Re-Thinking the Land Ownership-Model in Malawi

Counteracting Challenges of informal Land-Management by facilitating Land-Use Tools in the Context of rural-urban Transition.

Pilar Pérez Flores | pilar.perezflores@gmail.com
M.Sc. Architecture / Urban Framework

Tjark Gall | tjark.gall@urban-framework.com
Urban Framework / M.Sc. Student Architecture, TU Brunswick / M.Sc. Student Urban Management and Development, IHS, Erasmus University

Abstract

Countries in sub-Saharan Africa face increasingly forms of settlements in the urban and self-planned settlements[1] in the peri-urban area, where the lack of security of tenure, land conflicts, and informal land markets overwhelm the local governments in their task of Urban Planning and providing necessary public services. We believe it is possible to find innovative, locally adapted perspectives leading towards a more efficient, social, and local management. It is crucial to discover and establish drivers for change while taking traditions, local culture, and current developments into account. This paper examines the potentials of some ideas and regulations in Mozambique as opportunities to tackle the land ownership in Malawi. Our research tries to cope with this task by looking into common procedures as well as general theoretical approaches and attempting to answer the question, how the need for security and sustainable development perspectives for the largely 'informal' population can be achieved.

1 Introduction

Urban growth in Africa brings exceptionally challenging situations in the management of cities, especially in the peri-urban areas. These areas use to be forms of settlements in which the lack of security of tenure and informal land markets define an undesirable reality. One of the most critical issues is the access to affordable land for the low-income population and their integration on the urban dynamics. Furthermore, there is a link between exclusion, poverty, and law, which must be explored. Meanwhile, urban growth has a potential to create jobs and offer better services to the citizens, however, in reality, it regularly contributes to increasing inequality. The trend was and is often the continuation of the colonial attitude towards customary tenure by most of the governments after independence: there was (or is) a will to replace old and traditional practices into more modern (and western) approaches, accompanied by the corresponding laws and regulations. McAuslan indicated with examples of several sources that Mozambique, Ghana, Mali, and (specifically from the legislative perspective) Tanzania and Ruanda show *"the strength and flexibility of customary tenure in adapting to a market economy while retaining some of the social concerns of local communities"* (2007).

---

[1]The term 'self-planned settlements' is used to describe mostly rural-urban/peri-urban settlements without the negative association of either slums or informal settlements.

This paper, therefore, attempts to question the current practices of enforcing western models and concentrates on the difficulties of overlapping powers and responsibilities and the subsequent consequences for the affected residents, which are mainly the lowest-income groups in the urban fringes. One question which arises is, how the functioning and positive parts of both (western and traditional models) can be combined. For tackling this issue, the paper starts with more detailed research questions and a brief theoretical background of land-ownership, followed by elements of the legal framework of Mozambique, which is often considered as one of the world's most progressive (Nielsen et al. 2011), and two mainly successful case studies of urban upgrading in self-planned settlements. Afterwards, the context of Malawi, as well as possible ways of transferring and applying those methods in self-planned settlements in the capital Lilongwe follow. Concluding, some limitations, further needs of research and takeaways will be formulated. However, it is important to note that this paper shall not in any way provide a guide how to transfer laws and practices from one country to another. Instead, it shall provide a conceptual framework which examines what is required to deal with the current land ownership conditions, provide a theoretical base including partly working cases and possible adapted application in another local context and foster the discussion of looking at policies and systems developed and tested in sub-Saharan Africa instead of simply trying to force western models on countries in conditions which do not make this procedure very promising, proved already wrong numerous times by the past development.

2 Research questions

Land policies and land use planning instruments, as well as their execution and control, are crucial for tackling current challenges of urbanization. But why do these legal frameworks fail in their aim to assure land administration in most cases? The primary issue is that they are not developed from and to the local context and therefore result in a dichotomy between the societal structure and the legal basis. Thus, we try to establish a series of questions which can bring some light about how policies could be better designed and defined to shape the cities towards more inclusive and equal characteristics, both from a physical and social perspective and analyze as well as suggest innovative approaches based on discovered drivers of change. In the following, we attempt to contribute to answering these questions:

- Can a pro-poor and inclusive approach be achieved by integrating traditional practices and regulations in polices?
- Can the lack of tenure security be reduced by facilitating the land access and property rights to all income groups?
- Can 'informality' be tackled by participative planning and decision-making processes?

3 Theoretical background

In this section, a brief overview of the theoretical background will be presented, starting with the information which needs to be looked at. This includes the policies which are in place and which characteristics of policies influence their effects and implementation. Secondly, a general overview of land tenure issues and the influence of legal pluralism on the land ownership situation in sub-Saharan countries follow. Finally, the rationale for land administration and management systems will be analyzed, providing the underlying framework for the following case studies of Mozambique and the conceptual application suggestions for Malawi.

3.1 Policies Analysis

Before looking at possible findings or conceptual transfers to other contexts, a thorough understanding of the existing policy-situation is required. Some questions need to be answered first, e.g.: What policies are in place, what is their objective? Do they focus on low-income groups/inclusion? How do these systems deal with informality and traditional practices or the (legal/societal) power of traditional authorities? How are they implemented? Do capacities, resources and willingness to follow their regulations exist? How much are they influenced or ignored by and due to corruption and private interests?

One way to utilize this analysis can be an indicator-based assessment system, which answers these questions to distinguish the level of suitability in certain legal frameworks, the possible impact of adaptations, and discovers the actual need. Additionally, a baseline must be set, comparing the analyzed situation with other countries in similar conditions. However, this will not be done in this paper, which is instead partly based on assumptions due to an undergoing process of acquiring reliable data about the case of Malawi, which is challenging due to limited information in general, its access and trustworthiness as well as unclear boundaries. The latter are mostly caused by policies which are either proposed, not approved but still applied; or approved, but not implemented accordingly; or overlapping and contradicting policies and responsibilities between urban/rural and governmental/traditional authorities.

3.2 Tenure processes and Legal Pluralism—Coexistence of land tenure systems

Land tenure in African countries, especially in peri-urban areas, is often characterized by legal pluralism. In many cases, different systems (formal systems, customary rules, neo-customary, extra-legal, religious) coexist, either parallel or overlapping (Wehrmann 2006). Tenure processes are mostly dominated by the state and require a robust governmental capacity for land adjudication and titling, which is usually not the case in countries in sub-Saharan Africa. Identification, demarcation, and registration are often weakly performed, adding an extra challenge in the access to land. Combined with the exposed context in which there is tension and not cooperation between communities and government, other ways to access land and ownership rights arise. The existence of an informal and self-planned development in peri-urban or inner-urban interspaces can neither be prevented nor would it be socially advisable, but the understanding of how and why it occurs may help to reduce its negative impact for the residents living within such.

Another perspective is to look at innovative informal tools, which started to gain traction in the recent past. One is the concept of extra-legal practices, which implies an in-between of legal and illegal, where land rights are secured by official institutions, however not legally formal either. Another is the neo-customary practice, which describes land transactions in mostly the peri-urban area, where customary systems are tolerated and accepted by all stakeholders and land rights transferred between people without following the officially set regulations (Van Asperen 2014). Mostly the latter system will become very relevant for the case of Malawi.

3.3 The importance of a land administration/management system

Up-to-date information about property/land borders, land use, ownership, and transfers is a crucial issue for functional governance and land management, and a fundamental basis for policy-making (Williamson et al. 2009). The challenge is its data collection, updating, and management. What tool is appropriated for what context? Digital tools, like GIS-software, give useful insights when they are implemented well. Other 'manual' tools or systems could also be sufficient when the context is not too complex and too rapidly changing. Regarding the growth rates and low existing resources in most cases, manual methods seem to be outdated and unable to keep up with the pace of development. Regardless of the system, the importance lays on what kind of information is available and for what purpose it can be used. Further considerations should include self-enumeration by the community or people from the distant, and digital, automatized methods of mapping. All these options will be further discussed in the case studies.

Mainly, a functioning cadastre is necessary to indicate land use and connections between people and land. Cadastral maps with physical information should be combined with an administrative database. However, it should not only include spatial and administrative information (e.g., land use patterns, tenure) but simultaneously include more social, environmental and economic data. Therefore, it can have the capacity to lead to a more efficient tool for making inclusive and better-integrated policy strategies, catering to the needs of the currently 'informal' population.

4 The case of Mozambique

In this section, some aspects of the land laws and small-scale projects of Mozambique will be presented that can give a perspective and provide ideas to conceptualize new approaches. The analysis highlights some of the most critical aspects, various positive outcomes, as well as the frequently predominating lack of implementation and obstacles which exist in Mozambique.

4.1 The Mozambican Land Law: Access to land, tenure rights, and participation.

Mozambique has progressive land legislation in sub-Saharan Africa but is yet not implemented adequately. However, it allows local, traditional land management to have a role in the formal system. Furthermore, it recognizes multiple forms of land tenure. The legal framework established by the Constitution and the 1997 Land Law acknowledges some basic principles and

innovative approaches (Government of Mozambique 1997). The aim was to develop an approach based on clear rights which guarantee land for the Mozambicans.

The most characteristic principle is that the land belongs to the state and cannot be sold (Land Law 19/1997 Art nº 3). It is the state which grants the land right; a long-term leasehold. The customary land systems and also the property rights derived from them are recognized by law. Private investment can be promoted, but with guaranteed rights. In reality, is not that easy: There are several examples especially in rural and peri-urban areas in which local people have lost their livelihood, mostly due to illegal and/or corrupted but tolerated land markets. Additionally, large-scale land acquisition is threatening the tenure security for low-income groups. Coming back to the theoretical, legal perspective, the Land Law still includes some innovative approaches, i.e., the way to access to land and the DUAT (Direito de uso e aproveitamento da terra). It is a single form of land tenure right, a long-term leasehold that can be acquired by different means (Land law 19/1997 Art nº 12):

1. By customary occupation (recognition of long-standing occupancy): the occupation of land by individuals and by local communities with customary norms and practices, as long as they do not contradict the Constitution (only for nationals).
2. By good faith occupation (recognition of long-standing occupancy): the occupation of land by individuals who have been using the land in good faith for at least ten years for residential or family use (only for nationals).
3. By authorization of an application submitted by an individual or corporate person to acquire new rights to unoccupied land (allowed for everyone). The State, through the local governments (for areas up to 1000 ha) or the Agricultural Minister (areas between 1000 and 10000 ha) grants a renewable 50-year leasehold (Land Law 1997, Art. 35).

The right of private property is recognized in means of the construction made on the land. The structure can be bought and sold, while the DUAT would be transferred to the new owner (Land law 19/1997 Art nº 16). Obtaining land rights upon application and government authorization implies a public consultation with the local communities to assure that the land is not occupied (Land law 19/1997 Art nº 13.3). When it is occupied, but the community accepts to transfer its rights, a negotiation between community and investor is needed to obtain mutual benefits. The principal objective is, therefore, that families do not lose their livelihoods. DUATs acquired through customary and good faith occupation are recognized and protected by law, and the usage rights are perpetual. In the case of communities, the individuals could ask for an individual title, once that the land has been divided (Land law 19/1997 Art nº 13.5). The significant point, in this case, is that there is no need to be registered or obtain a title to assure the protection (Land law 19/1997 Art nº 13.2) and that only an oral testimony is needed as a proof of land rights, usually given by the community leader. However, mostly in exchange for allowing large-scale investments and urban growth projects in the peri-urban areas, the local government frequently neglects the legal basis.

Because of this increase of investments and such procedures, caused by the rapid development, in practice, it is needed to register and map land occupation to secure the people rights in both

rural and peri-urban areas. Many attempts towards this goal are sought after by NGOs and international organizations. Formalization through plot demarcation and registration plus the possession of official land titles could cope with some issues of this practice. The principal challenge to achieve this is to have communities which are aware of their rights, combating the lack of knowledge that most of the population has, and the creation of an efficient land administration. The Land Law includes, for example, guidelines for a national cadastre, but the implementation is still quite immature and moves slowly (UN-Habitat 2014).

However, another positive aspect of the Mozambican Law is how the citizen's participation is contemplated, although in most of the real cases the performance is weak and partial. Still, political decision making is only legitimized when the public has been engaged in the process. Local right holders have the right and the obligation to participate in the management of land and natural resources (Land law 19/1997 Art nº 24), as well as in the land rights allocation processes, through a participatory consultation process (USAID 2011). Not many are well carried out, and they are seen as a process to be finished as soon as possible, with no real achievement on the social and economic objectives of the Land Policy (Tanner 2008).

Land use planning is legally formalized by the Plano de Estrutura Urbana (PEU), ten-year land use proposals that establish the urban and peri-urban land use and future development in the municipalities. The elaboration of these PEU has the obligation by law to assure three public consultations to find out possible land conflicts and to guarantee that the needs for the populations and some special groups (farmers, investors, traditional communities, health and educational systems, etc.) are correctly taken into account. Everyone has the right to contribute to the consultations and expose their opinions and criticism, though it is usually some spokespersons who take this role. Once that the views have been detected in the first consultation, the technical team in charge of the PEU elaboration should consider the proposals and make the necessary changes, which will be again submitted to public consultation until its final approbation.

4.2   Urban upgrading in self-planned settlements

In this section, two projects from Mozambique will be presented, which attempt to deal with some significant problems in self-planned settlements ('Bairros ou assentamentos informais' in Mozambique): urban areas without planning, poor or inexistent urban services, overcrowding, poor access, amongst many others. The objectives were to assure land tenure, improve living conditions, map the urban growth and facilitate land management more efficiently. These experiences started as small initiatives in some municipalities, as part of the cooperation between international donors and local governments and have had enough potential to be adapted and replicated in other municipalities.

4.2.1 Access to land in Manica: a process of regularization

Like other Mozambicans towns, Manica multiplied, resulting in a shortage of resources. Many people with few economic resources occupied land informally. In one of its neighborhoods, Josina Machel, an experiment of reorganization and slum upgrading started in 2002 with the objective of establishing land ownership rights, regulating land use and providing basic infrastructure (CEDH 2006). This practice had useful learning for other provinces, and the methodology has been replicated in other towns (GTZ 2010). It was realized by meetings with residents and capacity building of local technicians, followed by the formalization of occupation and land registration. This process was executed by the community leader and municipal technicians. The community further participated in the spatial organization (in exchange for a small incentive) of demarcating plots and opening public streets, as well as in decisions taken on site. The initial documentation consisted of a satellite image, which was analyzed to obtain an approximate layout and used to produce maps for fieldwork. An aerial photography could provide a fast and inexpensive instrument for learning about land occupation in a town with no land management. This technical approach showed that in this case (and probably in other with similar conditions) sophisticated land ownership maps are not necessary (CDEH 2010). Furthermore, the land titling process (obtaining DUAT) was initiated, and a protocol for the land expropriation process (if necessary to establish public infrastructure) was set up. Finally, a mapping operation started, which focused on street addressing. All these measures resulted in mostly positive results; most importantly guaranteeing residents' land ownership (Vaz et al. 2016).

4.2.2 Land registration management: Xai-Xai Cadastre

In 2009, a special department for the land conflicts management and land planning was created with the primary task of data survey and collection. Therefore, a Geographic-Information-System (GIS) expert mapped the existing situation of plots and streets based on digital orthophotos, provided by UN-Habitat (2011). Additionally, field technicians collected coordinates of plots using a GPS and administrative data through interviews and the assistance of the community leaders. Furthermore, a structure for data management was set up, with which the data is verified, reviewed, digitalized, and linked (plot coordinates with ownership/administrative data). Besides the GIS-software, a database is used for the non-spatial information. The data is periodically updated and extended with the help of community leaders. This project resulted, for example, in the sufficient mapping of areas prone to flooding. Through this data, regulations could be established, which prohibit to build in these areas (UCLG 2014).

4.3 Drivers of change

Some lessons can be drawn from the previous examples—as Norfolk and Tanner stated it in 2007: "There is growing empirical evidence that giving legal recognition to informal property right in urban areas brings positive results." Tolerance and recognition are crucial to integrate what it is called informal into the formal systems. Informal does not mean illegitimate; therefore, governments should change their approach to 'informal' settlements into a policy of tolerance. When the community rights are taken into consideration, and they have a role in

administrative issues, residents change the perception of their relationship with the authorities. It is a kind of social contract: When householders or landholders have a sense of security, they are willing to improve their houses and environment. One measure could be to carry out a systematic granting of titles for land holdings in the peri-urban self-planned settlements (Carvalho et al. 2004). And to achieve this, local level adjudication and registration programs can be more effective than central and overly formalized actions. A certain degree of sensitiveness to the local environment and community is further fostering this process. To achieve this, these services should be decentralized and locally administered by a trusted team, controlled by the community. Additionally, cooperation between the local authorities and communities avoid ending up in contradictions.

The establishment of action plans for urban upgrading and environment improvement with communities' authorities can further lead to an active and recognized role of local residents in the processes of access to and use of land. Another positive measure is the adaptation of institutions to facilitate the development of participative land administration.

Furthermore, it is necessary to rethink land formalization/title acquisitions processes; mainly focusing on recognizing residents' rights. Making the registration processes affordable for the poor makes their existence not only legal but formal, leading to economic and administrative improvements. On the other hand, expensive, long and complex processes do rarely lead to prospering settlements. Therefore, revising urban titling procedures or establishing low-cost alternatives to formalize land rights leads to a higher chance of success as well.

Another aspect is the legal framework for governments' expropriations of land, which should require adequate compensation to landowners. Unfortunately, the implementation of this often presents a problem. To counteract this (at least partly) transparency is necessary to avoid corruption, and a further focus on good governance helps to steer the development in the right direction.

Concluding, a change of perspective is needed: 'informal' settlements should not be seen as a problem, but as a dynamic driver for the city. They must be efficiently integrated into urban planning, constituting a key component to achieve an inclusive city. The urban land normative should seek for realistic principles, allowing low-income families the access to land and/or to formal markets.

5   Application in Malawi

In the last section, we attempt to combine the theoretical background and the learnings into suggestions for a new land-ownership model in Malawi. As already mentioned before, the access to data of Malawi is very challenging. Therefore, all assumptions and conclusions need to be seen from this perspective and require further research and validation. The section starts with a brief context of the land ownership and management environment in Malawi and concludes with three suggestions of adapted tools from Mozambique, which we see as potentials for future

implementation, potentially leading to better results than present or imported systems influenced by the western commons.

5.1   Context

In the case of Malawi, we will primarily focus on the peri-urban areas of the city of Lilongwe where access to land and planning sustainable livelihoods is problematic. Both of these difficulties contribute to growing poverty and spatial inequality in the city. Furthermore, the rising land prices and growing populations lead to a shortage of housing in urban areas, resulting in even less land tenure security and quality of life for the urban poor.

In Malawi, the access to land is regulated by the 'Malawi National Land Policy' (GoM 2002) and four bills, which were passed in August 2016. These are the Land Bill, Physical Planning Bill, Land Survey Bill, and Customary Land Bill. Bills, as far as known, for registering land and land acquisition are still outstanding. The National Land Policy focuses on enabling secure land tenure, mostly for customary lands, and improving the rights of woman and minors. The four bills of 2016 provided further details on the implementation. However, land acquisition is still too expensive and time-consuming for most people, only done centrally and lacks the direct input of the traditional authorities—mostly in the areas, where both administrations are overlapping. Furthermore, the underlying data and information are insufficient, and the responsible bodies often lack the resources to implement the bill's objectives efficiently.

While the middle class and rich population can follow the official path of registration, the urban poor need to bypass the land administration system and deal with traditional authorities, purchasing land use rights on the customary land. Another widespread way is only renting property from 'informal' property investors in the rural areas or staying with extended families, possibly building another unregistered building on the plot or enlarging the existing building. About 55% of urban population rent their houses despite the fact that the sector has no regulation in the country. Therefore, the conditions offered are most of the times appalling. Squatting on private or governmental land is not uncommon either, but neither resulted in any major eviction nor affects the urban fabric as much as in other countries, due to the concentration of settlements in the outer areas. On the one hand, this an already a problem because the city boundaries got several times expanded in the last decades, including more of land owned previously (and often still) by the Traditional Authorities in the municipal administration. Therefore, the residents would officially need to follow the laws of the city, but everything else is administered by the block leaders, chiefs, etc., further complicated by the fact that one third of the adult population is illiterate and therefore cannot read the already difficult to access legal documents (UNESCO Institute for Statistics March 2016). On the other hand, this will presumably become an even bigger problem when Lilongwe grows further, and the now exterior areas turn into inner-urban settlements and shows the importance of an efficient handling of land rights and distribution now.

The aforementioned informally acquired land rights are currently accepted albeit not secure. Landholders who have acquired land through customary principles usually have no documents

to prove the purchase; some of them might obtain a letter signed by a witness. Customary land practices are sometimes indicated as the cause of growing self-planned settlements. As in Mozambique, it is possible to find traditional authorities in Malawi, which allocate land, without taking a sustainable growth into account, leading to overcrowding. There is no reason justifying the elimination of the role of these authorities, as they are deeply embedded in the social dynamics, but they could be trained and have some essentials guides to develop a decisive role, with more significant weight in the formal decision-making processes. The decentralization of responsibilities towards the customary structures would be an opportunity as well to deal with the low capacity of the municipal administration and might be able to reduce the currently unaffordable price of registering land officially.

The problem of multiple authorities over land was pointed out in a national Housing Policy from 2007, which recognizes the importance of an efficient land management as a tool for provision of housing as at the same time acknowledges the importance of granting secure tenure to informal landholdings. This multiplicity results in contradictory actions on land management and tenure systems (Majawa 2009). Customary rules regulating access to land are nor recognized neither addressed. They are outlawed by land and planning laws, as originally stated in the Chief Act (Act 39 of 1981): "no traditional leader shall exercise jurisdiction over land within a municipality".

Summarizing, the evolution of access to land has turned into what it is called neo-customary, a dynamic that can be found in most of the peri-urban land markets in Sub-Saharan Africa. The developments mentioned above result in two systems which are contradicting themselves, jeopardizing the developing because there is no cooperation on the city planning. The principal question is therefore how to upgrade the security of tenure? The answer might come from a revision of the processes of land administration and adjudication, formalization, acceptance, land titles, which was started in the last years already by the Government of Malawi but still has a lot of potential. Therefore, we try to transfer some of Mozambique's approaches exemplary in the following. Even if working principles from one place always need to be adapted to the local context, some general ideas and concepts could be transferred and are promising positive change in Malawi.

5.2   Transfer of knowledge & practices

Based on the learning from Mozambique and the context of Malawi, we suggest three steps, which seem to be crucial for a more people-based and inclusive approach of land management in Lilongwe. Even if both countries' situations have differing scope and scale of their challenges, there are strong similarities, mostly regarding insufficient land data, too centralized policies making it impossible for the poor to acquire formal rights and a lack of participatory approaches in the process. All these issues must be tackled first in order to establish a better functional system.

5.2.1   Implementation of cadastre system

The first issue is the set-up of a functional and extensive cadastre system which includes spatial data, plot boundaries, ownership, land-use, as well as secondary data, mostly in the social and environmental dimension. This needs to be done most importantly in the city but also in the urban fringes, where most of the self-planned settlements are situated. The ideal towards the new settlements would be to register the information at the same pace as land is adjudicated/allocated. The legal basis is already set in the earlier described policies; however, the implementation, execution, and expansion can improve tremendously. Due to the restricted resources of the governmental, it should be considered to include alternative data-collecting and mapping approaches. mHub, a Malawian entrepreneurial hub started recently 'OSM mapathons', where technically-experienced Malawians were trained in digitalizing spatial features in OpenStreetMaps based on high-resolution orthophotos. This can be done once from the country itself, which helps to understand the differences of land, but can be supported by long-distance 'guerilla mapping', where people from all over the world with access to internet map areas, which were not analyzed before. This was done in the past for example in ultra-rural regions, where locations of small-scale settlements were unclear and helped in the case of disasters to deliver services and check on people, which position was previously unknown. Furthermore, new, digital-based approaches should be considered. These can be for example GPS-loggers carried by residents/mini-bus drivers etc. for a specified period, which helps to on the one hand understand movement patterns, the impact of congestion, etc., but at the same time helps to map road/path networks in areas, where no paved roads exist. Another digital approach would be a better utilization of already existing global map data like the Global Human Settlement Layer. It uses aerial photos and analyzes them automatically and provides them for free use in combination with national statistical data, as in the case of the Global Human Settlement Layer, the census data (see ghsl.jrc.ec.europa.eu). In the first place, it should not be about the amount of total data or the resolution hereof but more about a reliable and universal start, which is open to the public and its expansion over time in the responsibility of the government but with the utilization of the private sector and communities, regardless if local or global.

5.2.2   Policy for effective collaboration and management decentralization

The second crucial step is the introduction of policies, which concentrate on the decentralization of land management responsibilities as well as the integration of the traditional authorities in the process to make legality better and cheaper accessible. The policies introduced in 2016 already provide a sound basis, however, need to be implemented efficiently and extended with a stronger focus on the majority of the population, which lives in self-planned settlements in grey zones between legality and illegality.

The case of Mozambique, where all land is owned by the state and can only be leased, definitely creates a different context in Malawi, however, occupancy rights are similarly important and should be introduced to acquire land titles. Through that, a sense of formality and belonging can be created and therefore help to increase the quality of housing and the urban realm. The transfer of responsibilities to the Traditional Authorities, as it is partly already the case, can

strongly benefit the implementation of these objectives; just the execution must be done right. Therefore, the policies should focus mainly on three aspects:

- Including Traditional Authorities in registration processes;
- Embracing importance of technical capacity building in governmental institutions;
- Address a more inclusive city by enabling land rights for the urban poor.

5.2.3   Participatory approach

The last step should be the direct involvement of the public, resident communities and traditional authorities in decision-making processes regarding land as well as their better understanding. One way is like in the example of Mozambique, where the community must be consulted before possible expropriation can be done before land is adjudicated to investors or new urban areas and land uses are planned towards the future. One of the most promising parts can be the combination of including and training the Traditional Authorities as described in the previous section for the registration of land ownership and further utilize it by a participatory mapping and spatial planning system. This could result in better representation of marginalized groups, more effective and people-based long-term developments, and, therefore, also a more sustainable and inclusive future growth potential, where self-planned settlements do not restrict and disturb the urban expansion but provide functional districts, inter-related and connected to the core.

6   Conclusion

Concluding, a proper established land management can improve the access to land and assured tenure. Appropriate and effective laws and administration regarding urban land tenure can face the problem of increasing unplanned settlements in peri-urban areas and decreasing inequality. It also should take into account urban land planning strategies in order to make more inclusive cities and therefore, improve the quality of life of its residents. Political will, NGOs and donors' support and a determined civil society are crucial elements to deal with this issue, which is currently often overlooked due to the more pressing issues of health, nutrition, and education, while a functional urban fabric can benefit the economic dimension as well as the efficient provision of services without limiting the city's development in the future.

Foremost, political commitment and institutional capacity are needed to secure and recognize ownership rights. Security of tenure is vital to urban development to provide residents' acknowledgment, formality, and identification, leading to more improvements inside the settlements. Opposing to that, forced evictions, as often documented in other countries, can lead to violence, create homelessness and the problem will be only displaced, but not solved.

To achieve this tenure security, customary tenure should be a legitimate part of land ownership systems, while being properly addressed to avoid conflicts in land management and planning. The challenge, therefore, is to integrate customary tenure systems into the formal state system within the same and only legal framework. Tolerance and acceptance towards informality must be accompanied by a formal assistance, integrating the informal into the urban planning.

Additionally, local community representation and its task/relationship with the local government should be addressed by the policy. Urban planning processes must be participatory: Consultations are needed, but local help should have access to the information and be able to understand legal issues—land use planning must be inclusive. Also, well-trained and equipped civil servants with good knowledge at the local level are crucial to the good implementation.

Advanced, societal approved, and implementable urban policy, legal and administrative reforms, provision of adequate compensation for land transfers, regularization of settlements, and a geo-referenced database on which these are built, are the fundamental elements of a more functional land management. Yet, having an urban policy and legal framework that addresses the context, implementation continues to be a great challenge.

Therefore, to relate to the initial research questions, we would argue that a lot can be learned from examples of sub-Saharan countries, which may provide a better input than western concepts, developed in a completely different environment. However, to further detail these proposals, a thorough understanding of once the actual policy situation and secondly the actual implementation is fundamental. All these ideas and concepts are always limited by private and hidden interests of involved stakeholders, more difficult to achieve than to propose due to the existing resources and capacity, but its better understanding, analysis, and consideration is highly recommendable and necessary to deal with current challenges of exclusiveness and inequality but even more important to prepare for future growth, sustainable development, and a more just city.

7   References:

Carvalho, A.; Donato, J., 2004. The urban land market in Mozambique. UN-Habitat, Eduardo Mondlane University, Republic of Mozambique.

Center for Habitat Studies and Development (CEDH), 2006. Mozambique, Cities without Slums. Analysis & Proposal. UN-Habitat. Eduardo Mondlane University, Maputo.

GTZ, 2010. Experiências de Requalificação Urbana nos Assentamentos Informais dos municípios de Catandica, Gondola e Manica. Secretaria Provincial de Manica.

Government of Mozambique, 1997. Lei de Terras: Lei N° 19/97.

Majawa, L. D., 2009.Urban Customary Land Practices in Malawi: a catalyst for growth of informal settlements.

McAuslan, P., 2007. Synthesis paper: Deliberations of the legal empowerment workshop. Sub-Saharan Africa. Improving tenure security for the poor. Food and Agriculture Organization of the United Nations. Rome.

Nielsen, R.; Tanner, C.; Knox, A., 2011. Mozambique's innovative land law. Focus on Land in Africa.

Norfolk, S.; Tanner, C., 2007.Improving tenure security for the rural poor. LEP working Paper n. 8. Food and Agriculture Organization of the United Nations.

Tanner, C.; 2008. Implementing the 1997 Land Law of Mozambique: Progress on some fronts. Ministry of Justice: Centre for Juridical and judicial Training (CFJJ). Mozambique.

UCLG, 2014. Inclusive Cadastre: Tool for urban development in Mozambique. UCLG peer learning. Inhambane, July 2014.

UN-Habitat, 2011. Mozambique: Participatory Slum Upgrading Programme.

UN-Habitat, 2014. The State of African cities: Re-imagining sustainable urban transitions.

Unesco Institute for Statistics [website], 2016. Country profile Malawi. Available at: http://uis.unesco.org/country/MW [Accessed 08.12.2917].

USAID, 2011. USAID Country Profile: Property Rights and Resource Governance. Mozambique.

Van Asperen, P.C.M., 2014. Evaluation of innovative land tools in sub-Saharan Africa: Three cases from a peri-urban context. IOS Press: Delft.

Vaz, K., Pinheiro, A., Lopez, B., Calderira, J., 2016. Looking Beyond Land Regularization in Mozambique. Annual World Bank Conference on Land and Poverty. Washington, 2016.

Wehrmann, B. 2006. The dynamics of peri-urban land markets in sub-Saharan Africa. Erdkunde, Vol. 62 No. 1.

Williamson, I.; Enemark, S.; Wallace, J.; Rajabifard, A., 2009. Land administration for sustainable development. ESRI Press Academic.