial strategies can be used to assert power and to sustain or resist power, and in certain cases for oppression and liberation.

The geographical view has been criticised by several authors who argue that the concept of territory is not fixed. Sack (1983, p.55) defines territoriality as the contextual social production of strategies by individuals, groups or classes of people ‘to affect, influence or control actions, interactions or access by asserting and attempting to enforce control over a geographical area.’ Other authors such as Antonsich (2017) dismiss the geographical conceptualisation of territory calling it structural and therefore as a site of oppression, exclusion and confinement because of its binary of “inside/outside”. He therefore looks at territoriality and territories as the product of people’s conscious agency or social construction (Antonsich, 2017) which can define how a community engages the state or other communities. Elden (2014, p.1; 7) points out the conceptual confusion that arises when territory is used to refer to bounded space, arguing that ‘not all territories are bounded spaces; and not all bounded spaces are territories.’ Within urban space Elden (2014 p.9) argues that it is important to forego conceptualising boundaries as defining territory, but that territory defines boundaries: ‘If territory is conceived of as political-calculative-space, a technology; as a process rather than as an outcome; and as something continually being made and remade, then this helps us to break-out of a static, bounded, defined, sense. Indeed, it helps us to understand how boundaries are possible’. The actors in this include not only the citizens or their groups, but also the state and its agents (Elden, 2014). Territoriality will therefore involve the ‘personalisation and marking’ of spaces which sometimes leads to ‘social tensions’ (Rasmussen, 2012, p.7). Thus, although it can be seen as the spatial expression of power where borders divide those inside from those outside (Storey, 2017), territoriality is contextual and is an important concept to explain power relations in the appropriation of urban space.

Understanding territoriality therefore can avoid confusion when referring to urban contexts where territory is a process that is continuously occurring through the actions of states and

citizens. In the urban context, according to Roy (2007; 2009b), the state uses flexibility which it does not have through formal means of accumulation and legitimation. Rasmussen (2012) reports how, for example, street vendors and the state in Dar es Salaam (Tanzania) used territoriality through the display of goods on the main road despite the risk of accidents on one hand and a fence constructed to divide the territory in the middle of the road. State complicity in territoriality is supported by Kanbur (2009) who observes that informality is about state intervention regarding (non-)compliance to specified regulation and therefore questions why a government 'would not enforce a regulation it has itself passed' (Kanbur, 2009, p.9). In other words, informality is not just because of neoliberal instigated state withdrawal and the vacuum so created for informality to grow and thrive (Varriale, 2015), but also because the state itself goes beyond its legal limits to also act informally (Roy, 2009b). Lindell's (2008) study in Mozambique confirms how the local state in Maputo went beyond existing policy prescriptions to tolerate informality, and used informal ways to control vendors. Goodfellow (2017) elaborates this point by using the concept of *political settlement* to show how power through different varieties of clientelism creates and perpetuates informality by weakening the laws and regulations to enable the powerful and privileged to informally access and control urban land. On their part, citizens develop various strategies and tactics of survival including using informality to occupy land and, in that way, territoriality can be 'a tool to fight segregation' (Rasmussen, 2012, 10). Writing on South Africa, Guillaume and Houssay-Holzschuch (2002) report how squatting was used as a territorial strategy to access land and jobs and other benefits of urban life. Guillaume and Houssay-Holzschuch (2002) argue that squatting by invading land was a 'choice' that offered suitable 'alternatives' to former locations and ways of life:

'[Informality]can be a choice, the solution to have access to cheaper and independent accommodation or private and family space.... Squatting was seen as a means to attain personal independence and to gain access to private space.....' (p.3)

If territoriality is successful, then the marginalised can be assured of residence in places of their 'choice' in the city, which, as Guillaume and Houssay-Holzschuch (2002) note, assures independence, but also impacts on the 'shape and life' of the city.

2.5 MANIFESTATION OF STATE-SOCIETY ENGAGEMENT

This section addresses two research questions, relating firstly to how **state actions** manifest themselves through laws, regimes and practices of planning, and secondly to how citizens' actions manifest themselves through active **engagement or resistance**.

2.5.1 State Policies, Laws and Regulations

The state can be seen to use several policies, laws and regulations as a way to show the power it holds over land in many ways. One such way is to use its control of the planning system to distinguish what is formal from what is not. For example, Roy (2007) has argued that rather than looking at informality as being beyond the reach of planning, it is planning that creates informality when it designates some activities as formal and others as informal. Specifically, Roy (2009, p.81) argues that the planning in the Global South (using India as an example) often fails because planning is itself informalized or 'permeated by the logic of informality' through

deregulation, which is a purposive action by the state for the accumulating and allocating of resources and authority. This is ‘why some forms of informality are criminalized and thus rendered illegal while others enjoy state sanction or are even practices of the state’ (Roy, 2009, p.82). The state also uses its power either through threats and evictions from the city or from certain locations of the city (Houssay-Holzschuch, 2002). In certain cases, as is common in Israel’s treatment of urban Arab communities, the state creates ‘gray spaces.’ Developed by Yiftachel (2009), the concept of ‘gray spaces’ looks at informality as a blurred and ambiguous area between what is official and unofficial or legal and illegal that is created by the state in a form of ‘creeping apartheid’ (Yiftachel, 2009, p.88). Yiftachel suggests that urban planning ‘is often behind both the existence and criminalisation of gray space’ because it is planning that provides the basis for defining categories such as illegal, unapproved or buffer zones among others which the state uses to create a ‘system for civil stratification’ in which informal settlements’ inhabitants are criminalised or left in uncertainty’ (Yiftachel, 2009, p.93). Gray spaces can also be seen as ‘developments, enclaves, populations and transactions [...that] are neither integrated nor eliminated ... [and] exist partially outside the gaze of state authorities and city plans’ (Yiftachel 2009b, p.243). Flyvbjerg (1996, p.387) notes that state employees use power through deception and manipulation of the planning system ‘by playing games of power covered up as technical reasoning.’ Accordingly, what is professed is not what happens in reality. As Flyvbjerg (1998, p.225) reports of planning in his Aalborg case study, ‘institutions that were supposed to represent what they themselves call the public interest were revealed to be deeply embedded in the hidden exercise of power and protection of special interests.’ In short one can say that the state and its officials are not neutral and that planning practice is contextual. Therefore, mainstream planning theories that claim universality appear to be misplaced.

The state also uses strategies that aim to stabilise its relations with the citizens. For example, the state may seek to maintain ‘dominance through inclusion’ in order to ‘stabilize state-citizen relations by implicating civil society in governance’ Mirafteb (2009, p.3) This hegemonic manoeuvring is seen in the growing number of state alliances with community-based organisations and non-governmental organisations which is a practice that extends state control in a society (Mirafteb, 2009). It can also be mentioned that in many cases the state engages in informal practices to achieve its intentions. Lindell (2008) observes from her research in Maputo, Mozambique, that as a way to control informality, the local state engaged in many non-formal ways that were against official discourses of tolerance towards informality. As such, she argues that cities are an outcome of various ways in which power is actually exercised by different actors (Lindell, 2008). This aligns with Foucault’s concept of dispersed power.

2.5.2 Society or Citizen Resistance

While the state exerts control, often the citizens, in various ways, resist state domination and manipulation. Citizens can resist in different forms including through quiet encroachment (Bayat, 2004; 2010), hidden transcripts (Scott, 1990), insurgency (Holston, 2008), invited and invented spaces (Mirafteb, 2004; 2009), spatial protests (Yakobi, 2004) or establishing alliances with a variety of organisations and actors, not just to make themselves visible but also

to express demands and interests (Lindell, 2010). The applicability of some of these concepts and practices is explored in the case of Mzuzu City.

According to Bayat (2004; 2010) the urban informal settlers, appropriate space *through* ‘quiet encroachment’ which refers to long term activities that the ordinary citizens undertake to acquire the basic necessities of life including land, services, livelihoods, and public space. Quiet encroachment occurs slowly by gradually advancing on land and other resources that are controlled by the state and by powerful individuals (Bayat, 2004; 2010). Bayat (2010) contends that quiet encroachment is more common in the Middle East because civil society is less strong and active, largely due to state domination, and as such citizens use non-confrontational strategies and argues:

‘...in non-movements actors directly practice what they claim, despite government sanctions. Thus, theirs is not a politics of protest, but of practice, of redress through direct and disparate actions.... the poor people building homes, getting piped water or phone lines, or spreading their merchandise out in the urban sidewalks.... does not lie in the unity of actors ...a large number of people acting in common has the effect of normalizing and legitimizing those acts that are otherwise deemed illegitimate. The practices of big numbers are likely to capture and appropriate spaces of power in society within which the subaltern can cultivate, consolidate, and reproduce their counterpower... And the greater the number of the poor consolidating their self-made urban communities, the more limited the elite control of urban governance becomes’ (pp.19-20)

How the weak and poor resist the state is explained by Scott (1990), who uses his concepts of ‘*everyday resistance*’ and ‘*public and hidden transcripts*’ to argue that when communities are in the presence of the powerful they speak and perform respectfully to avoid punishment, but when away from the power holders, they do resist the state through disguise, lies, foot-dragging, disloyalty, and pretence among others (see also Johansson and Vinthagen, 2013) to abide by state actions. As Scott describes it:

‘Every subordinate group creates, out of its ordeal, a hidden transcript that represents a critique of power spoken behind the back of the dominant. The powerful, for their part, also develop a hidden transcript representing the practices and claims of their rule that cannot be openly avowed. A comparison of the hidden transcript of the weak, with that of the powerful, and of *both* hidden transcripts to the public transcript power relations offers a substantially new way of understanding resistance to domination’ (Scott, 1990, p. xii).

Lagman (2012) found the use of hidden transcripts applicable in the Philippines, and reported that informal settlements were largely an outcome of resistance against the state and the rich, arguing that ‘the methods employed by the residents of informal communities enable them to appropriate for themselves urban space that they do not legally own(p.1).’

Community resistance can also be in the form of insurgency as the inhabitants of informal settlements seek to establish ‘territorial claims’ (Roy, 2009b). Holston (2008) introduced the

concept of insurgent citizenship through which he argues that informal inhabitants can destabilise entrenched or hegemonic policies and practices that lead to the promotion and proliferation social inequalities. The concept of insurgency was based on research in Brazil where civil society is (or was) vibrant because of permissive laws. According to Lombard (2012) insurgent planning refers to the direct actions by residents of informal settlements with the aim of transforming local resources and capacities into political and social capital for defending and improving their settlements. Through such strategies the marginalised seek their own ways to benefit from the city (Sandercock 1998). Holston (2008) argues that informal inhabitants can destabilise entrenched policies and practices that cause the proliferation of social inequalities through protests or even violence.

In extending Holston's idea, Earle (2012, p.1), also drawing on a Brazilian case study, uses the concept of 'transgressive citizenship' to describe how the organised informal occupants of buildings and land sometimes use the law, not just rights, to challenge or resist the state. Yiftachel (2009, p.97) therefore calls for 'planning citizenship' to seek inclusion of the marginalised groups in the planning process as a way to address domination and exploitation embedded in the planning systems while Ulloa (2013, p.2) advocates for the adoption of insurgency as a planning tool in situations where planning is centred on 'spaces of representation.' Insurgency can therefore either produce stability in state-citizen relationships, or destabilise them (Holston 2008). For example, Holston (2008) notes that the insurgent activities of squatters in Brazil destabilise old formations of 'differentiated citizenship' which assures equal rights to equal people and vice versa, while insurgent citizenship promotes the idea that all people have equal rights. Insurgency thus disrupts the normalised relationships produced by 'differentiated citizenship,' yet the line between the two is blurred.

In supporting Holston's insurgency concept, Miraftab (2009) argues that insurgency in planning is counter-hegemonic as it aims to challenge or respond to state attempts to maintain 'dominance through inclusion' in order to 'stabilize state-citizen relations by implicating civil society in governance' (p.3). This hegemonic manoeuvring is seen in the growing number of state alliances with community-based organisations and non-governmental organisations, a practice that extends state control in the society as it stabilises the relations between the state and society (Miraftab, 2009; 2018). Such practice can be challenged via what she calls 'invented spaces,' that is, when grassroots directly confront authorities through their collective action (Miraftab, 2004). Miraftab (2009; 2004) notes that insurgent movements do not limit themselves to the invited spaces for citizen participation sanctioned by the state, they also invent new spaces or re-appropriate old ones where they demand citizenship rights and inclusion in response to state overtures. Examples of how the state seeks to stabilise relations date to colonial indirect rule practices of appointing local chiefs (Home, 2013). Such practices are also currently seen in state supported community organisations or decentralised governance structures. As argued by Miraftab:

'Such routinization of community participation depoliticizes communities' struggles and extends state control within the society. Drawing grassroots movements into NGOs maintains the status quo by stabilizing state-society relations... by creating sanctioned

spaces of participation, the process also creates a disjunction that insurgent movements are able to take advantage of. Symbolic inclusion does not necessarily entail material re-distribution. Counter-hegemonic movements may use such contradictory conditions to destabilize the neoliberal hegemonic order' (Miraftab, 2009, p.6).

This happens because over time citizens build democracies from below which may expose and upset the normalized relations of dominance (Miraftab, 2009). In other words, the citizens can take advantage of hegemonic state intentions, leading to power shifts. Evidence shows multiple sites of power but also how such power shifts, due to movements fighting for dominance (Lindell, 2008). Informal settlements are observed to be not only an expression of, but also an embodiment of such practices, and in their own right stabilise the systems of control and dominance, as they build movements and relationships that become the focal points for demanding entitlement to the city and to urban livelihood (Miraftab, 2009). However, since the line between the state and civic organisations is blurred, the relationships between the inhabitants of informal settlements and the state also tend to be unclear (Miraftab, 2009).

In view of the above state-society relations and interactions in the production of informality as described in sections 2.5.1 and 2.5.2, our question then becomes 'if informality is a mode of urbanisation, what does it look like in its locally situated manifestations?' (Porter, 2011, p.115). The various connotations of informality represent this mode of urbanisation. In this regard, Alsayyad and Roy, (2006, p.8) hold that 'un-regulation in informal settlements 'is in and of itself a distinct form of regulation, a set of tactics that recreate informality as governmentality.' As noted by Torres (2013), this new way of life would call for the practice of planning that is committed to dialogue and open to conflicts rather than being insensitive to the real world.

2.6 SHIFTING OFFICIAL DISCOURSES OF INFORMALITY

This section of the thesis addresses the practical application of planning policies and laws and its impacts by exploring the theories and concepts on how these are used as modes of control, as well as how the citizens respond in various ways. In this regard, the section first addresses the definitions of informality before discussing the shifts in discourse over the years in ways which redefine claims of inhabitants to space and recognition.

2.6.1 Defining Informality

A dominant feature of urbanisation in the Global South is informality which has been linked to failures by the state or local governments to meet the growing needs of the urban populations such as jobs and basic services (Rasmussen, 2012). The first step however is to understand informality as a concept and how it is produced. Gilbert (2004) and Daniels (2004 cited by MacFarlane & Waibel, 2012, p.2) note the difficulty of defining informality because of its overlaps and linkages with formality. What is clear is the 'othering' of informality, that is, the tendency to define informality by its opposite, that is, formality (Huchzermeyer, 2011, p.70). Noting the unfortunate implication of such definition that formality is more desirable or superior to informality, a whole special issue of the journal *Urban Studies* sought to transcend this binary (Acuto et al., 2019). Sindzingre (2004) notes the plurality of meanings and measurement criteria and a lack of boundaries regarding informality which leads to conceptual confusions. In view of such ambiguities and vagueness, some authors including Sindzingre

(2004) and Herrle & Fokdal (2011) question the validity, usefulness and neutrality of the term ‘informality.’ Whereas formality is viewed as rational, planned, organised and regulated settlement (Mukhija and Loukaitou-Sideris, 2015), informality is viewed negatively as lack of regularity and conformity to established order (Durand–Lasserve, 2006), or lack of structure or organisation (Guha-Khasnobis, Kanbur and Ostrom, 2006). Lindell and Ampaire (2016) however note the importance of recognising the role of power and politics in the formulation of illegality. Two major scholarly discourses explaining the rise and entrenchment of informality can be noted, one focused on economic informality and the other on housing (Acuto et al., 2019; see ILO, 2014). In these discourses, the tendency, whether analysis is based on a structuralist view seeking the state to promote equality or on legalistic ideas, is to remove regulations and laws creating the problem (Acuto et al., 2019, p.477). The debate focused on housing informality provides the basis of this thesis.

How then is housing informality defined? Housing informality in government discourse is defined broadly as including settlements characterised by irregularity, failure to conform to planning standards, illegality of tenure or poor quality of housing and amenities (Braathen, 2016). Various authors have sought to analyse and explain informality in various ways. Such analyses are very diverse. According to Rasmussen (2013), informality occurs when new neighbourhoods develop without formal guidelines, laws, instruction or involvement of professionals. These informal settlements attain a variety of labels such as shantytowns, slums and squatter settlements. Durand–Lasserve (2006), Rasmussen (2013) and Potter (2011) use the concepts of slum and informal settlement interchangeably. Such understanding of informality as being synonymous with slums is also noted by Rao (2012) who, though arguing that informality is more a problem of design and research than of theoretical framing, refers to ‘formal’ as modern. Herrle and Fokdal (2011) specifically state that this categorisation is a creation of planners to denote unplanned, irregular or illegal settlements occupied mainly by the poor. Fegue (2007) defines housing informality in terms of two related concepts of slum and squatter settlement, with the slum being perceived largely in terms of *conditions* while squatter settlements are perceived in terms of *legality* of occupation. UN-Habitat views slums as evidence of gross underdevelopment within urban space and therefore implemented its *cities without slums* target in the United Nations Millennium Development Goals (MDG7 target 11) to *improve* lives of slum dwellers because the localities lacked basic services and security of tenure (UN-Habitat, 2007). So, in the logic of UN-Habitat, informality can be conceived as lack of an acceptable living environment that defines ostensibly housing formality including tenure security, safe water, safe sanitation, durable shelter and sufficient living space, and availability of infrastructure such as roads (UN-Habitat, 2006; 2003). Building on the arguments of authors such as de Soto (2000), these are attempts to *transit* informal urban dwellers to formal housing - a project Gilbert (2007) predicts to be unachievable. This is illustrated by Hucherzermeyer (2003) who reports on South Africa’s housing subsidy programme being premised on transiting the informal to the formal: the programme requires a complete replacement of informal settlements with uniform products consisting of a standard freehold tenured serviced plot and a core house in a serviced layout.

However, there has been a shift from perceiving informal settlements as illegal to a recognition of how they contribute to housing development and urban economies. For example, intrinsic benefits of informality such as urban dwellers' resilience and agency to seek their own identities and livelihoods have been noted (Beal, et al., 2010). The economic potential of informal settlements being realised, if fully transitioned to formality, has also been recognised in many Global South countries that draw on the work of de Soto (2000) despite the heavy criticism his ideas have received, for example, from Payne et al. (2009) and Home and Lim (2004). This is important because, as Fox (2013) argues, housing informality is fundamentally a manifestation of underinvestment in housing and infrastructure. This argument is persuasive because in many cases, houses in the informal settlements tend to be as good as, or better than, those in the formal settlements with the only exception being inadequacy of amenities (Stren, 1975 cited by Fegue, 2007). In addition, as Jenkins' (2004) study in Mozambique found, informal land access tends to be a solution to land access by the urban poor in contexts where formal supply is inadequate and inflexible. Such recognition has brought about new thinking about informality and informal settlements.

For purposes of this thesis, therefore, informality refers to housing development without the prescription of planning professionals and without the sanction of governance and planning authorities.

2.6.2 Theorisation of Settlement Informality

While some of the authors cited above have been concerned about policy positions in relation to informal settlements, other authors (mainly from urban studies) have attempted new ways to theorise the existence and persistence of urban informality and have suggested ways of broadening the concept beyond illegal or irregular settlement. The broad perception in recent theorisation is that urban informality is the general manifestation of informal processes in the urban environment (Alsayyad and Roy, 2004, 2005). While informality is observed in cities of the Global North (see Jeffe and Koster, 2019), broadly, the discourses recognise the prevalence of informality in cities of the Global South. Emphasising this view, Bhan (2019) argues that Global South urban planning theory requires specific vocabulary. For example, 'squatting' can be seen as a practice of both the state and citizens, and not just as informal settlement. A second new term is that of 'repair' which suggests that informal settlements expand over time using the most easily accessible materials and the most readily available actors to build homes. Yakobi's (2004) 'spatial protest,' also fits among such new concepts. Yakobi (2004), p.73) describes spatial protest as 'formation of autonomous acts reflecting personal and social needs that often contradict the interest of those in power...unauthorised housing construction results from the very basic need of supplying shelter....' According to Bhan (2019) these are some of the urban practices that characterise the Global South and which ought to be consolidated by the different stakeholders and actors instead of reliance on otherwise unrealistic approaches borrowed from the global north.

Noting that the boundary between legal and illegal is blurred, untenable and temporary (see Lindell and Ampaire, 2016 for example), these Global South authors thus question the stated logic of urban planning and shift the debate to how power and governmentality (within which urban planning is located) produce, facilitate and entrench informality. For example, Auerbach

et al. (2018) suggest that social complexity which refers to diversity and differentiation in urban space, and institutional complexity (overlapping roles and jurisdictions of state and non-state actors) also contribute to urban informality. In the debate about informality under these labels, two themes emerge. The first theme relates to how the state is implicated in the production of informality. The second theme is that as a result of state implication, informality becomes a mode of urbanisation or way of life. These themes are discussed below.

2.6.3 State Implication in Informality

The implication of the state in the production of informality has various manifestations. The view that informality is a product of state power and planning is advanced mainly by Roy (2005; 2009) who rejects the conceptualisation of informality as a separate and bounded sector of unregulated work, enterprise or settlement. Roy (2005) looks at government systems, like Torres (2013) does, as processes of governance to draw attention to informality as a governance process in which the state itself acts informally. Drawing on the experience of the Global South, and contrary to arguments explaining informality as a lack of adherence to regulations, she locates informality within the scope of the state rather than outside it and argues that the state exerts control using the planning system. Writing on India, Roy (2009b) argues that informality proliferates because of informal decision-making within state planning and regulatory mechanisms. For instance, the state may utilise its powers to change land uses or to acquire land and convert such land to urban use, often violating its own rules against such conversions. For example, Roy (2009b) notes that whereas peri-urbanisation is informal as it flouts existing master plans and state procedures, nonetheless formal developments in the peri urban areas are authorised by the state. Hansen and Vaa (2004) argue that the flouting of such regulations blurs the border between what is formal or informal. For example, according to Hansen and Vaa (2004) the implication of the state is observed when regulations are adjusted in response to demands by powerful citizens for flexibility, or when government agents enforce some rules and not others, and when formal authorisation is given informally. According to Jaffe and Koster (2019) ‘policy innovation’ is the vocabulary for such deliberate state toleration of informality in the form of non-application of laws inherited from the Global North. Bhan (2019) cites the case of formal public health clinics built informally on walkways in Bangalore to show how informality was a practice of both the state and inhabitants. Bhan (2019, p.7) argues that ‘squatting as a practice has a set of logics that make it both effective and necessary for reaching certain outcomes in the specific historical and spatial contexts of Southern urbanisation.’

Writing on India’s city of Bangalore, Roy (2009b) notes how the state justifies its power to evict people from agricultural land to make way for planned development for private developers in the public interest of job creation. This shows that informality is about class power where the state has ‘considerable territorialised flexibility to alter land use, deploy eminent domain and acquire land’ (Roy, 2009b, p.81). Therefore, ‘the state is a deeply informalised entity, one that actively utilises informality as an instrument of both accumulation and authority ‘and ‘as a strategy of planning’ (Roy 2009b, p.82). In this way, planning creates informality by designating some activities as authorised and others as unauthorised (Roy, 2009b). Lindell and Ampaire (2016) emphasise this point when they argue that unequal

configuration of rights is produced and perpetuated through categorisation of groups as living informally and their activities as illegal and illegitimate:

‘Understanding the relationship between urban informality and the law thus requires a perspective that places power and conflict at the centre of analysis’ Lindell and Ampaire (2016, p.260).

Roy (2011) maintains that as planning is responsible for the production of informality, the morality of labelling actors other than the state in urban space as informal is questionable. As such she questions policy interventions that would integrate the informal into the legal, formal and planned because the ‘legal norms and forms of regulation are in and of themselves permeated by the logic of informality’ (Roy, 2009b, p.82).

Using the case of Israel, Yiftachel (2009) supports the ideas of Roy (2009) by arguing that that the state tolerates and even promotes informality for various reasons (Yiftachel, 2009) and does so using its control of the planning process. He argues that urban planning produces the tools and categories that the state of Israel uses to create gray spaces. Yiftachel (2009) defines gray spaces as areas that the state keeps informal in order to control them in apartheid-like discrimination or as he calls it, ‘urban colonialism.’ The gray spaces tend to be positioned between the “whiteness” of legality/approval/safety, and the “blackness” of eviction/destruction/death’ where they can be whitened by allocation to the rich and state organisations or blackened through demolitions and evictions of inhabitants (see also Roy, 2011). In Israel such targeted areas or gray spaces are those largely informally settled by indigenous Bedouins, Palestinians and Arabs:

‘Gray spaces are usually tolerated quietly, often even exaggerated, while being encaged within discourses of contamination, criminality, and public danger to the desires of things’ (Yiftachel, 2009, p.89).

Thus, informal settlements not just in Israel, but globally, can be formally created and tolerated by the state as a measure of control (Yiftachel & Yakobi, 2004). When the state tolerates informality in this way, it tends to favour powerful actors on the pretext of development, security or national needs:

‘These gray spaces are sanctioned from above through benign tolerance and even facilitation of groups favoured by the regime’ (Yiftachel, 2009, p.92).

In support of this line of thought, Varriale (2015) argues that the state will tolerate informality if it has economic and ideological gains to support or not to support, even when they have the ability to suppress it. Torres (2013) uses Foucault’s concept of ‘governmentality’ to argue that the state uses its power and planning *deceptively*. Specifically, he argues that public policies and urban planning are ‘manifestations of the governmentalization of the state’ that are used ‘to organise life, regulate space and control the actions of the urban citizens’ (Torres, 2013). A major outcome of such state practices is the creation of what Roy (2011 p.233) calls an ‘uneven geography of spatial value’ because over time the ‘spaces that are formalised and legitimised by the state accrue high land values’ while the spaces occupied by the poor can

only attain any value through upgrading programmes. Thus, Alsayyad and Roy, (2006, p.8) argue that 'if formality operates through fixing and mapping of spatial value, then informality operates through the constant negotiability of value and the unmapping of space.' In other words, informality is not restricted to the poor or informal settlements; it occurs also in the formal settlements of the wealthy. Using the case of the 2005 Mumbai flooding, MacFarlane (2012) supports this idea by suggesting that there is in practice a close relation between informality and formality as 'informal politics characterised formal spaces' of government and planning. In such situations, MacFarlane (2012) argues, informality is a generalised practice that needs contextual understanding. In short one can say that because planning is located and operates within the state, it is a manifestation of the policies and practices of the state, and therefore also a manifestation of how the state is implicated in the production of urban informality (Torres, 2013). As informality is no longer construed as the opposite of planning and rather as a mode of urbanisation, its prevalence in Africa can offer lessons for responsive and inclusive urban planning (Okyere and Kita, 2015).

2.7 CONFLICTING RATIONALITIES IN URBAN SPACE

This section explores the idea of conflicting rationalities between the residents of informal settlements and the state. Watson (2003) developed the concept of conflicting rationalities to describe a context in the urban Global South where the aims of planning held by the state are very different from the interests of various actors in informal settlements, to the extent of impacting planning aims and processes. The concept thus emphasises the importance of recognising context in theorisation and practice of planning. By rationality conflicts, Watson (2003) meant that there are deep differences between visions of the planning authorities to realise orderly urban development for proper living environments, and the aims of survival by those who are subjected to these planning visions. This argument is explored further in de Satge and Watson (2018, p.24) where it is argued that such ways of seeing, positions, perspectives, arguments or making sense of the world of the actors in particular settings impact state-society engagements in the planning process. According to Li (2007; 2005) government (and other actors such as donors and NGOs) is usually assumed to be concerned with improving the condition and well-being of the community by increasing its wealth, health and longevity among other dimensions of welfare, which are implemented from a position of trusteeship and benevolence and largely without coercion. In this argument, Li (2005) critiques Scott's (1998) argument that state initiated programs often fail because they lack consultation, and argues that there are many actors seeking to improve human welfare that implement programs; hence failure should be apportioned among the many actors that hold power to influence community life. Therefore, there is need for context: 'the effects of planned interventions have to be examined empirically, in the various sites where they unfold' because, contrary to Scott's (1998) observations, the community are not docile and can become radicalized once their expectations remain un-fulfilled by any of the actors (Li, 2005, p.390). Auyero (2007 cited by Auerbach, 2018) argues that elites and politicians can encourage action among the urban poor as a way to gain power or avoid blame. Das (2018, p.62) also notes that inhabitants of informal settlements are heterogeneous, with social differences and conflicts 'between individuals and groups of people not only in terms of their incomes, but also in their needs and aspirations.'

Thus, there are different interests at play in the informal settlements. The specific interests reach a point of what Li (2007) calls ‘interface,’ meaning the times and places where different rationalities ‘come into clear juxtaposition, engagement, and contestation with each other’ (Li 2007 cited by De Satge and Watson (2018, p.27).

However, De Satge and Watson (2018) report that such conflicts are not simply a binary state-society engagement. There are conflicts within and between the two categories and sometimes actors move between and across for strategic reasons with both positive and negative results. Oteng-Ababio and Grant (2018) add to this argument by arguing that there is sometimes hypocrisy in how contradictory agenda are pursued by the state and how there exist gaps between written plans, planning and actions. ‘The hypocritical character of planning actions occurs because planners believe they are acting in the interest of the poor, but specific interventions may actually achieve the opposite results’ Oteng-Ababio and Grant (2018, p.8).

Drawing on Li’s idea of interface, De Satge and Watson (2018) explain the different understandings, perceptions and visions about urban space and life between the state and inhabitants of informal settlements. Specifically, De Satge and Watson (2018) note that while the state’s view of the city is to create orderly and proper living conditions as described by Li (2007) for urban citizens, the citizens’ perception of the same is different, and possibly, it is one where their needs and aspirations have also to be met. For example, many national and local governments in Africa have embarked on what Watson (2014) has called ‘urban fantasies,’ visions of world class city status through ambitious planning projects (see also Cain, 2014). However, such plans are likely to marginalise the majority and entrench poverty and inequalities (Watson, 2014). Watson (2003, p.401) argues that:

‘A vast gap exists between the notion of ‘proper’ communities held by most planners and administrators (grounded in the rationality of Western modernity and development), and the rationality which informs the strategies and tactics of those who are attempting to survive, materially and politically.’

Watson (2009) suggests that to resolve the conflicting rationalities between authorities and citizens, planning ought to consider and work with this reality. In the Global South cities, therefore, it becomes necessary to shift planning theory from one reliant on Global North ideologies to, among others, Global South-specific urban experiences (Watson, 2009). For example, collaborative and communicative planning approaches underlying Habermesian assumptions of consensus are found to be ill-suited to the Global South where rationality conflicts between and within the state and society are an everyday occurrence in urban development projects (De Satge and Watson, 2018).

2.8 CONCLUSION

The chapter has outlined the theoretical frame of the thesis within post-structural epistemologies to understand and question the binaries of formal/informal which are characteristics of modernist/structuralist ideological ways of thinking. The chapter has called into question mainstream planning theories based on Habermesian concepts of consensual state-society relations, not only because of how they draw on a particular and questionable

concept of power relations, but also because of contextual and historical differences between the Global North and Global South. The chapter also questions the definition of informality as illegality associated with the urban poor because of evidence of state implication and complicity which is a dominant feature of Global South planning. Key concepts of territoriality and conflicting rationalities have been described to aid an understanding of how informality is produced and entrenched in urban space. The argument of the chapter is that, as much as informality is an everyday livelihood activity of the weak and poor individuals and groups, it is at the same time an activity in which the state and state actors engage in various forms for various reasons. However, through various strategies informal settlement residents also act informally not just to assert their presence in the city, but also to access services and basic needs. Therefore, informality is a mode of urbanisation that continuously shapes the urban space and interactions.

From the discussion, it can be seen that examples of the state acting informally have been observed widely in the Global South cities. However, except for colonial and post-colonial historical accounts of urban challenges by McCracken (2009) and geographical explanations of contestations over urban spaces (Mwathunga, 2014), no study has been conducted on state-society engagements in Malawi using the lens of Global South planning theory. There is presently no in-depth case research explaining the state-society engagements and how this produces and escalates housing informality. This study therefore contributes to the call to build theories from the Global South using the power of example (Duminy et al., 2014). The study does this through an analysis of the applicability of theories and concepts implicating the state in the production and entrenchment of settlement informality and how inhabitants covertly and overtly respond in Mzuzu City as a case with three sub-cases. The next chapter outlines the research approach and data collection and analysis methods.

CHAPTER THREE: RESEARCH METHOD

3.1 INTRODUCTION

This chapter outlines the research approach, methods and processes that were used for data collection and analysis. I adopted the case study approach which Stake (1995), Creswell (2009) and Yin (2014; 2015) define as a bounded system manifesting specific characteristics and meriting full inquiry. The chapter reviews this research approach and explains how the unit of analysis was determined and study sites selected. The chapter begins by outlining the research problem in section 3.2, followed by research aims and questions in section 3.3. Section 3.4 discusses the case study research approach. Section 3.5 describes the unit of analysis while section 3.6 describes how the case study sites were selected. Sections 3.7 and 3.8 respectively outline the research process and data collection and analysis steps. Section 3.9 explains ethical considerations undertaken during data collection. The chapter is concluded in section 3.10.

3.2 RESEARCH PROBLEM

The Global Report on Human Settlements (UN-Habitat, 2009) demonstrated that urban planning is an essential tool for addressing urban challenges. The UN-Habitat (2013) State of World Cities Report also highlighted how planning can contribute to the attainment of prosperity in cities. However, according to Watson (2009), urban planning is part of the problem, firstly because it discriminates against the poor, and secondly because of its colonial inheritance. UN-Habitat (2013, p.117) argues that ‘the pitfalls of the conventional urban development model have become more glaring (and as a result) the potential of cities has not been fully harnessed; a more common trend has developed where urban development tends to be spatially fragmented and the benefits of prosperity remains socially segmented.’ In view of this, there have been calls for re-inventing urban planning practice (Hague, 2011), urban planning education (Watson and Odendaal, 2012) and planning theory (Watson, 2003; 2009; 2016). Planning in the Global South is known for its tendency to copy and transfer planning approaches and many aspects of urban form from the Global North (Watson, 2014). Yet, the Global South context is such that consensus in planning decision-making processes is rarely realised because of the legacy of colonialism and the conflictive nature of urban planning and governance (See Watson, 2003). As noted by Hague (2011, p.i), the ‘legacy of colonial town planning ...is central to understanding the problems of today’s rampaging urban tragedy.’

Many attempts by planning systems have been made to directly address and contain or replace informal settlements, yet the prevalence and persistence of urban informal settlements remains a key feature of urbanisation in Global South cities and the dominant form of shelter (Bhan, 2019). Likewise, in Malawi, with its colonial legacy of a dual urban land tenure system, similar attempts by planning and governance authorities to bring about regular or orderly urban growth have not been successful.

However, there is insufficient understanding of how and why informality persists in the African urban context and why urban planning seems unable to engage with this aspect of urban growth and change. One way has been the proposal of ‘Global South planning theory project’ to explore the relevance of place and colonial legacy in explaining the dominant urbanisation

processes of the Global South including the prevalence of settlement informality, inequality and poverty (de Satge and Watson, 2018). One can also explore the role of planning as a state instrument for spatial segregation as well as the rationality conflicts between the state seeking orderly city growth and urban residents including those in informal settlements seeking survival and life in the city (see Watson, 2009; Miraftab, 2009; Yiftachel, 2009). In particular, the Global South theorists have pointed to how the urban landscape is shaped because of the state's implication in the production of informality as authorities use planning to alter land uses, thus making informality an 'idiom of urbanisation' (Roy, 2009, p.1). No study has been conducted to explore the applicability of Global South planning theory in Malawi's urban centres.

3.3 RESEARCH AIMS AND RESEARCH QUESTIONS

The study's main aim was to understand the context of housing informality by exploring how both the state and inhabitants are implicated in the production, proliferation and intensification of housing informality in Mzuzu City. The research also aimed to make theoretical propositions that contribute to the Global South planning theory project. The specific objectives were to:

- i. Analyse how territoriality is used by inhabitants of informal settlements to negotiate their rights to land and presence in the city,
- ii. Assess how political engagement between the state and society manifests itself through policies, laws and regulations on the part of the state and through active engagement, resistance, and violence on the part of the society,
- iii. Analyse how the state defines informal settlements and what shifts have occurred in the informality discourse over the years to redefine the claim of such settlements to space and recognition, and
- iv. Explore the possibility of a conflict of rationalities between the residents of informal settlements and state authorities.

From the research objectives above I formulated a set of research questions. The main research question was: What has been the nature of changing political engagement between the inhabitants of informal settlements and the planning and governance authorities of Mzuzu City? These objectives were further explored through the following research sub-questions:

- i. To what extent and how can the form of settlement be seen as a territoriality of political engagement through which residents negotiate their rights to land and presence in the city?
- ii. How does this political engagement manifest itself through laws, regimes and practices of planning on the one hand, and through active engagement or sometimes violence and resistance on the part of those occupying the land informally in the selected informal settlements of Luwinga, Salisburyline and Geisha?

- iii. How has official discourse defined settlements such as these and what have been the shifts in this discourse over the years to redefine the claim of such settlements to space and recognition?
- iv. Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which also needs to be understood as more than a conflict of two binary positions but may incorporate conflicts within these two groupings?

3.4 THE CASE STUDY APPROACH

This research adopted the case study approach to get a full and in-depth understanding of the nature of informality in Mzuzu City. Several authors have written about this approach. For example, Yin (2014, p.16) defines the case study as ‘an empirical inquiry that investigates a contemporary phenomenon (the case) in-depth and within its real-world context, especially when the boundaries between the phenomenon and the context may not be readily evident.’ According to Creswell (2007, p.73) ‘case study research is a qualitative approach in which the investigator explores a bounded system (a case) or multiple bounded systems (cases) over a long time, through detailed in-depth data collection involving multiple sources of information.’ Eisenhardt (1989) talks of case study research focusing on understanding issues within single settings. A bounded system refers to a specific focus, setting and context of study which is clearly delimited by the researcher (Harrison et al., 2017).

Case studies can be categorised in different ways. Creswell (2007) has identified three types of case studies. The first is the *instrumental case study* which focuses on one issue and selects one bounded case to illustrate the specific issue. The second is the *collective case study* which focuses on one issue but multiple cases to illustrate the issue by replicating the data collection procedure. The third is the *intrinsic case study* in which the case itself is the focus of the study because of unique or unusual characteristics it depicts. Flyvbjerg (2011; 2006, p.232) describes four types of cases: (a) the *paradigmatic case* which seeks to highlight general characteristics of a society under study, (b) the *maximum variation case* which seeks to identify differences among cases in relation to one dimension, (c) *critical cases* which seek to get the case most likely or least likely to confirm or falsify propositions and hypotheses. The fourth (d) is the *extreme case* which provides insights to causes and results of a problem, and data collected becomes the basis for propositions to theory. Yin (2014) has two broad types of case studies. Firstly there is the single case which may be chosen for various reasons resulting in the following categories: (a) the critical case which can make ‘significant contribution to knowledge and theory building by confirming, challenging, or extending the theory’ Yin (2014, p.51); (b) the extreme case which reveals unusualness by deviating from everyday occurrences; (c) the common case which refers to everyday situations; (d) the revelatory case which shows a situation previously inaccessible being made known through observation and then making descriptive analysis; (e) the longitudinal case which involves the study of the same situation at different points in time. These five types are further grouped into whether they are holistic or embedded cases. The second group are multiple or comparative case studies which are analogous to multiple experiments in the natural sciences for replication, but these, like single

cases, may be holistic or embedded (Yin, 2014). From the foregoing, Flyvbjerg (2006) and Yin (2014) share views about the role of critical cases, that is, to test propositions or theories. In this way, Mzuzu fits well as a single critical case which can provide insights into the causes of settlement informality, and on the basis of which can assist in confirming the arguments or propositions to answer the main and subsidiary research questions. As my study of informality is based on three informal settlements with different land tenure types, Mzuzu also fits as a collective case study in which sub-cases illustrate settlement informality by replicating the data collection procedure (Creswell, 2007).

The strengths of the case study approach include its flexibility for the researcher (Yin, 2014; Ridder, 2011) as it allows for a shift in research focus due to emerging findings after data collection has started (Eisenhardt, 1989). It is also relevant to understanding complex environments (Flyvbjerg, 2006; Duminy et al., 2014) as well as in allowing an in-depth examination, description and explanation of an issue in its context (Flyvbjerg, 2011).

The main goal of case study research is to come up with information and interpretation that should help the researcher to fully understand a phenomenon. The case study approach does not allow a researcher to generalise the outcomes of an inquiry to other cases because a case study represents a sample of one (Duminy et al., 2014; Stake, 1995). When generalisation is done in case study research, it is internal, meaning that the findings are generalisable only to the case or sub-cases that have been studied (Yin, 2014; 2015). As noted by Eisenhardt (1989) case studies, when well executed through induction processes, are therefore useful for testing and building of theories.

Flyvbjerg (2006, p.219) emphasises the importance of the case study research approach by stating that a 'discipline without a large number of thoroughly executed case studies is a discipline without systematic production of exemplars, and a discipline without exemplars is an ineffective one [and] may be strengthened by the execution of a greater number of good case studies.' The case study approach is also noted for its suitability in recording and analysing dynamic processes that can respond to how and why questions (such as: how did this situation arise? Why did this project fail?) which are central to explanations of operational links between actors and events that can be traced over time (Yin, 2014; Duminy et al., 2014). Yin (2014, p.12) also notes that the case method is appropriate for research on contemporary events. Urban informality in Malawi is an example of the unfolding of contemporary events.

However, the case study approach has been criticised from various angles, three of which are highlighted and addressed here. Firstly, case studies are held by some in low regard and are undervalued because of the question of whether or not generalisation can be made from single cases (Flyvbjerg (2011; 2006; Yin, 2014; Bryman & Teevan, 2005). In this view it is argued that the case study approach is useful only for testing hypotheses and hence it is only a step within the research process. In response to this critique, Yin (2014, p.21) states that case studies, like experiments, are generalisable to theoretical propositions and not to populations or universes [because a case study aims to] 'expand and generalise theories....' Flyvbjerg (2006, p.228) illustrated this by referring to the story of 'black swans' in which generalisation can be made by falsification of widespread beliefs. It can be argued therefore that the criticism of

subjectivity in case study research is misplaced. Duminy et al. (2014) emphasise this point by referring to ‘the power of good example’ in theory building. A second major criticism is that the case study lacks rigour resulting from failure to follow systematic procedures or because the results and conclusions may be influenced by researcher subjectivity (Yin, 2014; Flyvbjerg, 2006). However, such a critique has been noted to be fallacious and one evidence of misunderstanding about case studies, because preconceived ideas about specific situations are often proved wrong during case study research (Flyvbjerg, 2006). Thirdly, Yin (2014) has noted the critique that case studies lack comparative advantage because of their inability to conduct randomised controlled trials. In addressing this concern, Yin (2014, p.21) has argued that case studies will seek to answer questions of ‘why’ and ‘how’ rather than questions of ‘how many’ or ‘how much’. This gives the case study approach an advantage.

To deal with these criticisms, several measures were taken in my research to ensure validity and reliability of the data collected. Firstly, because informality is a contemporary and continuous process with the key actors existing, primary data was gathered from different sources using different methods. These methods were in-depth focused interviews (see section 3.7.2), focus group discussion (FGDs) and field observations. The information from the various sources and methods was cross-checked for errors and disconnects and also verified with research participants both during interviews and discussions and also after transcription. Specifically, I asked follow-up questions during interviews and discussions and conducted follow-up interviews during field visits to confirm responses and in this way asked the participants to correct or maintain any previous information. Where the key informants from the state lacked some information, I interviewed officials who had formerly worked in that office to get all the missing information. This process was repeated for all key informants until theoretical saturation was achieved. Full printed copies of the transcripts of the interviews were shared with each interviewee to check, confirm and correct the information. For focus group discussions (as well as for interviews) the recordings were replayed for all participants to listen and make corrections to what had been recorded. Any corrections or additions made were noted in my field book and were used to make corrections during the transcription of the recording of the FGDs. In order to ensure there was consistency and internal validity, the findings from the different data sources and methods were also corroborated through triangulation. Triangulation is defined as a method of cross-checking or verification of accuracy and factuality of information from various sources (Yin, 2014; Duminy et al., 2014; Olsen, 2004). In this regard, information was collected not just from different informal settlements, but also from different participants who included chiefs, clan leaders, state officials, households, senior citizens and block leaders using focus group discussions and in-depth interviews. Field and gesture observation as well as review of archival materials were also undertaken to cross-check the data from interviews and discussions. This process of triangulation was also useful in reducing biases in the collection and interpretation of data. As noted by Olsen (2004) triangulation is also important because it widens and deepens one’s understanding of an issue under study. The different methods used and sources of data are outlined in section 3.7. The three sub-cases were chosen as described in section 3.6.8.

3.5 UNIT OF ANALYSIS

The research was conducted in Mzuzu City (Figures 3.1 and 3.2) which was my main unit of analysis. The focus of the research was the exploration, explanation and interpretation of factors leading to the socio-political engagements between the state (both central and local governments) on the one hand and society (occupants of informal settlements) on the other, and what impacts these engagements have on the vision of planned and orderly growth of the city as professed by the state.

Mzuzu has 15 political wards which are sub-divided into neighbourhoods. Of the 15 wards, only two are fully planned and the other wards have sections that are planned and sections that are informal or upgraded. The study selected three informal settlements (Luwinga, Salisburyline and Geisha) as sub-cases or study sites (Section 3.6) to replicate data collection (Creswell, 2007) and illustrate the planning and governance contexts that create, increase and perpetuate informality on different land tenure types. While the settlements share a similar historical background, the inhabitants of these informal settlements are mixed in term of economic backgrounds and places of origins. Using Mzuzu as a case and these three informal settlements as sub-cases it was considered possible to explain actions and practices of the state and society in relation to the proliferation and persistence of informality. This assisted in making the propositions in chapter 7 that contribute to theory development based on the local context of informality in Mzuzu (see Stake, 1995).

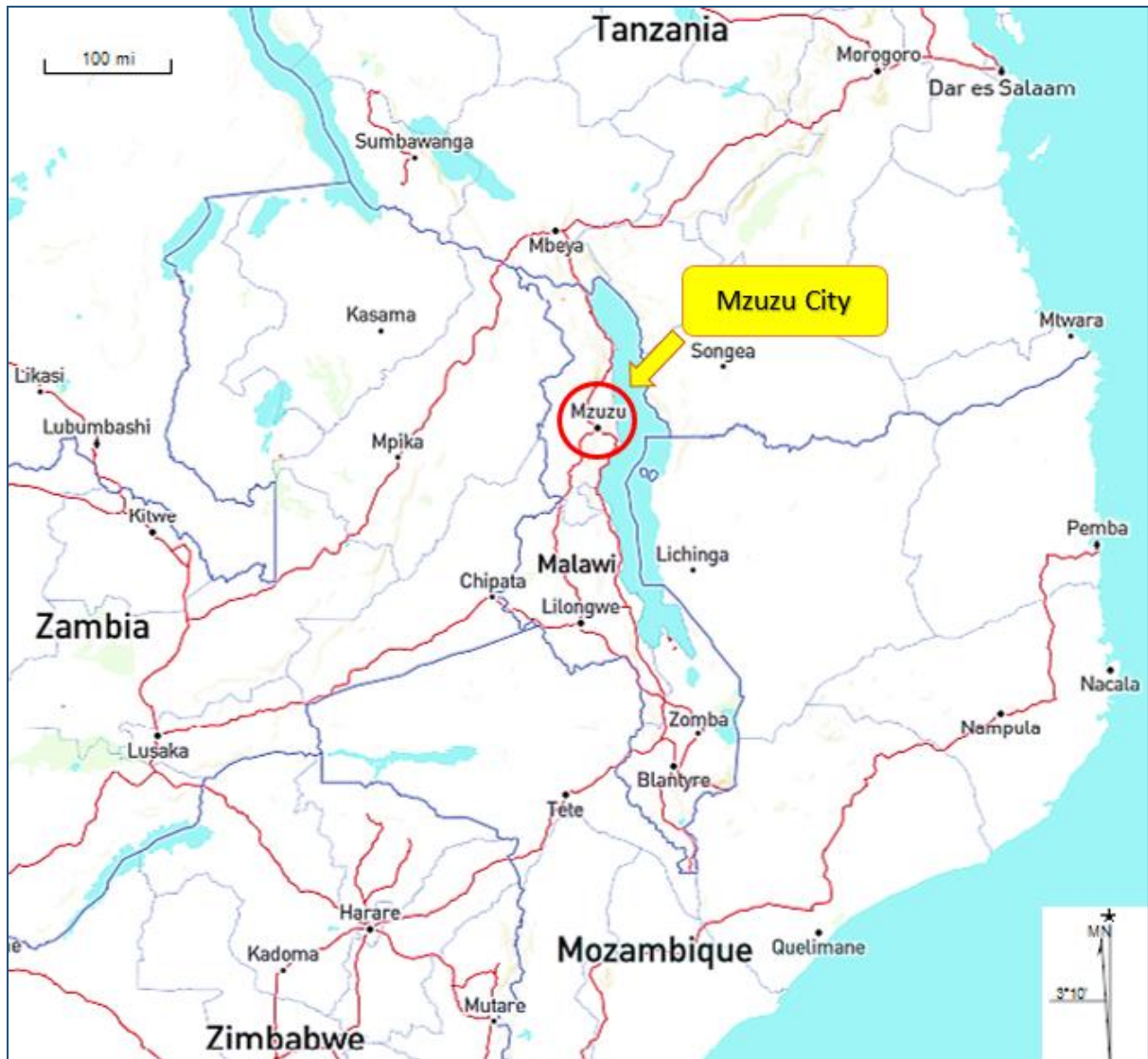
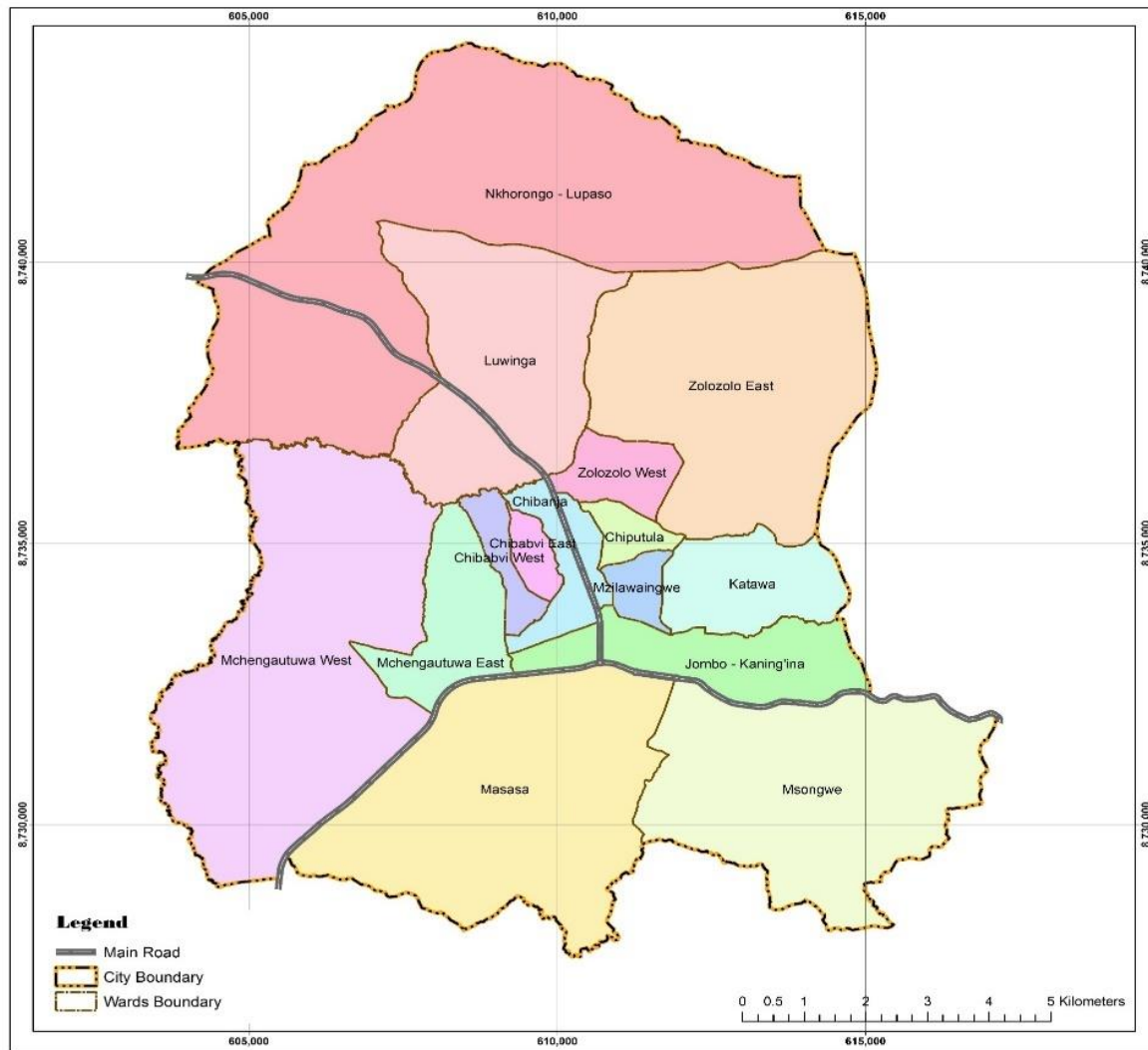


Figure 3.1: Location of Mzuzu City in Malawi



Source: Mzuzu City Council, 2018

Figure 3.2: Map of Mzuzu City

The research focused on the post-colonial era of Mzuzu City (although I recognize the important and ongoing influence colonialism has had on the country) especially the period from 1985 to 2017. Mzuzu was declared a city council in 1985. Thereafter it not only witnessed accelerated growth, but also the state initiated the gazettement of extended urban boundaries, preparation of new plans and the introduction of new governance structures aimed at replacing chiefs. However, a historical background is essential to explain the present context. As argued by Hague (2009) the colonial past was central to understanding the present urban challenges but also essential to reinventing planning. The Table 3.1 explains the criteria used to select Mzuzu and the three settlements as my case study.

Table 3.1: Case Selection Criteria and Justification

Criteria	Remark
Proximity	I live in Mzuzu and the three study sites are within 10 km radius of my work place.
Accessibility	I had preliminary discussions with chiefs and clan leaders (gate keepers). After these discussions and my explanation of the purpose of the study, I was assured of unhindered access to the settlements. During data collection, ethics approvals from UCT and NCST a letter of introduction from MCC enabled me to get free access to documents at the offices of the Council, DoL and PPD and from individual inhabitants.
Trust Building	I gave assurances to clan leaders and chiefs in the three study sites that data access was limited to me and my supervisor. Consent forms were signed by each research participant. At the end of the study data will be kept in the Malawiana section of the Mzuzu University Library where the librarian can grant access only to me or clan leaders. To ensure this the librarian will have a list of clan leaders that had been interviewed.
Language	I speak the two languages dominant in these informal settlements: ChiTumbuka and ChiTonga. Many clan leaders, chiefs and local leaders in these informal settlements also speak English.
Access to research participants (state actors and community)	To gain access to inhabitants, I went through the clan leaders and chiefs. On each visit for interviews I informed them of my entry and returned to them for information verification. For state actors and key informants, the ethics approval from UCT and NCST and the letter from MCC assured the interviewees.
Case contribution to knowledge: Inductive theorisation on urban informality in Mzuzu	State actors strive for orderly urban development in order to improve living conditions of the people and realise the vision of a beautiful Mzuzu City. However, they are implicated in production of informality. This research sought to contribute to a deep understanding of urbanisation processes and informality. Specifically, it sought to explore how both the state and citizens produce and proliferate informality.
Case Type & justification: Purposive selection of a typical case of a Global South rapidly growing and largely informal city with three sub-cases	The three selected sub-cases are examples of informal settlements on different land tenure systems in Mzuzu. Luwanga grew on customary land, Salisburyline grew on public land, while Geisha grew on private land. As noted by Creswell (2007), selecting multiple sub-cases helps to replicate data collection which is important to illustrate an issue, in this case, how the state is implicated in informality on different land tenure systems despite its vision of orderly urban growth, and also to explore the response of the inhabitants to state policies, laws, regulations, and practices.

Source: Adapted from Duminy et al., 2014; see also Creswell, 2007; Flyvbjerg, 2006

3.6 SELECTING SUB-CASES/STUDY SITES

According to Stake (1995) the case or site is the main interest in a case study approach as the idea is to learn deeply from that single case. Housing informality is a key urban issue in Malawi and engagement between the state and society in informal settlements is typical of all towns, including Mzuzu. Three sub-cases were purposively selected based on the typology of informal settlements shown in Table 3.2 to replicate data collection, as they are examples of three different kinds of settlement formation on different land tenure types in Mzuzu. These illustrate the different ways in which territorial strategies of the state and society manifest themselves in practice (Table 3.3). Land tenure was specifically considered a defining characteristic for selecting the sub-cases because, as all development initiatives are space users, land is a major element of the urbanisation process which makes it the locus of contestation and, sometimes, violent conflict among actors (Lombard, 2016). The Malawi Government recognised this point and made it the basis of its land policy (GoM, 2002). The different land tenure types also offered the opportunity for exploring and explaining the conflicting rationalities between the state and inhabitants in envisioning the growth of, and life in, the city. The selected informal settlements were Luwinga (customary land), Salisburyline (state or public land) and Geisha (private land). The three land tenure types were defined by the Land Act (1965). Though these categories have since been revised following a review of the Land Act in 2016 which introduced two broad land tenure categories of public (government land and unallocated customary land) and private (leasehold and customary estate land), these provisions are yet to implemented and therefore these categories are used in this thesis. The customary estate tenure type, for example, refers to individual parcels that are expected to be registered countrywide, yet cannot be registered due to inadequacy of funding and human resources.

Table 3.2: Typology of Informal Settlements in Malawi

Type	Description	Examples from Mzuzu
Informal settlements on public land (Government, or City Council)	These emerge through invasion which may be rapid over a short period of time, or may be very slow starting with a few individuals. They occur on land that appears neglected e.g. wetlands, land earmarked for future uses, on road reserves of major roads. These types of informal	Salisburyline, Zolozolo West; Zolozolo East grew on land owned or managed by Mzuzu City council.

	settlements are also called squatter settlements by the state agencies.	
Informal settlement on private land	These emerge through invasion which may be rapid over a short period of time, or may be very slow, starting with a few individuals. These types of informal settlements are also called squatter settlements by the state agencies.	Geisha (Masasa West) settlement grew on land owned by Agriculture Development and Marketing Corporation (ADMARC).
Informal settlements on customary land	These are villages that are incorporated into the 'urban' zone due to boundary extensions over time.	Luwinga, Nkhorongo, Masasa East.

Source: Table is based on analysis of various policy documents

Table 3.3: State-Society Engagements in Mzuzu

Study Site	Land Tenure	State Engagement	Society Engagement
Luwinga	Customary	Negotiation; then retracts; incremental land takeover; allocation to migrants	Negotiation, violence, building, land sales, courts; boycott property taxes
Geisha	Private	Eviction threats; demolitions and withhold social services; new plan	Protest, land sharing and sales, self-provisioning; boycott property taxes
Salisburyline	Public	Provides services and some infrastructure to improve living conditions	Collaboration; complaints, house sales

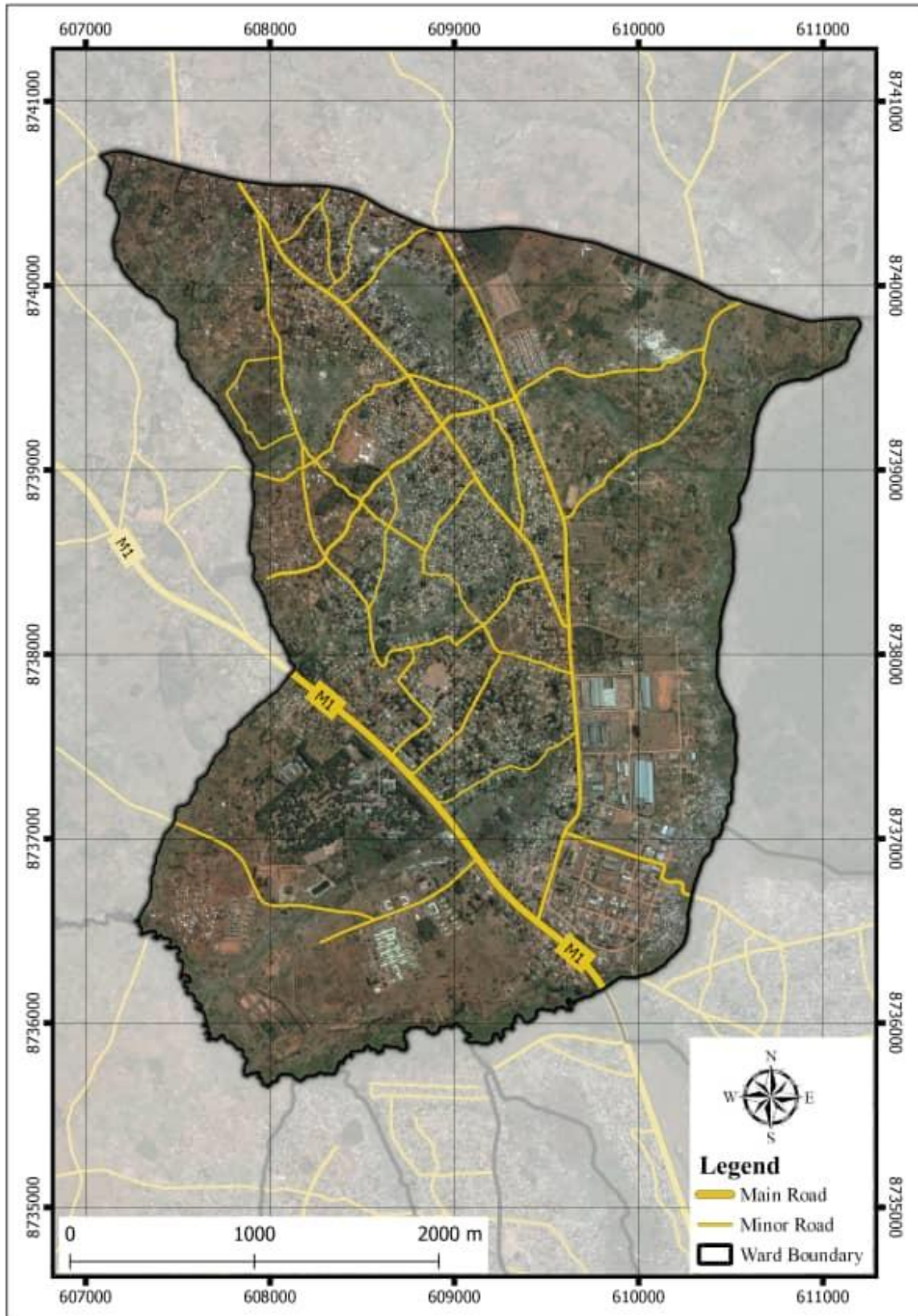
Source: Author, 2018

3.6.1 Selection of Luwinga

Luwinga (Figure 3.3) with a population of 13,303 in 2008, is strategically located along the Main Road (M1) which runs through Mzuzu City from the south of Malawi to the border with Tanzania. There are major establishments around Luwinga such as the industrial area, university and central hospital. I decided to choose Luwinga following newspaper reports¹ in 2010 of a decision by Mzuzu City Council (MCC) to evict occupants of the customary land to implement a proposal to extend the city boundary. This announcement came despite a court case that had ordered MCC to stop demanding city rates since 2005 as the area was customary. I undertook pre-study interviews with local clan leaders to understand the background to the court case and the land tenure system in the area. It transpired that unlike the other informal settlements, Luwinga's indigenous citizens had negotiated and agreed with the state to relocate away from the jurisdiction of MCC. However, actions of the residents and the state suggested that there were underlying motivations that went beyond their open engagement and that might entrench informality. Both the state and inhabitants informally subdivide parts of the land to allocate or sell to migrants who complicate the matter by demanding titles which are duly processed by the state.

Figure 3.3 shows Luwinga Ward which is a mixture of residential land on one hand, and institutions and industries on the other. The industries and institutions are located on land that is acquired piecemeal and incrementally from the customary land.

¹ *Malawi News*, 6 February 2010



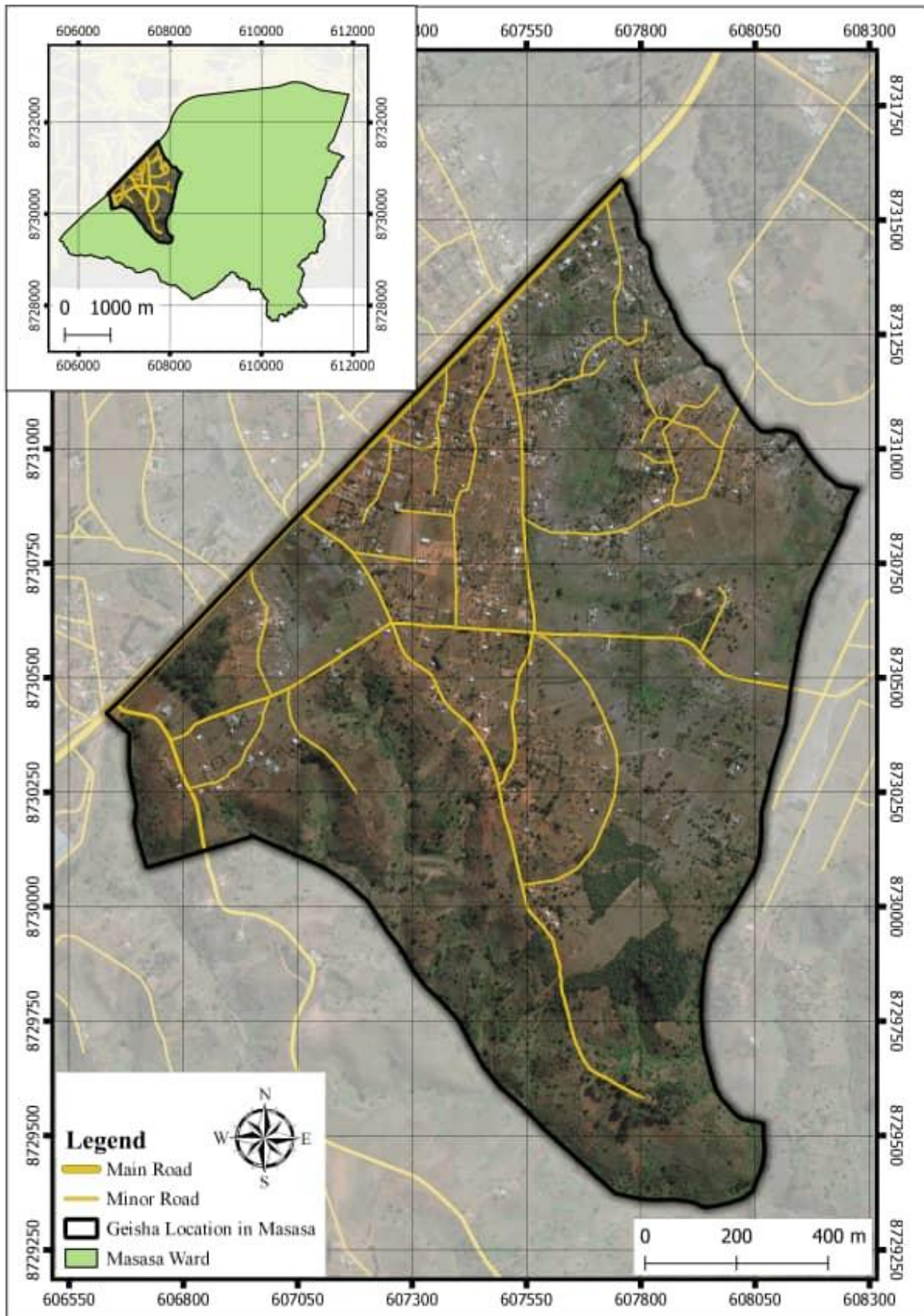
Source: Mzuzu City Council, 2018

Figure 3.3: Luwinga

3.6.2 Selection of Geisha

Geisha is part of Masasa Ward (Figure 3.4) which had a population of 15,487 in 2008 and is an example of an informal settlement on privately owned land in which there are state threats of eviction and sporadic demolitions. Geisha developed on part of the land previously occupied by the defunct Tung Estate that had been established by the Commonwealth Colonial Development Corporation (CCDC) as part of rebuilding projects to reward colonised nations after their participation in the Second World War (WWII). The land was inherited by the Agriculture Development and Marketing Corporation (ADMARC), a government parastatal organisation dealing in agriculture marketing which had over the years grown to own shares in most private ventures that required state shareholding, from banking and manufacturing to farming. As a result of structural adjustment policy, ADMARC's ambitions had collapsed and was unable to develop the land it held in Mzuzu. Due to rapid urbanisation the land was occupied with the support of local chiefs who had lost the land to the Tung Estate in the 1940s. The communities argued that the purpose for which the land had originally been alienated had since expired. The state responded with threats of eviction, demolitions and denial of services such as water, power and schools. Geisha became the first and only settlement to be subjected to service denial. Geisha however attracted many developers. State agencies sought to prevent expansion of the informal settlement as they too were interested in getting the land from ADMARC, presumably to 'properly' develop it and improve what they regarded as the aesthetic image of Mzuzu City.

From Figure 3.4 it can be seen that Geisha neighbourhood is just a part of the Masasa Ward. Masasa Ward (Figure 3.2) is a large area that includes high class residential neighbourhoods and a section of Mzuzu Central business district.

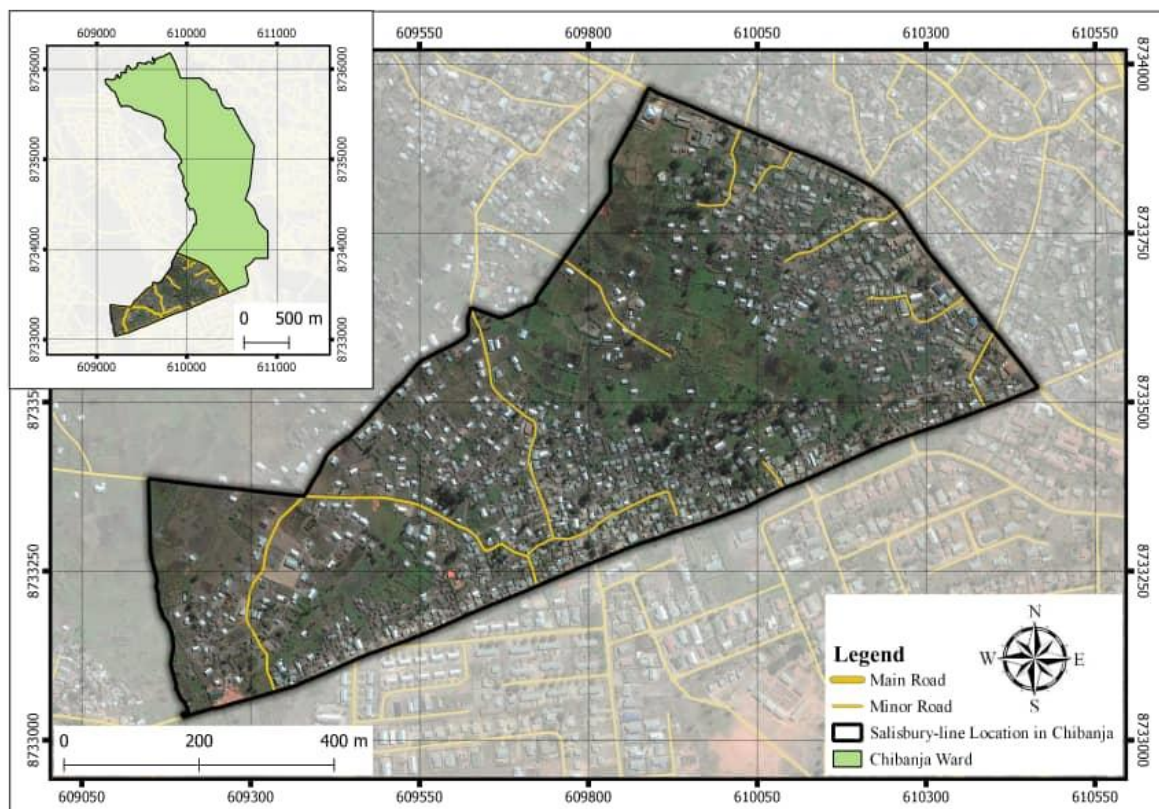


Source: Mzuzu City Council, 2018

Figure 3.4: Geisha shown as part of Masasa Ward

3.6.3 Selection of Salisburyline

Salisburyline is part of Chiwanja Ward (Figure 3.5) which had 9,840 people in 2008. Before 2008 Salisburyline was a standalone ward called Chiwanja South, but it was merged with Chiwanja north to become one Chiwanja Ward as part of the local government reforms. Its name derives from the former name of the capital (Salisbury) of Rhodesia (now Zimbabwe) to which many Malawians had migrated to take advantage of the Federation of countries now called Malawi, Zimbabwe and Zambia that had been established in 1953. The informal settlement is located near the central business district of Mzuzu City and largely grew on a wetland zoned as open space because it was considered unsuitable for development. The returning migrants started to settle in the area and reclaimed the land just north of Katoto Housing Estate which falls within Jombo-Kaning'ina ward. Nearly 85% of the inhabitants live in self- built houses. Unlike other informal settlements, and despite occupying state land, Salisburyline residents are not threatened with eviction. Over the years, however, the informal settlement was the target of upgrade planning. For example, in the 1980s, several plots (figure 5.7) were created and beaconed to increase tenure security for the inhabitants. In 2010, UN-Habitat's Participatory Slum Upgrading Project (PSUP) targeted the area with infrastructure and service upgrading. This project was implemented through a city-community steering committee.



Source: Mzuzu City Council, 2018

Figure 3.5: Salisburyline shown as part of Chiwanja Ward

Figure 3.5 shows that Salisburyline is only part of Chiwanja Ward (also Figure 3.2) which includes a larger section of planned residential housing area. Salisburyline was previously called Chiwanja South Ward until 2009 following a re-demarcation of ward boundaries.

3.7 RESEARCH PROCESS AND METHODS OF DATA COLLECTION

3.7.1 Research Process

The research process started with preliminary contacts using a list of clan and block leaders (appendix 1) provided by Mzuzu City Council and through snowballing based on the initial names of senior citizens provided by clan leaders that had been visited. The contacts targeted officials who had a history and knowledge of the informal settlements in Mzuzu City. The contacts were useful for building rapport and trust of the leaders in me which was enhanced by giving each one of them my cell phone numbers and directions to my office at Mzuzu University. I therefore appreciated the socio-political dynamics shaping community attitudes and actions in relation to land tenure and urban planning. The contacts were continued throughout the research process. The contacts also assisted in the preparation of an inventory of key informants in both state and the community and a list of archival documents and grey literature which were useful in later stages of my research. All interviews and transcriptions were done by myself as part of ensuring confidentiality (section 3.9). This was also useful to get direct insights and gaps for follow-up interviews and field observations. Different qualitative methods were used to collect data (sections 3.7.2 to 3.7.5). Using these different methods was useful to triangulate data and to ensure validity and reliability (Eisenhardt, 1989; Lacey & Luff, 2001). The different methods were also useful in collecting data from different research participants. An interview guide and checklist were used in interviews and discussions with state actors and inhabitants. All interviews and discussions were recorded using a digital audio recorder, transferred onto my computer and later transcribed for analysis by myself. For ethical purposes and to allow for validation of the information, participants were informed that at the end of the interview or discussion they would, and did, listen to the recordings and that transcripts would be, and were, shared with them to make corrections and additions where necessary.

Throughout this data collection process, I recorded dates of visits and data collected and I summarised key observations. Such brief summaries assisted in illuminating the gaps in earlier interviews for follow-up interviews. The gaps were also followed up during focus group discussions. This process also helped in exploring the emerging connections and details between concepts during analysis (Charmaz, 2006). The specific methods used for data collection were:

3.7.2 Interviews

I conducted two different types of interviews, individual interviews and focus group discussions (FGDs). Having different methods of data collection assists in data convergence and reduction of cases of bias (section 3.4). I interviewed a total of 14 state officials (Table 3.4), 18 residents through individual engagement (Table 3.5) and 95 residents through focus group discussions (Table 3.6).

3.7.2.1 Individual Interviews

Qualitative interviews were conducted using semi structured questionnaires and an interview guide (Morris, 2015) with different categories of research participants (Appendix 1). Firstly, I had in-depth qualitative interviews with key state actors using an interview guide. The state actors were drawn from central and local governments. From the central government I interviewed officials from the Department of Lands (DoL) and from the Department of Physical Planning (PPD). These two departments belong to national government and operate as regional offices based in Mzuzu. From local government I interviewed officials from Mzuzu City Council (MCC) and ward councillors. To validate the information provided by these officials, I had discussions with officials who had previously worked in these offices but had retired or had been transferred. I also interviewed officials from parastatal organisations that provide water (NRWB) and electricity (ESCOM) and owners of the land in the Geisha (ADMARC). Apart from these officials, elected ward councillors for Masasa, Luwanga and Chiwanja wards were interviewed. These state actors were important because of their various roles in upholding tenure rights and implementing government policies, laws and regulations, and they also have rich historical records of land and planning conflicts between the state and society in Mzuzu City generally, and the selected informal settlements specifically. Secondly, in-depth interactive interviews were held with senior citizens. I defined senior citizens as individuals who were known by other residents or clan leaders or MCC officials to have been the first to settle or to have lived longest in the study sites but did not hold any elected, hereditary or appointed position. The senior citizens were identified through snowballing (Atkinson and Flint, 2001) after the name and directions to the first one had been given by one of the state officials, block leaders, or chiefs. I expected that the senior citizens would be divorced from any biases related to indigenous-versus-migrant settlers in these areas. However, in Geisha one senior citizen also happened to be the first ever chief in the settlement.

Thirdly, in-depth interactive interviews were held with individual clan leaders and chiefs (village headmen and group village headmen) and block leaders. Fourthly, I interviewed ward development committee (WDC) chairmen. The third and fourth groups of interviewees were purposively selected because of the positions they held in society and based on a list and contact details provided by the MCC. These participants were considered to have a rich history of their settlements and often played the key role of gatekeepers in their various capacities apart from representing the interests of the inhabitants in the engagements with the state. These in-depth interviews were aimed at both understanding how communities resist state policies and regulations as well as exploring evidence of a conflict of rationalities among the inhabitants of informal settlements.

Broad questions to these groups of research participants were related to: how informality was defined, what were the issues surrounding land tenure and informality, production of informality, interactions with the state, and how inhabitants respond to state policies, regulations, laws and practices. Some questions to state officials were why the state issued titles to developers in informal settlements of the city and why there was service denial in one informal settlement and not in others. The interview questions are shown as appendix 2 to this thesis. These interviews unravelled several underlying motivations for actions of both the state

and the inhabitants which have assisted in explaining how these engagements contribute to urban informality.

Table 3.4: Interviews with State Officials

Organisation	Position of Interviewee	Number
Department of Lands (DoL) ²	Regional Commissioner	1
	Former Regional Commissioner	1
	Assistant Estates Officer	1
Department of Physical Planning (DPP) ³	Acting Regional Commissioner	1
	Former Regional Commissioners	2
Mzuzu City Council (MCC)	Director of Planning	1
	Town Planning Officer	1
	Ward Councillors	3
ADMARC	Human Resources Manager	1
NRWB	Chief Executive Officer	1
ESCOM	Engineer	1
Total		14

Source: Author, 2018

Table 3.5: Interviews with Individual Residents

Study Site	Chiefs	Ward Development Committee Chair	Block Leaders	Senior Citizens	Total
Luwinga	2	2	2	2	8
Salisburyline	2	1	1	1	5
Geisha	2	1	1	1	5
Total	6	4	4	4	18

Source: Author, 2018

3.7.2.2 Focus Group Discussions

Focus group discussions (FGDs) were meant to get insights into how inhabitants perceive the issue of housing informality and their engagements with the state. Considering that no ideal size of focus group is provided with authors suggesting Figures ranging from 5 for the smallest to 15 for the largest, I organised FGDs in each informal settlement for groups of 5-12 persons who were chosen from households, ward development committees, chiefs, senior citizens and block leaders. The size depended on the category of participants. For example, I could not have

² The former Regional Commissioner was serving now as Surveyor General but had also served as Commissioner for Lands at the Ministry Headquarters in Lilongwe

³ The two former Regional Planning Officers had worked in Mzuzu planning office since 1980s

as many chiefs as households. Four FGDs (Table 3.6), each with 5 for the smallest and 12 participants for the largest were conducted in each informal settlement, making a total of 86 participants. The number of participants in each FGD was considered adequate based on Bryman and Teevan (2005) and Krueger and Casey (2015) who state that such a range allows for no-shows and that larger numbers may be difficult to manage while smaller groups, though easier to recruit, may not be representative enough. The selected participants were from owner-occupied houses, which was necessary to have only those inhabitants with adequate information on how the settlement grew. These FGDs took between one and a half and 2 hours each to complete. The FGDs were conducted for block leaders, chiefs, ordinary households, and ward development committees. An interview guide was used to conduct the FGDs. Specific statements from the FGDs were picked out to engender patterns and linkages for thematisation. As these FGDs were recorded on tape, the information was validated at the end by having all participants listen to the recordings and asking for any clarifications. The emerging themes from FGDs were used to formulate specific questions for the collection of additional data during individual interviews with clan leaders, chiefs, block leaders, and ward chairmen (as in Table 3.5). These discussions were triangulated with document reviews and field observations.

Table 3.6: Focus Groups Discussions Conducted and Number of Participants

Site / Category	Block leaders	Chiefs	Ward Committees	Households	Senior Citizens	Total
Luwinga	1 (8)	1 (5)	1 (8)	1 (10)	1 (5)	4 (36)
Salisburyline	1 (6)	1 (7)	1 (5)	1 (8)	-	4 (26)
Geisha	1(6)	1(5)	1(10)	1 (12)	-	4 (33)
Total	3 (20)	3(17)	3 (23)	3 (30)	1(5)	12 (95)

Source: Author, 2018

3.7.3 Field Observations

Field observations were conducted to triangulate information collected through interviews and FGDs. Photographs of specific features, activities and events were taken to support the information collected. Among the events attended were the installation of a village headman in Luwinga and funeral ceremonies. Initial field visits were made to the study sites for self-orientation and to establish community contacts. The next field visits were made as part of data gathering during socialisation with communities through attendance of meetings, cultural events and funeral ceremonies which are in Malawi a major platform for public (local or national) announcements. Such visits were useful in the refinement of research questions and verification of the data collected during analysis. Additional observations that were made included gestures, expressions, and emphases and how people spoke in meetings and interviews. These observations of human expressions were useful in understanding the audio recordings during transcription and analysis.

3.7.4 Document Review

A variety of documents relevant to the study were reviewed to provide background and prevailing information on Mzuzu City generally and on each case study site specifically. Document review has been described by Yin (2014) and Stake (1995) as forming an important contribution to qualitative case study research. The documents that were reviewed for this research included archival material which was accessed from the National Archives of Malawi Regional Documents Centre based in Mzuzu, newspapers, internal office memos, letters, court rulings, city plan drawings and maps as well as minutes of meetings. Most of these documents were freely accessed from state officials, community leaders, and individual interviewees. Some of the documents such as policies and court rulings were also available for free download on the internet. These documents significantly contributed to the context of planning and land tenure regarding the engagements between the state and society and also within these two groupings. According to Merriam (1998) the importance of such documents is that they assist in revealing relevant meanings, understanding and insights.

3.8 DATA ANALYSIS

The data collected using the specific methods described in section 3.7 was analysed inductively through an iterative and reflexive process which included careful assessment of narratives and themes that emerged from the synthesis of sub-cases (Chapter 6). The interpretation of the results explored the factors (how) that lead to the socio-political engagements between the state and society and within either of them which was useful as well in making theoretical propositions (chapter 7). This iterative data analysis in case study research means that the process starts during data collection and progresses after field work until concepts, insights, patterns and meaning are derived reflexively (Yin, 2014; 2015). Thus, there is overlap between data analysis and collection which is important because it ‘not only gives the researcher a head start in analysis, but more importantly, allows researchers to take advantage of flexible data collection’ (Eisenhardt, 1989, p.539). As noted by Srivastava and Hopwood (2009, p.77), iteration ‘is key to sparking insight and developing meaning. Reflexive iteration is at the heart of visiting and revisiting the data and connecting them with emerging insights, progressively leading to refined focus and understandings.’ These narratives and themes were then linked to the research questions (section 3.3) and planning theories (chapters 2 and 4) to build possible ‘rival explanations’ (Yin, 2014, p.140; 147) for both an understanding of the production, intensification and proliferation of informality in the sub-cases and for making propositions to theory (Chapter 7). The data were triangulated with the various documents that had been reviewed to check validity. Several steps were followed in the analysis of data, taking cues from the qualitative data analysis models proposed by Miles and Huberman (1994), Ritchie and Spencer (1994 cited by Srivastava and Thomson, 2009) and Lacey and Luff (2001), as well as ideas for building theory from case studies put forward by Eisenhardt (1989). The specific steps followed in data analysis were:

3.8.1 Data Analysis Steps

Step 1: Familiarisation: The materials that had been collected such as photographs, documents, interview recordings, newspapers, videos and field notes were examined for familiarisation

with the data through reviews, reading and listening as recommended by Ritchie and Spencer, (1994 cited by Srivastava and Thomson, 2009).

Step 2: Transcription: The recorded interviews were personally transcribed and transferred to a personal laptop computer. Interviews in languages other than English were translated directly into English during transcription. However, both versions of the interviews are available.

Step 3: Data summary and display: The data was then manually summarised for easy management. The summaries of each sub-case were displayed in a Table format to show the historical growth of each settlement (Appendix 3).

Step 4: Identification: Key ideas and concepts were then highlighted in order to identify meanings, themes, patterns, and categories and linkages (Ritchie and Spencer (1994) cited by Srivastava and Thomson, (2009); Miles and Huberman (1994); See also Kvale, 1996). The key ideas were supported by vignettes or quotes of direct words of interviewees (Morris, 2015).

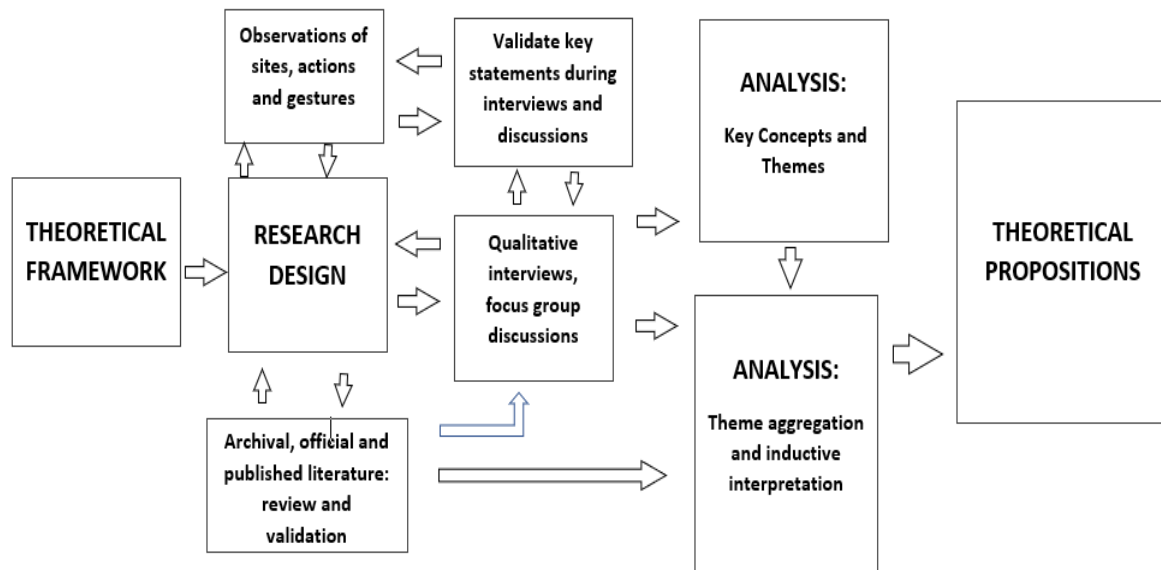
Step 5: Review: The above steps (1-4) were reviewed to identify any elements that might have been ignored or missed. This process was also employed during the interpretation of results confirming that qualitative research data analysis is iterative (Mills et al., 2010).

Step 6: Validation or verification: The data collected was validated with research participants during data collection individually or, in the case of focused FGDs, as groups, both by immediately going through the key points discussed or by listening to the recordings of the conversations and asking for comments (Duminy et al., 2014). For key informants, transcribed and printed texts of the interviews were shared so that any corrections could be made. Through this, interviewees and research participants added information or confirmed the recordings. The feedback became the basis for new questions for further data collection or refinement when follow up interviews were organised. Verification was also conducted through re-looking and revisiting the data to reflect on the emergent concepts and linkages, a process that Miles and Huberman (1994) recommend.

Step 7: Categorising by themes: The data was then categorised according to themes through identification of concepts that were related to the same phenomenon (Corbin & Straus, 1990). Categorisation was essential to relate the data through comparison. The identification of themes was iterative. Any new ideas that emerged during initial data analysis compelled the collection of new data until theoretical or data saturation was reached. Data saturation is defined by Morris (2015, p.64) as a 'situation where additional interviews do not yield any additional data of note', while theoretical saturation is defined as the collection and validation of data with research participants until no new themes emerge. It is important because one achieves representativeness and consistency (Straus & Corbin, 1990). During this process, enough data is collected such that similarities are seen over and over again, and hence any new data does not bring with it the need to develop new categories. This iterative process constituted the theoretical sampling procedure for this research and ensured representativeness and consistency of concepts throughout the study (Straus & Corbin, 1990) in each selected informal settlement.

Step 8: Theme aggregation: The final stage of data analysis was the aggregation of themes and this involved merging and linking key ideas and concepts from interviews, discussions, observations and literature review (Morris, 2015).

Step 9: Theoretical proposition and reporting: Based on these steps, theoretical propositions have been developed inductively as reported in Chapter 7. These propositions helped me to explain the factors and motivations of the state or society in relation to land tenure, planning and urban governance, and how housing informality in Mzuzu City is produced.



Source: Author, 2018

Figure 3.6: Data Collection and Analysis Methods

Figure 3.6 summarises the data collection and analysis steps. The research process started with theoretical framing of the study which guided the research design. The research design was informed by the case study method and on that basis qualitative data was collected through literature review, observations, interviews and discussions. The results were then analysed to identify key concepts and themes. These concepts and themes were aggregated and interpreted inductively to generate theoretical propositions. As reflected in the backward arrows, interview questions and the interview guide were revised based on new data collected, observations and participant responses during the interviews or discussions.

3.9 ETHICAL CONSIDERATIONS

The importance and principles of ethics to ensure that research protects human life and dignity have been described by Morris (2015, pp.17-35) and Creswell (2007, p.123) with reference to voluntary consent, confidentiality and transparency among others. In line with these principles, the process of conducting the research followed the ethical prescriptions of both the University of Cape Town (UCT) and the Malawi National Commission for Science and Technology (Research in the Social Sciences and Humanities). Firstly, the research was approved by the Ethics Committee of UCT (Appendix 4). Secondly and in line with the laws of Malawi, the

research was approved by NCST (Appendix 5) before commencement of data collection. Thirdly, permission (Appendix 6 and 7) was obtained from Mzuzu City Council to undertake the research in the archives, in the city and in the selected informal settlements. After these permissions, the following specific ethical considerations were undertaken.

Firstly, all participants were informed about the purpose of the research, its specific objectives, the methods and expected outcomes before seeking their consent to participate whether in interviews or focus group discussions. Each participant was also informed that their participation was voluntary and they had freedom to withdraw from meetings, interviews and discussions at any point.

Secondly, all interviews and discussions with inhabitants were conducted in their preferred local languages (ChiTumbuka or ChiTonga), the main languages spoken in Mzuzu and in which I am also fluent. Discussions with state officials and some community leaders who had opted to, were held in English, which is the official language of communication in government.

Thirdly, participants were informed prior to the interview or discussion that their voices would be recorded. To avoid any anxieties, participants were assured that the information and any personal identification given would be handled with maximum confidentiality and that only my supervisor and I could have access to the data. Participants were also informed that at the end of the interview or discussion they would, and did, listen to the recordings and that transcripts would be, and were, shared with them to make corrections and additions where necessary. Upon acceptance and before interviews or discussions started, each research participants signed the UCT consent form (Appendix 8) which provided options for identification or anonymity. All key informants accepted to have their names mentioned.

Fourthly, the research participants were informed that at the end of the research project all recordings would either be destroyed or deposited in the Malawiana section of the Mzuzu University Library where access would be granted only by permission. Each research participant was then asked about their choice. This assurance encouraged the participants to give detailed information and to share their lived experiences freely. To this end and for more confidence building, all participants were given my contact cell phone numbers and directions to my office at Mzuzu University. Finally, no incentives were given to interviewees and participants except for refreshments during FGDs as the meetings took at least two hours. Throughout the research follow-ups were made and transcripts shared to validate the findings with individual interviewees.

3.10 CONCLUSION

This chapter has outlined the research problem and research questions and also explained the case study research approach and methods that were used in collection, analysis and validation of the data. The strengths of the approach were outlined as including flexibility for the researcher, and relevance to understanding and explanation of complex and contemporary phenomena in their context. It was noted that though the case study approach generalises internally and not to cases that were not studied, it can also be useful for testing and building theories. The chapter has also outlined the key criticisms of the case study approach and the

steps that I took to address the criticism. For example, the approach is held in low regard because of the concerns with generalisation from single cases. A second major criticism noted was that the case study lacks rigour resulting from failure to follow systematic procedures or because the results and conclusions may be influenced by researcher subjectivity. The chapter then explained how these concerns have been addressed in literature and how they were addressed during this study. The argument of ‘the power of good example’ in theory building (Duminy et al., 2014), and Flyvbjerg’s (2006) reference to the story of ‘black swans’, were used to address the concerns about case studies. Finally, the chapter outlined the measures that were taken to adhere to ethical principles of conducting research as prescribed by the University of Cape Town (UCT) and the NCST (Research in the Social Sciences and Humanities). Chapter 4 which follows is an examination of the context of planning in Mzuzu and Malawi looking at both the pre- and post-independence periods.

CHAPTER FOUR: THE CONTEXT OF PLANNING, POLICIES AND LAND TENURE

4.1 INTRODUCTION

The preceding chapter outlined the research approach and methods of data collection and analysis. This chapter aims to show how land and planning policies, laws and practices in Malawi and Mzuzu impact on the land rights of the indigenous people and how this contributes to the creation of informality in urban centres. The chapter also traces how the colonial legacy has influenced current informality in Malawi's cities. Though this historical background contextualises the current state-society engagements and discourses on land tenure and planning in Malawi broadly and in Mzuzu specifically, land tenure also remains a contentious issue across Africa. In this chapter as in the others the terms blacks, natives, Africans are used interchangeably to refer to indigenous people while Europeans, settlers and colonists refer to non-indigenous people of European origin and who were either businessmen and farmers or were part of administrative positions that executed colonial authority. Though their meanings may differ, several authors such as Pachai (1973), McCracken (2012), McAuslan (2003), Home (2014) and Tangri (1968) use these terms interchangeably. For the purpose of this thesis, Malawi planning history is periodised into the colonial (1891-1963) and the post-colonial (1964-present) eras. The post-colonial period is further divided into the independence (1964-1993) and multiparty (1994-current) eras. The chapter is therefore structured according to these periods. Section 4.2 explains the colonial land and planning policies and practises. Section 4.3 describes the postcolonial planning, land and governance policies and practices. This section is divided into two sub-sections, one focusing on the immediate post-independence era that was marked by a one-party dictatorial regime and the other focussing on the period after a national referendum was conducted in 1993 during which citizens voted for democratic multiparty politics. Section 4.4 is specific to Mzuzu, looking at the planning and governance structure. The final section 4.5 concludes the chapter.

4.2 COLONIAL PLANNING AND LAND TENURE RIGHTS

Prior to colonialism, Malawi was a confederation of independent tribes trading in ivory with the Portuguese with whom they had been in contact as early as the 16th century. A major aspect in the pre-colonial era was violence either because of wars related to slave and ivory trading in the north (Kalinga, 1980), or the violence perpetrated by Ngoni refugees from Southern Africa who attacked indigenous tribal groups and seized cattle and land (McCracken, 2012). Following expeditions of missionaries like David Livingstone and Mackenzie, Christian missionaries started their activities leading to the establishment of mission stations at Magomero (1861) and Blantyre (1876) on land that had been freely granted by the chiefs. These mission stations grew to become urban settlements. Though the main reason for the establishment of the mission stations was to fight against the slave trade, and to bring about education and commerce, the missions also played a crucial role in the inflow of traders and plantation farmers by as early as 1878 (Pachai, 1973), thereby drawing in the church as one of the direct tools of state power and colonial hegemony. To facilitate access to resources by settlers, the British Government intervened by imposing colonial rule in 1891 and formally

declared the country a British Central Africa Protectorate on 14 May 1893. This name was later changed to Nyasaland Protectorate (McCracken, 2012; Ng'ong'ola, 1990).

The most important target of the colonial administration was land and land resources. The first colonial administrator, Henry Henderson, who had arrived in 1889, started to claim all the land on behalf of the crown, and to issue freehold titles to Europeans who had claimed to have bought large parcels of land from local chiefs (Home, 2013; 2014; Ng'ong'ola, 1990). As observed by McCracken (2012), Europeans claimed up to millions of hectares of land such that within two decades of declaring the colonial state, the British did not just establish 'their territorial hegemony through force, they also brought about a fundamental reshaping of the country's economy' (p.74) which included the alienation of land from indigenous owners. Among the largest beneficiaries was the African Lakes Company (ALC) which had claimed 2.5 million acres (Ligomeka, 2016; McCracken, 2012). McAuslan (2003) refers to this practice as 'land grabbing' by the colonists. Direct and indirect means were employed through a policy of taxing indigenous people, locally called Thangata, that not only secured revenue but also compelled the indigenous people to seek employment in government offices or on European plantations. Indigenous people on such land became squatters and had to provide free labour to estate owners to avoid eviction under the Thangata system. Dissent by the indigenous people led colonists to burning houses and beating people. Thangata has been recorded as one of the causes of the 1915 labour-cum political uprising (Pachai, 1973).

In the urban areas, as there was no applicable planning law for much of the colonial era, planning was related to British public health laws seeking improved environmental conditions. But the absence of planning law actually facilitated segregated urban development justified on public health grounds (McAuslan, 2003). Sanitation and medical officers played a significant role as they instigated urban racial discrimination with arguments that indigenous people could spread diseases and therefore ought to live away from European homes (Pennant, 1983; McAuslan, 2003). The practice was to be officially justified by the Jack Commission Report in 1959 which reported that indigenous people were not at that time used to permanent and independent residence in towns as they lacked the desire to break with their traditional form of society (Pennant, 1985). Such sentiments implied that urban life was the preserve of colonialists. This is confirmed by McAuslan (2003) who argues that the racial approach to colonial town planning was based on the

'...belief, explicit in Africa but implicit elsewhere... that towns were not the right place for Africans or other essentially rural people to be; that is the planning system was distinctly anti-urban or rather anti-indigenous urban' (p.98).

Segregation based on race and assumptions concerning sanitation prevailed in other colonised nations. For example, Bigon (2012) reports how the colonial French government rigidly enforced segregation in Dakar (Senegal) by way of not just forced displacement of the indigenous population to a designated site (called Medina), but also burning of houses and police curfews in 1914 following the outbreak of bubonic plague which had been blamed on the black population. The plague is reported to have killed 14% of Dakar's population. Bigon (2012) also notes how similar arguments were utilised to push indigenous people out of Cape

Town's urban boundary even before apartheid in the 1940s. The driving force behind some of the public health laws, policies and practices was intentional racial segregation in Malawi and other colonised states (Njoh, 2009; McAuslan, 2003 & 2013; Home, 2013):

‘In the interest of each community and of the healthiness of the locality and country, it is absolutely essential that in every town and trade centre there should be well defined and separate quarters for Europeans and Africans...’ (Simpson, 1913 quoted by McAuslan, 2013, p.163)

The segregation was nonetheless informed by deeper concerns related to the fear of what McAuslan (2003) and Home (2014) refer to as ‘the urban mob,’ meaning the potential of revolt, by the urban indigenous people, as was the case in India in 1857-8. Such fear, rather than health issues, was behind the golf courses, green belts or military barracks being placed between locations of the indigenous and colonial inhabitants (McAuslan, 2003; Home, 2013; Silva, 2015). The fear of the ‘urban mob’ was also the rationale for the ‘indirect rule’ by which indigenous people would be governed by traditional leaders (Home, 2014; Riley, 2014; Eggen, 2011). Measures taken to implement such policies also included the creation of townships exclusive to colonials and villages exclusive to indigenous people outside the borders of towns. Here the police ensured adherence through imposition of night curfews, while within the European settlements, township committees were instituted and councillors elected by the Township ordinance of 1931 (McAuslan, 2003). To ensure complete exclusion of the indigenous people, the township councils also instituted local bylaws which were so strict that it was difficult for the Africans to provide their own housing. McCracken (1998) talks of Africans being ‘banned’ from providing their own housing by the provision that in the town only buildings that cost more than £50 to build would be allowed. In cases where indigenous people violated such laws, for example, by building without permission from the planning committees, the punishment of £500 at the time, and ten times the expected cost of building a house, was preventive enough for the poor (Town & Country Planning Act, 1948 Section 7).

Although a limited relaxation of the policy in 1936 permitted the building of ‘windowless, thatched’ houses that lacked kitchens, electricity, latrines and water supply (McCracken, 1998; Home, 2014), discrimination made many of the indigenous people decide to leave the country. By as early as 1938 estimates showed that there were 10,000 people of Malawian origin in Johannesburg or Salisbury (Harare), more population than the largest local centres of Blantyre (4,600) and Limbe (7,100) in 1945 (McCracken, 1998). As migration impacted labour supply, policy shifted to encouraging rural-urban migration to provide a permanent urban labour force, even though it was confined to areas outside towns in self-built houses (Pennant, 1983) from where indigenous people walked to work in the town. In certain cases, local authorities built and ran such houses because ‘Africans were not allowed to own landed property’ (Home, 2014, p.82). By 1957, this approach of providing housing outside the urban boundary, referred to by Home (2014, p.83) as ‘evasion of responsibility,’ became the national official housing policy (Pennant, 1985). Such policy brought about unplanned peri-urban settlements which over time grew in size and density to ‘form a visible legacy of colonialism’ (Home, 2014, p.83).

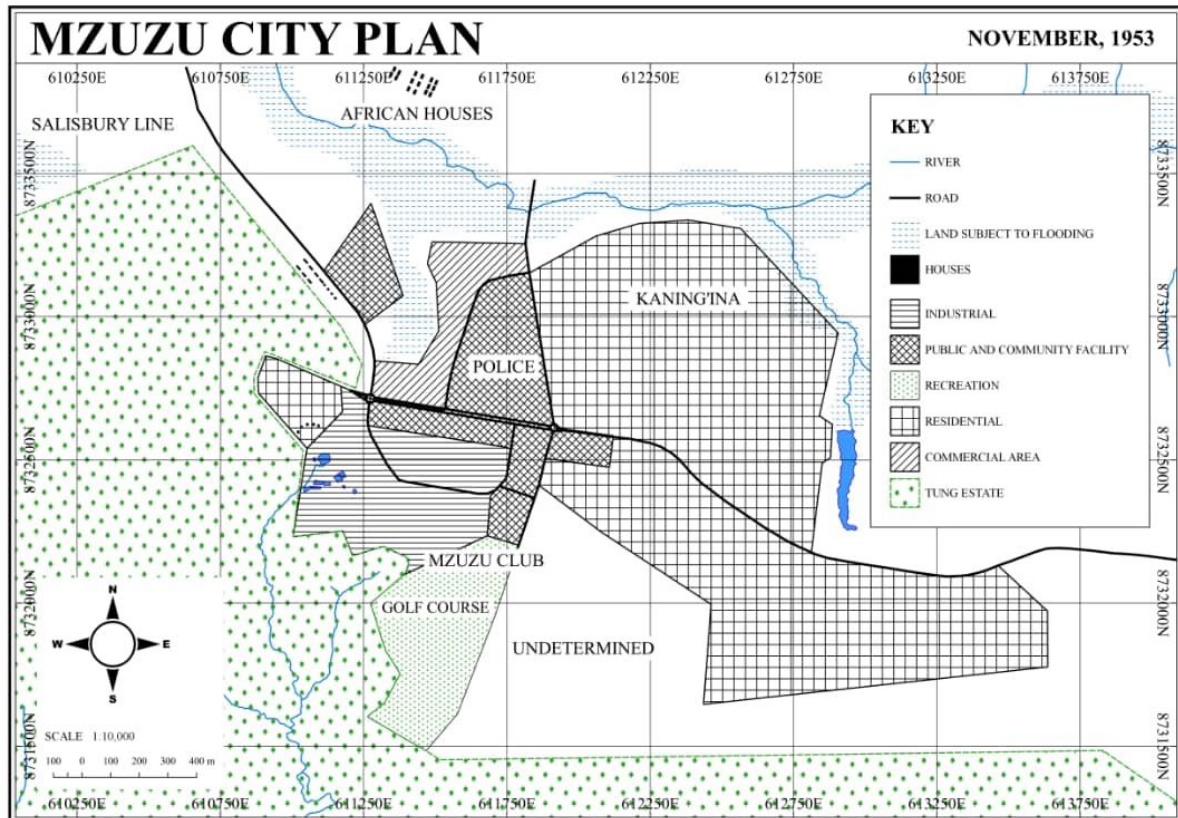
When planning was formally introduced by the colonial state in 1948 it was simply an

imposition of the Town and Country Planning Act that had been approved in 1947 in Britain. The utility of laws in force in colonising nations was common practice (Silva, 2015). With the actual implementation, sometimes against existing policies in Britain, the law became part of the colonial project to support segregation (McAuslan, 2003) based on British ideas of garden cities, sanitation and health concerns (Scholz et al., 2015). According to McCracken (2012, pp. 282-303), though the majority of the indigenous population was rural, the few and small sized

‘...colonial towns... epitomised the colonial imagination at its most vivid in the way that urban space was ordered into precisely designated functions normally involving the segregation of the European zone from Asian and African sectors.’

Njoh (2009) observes that planning as an instrument of power, domination and social control in urban space was useful in achieving not just such segregation but also manipulation. Specifically, the planner was ‘urged, to use expertise – a critical source of power – to assist colonial governments in their bid to attain important overt and covert goals’ (Njoh, 2009 p.314). Such expert involvement included the appeal to do away with traditional building materials and to adopt the use of permanent materials in building as these were the embodiment of modernity, and signified wealth and strength (Bigon, 2011). The 1948 Town and Country Planning Act institutionalised these policies and practices. The law provided for the declaration of (statutory) planning areas (Part II Section 3 (1)) and appointment of planning committees (section 6 (1)) to prepare (statutory) plans for such areas and submit plans at the request of the minister. According to Part II section 9 of the law, the general object of such plans was ‘securing proper conditions of health, sanitation and communication, amenity and convenience’ (Town & Country Planning Act 1948).

It can be said that colonial land and planning policies and practice utilized an array of tools to implement orderly growth based on European standards of urban development and building (Njoh, 2009), but such orderly growth was implemented through strict segregated zones largely aimed at control and domination. According to Bigon (2012), overt or covert segregation based on sanitation arguments was an integral feature of the colonial city. While colonialism can be credited with expanding the development of urban settlements and other infrastructure, intra-urban racial segregation was ‘one of the distinctive marks of urban planning’ which was also a tool disseminating colonial values and dominance during this period (Silva, 2015, pp.9-10). This practice of zoning separately or indeed forcing the indigenous populations out of urban centres (Figure 4.1 which shows African houses across the river in black), and the colonial ideologies such as indirect rule, set the base for duality of both urban growth and land tenure systems (Home, 2014) and therefore, for the flourishing of housing informality.



Source: *Physical Planning Department, 2018*

Figure 4.1: Mzuzu City Plan, 1953

Figure 4.1 shows houses for indigenous workers (black legend) located outside the urban boundary across the river. The southern and western areas were under Tung Estate. The area designated as public and commercial included shops, offices and religious buildings.

4.3 POSTCOLONIAL PLANNING, POLICIES AND PRACTICES

This section of the thesis argues that though many people within colonised countries in Southern Africa fought against colonialism, the legacy of colonial policies and practices still informs current practices, in certain cases to the benefit of indigenous elites after independence (McAuslan, 2003). The section has two main subsections, firstly the independence period and secondly the multiparty period.

4.3.1 Independence Era 1964-1993: Only the name changed

Malawi attained independence in 1964 which was followed by a process and actions to replace colonists with indigenous people in government and other positions of power. However, independence did not lead to significant changes as planning was still informed by colonial ideologies and planning approaches that claimed expert neutrality (Baffour et al., 2014; Silva, 2015). This observation was true of most of the formerly colonised nations on the continent because after independence the new leaders inherited the colonial structures, practices and underlying normative theories of governance from western philosophical contexts (McAuslan, 2003; Watson, 2014). These practices included legal frameworks, centralised urban planning, regulations and demands that all development required state permission (Wekwete, 1995).

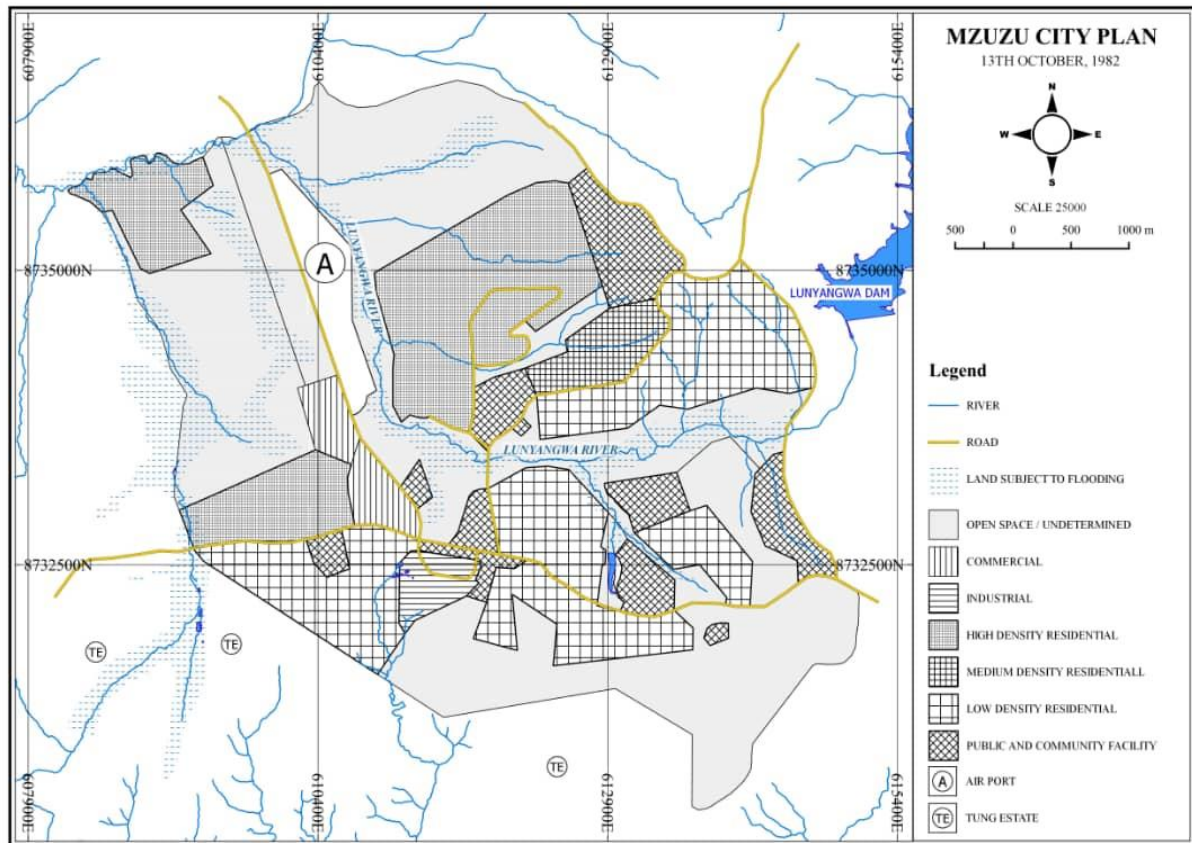
According to Baffour et al. (2014, p.54), the colonial planning system with its ‘use of master plans remained intact and [was], in some cases, consolidated.’ Writing on Blantyre City, for example, McCracken (1998, p.268), states that the city:

‘[S]till retained many of the features that had shaped the character of the colonial town. There was still the contrast between the small minority of workers housed within the city in government or employers’ locations and the great majority who walked in from villages.’

Riley (2014) supports this by stating that colonial spaces were inherited by indigenous elites that acquired access to state power. Emphasising this point, McAuslan (2003, p.34) notes that colonial legacy is persistent in urban land policies:

‘The division of towns and cities into zones which used to be ethnic and racial separation still exists but now corresponds more to economic class separation. Even where new urban communities are planned the implicit assumptions are usually those of the old; the central business district and the low-density high cost housing are seen as a higher priority than housing for the urban majority’ (McAuslan, 2003, p.34).

Apart from the physical division of the urban space, the implications of colonial planning were also evident in land and land rights in relation to land use and development. This was witnessed when the previously restricted movement of indigenous people was relaxed after independence. In particular, while the cities functioned as centres of domination by colonists, they were also the foci of anticolonial struggles (Simon, 1989) because of grievances related to privileges, such as the right to reside in the city (McCracken, 1998; Riley, 2014). As part of the attempts to replace colonial policies, the city boundaries were revised to encompass areas previously occupied by the indigenous population outside designated urban boundaries (Figure 4.2). However, in order to achieve what planners referred to as the ‘modern city project’, planning regulations were also extended to these areas (Pennant, 1985). Such boundary changes brought the customary land tenure system under the purview of the formal system, leading to conflicts between the state and inhabitants regarding how and for what the land could be used and indeed who had rights over such land.



Source: Physical Planning Department, 2018

Figure 4.2: Mzuzu City Plan, 1982

To change the status quo and address emerging challenges related to rapid urbanisation, the Town and Country Planning Act of 1948 was changed in 1988 (and became effective in 1991). Malawi became one of the few countries that attempted to change their planning laws with the aim of replacing old colonial or racist provisions with those of national interest. But the law regulating ‘urban affairs’ (Silva, 2015, p.20) that had been adopted in 1948, was only revised in 1988, that is 24 years after independence had been granted in 1964. McAuslan (2003, p.94, 59) notes, however, that although the intentions of changes to the Act in 1988 were to break away from both racial and social segregation, the contents of the 1948 law remained, the only change being replacement of ‘Britain’ with ‘Malawi’ on the document cover.⁴ Andrews et al. (2012, p.1) have referred to such practices of copying as ‘isomorphic mimicry’, in which the government pretends to reform by changing the way policies look rather than what they actually do, a practice that they contend fails to achieve any reforms. Thus, colonial planning law and practices based on racial segregation were retained or reinforced and according to Home (2014), shaped the physical form of cities. Such measures included not just demolition of informal settlements, but also legal provisions making the minister (who was also the president) personally approve or

⁴ This criticism is interesting because McAuslan was himself the consultant who drafted the Town and Country Planning Act 1988 of Malawi. Assuming advice to the contrary had been given, perhaps this points to the intransigence of the Malawi State.

reject land use and building plans (See Town and Country Planning, 1988). These measures were informed by the belief that cities should present an image of prosperity and progress by maintaining their European characteristics (Watson, 2009). For example, as noted by Jimu (2005 cited by Riley, 2014, p.10), the president remarked in 1988 that

‘...cities are meant for civilised persons, and in that regard, people should be able to differentiate life in the city from that of the village by the way you look after the city... you should be proud of the city, don't bring village life into the city.’

To illustrate the importance of the appearance of the city and how buildings expressed the sense of order expected to be seen by visitors and followed by the local population, a ‘red-star’ campaign was launched by which all buildings that were an ‘eyesore’ and portrayed a bad image of the cities were marked with a red paint ‘X’ and given two years to redevelop or face demolition. Some buildings were targeted at the directive of the president (Riley, 2014; Kasakura, 2018).

Responding to the rapid influx of migrants into urban areas, Malawi adopted housing approaches that separated indigenous from colonial residential areas. For example, the Public Health Act provided for the zoning of Traditional Housing Areas (THAs), which is the local term for sites and services schemes, in 1964 to allow the less privileged to build their own houses on planned urban land. This was seen as the ‘only feasible and inexpensive way to defeat the problem of growing and unplanned squatter areas [which] posed a considerable health and social hazard.’ (Nathan Associates, 1978, p. 32-33). The policy became the quickest and largest means to provide planned urban land to address the housing needs of the rapidly growing urban population. It was expected that this approach would address the rapidly growing needs of the poor and was praised for its innovation in providing owner occupied housing even if using traditional materials, under less strict regulations within the boundaries of the urban centres (Nathan Associates, 1978).

However, while the policy has since remained a major part of the housing policy, locating the THAs in the Public Health Act (as subsidiary legislation under Section 75), which was first approved in July 1948, implied that low income people were viewed by the postcolonial state in a similar manner as the colonial state. To cement the negative connotation, the approach did not fully win the favour of the president in terms of the location of the houses as it contradicted the political vision of orderly and beautiful cities. For example, in the 1970s and 1980s when THA homes were developed in Lilongwe (Area 47) and Blantyre (Kameza) close to the city centre or along major roads, the president ordered the demolition of all houses and their replacement with middle- and high-income housing.

The Global South trends of rapid urbanisation did not evade Malawi. While the influx of rural – urban migrants provided an opportunity for them, the national and city authorities insisted the migrants did not deserve urban life, and specific projects designed to keep people in rural areas, such as rural growth centres projects, were implemented (Kalipeni, 1997). The urban poor settlements within the urban centres were located away from city centres or from major roads. This location, while achieving colonial hidden motives to prevent the ‘urban mob and urban riot’ (McAuslan, 2003), impacted negatively on the incomes of commuters (Oestereich and Msukwa, 1984).

From the foregoing, it can be seen that during the immediate post-independence era, a dictatorial system of government did not seriously attempt to reform the planning policies and law. Instead only minor changes were made to the policies and laws that had been transferred from Britain. In certain cases, these laws were taken wholesale with only the name of 'Britain' being replaced with 'Malawi' (McAuslan, 2003). As such, the impacts of the colonial policies and laws such as the dualistic urban structure and land tenure systems of the colonial era had been passed on and retained during the independence era. Baffour et al. (2014, p.55) summarise this:

‘Colonial land use planning policies could not be revised because they ensured control of land and its resources by few elites and powerful individuals in government and their agents. This thus served as incentives for them to maintain the planning arrangements.’

Likewise, colonial indirect rule policy that created a dual local government structure and governance system was retained. Specifically, the colonial era local government system had district level field service institutions headed by a District Commissioner (DC). This entailed the incorporation of chiefs, by establishing a Chiefs Council in the management of indigenous people (cf. Home, 2014). However, these chiefs were answerable to the DC. This approach was slightly changed in 1953 with the approval of the Local Government (District Council) Ordinance which replaced Chiefs Councils with elected District Councils having autonomy to manage local education, district roads, public health, customary land and forests, ideally to enable them to generate revenue for their operations (Dulani, 2003). After independence, however, ‘the district councils were gradually eroded of their autonomy and progressively divested of their powers, functions and responsibilities’ when a District Development Committee (DDC) planning system was introduced in 1967 to operate in parallel to the local councils (Dulani, 2003, p.5). While these changes took place in local government, as noted earlier, land use planning systems remained the domain of central government. It was only in 1991 after the Town and Country Planning Act of 1988 had been operationalized that ‘delegated powers’ for planning control were given to city councils of Mzuzu, Lilongwe and Blantyre (Mumba, 2005).

4.3.2 Multiparty Era 1994-Present: A politicised system

This section highlights the changes that were made following a switch from single party to multiparty politics after a referendum conducted in 1993. A number of policy reforms were embarked on by the United Democratic Front (UDF) government that was elected in 1994. These reforms ranged from constitutionalism to human rights to local governance to land and planning questions. The changes coincided with the Earth Summit in 1992 and City Summit in 1996. The Earth Summit which was held in Rio de Janeiro adopted the global agenda for the 21st Century, which among other aspects called for inclusive cities where local governments would play a significant role in reshaping policies, laws and regulations so that everyone would contribute to and benefit from urban life (UN, 1992). The City Summit (Habitat II) which was held in Istanbul sought to improve living conditions in human settlements through, among others, participatory planning approaches (UN-Habitat, 1996). Within planning theory discourse, this was also the time collaborative and communicative approaches which called for democratisation of the planning process emerged (see Baffour et al., 2014). Therefore, apart from the local pressure for change, there was also an international impetus at the time of political changes in Malawi. As noted by Silva (2015) the more recent call for new planning approaches proposed by the 2009

Global Report on Human Settlements and African Ministerial Conference of Housing and Urban Development (AMCHUD) also played a role. Three issues are relevant to this study: decentralisation, land reform and planning policies and laws. These are discussed below.

4.3.2.1 Decentralisation and Local Government Structure

As part of the changes a new Constitution was adopted in 1994 which included a call for the devolution of administrative and political power to local governments and consequently a National Decentralisation Policy and a Local Government Act were approved in 1996 and 1998 respectively. According to Cammack et al. (2007) decentralisation was promoted as a means to improve public service delivery and to promote participatory democracy and decision-making. In this framework participation was about people discussing and debating plan proposals from a formative stage in order to influence decisions and actions at the higher levels. The decentralisation policy specifically stated that:

‘The District Assembly [cities and towns were defined as districts] has been charged with the overall development of the district. In the course of their development work the Assemblies are required to provide for local people's (communities) participation in the formulation and implementation of the District Development Plan. It is in this respect that the Assemblies have been requested to form action committees at Area, Ward or Village level’ (GoM, 1996, p.10).

In order to operationalise the policy, the Ministry of Local Government, which had taken over from the Office of the President and Cabinet (OPC) as responsible ministry, produced several guidebooks and planning manuals to entrench and formalise local participation, to enable local communities to contribute to decision making through what MirafTAB (2009) calls ‘invited spaces.’ These included village development committees (VDCs) and ward development committees (WDCs).

Among these manuals were the district development planning manuals, one specific to rural and the other to urban settings. The Local Government Act approved in 1998 went further to institutionalise these provisions for participatory planning and decision-making and provided that the national parliament would allocate 5% of national budget to the councils for planning, service delivery and implementation of any projects selected through the decentralised planning structures such as VDC and WDCs (GoM, 1996, p.12). Using the ladder of participation (Arnstein, 2007) the manuals and the legal framework entailed shared power between citizens and the state through ‘functionally autonomous, democratic and authoritative local governments’ (Dulani, 2003, p.6) in which state actors ideally would operate as facilitators of decision making and implementers of such decisions. However due to ‘lack of political will to translate the legal requirements into reality’ (Dulani, 2003, p.6), the local government elections provided for in the constitution were conducted only twice, in 2000 and 2014 (Hussein, 2015). By failing to conduct local elections, which is a fundamental requirement of decentralisation, Malawi became an example of countries where decentralisation failed. As argued by Hussein (2017), as part of the strategy to avoid strong local governments, and to increase opportunities for political patronage and tutelage, the government created an ‘institutional gap’ by not holding local government

elections. This creation of an ‘institutional gap’ was a central government strategy to avoid representative local councils (Aalen and Muriaas 2017). O’Neil and Cammack (2014, p.19) note that decisions against holding local elections were in fear of ‘opposition-party mobilisation via local councils,’ such that ‘democratic decentralisation was slowed and ultimately halted when President Bingu wa Mutharika decided against holding local elections in 2005 as scheduled by law.’ The Act was revised in 2010 to permit members of parliament (MPs) to double as representatives in the local councils, and it reduced by half the tenure of mayors from five (5) years to two and a half years (Hussein, 2017). The politicians used these strategies as well as formal and informal institutions to gain and retain power for the control of the state leading to ‘formal institutions functioning in unexpected ways and reforms producing unexpected results’ (Cammack et al., 2007). This situation confirmed observations made by White (2010, p.1) that while participation has potential to challenge dominance, it can also be ‘the means through which existing power relations are retrenched or reproduced.’ In addition, the state created multiple authorities over land administration and planning within one urban centre and also ensured ministerial control of councils as they were mistrusted as possible alternative power bases for opposition politicians (Klopp and Lumumba, 2017; O’Neil and Cammack, 2014). A review of the decentralisation process to identify factors enhancing or inhibiting the effectiveness of the planning process found that decentralisation could not be improving service delivery at the local level because of, among other factors, the:

‘...non-functional nature of key institutions meant to drive the decentralisation process.... [and] lack of political will to fully implement decentralisation in the way it is provided for in the country’s legal and policy framework [which is] reflected in the continuous postponement of the local government elections and the predisposition towards use of institutions and actors that do not really have full mandate for the functions of local government’ (Chiweza, 2010, pp.4; 9).

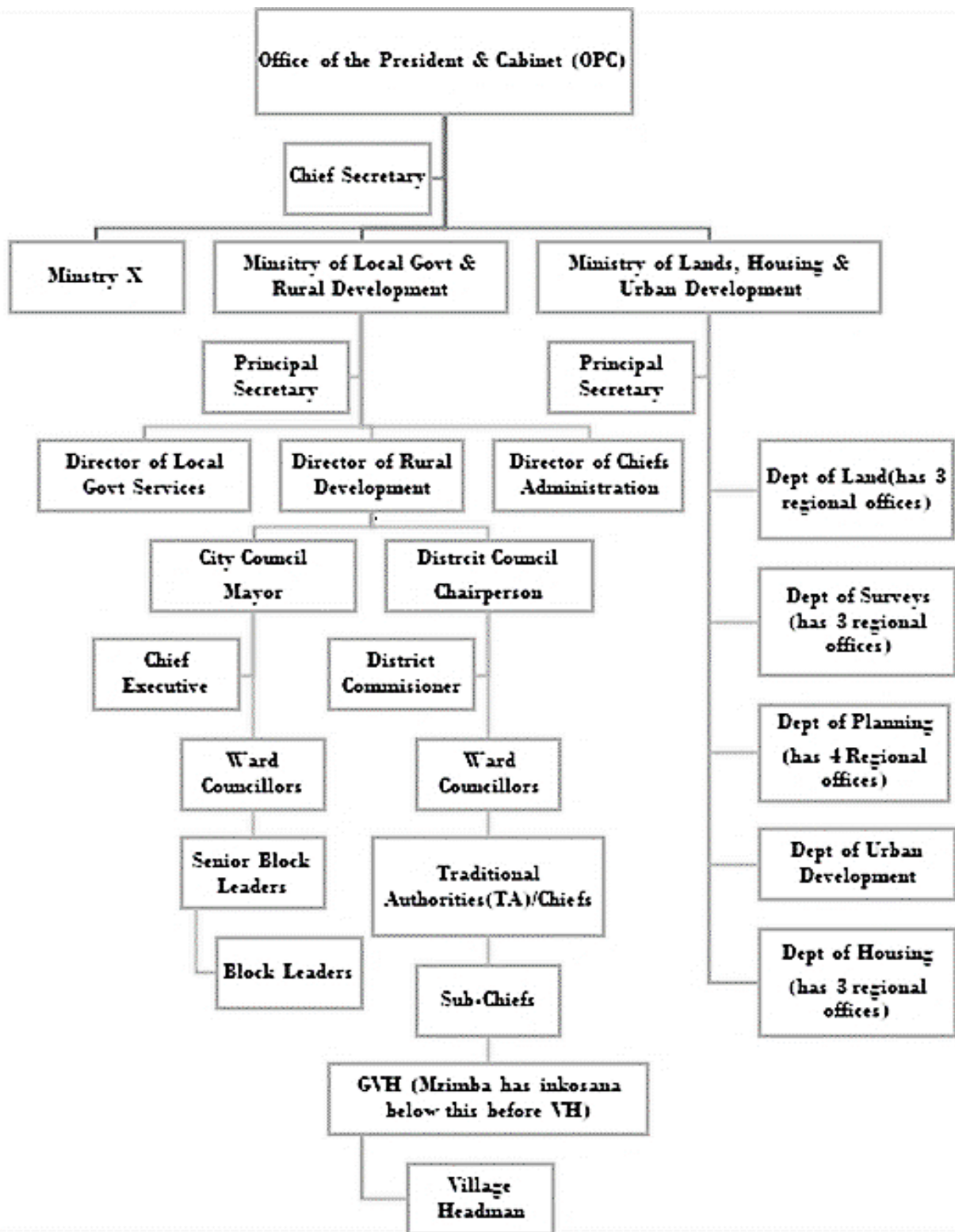
Specifically, the political arm of the council was not according to the provisions of the law as, instead of elected representatives, an unelected group of people called the District Consultative Council (DCC) was put in place without legal mandate to approve bylaws (Chiweza, 2010). The fear was that reliance on appointed persons, or substitutes, not only lacked legitimacy, but would also create space for corruption (Hussein, 2017) and therefore would let down the efforts at good local governance as espoused by Local Government Act and the National Decentralisation Policy (Tambulasi & Chasukwa, 2014). As noted by Dulani (2003) and Chasukwa et al. (2014) the councils could not operate independently because of such executive patronage and intervention. This executive interference led to de facto recentralisation (Cammack et al., 2007) and also had far reaching legal consequences. For example, two decisions in Mzuzu City to sell properties of owners who had failed to pay city rates were reversed and rendered illegal by the High Court which, as will be shown in chapter 5, appeared to favour residents when it pointed to a legal grey space:

“Having failed to hold local government elections we should not under the guise of avoiding absurdity allow persons not elected by our citizenry to act as if they were. The right to elect governors should not lightly be taken away from our people.... [The

council] must have Ward Councillors duly elected in an election organized, conducted and supervised by the Malawi Electoral Commission in accordance with Local Government Elections Act number 24 of 1996. If a local government authority does not have Councillors it is not duly constituted... consequently it has no business doing what duly constituted local government authorities by law do” (Judge Lovemore Chikopa, 2013 quoted by Nyasa Times, May 9, 2013).

The local government structure within the whole state system ought to be as in Figure 4.3 which shows the different interacting actors in governance, service delivery, land and planning in the local councils in Malawi (see section 4.4.2 for Mzuzu). At the lower level, both hereditary (traditional authority, sub-traditional authority, group village headman, and village headman) and elected chiefs (senior block leader, block leaders) perform their duties within the jurisdiction of the cities. The presence of both senior block leader and block leaders on one hand and group village headman and village headman on the other hand and especially their participation in urban affairs including transacting in land, creates jurisdiction problems.

Therefore, as during the independence era, the multiparty system did little to reform the practical outcomes of policies and laws inherited from colonialism.



Source: Author, 2018

Figure 4.3: Local Government Structure in Malawi State System

4.3.2.2 Land Tenure Reforms

Land reform in Malawi benefited from the campaigns related to the 1996 City Summit and Plan of Action especially the commitments to promoting access to land and security of tenure (UN-Habitat, 1996), but, as with planning, events were much more related to the political changes in the country. The land law in Malawi had been received soon after the imposition of colonial rule and was based on principles and concepts applicable in England where, as outlined by McAuslan (2003), the land was owned by the crown and all other people owned interests or estates in the land based on history of conquest. In other words, by transferring these concepts it implied that Malawi had been conquered and its land confiscated by the British monarch.

Of interest was that formal tenure existed in the towns but the traditional or customary system existed in the areas outside the town boundaries. According to Home (2014), under colonial rule the townships were managed by the colonial government and were meant for the colonisers while the areas outside the urban boundaries were for indigenous people and were managed by chiefs. It was argued that such an arrangement would ostensibly ‘protect native people from disruptive influences of modern urbanisation’ (Home, 2014, p.83). The categorisation of urban land as formal and rural land as traditional (or informal) created a dual system of land tenure, not just in Malawi but in several other colonised countries including Lesotho (Leduka, 2004). The history of land legislation in Malawi shows that the law was first received in 1902 followed by the 1916 land registration ordinance, then the 1951 public (crown) land ordinance. The next principal land law was approved in 1965. In 1967 the Customary Land Development Act was passed to ascertain rights and interests in customary land and also to promote better agricultural development of customary land in Lilongwe District as a pilot. These laws consisted of merely renaming the British laws without regard to local applicability (McAuslan, 2003). Thereafter, only piecemeal changes were made until the latest land laws were approved in 2016 (Table 4.2), after 14 years of debates over what to include or exclude.

In terms of these 2016 laws, land tenure across Malawi falls into two categories: public and private, unlike the previous laws that had three categories including customary land. Customary land was defined as that land, under the jurisdiction of recognised traditional leaders, who in this case include chiefs, clan leaders, village heads and family heads, which was granted to a person or group and used under customary law or customs prevailing and applicable in specific communities (GoM, 2002). Public land was categorised as land controlled by the government or unused customary land. Private land includes leasehold or freehold land parcels either granted on lease to individuals or institutions. A new category of private land is ‘customary estate’ which is land that was originally perceived as customary and is currently recognised as owned by individuals, families or clans. Table 4.1 summarises the land tenure types.

Table 4.1: Types of Land Tenure in Malawi

Tenure Type	Land Category	Provisions in laws before 2016 (3 types of land tenure i.e. customary, public and private land)	Provisions after 2016 (2 types of land tenure i.e. public and private land)
Public Land	Government	There was no government land; only public land existed. Public land was land owned by government in declared statutory planning areas ready for allocations and also land that was used for the benefit of the public e.g. national parks and game reserves.	Land privately owned by the Government and dedicated to a specified national or public use or made available for private uses at the discretion of Government. It also includes freehold land whose holder has failed to become a citizen within 3 years, after which the land reverts to government as public land i.e. freehold land is the preserve of citizens.
	Unallocated customary land used for the benefit of the whole community	Land that was used according to customary law and excluded leased customary land.	By Land Act 2016 Section 7 (2), land found to have been unallocated during adjudication
		Land was vested in president i.e. president could order allocation or revocation of land.	Land is vested in the Republic
Private Land	Freehold	Land was held as private property; the only requirement was adherence to zoning and planning provisions.	Land Act (Section 9(2) freehold land acquired before 2016 becomes leasehold land if the holder gets Malawi citizenship in 3 years.
	Leasehold	Was acquired from customary or public land. If from customary land, upon expiry of lease, land reverted to community.	Will be acquired from customary or public land. If from customary land, upon expiry of lease, land becomes government land (unallocated customary land).

	Customary Estate	The type of land tenure did not exist	Land held or occupied by individuals or organisations will be recorded and registered in terms of Registered Land Act. Land committees to allocate. Leases and subleases to be created out of customary estate (section 25(2)) of Customary Land Act.
Customary Land		Land held by clans, families under authority of chiefs. Could convert to Registered land by way of leases issued by minister (sections of 5; 30 Land Act, 1965); minister also had power to acquire customary land for public purposes (section 27 of Land Act)	New laws have no provision for customary ownership; if land is not customary estate then it is public land. However, government can compulsorily acquire customary estate
		Land was vested in the President i.e. when chiefs allocated land, they did so on behalf of president	Land is vested in Republic; land committee will allocate this land on behalf of the republic. Chiefs will not allocate this land on their own as was done previously. Chiefs will be part of the allocation committees.
		If acquired compulsorily only improvements are compensated not the land itself	If acquired compulsorily both improvements and land are compensated

Source: Author, summarised from various documents, 2018

Since the main goal of the law was to ensure that land rights are protected, defining the concept of land tenure security is very important. According to UN-Habitat (2008, p.5):

‘Land tenure security can be defined in various ways: the degree of confidence that land users will not be arbitrarily deprived of the rights they enjoy over land and the economic benefits that flow from it; the certainty that an individual’s rights to land will be recognized by others and protected in cases of specific challenges; or, more specifically, the right of all individuals and groups to effective government protection against forced evictions.’

The Land Policy provides that customary land tenure was the right of individuals to own, use and dispose of land rights not based on documentary evidence guaranteed by the government, but based on customary law and on the fact of recognition as legitimate by the community not normally in writing (GoM, 2002). The post-colonial policy embodied by the 1965 Land Act had many weaknesses. According to Kishindo (2004) customary land was a reservoir from which further public and private leasehold land was obtained, principally because the Minister for Lands had powers to alienate customary land to mostly political elites, leading to decreasing land availability for local communities’ livelihoods. At the expiry of such leases, the land did not revert back to customary tenure but was taken over by the state as public land, which meant that it could be used for public projects or be allocated to other developers. Customary land was therefore ‘a fundamental source of insecurity in customary land holding’ (Kishindo, 2004, p.215). The 2016 Land Act and Customary Land Act make this more problematic because such land will convert to private land owned by the government (GoM, 2016). While government land refers to land owned by individual government departments such as schools or hospitals, it is unclear in both the policy and law which department of government would own such confiscated land. What is clear is provision constitutes, functionally, a new territorial strategy of the state to alienate land from customary tenure.

In the multiparty era, land tenure reforms started with the appointment of a presidential commission on land reforms in 1996 to change what was perceived as colonial and dictatorship-oriented policies and laws. Specifically, while the aim of the policy was ‘tenure security, equitable access to land and promotion of social harmony’ (GoM, 2002, p.18), the sentiments against colonial policy as well as against the inertia of the independence era were clear in the tone:

‘Customary land was [in the colonial 1951 land ordinance, which was re-enacted in 1965 Land Act] defined as a mere species of public land or crown land. This was an arrogant concession to Malawi citizens, who by virtue of the ordinance became tenants on their own land’ (GoM, 2002, p.22).

Among many reforms was the formalisation of customary tenure by creating a category of tenure called ‘customary estate’. Customary estate was defined as:

‘Customary land allocated exclusively to a clearly defined community, corporation, institutions, clan, family or individual. Such exclusive allocation of customary land will henceforth be known formally as a customary estate’ (GoM, 2002, p.29).

The customary estate was an official and legal affirmation of customary tenure to recognise the progressive trends towards individualisation yet preserve the fundamental aspects related to local custom, that is, by formalising and streamlining the traditional roles of chiefs, clan leaders, headpersons and family heads (GoM, 2002, p.24; 14). Specifically, as the customary land rights had been formalised and had acquired, for the first time, legal status, the state could not take over the customary land for arbitrary conversion to public land without compensation based on market value (Kishindo, 2004; GoM, 2002). This provision was against the prevailing view of customary land as a subset of public land, which had allowed government to alienate it without any compensation for allocation as leasehold land from the state. Although Kalabamu (2011, p.118) would argue that replacing customary tenure with private land ownership eliminates community interest in the land, as in the case of Botswana, by recognising customary land as customary estate, the policy had gone ahead to award exclusive rights to customary land owners. While (freehold) titling had been attempted in the 1967 Customary Land Development Act and piloted in the Lilongwe District with disastrous results, the policy in the multiparty period under a legitimate popular government had to deal with fears that not to do something was perpetuating colonial practices over land. Indeed, it was persuaded by rampant invasions of large estate lands then thought to have been grabbed or acquired unfairly by colonialists (Kishindo, 2004).

Formalisation of customary and informal land rights to strengthen security of tenure was not peculiar to Malawi; it was a common trend linked to the wave of decentralisation in the 1990s (Hilhorst, 2010). Global campaigns towards secure tenure had also been pressurised by the World Bank's (1975) Land Reform Policy Paper, UN-Habitat's Secure Tenure Campaign (UN-Habitat, 2008), and other international organisations. These policy documents followed two approaches: one focusing on title individualisation and another on upholding customary tenure (Kalabamu, 2011; Fairley, 2012). Nonetheless the Malawian policy has since been institutionalised with the approval of the land related laws in 2016 which include the Physical Planning Act and Customary Land Act among others (GoM, 2016).

An apparent contradictory aspect of the 2016 land laws is noteworthy. The government retained its power of eminent domain by which it could confiscate customary estates or revoke any title ostensibly for public interest projects (GoM, 2002, p.17; Land Act, 2016, section 17). It took so long to process the legal framework, that by 2018 the laws were not yet signed by the president, and some pertinent planning related policies remained unapproved. This supports the argument of an 'institutional gap' made by Aalen and Muriaas (2017). In particular, as control over land is a source of wealth and power, there are always attempts to 'grab' land when the elites take undue advantage of the system or use political interference to improve their land holding position (Hilhorst (2010).

4.3.2.3 Planning Policy and Law

As much as the process of decentralisation and land tenure reform were necessary in their own right, they also provided the space for reform of the planning policies, laws and practices. As part of the democratisation process, planning functions fell among sectors to be devolved to local councils as they had become planning authorities (GoM, 1996, p.7). It was expected that

this would give new impetus for clarifying land use planning and placing local development planning in a broader spatial perspective (Hilhorst, 2010). Of concern was that colonial policies and practices were still operational. From the 1948 to the 1988 law there had been no major change in the provisions or practices (Table 4.2). The separation of land uses based on race and prevention of migrants to urban areas had continued. It therefore became necessary to reform the planning law alongside the land policy and land law. The 2016 Physical Planning Act had for the first time included the registration of planners as it was perceived that informality was partly a result of unregistered planning practitioners' practices. Other aspects that were recommended by the land policy and introduced in the planning law were: decentralising planning powers and functions to local councils; acceptance of informal housing and call for regularisation to secure land tenure rights of residents; timely urban planning; designating specific areas for low income people; and preparation of participatory upgrading plans (GoM, 2002, p.65). In support of the Physical Planning Act, the planning guide-book was also prepared.

However, while several sectors such as education, health, environment, forestry and agriculture had fully complied with devolution, the Physical Planning Department (like others in MLHUD) was reluctant to devolve, claiming lack of capacity in the councils (Tukula, 2007). Though there was a shortage of experts at local level to allow planning to devolve (Gordon et al., 2013), planners that had undergone training in programmes specifically introduced for the purpose at the local universities could not be recruited. By 2017 only three cities (Blantyre, Lilongwe and Mzuzu) had such functions delegated. The planning system consequently became politicised as national leadership directly made decisions that in practice entrenched patronage and clientelism to retain power and legitimacy (Cammack et al., 2007). This resonates with the argument of Aalen and Muriaas (2017) regarding the creation of institutional gaps for political manipulation.

It was also observed that a number of provisions in the Local Government Act (1998) conflicted with other laws (Dulani, 2003). For example, a major provision requiring the councils to promote infrastructure and economic development through the formulation, approval and execution of district development plans (section 6.c) conflicted with provisions in the Town and Country Planning Act (1988) where the authority to approve and or reject plans lay ultimately with the Minister for Physical Planning (see Table 4.4). This contradiction was resolved by the National Land Policy which proposed the extension of the application of planning control nationwide (GoM, 2002). While the policy can be praised for this provision, its actual operation had to wait for 14 years before the enabling laws were approved in 2016 (Table 4.2). In the meantime, as noted by the Department of Physical Planning, planning was criticised for being 'unduly restrictive especially for the poor, outdated and inadequate to cater for the present socio-economic environment' (GoM, 2004).

In the 2016 Physical Planning Act itself, strict provisions contained in the 1988 and 1948 Town and Country Planning Acts relating to 'orderly and progressive development ... and powers of control over land' were retained. The following are examples of the provisions of the Acts and how they relate to other laws (Table 4.2; GoM, 2016):

- (a) The building regulations for low income housing (THAs) were maintained under the Public Health Act of 1965 (Cap 34:01). This cements the public health colonial rationalisation of urban space and its hidden fears of the urban mob and riots (Home, 2014). As the Public Health Act was not among the legislation under review in 2016, one can argue that low income housing construction will be regulated under a discriminatory law with colonial grounding even after purported planning law reforms.
- (b) Section 48 (1) provides that the minister can ‘in writing under his hand withdraw an application or class of applications for development permission from the jurisdiction of the responsible authority and reserve the power to make a decision on that application or class of applications to himself’ (GoM,2016). This implies that the minister can reverse any planning decision local governments or planners make, even for political and personal reasons.
- (c) Section 52(1) provides that the minister can order a planning authority to revoke an approved application. This implies that all decisions made legally can be invalidated.
- (d) Section 58 (1) provides that to enforce planning law in relation to unauthorised development the authorities can ‘pull down’ or remove structures or restore the land to the state it had before unauthorised development took place including the replanting of vegetation. This reinforces the planning practice of demolition of properties of low-income groups who may fail to abide by stringent legal provisions.
- (e) While accepting the operation of customary land tenure in the urban areas, section 43 (1-6) provides that if traditional leaders (chiefs, head of family, village heads, clan leaders) fail to use a layout plan provided by the government when allocating customary land, such land will be declared government land. Significantly, it is noted that the land will not be converted to be public land, but to private land owned by government! In the process the failure to abide by planning can lead to forfeiture of one’s land.

As shown in Table 4.2, no major changes have been made to reform the laws except for minor reviews and in some cases renaming of old laws.

As observed by McAuslan (2003, p.104), such provisions as appear in Malawi’s 2016 Physical Planning Act, reinforce ‘authoritarianism and paternalism of the colonial and post-colonial state which was in large measure contrary to its logic of advancing open and participatory governance.’

Table 4.2: Status of Planning Policies and Laws, 2018

POLICY	YEAR	OLD LAW	YEAR	NEW LAW	YEAR
		Land Act	1902		
		Land Registration Ordinance	1916		
		African Trust Land Orders	1950 (modified 1964)		
		Public/Crown Land Ordinance	1951		
Malawi (10 year) Statement of Development Policies (Devpol); 1971-1980	1971	Land Act Cap 57:01	1965 (consolidated 1982) (dealing with public, private and customary land)	Land (Amendment) Act	2016
Malawi (10 year) Statement of Development Policies (Devpol), 1987- 1996	1987	Malawi Housing Corporation Act Cap.32:02	1964, amended 1966, 1970	Malawi Housing Corporation (Amendment) Act	2017
National Housing Policies (all never approved)	1981-1991, 2007	Public Health Act Cap.34:01 (includes subsidiary legislation on minimum building standards for Traditional Housing Areas)	1948 (modification 1982)	Not amended as part of Land related laws approved in 2016	
Malawi Poverty Reduction Strategy Paper (MPRSP), 2002-2005	2002	Registered Land Act Cap.58:01 (applies only in Mzuzu, Lilongwe, Zomba, Blantyre, Karonga and Kasungu, except on customary land)	1967	Registered Land (Amendment) Act to apply across the country	2016
Malawi Vision 2020 (20-year policy)	2000	Deeds Registration Act Cap.58:02 (applies across Malawi except where Registered Land Act operates)	1916 minor changes in 1942, 1951, 1958, 1960, 1963, 1967, 1968, 2002		
Malawi Growth and Development Strategy I. 2005-2010	2005	Land Acquisition Act Cap.58;04	1968	Lands Acquisition (Amendment) Act	2016
Malawi Growth and	2010	Land Survey Act Cap.59;03	1986	Land Survey	2016

Development Strategy II. 2011-2016				(Amendment) Act	
Malawi Growth and Development Strategy III. 2017-2022	2017	Adjudication of Titles Act Cap.58:05	1969		
		Conveyance Act Cap58:03	1952; modified 1967 Declares application of 1911 British law (except for land registered under Registered Land Act)		
		Customary Land Development Act Cap.59:01	1967 (only for Lilongwe West)	Customary Land Act (nationwide)	2016
		Local Land Board Cap.59:02	1967 (only for Lilongwe West)		
		Township Ordinance	1931		
		Town and Country Planning Act	1948		
National Physical Development Plan (NPDP)	1987	Town and Country Planning Act Cap23:01	1988 gazetted 1991	Physical Planning Act	2016
National Decentralisation Policy	1996	Local Government (District Council) ordinance	1953	Local Government Act Cap.22:01	1996
National Land Policy	2002	Chiefs Act Cap 22;03	1967; 2007	Local Government Act Cap.22:01	2010
National Urban Policy	2 nd April 2019			Local Government (Amendment) Act	2016
National Land use planning Policy (not approved)	2016	Public Road Act Cap 69:02	1962, modified 1963,1964, 1965; Amended 1989	Public Road (Amendment) Act	2016

Source: Compiled from various reports, 2018

The National Land Policy called for restraint in city boundary extensions to avoid conversion of customary land to public ownership and proposed a shift towards vertical development to control urban sprawl and reduce conflict with customary land rights (GoM, 2002, p.65). However, the multiparty central and local governments continued not just to extend urban boundaries but also to alienate customary land without keeping records of who had any interests in the land (see GoM, 2002). As such, many of the urban centres have large sections under customary tenure within their boundaries. For example, an urban profiling study by UN-Habitat (2011) found that in Zomba and Mzuzu Cities, customary land accounted for 90.5% and 75% of the urban area respectively. Although the same study found customary tenured land to be low in Blantyre (12%) and Lilongwe (13%), this could be a result of a long history of conversions in Blantyre as the city was established in 1876 and because all customary land owners had to be evicted in Lilongwe before developments started in the 1970s. In Mzuzu City, the most recent extension of the city boundary which alienates rural land was gazetted in 2010.

The National Land Policy (GoM, 2002) provision that customary tenure does not cease when it is declared to be within the boundaries of an urban area created rationality conflicts as traditional leaders aspire to retain the status quo while planners and land managers prefer otherwise. This situation created room for housing informality. Specifically, both in fear of losing grip over, and to benefit from, the land whose value suddenly increases with pressure from immigrants, traditional leaders start to dispose of land. A study in two informal settlements in Lilongwe sought to find out how the poor accessed and traded land. It found that although none of the respondents had title, 89% in Mtandile and 73% in Chinsapo felt their tenure security was strong mainly because of letters supplied by chiefs and the availability of neighbours to prove their claims to land (Vilili et al., 2013). In other words, even within urban informal settlements the role of chiefs was significant and the role of titles was not well known. Vilili et al. (2013) therefore concluded that the process of acquiring and holding land in urban informal settlements was effective despite lack of titles with at least 86% never experiencing any problems, or in the rare cases of conflicts, chiefs helping to solve them. While Vilili et al. (2013) recommend against bringing these areas into the city to avoid loss of the tenure status from customary to registered land, it can be mentioned that the new Lilongwe City plan of 2010 had already extended the jurisdiction of Lilongwe City to include these and other areas.

4.4 LAND, PLANNING AND GOVERNANCE IN MZUZU

4.4.1 Brief History

Mzuzu dates back as far as the 1900s when the first people, mainly the Tumbuka and Tonga people, settled in the area. The name Mzuzu arose from colonists' mispronunciation of Vizuzu, a small stream passing through the area. Developments in the area commenced in about 1932 when the colonial government created a forest to the west of the present airfield at Chiwanja. In line with reconstruction initiatives after the Second World War (WWII), the Commonwealth Colonial Development Corporation (CCDC) established a tung oil plantation in 1945. Tung tree seeds produced oil which was used as an additive to jet fuel and was also useful for varnishing. It was anticipated that the industry would support the growth of Malawi and Mzuzu. The construction of a factory in 1947 to process oil from the tung plantation spurred the initial

growth of Mzuzu especially because the factory and the estate needed housing and associated services for workers. Mzuzu witnessed accelerated growth following a decision in 1955 to transfer the regional administration from Mzimba Boma to Mzuzu to be closer to the port at Nkhata Bay along Lake Malawi. Mzuzu thus started to provide administrative and commercial services to the larger region. In view of its growing importance, Mzuzu was designated as a township at independence in 1964, a municipality in 1980 and was finally declared a city in 1985. Until the 1970s Mzuzu covered 23.55 km². Following persistent requests from Mzuzu (City) Council and the Department of Physical Planning, additional land was acquired from the neighbouring Districts of Nkhata Bay (20.23 km²) and Mzimba (80.9 km²). Records from archives show that in 1982, the total area of Mzuzu had reached 112 km² and by the time of granting of city status in 1985 Mzuzu covered 124.68 km². The urban boundary was extended again in 2010 to cover 143.81 km² (Mzuzu City Council, 2014, Singini, 2015).⁵ Figures 4.1, 4.2, 4.5 and 4.6 show the trends in city land expansion. These planning decisions to extend the boundary outwards incorporated existing rural villages and significantly increased the urban population from 8000 in 1996 to 222,000 in 2018 (Table 4.3). This far outstripped the estimated population shown in the planning reports of 61,550 for 2001.

Table 4.3: Mzuzu Population Growth

Year	1966	1975	1977	1981	1987	1998	2008	2018
Population	8490	14675	16,108	20,300	44, 217	86,980	133,968	222, 000

Source: National Statistics Office, 2008;2019; MNA 11870/3M/1,99/2A folio 104 dated 1976

4.4.2 Governance Structure of Mzuzu City

The governance structure according to the Local Government Act shows the mayor as the head of the council supported by the chief executive and his directors. The council has to deliver services to communities through 15 wards councillors (Figure 3.2; 3.4). In practice structures that are not provided for in the Local Government Act have also been incorporated to facilitate community participation as espoused in the National Decentralization Policy (see GoM, 1996). These are neighbourhood (village) development committees each headed by a block leader (Figures 4.3 and 4.4). The jurisdiction of a block leader is a neighborhood which is the lowest level in the governance structure of Mzuzu above which is the ward which is governed by a councillor. A senior block leader is responsible for a number of neighbourhoods. The structure arose from the re-organisation initiatives started in 1998 to create spaces for participatory planning provided for under the National Decentralization Policy. It was practically implemented to replace the hereditary chiefs. Block leaders replaced village headmen and senior block leaders replaced group village headman positions, thereby creating a structure similar to that in rural areas but named differently. Prior to the 1990s, the name of block leader did not exist; town chiefs corresponded to their function (see Cammack et al., 2009). However,

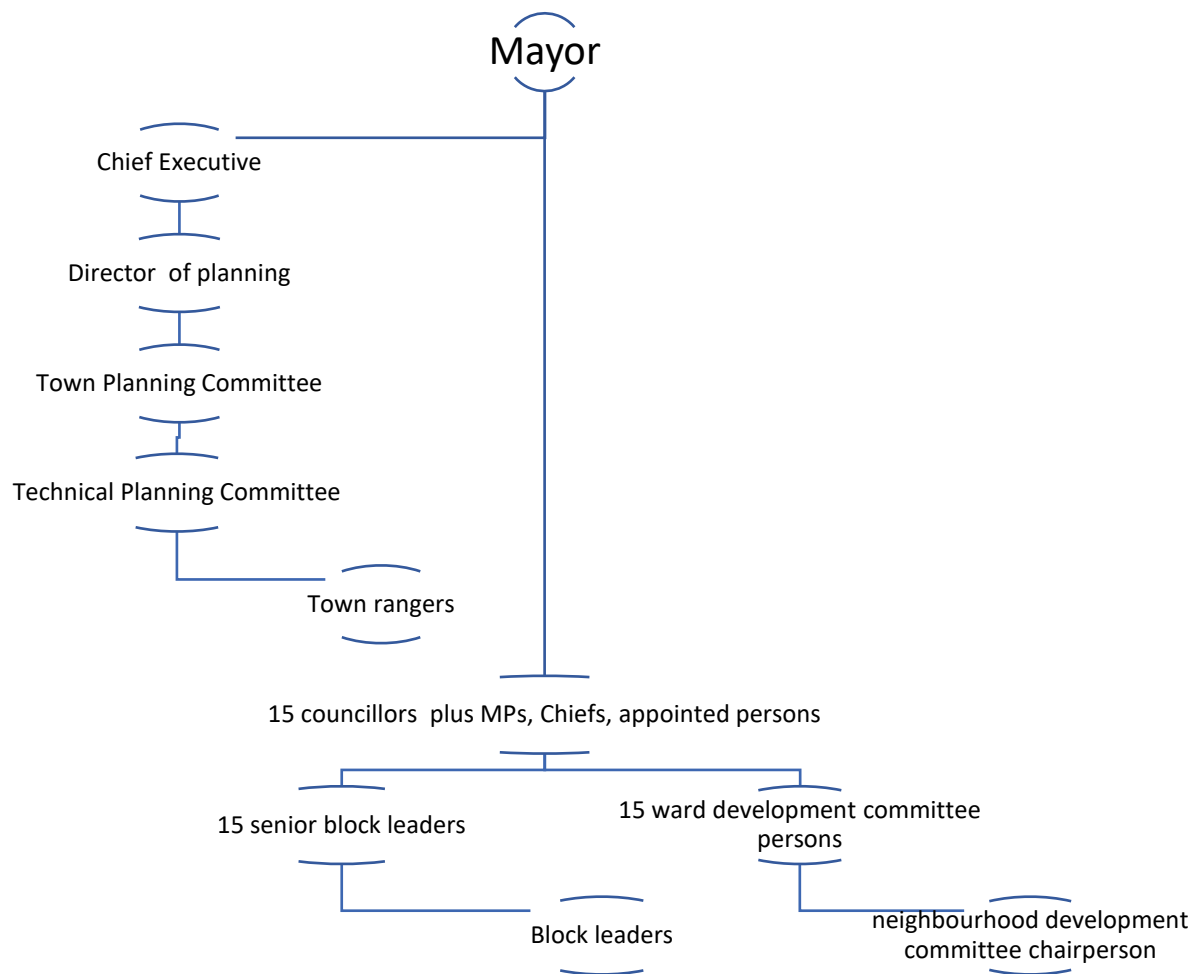
⁵ See also Malawi Government Gazette General Notice No.2 “Town and Country Planning - Mzuzu Planning Extension Area Order 2010” made in terms of Town and Country Planning Act Cap.23:01 of 1988. Note that it is the planning area that is extended, not the Mzuzu City Council jurisdiction which would require application of the Local Government Act.

the block leaders, who this time were also referred to as town chiefs, were adopted as interim positions or ‘substitutes’ for councillors since the time when president Mutharika refused to hold local elections in 2005 (Tambulasi and Chasukwa, 2014). Indeed, to legitimize their role, block leaders were sometimes referred to as temporary councillors.⁶ Unlike the councillors who are elected directly in a general election, block leaders were nominated individuals who accepted to voluntarily take the positions. Hereditary chiefs played a key role in the nomination process as all nominees were expected finally to be vetted by them implying that, contrary to law and government practice, ‘town chiefs exist and operate within the pluralist cultural realm so as to accommodate the less homogenous urban society’ (Tambulasi and Chasukwa, 2014, p.201).

However, in recent years, block leaders’ roles have been contradictory. On one hand they were endorsed by chiefs to get the position, on the other hand the state took steps to replace chiefs and recognize the block leaders. In addition, block leaders were wanted in some cities and not others. In Lilongwe block leaders were accused of derailing development because of alleged involvement in the illegal selling of public land,⁷ while in Mzuzu, block leaders were fully supported by the council against hereditary chiefs who were accused of derailing development because of illegally selling public land (Singini, 2015). The contradictions reflect Klopp and Lumumba’s (2017) observations that political elites can deliberately cause such confusion to benefit from the land and planning system. At academic level chiefs also started to be blamed for the growth of informal settlements. For example, Majawa (2009) considered chiefs the sole cause of informal settlements. Mwathunga (2012, p.433) argued that informality was ‘a product of deficient formal land management policies’ as they tend to be applied across all urban centres. The salient ideas of these authors point to attempts ‘to eliminate this informality’ (Wu et al., 2013, p.1919) or ‘to formalise the informal’ (Mwathunga, 2012, p.433).

⁶ Interview with Mr Kenwood Mwenechanya, 19 June 2016

⁷ <https://mw-nation.com/council-accuses-leaders-of-derailing-development/> accessed February 24, 2016



Source: Author, 2018

Figure 4.4: Mzuzu City Council Governance Structure

From Figure 4.4 it is clear that block leaders replicate the rural set up of and were introduced in Mzuzu to undertake cultural tasks ostensibly left by hereditary chiefs. Thus, as in rural settings, development committees are established in line with the requirements of the Decentralisation Policy (GoM, 1996). Specifically, for each village (in this case each neighbourhood) a village development committee (VDC) is set up below an Area Development Committee (ADC), in this case a ward development Committee (WDC). In both cases chiefs or block leaders only participate as patrons.

It should be mentioned that the town planning and technical committees are officially committees of the Department of Physical Planning in the sense that the members are appointed by the Minister responsible for physical planning (see Table 4.4). Thus, the Mzuzu City Council is in a way merely exercising delegated powers.

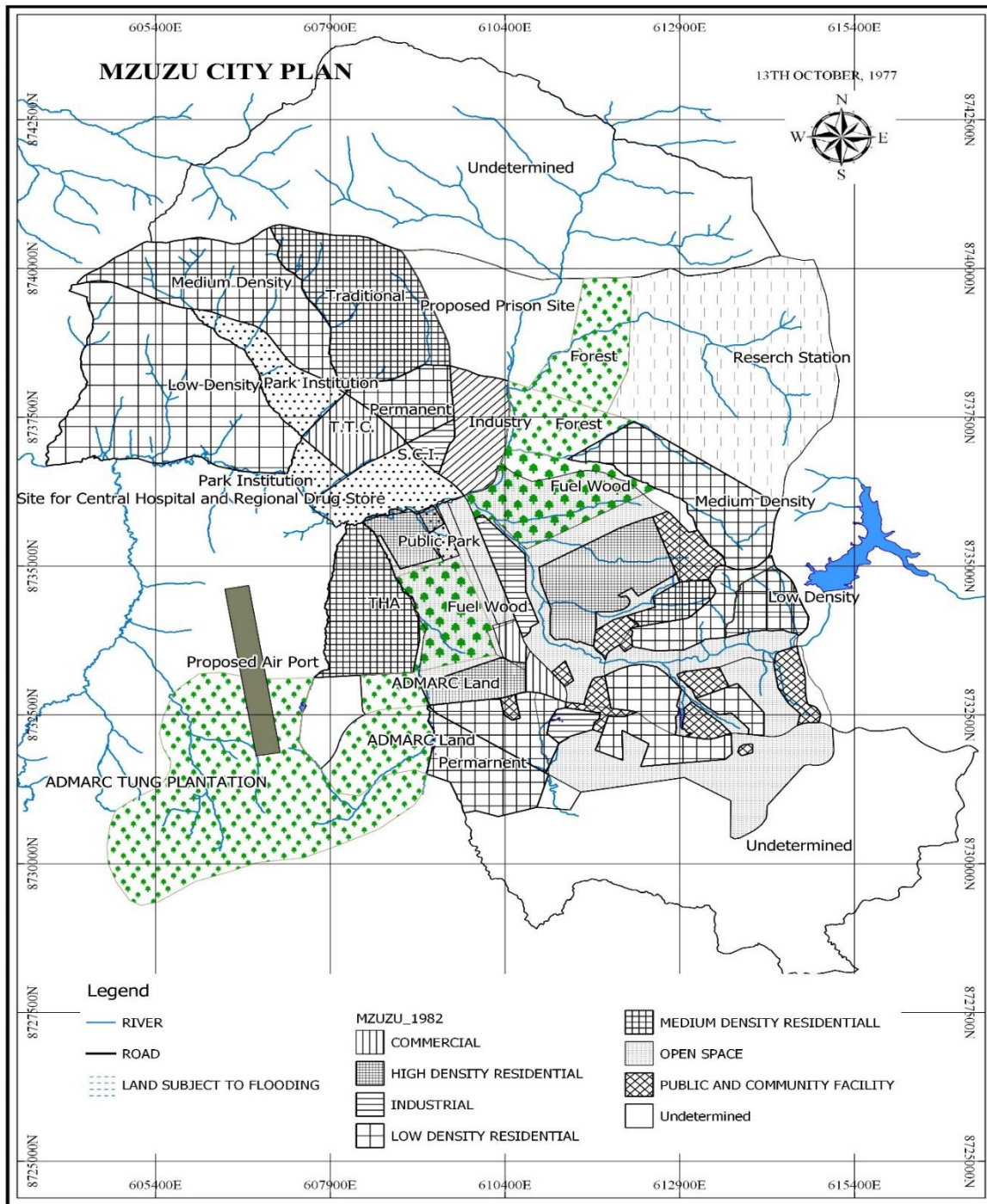
Table 4.4: Urban Planning Powers and Functions of National and Local Governments

National Government (Department of Physical Planning)	Local Government (City, Municipal, town, district councils)
Prepare National Physical Development, Regional and District Physical Development Plans	Prepare local socio-economic plans; prepare local physical development plans: Urban structure plans; Subject plans; Detailed layout plans.
Prepare land use plans (city wide and detailed plot demarcation plans)	Monitor adherence to the land use plans; after 1991 Mzuzu, Blantyre and Lilongwe cities were allowed to produce detailed plot demarcation plans under delegated powers.
Appoint the Town and Country (Physical) Planning Committee	Host (service) the Town and Country Planning Committee (TCPC). A technical committee scrutinises plans before TCPC decision. Can decide to approve, reject or revoke land use and building plans for development permissions.
Appoint Town and Country (Physical) Planning Board	Can make submission to the Board, but rarely does so as nearly all complaints are against them and due to lack of feedback on determination from the board.
Minister responsible can decide to approve, reject or revoke land use and building plans approved /rejected by all other planning authorities.	Minister for Local Government and Rural Development declares urban centres as towns, municipality (president declares an urban centre to attain city status); the local council have to implement the directives of the Minister responsible for planning irrespective of any flaws. The local councils have legal leeway to appeal to Town and Country Planning Board, but the board is appointed by the Minister himself.
High Court can order reconsideration of planning decision made by any authority on point of law, but not from planning viewpoint: Department of Physical Planning has to reconvene the Town and Country Planning Board to make a new decision or maintain the decision with explanation as directed by the court. More often than not developers do not appeal to the board but to the courts which approve the developments.	The local government have then to reconvene the planning committees to make a new decision or maintain the decision with explanation as directed by the court; Full council makes final decision by vote. More often than not developers do not appeal to the board but to the courts which approve the developments.

Source: Author, 2018

4.4.3 City Spatial Structure: Land and Planning

Mzuzu has a fragmented settlement pattern which is largely influenced by topography and river system but it also reflects colonial and post-colonial urban planning. The high income (low density) locations are found close to the central business district or in highland locations. Two low-income settlements constructed under colonial rule were located in marshy areas called Mzilawaingwe and Chasefu across the Lunyangwa River (Figure 4.1). The police station was located within the town but on a direct approach road from the low-income areas. Woodlots, afforestation and botanic gardens were either located or planned to be located between indigenous people's locations and the town. In such cases, either indigenous communities were evicted or their settlements were zoned as open or undetermined spaces which implied that in future they could be evicted (Figure 4.5). The zoning of land as open or undetermined spaces resonates with the concept of 'unmapping' (Roy, 2009) which suggests a deliberate 'creation of uncertainty by the state to facilitate flexibility in its interventions and possibly forms of land speculation' (Bénit-Gbaffou, 2018, p.2141). According to Roy (2009, p.28) unmapping is thus part of the 'calculated informality that undergirds the territorial practices of the state.' This is clear from Figure 4.5 in which the areas shown as undetermined or fuelwood zones are in fact informal settlements.

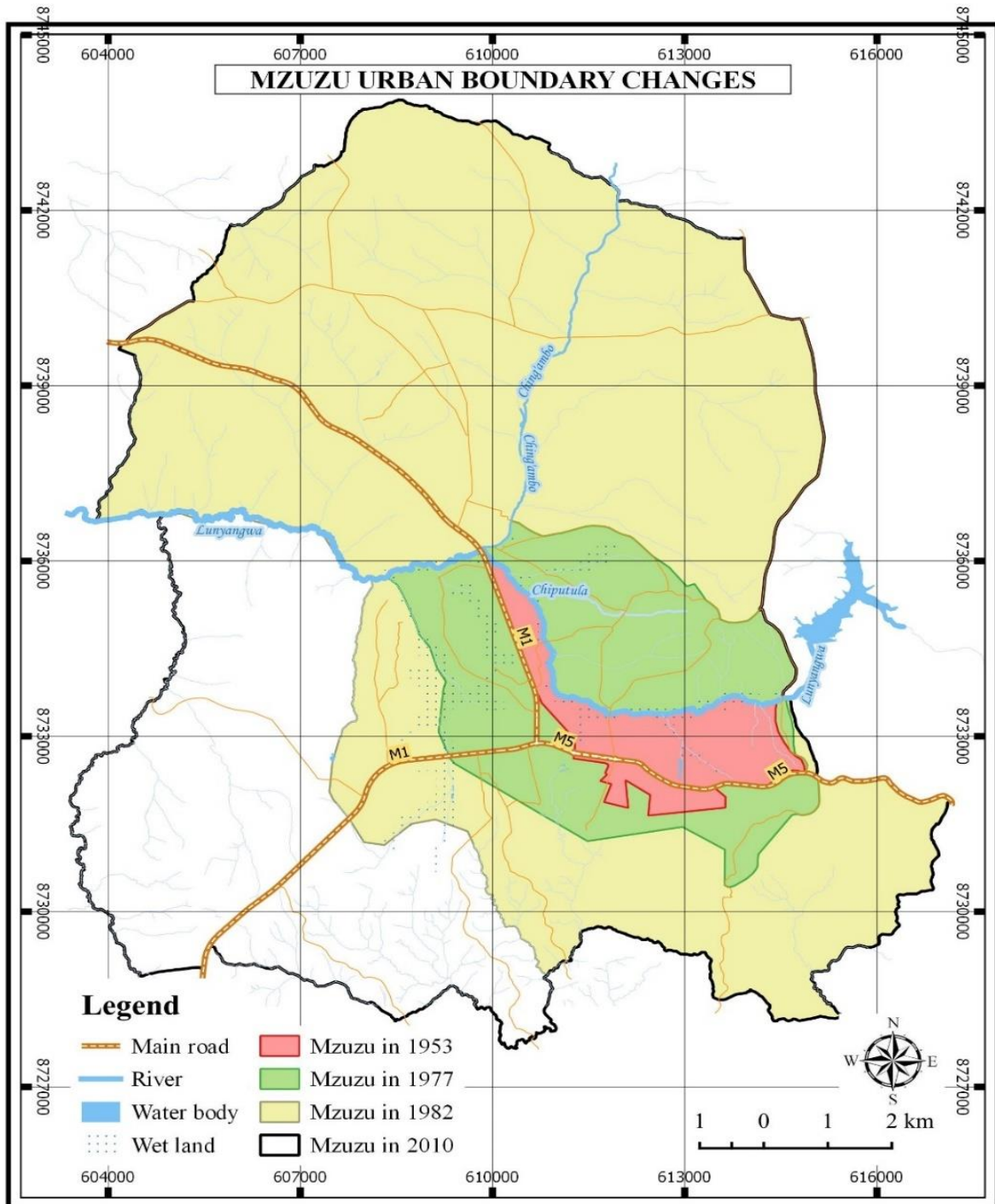


Source: Author, 2019

Figure 4.5 Mzuzu City Plan, 2010 (incorporating proposals made after 1982)

Regarding the classification of land according to who managed it, Mzuzu local government area comprises approximately 144km² of land (Tables 4.1; 4.5 and 4.6). Most of the land is under customary tenure with chiefs as the main land managers (See Tschirhart, et al. 2016). Estimates by Mzuzu City (2014) show that 30% of the land may be public land, 10% is private land and over 60% is customary land. Some of the land is planned while most of it, especially the customary category has no land use plan to guide land allocation and development. The

trend is that the proportion of private land increases over the years due to leasing from public land or leasing and compulsory acquisition from customary land (Kishindo, 2004; GoM, 2002). Figure 4.6 shows the state has been acquiring and converting customary land progressively through changes to the urban boundary. Since the gazetting of the 2010 boundary, additional land has been already proposed to the north east for acquisition as a planning area.



Source: Author 2019

Figure 4.6: Mzuzu Boundary Changes 1953-2010

Table 4.5: Land Managers in Mzuzu City

INSTITUTION	LAND SIZE (HA)	PERCENTAGE (%)
Lands Department	Data not available	Data not available
Malawi Housing Corporation	637.335	4.4
Mzuzu City Council	824.614	5.7
ADMARC	57.655	0.4
Catholic Diocese (Bishop's Residence)	72.000	0.5
Civil Aviation	23.118	0.16
Moyale Barracks	106.971	0.74
Mzuzu Central Hospital	101.029	0.70
Lunyangwa Agricultural Research	943.431	6.52
Mzuzu University-Luwinga & Choma	1367.400	9.45
Livingstonia Synod Headquarters	25.096	0.17
Mzuzu Botanic Garden	588	3.85
Private individuals	283.941	0.81
Customary chiefs	9,612.816	66.4
Total	144,76.906	100

Source: Mzuzu City Council, 2014

What is clear from this situation is that while Mzuzu City administers only 5.7% of the total land area, the council is expected to regulate developments on land owned and managed by other actors, who in many cases have no regard for planning provisions in their land allocation procedures and practices. This is the case because the current planning system is fractured amongst several central government, parastatal and local government institutions including the Department of Physical Planning, Mzuzu City Council, the Malawi Housing Corporation and private land owners. Mzuzu City Council prepares plans for its own land which it has to acquire on application from the central government. The Department of Physical Planning prepares plans for all the land managed by government on a client-consultant arrangement. The Malawi Housing Corporation (MHC) prepares its own plans. Private land owners may hire consultants to prepare plans for them. Architects or planning technicians prepare building designs on behalf of their clients. All the plans or designs are then submitted to the planning committee after scrutiny by a technical committee of planning technicians and government workers for which a proportion of the cost of the building is paid as fees. The Town and Country Planning Committee is appointed by the Minister responsible for Physical Planning for a two-year tenure. Aggrieved applicants can apply for remedy to a Town and Country Planning Board, also appointed by the Minister responsible for Physical Planning. The Town and Country Planning Board is a national 'planning court' (it was previously so called). Town rangers monitor the implementation of approved land use and building plans. Deviation from the approved plans is reason enough for demolition of a property. Table 4.4 summaries the planning powers of the national and local governments.

The growth of informality and the current structure of the urban area can therefore be linked not just to colonial biases but also to the post-colonial policies' failure to break with the past

including the creation of multiple agencies to cause confusion and create opportunities for control and domination (Klopp and Lumumba, 2017; McAuslan, 2003). Through such confusion, opportunities arise, for example through unmapping (Roy, 2009), for the state and its officials to informally allocate and acquire land.

4.5 CONCLUSION

The chapter has demonstrated that planning policies, practices and land tenure systems have a long history and have not changed much from the colonial legacy of segregation that benefited colonists at the expense of indigenous groups. The post-colonial period inherited these policies and practices that not only facilitated segregation along income levels, but also for the benefit of indigenous elites (Silva, 2015). Despite the wave of decentralisation, political, legal and policy reforms, the status quo remains. Also, unfortunately, prerequisites or pre-conditions to support the reforms have not advanced: for example, devolution of planning functions has been delayed, local elections avoided, mayoral terms curtailed, governance terms reduced and MPs brought into full local council membership. These many failures suggest, as McAuslan (2003) argues, a deliberate attempt to use planning, as the colonists did, to control the state and benefits associated with power, such as access to urban land at the expense of the poor living on customary land. The outcome of these reform failures in Mzuzu and other urban centres in Malawi has been the production, escalation and perpetuation of informality.

CHAPTER FIVE: FINDINGS OF THE RESEARCH

5.1 INTRODUCTION

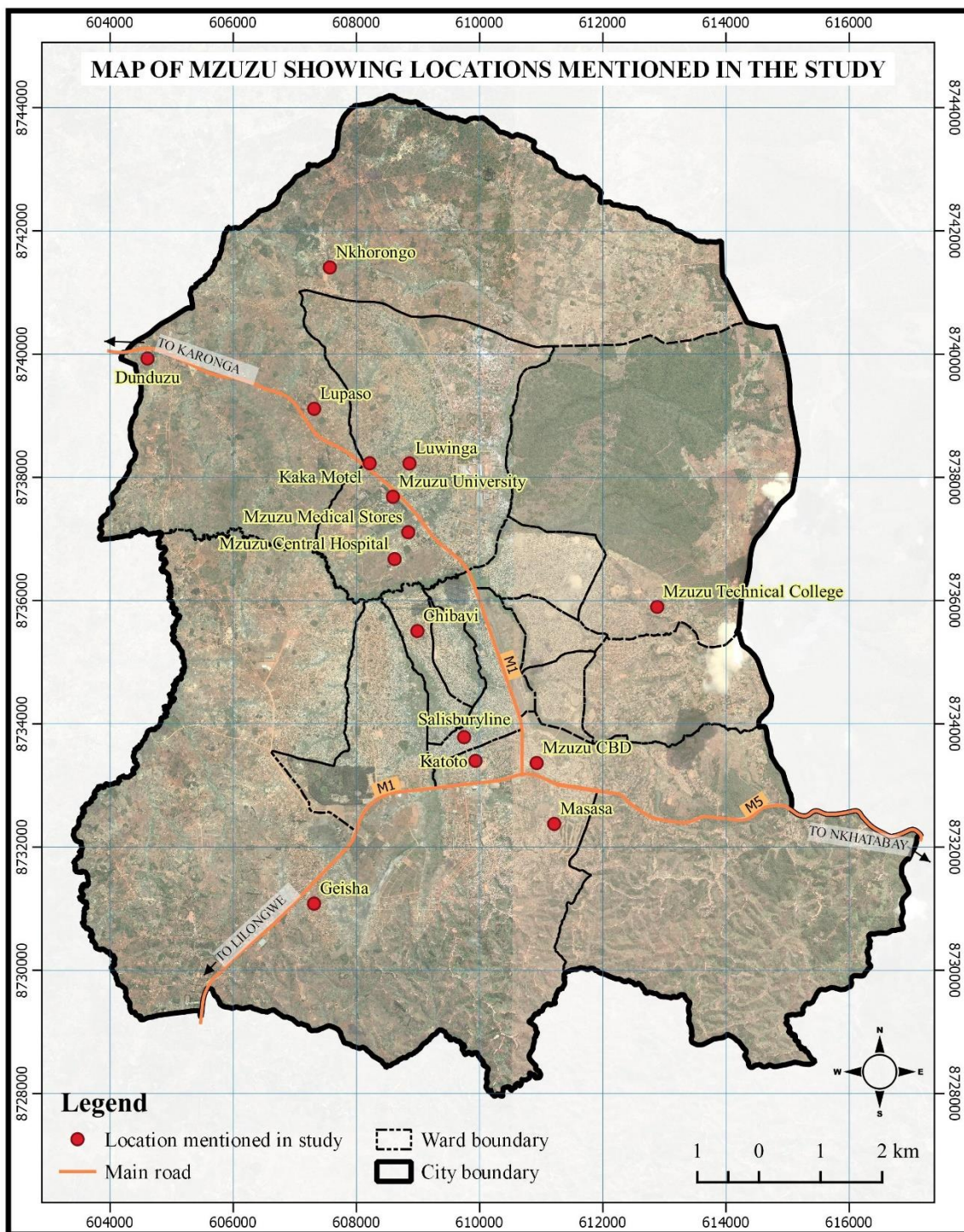
The last chapter traced how the colonial legacy has influenced current settlement informality. This background contextualised the state-society engagements and the discourse on land tenure and planning in Malawi broadly and in Mzuzu specifically. This chapter is a report of the results of the research conducted in three sites in Mzuzu City in the context of informality linked to conflicts around land tenure. The chapter provides a narrative of the engagement between the state and inhabitants of three informal settlements, looking at their historical development and how the actors produce, proliferate or entrench informality. These settlements were chosen because they had different land tenure types which was considered a factor influencing the nature of engagement between the state and the inhabitants. The first section deals with Luwina, the second with Salisburyline, and the last with Geisha informal settlements. In each of these three sections, the material is structured to respond to the subsidiary research questions.

5.2 LUWINGA CASE

5.2.1 Background

These first settlers of the area now called Luwina were the Luwina Singini clan (with several villages under one leader. Luwina is actually the name of the headman of the Singini clan. Prior to being settled in the Luwina area, these people had forcibly been resettled twice by the government. The first was from Mganthila (now called Chimaliro), where they had lived since about 1910, to give way for the Kaning'ina Forest Reserve as plans were underway for the Lunyangwa water supply dam (Figure 4.2). From Mganthila they were moved to the Chiwavi-Chiwanja area (then called Muzgora), from where they moved to the present day Luwina in 1932 (Figure 5.1). The state-society engagement in Luwina started in the 1970s. Prior to that, original settlers lived without any conflict with state institutions. The change emerged when the central government sought additional land for the expansion of Mzuzu. Whereas initially the local chiefs and individual land owners had freely provided land for public developments such as the teachers college, medical stores, the Technical Vocational Education and Training (TVET) centre and more recently the central hospital, after 1994 these communities were alarmed to see the government allocating land, which they had regarded as their own, to private companies and migrants from outside Mzuzu.

This situation led to complaints by the original settlers about land loss and so they decided to seek relocation from the city. The original settlers comprising several villages under Inkosana (a position below GVH and above VH, Figure 4.3). Luwina thought that such a decision would avoid worsening their suffering caused by frequent relocations as by that time they had been relocated twice. When the clan leaders approached the government to inform it that they wanted to move out of Mzuzu to allow for the *orderly growth* of the city, the government responded positively. At least seven village headmen and about 17,000 indigenous settlers were enumerated by chiefs in 1994 as part of preparations for the relocation out of Mzuzu.



Source: Author, 2018

Figure 5.1: Mzuzu Locations Mentioned in the Study

Consequently, the Luwina community took the initiative to look for land which they found in the Tofutofu area some 30km outside Mzuzu in the Nkhata Bay District. As will be clear later in the narratives, though the area was far from the city, the intention of the inhabitants was to

have adequate farming land in a rural setting while also doing any kind of jobs and businesses in the city like all other urban residents that had migrated from their villages. On 3rd December 1996 a group of 33 people which included 7 village headmen and chief (Inkosana) Luwinga, officials from the Mzuzu City Council, Department of Lands (DoL), Department of Physical Planning (PPD), Ministry of Agriculture, Department of Forestry, Ministry of Health among others, went to Tofutofu to see the land that the community had identified and acquired by way of verbal agreement with Chief Mbwana (who held rights to this land at the time) for their resettlement out of Mzuzu. Also available at the site meeting in Tofutofu were Chief Mtwalo (a higher ranked chief to which Inkosana reports), Chief Mbwana, the local Member of Parliament (MP) and the District Commissioners for Nkhata Bay, Mzimba and Mzuzu.

After touring the site, the government officials were happy with the land. As, next to this land was a forest reserve, the officials requested the Forestry Department to give part of the forest reserve land to the would-be-settlers from Luwinga to ensure they had adequate land for cultivation. According to village headman (VH) Bandawe Singini,⁸ who was present at the site meeting, the Forestry Department promised to install beacons to demarcate the place within 7 days. The land in question covered over 300 hectares of bare land with only two isolated houses. As explained by VH Bandawe Singini:

‘On 3rd December 1996 we were given 14 days. They said “we will come to handover the land which you have already acquired from Chief Mbwana ... we will inform you, because currently we are also going to inform Inkosi-ya-Makosi Mbelwa who would like to come to personally attend this [ceremony] because the land you have acquired is in Nkhata Bay and there are seven chiefs that are coming here belonging to Mzimba. Now, we either transfer the chiefs from Mzimba to Nkhata Bay or we take the land in Nkhata Bay and give to Mzimba. This discussion we are going to have between Inkosi ya Makosi Mbelwa, Mtwalo, Mbwana and the district commissioners. After our meeting ... we will come to inform you but this will be within 14 days.” And, those 14 days [stress], from 3rd December 1996, have not elapsed. We are waiting for it’ (interviewed 30 June 2016).

VH Bandawe Singini informed me for Chief Mbwana ‘to say yes, get this piece of land’, was not easy and that although they never paid money to Chief Mbwana, the community spent a lot of money to acquire the land. They travelled between Mzuzu and Tofutofu several times to meet village headmen to show the boundaries both on a map and on the ground. It transpired however that the same land was parcelled out by DoL and sold to individuals. This land sale implied lack of commitment by the government to relocate the original inhabitants of Luwinga.

Apart from the promise to ‘transfer the land within 14 days,’ the government had also promised to provide basic services such as potable water, a primary school, a health centre, and to improve the road to the area with bridges. The community on its part agreed to resettle as soon as all the resettlement procedures were fulfilled. The community also pledged that if some

⁸ He suddenly died in his sleep on 14th April, 2019, RIP

showed interest in remaining in Mzuzu City, these would abide by all city plans, regulations and bylaws. This mutual understanding was documented in the form of an *aide memoire* committing both the state and the community to take specific actions to implement the relocation from Mzuzu to Tofutofu.

However, by the time of my field work in Luwinga, over 20 years after the agreement, no one had moved to Tofutofu, possibly, as will be shown later, because the inhabitants knew that nothing would happen as the state lacked the financial means to undertake the exercise. The respondents stated that they were still waiting for the 14 days the government had promised to transfer the land and make compensations before taking up the land at Tofutofu. When asked if they were still interested in relocating, they confirmed their commitment. I also asked for evidence of preparing for the resettlement. VH Bandawe Singini stated:

'They [community] have been preparing since when they were told, 'in 14 days.' Now the 14 days has elapsed. People have become desperate. They don't even know what to do. Honestly speaking, if you are preparing for a trip and somebody says I will come to pick you up, pack up your luggage on this date, you put your baggage together. When that day is not coming, you start picking out one by one, at the end you forget and say this may not happen. But the consequences are that we have people now [who don't have] land....to cultivate. In other words, the question of preparation does not arise, it is now a question of bare survival' (interviewed 30 June, 2016).

5.2.2 State and Planning Interventions

The declaration of Mzuzu as a city in 1985 caused anticipation both among individuals and institutions seeking land for development. The state, either using their regional planning office in Mzuzu or directly from the national head office in Lilongwe, prepared several zoning and land use plans. The first plan was prepared in 1971, the second one in 1978, the third in 1989, the fourth in 1995 and the latest in 2014. The 1978 (interim) plan showed a 12-year plan horizon with proposals for boundary extensions. The interim plan sought 'creation of an efficient physical structure and a good environment for Mzuzu's present and future population' (*Department of Town Planning, 1978, p.8*) which was, at a growth of 6.3 per cent per year, projected to reach a total population of 20,000 by 1990. To emphasise the extent of rapid growth of Mzuzu the plan stated:

'We need as many houses built in the next ten years as have been built in the last twenty-five years, as well as a drastic increase in the number of site and service plots. What is required is an average construction rate of 644 dwellings (including helpers' quarters) per annum and an average of 222 site and service plots prepared each year' (Department of Town Planning, 1978, p.5).

To achieve the plan objectives, the planners started extending the planning area as early as 1973. In the case of Luwinga the proposal was to extend the planning area beyond the Lunyangwa River (Figure 4.6). The boundary extension was proposed when a decision was

made to locate new projects outside the urban area because of ‘lack of land in the town.’⁹ These projects were the national teachers’ college, the Press Corporation-owned grain milling and bakery factories. The 1978 plan was not officially approved even though some of its provisions were implemented. The most detailed plan covering up to 164 pages of text was prepared in 1989. This plan was also not implemented. The reasons are scarce, but one can speculate that there was unclear land tenure and funding limitations for compensations.

The 1995 plan was the most important one produced since the declaration of Mzuzu as a city. Though finalised in 1991, this plan was only approved by the Minister in 1995. The plan not only confirmed, but also extended the boundary proposal of the 1978 plan and sought its gazetting. Based on 1978 proposals already an industrial estate had started to develop in the Luwinga area and a Teachers’ College (now Mzuzu University) was under construction from 1978. To achieve its view of a modern town the state sought to implement the 1995 plan by preparing detailed land use plans laying out plots for housing, institutions and industries not just for Luwinga but also for other areas. For example, figure 5.2 shows how the state overlays new plans over existing informal settlements (and later declaring them as informal) and evicts original settlers in favour of industries. However, these plans for orderly urban growth were being super-imposed on an existing informal settlement pattern and hence required eviction of original settlers.



Source: Department of Physical Planning, 2018

Figure 5.2: Luwinga Industrial, Commercial & Residential Plans

As the implementation period of the 1995 plan drew towards expiry another attempt was made in 2009, but the draft plan could not be finalised. The proposal to extend the boundary was gazetted 15 years after the plan had expired in 2010. The most recent plan, also proposing farther boundary extensions to the north-east, was prepared in 2014, but this remained unapproved by the end of 2018. Therefore, in the history of Mzuzu the only formal plan was the 1995 plan which expired in 2005. Until 2010, all developments in Luwinga area were, to

⁹ Ref No. TP/MZ/CM/2/65 MNA 11870/3M/1.99/2A

the extent that the plan was a determinant of the urban area, in the rural area, and thus an informal undertaking of the state.

In undertaking planning activities in Luwinga, the state based its actions on a 1983 memorandum from Chief Mtwalo to all chiefs under him in Luwinga. This memo apparently accepted the boundary extension and authority of the Government which had extended the planning boundary. The chief's memo stated as follows:

'Therefore, from now onwards, you should know that you are within the municipal area boundary and under the Mzuzu Town Planning Control. When you are to allocate [land] within this area such as: Doroba, Nkhorongo, Lupaso and Luwinga, you should ... contact the Regional Planning Office....' (Signed by C. Theu on behalf of Inkosi Mtwalo on 11 October 1983).

A key point to note is the understanding of state officials that the approval of the urban plan and gazetting of the proposed statutory planning area boundary meant that the land had also converted from customary to public (state-owned) tenure. The state officials also had the view that with approval of the planning area boundary, then Mzuzu City Council jurisdiction had also been extended and hence the original settlers needed to be evicted from the area. This thinking contradicted the provisions of the planning law which differentiates between a planning area and Mzuzu City Council jurisdiction. This confusion was apparent from the Regional Commissioner for Lands (RCL):

'The tenure situation is a bit tricky because on one-part government did not fulfil what is supposed to be done; because once they have declared land to be within the city they need[ed] to compensate the people and move them away' (RCL interviewed 26th February, 2016).

This perception of the status of land tenure in Luwinga was also shared by the Mzuzu City Council:

'When the land has been included in the city it reverts from customary to public.... we had that at the back of the mind, to say that this is public land, and therefore it is the council that is responsible and owns the land' (Director of Planning interviewed 26th January 2016).

Based on the new plan, the city council started to collect property taxes while the government started to collect development charges and annual ground rents. Those that failed to pay were threatened with forced evictions or property confiscation. For example, through newspapers and other media, the state wanted all the residents to move out of Luwinga because they lived as squatters on land within the extended city boundary: 'The land belong to Mzuzu City Assembly as it is meant to accommodate other people and infrastructures that are coming up....'¹⁰

¹⁰ Chief Executive Officer of Mzuzu City, quoted by Thokozani Chenjezi, Daily Times, 6 February 2012

City extension plan displaces squatters

BY THOKOZANI CHENJEZI

THE Mzuzu city assembly has threatened to evict squatters on the outskirts of the city, stressing that the land they are living on is within the city's extension area boundaries.

The city's Chief Executive Officer Samson Chirwa said in an interview that the land, which is under village heads Wayinga and Vilumi in Lupaso area, was earmarked for the city's extension plan and was gazetted in 1980 to become public under the assembly.

Gazetting of the land meant chiefs had no powers to sell it.

"The land belongs to Mzuzu city assembly as it is meant to accommodate other people and infrastructures that are coming up. And it was the chiefs who sold the land to people who are building houses there not us," said Chirwa.

But the plan has faced challenge from the concerned village heads who accuse the assembly of snatching customary land from them without relocating or compensating them.

GVH Wayinga said, in an interview, although government expressed interest to make the land public, through the assembly, there had been no interest to relocate or compensate them.

"We are not resisting leaving this place. But the city assembly has to follow the right procedures when taking this land, like relocating and compensating us," said Wayinga.

However, the resistance is yielding nothing as the assembly demarcated the land ready for different projects.

In a letter dated August 12, 2009, titled "Installation of beacons in GVH Wayinga area and addressed to the assembly's Town Clerk and CEO, a committee from Wayinga and Inkosi Luwina subjects demanded a gazette and necessary documentation to prove the extended city boundary.

"The officials from MCA disclosed to the committee that the area in question is gazetted as public land belonging to Mzuzu



MZUZU CITY—Earmarked for expansion

City Assembly. Unfortunately, they only produced Mzuzu Urban Structure Plan (1995) with no information and documentation such as the Government Gazette on 10th August, 2009," reads the letter in part.

The letter adds that the community, GVH Wayinga and Inkosana Luwina do not remember being informed of the plan's approval and any consultation with them about the implementation of the plan.

"... this community has not been served with a copy of the Government Gazette so that they can possibly initiate the necessary compensation and repatriation process through our traditional leaders such as village headmen, GVH Wayinga, Inkosana Luwina, Inkosi Mtswalo and Inkosi ya Makosi M'belwa which is particularly important," says the letter.

The chiefs claim that the

move violates their right to earn a living on the land.

"In addition, please note that the Environment Act provides for compensation for natural resources taken out of the communities in use," adds the letter which was signed by 38 committee members.

However, in its response of October 1, 2009, signed by Director of Town and Country Planning Alexander Chirambo, the assembly says it would continue with installation of beacons.

"Be advised that the assembly shall proceed with the beaconing along with assessment of the planted properties on the area earmarked for the Traditional Housing Areas on the Urban Structure Plan," reads part of the letter.

The letter claims that the assembly notified the chiefs through the regional planning officer.

"The responsibility therein

of controlling development and administering land were transferred to Mzuzu City Assembly after 1992. Meanwhile, please notify all those that have planted their different crops and trees on the area earmarked to avail themselves for assessment on the 2nd of October, 2009."

Further communication between Inkosi Mtswalo and the assembly that was copied to Inkosana Luwina, the regional planning officer and District Commissioner supports Chirwa's sentiments.

"I refer to the letter dated 5th September, REF tp/mz/8.3/3 from the Regional Planning, Mzuzu addressed to me... [in which] I was obliged to advise on this issue.

Therefore, from now onwards you should know that you are within the municipal area boundary and under Mzuzu Town Planning control," states the letter

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Source: Daily Times, 6 February 2012

Figure 5.3: State Perception of Inhabitants

From Figure 5.3 the perception of the state about inhabitants is clear, that they are squatters, yet these people live on their own and have not contravened any planning law or any plans except that the plans have been superimposed on their villages after the unilateral planning area boundary extensions. Thus, Luwinga residents were being declared informal without having done anything to change their location or type of dwelling or indeed despite the judiciary recognising the land as customary.¹¹ The perception that land had converted from customary to public tenure was clear from the affidavit of the Chief Executive of Mzuzu City Council to the High Court in Civil Cause No. 63 of 2006 where he stated:

'the property [Kaka Motel] also falls within the city boundary as defined by the Mzuzu Urban Structural [sic] Plan....there is no village in Luwinga Area but plots to which people hold titles¹² not as a community but as individuals...'

Another government approach since the 1990s was to ask the original settlers to relocate incrementally according to what land parcel was needed at what stage of city development. Using this approach, the state was able to acquire land for the central hospital, central medical stores, the TVET Centre and industries. According to the RCL (interviewed 26 February 2016), as the government did not have resources, compensation was left with the developer. This means that if a developer required the land urgently, that developer was requested to pay compensation to the local land owner directly. This practice had two implications. Firstly, the state had reneged on compensation and was transferring this responsibility to migrants and developers who would not provide for other essentials to enable original inhabitants move to Tofutofu. Secondly, it was later construed as land selling or buying by the migrants and developers. And many developers flocked into the area to buy land without going through the state officials.

In view of these planning interventions, especially the approval of the extended statutory planning area boundary, I asked respondents from central and local governments how they perceived dwellers of Luwinga area. The RCL was very candid:

'The view of the Department [of Lands] is that these are informal settlers.... We don't entertain them. We don't need them.... They defeat the whole purpose of planning. As a department, we are supposed to monitor all the developments in the city so that the developments are orderly. So, if we have these unplanned or squatter settlements, I think, then we are defeating the whole purpose of having the department' (RCL interviewed 26th February, 2016).

¹¹ In Civil case No 02/2016 between Elta Jere and Donald Kaunda in the Senior Resident Magistrate Court, sitting on 22nd February 2016 the court referred the matter to chiefs to adjudicate a land dispute in accordance with 'customary law of the land since the land is customary. The chief is supposed to [rule on] that within 60 days from this date and furnish the court with his findings.'

¹² In Malawi one can lease urban land for 99 years if for permanent housing; 66 years if for traditional housing. Ideally these 66 years are titles for low income areas, while 99 years are for high income locations. The only freehold titles are those carried over from the colonial era.

The Mzuzu City Council had the same perception of informal dwellers:

'Basically, these people are illegal settlers... [when] an informal settlement has been carried out on an industrial area... we ensure that that one has to be gotten rid of, by actually resettling the people' (Director of Planning interviewed 26 January, 2016).

The Director of Planning told me that the policy was however, changing towards inclusiveness and acceptance of informality especially if there was no contradiction of land use zones. This means that, if an informal settlement developed in an area designated as residential, it would be accepted, but not if it developed on land earmarked for commerce. This perception toward inclusiveness was a result of the quality of houses the informal dwellers constructed at a time the state itself was failing to meet demand:

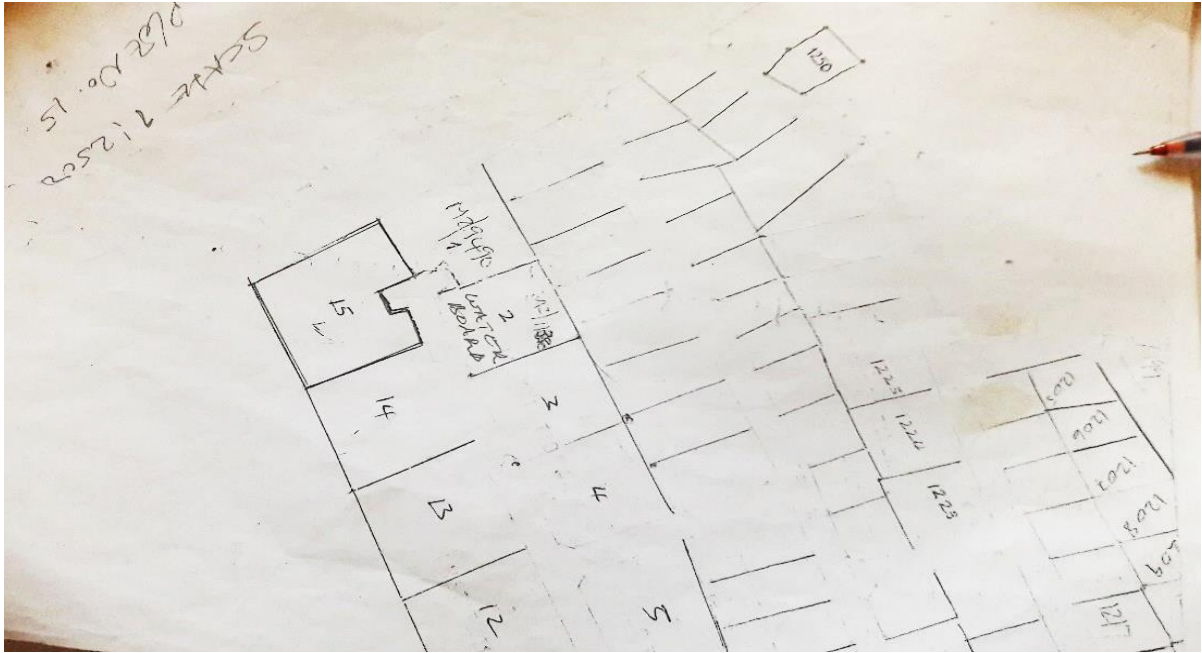
'The [house] designs themselves, the material that they use, ... even the lining of buildings, in terms of ...like ...having the developments in orderly manner...like it is obtaining when you have got a proper layout.....so you find that much as the issue is that of not having a formal approval the way the developments have been done...they are more or less like it would have been if they were properly planned' (Director of Planning interviewed 26th January 2016).

The Department of Physical Planning also confirmed the shift towards recognition of the informal settlements. As explained by the acting Regional Commissioner:

'The government currently is moving towards recognising and accepting the existence of informal settlements....and [wants to] do something about it' (Interviewed 26 February, 2016).

While it might appear that the state actors collaborate to realise the modern town project as each claimed, actual practices resulting from conflicting interests within the state institutions and individuals within those institutions point to perpetuation of informality. The main areas of conflict between the central and local governments were related to land use planning and land allocation in Luwingu. For example, while Mzuzu City Council (MCC) had a legal mandate to produce and monitor land use plans, the Department of Lands (central government) did produce the plans informally without the city council knowing and without following the requisite procedures. Referring to new plots produced on a land parcel designated as wetland (Figure 5.4) in Luwingu by individuals from DoL and officially allocated to developers, the MCC stated:

'This plan does not exist in council files, we do not know how and who prepared it, or even when they allocated these plots. But now people are developing there.' (Director of Planning interviewed 26th January 2016).



Source: Mzuzu City Council, 2016

Figure 5.4: Plots allegedly informally created by Officials from Department of Lands and allocated to Investors at Luwingu

I asked the Director of Planning why the practice existed. He told me in a follow-up interview on 10 April, 2017 that the Department of Lands was more interested in raising money in the form of land development charges while MCC was interested in planned urban development. The land development charge is a major source of government revenue charged on a plot applicant ostensibly to proportionally contribute to the infrastructure expected in the area.

The MCC was not the only one to complain about land allocation in Luwingu. In 1996, the officer in charge of Mzuzu Airport wrote that *'despite several letters and meetings [their] Plot ...regrettably [was] being used by various individuals illegally'* and requested the government *'to stop allocating plots ...and stop those who have acquired plots illegally from developing their plots'* (Letter ref. No. MU/5/19/105 dated 10th April, 1996).

5.2.3 Inhabitants' Response

Active original settler community response to government and city council interventions in Luwingu started in the mid-1990s although since the 1970s they had opposed boundary extensions. The approval of the 1991 city plan in 1995 apparently unveiled otherwise hidden emotions of the original settlers. I asked my respondents to explain how they reacted to the state plans, the boundary extensions and incremental annexation of their land after the approval of the plan. The inhabitants' response to government actions (and inactions) took several forms:

The first reaction was to seek formal relocation away from the city. The respondents told me that the reasons for the original settlers' desire to relocate out of the city was twofold. One was based on their recognition of the rapid growth of Mzuzu and the inevitability of them losing land for farming and loss of clan cohesion because of interaction with new cultures:

'... We started seeing private companies being given land by the Lands Department ... that is when we said...maybe we should be given alternative land somewhere else because we are seeing that this city will grow, it is inevitable.... we welcome the idea for the city to grow ... So, an agreement was made' (VH Bandawe Singini, interviewed 30 June 2016).

Other reasons for seeking a move out of Mzuzu were about belonging to a rural village for their cultural identity and clan cohesion. VH Bandawe Singini stated:

'We want to be able to say [we are] going to [our] village like everybody else in this city. People who have come here have villages in Ntcheu, in Balaka, in Chitipa; we also want to have a rural village.... [and] a piece of land in town for commercial purposes' (Interviewed 30 June 2016).

These sentiments suggest that the community never intended to move out of Mzuzu. They wanted the urban land and the new piece of rural land as a strategy to improve their position in the engagement with the state. Apart from the sentiments relating to identity and loss of land to migrants, the original settlers also wanted to access adequate land for farming in a rural setting. A senior citizen told me:

'We want to stay as a village because that is when [we] are easily known. But the expansion of the city has engulfed us. We want to maintain our customs and culture.....Government had plans for the growth of the city to which we agreed. But what we want is that there should be consideration for us. ... We rely on farming but you can't farm in the city. ... The government said find a place of your liking. We found a place at Tofutofu' (Senior Citizen 2 interviewed 19 June 2016).

This view was shared by Group Village Headman (GVH) Wayinga (interviewed 15 July 2016) who stated that the original settlers chose Tofutofu because of abundance of land to farm and because it was far enough away from Mzuzu to ensure that they would never again lose land through evictions due to city boundary extensions. Of interest is that even government and city officials understood this logic. For example, Mzuzu City explained that the relocation exercise was beneficial for both the council and the original settlers. Mzuzu City perceived the request to move out of the city was to avoid paying city rates:

'[Indigenous settlers] think that if they go to Tofutofu, this would be outside the city, they will not pay fees.... the land will be customary. The challenge we have there [in Luwinga] is that of land holding...[thinking] ... of having land even for kids. Here it cannot obtain because ...you can't have that entire parcel. But if they go to Tofutofu, they will get that [much land]' (Director of Planning interviewed 26th January 2016).

The second reaction to the government extending the city boundary to Luwinga and considering the delay in implementing the resettlement procedures was for the local chiefs and individual land owners to start selling their land. According to VH Bandawe Singini the sale

of land happened because people had learnt from elsewhere that sometimes compensation is not on time or never at all:

'So, a few say I might as well get something out of this and let the other person get relocated when the government needs the land at that particular time...even though most of the developments you are seeing here now, it is not from chiefs, most of it is now from City and Lands Department giving land away...' (interviewed 30 June 2016).

This view was also expressed by a senior citizen and major land owner who stated that original settlers sold the land because the government was grabbing people's land without compensation and allocating it to other people:

'The problem is with the state.... if you leave your land empty then the government will come and sell or allocate it to other people. So, they want to sell before the government comes.... even those people from the council, they pretend. Some of them sell the land privately.... This is why people are selling the land because they fear that ...' (Senior Citizen 1/land owner interviewed 2 July 2016).

The senior citizen's concerns about compensation for land were supported by the Mzuzu City Council. The Director of Planning told me that people sell land in Luwinga

'... because the type of compensation ... is like... if there isn't any structure, the consideration is only for perennial crops ... not the land itself. At the end of the day what they are compensated for is very minimal. You find that your whole plot can have only one pine tree [to compensate]. There you become a loser....' (interviewed 26th January 2016).

A senior citizen who owned a large land parcel also recounted how he had lost part of his land through such government practices:

'I owned 49 hectares of land here. I had over 1000 blue gum trees on this land. But the government just took over my land and trees. They left me with only 4.9 hectares. I now sell this land out of fear of losing all of it.' (Senior Citizen 1/ land owner interviewed 2 July, 2016).

According to GHV Wayinga, government regulations were to blame for the selling of land by original settlers:

'the issue is that government regulations stipulate that if there is no development such as a house, bananas, or mangoes and there are only maize stems, the government will take over that land without any compensation. The majority of people are in this category. They have land on which they just grow maize for their own food. ...so, when the government comes it will say, get out of here but without getting anything for the land. This is why people are saying I should not lose out; this land was left for me by my father and mother. Let me just sell, let me have something, I should not just lose the

land to government [kuruska kuti waboma wazanipoke pawaka nane nirghepu]. So, the government will fight with the buyer. Do you follow?’ (Interviewed 15 July, 2016).

It was also noted that original settlers sold land as a result of lost hope despite agreeing to move to Tofutofu. Senior Citizen 2 stated that

‘The people have lost hope with government on relocation...the feeling people have is that the government wants to take land by instalments....’ (Senior Citizen 2 interviewed 19 June 2016).

The rationale for selling off the land in Luwinga was corroborated by officials. For example, MCC stated:

‘Selling of the land is based on the fact that they aren’t very sure if the relocation will take place... they are looking at it to say.... in the event that relocation does not occur and no fair compensation is given, they should be able to get something quickly. Most of those people [with background information] are aging. ... If I don’t act now, I will have nothing.’ (Director of Planning interviewed 26th January 2016).

The third response of some members of the original settlers to the government and city council inventions was intensification and densification by building better, more and even bigger houses in the area. While one might say the original settlers copy the house designs of migrants, the building of more and better houses was linked to the growing population and family formation. As one senior citizen stated:

‘As long as we are here, we will continue building. We want houses to live in...’ (Senior Citizen 2 interviewed 19 June 2016).

The fourth response was legal. The original settlers questioned the legality of actions that suggested that the land transaction had been finalised such as demand for city rates, or land allocations. Specifically, when in 2006 MCC sought to sell properties including Kaka Motel which is owned by a Singini clan member, a court battle commenced. One of the key features of the case (civil cause number 63 of 2006) was the argument that Luwinga residents were living on customary land and therefore not eligible to pay city rates, because they awaited relocation to Tofutofu as per the agreement of 1996. Only those preferring to own properties in the city would then be liable to pay the city rates. However, the High Court in Mzuzu declined to make a ruling on this matter as did the High Court in Lilongwe.¹³

The fifth form of reaction was passive ignoring and defiance of government and city council demands such as paying city rates or adhering to planning regulations. VH Bandawe Singini explained as follows:

‘... when they say you cannot do this, you can’t do that, we go ahead and do those things ... they threaten us, ‘we are going to take down this house’...they have pulled down a

¹³ Civil Case No.568 of 2009 Lilongwe Registry Justice Mzikamanda on 4th December 2012

number of houses in Area 1B ... and they have ended up paying millions of Kwachas for not following procedures' (Interviewed 30 June 2016).

An example of how original settlers ignore city regulations is when they install new village heads despite city council replacing the positions with block leaders (discussed later). On 6 August 2016, I witnessed the installation of village headman Munthali in Luwinga. The ceremony was authorised by Chief Mtwalo and presided over by Inkosana Luwinga; a chief ranked higher than the village headman (Figure 4.4). The state made no attempt to stop the function. The position of village headman had ostensibly replaced with that of block leader.

The sixth response to state interventions was for the inhabitants to mobilise themselves into an organisation called Luwinga Development Foundation Trust (LUDEF) which was registered as a non-governmental organisation (NGO) in 1996. The main objectives of LUDEF were to unite the inhabitants in the struggle with the state over the land, compensation and the demand to move out of Mzuzu. According to GVH Wayinga,

'We noted that we are not on the same understanding with the government on the issue of land. That is why a decision was made, to say, one person cannot fight the government. There should be a group to speak on behalf of everyone. This is why we established the organisation called Luwinga Development Foundation Trust to speak on our behalf with the government. So, through the same organisation, one time.... we together with all government departments in Mzuzu went to Tofutofu...' (Interviewed 15 July, 2016).

The reason for the formation of LUDEF was also confirmed by Senior Citizen 2 when I asked him to explain how the decision to relocate was reached. He said:

'We were using the chiefs through LUDEF. The chiefs were involved to assist in finding a place for those who wanted to move out' (Senior Citizen 2; 19 June 2016).

As a commitment to move out of Mzuzu, LUDEF had constructed four timber bridges on the road to Tofutofu. Specific to the issue of land, all the protest letters including the *Aide Memoire* were the work of LUDEF. But the organisation had also implemented several self-help projects that gave the impression inhabitants would remain in Mzuzu. Such projects included boreholes, woodlots in school yards, support to village heads with tree planting to improve the environment and training women in cookery. Some of these projects were externally funded through networking with organisations in Germany and with funding from the European Union (EU) programme in Malawi-an issue that that farther complicated informality legitimisation.

5.2.4 Conflicts among Inhabitants

However, the community of Luwinga is not homogenous. There are indigenous settlers and migrants from elsewhere in, or outside, Malawi. These groups have different backgrounds that lead to differing opinions and practices that impact not just governance but also the government vision of a modern city. Three areas of conflict can be cited:

The first issue relates to relationships among the community members themselves. There exists animosity between the originals and migrants. The originals refer to the migrants using derogatory terms such as ‘strangers’ (wakwiza/wamwiza). For example, according to Senior Citizen 2 (interviewed 19 June, 2016):

‘We indeed call them strangers even though we live together. We have different backgrounds. We will not take them to Tofutofu.’

To the so-called strangers, the name ‘wakwiza’ was the major reason there was demand for the introduction of neutral leadership in the name of block leaders. The former ward chairman I interviewed in his capacity as one of the Senior Citizens in Luwinga Ward stated:

‘... what happened is that people opposed the name of ‘wamwiza [which] means foreigners or strangers... And I was in the forefront of that opposition with one of the village headmen Wilson Moyo who had defected from his group [of village headmen and] agreed with us the ‘foreigners’’ (Former councillor/Senior Citizen (3) interviewed 27 June 2016).

Not surprisingly, the demand to move out of Mzuzu to a rural location was mainly supported by the indigenous settlers. When I spoke to one block leader, I learnt that the migrants were settled and established and so would not move out. The block leader was of the view that the original settlers accepted to move just to please government officials:

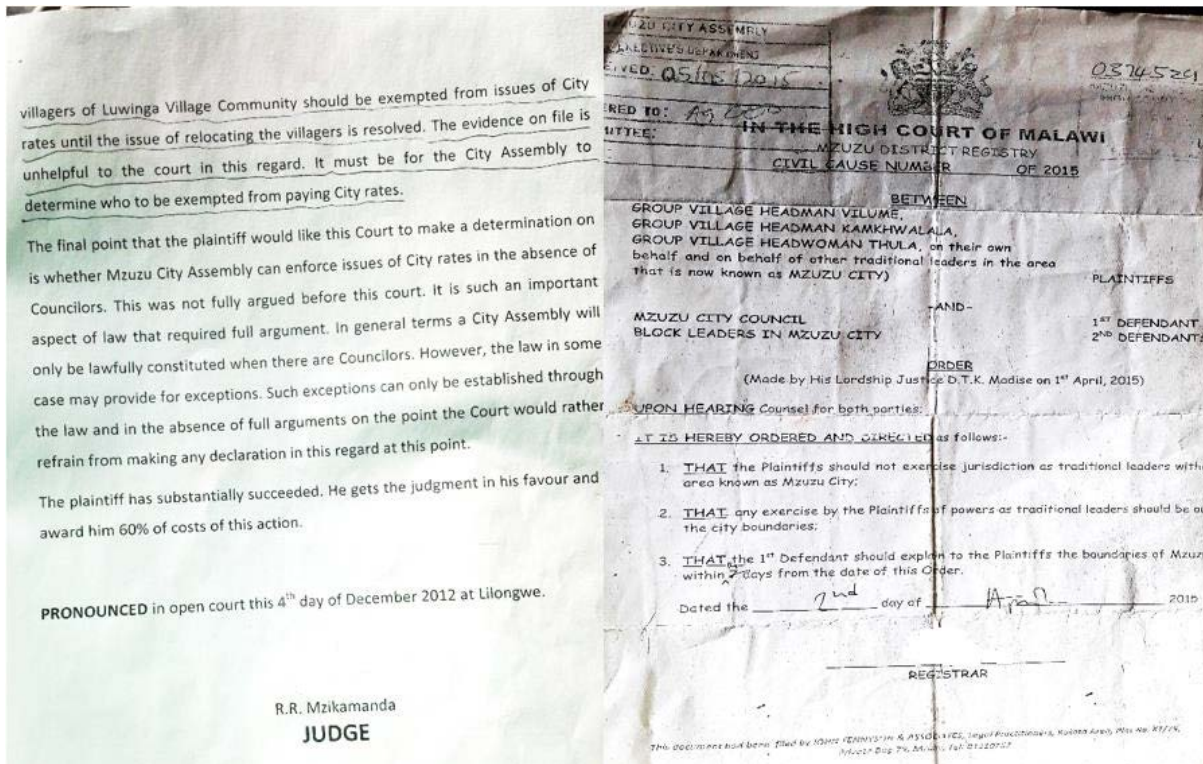
‘To me I can say they were just accepting to please government officials, but in their hearts, they knew they were not going to move [kweni pamutima pasi wakamanya]. After the bridge near Petroda [filling station], there were people there... compensated a lot of money. But we do not know where exactly they have gone, many are just building within here. That is evidence they were just trying to please officials ...they have not gone to Tofutofu...they just find land within’ (block leader interviewed 13 July, 2016).

As such, even if relocation were to take place, the block leader told me, it would affect only the original settler clans: *‘No, these ‘strangers’’ are not affected [with the relocation to Tofutofu] for these strangers this [Luwinga] is their home.’*

As can be noted opposing camps emerged with some village headmen changing sides. The issue of block leaders itself is another source of conflicting opinions within Luwinga. At one point in 2015 village headmen (VH) took the matter to court where they lost the case. The Mzuzu High Court ruled that only block leaders would be recognised by the council in the whole of Mzuzu City jurisdiction (Figure 5.5). In a circular letter (Figure 5.6) addressed ‘to whom it may concern,’ Mzuzu City Council wrote to state its position as follows:

‘.....Mzuzu City Council does not recognise Traditional Leaders within its jurisdiction. The Local Leadership that the Council recognises and [is] working with are the Block leaders/Neighbourhood Leaders elected by the community among themselves in all wards in the city...’ (Letter file number MCC/1/1 dated 31 May 2016).

The position held by MCC was endorsed by a high court ruling that ordered chiefs not to ‘exercise jurisdiction as traditional chiefs within the area known as Mzuzu City [and] the chiefs should exercise their powers outside the city boundaries’ (Figure 5.5). While the ruling was a relief to MCC which so far had failed to abide by part 3 of the order that required the MCC to explain the urban boundaries to the chiefs ‘within 14 days from the date of this order,’ another ruling by Justice Chikopa in 2013 (referred to in chapter 4)¹⁴ went in favour of Luwinga inhabitants by declaring that the case lacked a mandate to levy city rates or sell properties for non-payment.



Source: Mzuzu City Council, 2017

Figure 5.5 Contradictory Court Rulings

¹⁴ See also ruling on Civil case no 61 of 2007 related to a house on plot MZ/646/0 that MCC had sold because of unpaid city rates.

MZUZU CITY COUNCIL



THE CHIEF EXECUTIVE

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MALAWI.

Your Ref :

Our Ref : MCC/1/1

31 May, 2016

TO WHOM IT MAY CONCERN

In pursuit to the Chiefs Acts (Chapter 22:03) section 55, and Local Government Act of 1998 which stipulates that a City Council is a District on its own right, as such Mzuzu City Council does not recognize Traditional Leaders within its Jurisdiction.

The Local Leadership that the Council recognizes and working with are the Block leaders/Neighbourhood Leaders elected by the community among themselves in all wards in the city.

Among others are the attached names for Luwinga ward.

Any assistance to them is highly appreciated.

Yours faithfully

C.C. Phiri (Assistant Director of Administration and Personnel)
For: **CHIEF EXECUTIVE OFFICER**

Figure 5.6 Letter from Mzuzu City Council

This letter (Figure 5.6) was not acceptable to the indigenous chiefs. As per a letter written on behalf of block leaders by the Legal Aid Bureau of the Malawi Government, the chiefs still resisted block leaders. In the letter the Legal Aid Bureau complained to Mzuzu City Council about chiefs rejecting block leaders:

' ...during one funeral ceremony ...group village headman [name].....castigated all Lubinga Ward Block leaders by announcing that he does not recognise their existence. The said GVHinformed the funeral gathering that Lunyangwa Bridge is the boundary where the Mzuzu City Council ends and that all the people in Lubinga Ward should not even be paying city rates [What] he was communicating to the block Leaders was the information he was sent by the Senior Chief Mtwalo.....we are of the

view that ...the conduct of the GVH ...may mean you as an assembly did not comply with the court order to explain to the traditional leaders what the city boundaries are....' (Legal Aid Bureau, 22 July, 2016 ref No. Mz/LA/2016).

The contradictory judicial pronouncements highlighted rationality conflicts existent in the state sphere. The indigenous inhabitants' and chiefs' reluctance to recognise block leaders or indeed the animosity between two groups was related to the unresolved relocation and land tenure issues. According to VH Bandawe Singini:

'The position of block leader is a public office regardless of how small it is...but I don't remember hearing that there were elections for block leaders. It appears they [were] just imposed...Secondly, we associate block leaders... with positions within the city boundary, now we are still not within the city because the extension of the boundary has not been conclusively done and therefore, we should not have block leaders...because block leaders were taking on the role of chiefs, it was a recipe for frictions....' (Interviewed 30 June 2016).

The gravity of the conflict related to block leaders can be seen from the action of one group that went as far as seeking political intervention from the presidency. The block leaders asked the former president Joyce Banda to intervene:

'We are regarded [by our colleagues, the village headmen] as immigrants, homeless people and ... as strangers here in Luwinga ward despite the fact that we are over 40 000 people now...so let it be known to you, your Excellency, that our colleagues the chiefs with their people... a very small tribalistic section. ... some political leaders are deliberately frustrating these block leaders and the general public by not recognising them... so that the community should have negative attitude towards the Government....' (Letter to President Joyce Banda, 24th November 2013, from Senior Block Leader Wilson Moyo).

This point was emphasised by Senior Citizen 2 (interviewed 19 June 2016) who said that *'there is very little cooperation between the block leaders and the chiefs. They cannot work together [because] ... a block leader is under the city and only takes instruction from the city where he reports to. The chief is conversant with the people and the land.'*

The conflict about leadership also affected access to graveyards. The migrants were denied burial in the customary graveyards, traditional leaders insisting they either send the bodies to their original villages or to the city cemetery, which unfortunately was located outside Luwinga ward. The denial of access to graveyards was confirmed by Mzuzu City:

'You know we believe in communal graveyards. These people, just to show that they have power, sometimes they do deny access to use of grave yards....to migrants. What they want is just to show that they ... are controlling the land.... because the council is working with the block leaders, when people die, they go and consult the block leaders, by the time they go to traditional leaders; they say 'okay, since you say that you are

under the block leaders, why don't they give you the graveyard. 'We own the land.'
(Director of Planning interviewed 26th January 2016).

However, GVH Wayinga Singini (15 July, 2016) told me the matter was not really about denying access but reminding block leaders about the role of chiefs and the land tenure situation in Luwinga:

'We don't deny use of graveyards... the issue started in relation to block leaders. A block leader has no land; it is chiefs who have land. But because a block leader boasts as if he has land, and claims to be above chiefs; when the misfortune of death comes, where does he go for burial? That is why, he goes to chiefs, and he is asked: but you say you are block leader; you have land to administer; give the dead the site for burial then. It is not that we deny burial places for people. No.'

The standoff between chiefs and indigenous settlers on one hand and block leaders and migrants on the other, was not an issue for Luwinga or Mzuzu only, it was a national one. According to newspaper reports, when the Ministry of Local Government and Rural Development (MLGRD) issued an order abolishing urban chiefs in May 2015, chiefs protested and vowed never to accept the order. The chiefs also called on the President of Malawi to reconsider the decision or risk a revolt:

'In Zomba Traditional Authority (TA) Mlumbe said the development has implications on operations and challenged that he will not accept the ministry's decision' (Nation newspaper, 9 June 2015). 'If the government thinks the councils alone can handle development in cities, then that is only a fallacy because removing chiefs will only retard development...the country's leadership might be digging its own grave in terms of popularity among communities who hold so much trust in the local leaders' (Daily Times 3 June 2015).

It might appear to outsiders that the indigenous settlers were themselves united. However, VH Bandawe Singini acknowledged occasional disagreements among the Luwinga inhabitants thus:

'You know that ... government institutions are stronger than we are. Unfortunately, also for us, we are for some reason weakened by internal divisions.....it has come to a point where we don't recognise our oneness; it has come to each one for himself, God for us all. So, everybody will look at where he stands and when they [state] come you take the necessary action according to how you see it' (Interviewed 30 June 2016).

5.2.5 State-Society Conflicts

The conflicts between the state and the community were centred on categorisation of residents, relocation from the city, tenure and power relations in local governance. This situation is reflective of the divergent interests among the community on one hand and government institutions on the other. The conflict about categorisation arose when the state categorised these inhabitants of customary land as 'squatters' or 'illegals' as early as the 1980s, when government made proposals to extend the urban area into their area. Such naming became

explicit in 2010 when the government approved and gazetted the boundary extension. Specifically, the state started issuing eviction threats through leaflets and public announcements.

The indigenous settlers, however, rejected the ‘squatter’ label and call themselves ‘villagers’ living on customary land. For example, senior citizen 2 (interviewed on 19 June 2016) argued that ‘... *I am not a squatter. Under the constitution, I have a right to a home. I can only be a squatter if I am given notice and a place.*’ GVH Wayinga held the same view: ‘*they should remove the term squatters. They cannot call us squatters because we are the owners of this land... it is not right*’ (interviewed 15 July 2016).

These views contradict the viewpoint of the block leader who sided with Mzuzu City council but linked the label of squatter to service availability. He argued:

‘To me that is true. As I said, when granting city status, people had already built as in a village. That is why in many places we do not have plots, we do not have roads’ (Block leader interviewed 13 July, 2016).

Regarding the status of the land in Luwinga, there were conflicting views according to whether the respondent belonged to, or supported, either the state or the community. Original settlers were more candid in their responses on land ownership than block or elected leaders. According to VH Bandawe Singini:

‘The land belongs to us...the indigenous people...we had 5 village headmen and one GVH. The five village headmen were Chayani Chimaliro in Choma, Haran Msiska at Doroba, Maono Ngwira at Khamba, Kafwili Nyirongo at Nkhorongo, Mafuta Kaunda at Lupaso across there and Inkosana Luwinga himself was the group village headman occupying the rest of the land here’ (Interviewed 30 June 2016).

GVH Wayinga linked the conflict over the status of land tenure to the controversy surrounding the urban boundary. The inhabitants saw the urban boundary as a rural land grab by the postcolonial state which was disregarding the colonial division between customary and urban (public) land:

‘The boundary that we know ... is Lunyangwa [river]. Going that side is what they said was the area for our colleagues the whites [niwo waketenge ni malu ya ghawanyithu wazungu], crossing this side, was the land for us, of our grandfathers. But, little by little, the government or city council, come here to our area, without explaining to us properly’ (Interviewed 15 July 2016).

To realise this, the original settlers used various other forms of protests and public relations exercises to pressure government to implement the relocation agreement. At every meeting LUDEF leaders have taken the opportunity to remind the government of the promise of relocation ‘in 14 days’ since 1996. Protest letters were also written to Mzuzu City Council, to the Lands Department or other government departments. One such letter written on 5th January

2004 sought an audience with the Minister of Local Government and Rural Development to discuss resettlement and issues relating to loss of land. The letter read in part:

'People who have been allocated plots in areas where the indigenous people have their houses, crops like fruit tree etc have taken over such land and properties without paying compensation. Graveyards have been dug and bodies exhumed and reburied but without proper arrangements and yet this is not in accordance with our culture and traditions...'

However, when I talked with the block leader on the status of the land, he was not definite:

'I can say, now it is the city although there are also other people managing the land. Some places are managed by Lands Department ...then City Council, they share responsibilities but in true sense it is the city that is the owner of the land in this ward' (Block leader interviewed 13 July 2016).

The original settlers insist the land can convert to public tenure only after they are resettled and compensated.¹⁵ The failure by the government to implement an agreement made in 1996 to relocate the community remained the stumbling block. Although a two-week time frame was promised, this had not been and could not be implemented because the land had been allocated to individuals. When, in some instances, land owners got compensated for land targeted for specific projects, the debate was on relocation. GHV Wayinga (interviewed 15 July 2016) complained that *'the people are just being scattered around as they look for land on their own from other families and friends.'* The ward councillor for Luwinga was also unclear despite suggesting that the land was public, even though management was problematic:

'Legally we can say that land belongs to Mzuzu City, but if we go on the ground you find that chiefs are still claiming the ownership of the land; what they are saying is that when the city was coming, they were not compensated.... there are places where chiefs are in control or ...still in power... they can sell that land to an individual... but if the land was declared a city, that means the landlord is Mzuzu City Council ...' (Ward Councillor interviewed 29 June 2016).

The inhabitants also engaged in some threats and indeed violence. The use of threats or actual violence is the final strategy was used to put pressure on government to speed up implementing the demand to move out of Mzuzu. For example, one of my respondents informed me of a case where a garden belonging to an original land owner had been allocated to a migrant (stranger) by the government and surveyors had been deployed to plant beacons:

'The owner of the garden came out with a butcher knife and he said if you touch this land, I will hack you. So, [government surveyors] ran away and have not come back. Don't forget they were only lucky, otherwise, if those people had done what they were

¹⁵ See for example, minutes of the meeting held on 15th November 2005 in relation to land allocated to Malawi Telephone Luwinga Exchange.

trying to do, even if they were going to take the police. We were ready’ (VH Bandawe Singini interviewed 30 June 2016).

The use of physical violence was confirmed by Mzuzu city council:

‘the first attempt to go to Luwinga was that of the law enforcer.... we first went there in a military way... but to our surprise ... we were even chased! To the extent of even having physical attack [because] when we went there, we said this is illegal settlement....’ (Director of Planning interviewed 26th January 2016).

5.2.6 Collaboration and Complicity

In spite of the many areas of disagreement, opportunities availed themselves either inadvertently or otherwise, that suggest collaboration or indeed complicity, in the engagement between the government and original settlers in Luwinga. Three cases are worth citing. The first is about city visioning. The vision of a modern city was shared by the local community regardless of their status, original settler or ‘stranger.’

Regarding the orderly growth of the city original settlers claimed that they sought to move out of Mzuzu to allow for the orderly development. According to GVH Wayinga:

‘We ... are ready to surrender the land to government so long there is proper procedure. We cannot reject development ourselves. Those refusing to move are people who have just come here; they have stayed long here, and maybe they do not even know their villages. That is why it is difficult for them to accept’ (Interviewed 15 July 2016).

This view was also shared by Senior Citizen 2. In an interview (2 July, 2016), when I asked him why people wanted to move out of their own land where they were born with social and economic opportunities, he said:

‘As I said... we want development that is why we accepted to relocate, we said give us land where we can go.’

The second example is the way in which informal systems permeated the formal systems. While the state claimed not to recognise chiefs within the gazetted planning area boundary, they recognised actions of the same chiefs. For example, the Department of Lands uses land-use sketch plans produced by chiefs when the chiefs ostensibly illegally allocate or sell land in the area. The Regional Commissioner for Lands (RCL) told me of a situation in which the government used parcel boundaries created by chiefs to allocate land and issue titles to developers:

‘Sometimes we do create new boundaries for [developers], but in most cases we are just co-opting what the chiefs have done. That is why sometimes you find that the roads ...are not straight. You find that somebody’s structure faces this way and the other one faces the other way. In most cases, we [follow] boundaries [created by] the chiefs’ (Regional Commissioner for Lands (RCL) interviewed 26th February, 2016).

Conflicting judicial decision-making sometimes sent conflicting messages. While a high court ruling stopping chiefs in urban areas implied that chiefs had no authority within the jurisdiction of Mzuzu City, a senior resident magistrate's decision on land conflicts in the area referred the case to chiefs for adjudication. In civil case No. 02/2016, in which two families quarrelled over the use of land, the court ordered as follows:

' I will refer the matter to Inkosana Kamkhosi to hear the matter and determine who should occupy and use the land in issue pertaining to customary law of the land since the land is customary. The chief is supposed to do that within 60 days from this date and furnish the court with his findings....' (22 February, 2016).

The third aspect of collaboration and complicity is formal meetings that were held with the said 'informal' chiefs. Based on affidavits of the Mzuzu City to the High Court in 2006 in the civil cause Number 63, the city council did not recognise the existence of villages and chiefs in Mzuzu. The chief executive officer had cited the Town and Country Planning Act (cap.23:01) and Chiefs Act (cap.22:03) and stated: *'the people of Luwunga whether under Inkosana Luwunga or not are not waiting for any compensation from anyone.'* However, minutes of meetings show that formal meetings were held sometimes, like the meeting of 18 May 2006 to discuss the Luwunga telephone exchange site, with a village headman chairing the meeting. Another meeting held at Kaka Motel on 21st November 1995 to discuss alternative cemeteries for the original settlers involved two chiefs and officials from MCC, DoL, PPD, Health and District Commissioner (chairing). The meeting was useful in reaching agreement on relocation and development projects in Luwunga. Contrary to in-the-court assertions by MCC referred to already, the meeting acknowledged three categories of people resident in Mzuzu City as:

- (a) Those that are indigenous and are still on their original land,
- (b) Those who are indigenous and have been moved from their old places to new ones within the city, and
- (c) Those that have come to settle in the city from far-away places.

In view of such observations, the meeting resolved to allow those who were original settlers and lived on their original land to operate their graveyards within the city because,

'had the indigenous people been resettled, the question of clan graves within the city could have been solved simultaneously.'

5.2.7 Conclusion

This section has explained the engagement between the state and inhabitants in Luwunga informal settlement. The engagement was related to an *aid memoire* that guaranteed rights to land in the city until compensation and relocation were implemented. However, the territorial strategies of the state such as boundary extensions and incremental land takeover through allocation to new migrants and investors which were coupled with eviction threats to indigenous occupants led the inhabitants to mistrust the state. The indigenous inhabitants' strategy to seek land outside the city while claiming compensation knowing fully well the

state's inability to meet the demands, was accompanied by land sales and intensification of informal housing as a way to avoid total loss of land to the state and new migrants. It is noted, however, that while there were conflicts such as that arising from the naming of inhabitants as 'squatters' when they called themselves 'villagers,' there were also elements of collaboration and complicity between the state and the inhabitants. For example, the state appeared to recognise the presence and action of chiefs such as attendance of official meetings and production of plot sketch plans that were used to register titles to land despite declaring the chiefs unwanted in the city.

5.3 SALISBURYLINE CASE

5.3.1 Background

Salisburyline, which was a separate political ward called Chiwanja South until reorganisation in the 2000s, is named after the capital of Zimbabwe, Salisbury (Harare). The settlement is linked to returning migrants from that country. Malawi (Nyasaland) was part of the federation of Rhodesia and Nyasaland which also included Zambia (Northern Rhodesia). The federal government imposed in 1953 was short lived because of protests mainly from Malawi and Zambia as the two countries saw Zimbabwe benefiting at their expense. During the federation many Malawians had gone to work in federal funded projects such as the Kariba Dam and in the mines. However, when the federation collapsed in 1961 and Malawi became independent in 1964, many migrants started returning to the country. Some of these migrants opted for urban life rather than return to their original villages.

According to Senior Citizen 5 in Salisburyline, who had returned from Zimbabwe in 1955:

'The name was introduced when Sandram Chawinga who had a guitar started his band here...in 1974. Whenever there was beer brewed in the area, he used to come and sing...it seems he had lived in Zimbabwe and people nicknamed the place [symbolising] as where someone from Salisbury was playing [music]. I was here at that time.... But when we came here there was no city council. They said ADMARC boundary is this footpath [points to the only road in the area]' (12 August, 2016).

Senior Citizen 5 recounts how, at the start of the 1970s, there were only about four houses along the road that later became called Salisburyline. These houses were for families named Nyumayo, Chithala, Nyirenda and her own which she had bought from a person named Phiri who was returning to his village in Ntchisi. Senior Citizen (5) stated that she bought the house by chance as she used to stay in Chiwanja since her arrival in Mzuzu in 1971. *'So, I bought it. After that many more people started to come and build houses. That was in 1974.... I was here at that time'* (Senior Citizen 5 interviewed on 12 August, 2016). The story of only a few homes in the area then was confirmed by a former Regional Commissioner for Physical Planning (RCPP):

'Apparently [Salisburyline] started with 3 families who located in this area ... I don't think they were meant to stay forever, but when MHC developed Katoto Housing Estate,

the area became attractive. And it has grown from that...it was flooded by ... migrants coming from Zimbabwe; they located in the area and called it Salisburyline' (interviewed 14 March, 2016).

Another account by VH Nyirenda, who also retained the position of block leader (interviewed 17 June, 2016), apart from confirming that Senior Citizen 5 was among the first to settle in the area, also remembered five other people who lived in the settlement when he first settled in Salisburyline in 1976. GVH Mkandawire who said that the area started to grow around 1972 confirmed this origin of the name.

Salisburyline developed on a wetland on the edge of Tung Estate land which was later developed as Katoto Housing Estate by Malawi Housing Corporation (MHC). It appears that the Tung Estate boundary also served as a footpath. Over time, workers in the Tung Estate started to build houses informally outside the Estate land along the footpath boundary. Many of these people were estate workers who wanted to be closer to their workplace in the Tung Estate or factory. The people therefore started living in the area before Mzuzu became a city. This background information is important because it points to differences of opinion on land tenure status in Salisburyline. Mzuzu City Council view of the land tenure status was that:

'Some [residents have] land certificates in the sense that we registered them here [at the council] under THAs [Traditional Housing Areas]. The registration was for purposes of identifying them as the users of the land; to give them the right to use or a better word, usufruct; they should just be able to benefit and use the land. Not that they own it. That is what we did and that gave them the status. Having given them that they perceived that, the moment they start paying some of the fees ...they assumed that is ownership' (Director of Planning interviewed 26 January, 2016).

According to the Physical Planning Department, Salisburyline has a dual land tenure system. There is a planned section managed by the city council and an unplanned section managed by chiefs. The section managed by Mzuzu City Council is a row of plots that were developed as part of the Secondary Centres Development Programme (SCDP). The citizens perceptions were also mixed. For example, VH/block leader Nyirenda stated that:

'The land belongs to the city because we are now inside the city. [The city even has plots in some parts] because they wanted to collect some money from here. There is a plan in that area' (VH Nyirenda interviewed 17 June, 2016).

The majority of community representatives believe they owned the land because they had reclaimed a wetland which was mere bush outside the Tung Estate. For example, GVH Mkandawire stated that

'The problem started when the city was declared. But ... we did not know where the boundary of city was. Here people were just staying, selling or sharing land to others over the years. This annoyed the City Council; they wanted to the ones distributing the land despite the land being our own gardens.... this issue of land ... will never end' (GVH Mkandawire interviewed 22 July 2016).

When asked who was responsible for allocating land, GVH Mkandawire stated:

‘As of now, there is no vacant land All the land has its owner. If you want a plot you have to buy from an individual. [These individuals initially] got it from the chiefs. The land was big. Over the years, the first beneficiary, let’s say he got 1 acre then he would sell half. The buyer of half acre would sell quarter up to the situation we are in. In addition, parents were parcelling out their land among children, but some have inherited their parents land’ (GVH Mkandawire interviewed 22 July 2016).

While confirming that there was no more vacant land to be allocated, the process of managing the land showed that buyers had a difficult time. Either they sought guidance of block leaders or chiefs. In either case, buyers pay some money to the chief or block leader who signs land purchase forms as witness. I talked with one block leader (17 June, 2016) as follows:

Question: I hear that you get paid for signing as witness, is that correct?

Answer: Things are like that [apo ndimu vikuwira thena] (VH/block leader Nyirenda).

Even the ward councillor was not definite about the status of the land.

‘...As a councillor I can say that the city council owns that land ...but as a person ... I can say that the land belongs to people, because they are the ones who have made that land to be settled, to be habitable.’ (Ward councillor interviewed 17 June 2016).

At the 2008 National Census Salisburyline had 9,840 people. Although the total number of titles shown in Table 5.1 is small, the actual population had increased significantly. Considering that the results of the 2018 census are still pending, a growth rate of 5.4% at city level, implies that the population of Salisburyline may have reached 13,490 in 2018. Apart from natural increase, the area is attractive to migrants from within Malawi and outside due to its proximity to workplaces and the central business area. According to a 2012 planning studio report Salisburyline had expanded from the single line of houses along a footpath to cover an area of 62 hectares.

Table 5.1: Registered Properties in Chiwanja Ward

Location	Landlord	Title holders / Land occupation certificates
CHIBANJA NORTH	Department of Lands	162
CHIBANJA CENTRAL	Mzuzu City Council	45
SALISBURYLINE (Chiwanja South)	Mzuzu City Council	140
TOTAL		347

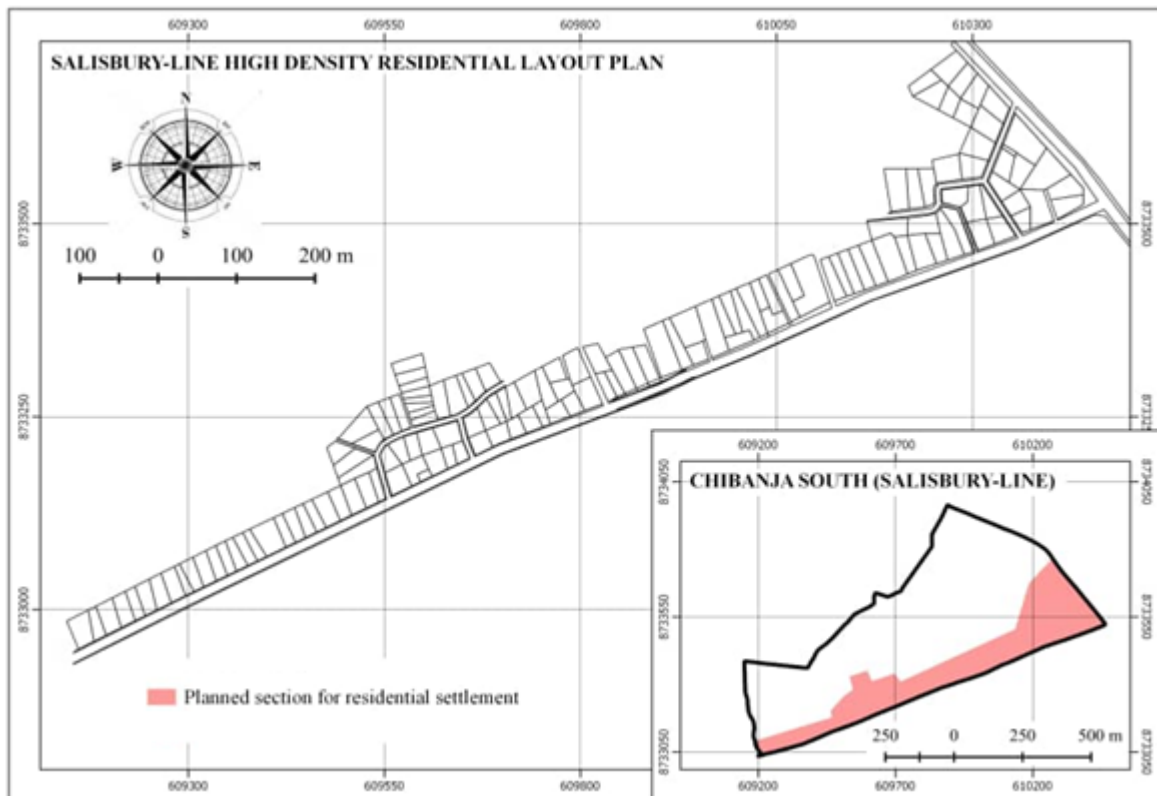
Source: Department of Land & Mzuzu City, 2018

Table 5.1 shows that whereas the area is categorised as informal the state demarcated plots and registered the properties to collect taxes.

5.3.2 State and Planning Interventions

As a response to the informal growth of Salisburyline in a wetland, the state took four steps to intervene. According to former RCPP (14 March 2016) the first intervention was that, as this and similar settlements were categorised as illegal, the intention was to demolish and evict the inhabitants. During this period inhabitants remained fearful as they were unsure when the eviction would happen. When a decision was made in the 1970s by planning officials to evict the settlers on the grounds of unsafe conditions due to water logging, the community leaders, some of them supporters of the independence struggle, petitioned the head of state. A decree was therefore made against any eviction. Such decree aborted all plans for eviction and made the settlement an accepted residential area.

The second intervention was in 1987 when the government implemented an upgrading project along the road that separates Salisburyline (also known as title Number CB/3/9) from Katoto Housing Estate to the south. The upgrade plan was part of the SCDP funded by the German Government. The purpose of demarcating these plots was not only to realise tenure security, but more importantly, for orderly growth of the area. Some services such as communal water points (CWP) were provided on specially designated plots. A physical count of the land use plan (Figure 5.7) showed that 140 plots had been demarcated and beacons by a private registered surveyor hired by the state. Although a few roads were planned, they were not constructed. Contrary to the state expectations, the inhabitants have since disregarded the plan and the titles by either subdividing and selling the plots or building several houses for rental income. Worth noting was the unity of purpose shown by state agencies. Salisburyline witnessed no intra-state conflict. Instead, since 1992 Malawi Housing Corporation (MHC) which officially had owned the land (title CB/3/9) handed it over to Mzuzu City Council. It can be noted as well that under the SCDP the same land had been planned by the Department of Physical Planning, an indication that the land was then considered as belonging to central government. Other state agencies also provided services. For example, NRW provided both communal water points (CWP) and individual connections to homes while ESCOM provided electricity to homes. Another upgrade project was implemented as part of the UN Habitat Participatory Slum Upgrading Programme (PSUP) in 2010-2012. The PSUP involved Mzuzu City Council (MCC), Mzuzu University, and a local non-government organisation (CCODE) and the community. The PSUP project was intended to improve road accessibility, access to water and other services. The project constructed culverts and cross-over slabs making it possible for vehicles to drive through the settlement.



Source: Mzuzu City Council, 2018

Figure 5.7: Salisburyline Land Use Plan, 1987

The third intervention, like elsewhere in Mzuzu, was the introduction of block leaders. The introduction of block leaders as a parallel leadership supported by the MCC was meant to contain chiefs who were perceived to be powerful. As reported in the Nation newspaper of 5 June 2015, the chiefs were accused by the MCC of selling land meant for city projects:

‘..... the council in its effort to try to reduce the powers of the chiefs.... introduced a parallel structure ... block leaders; just to check the powers of chiefs’ (Director of Planning interviewed on 26th January, 2016).

The introduction of block leaders which had also become a government policy since 2015 was not welcomed by chiefs. The chiefs accused MCC of operating like a political party:

‘Why I say the city council operates like a political party is this. Here we have our councillor who introduced the issue of block leaders. Those people chosen as block leaders only defend the actions of the councillor. That councillor is a political party person.... When the city council staff come here, they do not invite chiefs to participate...’ (GVH Mkandawire, 22 July, 2016).

A more recent state intervention has been the introduction of city rates, not just in Salisburyline but the whole of Mzuzu. The initiative in Salisburyline did not only target the area managed by the city council, but the whole settlement. The introduction of city rates emerged as part of

a project called the Revenue Mobilisation Project (REMOP) implemented in 2013 as a way to increase local revenue by widening the tax base (Nyirongo, 2016).¹⁶ Under REMOP every property was geo-referenced and coded and, on this basis, had its rates determined. A house in an informal settlement like Salisburyline may be charged K5,000 or more per year depending on its size and quality. The project helped increase revenue by seven times in just five years from \$68,000 in 2013 to \$476,000 in 2018.¹⁷

All these interventions were undertaken despite the informal nature of the occupation and were provided even in the section that was still wetland. This suggests that the state intention in this area was mainly to collect property taxes and user fees. In this regard, it can be said that the state was creating informality, when it provided services and collected taxes in areas the polices would not recommend.

5.3.3 Community Response

The community responded to the state interventions in different ways. The response to the 1987 plot demarcation was positive because the beneficiaries saw it as confirmation that they would not be evicted. When they got registration certificates, it was evidence enough that they owned the land. As a result, the settlers lived in the area peacefully. The positive response was also occasioned by the plots given to them which were in many cases larger than what they had originally owned because either the plots extended to the wetland where they only used to grow crops, or some settlers were shifted and given plots within the area to ensure all had adequate land. Having larger plots and with the wetland starting to dry up due to increasing human activity, the inhabitants saw this as opportunity to build even more houses. Thus, the government decision to demarcate plots can be cited as a cause for increasing informality. VH Chikoza stated:

‘The population has now grown...people have children so they sub divide land and build more houses. At first, I had small houses, only recently did I build a bigger house. Also, the city created several plots here, so because of those [big] plots, people now have more land to extend downwards [points to wetland]in my case, all the houses down there are mine; all that is now my land’ (interviewed 6 November 2016).

Whereas response to the 1987 upgrading was generally positive, response to the 2012 initiative was mixed. The importance of the upgrade project had been explained by Mzuzu City Council as being within its strategies:

‘... the steps that we have taken in terms of inclusiveness to upgrade, having understood that settlement needs to be given life, because some of the services were not actually provided because we were still treating it as informal ... with the support of UN Habitat... [We understood] how to deal with the informal settlements as it was

¹⁶ Nyirongo, T (2016) Remop in Mzuzu City, BSc Dissertation, Mzuzu University

¹⁷ <https://www.ictd.ac/blog/property-tax-reform-increases-municipal-revenue-in-mzuzu-malawi/> visited 2 March 2019

indicated in the Millennium Development Goals.... By upgrading we meant giving them tenure security ... these people were involved in the actual designing of the layout and some of the required services like water, electricity, some roads and drainage. ... it is recognition that, much as ...they developed informally, but they can also be given these services, it's an intention that they can be included...in the development of the city,' (Director of Planning interviewed on 26th January, 2016).

Some chiefs also supported the initiative. VH Chikoza told me the inhabitants participated in the project because,

'we want good access roads here for vehicles and people. We request people to provide land. The people that understand give the land...there is nothing given [in exchange], people just give land freely....' (VH Chikoza interviewed 6 November 2016).

However, the community participated in the PSUP also because of fear that rejecting the project might be cause for eviction. GVH Mkandawire stated:

'during the training we were told about informal inhabitants being evicted.... they gave examples.... In our case, we were originally at old town. To be here it means we had been relocated. So, we were told that if you don't improve your housing according to expectations of urban plans, you can be evicted. So, we can say that though behind the project was the need to improve our area, the issue of fear made some accept the project' (22 July, 2016).

There were also several conflicts among the people themselves which sometimes degenerated into violence. Violence resulted from land rights and leadership conflicts. As narrated by VH Chikoza (6 November 2016), the first incident involved one family attacking GVH Mkandawire accusing him of allowing a takeover of their land for the construction of community facilities under the upgrade project. The second incident involved the local councillor's fist fight with a chief. The main cause of such conflicts and fights was unclear roles, political affiliation and lack of demarcation of the areas of jurisdiction between block leaders and chiefs. VH/ block leader Nyirenda explained:

'...this is because ...people belong to different political parties; some belong to PP [People's Party] others to DPP [Democratic Progressive Party]. There is no cooperation ... the problem is demarcation of areas of jurisdiction....' (interviewed 17 June, 2016)

The conflict between the block leaders and chiefs also negatively impacted the implementation of development projects in the settlement. GVH Mkandawire explained:

'The block leaders influence the people [to build irrespective of the upgrade plan]. When those of us who are knowledgeable about slum upgrading tell people not to build in certain places, block leaders go there and tell people, you can build here, you can build there. We even suspect the city is complicit because to us block leaders are representatives of the city council. So, they encourage informal building of houses. It

is as if the name of block leaders means to block projects because they tell people not to shift to give way for the projects. The biggest problem is duplication of roles. The block leaders want to perform the same tasks that we perform. They also want the same positions that we have. The name block leader is in English but the ChiTumbuka word is fumu. So, they call themselves fumu as well [That means there are two chiefs], their real aim is to be called chief [fumu]. ... These plans about slum upgrading were done by chiefs before block leaders were put in place. And people already had welcomed the project. So, when people involve themselves in this project, they are seen to be supporting chiefs. That is where the problem lies; I hope you are following clearly. Because this thing was initiated by chiefs [stress] and it is on the ground [stress], even if the chief is not around, anyone working on the project is branded a supporter of chiefs' (interviewed 22 July, 2016).

The allegation that block leaders were aspiring to become chiefs or operated like chiefs was apparent in the way they communicated and referred to themselves as *fumu ya mutawuni* (town chiefs).

Another issue is that some inhabitants were unhappy with the upgrading project and did not respect the upgrade plan. The Director of Planning at MCC explained:

'You know bad habits die hard. ...much as there was that understanding ... some sites were identified for markets by the community themselves, but from nowhere some people develop there, not with commercial but with residential houses, creating informal settlement within an informal settlement. Because by themselves, if they had agreed to say this site is for a market and somebody comes to develop a residential [property] they saw it as informal. So, they could also mobilise to say we have to deal with that one. So, the council must use its mechanism... Of course, it's something you can appreciate. Because possibly, when the zoning was done to say this is for the market... it is possible that one of the people who might own that land was away. So, they could easily decide to say okay, the market will be here. When the owner comes back, he finds that there is that situation. He develops there because he was not consulted' (Interviewed on 26th January, 2016).

As noted earlier, some of the land owners reacted violently to the suggestion that they should give up part of their land for the community projects. And when the community looked to MCC to protect the zoned land, the city council did not appear to use its authority. As argued by one block leader cum chief Stanley Nyirenda, (17 June, 2016), it was possible the *'city workers also have some fears [wakuwa nga nawo tumantha tulimo]*. At the time of my visit, there were houses under construction at sites or close to sites earmarked for the community projects.

5.3.4 State-Society Conflicts

The state-society conflict relates to two main issues. These are the introduction of city rates and the block leaders. After aborting ideas of eviction since the 1970s, the state introduced city rates as a source of revenue. In doing so, although the settlement continued to expand into the wetland, no attempt was made to promote orderly growth, but the expansion was seen as an

opportunity by the state to increase revenue. VH Chikoza told me that the community knew the motive of the city:

'You see the city has numbered each house to make every person pay money, but some houses were not given plots. By collecting the money, it means the city council approves the situation here' (6 November 2016).

The challenges related to city rates stem from failure by the city council to provide services to the community. For example, GVH Mkandawire (22 July, 2016) noted that *'the city council only wants people to do what it wants; yet there is nothing here to show that we are in the city, but they force us to live like we are in the city.'* Whereas inhabitants perceived the state as wielding power that could be useful in promoting orderly development, it was also perceived as weak. For example, while the community looked to the state to ensure adherence to the upgrade plan, the state failed to take action when some members were not willing to give up land for the project. Others built houses on land earmarked for community projects like market, clinic, and community hall. According to VH/ block leader Nyirenda,

'The city has done nothing; this only shows their weakness. Let us be honest here. We even once invited [planning director at City] and asked him to do something to show they own the land while here people say they bought the land, it is theirs. But nothing is done. Wakuwa nga nawo tumantha tulimo. You know that a city worker is also a person who has a home in a location, when we say city, we mean people working at the city. So, they know that people spent money to build houses, and they say, eh! If it is me demolishing, something can happen. So, informality [uheni] continue' (17 June 2016).

As noted earlier, the conflict relating to the position of chief vis-a-vis block leaders stems from power and jurisdiction of authority. Whereas the city council insisted that chiefs had been banned from exercising their duties within the urban jurisdiction, urban chiefs continued to be recognised by government and senior chiefs. As a form of such recognition and in challenge to the ban, the chiefs were issued with Identity Cards (IDs) by their seniors. The IDs bore the signatures of the senior chiefs and government signa. Block leaders, on the other hand, lacked identification.

5.3.5 Collaboration and Complicity

Although Salisburyline remains an informal settlement whose land tenure is divided between the state and chiefs, there are several areas of complicity and collaboration. Firstly, complicity was noted in the fact that even though the MCC was considered to be the owners of the land, chiefs still exercised power in land transactions in the whole of Salisburyline. When someone sells part of his land, the seller and buyer have to meet the chief not only to approve and bear witness but also as someone with a reputation who can be trusted to keep a record of the transaction. The document with a chief's signature was considered authentic by the state. This view was confirmed by VH Chikoza:

'As you have come yourself, if you say now you want land, I can help to look for land on your behalf. ...when you find the land, we the chiefs will help you by signing so that

no person troubles you later. This person has bought the land from that person. Then we sign. There is no problem at all.... to us it is just signing, we keep the signed papers so that tomorrow we can produce those as evidence in case they themselves lose their agreement' (6 November, 2016).

Of interest is that such signed documents kept by the chiefs are used in formal institutions such as in court or indeed when someone wants to acquire title to the land from the Mzuzu City Council and Department of Lands. Thus, chiefs become agents of the state in land governance.

Another aspect of complicity was the payment of salaries to the chiefs. While the chiefs were not recognised by the city council, they were recognised by the parent Ministry of Local Government and Rural Development (MLGRD) which paid monthly salaries through the District Commissioners (DCs). According to GVH Mkandawire (22 July, 2016) a group village headman (GVH) gets a monthly wage or Mswahala of K5,000¹⁸ while a village headman (VH) gets K2,500.¹⁹ The block leaders do not get paid for their work. The significance of the chief's honoraria does not lie in the amount, but recognition by the government. The honorarium is often cited as evidence of who is allowed to perform duties in these informal settlements and sometimes the state uses it as a measure to censure the chiefs. Thus, a chief who does not comply with government policy and directives may have his honorarium stopped as proof that his powers have been curtailed by the government. This was clear when government attempted to abolish urban chiefs in a 21 May 2015 circular letter:

'The ministry informs that with immediate effect all the group village heads and village heads who were receiving monthly honoraria, but are within the jurisdiction of city, have been slashed from the payroll, and must not exercise power and authority therein' (Nation newspaper, 9 June, 2015).

It also appears that to get on the list of chiefs who get paid, one has to bribe government officials. For example, when I asked VH Chikoza if he received his honoraria, he told me that he only had an identification card but was not receiving his honoraria:

'Our names were submitted by the Group Village Headman. But we don't get paid. I know the names were sent through the Inkosana at Enyezeni. This is why [name of chief] our colleague is very bitter. We made our contribution of K500 to the clerk who went to the Inkosana to collect the list of names to Mzimba DC.... We don't know what happened' (VH Chikoza 6 November, 2016).

Collaboration in Salisburyline was noted in the upgrading project which was implemented through a joint project committee involving the MCC, elected community members and chiefs. UN-Habitat's Participatory Slum Upgrading programme (PSUP) aimed to support a process of participation in the upgrading of informal settlements. After an assessment conducted by

¹⁸ \$1 is equivalent to Malawi Kwacha (K) 730

¹⁹ In 2018, a 100% salary increment was announced by the state to reward chiefs for their dedication to duty. <https://www.nyasatimes.com/malawi-govt-gives-chiefs-100-percent-increase-on-honoraria/> 20/12/2018

Mzuzu University in 2010, Salisburyline was selected as pilot project site. The key project involved data collection to profile the cities. As described in the Mzuzu Urban Profile Report (UN-Habitat, 2011) the project partners were local governments, inhabitants of informal settlements and universities. By coincidence another project involving Mzuzu University through the Association of African Planning Schools (AAPS) was also to be conducted in Salisburyline in 2012. The Community Planning studio was conducted jointly with an affiliate of SDI, the Malawi Homeless People's Federation (MHPF). This collaboration later included the Mzuzu City Council which 'took it as an opportunity to work with the people to develop the area' (former RCPP, 14 March, 2016). The collaboration background was clearly explained by GVH Mkandawire:

'For us to accept this slum upgrading project, federation came met me personally. They said there is need for a change in the area so that we can have roads, drains, improved houses ... they explained the advantages and disadvantages. They talked of congestion, health issues, mobility, and security. We understood the idea. ...we collaborated with Mzuni [he is referring to the AAPS-SDI studio project here]. Then the city came, they were not part of it initially... After I was convinced, I called all the people and informed them about the project. The federation were part of the meeting' (GVH Iddi Mkandawire 22 July, 2016).

For the project to work, each partner made offers. For example, Mzuzu City committed to avoid eviction while the community committed to contribute labour and land for roads. UN-Habitat offered to contribute some funds, while the local NGO offered to mobilise the community, and the university would compile the data, train the community and have the students work with the community to produce land use plans. GVH Mkandawire (22 July, 2016) explained that as part of the project UN-Habitat sourced the funds from the European Union (EU) totalling \$250,000 which were channelled through CCODE, the support organisation for MHPF. The community elected a project committee to manage a community managed fund and supervise project activities. The community managed fund was 10% (or \$25,000) of the project cost. The funds were used to construct culverts and crossover slabs to enable vehicular access to areas previously inaccessible. Some 8 culverts and 6 crossover slabs had been constructed. The main contribution of the community was labour.

The collaboration project was not smooth though. There were two issues of concern. Firstly, the project could not be upscaled from one cluster to the whole settlement because of inadequate funding. As such the larger part of the settlement was 'left hanging' (Refstie, 2014 p.1). This was worsened by demands from community representatives to be paid allowances for their participation in the project (Refstie, 2014). The second concern was lack of transparency from CCODE in the disbursement of the funds. Coming from a background of reported fraud of donor funds at the organisation worth some £4 million, the issue of contention was rationalisation of the actual funds CCODE disbursed to the Community Managed Fund:

'The issue of the balance is causing problems when we were in the chamber at the cheque presentation ceremony, we had agreed that the money would be saved in US dollars. But when we ask them this time, what is our balance, we want to construct our

road to the hall and manure shelter for vehicles to drive safely, they tell us our funds are exhausted. How is that possible, when we have used K10.049 million? They just say your money is finished the rest has gone to bank charges We say that is not possible because ... were told by CCODE that the money was about 20 million Malawi kwachas' (GVH Mkandawire, 22 July, 2016).

These conflicts between community and support organisation negatively impacted on the project. The manure shed and community hall could not be completed on time. The roads to these facilities could not be constructed as land owners withdrew their initial offers to provide space for roads and open spaces around the market and manure shed. Thus, while the project continued, it was at a very slow pace and on a restricted land parcel.

5.3.6 Conclusion

This section has described the engagement between the state and inhabitants in Salisburyline showing how the settlement never experienced direct eviction threats despite the state owning the land legally and how the state facilitated its growth by providing plots and collecting taxes which assured the inhabitants of permanent residence. The section has also shown the existence of collaboration related to upgrading even though the underlying rationales differ between tenure security and property taxation. The section has also shown the complicity of the state in the form of paying salaries to chiefs despite the MCC declaring the chiefs unwanted in the city. Finally, the section has shown how lack of trust and disagreements between chiefs and block leaders as well as between the support organisation of federation and the community negatively affected project implementation.

5.4 GEISHA CASE

5.4.1 Background

Geisha (Figure 3.4) is part of Masasa Ward. The name Geisha was adopted around 1995/1996 after a sign post advertising a Malawian manufactured bath soap brand called Geisha. It is not clear why the soap was named Geisha, a Japanese term for female cultural entertainers (Akita, 2006). Until 2010 when the new planning boundary was gazetted, Geisha was also within Nkhata Bay (District) West Constituency. In other words, the area was both inside and outside Mzuzu City at the same time. The area was annexed to Mzuzu in 2014 after the Mzuzu City Constituency was extended. Geisha's story is important because it is part of Mzuzu's history. The Tung Factory and Estate already referred to as the origin of Mzuzu was first developed in Geisha before being expanded to the surrounding areas. The Commonwealth Colonial Development Corporation (CCDC) had persuaded Chief Kabunduli in Nkhata Bay District in the 1940s to provide land because oil extracted from Tung seeds, a jet fuel performance additive, was important for Malawi's development. When CCDC was closed in 1968 the land was transferred to the Farmers Marketing Board (FMB) later called ADMARC. However, ADMARC did not continue with tung farming, leaving most of the land idle since the 1970s. The idle land attracted informal settlers who were allocated the land by Group Village Headman (GVH) Guwamu, the chief with authority over the land. Due to the increasing number of land seekers, GVH Guwamu appointed a land committee of 10-12 members in 2002.

The Land Committee operated until 2006. GVH Guwamu explained ADMARC's reaction to chiefs allocating land stating that since 1998:

'ADMARC circulated letters asking the people to move out within 30 days. Later the inhabitants came to complain to me. I went to the Chief [Kabunduli Mlowoka] and invited him to Mzuzu. ...we went together to meet ADMARC officials. Thereafter there was some lull. People started building again..... That is how people occupied that land at Geisha' (Interviewed 10 June 2016).

Chief Kabunduli supported the informal inhabitants by arguing that there had never been a decision to transfer the land from Nkhata Bay District to Mzimba District and that it still fell under the jurisdiction of Nkhata Bay District. Such arguments encouraged inhabitants to build on, or sell, the land. The occupation started with three families who were allocated land within the ADMARC land by GVH Guwamu. A chief appointed by Guwamu, Chindele Luhana (one of the senior citizens interviewed), who had leased land adjacent to ADMARC since 1992, also distributed land to occupants through the land allocation committee that had been placed under his leadership to facilitate proper development of the area. However, the land allocation committee did not operate as expected:

'We should not beat about the bush here. You know when a person is settled, he forgets who put him in a position and starts doing what he likes. The committee members started collecting money from those asking for land. [Wakayamba kupokapo ndalama pa malu ghara]' (GVH Guwamu interviewed 10 June 2016).

VH Luhana (interviewed 13 August 2016) blamed the first generation of land beneficiaries for the land selling:

Question: you had a land committee here and you disbanded it. Why did you start it and why stop it?

Answer: For me to disband that committee which I had put in place, was because the members became fraudulent

Question: what type of fraud?

Answer:The committee members, on their own, started to sell land to people who were coming in. It was giving a bad reputation to the chief

Having lived in Mzuzu since 1949 and actually having worked for the Tung Estate as a clerk responsible for recruiting labourers, before being appointed in 1994 as VH for Geisha, Luhana had a relevant background. Luhana recalled that the first estate managers arrived in Mzuzu between 1945 and 1946 led by a Mr Boardman (one road is named after him in Mzuzu) and established their offices before opening tung estates within Mzuzu and in the surrounding areas:

'When we came here, there was Tung around, there were no houses. We were outside the Tung Estate. But in 1993, ADMARC abandoned the land. The first person who found

us here was Oliver Mulenga.... Amon Nyika in 1993, followed by Thika in 1994. After these people many others followed,' (Senior citizen / VH Luhana interviewed 13 August 2016).

However, other reports indicate that ADMARC's own workers first encroached on the estate land which was because of laxity in implementing city bylaws and lack of interest by ADMARC:

'...people encroached the land little by little. Some had worked for ADMARC. After retiring, they decided to [settle on this land]. They were low income people, few people by then' (Masasa Ward Councillor, interviewed 15 June 2016).

Mzuzu City Council confirmed the encroachment by ADMARC workers:

'Geisha was first settled by ADMARC workers.... around 1980s or even earlier...since ADMARC had stopped growing tung. These workers settled there not as part of their job [but informally because] it is closer to their working place. That attracted other people ... People saw that the land was idle... traditional leaders moved in and started selling the land' (Director of Planning interviewed 26 January, 2016).

A local chief, VH Thika, one of the initial beneficiaries of land allocation by GVH Guwamu, also identified ADMARC workers as the first land occupants. Thika claimed that the land his uncle had acquired in 2001 was, though sanctioned by GVH Guwamu, actually shared by a Mr Mphande who was an ADMARC employee who already had houses in the area.

This background makes land tenure status and management in Geisha chaotic: the owners appeared to have lost control giving room for workers, chiefs and initial occupants to operate as de facto land managers. The inhabitants and chiefs held that after the collapse of tung industry the land had reverted to customary tenure. Government precedent action had cemented this perception when it returned part of the estate land to a neighbouring community in 1971. As GVH Guwamu stated,

'Since they have stopped growing tung in the whole area, then all the land goes back to the community. Chief Kabunduli came here to tell Guwamu to start distributing the land to the people. So, it was instruction from the chief [likawa lamulo lakufuma Kwa TA]. Everyone heard it' (Interviewed 10 June 2016).

The letter authored by Assistant District Commissioner and addressed to VH Chauluma Kaunda stated that the land comprising 995 acres in Mzimba District had reverted to customary ownership:

'I am pleased to inform you that his Excellency the President has approved that the above land which was part of the Lusangazi Estate should revert to customary land.

*The land is now therefore available for occupation by people from your village and whoever may come to you and ask for it'*²⁰

Consequently, chiefs started to distribute or sell land in Geisha because they thought it had also automatically reverted to customary ownership. I discussed with Luhana about chiefs' roles in land allocation (13 August 2016):

Question: 'You as chief but mainly as the first person to live here, what role do you have in land allocation?'

Answer: 'When people just started coming here, I used to allocate land to them, saying you can build here, you can build there. But the amount of land got less and less. The ones I had allocated land to became owners of that land [malu yakaluta kwawala wakapika, malu ghakawa ghawu]. When new people started coming, they were going to those people I had given land to...'

As ADMARC still legally owned the land, but chiefs and original recipients had distributed or sold it out, multiple land-lordism emerged. The local councillor stated that

'There is multiple land ownership in Geisha ... because previously that land belonged to ADMARC and we hear ADMARC leased that land, but ADMARC was started by one party [state]. So, we are not sure whether they leased or they just declared... as Chindele lived there, he started selling that land; people who followed like Kanyika[also] started selling it. This time the Ministry of Lands [wants] that land ... [but] it is already sold off. Even me as a councillor, I am not sure what is happening...' (Interviewed 15 June, 2016).

The Mzuzu City Council acknowledged the multiple ownership claims. The Director of Planning stated:

'[land tenure status] is a bit mixed, but the traditional leaders, having seen that, the original purpose for which that land was given to ADMARC was stopped; they thought that it had reverted to them because they had surrendered the land for tung.... if ADMARC workers are settling here, why not us because this is our original land. As there were threats [of eviction], original settlers started to sell to others who didn't know anything. This is how this place has actually grown... the issue of Geisha is complicated because there are three claimants.... ADMARC, original owners, and the government' (interviewed 26 January, 2016).

ADMARC's offer to surrender (part of) the land in the 1980s complicated the land tenure. ADMARC had offered to surrender to the government 312 hectares out of the 410.39 hectares it had acquired on 99-year leasehold in January 1970 (titles 2197 and 2198) to ease land

²⁰ Letter ref. No.LA.18/16/24 dated 3rd May 1971

pressure in Mzuzu.²¹ ADMARC would retain 98.284 hectares where regional offices, a guest house and a grain storage shed stood. Apart from suggesting that ADMARC had more land than it needed, the offer also attracted queries from chiefs in Nkhata Bay District on two grounds. Firstly, it was felt that land was being taken away from Nkhata Bay and given to Mzimba as part of expansionist objectives of government and one-party officials mostly from the Mzimba side of the border.²² Secondly, chiefs wanted the land to revert to customary status. As noted by RCL,

‘The original people there are from Nkhata Bay... before ADMARC came, that was customary land belonging to Traditional Authority Kabunduli. So, when ADMARC want[ed] to surrender it to government, Kabunduli said “why are you giving it to government instead of giving it back to us?”’ (Interviewed 26 February 2016).

However, based on previous complaints about the urban boundary extension encroaching on its land and likely forcing a change of use from farming to urban development, it appears that ADMARC’s offer was out of frustration. ADMARC also demanded compensation²³ for its land and all buildings, but this had not been finalised until 2018. As the state was processing the land transfer, chiefs took over the land, a situation acknowledged by the government. I discussed with RCL on 26 February 2016:

Question: So, in that situation, who owns the land? Is it the government, is it the people, or is it ADMARC? Who practically owns that land and manages it?

Answer: At the meantime, legally it is still ADMARC land. ADMARC are just in the process of transferring it to government. So, it is not yet government land, until the transfers have been done.

Question: who is practically managing that land now? Who is giving out plots to other people?

Answer: The chiefs.....

The chiefs’ involvement in land transactions was confirmed by the ward development committee chairman:

‘The chiefs are selling land which shows that they have the power. Everyone looking for land at Geisha consults the chiefs’ (interviewed 17 September 2016).

²¹ Memo No. NR/MZU/KAT2/355 of 9th September 2013

²² These are long standing issues. See minutes of the meeting chaired by Regional Minister Malani Lungu at Nkhata Bay on 22nd December 1975 to persuade chiefs to surrender land for the expansion of Mzuzu urban. At the meeting chiefs noted that while the whole of Mzuzu was originally within Nkhata Bay, it was then being reported to be largely in Mzimba District.

²³ Minutes of Meeting held on 13th March 1976 in District Commissioner’s Office, Mzuzu Urban

G.V.H. YAKOBI THIKA
 CHIEF OF KAMPINGO
 KAMPINGO IS/G/D.
 P.O. BOX 1027/AZIZIA
 DATE 10-07-2011

10/07/2011

PHANGA NO LA MALO GHA MA
 LONDA :

WAKU GULISKA MALO,
 COSIMAS KUMWENDA = C Kumwenda
 MU TENGO WA MALO K15,000.00

WAKU GULA MALO,
 ÷ ÷ Joseph Nkhata
 DAVID NKHATA VGE KAMPINGO SIBANDE TA
 KABONI, N.S. NKHATA.
 DAVID NKHATA V.G. 0990486203
 TA KAMPINGO SIBANDE.
 G.V.H. G.V.H. YAKOBI THIKA 0995093586
 TA KABUNDULI CHUPINI III

MALO GHALI MUCHI GABA CHA
GEISHA AREA

Figure 5.8: Land Sale Agreement in Geisha

From Figure 5.8, though the size of land is not indicted, it was certainly not small. The details of the agreement are: Land Seller: Cosmas Kumwenda; Price for the land: K15, 000 (\$20); Buyer: Joseph Nkhata; Witness (Kaboni) N.S. Nkhata of David Nkhata Village, TA Kampingo Sibande; Witnessing Chief: GVH²⁴ Yakobi Thika, location of the land is Geisha within TA Kabunduli).

²⁴ Notice here that Thika refers to himself as GVH instead of senior block leader. GVH Iddi Mkandawire of Salisburyline argued that ‘block leader’ is merely alternate name for chief. See also Phiri, B (2015) ‘Are block leaders relevant’ Weekend Nation newspaper, 31st January 2015

ADMARC officials appeared helpless and resigned to the situation as chiefs and the first group of occupants sold parcels of their land (Figure 5.8) more formally by signing sale agreements that were witnessed and endorsed by chiefs. By 2018, there was no land left within the Geisha section of ADMARC land for the chiefs to allocate. Only original inhabitants had enough to sell out. Although officials acknowledged that the land was idle, it was difficult to prevent encroachment because of reliance on the state:

‘We used to lodge complaints with the Ministry of Lands, but the situation went out of hand. Chiefs and block leaders were involved. So, we decided to hand over all the bare land and Geisha area to government as there are no longer plans to develop there’ (ADMARC Human Resources Officer, interviewed 7th August 2017).

Indeed, to protect the remaining land from further encroachment ADMARC constructed a fence in 2017 and sold part of it to investors such as Toyota, Medical Aid Society and the Grand Palace Hotel.

5.4.2 State and Planning Interventions

Apart from interventions implemented across Mzuzu like introducing city rates and block leaders, state and planning interventions to contain informality and promote orderly growth in Geisha took three major forms. The first intervention involved threats of eviction and property demolitions since 1994 when initial ideas of extending the boundary had been made. Zoning and land ownership were key issues. The Director of Planning at Mzuzu City Council told me:

‘That land is zoned for light industrial services... In order to conform to that, the understanding was that those people be relocated’ (interviewed 26 January, 2016).

However, inhabitants rebuilt or built more and better houses (Figure 5.9). This happened because the state did not fulfil an agreement to provide alternative land for the inhabitants. According to GVH Guwamu, during a meeting at Mzuzu City Council in 2002, inhabitants had accepted eviction.

‘...the city council said that: “people will move out; we will build factories on that site. We will provide plots elsewhere. We will install water and electricity in advance. We will start with only those along the main road.” Government officials recorded all names of people in a hardcover note book; they asked us not have new buildings there and people listened. Until today, we are still waiting, where is that land earmarked for us? [kumbi malu gha wakutinozge pani?]’ (GVH Guwamu interviewed 10 June 2016).



Figure 5.9: Planned House next to ADMARC Regional Manager’s House at Geisha shows the Confidence of Inhabitants

If the eviction had worked, inhabitants should have moved 5 km east of Geisha where Mzuzu City claimed service provision would be provided at lower cost. The eviction failed because Mzuzu City Council realised the identified land was in Nkhata Bay District (Figure 5.6) and could not be surrendered to it without reference to political and legal opinions:

‘We had asked Lands Department to give [that land to us], they did. But the city [boundary] was not clear. ...that place is in Nkhata Bay and customary law was applicable’ (Director of Planning interviewed 26 January 2016).

Based on archival data, lack of knowledge of the actual urban boundary was not a recent problem and had been noted as early as 1976 when a surveyor, Lamport-Stokes, had attempted to demarcate land owned by ADMARC.²⁵

In fact, the inhabitants had legal information on land rights. Senior Block Leader Yakobi Thika told me that

‘To have those people move out is very difficult unless the government compensates them. The same government tells us that if you stay on a piece of land for seven years, then that land is yours, and now some people have stayed here for 12 years, 20 years, 15 years. For them to move out, it will be very hard’ (Interviewed 9 June 2016).

The second intervention was denial of social services since 2008 to stop Geisha’s growth. Mzuzu City Director of Planning explained:

‘Because those people continued to develop in contravention [of the zoned] industrial uses, the Mzuzu Planning Committee put an embargo to say there would be no social services: no water, no electricity. At one point there was even a denial of institutional

²⁵ Letter from surveyor H.J. Lamport-Stokes to ADMARC, 5th August 1976 NA11870/3M/1.99/2A- 1-9-3R/354.

services like education ... to deter the further development of the informal settlement' (interviewed 26 January 2016).

Mzuzu City Council was the first City in Malawi to implement a service denial policy with Geisha as the first victim. I got the director of planning to explain this apparent bias. He gave two reasons:

'... it is implemented in Geisha because the designated use...is not residential..... and the type of developments there as you are getting into the city... is not that [aesthetically] appealing. As a result, the denial of services is like a development control tool. No one who wants to do big projects can go to an area where there are no such services' (interviewed 26 January, 2016).

Service denial surprised both Geisha inhabitants and the ward councillor because across the road Nambo informal settlement had the services:

'...if you look to the left as you come to Mzuzu, that area too is the face of Mzuzu. So, people were arguing to say you are stopping us from building here yet our friends on the other side are building, you have given them water [and]electricity' (interviewed 15 June 2016).

The inhabitants argued that apart from being essential for life, water like electricity was needed to run the proposed factories:

'If they want factories here, those factories will need water and electricity, when we move out; we will leave the water and electricity here' (GVH Guwamu interviewed 10 June 2016).

None the less, houses of wealthy inhabitants had water and electricity connected. The local councillor suspected corruption:

'I was surprised because only a few rich people have water and they say the rest are illegal settlers.... but I discovered that at the council...there are some directors who are playing games. What they are looking for, that is my own allegation, and I am responsible for my allegation, they want to...find potential buyers...who can pay them.... they are authorising some constructions.....' (Ward councillor interviewed on 15 June 2016).

But within the state there were deviant actors leading to policy and practice conflict. The main conflict among state institutions was related to implementation of the 'no service' policy and land ownership. With regard to the 'no service' policy, while state authorities insisted on orderly city growth and imposed the ban, the Electricity Supply Company of Malawi (ESCOM) and Northern Region Water Board (NRWB), who were incidentally members of the planning committee and the meeting that made the 'no service' policy decision, started to disregard or fight the policy by providing the services. Mzuzu City Council described such actions as illegality:

'We received reports that some are supplying services and of late we got information that ESCOM had supplied power. They were written to go and disconnect because unless that policy has been lifted, it is illegal. ... they should not be doing that.' (Director of Planning interviewed 26 January 2016).

Institutional conflicts were also noted in regard to a primary school that inhabitants had opened in 2002 initially with local volunteer teachers. The illegal school was later to be supported by a local church and some donors who built more classrooms and provided borehole water. At a later stage the Ministry of Education provided qualified teachers and paid salaries; but the MCC, as part of implementing the 'no service' policy, once demolished the borehole arguing that the bylaws did not allow boreholes in the city and that only the NRWB could supply water. Yet, the state had rejected requests by the NRWB to provide water in the area. For example, when NRWB wrote to the RCL on 20 May 2016 about its wish to supply potable water to Geisha based on its mandate contained in the Water Works Act No. 17 of 1995, the RCL responded on 24th May 2016 stating:

'...Everyone that has built on [ADMARC land] is an illegal developer. To deter further increase in illegal development, the Town and Country Planning Committee issued a stop order restraining all parties concerned to provide any services to the area.... the order was issued, among others, to restrain people from further encroaching into the land. In the absence of [layout plans], installation of services is not allowed' (RCL for Lands File NR/MZU/85T/2).

Following up, NRWB wrote on 8th June 2016 calling for a meeting on 14th June 2016 to map the way forward. Out of frustration, the NRWB wrote to the Mayor of Mzuzu City who was also the chairperson of the planning committee citing a letter from the ward councillor and community complaints:

'The Board is therefore referring to the continued requests coming from Geisha to your good office committee for further advice as whether the situation has now changed on the ground to the extent that the Board should commence installation of the distribution system. This is coming on the background that the government does not want the service providers to provide services to illegal developers' (NRWB File No. NRWB/CEO/G/12/177).

The conflicts over land concerned the institutional mandates of Mzuzu City Council and the Department of Lands. Mzuzu City Council held that Geisha had grown informally because of 'foot dragging' by the Department of Lands in resolving land issues.

'Inhabitants clearly indicated to say we are ready to be relocated as long as you show us an alternative land. But it has been dragging, dragging' (Director of Planning interviewed 26 January 2016).

By foot dragging Mzuzu City Council referred to failure to identify alternative land, and the time it took to finalise the land transfer from ADMARC to Government. The legal land

surrender had started in the 1970s but had not been finalised by 2018. Specifically, as per memo from the Department of Physical Planning, there was pressure among government offices to process the land transfer:

'the current position where an agricultural estate occupies about 500 hectares within the city boundary, close to the city centre and on prime building land when development in other directions is heavily constrained must be reviewed. ADMARC's willingness to release most of the Estate to Government is an opportunity which should be taken up without delay....' (File No. PP/NR/6/14/1 dated 7th November 1989).

The Controller of Lands and Valuation suggested in a memo²⁶ that delays were related to compensation costs and stated that out of an assessed K930,000, some K595,000 had been paid to ADMARC. It was unclear if non-payment delayed the land transfer. But the underlying differing interests of the two state organisations are revealing. Mzuzu City Council thought that informality persisted because:

'Lands Department is more interested in collecting revenue; not in planned city growth. In fact, the money they collect, the development charges are not used in the areas they are collected from,' (Director of Planning interviewed 24 March, 2016).

Therefore, Mzuzu City Council wanted to acquire the land surrendered by ADMARC. There were also differences within Mzuzu City Council itself relating to chiefs and block leaders. While officials disliked working with chiefs, the local councillor preferred both groups:

'if you go to Geisha, you find that there are chiefs and block leaders.... the city council says there is no chief. It means every chief that you find cannot listen to a councillor. It means I will work only with a ...section of the people.... There is no law which says block leaders shall replace chiefs. Chiefs' Act only says there shall be no chiefs in the city's jurisdiction but it does not give an alternative' (ward councillor interviewed 15 June 2016).

Rezoning and land use plan preparation (Figure 5.10) was the third intervention. As noted earlier, Geisha had been zoned for light service industries in the 1995 plan. As this zoning and the no-service policy were untenable, the area was rezoned for residential use in 2016, the very year inhabitants had been declared illegal. The rezoning meant de facto recognition of Geisha as a housing settlement with only the road frontage being designated for high rise commercial buildings. That this was done even before the legal transfer of the land from ADMARC and with the no-service policy still officially in force, suggests that within the state internal meetings had taken place well before February 2016. To that effect, the Physical Planning Department prepared a land use plan and justified the change of use from industrial to residential:

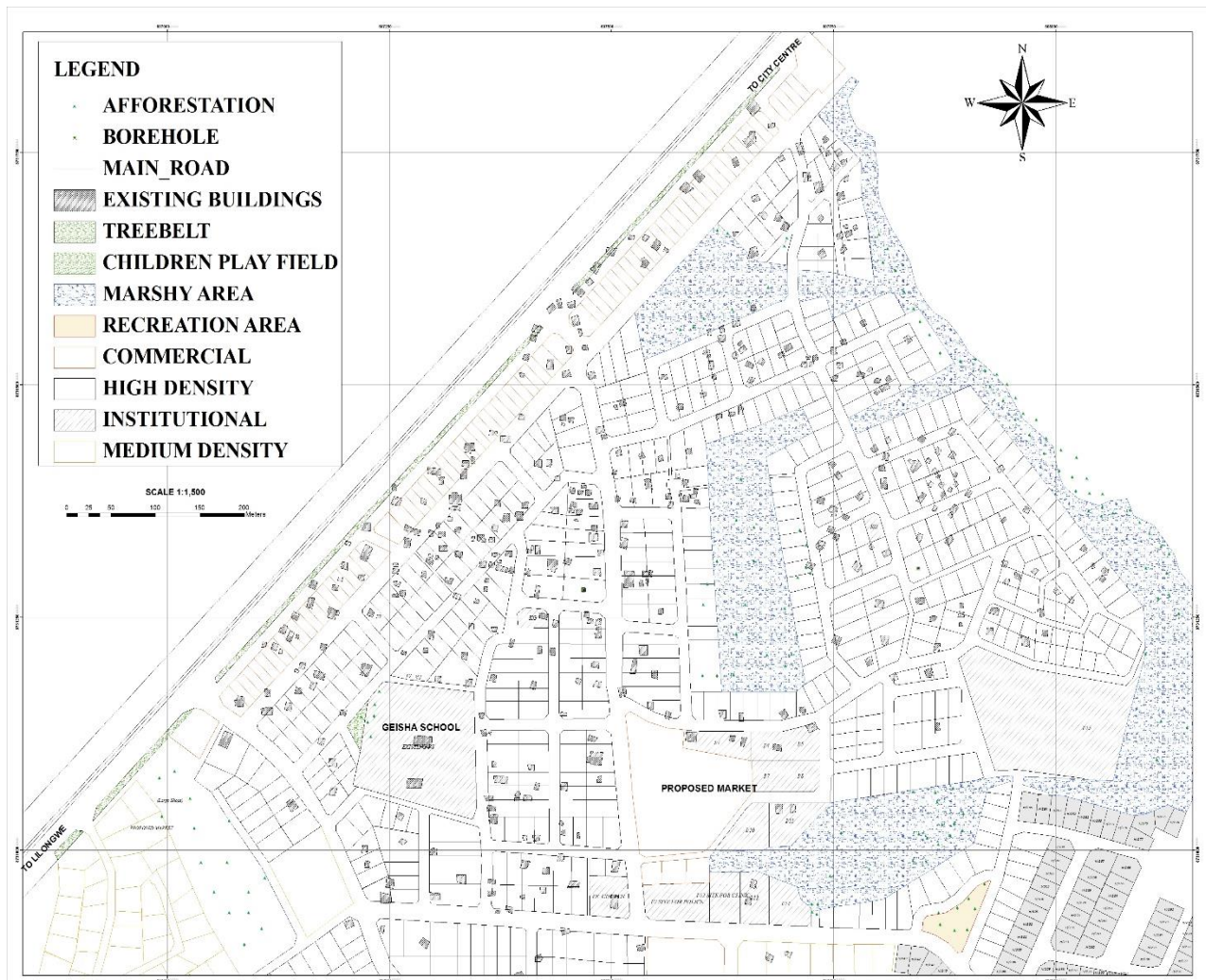
²⁶ NR/KT/284/55 dated 19th October 1993

'These people have nowhere to go... we just have to accept their settlement and currently the position of the government to be made through the planning committee is that we just have to upgrade that area.... The idea is not to move them out now. The approach has changed... we have to encompass them into the city plans but they have to conform to the land use zoning.... This has come about because of the engagement through the councillor of that area ... people have been complaining we have reacted by saying ...let us provide services for these people as long as they also accept the standards and guidelines of the city... now we will have a commercial zone on the frontage of the main road and behind it we will have a residential zone' (RCPP interviewed 25 February 2016).

The Department of Lands confirmed the rezoning justification:

'All the land is gone, people have developed. But we can't have Geisha just like that. And you are welcomed to Mzuzu by that informal settlement; which is not good. We [said] let's just regularise, let people have plots' (RCL interviewed 26 February, 2016).

Mzuzu City Council also endorsed the policy change making the status of Geisha change from illegal on land zoned for industries to a recognised housing settlement. The plan itself while incorporating all existing houses into plots, was typically aimed at realising the vision of orderly urban growth, with roads and services proposed on a grid pattern design for any vacant land. The M1 roadside was zoned as a commercial zone with residential areas hidden at the rear. Existing schools and churches were retained as well as already leased land owned by Luhana. The Geisha plan was linked with an existing green field middle income housing area to the east. As is general practice, the plan was produced by the Department of Physical Planning at the request of the Department of Lands. This procedure implied that the land had already converted to public from private tenure as ADMARC the actual owners had not been involved. Also, the inhabitants themselves were not involved despite the fact that the finished plan was displayed. As the plan did not suggest demolition of existing houses, except in exceptional cases to allow for roads, the inhabitants welcomed it and agreed to a development freeze to wait for roads and compensation for those to lose properties and to surrender land for public buildings like a produce market. What remained was implementation of the plan. However, as the roads were not constructed, the inhabitants started to think the state was dishonest, that it had used the layout plan as a strategy to take over the land. As such, the land earmarked for the market was sold, the development freeze was ignored and the informal market at the road side flourished posing risks of traffic accidents. This made the plan redundant even before implementation started.



Source: Department of Physical Planning, 2018

Figure 5.10: Geisha Land Use Plan

Figure 5.10 shows the land use plan for Geisha with a line of plots along the main road zoned as commercial. The school has been accepted as part of the plan. There are also proposed institutional plots for police, clinic and a market. However, several houses will need to be demolished to make way for roads, the market, police and clinic or indeed to realise the commercial zoning along the main road (Figure 5.12). As in Salisburyline and Luwanga, the land use plan in Geisha was superimposed on existing informal settlements, so the success of the plan seems unlikely. As figure 5.12 shows, new houses were also built irrespective of the commercial zone along the main road.

5.4.3 Community Response

Geisha inhabitants responded to the various state interventions through both overt and covert measures which indicated deep dissatisfaction with some and acceptance of other state actions. These responses included verbal complaints in meetings, letters to authorities, threatening court action, ignoring state threats or demands to pay city rates, and self-provisioning of services.

Firstly, the use of verbal complaints to officials or in meetings became a very effective tool especially after the election of councillors in 2014. Geisha rezoning from industrial to residential and therefore its ‘formalisation’ as per the 2016 lay out plan was largely a result of the local councillor’s verbal complaints. The MCC Director of Planning acknowledged inhabitants’ complaints:

‘The inhabitants have come to us to complain: ‘why are you treating us this way, why don’t you give us services, if it is time to move out, we will move out, but as long as we are here, we need the services’ (interviewed 26 February, 2016).

Secondly, the inhabitants threatened court action against Mzuzu City Council by taking advantage of the legal gap in Mzuzu City Council operations during the period 2005-2014, because the absence of councillors made the officials sole decisions makers. The local government legislation of 1996 provided that decisions of the council were legitimate when taken or endorsed by elected councillors. Therefore, to stop house demolitions, the inhabitants threatened court action, after which no demolitions took place. The local councillor explained:

‘After they demolished ...houses... inhabitants were tipped to say “it is not a full council’s decision because there are no councillors so you can challenge them.” So, the city officials feared losing the case’ (Interviewed 15 June 2016).

Thirdly, inhabitants protested through letters to service providers and the state particularly regarding the apparent discrimination related to the ‘no service’ policy, because the services had been provided in a neighbouring informal settlement of Nambo across the M1 Road. Though the councillor should have supported the council decision, he took centre stage in writing protest letters. In one letter to NRW he complained of inhabitants being treated worse than refugees:

‘...just two weeks ago [NRWB] said that ‘the letter you wrote us was too strong, can you re-write it...can you reduce the strength...’ [in that letter I said even a refugee who ...does not pay tax ..., is provided with water.... What is wrong with Geisha? ... So, I said ‘any loss of life that would be approved by the hospital officials that it is related to water issues, you are responsible. And we are not going to take you to a Malawian court; we will see where we can lobby so that we take you to task’ (Interviewed 15 June 2016).

Fourthly, inhabitants responded by self-provisioning of water and electricity. Many households collected water from nearby streams or from shallow wells dug on their premises. Others installed solar electricity. However, inhabitants hoped that the services would still be provided anyway as houses under construction had plumbing done or electrical wiring installed ahead of any future connection. In 2002 inhabitants had also opened a primary school with volunteer teachers paid from cash from land allocations and households’ contributions.

Fifthly, the inhabitants exploited the grey space in the land situation to avoid any actual or potential evictions. Thika stated as follows:

'The same government tell us that if someone has stayed on a piece of land for seven years then that that land parcel; belongs to him. Now people have stayed here for 12 years, 20 years or 15 years. For them to move will be a very difficult task' (13 August, 2019).

The sixth response to state action was either outright rejection of city rates or ignoring any requests to pay. The inhabitants argued that there was no logic to making the payments in the absence of service provision. As such only a few paid city rates. The local councillor stated:

'I don't think there are any who pay, if there are, they are just a few. And the city council cannot enforce the bylaw to collect city rates there... inhabitants will refuse because they will say you are the same people denying us water....' (Interviewed 15 June, 2016).

Finally, although different explanations were given by the ward chairman who suggested that *'People want to reap before they move out' (interviewed on 17 September 2016)* and by the Department of Physical Planning that inhabitants sold the land *'so that we should have more inhabitants here to the extent that the city will not be able to move us,' (RCPP interviewed on 25 February, 2016)*, it seems very clear that the layout plan (Figure 5.10) gave the inhabitants the confidence that they would no longer move out of Geisha. The most visible reaction to the plan therefore was the mushrooming of better and bigger houses (Figures 5.11 and 5.12) as buyers of land at higher prices were attracted. According to Senior Citizen 4, inhabitants would no longer be willing to shift from Geisha because, *'when someone already has a beautiful house here [laughs] relocation is impossible' (13 August 2016).*

The local councillor told me that before taking the issue of recognising the settlement, inhabitants had been willing to relocate. However, as inhabitants became aware of their rights, the eviction was stopped:

'You see those people are caught in cobweb. They do not know what was happening. Even building of such structures was not intentional because they did not know what would happen. They would lose money because [authorities would] demolish their houses as before. So, they were building temporary structures just to see what would happen. But they have seen rich people building good structures there, so they are saying now we are not going anywhere' (Interviewed 15 June 2016).

My discussion with GVH Guwamu showed that agreement to relocate was not based on real intentions (interviewed 10 June 2016):

Question: when you talk about factories coming and you moving out, you mean people would accept to relocate?

Answer: according to the agreement with the city council to say we are going to show you plots; these are the plots; everyone one plot. So, there was no problem with that

Question: you agreed with that proposal?

Answer: at that meeting, we agreed and said if all this is done, no problem

Question: But deep down your hearts were you really accepting? Say the truth

Answer: We knew they could not implement that! (Laughs)...in their hearts, people just know they will not move. It won't work...



Figure 5.11: New Houses in Geisha after Formal Recognition but disregard Plan

Despite having a common label as illegal settlers, the inhabitants were also not homogenous. Conflicts prevailed around the governance roles of chiefs and block leaders and around land sales. The block leaders–chiefs conflicts originated from the lack of clarity on how either office could perform within the same spatial jurisdiction. The chiefs had supporters while block leaders also had their supporters. This situation complicated decisions on how to respond to state actions. This was confirmed by GVH Guwamu:

'The city council has not clarified the roles [and] difference between block leaders and chiefs... We just see block leaders unilaterally doing things there. [The block leader says] I am now the chief here; the others say we are chiefs; you found us here,' (interviewed 10 June 2016).

It would appear that the conflicts were also related to the fact that some chiefs were referred to as illegal or unrecognised. VH / Senior Citizen Luhana, the first chief in Geisha, explained to me that there were only five (5) chiefs in Geisha. All others, while pretending to operate as chiefs, were only assistants [Kapitawo] to the legitimate chiefs. I talked with Luhana (13 August 2016):

Question: Tell me about the relationships ... with block leaders....

Answer: there is a lot of pulling each other this way and that. The reason is that there is multiplicity of chiefs, some of whom Guwamu does not even know.

Question: ... who installed those chiefs?

Answer: Guwamu has his own chiefs that he knows.

Question: who and who are those?

Answer: ... at first there was only me as chief. So, he decided to add more to relieve pressure on me.... the only chiefs that Guwamu knows include me, Kauluka Mtonga, Mlowoka Chavula, Wajanda, and Makhumba...

Question: So, it means there are 5 chiefs known by the GVH, which are the other chiefs?

Answer: The others selected in 2004, like Nyika and Thika, as Kapitawo [captains] to help me do my job well here.

Question: Is that the same as what you now call block leaders?

Answer: No. There was a time they said all those appointed as chiefs from 1987 and after should not conduct any duties. But these people were selected to help me here, not as chiefs, but now they do not cooperate with Guwamu.

The conflicts linked to land arose because the land sales had gone beyond expectations. The initial beneficiaries of ‘free’ land, having sold all the land allocated by Luhana, started to encroach on land the community had allocated for the school expansion. Other land parcels that were sold were those that had been earmarked for the market and clinic, as part of the agreement to formalise the informal settlement. According to Thika, large land owners targeted by such projects were not consulted.

‘The people with those large land parcels were never consulted [by state officials]. What happens is that [they just say] here there will be such thing, there such thing. They just use their power. When people see that, they say ...Why not tell us the details clearly. Instead of just coming after someone has already built and saying stop this, people cannot listen. That is the cause’ (interviewed 9 June 2016).

Thika also stated that the decision on where to locate the community facilities was not participatory.

‘The problem is that the people with large land parcels are not consulted or requested to provide land. They just make decisions over someone’s land’ (interviewed 9 June 2016).

5.4.4 State-Society Conflicts

The interaction between the state and society revealed varying aspects of conflict, complicity and collaboration around city visioning, land ownership and governance including regarding chiefs’ and block leaders’ roles. Firstly, state perceptions of city growth were similar to those of inhabitants but each side had different interpretations of it. The state perceived the inhabitants as misfits in the vision of a modern Geisha. Such views were shaped by perceptions that the inhabitants were poor and lacking capacity to build decent structures. For example, the Director of Planning of Mzuzu City Council told me:

‘They don’t share our view, because the view of the committee that I am secretary to is for a proper settlement being the frontage of a city. It could be residential, but not those shacks. If you look at the calibre of people that have bought land in Geisha, how many can put up a decent development, unless they sell...the settlers are from traditional chiefs [and] from the ADMARC. We are talking of watchmen and the guards who settled there. If there are big [wealthy] people they are just coming now...but how many are they...’ (interviewed 26 January 2016).

The Director of Planning of Mzuzu City maintained this position despite earlier stating that the inhabitants had built low quality structures for fear of eviction.

‘You should go to the settlement of Geisha. Most of the properties are not as big...because they are quite sure that “we are here temporarily.” People in Geisha know that they are squatters’ (Director of Planning interviewed 26 January 2016).

This negative view of inhabitants' ability was shared by the Ward Development Committee whose chairman stated:

'We want Geisha to look like a real town. It is an entry point to Mzuzu... [we] want to have a good-looking Geisha' (Interviewed 17 September 2016).

The local councillor's arguments implied the inhabitants' ability to develop:

'No one has said [those people] will remain ...like that. That's why I propose to [give] these people... a chance; ... a planned plot and give them a design. After 2 to 3 years it.....will be like a competition. It is not that they are not willing to come up with good structures, but they have been afraid; when they demolish our structures, we lose' (Ward councillor interviewed 15 June 2016).

However, the inhabitants' vision of Geisha paralleled that of the state. For example, Thika envisioned that:

'The front of the town, as our town grows, should have big buildings along the road...' (Interviewed 9 June 2016).

Apart from conflicting perceptions of the others' ideas, Geisha was caught in ethnic and inter-district local politics. Geisha was located within Nkhata Bay District (or at least until 2014), and the dominant ethnic group is the Tonga people. The Tonga chiefs within Geisha viewed the 'no service' policy as deliberate action against their ethnic group because services were provided to Nambo area in Mzimba District (or at least until 2010), which is dominated by the Ngoni ethnic group. To complicate the matter, local politicians took advantage of the situation and provided the banned services such as water as part of their campaign for parliamentary and council seats in 2014. As the Director of Planning of Mzuzu City Council told me:

'The ... council had indicated ... there should be no service, [but] people who were campaigning for the various positions ... started bringing services.... politicians, are [now] giving inhabitants hope that they are going to stay.... Therefore, people have started to build large houses' (Interviewed 26 January 2016).

It is worth mentioning that the no service policy had been in place while a new layout plan was being prepared in 2016. However, these services were only to be realised after approval by the planning committee and indeed after the land ownership issue had been finalised. The plan was produced on land owned by ADMARC only in anticipation that the land transfer would be achieved in a short time. It should be noted as well that the Department of Lands apparently wanted to be ahead of the Mzuzu City Council in getting hold of the land by commissioning the Department of Physical Planning to produce the land use plan.

The other area of conflict was land ownership instigated by chiefs' demand for the land to revert to customary tenure after the collapse of the tung industry. It was clear that the state was also interested in the land. These different interests were narrated by RCL:

‘We had a meeting with [inhabitants of Geisha] to say that “ADMARC are in the process of surrendering this piece of land to government. So, you stop developing this piece of land.” They resisted and argued.... why was ADMARC surrendering the land to government.... Another problem is that, ... Mzuzu is made up of 2 districts; [one] part is in Nkhata Bay, the other part is in Mzimba. The Geisha part is in Nkhata Bay under Traditional Authority Kabunduli’ (RCL interviewed 26 February 2016).

Apart from the conflicts with the state, there were also intra-community conflicts. As in the cases of Luwinga and Salisburyline, the appointment of block leaders with the intention of replacing chiefs was one of the sources of conflict. Specifically, the block leaders referred to themselves as chiefs (Figure 5.8), which directly challenged the position of the indigenous chiefs. The indigenous chiefs did not even recognise the block leaders, referring to them instead as ‘Kapitawo.’ The councillor explained the conflict by looking at the local government and chiefs’ legislation. He stated that even though there was no law that called for block leaders to replace chiefs, the law never provided for an alternative. Another source of conflict arose over land sales. While the original inhabitants were allocated land for free by GVH Guwamu and Luhana, they started to sell the land to new migrants, much to the displeasure of the chiefs. This situation was one of the reasons for the disbanding of the chiefs’ land allocation committee. A third conflict was related to the land allocated for the school. The school committee had noted that those with houses adjacent to the school were encroaching on the school land leading to reduction in the land meant for the future expansion of the school. The encroachers on the school were not punished because they claimed to have been allocated the land by blocks leaders. Conflicts relating to power struggles between chiefs and block leaders escalated. When chiefs allocated land for a market because it looked vacant and adequate, the original occupant who was also a block leader decided to sell off the land to new migrants. This incident led to a violent conflict that included setting fire to the stalls at the market site.

5.4.5 Collaboration and Complicity

Despite conflicting perceptions over land, the state and community interactions revealed areas of collaboration and also areas of complicity. The collaborative initiatives were noted in at least two activities. Firstly, through Malawi Social Action Fund (MASAF), a multi-million-dollar World Bank funded programme, footpaths in the settlement were expanded to motorable tracks. The project involved the state paying minimum basic wages to local inhabitants to work as labourers on the road projects. The idea of the project was that money earned would be used by the beneficiaries to purchase farm inputs that had been subsidised countrywide for the purpose since 2009. The projects like roads are funded under the community window of the project.²⁷ Secondly, the state collaborated with inhabitants of Geisha in organising community meetings where an agreement was reached to stop eviction threats and instead to produce a land use plan. Although the plan has not been implemented and has been largely disregarded, the collaborative meetings led to agreed zoning of the main road for commercial high-rise buildings and the provisions of plots where a health clinic, a market and police unit would be

²⁷ <http://www.ldf.gov.mw/financing-windows/community-window/> visited 26th February 2019

developed. These agreements showed that the state no longer viewed the inhabitants negatively as squatters that had to be evicted from the area.

Apart from collaboration there was noticeable state complicity in Geisha in two ways. Firstly, the recognition of a primary school informally constructed by the inhabitants implied that though the inhabitants were categorised as illegal, their school was not illegal as it got support from the state, para-state organisations and non-state actors. The Ministry of Education, for example, provided qualified teachers and learning materials to the school while UN-Habitat and EU provided water and toilets, and CCAP church and URAC supported the construction of additional classrooms. Even in the initial years when the school operated only with school leavers from the settlement as teachers, there was no sanctioning by the state. Secondly, state complicity was implied in the registration of houses to collect city rates which confirmed the formalisation of Geisha even before upgrading had commenced. Chiefs, though not officially recognised by the Mzuzu City Council, were made responsible for the enumeration and keeping of records of inhabitants. While such records would also be required for land allocation in the proposed upgrade or any new resettlement site, being entrusted with the records made chiefs more legitimate than block leaders. The inhabitants also perceived the provision of services such as water by NRW under a UN-Habitat-implemented project to the school as an initiative that legitimised their settlement.

5.4.6 Conclusion

The occupation of Geisha was two pronged; first by ADMARC workers and secondly by migrants sanctioned by the customary chiefs. The customary chiefs questioned the transfer of the land to government after the collapse of the tung industry as that had contradicted their expectation after the neighbouring estate had reverted to original occupants. As a measure to promote the modern city growth and protect the land, the state implemented a ‘no service policy.’ However, such policy was rendered ineffective because either the inhabitants resorted to self-provisioning or other organisations provided the banned social services. Of interest was that while the state categorised the inhabitants as illegal, it collaborated with them in the management of a hitherto illegal primary school and was complicit when it paid honoraria and also relied on the chiefs to enumerate and keep records of the inhabitants.



Figure 5.12: Houses Built Despite Agreed Highrise Commercial Zone along Main Road

5.5 CONCLUSION

Chapter 5 presented the findings of the study conducted in Luwinda, Salisburyline and Geisha informal settlements through interviews, observations and archival document reviews. The three informal settlements had different land tenure systems with Luwinda developing on customary land that was made urban by boundary extension. Geisha developed on private land through land invasions both instigated by the customary chiefs and employees of the land owners. Salisburyline developed on state land that had initially been designated as a wetland and open space. The state defined informality as lack of adherence to planning and land occupation without legal authorisation. The state intervention strategies to achieve its vision of orderly urban growth included eviction threats, service denial, incremental land takeover by building government projects in these areas or allocating land to migrants other than the indigenous occupants, and introduction of block leaders as an alternative governance framework to replace customary chiefs. However, the state did so in many cases without following any plans or land acquisition procedures. In this way, the state was complicit in the production and proliferation of informality in all three settlements. This practice was worsened by conflicts within the state as some actors disregarded policies and bylaws and provided services that had been banned. The community response to the state to retain rights to land and the city followed various strategies that included tactful collaboration with the state, threats of violence or court actions, land sales, building more and better houses, self-provisioning of services and appropriation of state roles such as tax collection to provide education services. Nonetheless, intra-community conflicts related to ethnicity, political affiliation and positions of power, were also noted: for example, when customary chiefs denied burial sites for migrants and when land owners refused to provide space for community projects, or indeed when inhabitants' allegiance was split between the authority of customary chiefs and blocks leaders. One can argue that through the engagements between the state and inhabitants as well as within either of them, both sides contributed to the production and proliferation of settlement informality in the three sites.

CHAPTER SIX: INTERPRETATION OF THE FINDINGS

6.1 INTRODUCTION

This chapter uses the findings presented in chapter 5 to interpret the changing political engagements between and within the state and inhabitants that shape settlement informality under different land tenure systems in Mzuzu City. The chapter links the theoretical concepts discussed in chapter 2 with the empirical results to respond to the main and subsidiary research questions presented in chapter 3. The main question of the research sought to understand the changing nature of political engagement between the inhabitants of informal settlements and the state which can support theoretical arguments about the creation, growth and perpetuation of informal settlements in Mzuzu City. The chapter therefore provides grounding for the theoretical propositions made in Chapter 7. After this introduction, section 6.2 explains how territorialisation is used as a strategy by both the state and inhabitants. Section 6.3 discusses how the engagements between the state actors and inhabitants of these informal settlements manifest themselves through various practices, laws, policies and regulations on the part of the state, and through resistance in different ways and forms on the part of inhabitants, as a way for either side to cement their positions regarding these settlements. This is followed by section 6.4 which discusses state discourses about housing informality. Section 6.5 explores the possibilities of conflicts of rationalities within the state and between state actors and the inhabitants while also looking at the possibilities of conflicting rationalities among the inhabitants themselves. Section 6.6 synthesises these issues about the nature of state-society engagements. Finally, section 6.7 summarises and concludes the chapter.

6.2 INFORMALITY AND TERRITORIALITY

This section responds to the first sub-research question relating to whether informal settlements in Mzuzu can be seen as territoriality of political engagement through which residents negotiate their rights to land and presence in the city.

In defining territoriality Sack (1983), Antonsich (2017) and Storey (2017) talk of contextual social production of strategies with the purpose of influencing and showing power over or access to land. In this way, the marginalised can access land for housing. Territoriality therefore helps to explain power relations in the appropriation of space. The results of the study reveal informality as a form of territoriality that was a strategy of informal inhabitants for negotiating rights to land and to the city. However, informality was also a territorial strategy of the state. The local and national state used informality to get hold of the land occupied by informal inhabitants for a range of reasons. This goes against the concept of liberal democratic rights which entails the state granting and guaranteeing citizens' rights through voting, laws and policies (Purcell, 2014). The territorial strategies, however, varied according to actors and land tenure systems in the study sites.

6. 2.1 State Territorial Strategies

Usually, where there is competition and urgent need for land, the state in Malawi uses its power of eminent domain provided for in the Land Act (2016). A practice like this was reported by Roy (2009) in relation to Indian state acquisition of land for public interest projects to

exceptionally benefit investors at the expense of the poor indigenous peri-urban land owners. As land ownership in Mzuzu was ambiguous due to multiple landlordism (UN-Habitat, 2011), the state, particularly the DoL, PPD and MCC, acted informally to get hold of the land occupied by residents, thereby creating some form of scramble for land between the state institutions and inhabitants. These institutions, sometimes as part of their internal agreement or indeed as instructed by the national authorities, and at other times in their individual capacities, used several strategies to impose and maintain power not only in the whole city but also in the informal settlements under study. In all cases these strategies were ultimately aimed at taking over land with the aim of converting it into public tenure for allocation to investors. For example, in all three informal settlements the state used urban boundary changes, issuing of titles over land claimed by inhabitants and in certain instances constructing its own facilities in these areas without reference to any plan or in the absence of requisite infrastructure. These strategies resulted in the areas that were outside the urban boundary being claimed as public or state land. The policy statement to stop this and archival data²⁸ both suggest that this was widespread and had gone on for a long time (GoM, 2002). This practice resonates with Roy 's (2009, p.80) argument that informality allowed the state to use 'territorialised flexibility to alter land use, deploy eminent domain and to acquire land...'

The threats of eviction and actual demolition of properties were used despite the existence of the Land Acquisition Law (1968/2016) which spells out procedures for eviction. In the case of customary land in Luwanga, the eviction threats were issued despite an *aide memoire* calling for a formal relocation and compensation of indigenous inhabitants. The shifting of the urban boundary over the years without any regard to existing urban plans or regulations was more frequent in Luwanga than in other settlements. The Mzuzu City Council through a decision of its councillors as advised by the planning department created governance zones (neighbourhood) each of which was assigned to a block leader as a way to replace chiefs and clan leaders. This policy was witnessed in all urban local governments and was supported by the national government. By doing this, local state control over land was expected to be easier as inhabitants would be controlled through the block leaders and no longer through chiefs who had claimed hereditary power to manage customary land in the settlements.

The state went further to produce land use plans and to record all properties in these informal settlements. In the case of Salisburyline, the state started issuing certificates of land occupation, documents that gave temporary residence on land the occupants did not own. This measure would bring inhabitants under direct control because prior to the issuing of these certificates, inhabitants used non-payment of property taxes as evidence of their being outside the city's jurisdiction and control. In this sense Flyvbjerg's (1998) idea of the sinister dark side of planning was applicable.

The state also took measures to allocate land within these informal settlements either for public buildings, or to migrants from outside Mzuzu City presumably to populate these areas with people that could easily be controlled. In most cases, such land allocations did not follow prior

²⁸ Letter from H.J. Lamport-Stokes to ADMARC, 5th August 1976 NA11870/3M/1.99/2A- 1-9-3R/354.

urban planning and portions of land allocated for public buildings tended to be much larger than provided for in the national planning standards (e.g. Mzuzu Central hospital). This planning practice was more frequently used in Luwinga than in Geisha and Salisburyline because, in these two areas, either the land was wetland and congested (Salisburyline) or ownership was still legally disputed (Geisha) while Luwinga still had abundant high value land. It can be said that the purpose of such allocation was to acquire more land for more public buildings in future. Therefore, 'territorialised flexibility' (Roy, 2009, p.80) was apparent as the state used planners to bend planning regulations. In this case, however, this was happening even for the private interests of individual planners and land managers. In some cases, as in Salisburyline, the state entered into protracted informal negotiations with the inhabitants to acquire land for public buildings like markets. Using informal ways to realise state goals has been reported by Lindell (2008). It can be noted that by locating or approving buildings of state choice, such as schools or public markets, the state was tolerating and facilitating informality despite that these buildings were supposed to be used by the inhabitants themselves. Bhan (2019, p.7) refers to this as public service provision through 'squatting.' Yiftachel (2009, p.91) has called this practice of creating spaces favoured by the state or the powerful as 'whitening' of gray spaces because being allocated by the state they are perceived as having followed procedures. Furthermore, while the strategy of negotiation may have been used to reduce tension and avoid project delays, one could argue that by entering into such negotiation for land, which in all instances involved compensation, the state was recognising the rights of ownership of the land held by the inhabitants. Therefore, while theoretically the state was using its power, it is clear in the three informal settlements that the state also recognised the limits of such power which made it utilise other means for taking over the land from inhabitants. The state thus operated not only as guarantor of rights, but also as a competitor, and acted through informal means that the ordinary individual citizens relied on. For example, the state was more serious about acquiring Luwinga customary land or safeguarding Geisha private land than protecting its own Salisburyline public land.

6.2.2 Societal Territorial Strategies

In response to the state actions, the informal inhabitants adopted a variety of strategies to realise rights to land and the city. The inhabitants of Luwinga entered into an agreement with the state and signed an *aide memoire* in which they demanded to be moved out of Mzuzu city citing cultural identity and clan cohesion and the need to access adequate land for farming in a rural setting. As will be seen in section 6.4, they however made such demands without really intending to move out of Mzuzu. Consequently, the inhabitants continued to distribute the land among themselves or to sell to migrants. This strategy was partly aimed at double benefitting from the land (sales and compensation), and partly to create a large enough constituency for the Mzuzu City Council and Lands Department to fail to evict them unless risking violence. In certain cases, to avoid state authorities creating infill plots for allocation to powerful businessmen or migrants (*wakwiza*), the inhabitants built several huts on the land for rental income but claimed they needed new homes for a growing population. When any threats of eviction were made by the state, the inhabitants responded with counter threats of violence and court cases. To cement their position, the Luwinga inhabitants established the Luwinga Development Foundation Trust (LUDEFT) to fight for the land rights of indigenous settlers

and to demand resettlement as a single village. The LUDEFT went ahead to seek external funding and started to open woodlots ostensibly to protect the environment and for use in the future as fuelwood; and they built the capacity of women through training in tailoring and bakery skills so that they could open small businesses. In this way the inhabitants were able 'to assert their urban citizenship....' (Yiftachel, 2009, p.95). In this case, it is noted that apart from negotiation, the inhabitants also had the alternative of protests or threats to realise their purpose.

The territorial strategy used by inhabitants in Salisburyline was less forceful than in Luwinga because land in Luwinga was customary while that in Salisburyline was legally owned by Mzuzu City Council. As such inhabitants of Salisburyline sought collaboration with the state to avoid eviction, even though they claimed land ownership on account of having reclaimed a wetland. As the rights to, or ownership of, the land was unclear, there was a general fear of eviction among inhabitants. In general, the inhabitants fell prey to overtures to the state in the form of certificates of land occupation (which was understood by them as ownership) and layout plans. When demand notices for property taxes or rates were issued, no one in Salisburyline protested or made legal challenges. It would appear that, though inhabitants built informally, they were aware that property taxes mattered more for the Mzuzu City Council than the vision of planned orderly growth. Therefore, Mzuzu City Council tolerated Salisburyline informal settlement for the specific purpose of taxation which ultimately would lead to a silent land take-over. This was so because under local government laws, the Mzuzu City Council could confiscate properties for failure to pay taxes. However, inhabitants built small backyard houses and sold off their main houses to foreign migrants (mainly from the war-torn Great Lakes region) who built larger and better houses. These larger and better houses attracted higher property taxes. In this way original inhabitants were hidden away from the state's gaze allowing them to enjoy their life in the city. Yiftachel (2009, p.91) refers to potential upgrading as the benefit of this strategy and this has been witnessed in Mzuzu: basic services, road drainage and crossover slabs to improve access have been provided, apart from the political acceptance of the existence of the settlement. Thus, it can be said that the inhabitants had a long-term vision. As the buyers of the front yard properties were foreigners, one is made to think the sellers envisaged a future in which such sellers could repossess the properties as in many cases such transactions only had a chief as witnesses and the land was never professionally sub-divided.

The territorial strategies of the inhabitants in Geisha which grew on private land owned by ADMARC involved, firstly, the creation of several village boundaries headed by a traditional chief who then was reporting to a senior chief stationed outside the urban boundary. These appointed chiefs had delegated power from higher level chiefs to allocate or sell land and to preside over disputes between the inhabitants. To establish themselves as a permanent community the chiefs collected cash contributions, in the same manner the state collects property taxes, from each household. This practice is similar to Watson's (2003, p.399) report on the warlords in Cape Town's informal settlement of Crossroads who appropriated 'the role of the local authority and tax[ed] ...residents for occupation rights, business rights and protection.' The funds informally collected in Geisha were used to build a primary school and to recruit school leavers as teachers. In the same way, by appropriating tax collection for

construction of a primary school, the inhabitants were going beyond their immediate needs to contribute to national education goals. While this strategy implied that the school would not be, and indeed never was, demolished by authorities, it also ensured that the inhabitants had become permanent residents of the area. The chiefs also allocated land for several churches and mosques in an attempt to protect themselves as any demolition of informal prayer houses would be negative publicity for the state. By invoking national and religious goals, and also through self-provisioning of services such as water and electricity, the inhabitants were able to quietly encroach (Bayat, 2004; 2010) not just in the way land is accessed and acquired, but also in how basic services are provided and governance systems entrenched.

In addition to the above strategies, the inhabitants of Geisha also utilised a 1971 precedent,²⁹ whereby the state had handed over land to the villagers following the closure of operations on a neighbouring estate, to demand the return of all the land to the inhabitants, and not to the state. The demand was logical as it was being made before the approval of the extended urban boundary in 2010. This strategy was meant to exploit the ‘gray space’ created by the competing interest of Department of Lands and Mzuzu City Council on the potential acquisition of the land which the owners ADMARC had shown reluctance to retain. This shows how forward-thinking the inhabitants were when opportunities availed themselves. As it turned out, nearly all the land was distributed or sold out and this led the state to negotiate for an upgrade plan as opposed to the initial ideas of evictions in favour of orderly city growth.

As can be seen in all the three cases, territorial strategies were used by both the state and inhabitants to claim ownership, and to show power over the land. These strategies show how the state created and tolerated informality both through policy and planning. The strategies also show how inhabitants sought to protect their land rights. Operating from a position of strong customary claims to land rights, in the case of Luwinga, inhabitants used formal negotiation and threats of violence or court cases, while in Salisburyline where inhabitants had a weak claim to land ownership, succumbing to and collaborating with the state planning overtures was used to avoid eviction. In Geisha silent encroachment in the form of self-provisioning of basic services and appropriating the state’s role to collect property taxes for funding public education assisted in preventing their eviction from the land.

6.3 MANIFESTATION OF ENGAGEMENTS

This section addresses the second research sub-question on how the engagements between the state and inhabitants of the informal settlements were manifested through laws, regimes and practices of planning on the one hand, and through active engagement or sometimes violence and resistance on the part of the informal settlers in the selected locations. The territorial strategies discussed in section 6.2 manifest themselves in practices which take different forms. The study revealed two broad aspects in this regard. Firstly, the results reveal the various ways in which the state uses laws, regimes and practices of planning to achieve its visions of order

²⁹ *Letter ref. No.LA.18/16/24 dated 3rd May 1971 from District Commissioner to the local community*

in the development of Mzuzu City, but that is done in many cases through informal measures. This is addressed in section 6.3.1. The second set of strategies which is addressed in section 6.3.2 relates to how the inhabitants of informal settlements resist and engage with the state.

6.3.1 State Powers and Planning, Law and Practices

How the state in Mzuzu engaged with the informal settlers has been reported in chapter 5. It is pertinent to mention that when the state uses its power through laws, policies and regulations, the underlying rationale is to implement its vision of orderly city growth. The results show that the state in Mzuzu used a variety of these tools to assert power in the management of land and implementation of urban plans, but sometimes the actual practice showed different forces at play and the results counter the stated vision.

Firstly, the state (DoL and PPD) and state officials utilised patronage to exert planning's power in all the three settlements for the benefit of, not just the state, but also the individual state officials corruptly benefitting themselves. Power in this context is understood with reference to Foucault's conceptualisation in which he refers to capillary power which is both power 'over' or power 'to' (Fraser, 1989). Foucault's theorisation questions ideas of power being centred in the state and argues that power lies 'everywhere and in everyone' (Fraser, 1989 p. 26). So, power can be used for both positive and negative ends. For example, when the state planners (and land managers) use oppressive laws as the basis of demolitions and evictions, power can be said to be used negatively, while when they use power to improve environmental conditions according to the provisions of the approved plans, then power will be said to be positively used. In Luwingu, for example, the state used its power of eminent domain to acquire land regardless of the prevailing policy or the *aide memoire*. Any land parcel perceived to be vacant was allocated to migrants from other places. This process caused some owners to lose their land and investments such as trees and crops. In the development of some African capital cities such as Lilongwe violence was used by the state to evict communities to implement master plans (see Potts, 1985; Watson, 2009). The eviction strategy in Mzuzu was incremental or piecemeal possibly because the citizens had knowledge of several rights guaranteed and protected by the national constitution of 1994. In Luwingu the takeover of land by the state moved stage by stage according to what project was to be implemented, be it a hospital, college, industry, or housing estate, probably because of the compensation requirements introduced in the land policy and law (GoM, 2002; 2016). As alternative land in a rural area agreed to with the inhabitants was not made available, this approach created urban injustice by systematically forcing out original inhabitants into marginal lands such as steep slopes, river banks or wetlands where flood risks and landslides are common (Kita, 2017). In Geisha, the state used its power to deny services such as water and electricity, a sort of 'blackening' or criminalising (Yiftachel, 2009) of the whole settlement, while providing the services to informal settlements just across the road. This service denial policy was a clear double standard because it had not been applied in Luwingu and Salisburyline or any other informal settlement. Inhabitants of Geisha who are predominantly Tonga perceived it as bias against their ethnic group. The policy became a reminder of the colonial ideology of divide and rule.

In Salisburyline, the state tolerated, for the purpose of property tax collection, the informal settlement which had grown on marginal land. Otherwise, had the environmental planning purpose been applied, the settlement could have been the target of eviction threats. Instead upgrading plans were produced to facilitate the property taxation. This application of planning shows that, when land of less value is occupied by the marginalised, eviction is a less likely alternative than taxation; while if the land has high value as in Geisha, even if the state itself is not the owner of the land, eviction was considered an essential element to enforce the vision of orderly urban growth.

Secondly, the national state laws were either implemented or deliberately not implemented to achieve specific objectives such as taking over control of the land. One such law is the Physical Planning Act 2016 (like in all past planning laws) that exempts buildings ‘of a traditional nature within the recognized boundaries of a village’ from planning control (section 43) and requires of planning authorities to produce simple layout plans, which upon explanation, are to be used by chiefs to allocate customary land to developers. The intention of this provision, as expected, was to achieve perhaps the most important objective of planning, that is, orderly urban growth on customary land where inhabitants are less regulated in the construction of houses. Lack of adherence to such ‘simple layout plans’ is reason enough for the state to confiscate the land using the Land Acquisition Act (1968). This legal provision was applicable in Luwinga. By not producing the simple layout plans, the state was creating a gray space (Yiftachel, 2009) to use as a basis for eviction threats. In this way the state itself was a major culprit in the production of settlement informality.

Thirdly, in tandem with territorial flexibility (Roy, 2009), the state used the Land Acquisition Act (1968) provisions to pay compensation when land was taken over for the public interest. This law was used to acquire land for public institutions such as Mzuzu Central Hospital, even though part of the land was later also allocated by state planners and land managers to private developers. This shows that the intention of the state was not merely to provide public services, but to alienate that land and distribute it to the private investors. To implement this the state used provisions of the Local Government Act (1996) which has been the most important law for the state to exert influence in two ways. On the one hand, this law allows the Mzuzu City Council to put up for sale defaulters’ property. The inhabitants challenged this law through the court. The state also imposed block leaders to replace chiefs. This was understandably hegemonic, as discussed later, to stabilise state-society relations to make it easy for the Mzuzu City Council to control the informal settlements. It can be mentioned that block leaders only emerged as ‘substitutes’ to fill the vacuum created by the absence of elected councillors between 2005 and 2014. As argued by Tambulasi and Chasukwa (2014, p.1) these block leaders and other similar substitute positions created the danger to ‘let you down’ due to lack of mandate. The ruling by Justice Chikopa declaring the substitute entities illegal has already been reported in section 4.3.2.1 of the thesis. The position of the block leaders also created the grounds for institutional conflicts in the decentralisation process as chiefs considered themselves to be losing power and influence (Tambulasi, 2009, p.33). The court case between chiefs and block leaders referred to in chapter 5 was a vivid example. Another example was how upgrade projects in Salisburyline had become the focus of power struggles: the projects

had been initiated by chiefs with the support of a local NGO and funding from UN-Habitat in 2010. In 2012 however, Mzuzu City conducted elections for block leaders and declared these as the legitimate community leaders the council would work with. This decision put in jeopardy a technical project committee overseeing a community-managed fund of a joint community-city project. Frustrated community members started to boycott the project or resist it by claiming back land or constructing homes on land they had earlier given to the project. This ‘growth of informality within an informal settlement’³⁰ could ideally only be solved by the inhabitants themselves, yet no solution was in sight. This suggests that the inhabitants were not homogenous, and when the state interferes with traditional governance systems it can affect the delivery of social services as the leaders tend to protect their own, rather than public, interests.

Fourthly, the application of the concept of ‘gray spaces’ by which inhabitants of informal settlements ‘are criminalised or left in uncertainty’ between being legal and illegal at the same time (Yiftachel, 2009, p.93) was noticeable in these three settlements. These gray spaces were tolerated or ‘whitened’ when exploited by the powerful (Roy, 2009), thereby creating ‘elite informality or illegality’ (Lindell and Ampaire, 2016, p.261). The application of gray spaces in Mzuzu arises from the carryover of the laws and regulations developed during colonialism into post-colonial Malawi and the making of planning ideas developed in response to problems in the Global North as the reference for policy and legal formulation (McAuslan, 2003; Baffour et al., 2014; Watson, 2009). An example of such legal provisions was the regulating of low-income housing as a public health rather than as an environmental and urban planning concern (Physical Planning Act 2016, section 43 (c)). For example, when the state planners use their planning power to take over land from inhabitants by using a narrative that all land within the urban boundary was public,³¹ instead of expressing their wish that such land ought to be public, they tend to claim that such inhabitants are illegal settlers and therefore ought to be removed, even forcibly. These narratives were a legacy of colonial practices that declared all urban land as crown (public) land. Such declaration of land that had been occupied informally as public forced these inhabitants to become urbanites and on that basis subjected them to urban regulations. The declaration of informal settlement land as public land was applied in all three cases of Salisburyline, Luwinga and Geisha by way of boundary extensions over the years, though the most intense had been Luwinga. Within these areas, inhabitants were taxed thereby legitimating their residence in the city. Thus, going beyond Yiftachel’s (2009) idea of urban colonialism and creeping apartheid, in Mzuzu revenue mobilisation for an otherwise resource-poor city was a major strategic rationale. However, the inhabitants were not passive; they exploited these very gray spaces to claim rights to land and life in the city. Instead of being

³⁰ Director of Planning of Mzuzu City Council 26 January 2016

³¹ Information from national archives shows that the state has used such a strategy before but when the same narrative was used to attempt a take-over of ADMARC land, it was rebuffed: ‘...the Regional Planning Officer ...gives the idea that he has stronger powers...there is question that a promulgation of a planning boundary affects ownership of the land, it does not...if Government wish to acquire the land it must go through the normal channels...’ Letter from H.J. Lamport-Stokes to ADMARC, 5th August 1976 NA11870/3M/1.99/2A- 1-9-3R/354.

mere victims or violators of the law, the inhabitants used the law to their advantage (Lindell and Ampaire, 2016).

In Mzuzu, some gray spaces in planning law can be noted. Firstly, is the provision that once an individual has informally settled on a land parcel for up to 12 years, then the informal inhabitant owns the land (Land Act, 2016). As such, these inhabitants could not be evicted without compensation for the developments made on that land, which was also a requirement under the Land Policy of 2002, Physical Planning Act (2016 sections 70-68), its predecessor, the Town and Country Planning (1988) and the Land Acquisition Act (1968). Inhabitants utilised their knowledge of the requirements for compensation before the state take-over of their land. Secondly, the inhabitants exploited the legal gap in Mzuzu City Council operations during the 2005-2014 period when there were no elected councillors. As the Local Government Act (1998) had provided that decisions of the council were legitimate only when taken or endorsed by elected councillors, the absence of elected councillors meant that any decision implemented was illegal. This gray space was successfully utilised in Luwanga informal settlement when a court ruling exempted the inhabitants from the payment of property taxes not just on account of absence of elected councillors, but also because they were presumed to live, until the *aide memoire* was fully implemented, on customary land. In view of this ruling, inhabitants in all other informal settlements refused to pay property taxes. Therefore, during the time Mzuzu City ran without elected officials, any time there was a threat of eviction by the state, there was a counter threat of court action by the inhabitants.

6.3.2 Inhabitants Engagement and Resistance

This section addresses the question of inhabitants' active engagement or sometimes violence and resistance and argues that inhabitants have many strategies to respond to state laws, policies and practices. If power is 'everywhere and in everyone' (Fraser, 1989 p. 26), then inhabitants of informal settlements exert power which they use in various ways to challenge the state laws, regimes, practices and regulations. As much as the state uses its laws and regulations to get land from the inhabitants, even for the personal benefits of officials, the inhabitants do not stand by watching. However, the inhabitants sometimes also engage the state positively. The purpose of such engagements is to claim land rights and presence in the city. The ways in which the inhabitants engage may be through collaboration or participation through 'invited spaces' (Miraftab, 2004), while resistance may take several forms such as insurgency (Holston, 2007; Miraftab, 2004), quiet encroachment (Bayat 2010), and hidden transcripts (Scott, 1990; 1998). The case studies show how certain of these theoretical frameworks which aim to explain engagement and resistance are more appropriate in the context of Malawi than others, as discussed below:

6.3.2.1 Insurgency and Collaboration

This section explores the possibility of insurgency influencing planning in these informal settlements and argues that rather than this being a relevant process, the state is able to use invited participatory spaces to engage the inhabitants and that these inhabitants strategically participate to obtain land rights and stay in the city.

Holston (2008) introduced the concept of insurgent citizenship, based on his research in Brazilian cities, in which he argues that informal inhabitants can destabilise entrenched or hegemonic policies and practices that promote and proliferate social inequalities. In extending Holston's idea, Earle (2012, p.1), also drawing on Brazil, uses the concept of 'transgressive citizenship' to describe how the organised informal occupants of buildings and land sometimes use the law, not just rights, to challenge the state. Yiftachel (2009, p.97) calls for 'planning citizenship' to seek inclusion of the marginalised groups in the planning process as a way to address domination and exploitation embedded in the planning systems, while Ulloa (2013, p.2) advocates the adoption of insurgency as a planning tool where planning is centred on 'spaces of representation.' Mirafteb (2004; 2009) has adapted the 'insurgency' conceptual framework by referring to invited and invented spaces of participation. Invited spaces are defined as spaces 'occupied by the grassroots and their allied non-governmental organisations that are legitimised by donors and government interventions' (Mirafteb, 2004, p.1). Invented spaces are formed when grassroots directly confront authorities through their collective action (Mirafteb, 2004). Mirafteb (2009, p.3) argues that insurgency via invented spaces in planning is counter-hegemonic because it challenges state attempts to maintain 'dominance through inclusion' of community-based organisations and non-governmental organisations to stabilise the relations between the state and society.

In Mzuzu the 'invited spaces' took the form of development committees (at ward and neighbourhood level) that have been institutionalised in the national legislation within the context of liberal democracy whereby rights are granted and guaranteed by the state (Purcell, 2013). The Local Government Act (1998; 2010) specifically called for entrenching democracy in local councils, including in the planning and prioritisation of development projects. These projects can then be designed by state employees for implementation. The implementation is monitored by the development committees mentioned above. The inhabitants may contribute their labour and materials. In this way the projects are considered to be owned by the people. Through such invited participation spaces, the state sought to stabilise its relations with inhabitants of informal settlements (Holston, 2008) because the expectation was that the inhabitants were collaborators in planning processes and outcomes. The inhabitants especially in Salisburyline and Geisha were found to have particularly aligned themselves with the state planners through collaboration in and co-production of the upgrade land use plan. In this way, the inhabitants can be said to be active participants in contributing rather than being affected by planning. For example, the inhabitants collaborated with the state (MCC and DPP Department) and NGOs working in Salisburyline to produce upgrading plans. The upgrade projects (manure making shed, crossover slabs, culverts and drainage improvements) implemented in Salisburyline were hailed as an example of how inhabitants of informal settlements could positively partner with the state to improve the lives of people in these areas. A community project committee had in fact been established. Through this initiative the inhabitants were assured there would be no evictions, a development that was cemented when the Mzuzu City Council recorded all houses in these areas for property taxation. Discussing and agreeing to the initiatives, and actively participating in the project committees, was thus a non-confrontational engagement of the inhabitants with the state that would avoid eviction. The process in Geisha (private land) was different from Salisburyline (public land). In Geisha,

the state produced a land use plan and only incorporated the expectations of the inhabitants that they would not be evicted. The inhabitants supported the land use plan as it had addressed the main concern. Nonetheless, as the implementation was delayed, inhabitants got frustrated and continued to build informally, rendering the agreed-to plan redundant. This shows that where there is consensus, prompt implementation of urban plans is necessary to reduce mistrust and frustration. The results also show that power relations were, all the same, still tilted to the state authorities because any meetings were organised at the discretion and convenience of the state. In addition, block leaders who were aligned to the MCC itself started to sell land that the plan had earmarked for community projects (e.g. for a market), leading to protests. Therefore, the benefits assumed to have accrued to the inhabitants may only be temporary because the state had the leverage to use other forms of eviction, such as selling land together with existing houses to wealthy citizens and letting the buyer pay the compensation, or using non-payment of property taxes as justification for eviction and selling of inhabitants' properties to new migrants.

So, despite the legal and policy institutionalisation of participation through invited spaces, it was limited to individual externally-funded small upgrade projects, and generally the real outcomes never reflected the intended goals of planning. According to Shrestha and Aranya (2015), if insurgency is to be counter-hegemonic it needs mature grassroots organisations. The study results did not reveal any such insurgent social movements in Geisha and Salisburyline. In Geisha, all concerns were backed by Chief Kabunduli and GHV Guwamu who were not resident in the area. In Salisburyline, inhabitants' allegiance was divided between chiefs and block leaders, a key outcome of the divide and rule policy of MCC. In Luwinga, the LUDEF was a closed organisation, a situation that bred animosity rather than cohesion among the cosmopolitan inhabitants of the area. Thus, as argued by Meth (2010), insurgent planning cannot be generalised; it has to be analysed case by case. Instead what was clear in all three informal settlements was the state introducing new spaces of citizen participation in the form of block leaders under the control of MCC with the ultimate aim of replacing traditional chiefs. As such, jurisdictions called neighbourhoods were mapped as new regions below the wards but sometimes these coincided or conflicted with those managed by chiefs. Thus, the state maintained a colonial indirect rule policy (McAuslan, 2003), but sought to entrench the same by appointing a new set of proxy governors. Elsewhere such state strategies 'to contain grassroots struggles through local formal channels for citizen participation' can inadvertently build 'deep democracies from below' (Miraftab, 2009, p.6). Limited radicalism in the studied informal settlements, instead, led to the inhabitants either fighting among themselves as in Luwinga or succumbing to the hegemonic overtures of the state through collaboration and invited structured spaces of participation (VDC, ADCs, and WDCs) as in Salisburyline. Sandercock (2011, p.40) argues that cities are multicultural which calls for coexistence except that there is lack of broad accommodating political culture, 'one with... strong legal, institutional and informal sanctions...that no longer treats immigrants as guests.' Luwinga's conflict between indigenous and migrant inhabitants is an example where this logic fails because indigenous inhabitants refer to migrants as '*refugees or wakwiza*.' The state exploits such conflicts and issues land titles to the migrants and thus takes over land incrementally. In a society of 'cultural enclaves and de facto separation' (Sandercock, 2011, p.55), it is difficult

to imagine strong insurgency against state domination. The results of this study show that the intention of the new boundaries was to control and dominate citizens through a new cadre of governance away from an entrenched system that easily mobilised community cohesion. Thus, apart from stabilising state-citizen relations (Miraftab, 2009), the measures generated conflict among inhabitants (Tambulasi, 2009) and the local leadership, in the process allowing the state the leverage to entrench domination which was openly declared via statements like ‘Mzuzu City Council will only work with block leaders.’

6.3.2.2 Quiet Encroachment

‘Quiet encroachment’ which has been mentioned briefly under section 6.2.2 was defined by Bayat (2010, p.45) as the ‘noncollective but prolonged direct actions of dispersed individuals and families to acquire the basic necessities of their lives (land for shelter, urban collective consumption or urban services, informal work, business opportunities, and public space) in a quiet and unassuming illegal fashion’ especially in postcolonial cities. Bayat (2010, p.56; 2013, p.46) holds that quiet encroachment targets ‘the propertied, powerful, or the public’ and lacks ‘clear leadership, ideology, or structured organization.’

This study confirmed quiet encroachment strategies in all informal settlements with intensity varying according to type of land tenure. It can be mentioned that, apart from all these sites at one point being outside the designated border of Mzuzu ‘urban,’ the land was either customary (Luwinga), reclaimed state-owned wetland (Salisburyline) or originally acquired for plantation from the communities (Geisha). In Geisha ADMARC had refused to surrender this land to the inhabitants despite a precedent set in 1971 in a neighbouring village, and despite state institutions themselves fighting over the same land. In each study site it was revealed that every family went on building more and better houses or improving and expanding existing ones. This practice showed that the inhabitants had committed themselves to city life. All the plans produced for these areas were disregarded when such houses were built. Other quiet encroachment tactics were planting trees to protect the environment and building the capacity of women by training them in tailoring and bakery skills by LUDEF in Luwinga. Through such strategies the inhabitants had not just taken back or benefitted from most of the land that the state was so keen to own or manage, but also had gone ahead to self-provide services and to tax each other to appropriate the role of MCC to deliver education services. In this way, inhabitants also took ‘control of the conditions of their own existence’ (Purcell, 2013, p.151). Once the main goals were realised, other forms of resistance such as land subdivisions and selling or non-payment of property taxes emerged. This point is noted by Bayat (2010, p.57) when he talks of ‘encroachments continu[ing] in many directions.’ For example, in Geisha inhabitants led by chiefs systematically took away land from ADMARC using a land allocation committee. However, the land allocation committee which had been established to realise ostensibly orderly development of Geisha, was disbanded as soon as the main goal of taking over the land had been achieved. In Luwinga overt forms of resistance were noted through threats of, and sometimes actual, physical violence against state employees transacting land in the area. Therefore, when the state realised that it could no longer retake the land, it succumbed and decided to accept the inhabitants as legitimate occupants of the land (as in Salisburyline). Upgrade plot demarcation layout plans that specified non-eviction were produced for Geisha

and Salisburyline with full input from the inhabitants. Households, however, started to improve and build more or bigger houses, thereby densifying the settlements and making the upgrade plans disordered if not redundant. State attempts to make the communities legible through these upgrade plans (Scott, 1998) were thus thwarted and new state measures in the form of property recording were introduced.

6.3.2.3 Hidden Transcripts

This section looks at the small tactics and strategies that the inhabitants used to secure their position on the issue of land rights and also presence in the city. Painter and Jeffrey (2009) note that just as colonialism was resisted through political sabotage, foot-dragging and grumbling among other strategies, inhabitants of informal settlements in the postcolonial city utilise a variety of small tactics and strategies to secure their stay in and benefit from the city. Scott (1990; 1998) referred to such tactics as hidden transcripts, weapons of the weak and everyday forms of resistance. He describes how the weak, in this case inhabitants of informal settlements, use hidden transcripts to fight the state's intentions of taking over the land they occupied. This was clear in Luwinda where the indigenous inhabitants had agreed to relocation (eviction) and in fact had specifically called for such a move on the pretext they needed a 'rural village,' clan cohesion and cultural identity which are rights recognised by the United Nations (IFAD, 2018).³² But the inhabitants continued to build and sell land, leading to densification of their informal settlement. In section 6.5 reference will be made to the animosity between the indigenous and migrants in these areas; it would be unlikely for them to sell land to the migrants. It can be said that the land selling was apparently a desperate measure to earn money just as state officials did (section 6.6) while still waiting for compensation. Land sales to *wakwiza* also created a large enough constituency, including *wakwiza*, that the state began foregoing the *aide memoire* that would see wholesale eviction, and started a takeover of the land incrementally via compensation. This situation created more informality as inhabitants sought to profiteer by building more informally on the pretext of providing for their growing family populations. The large number of inhabitants made it problematic for the state to take action. The state intention to make the inhabitants legible (Scott, 1999, Bayat, 2010, p.70) for easy control, and to exploit them through projects like upgrading, was evident in Salisburyline in 1987 and 2013 and in Geisha in 2016 when land use plans were produced. These plans were adopted after the failure of eviction strategies. In Luwinda resistance took the form of 'non-cooperation, foot-dragging and grumbling' (Painter and Jeffrey, 2009, p.171; Scott, 1990). For example, one of the indigenous inhabitants, who is also a village headman, still had one of his houses within the fence of the Government-owned Mzuzu Central Hospital. Within Geisha informal settlement, land sales and land speculation were rampant, with the rich families that were resident outside these areas only building small huts to keep the land, expecting the confrontation to end first.

In all three settlements the resistance was enlivened by external agents seeking to support the community to access services. These agents included the local CBO called Federation of Homeless People, and international organisations campaigning for services as human rights

³² www.ifad.org/web/latest/story/asset/40724674 accessed 10 August, 2018

and land rights such as UN-Habitat. These organisations mobilised the inhabitants into savings groups and using their funds were able to undertake minor projects that showed their commitment to improving their own lives in the city without waiting for state benevolence. The savings groups grew to become a major stakeholder in the consultations involving inhabitants of informal settlements and the state officials. While these did not undermine the invited participation spaces, they provided an alternative opinion of the inhabitants' needs. This was particularly applicable in Salisburyline and led to the establishment of a joint inhabitants-MCC project steering committee. The committee became a platform for local-level ideas to enter the civic offices alongside those entering via institutionalised participation spaces (ward and neighbourhood committees) through attendance of council meetings. As these settlements were also sites of political manoeuvring, politicians looked at them as vote banks. This was clear from the ambivalent behaviour of local councillors. For example, councillors sided with inhabitants while in the settlements and supported MCC policies when attending official meetings. When the inhabitants felt that they could no longer be evicted, the issues shifted from claims over land to demand for services as a right (cf. Holston, 2007) while in the interim people resorted to self-provisioning of services in the form of shallow wells and solar lamps (Geisha) and building of schools, opening woodlots and training of women (Luwinga).

6.4 OFFICIAL DISCOURSES ABOUT INFORMALITY

In responding to the sub-research question on official discourses about informality in Malawi in general and Mzuzu in particular, the study looked at how the state defines informal settlements. To respond to the sub-question, I drew on Roy (2009, p.82): 'The ... question to ask ... is why some forms of informality are criminalized and thus rendered illegal while others enjoy state sanction or are even practices of the state.' Roy (2009; 2005, p.149) conceptualises that informality is a mode of urbanisation in which she suggests that 'squatter settlements formed through land invasions and self-housing can exist alongside upscale informal subdivisions formed through legal ownership and market transactions but in violation of land use regulations.' The study results show that state institutions (DoL, PPD and MCC) defined informal settlements as 'illegal' which is in line with Rasmussen's (2013) conceptualisation which looks at informality as occurring when neighbourhoods develop without formal guidelines, laws, instruction or involvement of professionals. Roy (2009) also looks at informality as a situation where land use is not according to existing regulations and laws and operates in a continuum between legality and illegality. Reference to informal settlements as 'illegal' is a colonial narrative that criminalised informal settlements and crept into the discourse of planners and land managers after independence. Based on interviews with state officials these three settlements were unwanted in the city because they allegedly defeated the purpose of planning of promoting orderly urban growth. Application of the conceptualisation becomes complex because of the blanket application of the concept to all settlements growing without guidelines or professional involvement. For example, in Luwinga inhabitants countered the state by accusing it of squatting on customary land because the state was allocating and issuing titles without consultation and before compensation. By extending and approving a new urban boundary the state applied the compulsory land acquisition law without following the laid-down regulations and procedures. This point is relevant because the said law

and the Land Policy of 2002 called for market value compensation in cases such as these where the state seeks to convert customary land for public interest projects. It can also be asked if transferring land from indigenous people to migrants is a public interest purpose of planning. This practice contrasts with that in the colonial era when settlements such as these were kept close but outside the urban boundary (Pennant, 1983). The state however had shifting perceptions and adopted contradictory measures and practices of legitimation and criminalisation to deal with these informal settlements.

The results also show that the state applied ideas copied from the Global North and this guided the official discourse about informality. While the political justification for boundary changes to have formerly racially segregated communities within the city is noted, the main rationale for such boundary changes was to promote orderly urban growth. These settlements were incorporated into the city boundary following the declaration of Mzuzu as a City in 1985 (even though the process had started a decade earlier) while already developed based on customary land access practices or in case of Geisha while an agriculture estate. It is interesting to learn that while boundary extensions, the latest approved by the national government in 2010, have been a major contributor to urban population growth of Mzuzu from roughly 6,000 in 1966 to 222,000 in 2018 (NSO, 2019), population growth was also one of the reasons for extending boundaries. However, there is evidence to suggest that the most important reason that justified such boundary extensions was the need to increase revenue generation from property rates. The MCC had specifically requested the boundary extension into Luwinga in the 1980s because *'... the council depends for its survival on rate levies. Without collecting these rates, many of the services which it now provides are going to suffer greatly, hence the urgency of the matter.'*³³ Thus, rather than promote orderly urban growth, the boundary extensions were expectedly to acquire more valuable land for city development, but informal measures were adopted to achieve this. For example, there were instances when the DoL adopted plot demarcation layout plans or land parcels created by chiefs and clan leaders as the basis of lease title issuance. By endorsing this informal land use planning activity by the chiefs or clan leaders, the DoL made them official agents of the national government in urban planning and land management. This context supports Roy's (2009, p.84) argument that the state was implicated in informality or engaged in 'informality from above.' Specifically, while on the one hand, the MCC sought not to recognise chiefs' presence in the city, on the other the Department of Lands used these chiefs as government agents in land transactions, for which the chiefs received monthly wages from the MLGRD through the District Councils. In Geisha where informality was produced largely by the occupants of private land, ESCOM and NRW which are responsible for electricity supply and water provision escalated the informality. Despite the existence of a decree against provision of water and power to the inhabitants of Geisha issued in 2012, these services were provided to some occupants informally; or, in this context, by providing the services the two organisations involved themselves in illegality. These informalised ways of service delivery reflect the observations made by Lindell (2008)

³³ MNA 11870/3M/1.9/2A folio 95

about the various levels and scales of power and entangled governance modes in African cities. Drawing on Foucauldian ideas of dispersed power, Lindell (2008, p.1880) argues that Global North ideas about urban governance do not work in Africa because of ‘the context of extensive informalisation’ which negatively impacts legitimacy and capacity to coordinate dispersed activities.

In other cases, the state tolerated informality to create ‘gray spaces’ (Yiftachel, 2009) between being legal and illegal for several reasons. This situation was vividly noted in Salisburyline, where despite the area being informal on state land, the state did not show any attempt to evict the settlers and instead implemented formal projects by ‘squatting’ in the informal settlement. While Lindell (2008) points to lack of capacity and legitimacy by the local state in Africa, the failure or reluctance to evict informal inhabitants in Salisburyline can also be explained in two ways. Either, the MCC saw the land occupied by these inhabitants to have less value, it being on a wetland, or because eviction might have led to loss of revenue from property rates. For example, the property registers by MCC established that there were over 1,557 properties in Chiwanja Ward of which Salisburyline accounted for 140 properties (Mzuzu City Council, 2016). Leaving out these properties would have meant loss of, assuming an average rating value of K10,000 per year per property, Mk15,570,000³⁴. In other words, as discussed by Yiftachel (2009), the ‘gray space’ that is Salisburyline informal settlement reflected the desire by MCC to collect property taxes which was implemented by creating the new leadership position of block leaders against traditional chiefs and by issuing titles and land occupation certificates to make the inhabitants legible (Scott, 1998).

From the results it is also clear that the state used planning ideas and laws that were racially motivated and developed before independence to achieve its vision of orderly urban growth, which was at the expense of the poor majority. For example, despite the planning and land law reform, the only planning regulations that would help achieve planned growth of low-income housing remained intact under the Public Health Act (1948).³⁵ The Public Health Act (1948) was in fact the only land-related law not to have been revised in 2016. As before independence when ‘natives’ were considered a danger to the health of colonialists, by retaining guidelines for the development of low-income housing (traditional housing areas) under public health laws, the state vividly showed that this category of urban citizens was also a danger to the health of elites (Home, 2014; Bigon, 2011). This also shows how planning is a tool for power and how it marginalises the urban poor (Watson, 2009). Furthermore, even though there were policy and legal provisions (GoM, 2002; 2016) to plan for the customary land within city boundaries, planners and land managers insisted on acquiring and converting such land to public tenure. This implied that the occupants of such land were considered misfits in the vision of orderly development of the city and ought to be replaced by the rightful citizens. This was therefore contradicting any rationality of incorporating the informal settlements into the urban boundary. If the inhabitants of informal settlements were unwanted within the urban

³⁴ Mk730=\$1; K50=R1; Mk900=£1

³⁵ Public health (minimum building standards for traditional housing areas) rules under s.75 G.N. 10/1960; 21/1960; 48/1963; 224/1963; 89/1971. rules may be cited as the public health (minimum building standards for traditional housing areas) rules, and shall apply to such areas (hereinafter referred to as traditional housing areas)

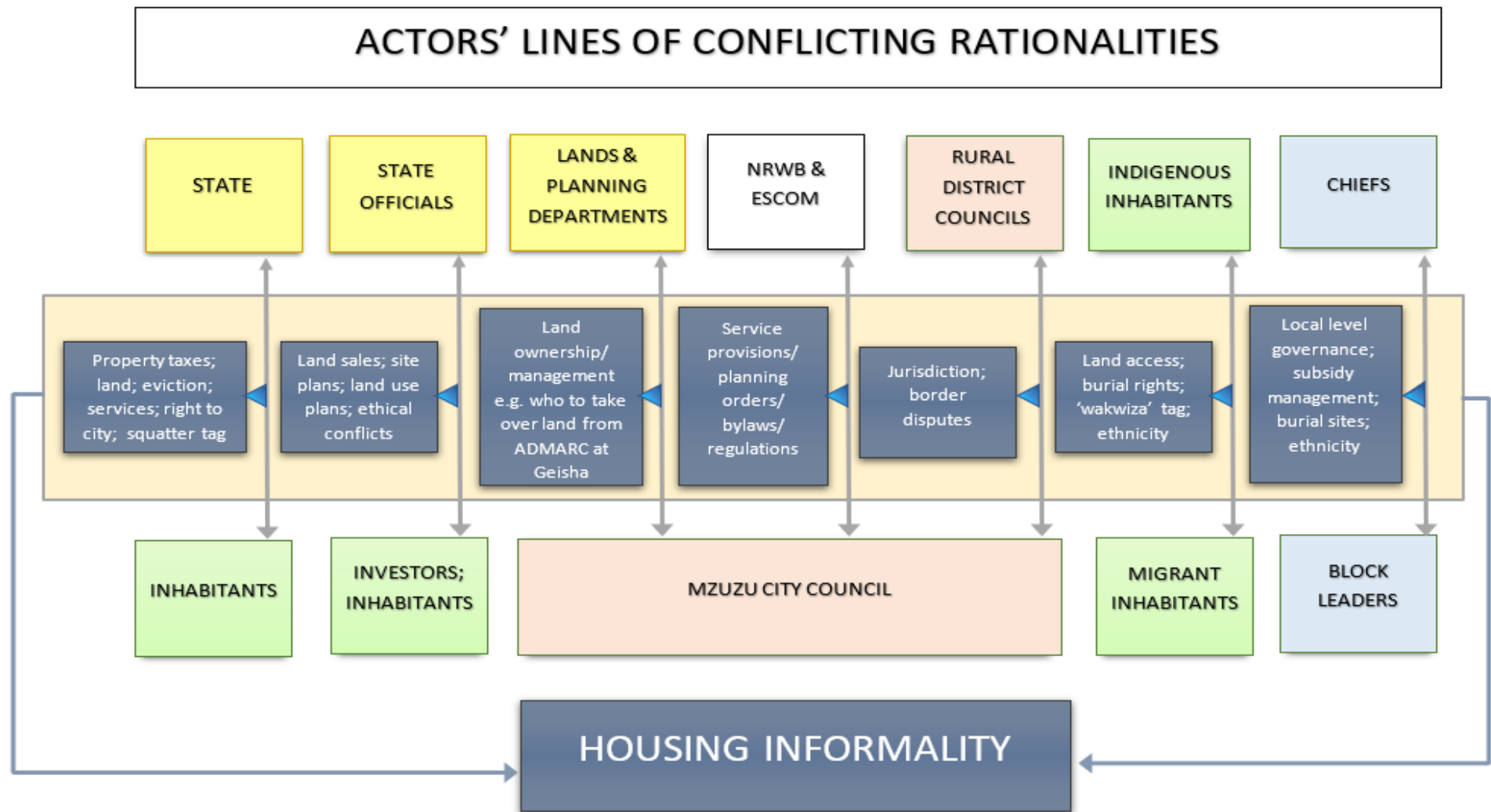
boundaries, one might ask why the boundary was extended anyway. In the Physical Planning Act (2016 section 40) it is specifically stated that planning authorities have to produce plot demarcation layout plans and issue these plans to chiefs for them to use as a basis for land distribution in their customary land areas. By this provision, one notes the legal recognition of the role of chiefs in the urban areas and in land administration. Furthermore, if the intention of planning in Mzuzu (and in Malawi) was indeed to realise order in urban growth, this legal provision could have been implemented a long time before because it had also been provided for in the 1988 planning law. However, as noted by Yiftachel (2009, p.88), planning has a '*sinister dark side*' whose intentions in the case of Malawi generally, and Mzuzu informal settlements especially, was property taxation and land acquisition for the benefit of the state. In many cases land acquired by the state was transferred to migrants and elites or these manoeuvred through the planning and land management systems to benefit from the land themselves. In the process, planning was used to displace the poor and support economic segregation in urban space (cf. McAuslan, 2003).

Thus, the shift in the state perception of informal settlements from regarding them as illegal to accommodating them with the vision of upgrading to improve their situation may be merely an example of 'isomorphic mimicry' (Andrews et al, 2012, p.2). As isomorphic mimicry Andrews et al. (2012) point to the tendency of the state to introduce policies or reforms merely to enhance its external legitimacy and support when in fact there are no intentions to improve things. For example, as a signatory to global policy trends such as Habitat Agenda, Millennium Development Goals (MGDs) and Sustainable Development Goals (SDGs) the Malawi state would want to be perceived as doing something and so benefit from global funding, yet without any interest or capacity to implement. In this way, only piecemeal and project-based attempts are carried out. According to Flyvbjerg (1996, p.396) what was 'actually done' during the planning processes was the manipulation and exclusion of ideas of the public, and threats of evictions of the marginalised continued.

6.5 CONFLICTING RATIONALITIES

This section responds to the fourth sub-question which was to explore the existence of rationality conflicts between the state and inhabitants of informal settlements in Mzuzu. The study also sought to extend the concept of conflicting rationalities by looking at possibilities of conflict within the state and within civil society as well as instances of alignments and hybrid outcomes between and within either side. The section therefore argues that conflicting rationalities cannot be seen as a binary between state and society, but such conflicts also exist within and across the spheres of the state and society because these actors are diverse and have diverse interests. This study supports the concept of conflicting rationalities and found that it was applicable in all three informal settlements between the state and society and also within these entities. In this way the results in Mzuzu support those reported by de Satge and Watson (2018) in Langa, Cape Town. However, rationality conflicts were found to be very intense and wide ranging in these informal settlements and at times produced everyday conflicts among the actors; at other times it was opportunistic for actors to align interests and adopt forms of collaboration. An extreme situation was where state officials deliberately produced informality through what I describe below as ethical conflict. Das (2018, p.62) also notes that inhabitants

of informal settlements are heterogeneous with several social differences and conflicts 'between individuals and groups of people not only in terms of their incomes, but also in their needs and aspirations.' This shows that there are different interests at play in the informal settlements including, as noted by Robins et al. (2008), those related to clientelism and patronage. The specific interests reach a point of what Li (2007) calls the 'interface,' meaning the times and places where different rationalities 'come into clear juxtaposition, engagement, and contestation with each other' (Li, 2007 cited by De Satge and Watson (2018, p. 27)). According to de Satge and Watson (2018) such conflicts are within and between the two categories and that sometimes actors move between and across for strategic reasons with both positive and negative results. These conflicts are described in Figure 6.1 in which multiple sites of governance noted by Lindell (2008) also reveal themselves as ultimately contributing to housing informality.



Source: Author, 2018

Figure 6.1: Conflicting Rationalities in Mzuzu City

In the Figure 6.1, it is shown that at policy level rationality conflicts occur around issues of right to the city, property taxation, and urban order leading to eviction threats. The conflict of rationalities between the residents of informal settlements and the state authorities such as MCC, DoL and PPD were largely related to the ‘naming’ of inhabitants as ‘squatters’ when the land defining the basis of the concept of ‘squatter’ remained contested. Specifically, the inhabitants referred to themselves as ‘villagers’, which was more pronounced in Luwinga where inhabitants were more attached to their customary land; less so in Salisburyline where residents had only reclaimed and recognised land that legally belonged to the state. This conflict was heightened by the recognition of traditional chiefs by the MLGRD when it paid them monthly wages, issued identification cards with full national government insignia and allocated the chiefs powers to manage subsidy projects (Basurto et al., 2018). Consequently, the implementation of block leaders’ positions, a voluntary elected position, became compromised as the inhabitants looked to chiefs as legitimate power holders. According to Afrobarometer (2017) and Logan (2008) chiefs were generally more popular public leaders than any elected officials, be they councillors, members of parliament or the president. Specifically, 81% of Malawians were reported to trust religious leaders, followed by chiefs (traditional leaders) at 67%, while councillors scored low at 39% and the president lowest at 36%. Furthermore, when asked about being free to criticise public leaders, Malawians stated they had more such freedom with chiefs (61%), councillors (53%), members of parliament (47%), and the president (27%) (Afrobarometer, 2017; Basurto et al., 2018). Given such high regard rendered to chiefs, their role could not be wished away or replaced casually with block leaders without political or other consequences. Categorising the inhabitants as ‘urban’ would lead to exclusion and in the case of chiefs, loss of power over subsidies and other benefits of power such as presiding over meetings, managing graveyards and settling disputes for which inhabitants make cash payments.

One consequence was maintenance of the status quo and increased informality as an outcome of various forms of resistance. To show their power chiefs denied access to graveyards for migrant inhabitants (and called them refugees or foreigners; *wakwiza*) and told them to get burial spaces from block leaders. Sometimes, chiefs deliberately sold land in defiance of planning prescriptions. When the national government supported the chiefs’ position in urban areas by paying them wages, and by giving them a public platform to speak at national events or political rallies at the expense of block leaders (sometimes even at expense of the mayor!) in the city, the MCC had less power to replace the chiefs. According to Eggen (2011, p.87), this was because

‘...chieftaincy, standing outside the bureaucracy, constitutes a key component of state power and everyday governance in Malawi, and it was difficult to imagine it being replaced by any part of the formal government in the foreseeable future....[state power embodied in the president was stronger than any city council power because...] chiefly hierarchy, which previously reached only to district level, now extends all the way to the president [who] can choose between two separate institutional hierarchies in the execution of state power.’

The recognition of the traditional chiefs by MLGRD showed a direct rejection of both block leaders and urban boundaries that had been extended to encompass all informal settlements. Secondly, despite not recognising the chiefs as the official policy documents showed, the MCC officially invited and recognised the chiefs' presence during meetings. To all intents and purposes, then, complicity legitimated the presence of chiefs in the city. However, such legitimation led to conflictive actions as the block leaders had to work in the same areas already governed by chiefs. Having two leaders over the same territory produced political conflicts that became visible through violence, or when both leaders allocated land parcels to different people, or when chiefs refused to provide burial spaces at the graveyards they controlled. Sometimes these conflicts created uncertainty among some of the leaders. For example, at least one block leader retained his position of chief so that when attending meetings organised by the MCC he was a block leader, and was a chief when attending meetings organised by MLGRD or higher-level traditional leaders.

The conflicting rationalities between the levels of the state actors touched on many aspects. In the first instance, they were about whether to adhere to the planning vision of urban order which was held by the MCC and the DPP and DoL, or to meet the basic needs of the inhabitants in line with sustainable developments goals (SDGs) (UN, 2015). In particular, while the Mzuzu City Council denied services like water and electricity to the inhabitants of Geisha, the responsible utility organisations (NRWB and ESCOM) felt duty bound to provide the services. While the profit motivations of these organisations cannot be dismissed, these conflicts among state organisations rendered the realisation of the visions of urban order unrealistic. By providing the services without planning sanction, these organisations could therefore be regarded as acting informally. Since 'informal' in the official discourse meant 'illegal,' the NRW and ESCOM had made themselves illegal entities! That non-planning state organisations were at the forefront in this breaking of state policies signified not only the extremes of the restrictive nature of urban planning, but how deep-seated the rationality conflicts were. These state organisations therefore produced and proliferated informality not only by providing services in the absence of any urban plans, but also by not respecting urban policy decisions and development control orders of the planning committee of which they were both bonafide members. Furthermore, the decentralised institutional arrangement that sought to replace chiefs with block leaders conflicted with the role of councillors. While under the existing guidelines the chairpersons of the neighbourhoods were designated as block leaders at ward level (instead of ward chairman), the councillors demanded to become chairmen of the committees. Thus, at ward level, there were two chairpersons. In the process, institutional everyday leadership conflicts emerged between officials elected on political party lines and supposedly neutral officials elected under the guidance of the MCC. In this case, the legitimacy claims rationalising the replacement of chiefs with block leaders at a lower level were being reversed at a higher level within the ward. These rationality conflicts also affected the judiciary. The main issue of concern lay in contradictory decisions by the courts even on similar cases. For example, the ruling by Justice Chikopa on the illegality of MCC decision-making in the absence of elected councillors has already been mentioned. In the matter between the chiefs and block leaders Justice Madise's ruling (Figure 5.7) ordering chiefs to operate outside MCC

boundaries can be seen as contradictory if read together with Justice Mzikamanda's order³⁶ for MCC to stop demanding city rates from 'Luwanga villagers.' Another case on land disputes in Luwanga led the Mzuzu magistrate to order that land disputes should be resolved by traditional chiefs. A third dimension of state-state rationality conflicts were related to differences between MCC officials and elected councillors. In Geisha, for example, the councillor was against the 'no-service' policy because access to basic services was a human right. In Salisburyline, the local councillor felt that land belonged to the inhabitants because they had reclaimed a wetland. As much as these ideas may have merit in their own right, 'vote banking' could not be ruled out. At best, these conflicts were adequate to entrench and proliferate informality in these areas.

Rationality conflicts were also observed among the inhabitants of the informal settlements themselves in three ways. The differences between the chiefs and block leaders, and also between chiefs that were recognised by higher level chiefs and those that were not, which is the first conflict, point to the client role of inhabitants themselves which has been described by Robins et al. (2008) as a way to benefit from power wielded in different contexts, in this instance, by chiefs or block leaders. For example, when dealing in land matters inhabitants sought the intervention of chiefs (depending on which category of chief was more accessible) against block leaders who were perceived to side with the MCC. For short term benefits, however, as happened during floods in Salisburyline in 2016, inhabitants rallied behind block leaders to benefit from the relief items provided by the national government and distributed through the MCC. The contradictions of direct and indirect rule carried over from the colonial era (Eggen, 2011) were practically evident. Robins et al. (2008, p.1076) state:

“Paternalistic relationships whether they are with state functionalities, NGOs, tribal leaders or local power brokers, allow citizen-subjects to make demands as clients of powerful patrons. Furthermore, should patrons fail to deliver, clients can exercise agency by shifting allegiance to another patron or by acting to harm or undermine the legitimacy of the patron.’

The internal engagements like this suggested that the ways in which informality was created and perpetuated were not limited to land but also to institutional arrangements and an array of livelihoods (Tambulasi, 2009). The conflicts among inhabitants were also both intra- and inter-settlement and linked to the payment of property taxes. In Luwanga the migrant inhabitants paid the property taxes while the indigenous inhabitants refused to pay the property taxes because they regarded themselves as 'rural' dwellers, a position that had been legally supported by the High Court. In Geisha, where ordinary inhabitants had expressed dissatisfaction with their block leaders for taking advantage of their positions to acquire larger land parcels that they later started to sell to new inhabitants, the rejection of these rates was a reaction to the state refusal to provide services. The expectation of the urban citizens was that property taxes finance social services such as water (Plimmer and McCluskey 2016). When the MCC imposed its 'no service' policy, Geisha inhabitants found it inappropriate to pay property rates and went

³⁶ Order made on 4th December, 2012; Case No. 568 of 2009 Bandawe Vs Mzuzu City Council and Kesale Auctioneers

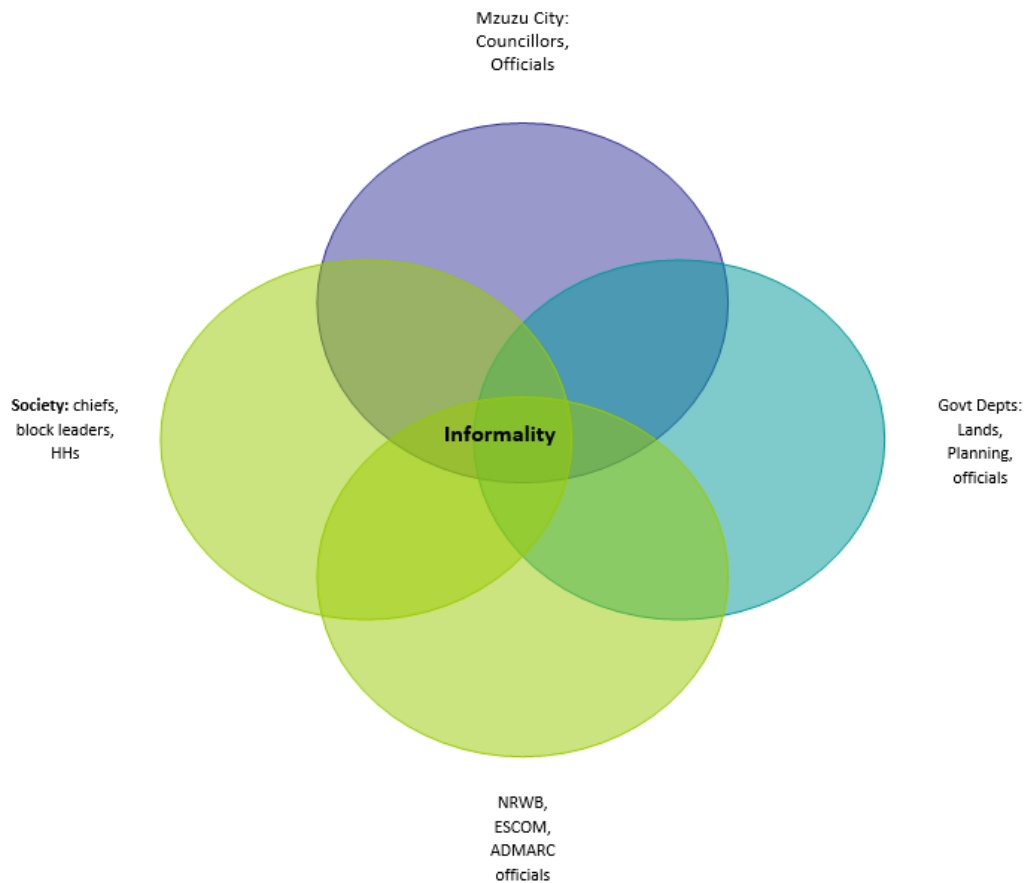
ahead to self-provide services for the community (such as roads, school) or as individual households (such as water from shallow wells and electricity from solar panels). In Salisburyline, the question was about failure to pay rather than rejection of the property taxes, the often-cited problem being the high rates charged amidst high levels of poverty. But ultimately, after protracted conflicts, the informal settlements were accepted by the MCC as legitimate housing areas for the purpose of collecting the much-needed revenue through property taxation. Thus, at face value there was collaboration or participation in the implementation of upgrading projects in Salisburyline, but from the hidden intentions of the MCC these informal settlements were sources of revenue collection. Ideas of participatory democracy were therefore limited by such hidden motives. According to Robbins et al. (2008), the promotion of active citizenship and governance should be located in the contextual everyday experiences of communities.

Lastly, rationality conflict among inhabitants emerged because of indigenous inhabitants' categorisation of migrant inhabitants as refugees or *wakwiza*. Naming was a tool that had been utilised by colonialists for land acquisition (Painter and Jeffrey, 2009). So, while the indigenous inhabitants themselves took strong exception to the label of 'squatter', used by the state authorities to illegalise their occupation and justify eviction, these indigenous inhabitants used *wakwiza* to describe migrant inhabitants with the intention of excluding this category of inhabitants from the compensation claims had the relocation materialised. The *wakwiza* name against migrant inhabitants, some of who had lived their entire lives in Mzuzu City, was one of the reasons the MCC hastily imposed block leaders to bring in place elected and neutral leadership at the settlement level. The purported support the block leaders got from the migrants created animosity among inhabitants because of split shifts in their allegiance. Contrary to communicative and collaboration planning (Healey, 1997), in these three informal settlements consensus could not apply as there was deep social conflict generated in part by heterogeneous cultural backgrounds and internal power struggles. When anything at the level of society was achieved, it was a result of 'quiet encroachment' (Bayat, 2010), which though widespread, was at individual or household level.

From Figure 6.1 it is also noted that though the state officials preached urban order, they were at their individual level deeply involved in the creation of disorderly urban growth. This practice may be called ethical conflict and adds to the many ways in which rationality conflicts reveal themselves in Mzuzu. Andrews et al. (2012) refer to the behaviour of frontline state workers that negatively impacts development interventions as self-interest. The ethical conflict or self-interest described here arose from the fact that despite a ban on utility services in Geisha for its alleged illegal status, a few powerful inhabitants had accessed water. In Luwinda, officials produced land use plans as if on behalf of the state but actually they sold the land privately and issued official documents to the applicants. Figure 5.4 in chapter 5 showed plots that had been created by officials from DoL and allocated to investors at Luwinda without knowledge of MCC. Practices similar to this have been referred to as informal planning, meaning 'unofficial planning processes by the state that happen outside regulatory procedures and not formally sanctioned' (Chen et al, 2016, p.337). I have referred to this practice as ethical conflict in the creation and proliferation of informality because the purported advocates of

urban order produced disorder which created precedents for the inhabitants. Writing on Ghana, Oteng-Ababio and Grant (2019, p.8) suggest that what they call ‘hypocrisy’ occurs because ‘planners believe they are acting in the interests of the poor’ and may therefore be accidentally producing ‘the opposite result.’ This study however found that planners did this deliberately. This finding supports Nnkya (2008, p.142) who also found the practice prevalent in Tanzania and called it ‘creations’, meaning that state officials created plots justified as infill plots for people displaced from land taken by the state but these plots were ‘allocated to developers other than those intended.’ In a situation where those entrusted with responsibility to plan practically sabotage planning’s aims, any reforms of urban policy and law are bound to fail. These actors wilfully impacted the urban order visioning of the state by proliferating and intensifying housing informality (Figure 5.4) for personal gains. In Figure 6.1 the ultimate interactions of different actors which is called the interface by Li (2007) generates the housing informality.

The conflicts highlighted above imply that housing informality arises not only because of rationality conflicts between the state and inhabitants or within these groups but also because of engagements of many actors at different levels both within the society and within the state. The rationalities also conflict in terms of contradictions and hypocrisies related to policy formulation and implementation and practices. As noted by Parnell and Robinson (2012, p.5), there are multiple drivers of urban change that need illumination for ‘nuanced understanding of the complex forces that structure contemporary cities.’ In other words, planning requires recognising and engaging with conflict, differences and claims of the many actors in the city looking at their historical backgrounds as well as their current complexity (De Satge and Watson, 2018). In Mzuzu the conflicting rationalities span the three informal settlements institutionally and practically. This indicates that, beyond conflicts between and within actors (De Satge and Watson, 2018), conflicting rationalities may be noted in more than one site in a specific city.



Source: Author, 2018

Figure 6.2: Schematic Representation of the Actors Interactions

Figure 6.2 shows that engagements that produce informality may be both conflictive and positive, but they are not just between the state and society; there are multiple contributory actors.

6.6 STATE-SOCIETY ENGAGEMENTS IN PLANNING

The main research question was about the nature of changing political engagements between the state and inhabitants of informal settlements in Mzuzu City. This section is a synthesis of the above sections which deal with the sub-questions. The results of the study outlined in Chapter 5 and the interpretation above show that engagements between the state (and its agencies) and the inhabitants of informal settlements took several forms that transcended different themes. This section thus shows that both the state and society produce, proliferate and entrench housing informality. In some ways, there is open collaboration and complicity (both unintended and intended), while in other ways there is total conflict as each side seeks to either overtly or covertly show their power over land in the three informal settlements. Through this engagement it is possible to see how informality is produced, entrenched and perpetuated. This finding is in line with Roy's (2005) theorisation of informality as a mode of urbanisation in which the state is as implicated as the marginalised urban poor. However, in Mzuzu it appears that the informality is widespread and involves an array of actors both within the state and inhabitants and across the settlements. The inhabitants engage in informality as an

everyday activity through which to make a living and secure shelter in the city, even as there exist intricate engagements between and among the different actors. For example, there can be collaboration between chiefs and councillors or between block leaders and councillors for various reasons. There can also be conflictive relationships between these groups or between ordinary inhabitants and their leaders who can be councillors, block leaders or chiefs within the same settlement. The state is implicated not just by failing to uphold the requisite plans, laws and regulations that it uses to sanction the inhabitants of informal settlements, but also through collaboration with the inhabitants or through complicity when supposedly formal transactions are undertaken against other existing state policies. For instance, this is seen when government projects are implemented in the informal settlements without going through planning requirement and procedures. In Salisburyline, the MCC and inhabitants had a joint committee to implement an upgrade project which pointed to legitimation of the informal settlement. In Geisha an informally constructed primary school opened in 2002 was managed by teachers paid by the government and overseen by a joint school management committee. In Luwanga plots and land use plans informally produced by traditional chiefs and clan leaders were used to produce land titles by the DoL. Likewise, in all three settlements documents signed by chiefs as proof of land or house sales were used as evidence at the DoL, MCC as well as in the courts. Through these practices, the chiefs became de facto agents of the state on urban land governance. The practices also highlight how contradictory policies and regulations can be and the extent to which they proliferate and shape housing informality. Beyond this, within the state, there also arose legal and policy conflicts. Legal conflicts were noted when court judges made contradictory orders over similar or the same cases.

Policy conflicts occurred when utility bodies disregarded the no-service policy for Geisha. Land ownership interests of the MCC and DoL also clashed. The Mzuzu City Council considered eviction of inhabitants to get hold of the land, but when the Lands Department requested the Physical Planning Department to produce land use plans to guide land allocation, Mzuzu City Council stopped controlling the informal house constructions and embarked on property recording to collect revenue, instead. In all three settlements chiefs were paid by the national government when they were not recognised as legitimate power holders by the MCC and the courts. This shows also institutional conflict with repercussions even for the rule of law thereby questioning further ideas of liberal democracy. One can argue that through these engagements, and as much as there are claimed attempts to democratise urban planning in Malawi (Kruse, 2005) through for example, the kind of collaborative planning processes highlighted by Healey (1994; 1997), there are also embedded hidden motivations within the state on the one hand and society on the other (Scott, 1990). This is exemplified in all three informal settlements. Lindell (2008) observes that in the Global South state-society engagements involve layered relations leading to observable multiple sites of interactions according to existing power relations. Oteng-Ababio and Grant (2019) refer to hypocrisy within the state as a cause for conflicts among planning goals. Robins et al. (2008) argue that clientelism and patronage are part of the political culture of the Global South to which citizens respond by developing strategies to their benefit because:

‘...the significance of claim making as a client is particularly pervasive in developing

countries, where strategies of survival and well-being depend on the ability to establish multiple strategic relationships and become legible to a number of powerful actors, be they state functionaries, NGOs, religious and cult leaders and organisations, kinship groups, big men, and traditional leaders...While [these] produce dependency and disempowerment... they can also create the conditions for access to vital resources' (Robins et al., 2008, p.1075).

Seen in this light, collaborative approaches espoused by Habermas that have informed most of Global North planning ideas (Healey, 1997) and have been institutionalised by the local government laws in Malawi (and Mzuzu), are largely unworkable in practice. The engagements that produce settlement informality manifest themselves in two ways. Firstly, this occurs when state actors seek to utilise state power to advantage players within or connected to the state (McAuslan, 2003). Secondly, this happens when actors within the society find ways to resist, to survive or to benefit. Both society and the state are implicated in the production of informality through direct actions and through complex interactions between and among the actors on either side (Figures 6.1 and 6.2). These engagements are informed and influenced by specific land tenure in each site as well as the actors' perceptions about informality and by their exercise of different forms of power. In this study inhabitants were seen to be more aggressive and forceful in their land rights claims on customary than on private land, and more moderate on state land that they reclaimed from wetland.

6.7 CONCLUSION

Through an interpretation of the findings presented in Chapter 5 and linking these to the theoretical framework in Chapter 2 and the planning context in Chapter 4, it can be said that housing informality in Mzuzu is produced and entrenched by the inhabitants of these areas as well as by the state. Arguments that informal settlements are a product of deficient formal land management policies or a result of customary land tenure (Mwathunga, 2012; Wu et al., 2013; Majawa, 2009) are common and tend to propose the elimination of informal settlements as the solution to achieve orderly urban development. The results of the study in Mzuzu show that informality actually occurs despite the existence of futuristic, well-crafted policies and laws such as the Physical Planning Act (2016), the Local Government Act (1998), Land Policy (2002) and Land Act (2016). Informality exists, grows and proliferates in part because of the state as it seeks 'to create a good city' (Roy, 2011, p.10) or 'cityness' (Lindell and Ihailainen, 2014, p.1). Watson (2014) refers to such ambitions as 'urban fantasies' which also 'leads to displacement of informal inhabitants and to state-led land grabs' (Roy, 2011, p.10). The conflicting ideas within the state arena create and facilitate the growth of informal settlements as state officials and institutions preach different gospels and act differently. Informality also occurs because the inhabitants of informal settlements resist the actions of the state in various ways in order to claim rights to land and to the city. For example, inhabitants build their homes informally by exploiting gaps in the law that allow chiefs to allocate customary land and to manage disputes over land. And they do so through covert as well as overt means, either with the support of politicians' clientelist manoeuvres that look at these settlements as 'vote banks', or through everyday resistance strategies such as 'quiet encroachment' as in Geisha or 'hidden

transcripts' as in Luwinda. In line with Watson (2003) and De Satge and Watson's (2018) theorisation, this situation also reveals deep rationality conflicts between, and among, the many actors. In Mzuzu City this leads not just to proliferation, but also intensification informality regardless of the land tenure status.

CHAPTER SEVEN: CONTRIBUTION TO KNOWLEDGE AND THEORETICAL PROPOSITIONS

7.1 INTRODUCTION

Chapter 6 drew on planning theories outlined in chapter 2 to discuss the production, proliferation and intensification of housing informality in Mzuzu. The preceding chapters argued that informality in Mzuzu results from both the open and subtle political engagements between the state and society and between various actors within them. These findings confirm Global South theorisation about conflicting rationalities in the urbanisation process. In Mzuzu these rationality conflicts emerge from the duality of land tenure that was shaped by colonialism. Drawing on the case study approach (chapter 3) and empirically generated data, the review of theories as well as the national and city policy contexts, and the interpretation of the case study results (chapters 2, 4, 5 and 6), this chapter makes internally generalisable propositions or what Yin (2014, p.41) calls analytic generalisations. The propositions are drawn from theorisation of the various state interventions that are aimed at intervening in housing informality and the various ways in which the occupants of these settlements respond. These propositions frame the conceptual insights emerging from the case studies and thus indicate the contribution of this thesis to a deeper understanding of planning theories and their relevance to housing informality in the Global South. Thus, the role of the case study approach in ‘the force of example’ as a basis for generalisation (Flyvbjerg, 2011, p.305) is shown to apply in Mzuzu. The rest of the chapter includes section 7.2 which responds to sub-research questions and section 7.3 which outlines the theoretical propositions to address the main research question.

7.2 MZUZU CASE STUDY : RESPONSES TO RESEARCH QUESTIONS

The study involved three case study sites: Luwanga, Salisburyline and Geisha informal settlements, each with a distinct land tenure system and history, and all having been originally outside the urban boundary. To contribute to knowledge in Global South urban planning, the responses to the questions reflect the theory discussed in Chapter 2 and findings reported in chapter 5 are summarised to make theoretical propositions in sections 7.3.

7.2.1 Territoriality, Land Right and Right to City

The study established that informality was a form of territoriality through which the inhabitants negotiated rights to land and to the city in various ways. However, it was established that the state also adopted informal means to take control of the land occupied by informal inhabitants. The state territorial strategies took three forms. Firstly, perhaps the most important strategy was to extend the urban boundary to incorporate all the informal settlements. The governance of these settlements was thus brought under the Mzuzu City Council (MCC). Secondly, planning control was extended to these areas. For example, land use plans were prepared for parts of the settlements to incorporate existing properties into plots. Thirdly, the state recorded all properties in the city including all informal settlements and started to charge city rates.

The inhabitants used informality to claim land and to challenge not just the state but other claimants. The inhabitants' strategies were many. Firstly, they used hidden transcripts which enabled, for example, the Luwinda inhabitants to enter into an agreement with the state citing cultural identity and clan cohesion without intending to abide by the same. This was because they were aware the state lacked capacity to implement an expensive exercise like compensating an entire settled neighbourhood. The second territorial strategy of the inhabitants was collaboration with the state to avoid eviction. This strategy was mainly used in Salisburyline. The inhabitants claimed ownership of state land on account of having reclaimed a wetland, yet they had evidence that the MCC legally owned the land. Thirdly, historical claims to customary land ownership were used to ensure the inhabitants were not threatened with eviction. A chief would thus appoint several subordinate chiefs within his area to be responsible for land and other cultural matters and, in the case of Geisha, a land allocation committee was established to imitate the state logic of promoting orderly urban growth. The creation of subordinate chiefs was a common practice as it created a bigger voice against the state. This shows that power in these settlements is not the privilege of the state as theorised by Foucault (Lindell, 2008). Bayat's (2010) quiet encroachment ideas were also applicable citywide. For example, all three settlements were a haven of businesses both at central points operating as markets and at the family homes fronting the main or earth roads, signifying the people's resolve to earn a living and accumulate assets within the city. Indigenous clans and chiefs denied migrants from outside Mzuzu access to graveyards or allocated a separate area within the graveyard (as if quarantined) in order to maintain the claim of cultural cohesion and ensure evidence of claims to land ownership, because having a mixture of people from all over the world buried in these graveyards would lead to multiple claims.

7.2.2 Manifestation of State-Society Engagements

The study showed that the engagement between the state and society within the informal settlements in Mzuzu reflected the power relations in which the state sought to impose its visions of orderly while the inhabitants showed resistance or collaboration to ensure their stay in the city:

7.2.2.1 Sphere of the State

The state exercised its power through policies, laws, regulations and practices. Firstly, the state issued frequent threats of evictions as a way of forcing inhabitants to submit to demands related to urban order and planning. These threats, through letters, leaflets, public address systems mounted on pick-up trucks and impromptu announcements at public events and funerals, were reported to have been used in all the three informal settlements. Secondly, the state used its power of eminent domain to indiscriminately allocate land that was perceived to be vacant. This practice was common in Luwinda because there still existed adequate land; it was not observed in Salisburyline because there were no available vacant spaces except in waterlogged areas. The practice could not apply in Geisha because ADMARC legally owned the land. Thirdly, in order to curtail the power of chiefs over land, the state imposed a new governance space called block leaders to manage newly demarcated neighbourhoods which were replicas of structures of village and group village headmen in rural settings. This new space had not been envisaged by the Local Government Act (1996; 2009) which had only recognised chiefs

and their governance spaces (village and group village areas). Fourthly, the state implemented a property demolition campaign to punish the informal occupants of the land, even those upon annexed land. For example, even before approval, the extension of city boundaries in 2010 was accompanied by threats of eviction,³⁷ arbitrary takeover of gardens, and land allocation to house developers from outside the informal settlements. The use of eviction threats as a strategy was typically applied in Geisha despite the land being privately owned by ADMARC. When these practices were considered inadequate, additional measures were undertaken. The most serious was that for the first time in the history of Mzuzu, the provision of water and electricity was denied to the inhabitants of Geisha. These practices of the state relate to Global South urban trends where transplanting of Global North ideas was a common feature (Watson, 2014; 2006). Likewise, clientelism and patronage were also practiced by both national and local politicians. For example, vote banking encouraged the inhabitants to seek strategies of survival which depended on the ability to establish multiple strategic relationships and become legible to a number of powerful actors (Robins, et al., 2008).

7.2.2.2 Society Sphere

The study established the use of many forms of resistance to state laws, policies, regulations and practices. These were both overt and covert. Firstly, despite threats of eviction, the inhabitants continued to build more and better houses and, in many cases, to improve existing ones according to their income levels or in response to state practices. For instance, a lull in threats created opportunity to build better or bigger. This finding contradicts Bhan's (2019) informality as 'repair' through which inhabitants' construction practices emphasise immediate function rather than material improvement characterised by the use and re-use of any easily accessible materials and actors in the same setting over time. In Mzuzu however, the inhabitants went beyond repairing their homes to building much bigger and better houses over time. This practice was a strategy to express and strengthen their claim to land and residence in the city. But in terms of the vocabulary proposed by Bhan (2019), Mzuzu reveals what one might call strategic repair, since specifically, with precedents having been set in some informal settlements through political acceptance and in-situ upgrading, the forward-looking intent of the construction process is evident from the permanency and quality of houses.

Secondly, where services were denied, the inhabitants resorted to self-provisioning of water through shallow wells and power using solar and battery-operated lamps. The inhabitants also appropriated the role of the state by taxing each other, demarcating land for a primary school and recruiting teachers, or through afforestation and capacity building projects.

Thirdly, though not applicable in other settlements, LUDEFT was established in Luwinga to speak on behalf of indigenous inhabitants' rights to land. This organisation was responsible for preventing migrant inhabitants from accessing graveyards as a way to show their power over the land. LUDEFT was also engaged in long and protracted demands for the indigenous inhabitants to be moved out of Mzuzu City to ensure these inhabitants lived as a village unit insulated from the influence of migrants from elsewhere. LUDEFT also wrote several protest letters to government and used the media to disseminate its story of how the state's failure to

³⁷ Malawi News, 6 February 2010

implement the *aide memoire* aided the growth of informality in Mzuzu. Through LUDEFT Luwinga residents were successful in preventing the state from collecting property taxes until the right to land had been resolved.³⁸ In extreme cases, violence against state employees demarcating land for migrant inhabitants was also reported and confirmed in Luwinga. While the above actions were happening at community level, individual households in all three informal settlements also took specific measures. For example, in Salisburyline, it was established that households that were unhappy with the ways in which the collaboration (see below) was formulated or implemented, rejected (or indeed reversed) decisions to offer land for public facilities during the upgrade projects. Indeed, generally the inhabitants showed more ‘interest in being included into existing frameworks and having a voice within the system rather than in engaging in insurgency’ (Refstie and Brun, 2016, p.3). Therefore, contrary to Holston’s (2007; 2008; 2009) insurgency or Mirafab’s (2004; 2018) invented spaces, settlement-wide engagement of the state in these settlements was disjointed because of ethnicity and split allegiance between chiefs and block leaders and instead individual ‘quiet encroachment’ was common (Bayat, 2010). As a result of widespread clientelism and patronage, allegiance to local politicians and chiefs was also a key feature (Robins et al., 2008).

7.2.2.3 Collaboration, Complicity and Contradictions

The study established that despite antagonistic standpoints between the state and society, there were elements of collaboration and complicity with different motives on either side. On the state side, collaboration occurred when the state sanctioned participation spaces in the form of development committees through which specific state funded projects could be implemented. Mirafab (2004; 2018) calls these ‘invited’ spaces. Examples of collaboration included road upgrading which required either chiefs or block leaders to organise and pay labourers involved in the cash-for-work or farm-subsidy-for-work projects. In certain cases, the collaboration took the form of joint projects that were externally driven. For example, in Salisburyline, collaboration was around an upgrade project implemented with funding from UN-Habitat’s Participatory Slum Upgrading Programme (PSUP) in which the inhabitants were organised through the Shack Dwellers International (SDI) local affiliate. Collaboration was helpful in this case to ensure implementation of state policies and interventions but also in confirming the inhabitants’ residence and life in the city. As each side had its own power base to control in the joint committee, the use of these spaces confirmed dispersed power locations and that the state sometimes uses informal ways to achieve its objectives (Lindell, 2008).

7.2.3 Shifting Official Discourses on Informal Settlements

The study established that in all three informal settlements the inhabitants were officially categorised as illegal and squatters. The categorisation by the state was defined in terms of lack of adherence to any planning or zoning and also the lack of attempts by the inhabitants to seek permission either to acquire the land or build houses which are legal requirements in urban settlements where there is an existing planning authority. The study established that such

³⁸ Civil cause No. 2012 of 2005- Mzuzu City Vs A.N. Phiri refers. Based on judgement delivered in Mzuzu Principal Registry on 19th October, 2005, Luwinga inhabitants would be exempted from City rates until Malawi Government and Mzuzu City relocated them away from land controlled by Mzuzu City.

categorisation was contested by the inhabitants because of the manner in which the land was actually occupied. Specifically, the urban boundary gradually incorporated these settlements only after Mzuzu was declared as a city in 1985. Though some occupants had acquired land formally directly from the state, all inhabitants were referred to as illegal or squatters. The state's practice of issuing titles to parcels of land within these informal settlements confirmed arguments of informality from above (Roy, 2009). Calling the settlements illegal or "squatter" on account of the absence of planning also ran counter to the provisions of the Physical Planning Act (2016) which required the state to produce land use plans that the chiefs could use as a basis to allocate land and hence realise orderly urban development. Such plans were not produced either by MCC or PPD, the two institutions with a mandate to prepare the plans. The failure or neglect by the state to produce such plans made the state the major culprit in the production of settlement informality. Further, the DoL and MCC had acquired land from the indigenous inhabitants without following legal procedures outlined in the National Land Policy (GoM, 2002), the very practice that defined informality as illegality. Therefore, informality went beyond the official discourse of illegality to encompass a whole settlement where even the state had acquired land or transacted in land. However, the study found a progressive shift in the perception by the state of the informal settlements. Upgrading projects had been implemented in different forms in all three settlements through provision of communal water points, expansion of earth roads from mere footpaths to gravel standards, production of urban plans for parts of these settlements followed by titling with state funding or as part of externally funded projects since the 1980s. Such policy shifts opened the opportunity for property taxation which had hitherto been hindered by lack of recognition of these settlements. Therefore, rather than aiming to achieve orderly urban growth, the shift in policy was both in line with global trends on improving slum conditions (UN, 2015), and motivated by economic reasons to collect property taxes.

7.2.4 Conflict of Rationalities

The study showed that the concept of conflicting rationalities (Watson, 2003) was applicable, widespread and intense in all three sites involving different actors and layers between and within both the state and society. This result supports De Satge and Watson (2018) who show that a conflict of rationalities was not a simple state-society binary but one that also had foregrounding in historical context, social divisions and hostile relationships between migrants and those born in the settlements. Within the state itself, multiple voices from politicians or from officials were pitted against each other. These rationality conflicts created social and institutional complexities (Auerbach et al. 2018). The conflict of rationalities between the state and society in Mzuzu centred around the naming of these settlements as illegal and their inhabitants as squatters, which was rejected by the inhabitants who instead accused the state of squatting on their customary land. In Luwanga, the inhabitants saw their settlement as a village, not a squatter settlement, because they recognised pre-1985 boundaries that kept their settlement outside the urban boundary, and rejected any extension of the boundaries until such a time alternative land would be provided to them outside the city. In fact, the local everyday language for settlements such as these was 'village.' This was different from location or township which referred to planned settlements within the urban boundary, even if of comparable housing quality. The concepts entailed a different way of life from what the state

envisaged. Looking back, it was apparent that the inhabitants found it strategically useful to raise concepts from the colonial era when settlements such as these were never meant to be part of 'the urban' (McAuslan, 2003). Thus, that while the extension of the urban boundary was physical as evident from the new maps and sign posts installed by the state, the inhabitants opportunistically decided to foreground what was in their best interest, and insisted on pre-1985 boundaries in all their engagements with the state. Another conflict of rationality was about the roles of chiefs and block leaders. To block leaders, the state drew on liberal democratic ideas of the Global North as the basis for the establishment of participation spaces. Specifically, these participation spaces had been institutionalised by the Decentralisation Policy and Local Government Act (GoM, 1996). However, animosity existed between the indigenous and migrant inhabitants and between chiefs and block leaders. The deep-seated demands by indigenous inhabitants for land rights (and to have a village) conflicted with the claimed 'right to the city' of recent migrants. Clearly, the indigenous and earliest settlers in these settlements preferred chiefs to block leaders; while the migrants and more recent settlers hesitated to subscribe to the chiefs who governed in terms of cultures different from those they had left behind. For Malawi the policy dilemma related to ethnicity and tribal tensions is well recorded (Vail and White, 1989; Zeze, 2015). Such a conflict of rationalities justified the speedy imposition of block leaders, because the state had wanted to have neutral leadership for an urban area that was progressively becoming more cosmopolitan than the indigenous inhabitants could accept. But liberal democratic concepts adopted from the Global North, even if imposed, were unlikely to realise the intended objectives.

The conflict of rationalities among various state agencies involved institutional and policy clashes. Firstly, it should be noted that the MCC's vision to have planned developments across the whole urban region was rendered ineffective because, though the DoL also championed planned urban development, it informally allocated land mainly for the purpose of earning revenue for the national government and without reference to the growth direction of the city. Secondly, as councillors in all three informal settlements sought the votes of inhabitants, they voiced the view that land in the informal settlements ought to be given to the inhabitants either because such land had originally belonged to them or because they had reclaimed wetlands. In this way, councillors would be seen to speak on behalf of the inhabitants. When attending official meetings, the councillors made decisions countering their own positions when they were in the settlements. For their part NRW and ESCOM, who were members of the planning committee for Mzuzu, provided services against the policy of service denial, thereby encouraging inhabitants to build more. By this action NRW and ESCOM made themselves illegal developers. A specific finding within the state sphere is the practice I have referred to as ethical conflict. This involved the state employees creating infill plots, producing site plans on behalf of individual households within informal settlements and in extreme cases producing plot layout plans. The plots so created were sold to developers, despite the planners proclaiming the vision of urban order and despite producing the regulations that punished inhabitants for informality. Thus, in many instances what might appear as informal housing and could be blamed on the inhabitants, was in fact facilitated by state employees seeking to earn extra income for themselves.

Section 7.2 has shown that housing informality in Mzuzu was widespread and was facilitated by state policies, practices and regulations and state employees' ethical conflict as well as by inhabitants seeking a life in the urban setting, but also striving to claim and protect their land rights. Based on these interpretations of the case study findings, section 7.3 makes some theoretical propositions as contributions to the body of knowledge on Global South urban planning theory.

7.3 THEORETICAL PROPOSITIONS

This section uses the empirical findings presented in chapter 5, interpreted in chapter 6 and summarised in section 7.2 to suggest a number of theoretical propositions and speak to the theories discussed in chapter 2. The section also responds to the main research question which was: What has been the nature of changing political engagements between inhabitants of informal settlements and the planning and governance authorities of Mzuzu City? This section therefore follows the case study approach in showing how case study research can be used to generate theoretical propositions and contribute to conceptual development, but cannot be used to generalise to other case studies.

PROPOSITION 1: The inhabitants of informal settlements mimic and appropriate the role and the territorial tactics and strategies of the state to realise their own long-term visions of their settlements, often ahead of the state interventions

The inhabitants used informality to claim land and to challenge not just the state but other land claimants. The inhabitants' strategies were many. Firstly, they used hidden transcripts which enabled, for example, the Luwinga inhabitants to enter into an agreement with the state citing cultural identity and clan cohesion without intending to abide by the same, as they were aware the state lacked capacity to implement an expensive exercise like compensating an entire settlement. As the state failed to live up to the agreement, the inhabitants sold portions of the land to create a constituency too large, diverse and costly to evict. In certain cases, to avoid state authorities creating infill plots for allocation to people whose origin was not Luwinga, the inhabitants built several small huts on the land claiming they needed new homes for a growing community. To cement their position, the Luwinga community established a Luwinga Development Foundation Trust (LUDEF) to fight for the land rights of indigenous settlers and to demand resettlement as a single village. Within Salisburyline inhabitants sold their houses or parts of their plots mainly to people who had come from other countries into Malawi as returnees or refugees. The new buyers used agreements issued by chiefs as evidence to register their land at MCC and DoL. The issuance of titles to non-Malawians by state officials after such sales legitimised and gave the assurance of land ownership rights possessed by the informal sellers. Historical claims to customary land ownership were used to ensure the inhabitants were not threatened with eviction. This was a strategy that was enhanced by chiefs appointing several subordinate chiefs within their areas to be responsible for land and other cultural matters. In Geisha a land allocation committee was established to imitate or appropriate state functions. The creation of subordinate chiefs was a common practice as it created a bigger voice against the state. Other forms of territoriality included widespread businesses both at central points operating as markets and at family homes fronting the roads and footpaths,

signifying the inhabitants' resolve to earn a living and accumulate assets within the city. Where services were denied, the inhabitants resorted to self-provisioning of water through shallow wells and power using solar and battery-operated lamps.

Thus, when the inhabitants establish land allocation committees, build schools and toilets, when they open woodlots for environmental protection and future fuelwood needs and when they collect money from households for public services, they mimic the state for the betterment of their community. And in doing so the inhabitants follow the lead of the chiefs as long as it is for their benefit and they display their long-term visions of their settlements.

PROPOSITION 2: The inhabitants of informal settlements utilise a variety of strategies to resist state policies and planning regulations in order to retain their rights to land and right to the city

The inhabitants of informal settlements, faced with frequent threats of evictions and incremental land loss to the state, devised a variety of strategies to retain land rights and life in the city. They bought favours from politicians to demand access to services in their settlements, they resorted to the courts, protests in form of letters and complains at meetings or in extreme cases threats of and actual violence against state employees. Through quiet encroachment (Bayat, 2010) they conducted their daily businesses or resorted to self-provisioning and self-taxation to raise funds for their own development. This sometimes led to policy changes in the state sphere, for example, through official and political recognition of the informal settlements that needed improvement via in-situ upgrading. Other tactics used were hidden transcripts (Scott, 1990) through which inhabitants expressed views and intentions different from what they really were ready to do. For example, they insisted on being allowed to shift out of the city, or demanded planned development knowing fully well the state lacked the capacity to implement it. This meant their stay within the city would be ensured without them being considered unruly citizens (Kamete, 2017).

PROPOSITION 3: In informal settlements collaboration of the kind proposed by theorists of collaborative and communicative planning was used by inhabitants to avoid sanctions and by the state as a tactic in the exercise of power rather than to achieve the public purpose objectives of planning

The study established that despite antagonistic standpoints between the state and society, there were elements of collaborative and complicit actions with different motives on either side. On the state side, collaboration occurred when the state sanctioned participation spaces or invited spaces (Miraftab 2004, 2010) in the form of development committees through which specific state funded projects could be implemented. Examples of such collaboration included road upgrading which required either chiefs or block leaders to organise and pay labourers involved in the cash-for-work or farm-subsidy-for-work projects. In certain cases, the collaboration took the form of joint projects that were externally driven. For example, in Salisburyline, collaboration was around an urban upgrade project implemented with funding from UN-Habitat's PSUP and involved a local SDI affiliate, chiefs, and officials from MCC. Collaboration was helpful in this case to ensure implementation of state visions and 'the will

to improve' (Li, 2007) by providing basic services. Collaboration also confirmed the inhabitants' residence and life in the city. The inhabitants of these settlements agreed to participate in state-sponsored interventions without subscribing to the objectives, yet being seen as law-abiding. However, this collaborative engagement was largely aimed at increasing the number of taxable properties in these areas, while the inhabitants saw it as a way to avoid eviction. But the inhabitants strategically adopted tactics that appeared to support the state vision of urban order, urban beauty, and high-rise building fronting the main roads, at least at the level of rhetoric. In Luwinga, for example, the inhabitants adopted the tactic of appearing to insist on moving out of the city to allow for its orderly development, while in Salisburyline the inhabitants wanted to see improved roads and in Geisha the inhabitants wanted the settlement to be planned with their houses shown clearly on plots. When the state produced land use plans with their houses incorporated, there was overwhelming support, because such plans legitimised their stay in the city. With their stay confirmed the inhabitants and new migrants started building bigger and better houses, often in complete disregard of the same plans they had supported. This situation confirmed the hidden objectives and lack of trust among actors in participation spaces built on imported liberal democracy ideologies, collaborative and communicative planning (Flyvbjerg, 2009; Scott, 1990; Healey, 1997). When anything at the level of society happened, it was a result of 'quiet encroachment' (Bayat, 2010), which though widespread was at individual or household level.

PROPOSITION 4: The inhabitants of the informal settlements are well versed in the provisions of the policies, regulations and laws as they affect informal settlements and resettlement

The study established that the state used laws, policies, regulations and practices to exercise its power. The land policies and laws in Malawi provide for compensation for any resettlement in case the state needed to extend city boundaries or to acquire land for public interest projects on land occupied informally (GoM, 2002). Therefore, inhabitants of informal settlements built more and better houses and, in many cases, improved existing ones, they planted fruit trees or trees for timber and operated seasonal gardens on marshlands, and did so well aware that if the state wanted to evict them, they would have to be compensated for their structures. In response to the implementation of the Local Government laws that required inhabitants to pay city rates or risk property forfeiture, inhabitants used the same law requirements to threaten court cases. This is a situation that Earle (2012, p.1) has referred to as 'transgressive citizenship.' During 2005-2014 when there were no elected councillors and substitute committees were selected, apart from the general fear that this would impact governance (Tambulasi & Chasukwa, 2014), inhabitants threatened to use the absence of the legal structure to sue the MCC for acting illegally. Such threats relied on the 2013 ruling by Justice Chikopa by which the council could not legally operate in the absence of elected councillors. This practice showed that the inhabitants had committed themselves to city life and needed to protect the land they had occupied. However, such awareness did not translate into overt or public insurgency as seen in Brazil, for example (Holston, 2008).

Proposition 5: Complicit and contradictory policies, laws and regulations are as contributory to housing informality as are the activities of inhabitants

Throughout this study, several policies, laws and regulations were found to be either complicit or contradictory in their implementation, a situation that significantly aided in the production, intensification and proliferation of housing informality. The Mzuzu City Council (MCC) did not recognise chiefs within its boundaries, and blamed them for contributing to informal housing when they allocated land without following any existing urban plans. As such the MCC preferred working with block leaders, who also got recognition when the high court endorsed their legitimacy and ordered chiefs to operate only from outside MCC boundaries. The MLGRD however, paid the chiefs monthly salaries and issued them with identification cards as bonafide community leaders within the city boundary. Such actions by MLGRD showed a direct rejection of both block leaders and urban boundaries that had been extended to encompass all informal settlements. Also, despite not recognising the chiefs, as the official policy documents showed, the MCC itself officially invited and recognised the chiefs' presence during meetings and political rallies organised by national leaders, such as members of parliament or the state president. The DoL and MCC used the land demarcation boundaries created by chiefs as a basis to issue official land titles to investors and inhabitants. To all intents and purposes, complicity legitimated the presence of chiefs in the city. But, having two leaders over the same territory produced confusions that became visible through violence or when both leaders allocated land parcels to different people or when chiefs refused to provide burial spaces at the graveyards. These confusions also created uncertainty among some of the leaders. One block leader from Salisburyline retained his position of chief so that when attending MCC meetings, he was a block leader and was a chief when attending meetings organised by MLGRD or higher-level chiefs. In Geisha, while the inhabitants themselves were being threatened with evictions, their informal primary school was being supplied with government teachers, learning materials and funding to build ore classrooms. By implicitly approving the school, the government was also approving the settlement. Such state practices that tacitly recognised and approved illegal activities were prevalent in all three informal settlements and showed how the state was complicit in the production of informality.

PROPOSITION 6: Informality is intense and widespread in Mzuzu and occurs on public, private and customary land to such an extent that informality can be considered the normal activity of both the state and society

The state referred to informal settlements as illegal or squatters because of lack of adherence to any planning or zoning and also the inhabitants' failure to seek permission either to acquire the land or build houses which are legal requirements in urban settlements where there is an existing planning authority. Such categorisation was contested by the inhabitants because of the manner in which the land was actually occupied. The urban boundary gradually incorporated these settlements only after Mzuzu was declared a city. Though some of occupants had acquired land formally directly from the state, all inhabitants were referred to as illegal or squatters. Calling the settlements illegal or squatter zones on account of the absence of planning ran counter to the Physical Planning Act (2016) which required the state to produce land use plans that the chiefs could use as a basis to allocate land and hence realise orderly urban development. However, such plans were not produced either by Mzuzu City Council or the Department of Physical Planning, the two institutions with a mandate to prepare such plans.

The failure or neglect to produce such plans made the state the major culprit in the production of settlement informality. Further, the government departments and MCC itself acquired land from the original inhabitants without following legal procedures outlined in the national land policy (GoM, 2002), the very practice that defined informality as illegality. Therefore, informality went beyond the official discourse of illegality to encompass a whole settlement where even the state had acquired land or transacted in land. The state appeared to be more interested in getting hold of land whenever it was vacant for revenue generation in form of land rents and property taxes than the public interest purpose of planning to improve the living environment of the people. Specifically, where land was marginal, laws and regulations about urban order were loosely interpreted, while these were applied very strictly on land considered prime, regardless of ownership. The state would not regulate its own land in Salisburyline but spent resources to regulate private land as long as the potential for property taxation was higher on private land than on state land. This practice contradicted the rationale of realising orderly growth of the city. As noted earlier, there was a progressive shift in the perception by the state of the informal settlements, leading to upgrading projects in different forms in all three settlements: communal water points, earth road upgrading and new layout plans were produced for parts of these settlements as a basis for land titling. However, the policy shifts reflected the desire to increase revenue generation for the state.

PROPOSITION 7: Conflicting rationalities in the informal settlements of Mzuzu reflect not just a state–society binary, but are also layered in the city governance structure and occur among various actors within the state. They reveal the fragmented nature of policy formulation, implementation and services delivery; within and among inhabitants conflicting rationalities reflect ethnicity and power relations

This study confirmed the finding of Watson (2003) of rationality conflicts between the state and society and De Satge and Watson (2018) of deeper differences involving multiple actors. These rationality conflicts created social and institutional complexities (Auerbach et al. 2018). The conflict of rationalities between the state and society was firstly centred on the naming of the informal settlements. Specifically, the state referred to these settlements as illegal and to their inhabitants as squatters, which was rejected by the inhabitants. The rejection of these terms was more pronounced in Luwinda, less pronounced in Salisburyline, while in Geisha the rejection was influenced by a local councillor. In Luwinda, the inhabitants saw their settlement as a village, and not a squatter settlement, because they recognised original boundaries that kept their settlement outside the urban boundary, and rejected any extension of the boundaries until such time as alternative land would be provided to them outside the city. The inhabitants of Luwinda, on the contrary, perceived the state as squatting on their customary or village land. This position held by the inhabitants had been cemented by a 2012 court ruling that ordered the Mzuzu City Council never to demand property taxes until all matters of land tenure had been resolved. In fact, the local everyday language for such settlements was ‘village’. This was differentiated from ‘location’ or ‘township’ which referred to planned settlements within the urban boundary even if of comparable housing quality. The concepts entailed a different way of life from what the state envisaged. The study also established that the society itself was heterogeneous. There were first of all demands by indigenous inhabitants for land rights (and

right to a village) that conflicted with the claimed ‘right to the city’ of recent migrants, leading to animosity between the two groups. The antagonism between them created opposing camps that derailed community projects and negatively impacted resistance to state policies of eviction, land takeovers and services denial. For instance, the migrants from outside Mzuzu were denied access to graveyards or were allocated a separate area within the graveyard (as if quarantined) in order to maintain the claim of cultural cohesion, because culturally ‘owning’ a graveyard was the most significant evidence of claims to land ownership. Thus, having a mixture of people from all over the world buried in these graveyards would dilute the local culture or lead to multiple claims. Secondly, the inhabitants were divided about the roles of chiefs and block leaders. In imposing block leaders, the state had drawn on liberal democratic ideas of the Global North as the basis for the establishment of participation spaces. However, the indigenous and the earliest settlers in these settlements preferred chiefs to block leaders, while the migrants and more recent settlers hesitated to subscribe to the chiefs who governed using cultures different from those they had left behind. This suggests that liberal democratic concepts and collaborative and communicative planning approaches adopted from the Global North, even if imposed, were unlikely to realise the intended objectives.

PROPOSITION 8: The private interests of urban planners and land managers override the public interest role of urban planning propagated by the state and are major contributors to housing informality

A conflict within the state was revealed when state employees created infill plots, produced site plans on behalf of individual households within informal settlements and in extreme cases produced entire plot demarcation layout plans despite the planners proclaiming the vision of urban order and despite producing the policies that punished inhabitants for informality. In many instances what appeared as informal housing and could be blamed on the inhabitants, was facilitated by state employees’ ethical conflict as they sought to earn extra income for themselves. Specifically, while claiming to envision orderly urban growth as one of the duties of their employment, state officials used their land management positions and the planning profession’s power to benefit themselves by, among other strategies, identifying public land or taking over apparent vacant land in the informal settlements for private selling yet using official documentation to allocate the land to applicants. In support of Fylybjerg’s (1998) it was found in Mzuzu’s informal settlements that such private interests of state planners and land managers overrode the public interest purpose of urban planning and thus a major contributory factor to housing informality.

7.4 CONCLUSION

The aim of this chapter was to respond to the research questions and to develop theoretical propositions which contribute to theories and concepts on urban informality and planning. The key finding of the study is that housing informality in Mzuzu City is widespread, and both the state and society are complicit in its production, proliferation and intensification in various ways that are largely influenced by the dual land tenure system and foreign-oriented urban planning ideas. The chapter also showed that the theory of rationality conflicts was applicable but rather than as a state-society binary, there were layered conflicts within the state on one

hand and within the society on the other, all of them having their own specific contexts, as well as across state-society divides. Several propositions have therefore been made to extend planning theories on informality. The next chapter provides a conclusion to the whole thesis.

CHAPTER EIGHT: CONCLUSION

8.1 INTRODUCTION

The last seven chapters covered the background, theoretical framework, methodology, context of the study site, study findings and propositions to theory. This chapter is a conclusion of the whole research process conducted in Mzuzu, Malawi. The chapter first summaries the research aims, research questions, approach and methods for data collection and analysis. Secondly, the chapter provides a summary of the research findings highlighting as well the theoretical propositions. After summing up the study, the chapter provides suggestions for further research.

8.2 RESEARCH AIMS AND APPROACH

The prevalence and persistence of urban informal settlements remains a key feature of urbanisation in African and many other Global South cities. Despite attempts by planners and planning authorities to contain informality, informal settlements remain a major form of shelter. Yet, there is insufficient understanding of how and why informality persists in the African urban context and why urban planning fails to resolve this apparent challenge.

The main aim of this study was to understand the role of state-society engagements in the production, proliferation and intensification of housing informality, using Mzuzu City in Malawi as a case study. The research also aimed to make theoretical propositions on how the state and inhabitants of informal settlements are actors in and producers of informality in various ways. These aims were guided by the main research question: what has been the nature of changing political engagements between the inhabitants of informal settlements and the planning and government authorities of Mzuzu City? To collect data that would respond to this question, the study had four specific objectives. Firstly, the study analysed the concept of territoriality and explored how informality is used as a form of territoriality by inhabitants of informal settlements to negotiate their rights to land and presence in the city. Secondly, the study assessed how the state-society engagements manifested themselves in various ways in the sphere of the state and that of the society. Thirdly, the study analysed how the state defined informal settlements and explored any shifts in informality discourse over the years. Finally, the study explored the possibility of evidence of a conflict of rationalities between the residents of informal settlements and state authorities. These specific objectives were explored through the following sub-research questions:

- i. To what extent and how can this form of settlement be seen as territoriality of political engagement through which residents negotiate their rights to land and presence in the city?
- ii. How does this political engagement manifest itself through laws, regimes and practices of planning on the one hand, and, on the other, through active engagement or sometimes violence and resistance on the part of those occupying the land informally in the selected informal settlements of Luwinga, Salisburyline and Geisha?

- iii. How has official discourse defined settlements such as these and what have been the shifts in this discourse over the years to redefine the claim of such settlements to space and recognition?
- iv. Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which also needs to be understood as more than a conflict of two binary positions but may incorporate conflicts within these two groupings?

The study adopted the case study approach for data collection and interpretation. The case study approach allows an in-depth examination, description and explanation of an issue in its context (Flyvbjerg, 2011) which helps in interpretation of narratives to make internally generalisable conclusions (Duminy et al., 2014; Stake, 1994; 1995). This means that the findings can be generalised only to the case or sub-cases that have been studied or indeed to societies with similar characteristics (Yin, 2014). Three sub-cases were selected as units of analysis. Each sub-case had a specific land tenure status and background history. Luwinga developed on customary land and had a long history of engagement with state actors. Salisburyline developed on public land and collaborated with the state in project implementation. Geisha developed on private land that had in the past been given out by the customary chiefs for tung farming, but the function had since ceased.

Several methods were used to collect data. Firstly, primary data was collected using semi-structured questionnaires to conduct in-depth interviews with key informants. Focus group discussions (FGDs) were conducted using a checklist. Additional primary data was collected through field observations. In-depth qualitative interviews were held with community or clan leaders, block leaders and chiefs because these had a rich historical understanding of their settlements. The study also targeted 'senior citizens' who were inhabitants without any elected or appointed position but who had lived in these areas longest or were major original land owners. Interviews were also held with local politicians, as well as officials in the Mzuzu City Council (MCC), Department of Lands (DoL) and Department of Physical Planning (PPD). While all the senior citizens were identified through snowballing, all the other interviewees were purposely selected because of their positions. Secondly, I reviewed several official documents, memos and minutes of meetings which were either provided by interviewees or were accessed at the Malawi National Archives. Thirdly, observations formed an important element of data collection. Several site visits were made to make observations of the actual happenings in the three informal settlements.

To ensure validity and reliability, triangulation of information from the various sources and methods was undertaken through follow-up visits to the study sites, and cross-checking with archival data and with research participants both during interviews and discussions. Recorded interviews were immediately replayed after the interviews to allow for explanation or corrections to the points made during the interviews. Full transcripts were shared with each interviewee to make corrections, clarifications and, as often happened, additions. Triangulation therefore assured that there was convergence of evidence from various data sources (Yin,

2014). The findings were explained in narrative form, interpreted inductively and on this basis propositions to theory were made.

8.3 SUMMARY OF RESEARCH FINDINGS

The analysis and interpretation of the findings indicates that the state-society engagement in the informal settlements of Mzuzu revolves around the application of various strategies by each side in seeking to either achieve orderly urban growth or the right to land and life in the city. These strategies include territoriality and quiet encroachment among others. These strategies manifest, from the perspective of the state, through several laws, policies, regulations, and an assortment of practices that the planning system uses as a tool of the state. Among the state actions have been threats of evictions, actual property demolitions, arbitrary land take over by boundary extensions, issuing titles to private companies, state institutions and to house developers from outside the informal settlement, and the use of bylaws to confiscate property. The state has also organised citizens to participate in development committees after carefully crafting policies and laws as a way to make the inhabitants complicit in governance (Miraftab (2004; 2009). However, when the state utilises these strategies, which is largely through informality from above (Roy, 2005), it has not always been for the achievement of orderly urban growth as professed, but on many occasions for revenue generation through property taxation, for land control and for the personal gain of the officials through ethical conflict or 'informal planning' (Chen et al., 2016, p.337). The inhabitants have used threats of court action, violence, collaboration with state actors, hidden transcripts (Scott, 1990), quiet encroachment (Bayat, 2010) as well as spatial protest (Yakobi, 2004) to achieve their objectives to retain their land rights, to stay in the city and indeed to meet their basic need of shelter. As the inhabitants sought survival strategies, they have sometimes fallen prey to the clientelist ambitions of local politicians who used these informal settlements as vote banks.

The study noted the shifting state discourses of informal settlements, from a view of them as utter illegality to gradual political acceptance or regularisation of their existence. However, the recognition was not meant to accord land rights to the inhabitants, but rather to expand the state's revenue base in the form of city rates, development charges and land rents. As these required the properties to be registered, it can be seen as a strategy to subjugate the inhabitants to state control. Finally, the study found many aspects of rationality conflicts, which either occurred between the state and society directly, among state actors, among citizen actors and across the two spheres. Within the state, ethical conflicts in which state officials deliberately frustrated the visioning of planned orderly urban growth were found to be rampant. These findings showed that Mzuzu was a typical Global South city in which rationality conflicts go beyond the state-society binary, but also occur within either spheres and beyond single projects in specific sites. Therefore, Global North ideologies such as consensus that have informed collaborative and communicative planning approaches and practices appear to be ill-suited to the Global South cities.

8.4 LIMITATIONS OF THE STUDY AND FUTURE RESEARCH DIRECTIONS

8.4.1 Limitations of the Study

The study recognises that the case study method has specific limitations that make research findings generalisable only internally. For this reason, while these results are no doubt likely to apply to other informal settlements in Mzuzu, no claim is made here that they can apply to other cities in Malawi. Secondly, the research was conducted at a time there was tension between block leaders and chiefs following memos and court cases involving the two camps and Mzuzu City Council. Conducting interviews with members of the rival camp was construed as endorsing their legitimacy against the other. As a result, it is possible that opinions given to the researcher may have been exaggerated even though serious attempts were made to verify and validate all of the information given. Thirdly, during the course of the study the library at Mzuzu University was gutted by fire and the offices of the Mzuzu City Council Planning Department were set ablaze by protesting street vendors as retaliation for a demolition campaign. These two fire incidents destroyed key sources of archival data that could have assisted in validating some of the information provided by the interviewees. Fourthly, in terms of scope, the study recognised the role of postcolonialism in shaping the current urban debate in the Global South, but did not focus on this area to answer the research questions, important as it might be. Finally, the study was limited to settlement informality but recognises the existence of other forms of informality such as informal trading, food production and industries which were not considered as part of this research.

8.4.2 Future Research Directions

This thesis has argued that settlement informality is a product of state-society engagements at different layers, in different forms and by an array of actors within these two groupings. Using the case study approach, the thesis showed that within a single city such as Mzuzu these engagements can occur in multiple informal settlements regardless of tenure status. Future research thus has to explore ways to gain recognition by planning policy and law for informal land delivery processes and procedures that can deliver shelter to the inhabitants of Global South cities.

As Mzuzu is only the third largest urban centre and also a very young centre in Malawi, research of this nature can be conducted in the two larger centres of Lilongwe and Blantyre. Lilongwe is the capital city and grows at a rate as high as that of Mzuzu at 4.4% per year, while Blantyre is the oldest urban centre that has grown through boundary extension in a similar manner to Mzuzu since its establishment in the 1870s. The results of such research using the case study approach would significantly contribute to understanding state-society engagements in informal settlements beyond one city. Similarly, research can be conducted on other forms of informality such as food production and street trading, not just in Mzuzu, but also in these larger centres.

8.5 CONCLUSION

This chapter summarised the research undertaken in three informal settlements of Luwingu, Salisburyline and Geisha in Mzuzu City, each of which grew on land with specific tenure status. The research showed that Global South cities such as Mzuzu face several challenges emanating

from the conflictive engagements between the state and society, and argued that Global North ideologies that shaped mainstream planning are ill-suited to the Global South. Using the case study approach, it has been shown that in Mzuzu City the state is implicated in the production and proliferation of informal settlements through its policies, laws, regulations, and practices, and that inhabitants of informal settlements respond through violence, protests, threats of court cases and participation in state-sponsored development committees. Through such socio-political engagement, it can be said that consensus, which is the basis of Global North planning ideology, appears overemphasised and ill-suited to the Global South. Thus, the state visions of planned orderly urban development cannot be realised, particularly so because what defines informality also includes activities of the state generally and individual state actors specifically. Through the case study approach the study has thus shown that conflicting rationalities in the Global South occur not only as a state-society binary but also within both the state and society spheres. Having said this, no claim is made to generalise this to all Global South cities or the whole of Mzuzu City, because several settlements were not covered by the study. However, as rationality conflicts were found to occur across multiple settlements, these findings may apply to other informal settlements with similar land tenure system in Mzuzu. In such a situation, housing informality will remain a key feature of urbanisation and a major contribution to shelter delivery.

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APPENDICES

APPENDIX 1: LIST OF IN-DEPTH INTERVIEW PARTICIPANTS

Name	Study Site	Description
Yonah Mkandawire	Geisha	Councillor
Charles Mlogera	Salisburyline	Councillor
Khumbo Harawa	Luwinga	Councillor
Iddie Mkandawire	Salisburyline	Group Village headman
Leonard Singini Wayinga	Luwinga	Group Village headman
Guwamu	Geisha	Group Village headman
Manfred Chikoza	Salisburyline	Village headman
Yakobi Thika	Geisha	Village headman
Bandawe Singini	Luwinga	Village headman
Stanley Nyirenda	Salisburyline	Block leader (also a village headman)
Mathews Ngwira	Luwinga	Block leader
Machila Nyirongo	Luwinga	Senior Block leader
Wellings Munthali	Geisha	Block leader
Timothy Malaya Chirwa	Geisha	Ward development committee chairperson
Daniel Msowoya	Salisburyline	Ward development committee chairperson
Chidongo Nyirongo	Luwinga	Ward development committee chairperson
Kenwood Mwenechanya	Luwinga	Ward development committee chairperson (former)
Anderson Soyapi Thawe	Luwinga	Senior citizen
Chindele Luhana	Geisha	Senior citizen
Linesi Nya-Tembo	Salisburyline	Senior citizen
Donald Mafuta Kaunda	Luwinga	Senior citizen
Kafwili Nyirongo	Luwinga	Senior citizen
Titus Mtegha	NRWB	Chief executive officer
Alex Chirambo	Mzuzu City	Director of Planning
Yonah Simwaka	Mzuzu City	Town Planning Officer
Arnold Thumba	Lands Dept	Regional Commissioner
Felix Mangani	Lands Dept	Former Regional Commissioner
Bob Banda	Physical Planning	Acting Regional Commissioner
Mike Moyo	Physical Planning	Former Regional Commissioner
Dominic Kamlomo	Physical Planning	Former Regional Commissioner
Charles Ntchembe	ADMARC	Human Resources Manager
Douglas Kamanga	ESCOM	Engineer

**APPENDIX 2A: QUESTIONNAIRE USED FOR INHABITANTS
(CHIEFS/BLOCK/WARD CHAIR/COUNCILLOR/SENIOR CITIZENS)**

LUWINGA CASE STUDY

ORIGINAL INHABITANTS AGREED TO RELOCATE TO AN AREA OUTSIDE THE CITY

A: GENERAL QUESTIONS

Name of Chieftaincy /Location.....Respondent's Name.....

Date of Interview.....

Position.....

- 1.0 Gender: Male [] Female [] Age/ Year born..... Where were you born.....?
- 2.0 Period of stay in MzuzuHave you lived elsewhere outside Mzuzu City from the time you were born until now? If yes, Where/name the place.....Why did you go there?.....
- 3.0 Education level.....
- 4.0 For how long has the position existed [for chief/block leaders /Ward chairmen only]
- 5.0 For how long have you served as
(a) Chief.....
(b) Block leader.....
(c) Councillor..... (d) Ward Development Committee chair.....
- 6.0 Tell me the **history of your position** of (whether **CHIEF**/block leader/councillor/ward committee chair) when was it established, why, by whom until today.....

B: DEFINING INFORMAL SETTLEMENTS

How has official discourse defined settlements such as these; what have been the shifts in such definition to redefine claims to space and recognition

- 7.0 How did Luwinga settlement start? Who were first settlers in the area? What makes Luwinga grow like this?
- 8.0 What is the status of land tenure in Luwinga? Who owns the land? And who practically manages the land?
- 9.0 How do developers access land for houses, shops, institutions like schools and churches in Luwinga?
- 10.0 What is your role in the allocation of land? What do you do if someone builds without informing you?

- 11.0 What is your (as chief, block leader, chair, councillor) perception of a (village like) settlement like Luwinga in the city? Do you think it is growing according to your expectations? If not, why do you think like that?
- 12.0 Has there been any change over the years in that perception, why the change now?
- 13.0 What is your own **personal** view of (village like) settlement like Luwinga in relation to urban development? Why do you have that view? **When you stay in Luwinga do you say you live in your village or in the city? Why do you say that?**

What has been the nature of changing political engagement between the inhabitants of informal settlements and the planning and governance authorities of Mzuzu City?

- 14.0 How has the community been interacting with the state (City Council, Government) in view of the different views on ownership/management of the land? Tell me about the story of the first time the community interacted with the state. What happened? What followed, until today?
- 15.0 I understand that Luwinga residents agreed with the state to relocate to a place outside the city. Where is this place? Who chose that place?
- 16.0 How and why was the agreement reached? What did the state promise, what did the community promise?
- 17.0 Was there also any agreement within the community; between chiefs and community to make the deal with the state? If there was no consensus, explain the nature of the disagreement. If there was threat from state for people to agree, describe this.
- 18.0 When will the relocation take place? And How? What are people doing to prepare for the relocation? Do you think there will be resistance in any way? What kind of resistance; why?

Can the form of settlement in Mzuzu be seen as a territoriality of political engagement through which the residents of the area negotiate their rights to land and presence in the city?

- 19.0 Chiefs and land owners continue to **allocate or sell** land in the area to developers for houses, shops, institutions etc. How and why does this happen? Who is benefiting from the practice? Is it that you want benefit before you actually leave? Why does it happen?
- 20.0 Can you say by accepting to relocate it is just a deliberate strategy; you actually do not want to relocate? Maybe you feared state reprisals if you rejected the proposal to relocate? Otherwise, why are people building in the area?
- 21.0 Land owners also continue to **build on their plots**, some construct big permanent houses. Why does this happen when they agreed to relocate. Is it that they feel they will not move after all? Explain.
- 22.0 Have some people in the Luwinga community been compensated? Have any of those compensated gone to Tofutofu? If some or some have not gone, why not?

How does the engagement manifest itself through laws, policy, and planning regimes/practices on part of state, and through active engagement or violence/resistance on part of inhabitants of those occupying the land informally?

- 23.0 How does the state respond to your continued allocation or selling of land to people, some not originally from here? Does the state threaten in any way, or sell part of land and issue titles to new occupants? Explain this?
- 24.0 Do inhabitants resist such measures? How do they resist? Do they ask for meetings, or resist through violent demonstrations, or use courts?
- 25.0 Are there any other ways the community resist or express unhappiness with state measures/policies/laws/bylaws? Anything more they do to strengthen their claim of ownership of the land (e.g. how they build, or let the land be used)? Issue of graveyards?

Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which also needs to be understood as more than a conflict of two binary positions but may incorporate conflicts within these two groupings?

- 26.0 Now tell me, what do inhabitants of Luwinga do to show that (a) they are committed to relocate (b) or that they own the land?
- 27.0 How do you the residents of Luwinga relate among yourselves regarding the settlement? Do all people agree to relocate, including those that bought or acquired land from chiefs? How was consultation done? Did you have a meeting? Do you have a committee? Who are members? Who attended? Did women participate in that deciding meeting? How did/will individual households' benefit?
- 28.0 Tell me the story of Luwinga Development Trust that I read the book I borrowed from you. Why was it established? Does the Trust still exist? Who are members? How are people chosen into positions (I heard you secretary of the Trust, how were you elected?) How many are women members? What have been successes of the Trust? And Failures?
- 29.0 How do you relate among yourselves as chiefs, with block leaders, councillors, and ward chairman? Do all these leaders agree to relocate, if not what are differences? Why did the other chiefs agree to the relocation and others refuse?
- 30.0 I notice several houses demolished opposite Petroda. Have those people relocated or what happened? If they relocated, have they gone to the agreed place?
- 31.0 I also saw a lot of construction within Luwinga (MTL, Water Board, Churches, hospital, schools, houses) how was land acquired. Did these institutions get the land from Chiefs or from City or from Govt?
- 32.0 I have heard of the word '**strangers**' in some of the meetings I have had in Luwinga which I learnt refers to people not originally from Luwinga. Is this correct? Now these people got land or bought land and built houses in Luwinga; **have they also agreed to**

relocate? If so, **are they going to the same location together with the original inhabitants?** If not, what does this group say? How will they be compensated for the land, and by whom: by government, by city or by the sellers?

- 33.0 What is your view of how Luwinda will look like and function after the relocation? Who will live here? Is that view shared by the whole community? Are there some members with different views? What are their views?
- 34.0 State officials say that you are squatters (I read that in an old newspaper). What do you say to that?
- 35.0 Finally, I want to know: I have been to Salisbury lines; they work with state to upgrade the area. I have been to Geisha they refuse to be relocated. Why did you Luwinda residents accept to be relocated from Luwinda to a place outside the City?
- 36.0 Any final words on the issue of Land in Luwinda, conflicts with the Governments. And, will original people of Luwinda relocate?

GEISHA CASE STUDY

HOUSEHOLDS OCCUPIED PRIVATE LAND BELONGING TO A PARA-STATE INSTITUTION; REJECT PROPOSALS FOR RELOCATION; STATE DENIES SERVICES

A: GENERAL QUESTIONS

Name of Chieftaincy /Location.....Respondent's Name.....Date of Interview.
Position.....

- 1.0 Gender: Male [] Female [] Age/ Year born..... Where.....
- 2.0 Period of stay in MzuzuHave you lived elsewhere outside Mzuzu from the time you were born until now? Where/name the place.....Why did you go there?
- 3.0 Education level.....
- 4.0 For how long has the position existed [for chief/block leaders /Ward chairmen only]
- 5.0 For how long have you served as
(d) Chief.....
(e) Block leader.....
(f) Councillor..... (d) Ward Development Committee chair
- 6.0 Tell me the history of your position (whether chief/block leader/councillor/ward committee chair) when was it established, why, by whom until today.....

B: DEFINING INFORMAL SETTLEMENTS

How has official discourse defined settlements such as these; what have been the shifts in such definition to redefine claims to space and recognition

- 7.0 How did Geisha settlement start? Who were first settlers? Why did they settle here? What makes Geisha grow like this?
- 8.0 What is the status of land tenure in Geisha? Who owns the land? And who practically manages (allocating and selling) the land?
- 9.0 How do developers access land for houses, shops, institutions like schools and churches in Geisha?
- 10.0 What is your role in the allocation of land? What do you do if someone builds without informing you?
- 11.0 What is your (as chief, block leader, chair, councillor) perception of a (village) settlement like Geisha in the city? Do you think it is growing according to your expectations? If not, why do you think like that?
- 12.0 Has there been any change over the years in that perception, why the change?
- 13.0 What is your own personal view of village like settlement in relation to urban development? Do you like it or not? Why do you have that view? When you live here do you say you are in your *village* or in the *city*? Why?

What has been the nature of changing political engagement between the inhabitants of informal settlements and the planning and governance authorities of Mzuzu City?

13. How has the community been interacting with state (city council /government) in view of the different views on ownership/management of the land? Tell me about the story of the first time when you interacted with the state? What happened? What followed, until today?
14. I understand the inhabitants of Geisha reject relocation. Why do you and your community reject relocation from this land?

Can the form of settlement in Mzuzu be seen as a territoriality of political engagement through which the residents of the area negotiate their rights to land and presence in the city?

15. Chiefs and land owners continue to sell and allocate land in the area, how and why does this happen?
16. Can you say the allocation and selling of land is deliberate strategy to show you have power over the land? If not why does land selling/allocation continue?
17. Are there other things that land owners/occupiers do to strengthen their claims to the land (e.g. the way they build, or allow land to be used) that strengthens their bargaining power?

How does engagement manifest itself through laws, policy, and planning regimes/practices on part of state, and through active engagement or violence/resistance on part of inhabitants of those occupying the land informally?

18. How does the state use its laws, bylaws and policies to respond to the occupation, land selling and your rejection to relocate? Does the state use threats? Does it allocate land to other different users?
19. I understand that the state has a policy not to provide services like water and power to people of Geisha, how do inhabitants react / resist such policies? Why do you think the state does this? Do they use violent demonstrations or protests, do they call for meetings, do they write letters of complaints, or and do they use the courts? Describe this.
20. Do you know anywhere in Mzuzu City where this policy of no service has been used? If no, what do you think is the reason in Geisha?
21. Are there any other ways the community resist or express unhappiness with such state measures? And to strengthen their claim to the land (how they build, or let the land be used)?

Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which also needs to be understood as more than a conflict of two binary positions but may incorporate conflicts within these two groupings?

22. How do the communities relate among themselves regarding the settlement? How about chiefs with community? Do all households reject relocation? How was decision to reject relocation reached? Is there a committee. Who attended? Did women participate? How does rejection benefit individual households?
23. How do you relate among yourselves as chiefs, with block leaders, councillors? Do all leaders reject the relocation? Why?
24. I notice there are schools and churches in Geisha. How did they acquire the land? Did they get it from chiefs, did they buy from original occupants? Did they get land from the state?
25. With respect to those who bought land or got allocation from chiefs, has this group also rejected relocation. What does this group say?
26. What is your view of how Geisha will look like and function after the relocation or after upgrading? Who will live here? Is this view shared by whole community? Do some have different views, what are their views?
27. The state officials say they want people of Geisha to be relocated because you make the city look ugly to visitors coming to Mzuzu? What is your view?

28. Finally, I want to know: I have been to Luwinga; they want to leave and settle outside the city, in Salisburyline, they work with the state to upgrade the area. Why did you reject relocation in Geisha?

29. Do you any final words?

SALISBURYLINE CASE STUDY

HOUSEHOLDS OCCUPIED CITY OPEN LAND; NOW COLLABORATE TO CO-PRODUCE PLANS AND PROJECTS

A: GENERAL QUESTIONS

Name of Chieftaincy /Location.....Respondent's Name.....Date of Interview.
Position.....

- 1.0 Gender: Male [] Female [] Age/ Year born..... Where.....
- 2.0 Period of stay in MzuzuHave you lived elsewhere outside Mzuzu from the time you were born until now? Where/name the place.....Why did you go there?
- 3.0 Education level.....
- 4.0 For how long has the chieftainship existed [for chief/block leaders only]
- 5.0 For how long have you served as
(g) Chief.....
(h) Block leader.....
(i) Councillor.....Ward Dev committee chairman.....
- 6.0 Tell me the history of your position (whether chief/block leader/councillor/ward committee chair) when was it established, why, by whom until today.....

B: DEFINING INFORMAL SETTLEMENTS

How has official discourse defined settlements such as these; what have been the shifts in such definition to redefine claims to space and recognition

- 7.0 How did Salisburyline settlement start? Who were first settlers there? What makes Salisburyline grow like this?
- 8.0 What is the status of land tenure in Salisburyline? Who owns the land? And who practically manages the land?
- 9.0 How do developers access land for houses, shops, institutions like schools and churches in Salisburyline?
- 10.0 What is your role in the allocation of land? What do you do if someone builds without informing you (as chief/block leader/councillor/chairman)?

11.0 What is your (**as chief**, block leader, chair, councillor) perception of a (village) informal settlement like Salisburyline in the city? Do you think it is growing according to your expectations? If not, why do you think like that?

12.0 Has there been any change over the years in that perception, why the change?

13.0 What is your personal view of (village) settlement like Salisburyline in relation to urban development? Why do you have that view? When you stay in Salisburyline, do **you say you live in your village or in the city**? What do you say that?

What has been the nature of changing political engagement between the inhabitants of informal settlements and the planning and governance authorities of Mzuzu City?

14.0 How has the community been interacting with the state in view of the different views on ownership/management of the land? Tell me about the story of the first time when the community interacted with the state. What happened? What followed, until today?

15.0 I understand that residents of Salisburyline are working with state institutions to upgrade the settlement. How and why did you reach agreement to start the upgrading project?

16.0 Was there any agreement within the community between the leaders and community? How did inhabitants reach agreement? Or did the state issue any threats? Describe this?

Can the form of settlement in Mzuzu be seen as a territoriality of political engagement through which the residents of the area negotiate their rights to land and presence in the city?

17.0 Can you say that by accepting the upgrade project it is a deliberate strategy by the inhabitants to avoid relocation? Explain this.

18.0 Do some residents build in disregard of the upgrade plan? How and why does this happen if people accepted the upgrade project?

19.0 What is the main reason for the upgrading project? What does the upgrading imply for households who own land? Do they get benefits or do they lose anything?

How does engagement manifest itself through laws, policy, and planning regimes/practices on part of state, and through active engagement or violence/resistance on part of inhabitants of those occupying the land informally?

20.0 Are there times you have disagreed with the state before with regard to this settlement? On what issues?

21.0 Are there some inhabitants who resist the upgrade project in any way? Do they resist through violent demonstrations, call for meetings, and use the courts?

22.0 Are there any other ways residents resist the upgrade project or show unhappiness? Do they stop contributing labour, boycott meetings, and block space meant for project? Describe this.

- 23.0 How does the state use its laws, policies to ensure the upgrade plan is implemented?
- 24.0 Now tell me, what do the residents do to show commitment to the upgrading?
- Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which also needs to be understood as more than a conflict of two binary positions but may incorporate conflicts within these two groupings?*
- 25.0 How do the communities relate among themselves regarding the settlement? How about between chiefs and residents?
- 26.0 Do all people agree to upgrading, including those that bought or acquired land from chiefs? If not; what were differences?
- 27.0 How did community agree to work with the state, how was the consultation, who organised the consultation? Did you have a meeting? Do you have a committee? Who are members? Who attended? Did women participate in that deciding meeting? How did/will individual households' benefit?
- 28.0 I saw some public buildings under construction in the location: what are they for? Who gave the land for that? Was money paid to acquire the land? Who paid the money?
- 29.0 What is the relationship between the chiefs, block leaders, councillors, and ward chairmen? Are things going smoothly? Do all leaders accept the upgrading project? If not, what are differences? What is impact of the differences on the upgrade plan implementation?
- 30.0 There are many people from outside Mzuzu and Malawi buying houses and land here, how are these people participating in the project? Are they contributing labour, cash, materials?
- 31.0 What is your view of how Salisburyline will look like and function after the upgrade? Who will live here? Is this view shared by whole community? Do some have different views, what are their views?
- 32.0 Finally, I want to know: I have been to Luwanga; they want to leave and settle outside the city, in Geisha they refuse to be relocated. Why did you accept to work with the state in Salisburyline?
- 33.0 Any final words on the issue of Land and projects block leaders, and any other issue in Salisburyline. And other projects with Governments/City?
- 34.0 Who else can I meet in the area, who has stayed here for a very long time?

APPENDIX 2B: INTERVIEW QUESTIONS FOR STATE OFFICIALS

Date of Interview.....

Name of Institution..... Respondent's Name.....

Position in institution.....

A: GENERAL QUESTIONS

- 1.0 Gender: Male [] Female []
- 2.0 How long have you worked in this institution..... Years?
- 3.0 How long have you been on your current position..... Years?
- 4.0 What is your level of education? (BSc/ MSc/PhD)from which institution..... which year.....
- 5.0 What is your specialisation/ which discipline...?

B: DISCOURSE OF INFORMALITY

How has official discourse defined settlements such as these; what have been the shifts in such definition to redefine claims to space and recognition

- 6.0 How do the state/ government perceive informal settlements?
- 7.0 Has there been any change in the perception of informal settlements over the years? If yes, what was the perception before? Why has the perception changed?
- 8.0 What is the formal or official role of your department/office in dealing with informal settlements?
- 9.0 What does your office/department do in practice, for example, when someone or an institution, builds informally?
- 10.0 What is your own personal view of informal settlement in relation to urban development in Mzuzu? Why do you have that view?

C: LUWINGA CASE: ORIGINAL INHABITANTS AGREED TO RELOCATE TO AN AREA OUTSIDE THE CITY.

- 11.0 How did Luwinga settlement grow? Who were first settlers?
- 12.0 (a) What is the tenure status of the land in Luwinga; who owns the land?
- (b) Who practically manages the land?

hat has been the nature of changing political engagement between the inhabitants of informal settlements and the planning and governance authorities of Mzuzu City?

- 13.0 How has the state been interacting with inhabitants of this settlement in view of the different views on ownership/management of the land? Tell me about the story of the first time when government interacted with the community. What happened? What followed, until today?
- 14.0 I understand that there is an agreement for the people of Luwinga to relocate to an area outside the city. To where?
- 15.0 How was the agreement reached? What offers were made by community? ...and what was the community promised in return by the state?
- 16.0 When will the relocation take place? Do you anticipate any resistance what kind of resistance and why?

Can the form of settlement in Mzuzu be seen as a territoriality of political engagement through which the residents of the area negotiate their rights to land and presence in the city?

- 17.0 The Chiefs and local land owners allocate or sell their land in Luwinga to different types of developers for houses, shops, workshops, institutions (like churches, schools). How does this happen? And have these developers also agreed to move – as per question 14? If so – why have they bought land if they will lose it? How will they be compensated and by who?
- 18.0 Can you say that the allocation and selling of land is a deliberate strategy by inhabitants to show that they have power over the land and that they actually do not want to relocate? If not, why does it happen?
- 19.0 Are there other things that land owners/occupiers do to strengthen their claims to the land? Is there something about the way they build or the way they let their land be used that strengthens their bargaining power?

How does the engagement manifest itself through laws, policy, and planning regimes/practices on part of state, and through active engagement or violence/resistance on part of inhabitants of those occupying the land informally?

- 20.0 What does your office/department do in response to this continued allocation/selling of land? How do you use existing policies/laws/ planning practices to deal with that?
- 21.0 The state/government also allocates land in Luwinga to developers for houses, shops, institutions. How does this happen? Why does it happen even before the relocation has taken place, without planning and services?
- 22.0 Do the inhabitants in any way resist, or show unhappiness with state/government measures and practices? How do inhabitants resist or respond to the enforcement or implementation of such state measures? Do they ever respond through violent protest, asking for meetings, using the courts, or any other means? If so, describe how this has happens.

Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which also needs to be understood as more than a conflict of two binary positions but may incorporate conflicts within these two groupings?

- 23.0 Now, tell me what will the state do:
- a) To ensure that the relocation is done,
 - b) To show the state owns the land and
 - c) To ensure that the land is developed according to city plans?
- 24.0 What do these residents do to show commitment to the agreement to relocate?
- 25.0 With respect to the new developers who bought land or were allocated land by chiefs what do these do to show that they will relocate? Do they seek negotiate with the state for alternative land, do they construct temporary buildings? Do they seek court action? What else do they do?
- 26.0 What is your view of how Luwinga will look like and function when the relocation is completed? Who will live there? Do you think the current inhabitants of Luwinga see the future in the same way; have the same goals for the area as you?

D: SALISBURYLINE CASE: HOUSEHOLDS OCCUPIED CITY OPEN LAND; NOW COLLABORATE TO CO-PRODUCE PLANS AND PROJECTS

- 27.0 How did Salisburyline grow? Who first settled there?
- 28.0 (a) What is the tenure status of the land in Salisburyline; who owns the land?
(b) Who practically manages the land?

What has been the nature of changing political engagement between the inhabitants of informal settlements and the planning and governance authorities of Mzuzu City?

- 29.0 How has the state been interacting with inhabitants of Salisburyline in view of the different views on ownership/management of the land? Tell me what happened the first time the state interacted with the community, and what followed, until now
- 30.0 I understand that you work with the local community to implement a settlement upgrade project. How did you reach that agreement to start the upgrading project?
- 31.0 What offers did the state make; what did the local community offer in return?

When will the upgrading be completed? Do you anticipate any resistance; what kind of resistance, and why?

Can the form of settlement in Mzuzu be seen as a territoriality of political engagement through which the residents of the area negotiate their rights to land and presence in the city?

- 32.0 Can you say that by agreeing to the upgrading it is a deliberate strategy by inhabitants to avoid relocation from this land? If not, why did it happen?

33.0 What is the main reason for the upgrading project? What does the upgrading imply for individual households holding land in the settlement?

34.0 Are there things the chiefs or inhabitants do to show they fully support the upgrading? Do they provide land for infrastructure and services or contribute labour or money?

35.0 Some of the inhabitants bought land from initial occupants or have been allocated by chiefs. Have these also agreed to the upgrading. How does the upgrading affect their land parcels? Who will pay for such land if it is taken up upgrade infrastructure?

How does engagement manifest itself through laws, policy, and planning regimes/practices on part of state, and through active engagement or violence/resistance on part of inhabitants of those occupying the land informally?

36.0 How has your department/office used laws, policies /planning regimes /practices to ensure that inhabitants agree to the implementation of the upgrade plan?

37.0 Is there any joint committee set up to support this engagement? What role does it play?

38.0 Are there times that the state has disagreed with the inhabitants of this settlement in relation to the upgrading? On what issues?

39.0 Do some inhabitants resist the upgrading or show unhappiness? Do they respond through violent protest, if so describe, do they respond by not giving way to infrastructure and services, or do they call for meetings? Do they use the courts? Describe this.

Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which also needs to be understood as more than a conflict of two binary positions but may incorporate conflicts within these two groupings?

40.0 Now tell me, what does the state do to
(a) Ensure that the upgrade plan is implemented fully,
(b) That they own the land (c)
(c) That the upgrading reflects the city development plans?

41.0 What do the residents do to show their commitment to the upgrade plan?

42.0 What is your view of how this settlement will look like and function when state intervention is completed? Who will live there? Do you think the current inhabitants of the settlement see the future in the same way? Do they have the same goals for the site as you?

E. GEISHA CASE: HOUSEHOLDS OCCUPIED PRIVATE LAND BELONGING TO A PARA-STATE INSTITUTION; REJECT PROPOSALS FOR RELOCATION; STATE DENIES SERVICES

43.0 How did this settlement grow? Who first settled there?

- 44.0 (a) What is the tenure status of the land? Who owns the land?
(b) Who practically manages the land?

What has been the nature of changing political engagement between the inhabitants of informal settlements and the planning and governance authorities of Mzuzu City?

- 45.0 How has the state been interacting with inhabitants of Geisha in view of the different views on ownership/management of the land? Tell me what happened the first time the state interacted with the community, and what followed, until now?

- 46.0 I understand that the inhabitants of Geisha refuse to be relocated; why do they reject relocation?

Can the form of settlement in Mzuzu be seen as a territoriality of political engagement through which the residents of the area negotiate their rights to land and presence in the city?

- 47.0 The chiefs and local land owners allocate or sell their land in Geisha to different types of developers for houses, shops, workshops, institutions (like churches, schools). How does this happen? Have these developers also rejected the relocation. Explain this.

- 48.0 Can you say that the allocation and selling of land is a deliberate strategy by inhabitants to show that they have power over the land? If not, why does it happen?

- 49.0 Are there other things that land owners/occupiers do to strengthen their claims to the land? Is there something about the way they build or the way they let their land be used that strengthens their bargaining power?

How does engagement manifest itself through laws, policy, and planning regimes/practices on part of state, and through active engagement or violence/resistance on part of inhabitants of those occupying the land informally?

50. What has the state/government done to respond to the occupation and rejection of relocation? How has the state used its policy/laws/planning regimes to deal with this?

51. I understand that the state has a policy of 'no service' for Geisha settlement. What is the purpose of the policy?

52. Has this policy been implemented elsewhere in informal settlements in Mzuzu city? If not, why only in Geisha?

53. Do the inhabitants in any way resist, or show unhappiness with state/government measures and practices? How do they resist or respond to the enforcement or implementation of such state measures? Do they ever respond through violent protest, asking for meetings, using the courts, or any other means? If so, describe how this has happens.

Is there evidence of a conflict of rationalities between the residents of informal settlements and the Mzuzu authorities, which also needs to be understood as more than

a conflict of two binary positions but may incorporate conflicts within these two groupings?

54. Do all (state) service providers adhere to the policy of 'no service' in Geisha? If no, why? Which state institutions provide services? Which services?
55. What measures does the state have to sanction such deviant service providers?
56. What does the state do to ensure that (a) the relocation is implemented, (b) that it protects private land; (c) that the area is developed according to city plans?
- 57.
58. With respect to those who buy or get allocated land by chiefs, what do these inhabitants do to show rejection of the relocation? Do they use violence, do they use the courts, and do they seek refunds?
59. What is your view of how Geisha will look like and function when state intervention is completed? Who will live there? Do you think the current inhabitants of the settlement see the future in the same way? Do they have the same goals for the site as you?

CONCLUSION

60. Why are there these differences among the three informal settlements? Why do inhabitants accept to relocate in Luwinda, refuse in Geisha and collaborate in Salisburyline?

APPENDIX 2C: GUIDING QUESTIONS FOR FOCUS GROUP DISCUSSIONS

4 focus group discussions in each case site. Each meeting has minimum 6 participants and maximum of 10 participants.

INTRODUCTION

The meetings start with self-introductions. Then I introduce the subject for discussion. I inform participants of voice recording. Then all participants sign the ethics forms. After the session, I play the recording to validate some points. Then I thank all participants for their availability.

LUWINGA SETTLEMENT

What is the status of land tenure, who owns the land in Luwinga Settlement?

I understand people agreed to relocate from this area to a place outside the city? Where is this place?

How was the agreement reached? When will relocation happens?

Developers get plots and build houses/ shops. How does this happen? Why does it happen?

What does the state/government do to respond to the selling and buying of land?

What exactly do you want to happen?

How do you relate now with the state/government?

Do all people accept to relocate?

How do you relate which chiefs/ block leaders/ councillors?

SALISBURYLINE SETTLEMENT

What is the status of land tenure/ who owns the land in this settlement?

I understand you work with the state/ govt to upgrade the settlement, how did you reach that agreement

How have residents responded to the upgrade? Is everyone agreeing?

What is main reason for the upgrade? What does mean for individual households?

Have you ever disagreed with state/government before regarding your occupation of the land in this area? On what issues have you disagreed?

How do you relate with govt /state currently?

How do you relate with chiefs /block leaders/ councillors?

GEISHA SETTLEMENT

What is the status of land tenure/ who owns the land in this settlement?

I understand that you reject relocation from this land, how did you settle in this area? How did you get the land?

Why do you reject the relocation?

What has been state/govt response to your rejection?

What do people do to respond to state measures?

What is the root cause of the situation? What exactly do people from this settlement want?

How do you relate now with the state/ government regarding the land and the settlement?

How do you relate with chiefs /block leaders/councillors on the matter?

APPENDIX 3: MZUZU CITY INFORMAL SETTLEMENTS TIMELINE

YEAR	NAME OF INFORMAL SETTLEMENT
	LUWINGA INFORMAL SETTLEMENT
1910	Singini clan migrate to Mzuzu to join Mafuta at Mganthila
1932	Singini relocated to pave way for Kaning'ina forest. Singini move to Muzgora (Chibavi) then to Luwanga
1936	Mafuta Kaunda family relocated but is split into 3 (Lupaso, Msongwe and Machecheta 100km out of Mzuzu
1945	Tung Estate and Factory
1960	Outline plan for Mzuzu
1964	Mzuzu declared Town Council / township boundary gazette 14 Feb 1964
1971	First Mzuzu plan; planning area order; first planning committee appointed
1972	Regional planning office opened in Mzuzu
1978	Interim Plan with proposal to extend statutory planning area into Luwanga
1980	Mzuzu declared municipal Council
1983	Mtwalo writes succumbing to state pressure to accept planning role in Luwanga
1985	Mzuzu declared City Council
1989	Urban Structure plan but not approved
1995	Plan prepared in 1991 is approved (plus extension)
1996	Singini's demand to move out of City; Government agrees to relocate them in 14 days
2005/6	Legal battles: State starts to implement proposals in Luwanga before relocation to Tofutofu; Local government elections suspended
2010	Extension of city to Luwanga gazetted
2012	Mzuzu City Council introduces block leaders to fight chiefs
2013	REMOP project introduces city rates to all properties
2015	Court declared chief roles unwanted in the City
2016	Court refers a land dispute case to chiefs to decide
	SALISBURYLINE INFORMAL SETTLEMENT
1945-7	Tung Estate and Factory
1960	Outline plan for Mzuzu

1964	Mzuzu declared Town Council / township boundary gazette 14 Feb 1964
1971	First Mzuzu plan; planning area order; first planning committee appointed
1972	Regional planning office opened in Mzuzu; name Salisburyline adopted
1973	Plan to evict inhabitants stopped by president; area recognised as residential settlement
1978	Interim Plan with proposal to extend statutory planning area into Luwinga
1980	Mzuzu declared municipal Council
1985	Mzuzu declared City Council
1987	First upgrade project created 140 plots as part of Secondary Centres Development Programme (SCDP)
1989	Urban Structure plan but not approved
1995	Plan prepared in 1991 is approved (plus extension)
2005	Local government elections suspended
2010	Extension of city to gazetted; PSUP & SDI/AAPS project lead to upgrade project; Community Managed Fund established
2012	Mzuzu City Council introduces block leaders to fight chiefs
2013	REMOP project introduces city rates to all properties
2015	Court declared chief roles unwanted in the City
	GEISHA INFORMAL SETTLEMENT
1945-7	Viphya Tung Estates and Factory is established first with 400 acres. Boardman appointed as Tung Development officer
1955	Regional Offices of the government move from Mzimba to Mzuzu
1960	Outline plan for Mzuzu
1964	Mzuzu declared Town Council / township boundary gazetted on 14 February 1964
1970	ADMARC takes over tung land and gets lease of 410 hectares Tung estate land for 99 years
1971	First Mzuzu plan; planning area order; first planning committee appointed; Government surrenders Tung Estate land to community at Lusangazi 3 May 1971

1972	Regional Planning Office opened in Mzuzu
1978	Interim Plan for Mzuzu prepared
1980	Mzuzu declared Municipal Council
1985	Mzuzu declared City Council
1989	Urban Structure plan prepared but not approved; ADMARC wants to surrender land, land invasions start
1992	Chindele Luhana leases land next to ADMARC to become the first person to live in Geisha
1994	Mzuzu planning area boundary is extended southwards to include Geisha.
1995	Plan prepared in 1991 is approved (plus extension); Geisha name adopted
1998	ADMARC start complaining about occupation and tries to evict inhabitants
2002	Chiefs establish a land allocation committee; Inhabitants open Geisha primary school
2005	Inhabitants accept to relocate. But there is no land to move them to as land earmarked is found to be outside Mzuzu
2006	Chiefs' land allocation committee is dissolved as all land is finished; land selling intensifies
2008	No service policy implemented by Mzuzu City Council
2010	Extension of planning area to Geisha gazetted; authorities look at it as also extension of the City Council jurisdiction
2011	Ministry of Lands asks to take over land from ADMARC, who demand compensation
2014	Geisha becomes part of Mzuzu City Constituency after cutting out from Nkhata Bay West Constituency; Urban structure plan is prepared by not approved
2015	Several Institutions start in earnest to support Geisha School: UN Habitat, Red Cross, European Union, Northern Region Water Board
2016	Upgrade layout plan is prepared

APPENDIX 4: UNIVERSITY OF CAPE TOWN ETHICS APPROVAL



Faculty of Engineering & the Built Environment
University of Cape Town
Private Bag X3, Rondebosch 7701
6th Level Menzies Building, Upper Campus
Dean: Professor AB Lewis Faculty Manager: Gita Valodia
Tel: +27 (0) 21 650 2699 Fax: +27 (0) 21 650 3782
E-mail: ebe-faculty@uct.ac.za
Internet: www.ebe.uct.ac.za

05 April 2017

To the Dean of the Engineering and Built Environment Faculty

Retrospective ethics application

Mr Mtafu Manda (MNDMTA001) submitted an ethics application for research towards a PhD qualification that the EBE EiRC committee deemed to be retrospective.

As chair of the EiRC, I have looked at the questionnaire and consent form used by the researcher in their retrospective research titled, "*Understanding the context of informality-urban planning under contradictory land tenure systems in Mzuzu, Malawi*". The questions posed to participants in the research are of low risk. Had the researcher submitted their application for ethics clearance timeously, they would have certainly been granted an ethics clearance.

Despite the failure to apply for an ethics clearance, it is my opinion that the manner in which the researcher has conducted their research (based on what they have disclosed) is consistent with the ethics in research policies of UCT.

Yours sincerely

Dr George Sithole
Ethics in Research Committee Chair
Engineering and the Built Environment Faculty

APPENDIX 5: NATIONAL ETHICS APPROVAL



NATIONAL COMMISSION FOR SCIENCE & TECHNOLOGY

Lingadzi House
Robert Mugabe Crescent
P/Bag 8303
City Centre
Lilongwe

Tel: +265 1 771 500
+265 1 774 189
+265 1 774 869
Fax: +265 1772 431
Email: directorgeneral@ncst.mw
Website: <http://www.ncst.mw>

Ref No: NCST/RTT/2/6

6th September, 2016

Mr Mtafu Manda
Department of Land Management
Mzuzu University
Planning Unit
Private Bag 201,
Luwingu, Mzuzu 2

E-mail: manda.ma@mzuni.ac.mw mtafu.manda@gmail.com

Dear Mr Mtafu Manda,

RESEARCH ETHICS APPROVAL AND PERMIT OF PROTOCOL NO. P.08/16/123: UNDERSTANDING THE CONTEXT OF INFORMALITY: URBAN PLANNING UNDER CONTRADICTIONARY LAND TENURE SYSTEMS IN MZUZU, MALAWI

Having satisfied all the ethical, scientific and regulatory requirements, procedures and guidelines for the conduct of research in the social sciences sector in Malawi, I am pleased to inform you that the committee has officially approved the above referred research study and its protocol. You are now permitted to proceed with its implementation. Should there be any amendments to the approved protocol in the course of implementing it, you shall be required to seek approval of such amendments before implementation of the same. No fee shall be required for application for review and approval of protocol amendments.

This permit is valid for one year from the date of issuance of this letter. If the study goes beyond one year, an annual approval for continuation shall be required to be sought, at no fee, from the National Committee on Research Ethics in the Social Sciences and Humanities (NCRSH) in a format that is available at the secretariat. Once the study is finished, you are required to furnish

the Committee and the National Commission for Science and Technology with a final report of the study.

Wishing you a successful implementation of your study.

Yours Sincerely

Mike G Kachedwa

**CHIEF RESEARCH SERVICES OFFICER & HEAD OF NCRSH
SECRETARIAT**

For: CHAIRMAN OF NCRSH

APPENDIX 6: MZUZU CITY COUNCIL PERMISSION



MZUZU UNIVERSITY

Faculty of Environmental Sciences, Land Management Department,
Private Bag 201, Luwingu, Mzuzu 2, Malawi .Tel: +265 1 930 424, Fax: +265 1 320 505/568
Cell: 0888687277, 0991457272, 0996300000
Email:mtafu.manda@gmail.com ; manda.ma@mzuni.ac.mw

Ref. Mzu/LM/Plan/Res/mta/02

24th November, 2015

To: Chief Executive, Mzuzu City

UNDERSTANDING THE CONTEXT OF INFORMALITY IN MZUZU CITY: REQUEST FOR INFORMATION AND ACCESS TO STUDY SITES

My name is Mtafu Manda. I am a lecturer at Mzuzu University and currently studying for a PhD at the University of Cape Town in South Africa. My research topic is: *Understanding the Context of Informality: Urban Planning under Contradictory Land Tenure Systems in Mzuzu City, Malawi.*

My study focuses on three settlements: Luwingu Ward, Chibanja Ward (Salisbury lines) and Masasa Ward (Geisha).

My field work involves conducting interviews and meetings with communities in these locations but also interviews with state officials (government/ city) and local leaders (chiefs, block leaders, ward development chairmen and councillors).

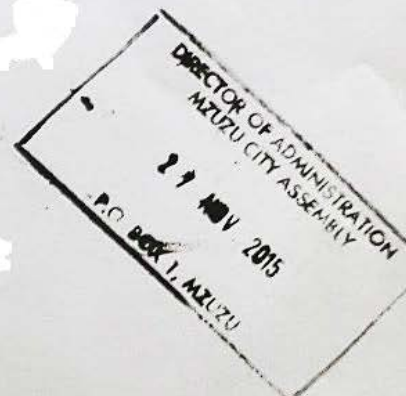
Data collected during the research will be treated with maximum confidentiality as governed by ethical guidelines of The University of Cape Town and the Malawi National Commission for Science and Technology (NCST).

The aim of the study is to understand the main factors contributing to and entrenching informal settlements in Mzuzu City. The results are primarily for my study report, but might be useful for formulation of strategies to improve urban policy making and planning.


I would be most grateful for your support towards my study.

Yours faithfully,

Mtafu A.Zeleza Manda, MSc
PhD Candidate, UCT



APPENDIX 7: NATIONAL ARCHIVES PERMISSION



MZUZU CITY COUNCIL

THE CHIEF EXECUTIVE

Telephone: Mzuzu (265) 310 177/310 446/310 319
Fax : (265) 310475
E-mail : mzuzucity@sdp.org.mw

Civic Offices
P. O. Box 1
Mzuzu
MALAWI

Your Ref

Our Ref MCC/12/8

13th June, 2017

Mr. Mtafu Manda
Mzuzu University
P/Bag 201
Mzuzu
Luwinga 2

Dear Sir,


PERMISSION TO ACCESS MZUZU CITY RECORDS AT THE NATIONAL ARCHIVES OF MALAWI

Reference is hereby made to your letter dated 12th June 2017 seeking permission to access Mzuzu City Council Records which are being held at the National Archives of Malawi Offices-Mzuzu and Zomba Offices

Your request has been honoured and you may proceed with your planned activity from **13th June 2017 to 31st July 2017**.

The copied officers are requested to take note of this development and assist the student with the required information which will be used for his PhD research titled "**Understanding the Context of Urban Information in Mzuzu City**".

Yours faithfully,


R. Mkamanga
FOR: CHIEF EXECUTIVE OFFICER

Cc: The Regional Records Management Centre Officer-North
The Director, National Archives of Malawi, Zomba

ALL CORRESPONDENCE TO BE ADDRESSED TO THE CHIEF EXECUTIVE

APPENDIX 8: CONSENT FORM



SCHOOL OF ARCHITECTURE, PLANNING AND GEOMATICS

University of Cape Town
Private Bag x3, Rondebosch 7701
Centlivres Building
Email Janine.Meyer@uct.ac.za Tel: 27 21 6502359

UNIVERSITY OF CAPE TOWN

July, 2016

STATEMENT TO BE READ OUT TO AN INTERVIEWEE BEFORE I UNDERTAKE AN INTERVIEW FOR THE PURPOSES OF MY PHD DISSERTATION, AS A REQUEST FOR PERMISSION FOR THE NAME AND/OR IDENTITY OF THE INTERVIEWEE TO BE REVEALED IN MY DISSERTATION

My name is *Mtjofu Manda* and I am studying for a *PhD in Architecture and Planning* at the University of Cape Town.

My supervisor is *Prof. Vanessa Watson* and her contact details are: Tel: 27 21 6502359; Email: vanessa.watson@uct.ac.za

I am conducting research on *understanding the context of informality: urban planning under contradictory land tenure systems in Mzuzu, Malawi*. This research is part of my PhD Dissertation and I would like to ask you some questions to help me with my research.

I would like to use your name, designation and possibly direct quotes in my dissertation as a source of information. Please indicate yes or no below to give or withhold your permission for me to do this.

YES, I give permission for you to use my name / designation / words in your Dissertation

NO, I do not give permission for you to use my name / designation / words in your dissertation.

If you want to end the interview at any point you are free to do so.

If you are also interested to keep a copy of the form, I will give one signed copy to you.

Signature and designation (Interviewee)

Signature of student

APPENDIX 9: SOME FIELD PHOTOGRAPHS



Author (right) with some of the senior citizens after a discussion in Luwinda



Primary School Opened by inhabitants in Geisha



Installation of village headman Munthali in Luwinda, 6 August 2016 by Inkosana Luwinda on delegated authority of Inkosi Mtwalo



How the rich keep land acquired informally in Geisha: they build small guard houses