Behavioural and spatial impacts of title registration in informal settlements: the case study of Blantyre City, Malawi

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Behaviour and spatial impacts of title registration in informal settlements: the case study of Blantyre City, Malawi

by

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Disclaimer

This document describes work undertaken as part of a programme of study at the International Institute for Geo-information Science and Earth Observation. All views and opinions expressed therein remain the sole responsibility of the author, and do not necessarily represent those of the institute.
Dedicated to

my wife Nellie and our children Triphonia, Benard and Consolata

who bravely put up with 18 months of my absence.
Abstract

Informal settlements have over time evolved informal systems of land tenure relations and management. Title registration in these settlements represents a significant departure from these systems. This study explores the behavioural and spatial changes that result from title registration using a case study from the city of Blantyre, Malawi from the point of view of two hypotheses:

- Title registration in informal settlements will change behaviour in land transfer and development and increase tenure security perception and
- The behaviour after titling shall manifest itself spatially through investment and spatial development patterns.

Correlation of behaviour and spatial changes was achieved by comparing behavioural data collected from ground surveys and spatial data derived from time series aerial photographs.

The study has found that title registration in informal settlements has limited capacity to change behaviour. In turn, spatial changes reflect continued haphazard development. While informality still persists universally, formality is beginning to exist only marginally alongside the informal especially among those with substantial investment. The attraction of the informal system seems to stem from the social support infrastructure that is embedded in it.

The study argues that in order to ensure that title registration is relevant to the needs of the community as well as land administrators and policy makers, the cultural dimension should be considered when incorporating informal tenure rights into formal registered titles. The study recommends an approach that is based on building on existing local forms of informal registration and land development management rather than trying to impose institutions modelled on imported systems. In other words policy makers should be moving away from a ‘replacement paradigm’ in which informal systems are legislated out towards an ‘adaptation paradigm’ where such systems are recognised, clarified and formalised.
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1. Introduction

1.1. Background

A distinguishing feature of the urban growth in developing countries has been the growth of informal settlements. The UNCHS (1996 p. 292) estimates that between 20 and 80% of urban growth in developing countries is informal. This figure is 67% for Blantyre City, Malawi (Blantyre City Assembly, 2000). In the past the standard government response was to remove such settlements. However removing an informal settlement from one location usually results in that settlement transplanting itself into another location. With time not only has this response been seen to be unworkable, there has also been the recognition that these settlements are social and economic entities in their own right and have a social and economic capital base that should be supported and encouraged to grow (Abbott, 2000).

This recognition has led governments often with the support of international financial and technical institutions such as the World Bank and the UNCHS (Habitat) to seek to formalize the informal land holdings. The demand for land registration and titling has emerged in many countries as population growth, advances in land use technology in agriculture and increased transactions in land has made it advantageous for property rights on land to be better documented and for property rights to be reliably enforced. Also informal settlements which have not been formalised represent what Abbott (2000) has called ‘holes’ in the cadastre. This means that land information for those pieces of land is missing and this has negative implications for land management including the ability of municipal authorities to exercise proper land management.

1.2. Tenure relations transformation

Land titling is an instrument that governments use to achieve a wide range of aims. It consists of adjudication and registration of title. It is the formal registration of land previously used without formal title. Henssen (1995) defines land registration as the official recording of legally recognised rights in land and is usually part of a cadastral system. It means that there is an official record (land register) of rights on defined units of land.

Land titling represents a significant transformation of land tenure relations in the African context. The earliest tenure transformation attempts in Africa were made during the colonial period and were designed to serve the interests of the settler community by providing land for the settler community, plantation owners and traders. Legislation was passed to effect these changes. The effect of this legislation was to extinguish customary claims over land deemed unoccupied and the subsequent issuance of leasehold or freehold titles to the new occupants. However as pointed out by Migot-Adholla and Bruce (1994 p.8) little effort was made to transform indigenous, customary land tenure arrangements. The admini-
stratification of such land, remained in the hands of the customary authorities. Even so, it has been argued by Durand-Lasserve and Clerc (1996) that in sub-Saharan Africa, colonialism and post colonial management introduced market logic and overturned most previous ‘customary’ rules of land management. Post colonial Africa is witnessing tenure transformations that are driven by the belief that tenure security is an important condition for economic development. Much interest in Africa has been on whether agricultural performance increases with title and land tenure security (Barrows and Roth 1990, Bruce and Migot-Adholla 1994).

Land tenure security provided by legal tenure is believed to result in the following benefits among others:

- Provide security to owners and all other persons who have an interest in the land and thus stimulate investments in the land.
- Reduce disputes and litigations over land.
- Facilitate all transactions concerning land and make dealing in land easier, cheaper and safer.
- Enable owners to use registered land as security for formal loans.
- The land register can also be the basis for many other public registers, for example, for taxation purposes. Also the land information is indispensable for planning purposes including development controls and environmental management.

How far these aims are achieved has been the subject of a wide range of literature. Although a lot of research has been carried out on the impact of title registration in Africa, much of the research has concentrated on rural land titling projects that are aimed at increasing agricultural production in rural areas (Feder and Noronha, 1987; Haugerud 1989; Migot-Adholla et al. 1991; Bruce and Migot-Adholla, 1994). Research on the impact of title registration on urban areas has largely been in Latin America (Kagawa 2000; de Soto, 1989 among others) and in Asia (Jimenez 1984, Dowall and Leaf 1990) although there is now increased research interest in recent times on impacts of tenure reforms notably in South Africa (Fourie and van Gysen, 1996, Barry, 1999).

1.3. Research problem and justification

Introduction of formal title registration is expected to alter how land is acquired and developed. However people often hang on to traditional informal processes, to some extent. It is the people’s response to formal land acquisition and development processes that is of interest in this research. Understanding this behaviour will enable policy makers to design policy interventions that work and avoid the potential wastage of a huge amount of resources that are being spent on title registration projects. This understanding is particularly important for informal (squatter) settlements which over a long period had evolved their own way of dealing in and developing land for, as Barry (1999) observes, customary land tenure practices continue to have a strong impact on urban land management in general and in informal settlements in particular.

Title registration in informal settlements is almost by definition the formalisation of the informal i.e. turning de facto tenure into legal tenure. With it comes the formalisation of the processes of land transfers and development. Formalising the informal in such areas requires a proper understanding of the
value people put on formality (i.e. legal tenure and formal land development procedures and patterns) and on informality (i.e. de facto tenure and informal land development procedures). It therefore follows that an understanding of de facto tenure practices in a particular society is essential to instituting effective de jure tenure practices in that society.

The people’s response to new (formal) land acquisition and development procedures has implications for investment and the possibilities for planning control in land development. Land information is needed when development is required. The basic unit upon which land records can be compiled is the land parcel. Several categories of land information systems developed around land parcels exist to provide precise spatial, environmental and cadastral information, or specific legal rights and duties vested in land to support land policy administration. Title registration generates the land register which contains land information which is crucial for the carrying out of urban planning. Armed with land information, municipalities and other planning authorities are able to manage land development more effectively. In titled settlements the generation of land information such as transfers, subdivisions, building development and environmental conservation depends to a large measure on the behaviour and actions of the players involved.

Larsson (1991) points out that documentation of land units is important from the public viewpoint in that it permits better land use and management and also the institution of public control of development and land policy measures. Land titling enables the recording of transfers, ownership, subdivisions and land use. Such land information is only relevant if it is up to date. The timeliness of land information depends on behaviour of title holders – are they registering transfers, ownership, boundaries etc? In turn better land management depends on the currency of land information.

![Figure 1](image.png) Relationship between behaviour transformation and land management in a titled settlement.

In an informal settlement that has been titled, what is the extent of the transformation of behaviour and how does titling affect investment and land management? This research will explore these questions through the use of a case study of Blantyre City in Malawi. In 1987 the Malawi Government embarked on a title registration exercise in the city of Blantyre which is Malawi’s largest city. The exercise involved the adjudication and registration of title. It was considered necessary to adopt registration of title to enable the huge increase in land dealing to be managed efficiently in a formal manner. It was also to
be the means by which a guaranteed title could be given (Adlington, 1991). This exercise led to the formalisation and registration of titles of those who had squatted on private freehold land.

1.4. Research objectives and questions

The objective of this study is to establish the impact of title registration on behavioural and spatial development patterns in informal settlements. As a vehicle for exploring these behavioural and spatial impacts, the research uses the case study of two informal settlements in the City of Blantyre, Malawi with one of the settlements titled and the other untitled. These aspects are explored by employing the following hypotheses;

1.4.1. Hypotheses

1. Title registration in informal settlements changes people’s behaviour with respect to tenure security, land transfers and development. By introducing formal legal tenure and formal land transfer and land development procedures and practices, title registration replaces de facto tenure with legal tenure and informal land transfer, development procedures and practices with formal ones.

2. The behaviour adopted by the people in informal settlements as a result of title registration manifests itself spatially in investment and land development patterns.

To explore and test the above hypotheses, a number of research questions have been formulated;

- What are the processes of land transfer in informal settlements that are titled and those informal settlements that are not titled?
- What cultural factors influence behaviour change or lack of behaviour change in titled settlements?
- How is the perception of tenure security affected by the transformation of de facto tenure into de jure tenure?
- To what extent is the local planning authority able to control building development in the titled settlement?
- How does legal tenure or lack of it influence investment and the spatial development patterns of settlements?
- How can remote sensing be used to demonstrate the spatial impacts of title registration?

The first hypothesis will be explored by means of a field survey using a questionnaire and interviews to establish the patterns of behaviour change. The second hypothesis will be explored by means of a comparative analysis using remote sensing data and GIS analysis to examine the comparative spatial changes that can be attributed to title registration. The research methods are discussed in further detail in chapter 4.

Blantyre presents good opportunities for studying these issues. Firstly, it has informal settlements which were titled and also informal settlements which were not titled enabling a comparative analysis in behavioural and spatial changes to be carried out. Secondly, the informal settlements have, over time, evolved
their own means of land tenure relations and it will be interesting to see how the formal have impacted on these informal arrangements. Thirdly, the city has large scale aerial photography carried out in 1990\(^1\) and another flight in 1998\(^2\) enabling the spatial impacts of title registration to be ascertained and compared.

1.5. Working Definitions

1.5.1. Informal settlements

There is not always a clear distinction between formal legal development and development taking place within the framework of informal law. Informal settlements demonstrate varying degrees of management by the community and the local authority. On the one hand is the informal settlement where due to lack of government intervention, traditional (informal) management may dominate and, on the other, interventions such as title registration may bring in some level of government (formal) control. Therefore in this study both the titled settlement and untitled settlement are informal settlements which exist on a continuum between completely illegal and completely legal types of settlements. Their common denominator is that they came about through the unofficial occupation of land.

For the purposes of this research informal settlements are defined as urban low income settlements that have come about through the unofficial occupation of land. This implies that they came about in the absence of legal rights to the land, official approval of land use and development and provision of infrastructure (Barry, 1999). Other names that may be applied to an informal settlement are squatter settlement, spontaneous settlement, irregular settlement or illegal settlement (Peil and Sada 1984: 280-282, Fourie 1993:2).

1.5.2. Behaviour

For the purposes of this study, behaviour is operationally defined as the actual response of the people to an intervention, in this case title registration, in the manner they adopt, adapt or reject the norms, procedures, practices and attitudes associated with that intervention. In other words it is what Kagawa (2000 p. 4) has called ‘the reactions of the society towards the implemented policy’. Behaviour may therefore be non responsive to the new norms, or it may be modified resulting in the adaptation and modification of the formal system to suit the people’s own ends or it may change completely in accordance with the new norms. In this study the behaviour is the degree of adoption of formal land acquisition and development procedures and changes in perception of tenure security resulting from formal title registration.

\(^1\) This photography was carried out as part of the adjudication and registration exercise. It was commissioned and funded by central government.

\(^2\) This photography was commissioned and funded by the Blantyre City Assembly as part of the urban structure plan preparation process.
1.5.3. Land development

Land development refers to the man made improvements on land which may be in the form of buildings or networks such as roads and footpaths. These improvements can be carried out by private individuals as is the case with most housing development or they can be carried out by the public authority or by communities as is the case with roads and footpaths. Land development can be disorderly as is the case in many informal settlements where often there is no government control on development standards and norms or it may be orderly through some form of planning control. Land development may also be called spatial development.

1.6. Organisation of the thesis

This chapter has set the context of the study topic, developed the statement of the problem, the hypotheses, the research questions as well as the working definitions of some key terms used in this study.

Chapter 2 gives a critical overview of the literature on title registration in informal settlements especially in the context of the African experience. Due to the paucity of literature on experiences of title registration in African informal urban settlements, the rural experiences are also explored as similarities exist between customary land practices in rural areas and informal land practices in informal urban settlements.

Chapter 3 describes the background to the study area starting with a broad overview of the urbanization and informal settlement trends in the City of Blantyre. The land tenure situation in the City with respect to the legal and de facto situation and the role of the various actors including traditional leaders is reviewed. Finally a more in-depth look of the case study settlements is presented.

Chapter 4 describes the research methodology and details the research methods used. It discusses the selection criteria for the case studies. Non spatial and spatial data gathering methods are explained. The spatial indicators used to measure investment and spatial development trends are presented as well as the role of aerial photographs in deriving the indicators is discussed. Finally the chapter discusses the limitations of the research.

Chapter 5 deals with the analysis of the data and the findings of the research with regard to effects of title registration on traditional behaviours, attitudes and practices as well as its effects on investment and management (planning) of development in the settlements.

Chapter 6 consists of the conclusions and recommendations of the research. The chapter provides a synthesis of the results obtained in Chapter 5 and makes conclusions with respect to the research objectives in the light of the findings of the research. Finally the chapter recommends ways of making title registration a more effective exercise that results in positive behavioural and spatial impacts on informal settlements such as Mbayani.
1.7. Summary

This research is concerned with the exploration of the impacts of title registration on existing informal procedures and practices in the manner people transfer and develop land as well as the impact of title registration on perception of tenure security. These findings at the micro-level are then compared with macro-level findings for the whole settlement using data derived from time series aerial photography which show, using a number of indicators, how investment levels and land development patterns have changed as a result of title registration over an eight year period between 1990 and 1998. At a time when tenure relations are changing through government intervention, this research provides evidence on the degree of effectiveness of these interventions in situations where traditional or informal systems may already be deeply ingrained.
CHAPTER 2: TITLE REGISTRATION IN INFORMAL SETTLEMENTS

2. Title registration in informal settlements

2.1. Introduction

The topic of land tenure reforms including title registration is one that has attracted a lot of scholarly and developmental interest especially over the past two decades. Standard literature has centred on exploring the theoretical models advanced for title registration (Feder et al 1988, de Soto 1989). In Africa much classic work has concentrated on tenure security and agricultural investment (Bruce et al 1994, Feder et al 1987).

This chapter will seek to define from literature the terms key to this study. The evolving nature of views on land tenure, the impacts of title registration on tenure security and investment will be reviewed particularly in the context of the African experience captured in the literature that is available. The conflicting nature between formal title registration and traditional and customary practices is explored. The role of title registration in good land use and development is explored as well as the role of aerial photography in assessing the spatial impacts of title registration.

2.2. Tenure, land tenure security and informality

The Bathurst Declaration on Land administration and Sustainable Development (1999) defines tenure as the way in which the rights, restrictions and responsibilities that people have with respect to the land (and property) are held. Bruce (1998) has described security of tenure as “tenure held without risk of loss; alternatively, tenure held without risk and for a long time”. Place, Roth and Hazell (1994 p.19) consider that land tenure security exists “…when an individual perceives that he or she has rights to a piece of land on a continuous basis, free from imposition or interference from outside sources, as well as ability to reap the benefits of labour and capital invested in that land, either in use or upon transfer to another holder”.

However such freedoms can hardly be attained in totality for, as pointed out by van der Molen and Osterberg (1999), governments do impose conditions on any land use in order to uphold sustainable development and environmental conditions, for instance regarding urban development. All land users are obliged to uphold them without any specific compensation from the government. Even where there is no government control on the use of land, social control often inhibits what one can and cannot do with their land. It can be argued that full land tenure security does not exist anywhere not least because even where governments have carried out title registration for their people, the government can ultimately invoke its right of eminent domain (Roth, Cochrane and Kisamba-Mugerwa 1994). Land tenure reforms such as title registration can only enhance land tenure security but not achieve land tenure security. That
is why land tenure security is always a matter of degree measured against the indicators of robustness (or breadth of rights), duration (or length of time during which a given right is legally valid and assurance (certainty) (Place, Roth and Hazell, 1994).

While tenure security is always a matter of degree, informal settlement can also be said to be a continuum existing between that which is completely legal (in formal terms) to that which is completely illegal. In various degrees the formal and local informal systems work together and are modified to suit the conditions in a particular community. Thus as Doebele (quoted in Davies and Fourie, 1998) argues, ‘current research, rather than depicting a duality of legal and not legal delineates a real world that contains very complex mixtures of formal and informal systems with infinite variations between them’.

2.3. Land tenure reforms

Throughout Africa today land policy reforms attempt to find solutions to land tenure conflicts that result from the simultaneous operation of several systems juxtaposed to each other. This is a legacy of inadequate colonial era land legislation and partly the impotence of post independence land policy. Malawi for example retained most of the colonial legal system with only a few cursory efforts to amalgamate land rights into the national legal framework (Ahene, 2001).

As Wily (2000) has pointed out land tenure reforms embody significant shifts in the balance of power in state-people property relations. One of the key rationale for land tenure reforms is the enhancement of land tenure security. Title registration which is the process of recording rights in land as title (Henssen, 1995) is an important component of land tenure reform initiatives. Title registration with its emphasis on the individual rather than community, the market rather than social relations, represents a significant change in the African experience of the man-land relationship.

2.4. Changing man-land relationship

Many authors have written on the influence of religious and traditional beliefs and practices on land tenure in Africa. Historically Africans have viewed land as a sacred trust. In northern Ghana land is viewed as a sacred trust of the ancestors whose labour won it and preserved it for the for the use of their descendants (Manoukian, 1950 quoted in Acquaye and Osiama, 1986). In much of Africa it is believed that land belongs to a community defined as a ‘vast family of whom many are dead, a few are living, and a countless host unborn’ (Elia quoted in Acquaye and Osiama, 1986).

In Malawi land was held in trust for all the people forming the community. West (quoted in Mbalanje, n.d) uses the word ‘cognatic ownership’ and explains that ‘the land belongs corporately to cognates who are persons claiming descent from a common ancestor’. Land was inheritable. Therefore a family could hold a piece of land indefinitely as there would be no justification to dispossess any family of any piece of land unless if a member of that family was accused of a major crime such as witchcraft (Mbalanje, n.d). The family could not however ‘sell’ the land as it was conceived that the land was a sacred trust and not a commercial commodity. In other words, land could not be assigned, charged or mortgaged.
This view of land contrasted sharply with the Europeans who viewed land as a purely economic re-
source. Land was a commodity which could be bought or sold. The result of these opposing views was
the evolution of dual tenure systems in which Crown lands (in the case of British colonies such as
Nyasaland, now Malawi) were governed by English law while the rest of the territories continued to be
governed by ancient tribal custom. Post independent Africa has by and large inherited this dual system
of state law and normative systems such as customary law although as Acquaye and Osiuma (1986)
have pointed out, there have been significant changes in some cases such as Ghana, Ethiopia, Zim-
babwe, Uganda and Tanzania among others. The significant changes in countries such as Tanzania and
Ethiopia are largely due to the nationalisation of land in those countries in the 1970s. Benda-Beckmann
(1991) recognizes a third system- the hybrid. This is made up of elements of various systems which
have evolved in many developing countries.

It has been argued that the traditional view of looking at land has meant that the administration of land
is not based on economic principles but on compliance not only with the demands of the living but also
those of the ancestors and of posterity. It is also argued that land in customary areas had been difficult
to alienate. Okpala (quoted in Doebele, 1983) has argued that persistence of tribal traditions often re-
stricts alienability of land or establishes different market prices for tribal and nontribal purchasers.

However this view is increasingly being challenged as evidence points to the growth of markets in land
which are active throughout Africa both within customary and statutory systems (Payne, 1997). In
many urban informal settlements where to all intents and purposes, customary practices are prevalent,
land alienation has become accepted and land markets are now operating. What this shows is that these
systems are not static but they evolve in response to new needs and opportunities. The new needs and
opportunities include the rapid growth in population and rapid urbanisation which have hastened the
emergence of more exclusive individual rights (Migot-Adholla and Bruce, 1994). It can be said that the
evolutionary processes of the system are happening in an organic fashion i.e. demand driven arising
from the processes that are internal to a particular community. However title registration in informal
settlements can be said to represent a revolutionary process which often seeks to replace systems that
have evolved over time in a particular cultural context with a new system often imported from outside
that culture. This thesis will explore to what extent this revolution has brought about the replacement of
the processes which have evolved under certain cultural and socioeconomic conditions.

2.5. Outcomes of individual title registration

2.5.1. Title registration and investment

The past decade has witnessed a rise in interest in individualized private tenure systems. This interest
has been heightened by the research work of Hernando de Soto in Peru. De Soto found that comparing
two settlements of similar age, built adjacent to each other and inhabited by people with similar socio-
economic characteristics but differing only in their legal security, the value of a typical dwelling in the
legally secure settlement was 41 times greater than in the other settlement. Using a larger sample of 37
settlements from throughout Lima, de Soto’s ILD researchers found that the average value of buildings
whose owners had received title was 9 times greater than those owners who had not received title. De
Soto notes that while the expectation of property right creates enough security and stability to possess
land and build a house on it, it does not provide enough incentive for significant investment in that house. He concludes that ‘people are at least 9 times more prepared to invest when they are given some measure of protection by the formal legal system’ (de Soto, 1989, pp.24-25).

Some writers have however pointed out that de Soto’s findings need to have some caveats. For example Payne (2001) has pointed out that de Soto was comparing settlements where the level of security was significantly different rather than the more common one in which such differences may be marginal in practice.

It is argued that the informal type of land tenure system usually discourages investment in land improvement and limits development. The rules of de facto tenure do not guarantee an individual the use of a specific parcel of land. Since the land is not ‘owned’ by an individual, it has no mortgage value and cannot be used as security against a long-term loan. Governments with donor support, notably from the World Bank have believed that formalizing changes of the man-land and man-man relationship by encouraging the individualization of land will produce more benefits in addition to the ones mentioned above. The advantages of land formalisation and titling have also been widely addressed in literature (Dale and McLaughlin, 1988; Williamson, 1986). Among the benefits are mentioned increased tenure security and access to formal credit system, increase in land and property values, increase in tax revenue base as well as establishing the basis for comprehensive land registers.

It is argued that when people have title they can access formal credit by the use of the title as collateral. The emphasis on access to formal credit ignores the fact that for many in informal settlements who possess title, the major source of credit remains informal such as family and friends or loan sharks. There are more factors that determine access to formal credit such as interest rates and willingness of lending institutions to lend to certain sectors of society. Possession of title is only one of them.

2.5.2. Title registration and tenure security

While there can be no doubt that possession of formal title denotes formal recognition of rights, land tenure security does not necessarily follow from possession of formal title. Even the assertion that the rules of de facto tenure do not guarantee an individual or a family the use of a specific piece of land can be challenged. The norm in areas with non formal tenure is that individuals or families have use rights for a piece of land in perpetuity. Where it cannot be alienated such as under customary systems, it is nonetheless passed on to children. People feel secure as long as their rights are recognised as legitimate by the community. Elias (quoted in Ezigbalike et al, 1996) observes that “the chief has no right, even under ancient customary tenure, of continuous or detailed supervision over any land which has once been granted to a family, or to an individual whose right of enjoyment and use cannot be lightly disturbed unless for good cause shown”. A formal title is, at best, merely an affirmation of the social guarantee of tenure security (Migot-Adholla and Bruce, 1994). It does not create it.

Indeed Haugerud (1989) and Migot-Adholla et al. (1991) have argued that formalisation of property can actually lead to a reduction in the overall tenure security and lead to increase in the number of disputes. They suggest that if left alone informal property systems may on their own provide considerable security of tenure. However it is difficult to see how informal property systems can provide considerable security of tenure in an environment of rapid urbanisation and population growth. It can be argued that it is pre-
cisely under such conditions that the informal system can be overwhelmed and be subject to manipulation for many such systems are neither democratic nor transparent.

Another criticism of formalisation is that it results in significant impacts on the distribution of land holdings and possibly on the distribution of income. While it would widen the scope of economic actions and broaden the opportunity to earn income through activities such as agriculture, the newly acquired attractiveness of registered land can result in land markets concentrating ownership in few hands and accelerating landlessness among the poor. In certain cases, public intervention in land has been and is the most frequent cause of tenure insecurity. For example it is noted in Malawi that the conversion of customary land into private and exclusive leasehold estates contributed significantly to the shortage of smallholder farm lands (GOM, 2001). Distress sales are happening particularly among the poor. A lot of literature on the Kenyan land reform has been very critical of the side effects of the rural land reform (Shipton, 1988; Migot-Adholla et al, 1991). Individualisation is seen as an extinction of controls by the community over land and by concentrating all rights in a single owner, it also cuts off the customary rights and protection of family members and others. They maintain that although there is no evidence that land sales have resulted in concentrating ownership in a few hands, the sales have nonetheless played a role in the growing landlessness, increased rural-urban migration and leaving families with no safety net.

A Kenyan study points to the fact that registered ownership does not necessarily equal to tenure security. Migot-Adholla, Place and Oluoch-Kosura (1994) showed that possession of title does not imply freedom from dispute. They conclude that while reduction of dispute was a major objective of land registration, most reported disputes have occurred after the land adjudication and registration exercise (p.134). However in a Ugandan study by Roth, Cochrane and Kisamba-Mugerwa (1994), it was found that nearly all farmers interviewed perceived positive benefits to registration in helping to curb land disputes and in enhancing tenure security.

In the urban areas another group that is negatively impacted are the tenants. Formalisation of property tends to increase property values and with them, rents, resulting in the poor who cannot afford high rents being displaced. Although it is difficult to trace mobility of tenants in informal settlements, a study conducted in a settlement in Cairo (Daef, 1993 quoted in Payne, 2001) found that over 21% of the settlement’s population was displaced as a result of a settlement upgrading project which also involved the offer of land titles to the population. From a gender perspective women are more likely to lose out more. Women suffer from land markets when their spouses alienate family land. Women however may be able to acquire land in their own right through the market although this option is unaffordable for most women in poor households.

The empirical evidence on the success of title registration therefore suggests a mixed picture. It would appear that the success of registration does depend on local circumstances. Under certain situations, registration is able to give positive results but in other instances it is not able to do so. Therefore title registration should never be seen as a panacea everywhere. This points to the fact that it is important to have a thorough understanding of the political and socio-economic situation of a community before attempts can be made to introduce title registration. Failure to do so may result in wasted efforts and resources.
2.5.3. Title registration and management of land development

Not much is known about the effect of title registration on land stewardship in African urban informal settlements. However research by Golan (1994) to establish a relationship between security of tenure and land stewardship by comparing two Senegalese agricultural compounds, one titled and the other untitled, found that the land management practices did not differ between the two settlements (p.240).

Larsson (1991) argues that without registration, irregular building and land development is difficult to prevent and all formal physical plans will have a tendency to be no more than paper plans. In a title registration system are built the requirements for a regulating system such as knowledge about existing rights and people but also some legal means to influence the development of the land. However Simpson (quoted in Larsson, 1991) argues for the need to put land registration in perspective in so far as good land use and development is concerned. Land registration

“…is a device which may be essential to sound land management, but it is merely part of the machinery of government. It is not some sort of magical specific which will automatically produce good land use and development; nor is it a system of land holding, it is not even a kind of land reform, though it may be a valuable administrative aid to land reform. In short, land registration is only a means to an end. It is not an end in itself” (Larsson, 1991 p.65).

Therefore in order to be able to control and guide development of land, it is not only essential that land is registered but that the registration is part of a functional and effective infrastructural and institutional framework. It is this effective infrastructural and institutional framework that is lacking in many African countries. Title registration involves substantial administrative costs. Resources must be devoted to the process of determination of individual titles and registration as well as the maintenance of the register. Trained personnel are required as well as legislative backing and an efficient and effective administrative machinery. The process requires people who are “…..clever, shrewd, well-versed in law and custom, familiar with all details of law, custom and practice among the group concerned, absolutely independent (and often fearless), uninfluenced and incorruptible” (Christodoulou, 1996). It must be admitted that such individuals are rare! It has even been suggested by some writers that the resources – human, financial and technical - required to establish and maintain a formal land administration system in developing countries could be put to better use in other sectors (Attwood, 1990).

In Malawi the proposal to carry out a nationwide title registration exercise is said to require 800 professional and 2000 technical staff over the next ten years. Currently the country has only 15 such professionals (Background Study to the Malawi National land Policy, 1999).

Often due to a deficient formal infrastructural and institutional framework, the prevailing informal infrastructural and institutional framework has tended to persist despite efforts to legislate out of existence such a framework. The persistence of informality is the subject of the next section.
2.6. Persistence of informality

Critics of title registration have maintained that registration represents a fundamental change in the social organization of the community it aims to help.

Wily (2000) notes that despite a century of purposeful penetration by non customary tenure ideology and legal provision, unregistered, non formal tenure not only persists but is still by far the major tenure arrangement in Africa. This state of affairs affirms what Hoftsee (quoted in Barnes, 1986) says about man-land relationships that such relationships “do not exist independently, but are related to society as a whole, to its culture, its structure and its function”.

Invariably the outcomes from title registration do hinge to a considerable extent on the culture and behaviour of the people who have been offered title. In turn the behaviour of these people depends on their understanding of formal title and the value they attach to it. Thus people who understand the concept of formal title and who see a significant positive difference in holding formal title as opposed to informal tenure will behave differently in for example, the land market and in investment decisions from those who perceive informal or de facto tenure to be as good as, or better than, the formal or de jure tenure. Many authors have written on the problem of displacement of informal systems by formal systems which by definition title registration is. McLaughlin and Palmer (1996) point out that the benefits of formal property have been largely unobtained in developing countries despite the high levels of investment that has gone into land titling and registration projects. The failure of title registration projects in many African countries can therefore be attributed to the transplanting of foreign norms on to traditional African norms without due regard to the prevailing custom and culture of the people:

“…attempts to formalize property...have ignored local property rules and replaced them with foreign ones. In particular titling and registration projects in developing countries have in the past almost invariably been associated with individualization of private property and have used processes and mechanisms imported from outside”. (Dale and McLaughlin, 1998 p28).

This view is shared by North (1990) who has demonstrated that the introduction of similar rules in societies with different institutional arrangements leads to dissimilar results:

‘Although the rules are the same, the enforcement mechanisms, the way the enforcement occurs, the norms of behaviour, and the subjective models of the actors are not’.

In an interesting study of the Kenyan titling and registration project Shipton (1988) found that disputes over land declined in the period immediately after the reform. However after a decade there was a considerable growth in the number of disputes as members of families which had not fully accepted the individualist ethos quarreled with those owners who had registered title. Shipton (1988) notes that the system of formal land tenure relies upon participants diligently registering successions and transactions. However the participants often have not done so, undermining a system that has been established at great cost.
The difficulties of transplanting tenure relations which evolved from another culture onto the African culture have not been lost on African governments particularly with regard to tenure reforms in rural areas. As Wily (2000) has pointed out, the most radical shift in tenure reform occurring in sub-Saharan Africa today is that governments are being forced to recognize African tenure regimes as legal in their own right and equivalent in the eyes of national law to the freehold/leasehold culture. For example the Malawi National Land Policy encourages customary landholders to register their holdings as private customary estates with land tenure rights that preserve the advantages of customary ownership but also ensures security of tenure (GoM, 2001).

2.7. Measuring the impacts of title registration

The determination of the impacts of title registration projects calls for scientific methods of measuring the variables by which the impact is to be determined. The standard method of measuring these variables has been the use of direct social surveys where respondents are questioned or interviewed or where the variables are observed and recorded. As the impacts happen over time, in many cases it is useful to have longitudinal surveys. The advantage of this standard method is the ground-truthing that is integral to it and also the possibility to obtain non-quantitative data such as respondents’ attitudes and perceptions. However the limitations of this method include the high costs of such surveys especially if they have to be repeated over time. Certain research areas are sensitive not least the area of informal housing (de Souza and Zetter, 2000). As Andranovich and Riposa (1993 p.59) have pointed out a survey can yield reliable results when it asks people about matters they do not find too private or threatening. Otherwise private and sensitive matters might not be divulged because the interviewer is a stranger or because he or she is a member of the same community and might be thought to gossip or use the information for personal advantage.

The use of aerial photographs presents a means to overcome some of the research limitations explained above. Aerial photos reduce the time and costs of gathering the same information by ground surveys. They contain a wealth of information, far more than is normally gathered by ground surveys alone. Where the research area is sensitive e.g. illegal developments, aerial photographs can be a useful method measuring this variable.

Aerial photographs represent an interesting method of collecting quantitative data that can be used to measure those variables that can be identified or inferred from air photos. For example population estimates for settlements can be calculated by house counting and multiplying the house count with a known occupancy rate (ITC/IPI, 1983). Warner et al (1996) points to the fact that it was possible to measure changes in the housing situation in Bangkok using air photos. It must however be recognised that aerial photography can only show the physical things that can be seen. They cannot directly show people’s attitudes and perceptions, only via conceptually linked indicators. They cannot show physical things that cannot be seen from the air such as the insides of buildings.
2.8. Summary

Success stories of title registration in Africa are far and between. It is clear from literature that the key mistakes have been to seek to replace established norms that are based on custom and culture with foreign, mostly European, norms. Not only is this a problem in its own right but it is also supported by weak infrastructural and institutional frameworks. The lessons however are not lost and recent land reform projects in Africa which include title registration are attempting to learn these lessons. Accordingly new tenure laws in countries such as South Africa, Uganda and Mozambique make provisions for not just individuals but for two or more persons to hold land in legal and registrable ways (Wily, 2000).

Most of the literature on the African experience with title registration is focused on rural titling projects because most projects have concerned themselves with raising agricultural productivity. However as Africa becomes more urbanized and as the problems associated with informal and unplanned urban settlements continue to mount, the urban sector should see increased interest when planning and executing land reform projects as is already happening in countries such as Malawi, Mozambique and South Africa.
3. Background to the study area

3.1. Introduction

This chapter sets the scene of the study area. A broad overview of urbanization trends and the growth of informal settlements with specific reference to the City of Blantyre is presented. The legal and extralegal frameworks within which land matters in Blantyre are administered are addressed. Finally the study and control settlements – Mbayani A and Mbayani B respectively are described with respect to their growth trends, demographic and socioeconomic profile, and the nature and role of traditional leadership in the settlements.

3.2. Location

Malawi formerly known as Nyasaland is a landlocked country in southern Africa sandwiched between Tanzania to the north and north east, Mozambique to the east, south and south west and Zambia to the west (see Map 1 below). The country occupies 118,324 square kilometers of land and water. Of this 20 % is water. The country’s population in 1998 was approximately 9.8 million and has been growing at an average rate of 1.9% per annum (NSO,1998).

Map 1 Location of Blantyre City and Malawi

Source: www.lib.utexas.edu/maps/africa/malawi_sm97.gif (visited 23/11/01)
3.3. Urbanisation

With only 15% of the population residing in urban areas, Malawi remains one of the least urbanized countries in Africa. Yet this figure masks the high rate of urban population growth in the country. Blantyre City which was formed by the amalgamation of the twin towns of Blantyre and Limbe is Malawi’s largest city with an estimated 1999 population of 520,000 (Blantyre City Assembly, 1999). Together with Lilongwe the two cities are by far the biggest of Malawi’s four main cities as Table 1 below shows. According to the National Physical Development Plan (1987), Blantyre is ranked as a national centre defined as a settlement with a high level of services/facilities which exerts a sphere of influence over the whole country. The two other national centers that were identified are Lilongwe the administrative capital and Zomba the old capital. Mzuzu was identified as a regional centre.

<table>
<thead>
<tr>
<th>Name of city</th>
<th>1966 population</th>
<th>1987 population</th>
<th>1998 population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blantyre</td>
<td>106,641</td>
<td>331,588</td>
<td>502,052</td>
</tr>
<tr>
<td>Lilongwe</td>
<td>45,380</td>
<td>233,978</td>
<td>440,471</td>
</tr>
<tr>
<td>Mzuzu</td>
<td>8,490</td>
<td>44,238</td>
<td>86,980</td>
</tr>
<tr>
<td>Zomba</td>
<td>19,666</td>
<td>42,878</td>
<td>65,915</td>
</tr>
</tbody>
</table>


Malawi Population Census 1966. Final Report, NSO.

The figures in Table 1 above show that in 1966, Blantyre was a primate city with more than twice as many people as Lilongwe, the second largest city. By 1987, Blantyre had lost its primacy and the population of Lilongwe City grew to 66% of the Blantyre population. Lilongwe’s fast growth was the result of the move of the capital city from Zomba to Lilongwe in 1975.

As Figure 2 below shows the population of Blantyre had increased about fivefold in just over 30 years from 1966 to 1998.

Figure 2 Population growth of Blantyre City 1966 to 1998
The high rate of urban population growth has placed a heavy demand on the city’s land resources as well as other municipal services. One of the consequences of the high rate of population growth has been the inability of the government and municipal authorities to provide adequate housing for the population. Coupled with this is the inability of the authorities to provide adequate access to land for the population.

3.4. Evolution of the land law in Malawi

Malawi possesses a dual system of land law which was inherited from the British colonial administration. Apart from customary tenure, Malawi received English statutory law. The essence of the colonial land policy was to appropriate land to the Crown and to facilitate access by the European settler community. The Europeans acquired the land on the basis of private title. This policy also redefined native rights strictly as ‘occupation rights’. This was done in order to discourage the establishment of land rights equivalent to freehold or the concessions claimed by the European settlers.

The 1902 Nyasaland Order in Council allowed the general application of English law supplemented by specific enactments based on English property law. This clause remained the sole source of the substantive law of property in Malawi until 1964 when the Supreme Court Act (Cap. 3:01) came into effect and incorporated it. Under the received English system, only a few Malawians had acquired titles from the government. The English law with all its technicalities and archaic functions was not suitable for Malawi (Mbalanje n.d).

The first act to define land as public, private or customary was the Land Ordinance of 1951. The Ordinance defined customary land essentially as a mere species of ‘public land’. This was an arrogant concession to the Malawi population who, by virtue of the Ordinance became tenants on their own land (GoM, 2001). This position was reenacted in the Land Act (Cap. 57:01) which came into force in 1965. The passage of this Act did not change the status and insecurity of customary land rights caused by the application of the Land Ordinance of 1951.

The first serious attempt to provide a comprehensive body of land law was made in 1967 with the passage of the Registered Land Act (Cap. 58:01) and the Customary Land Development Act.

3.5. Management of public and private lands

Land in Blantyre is managed by a number of agencies and bodies. Each body is expected to plan, service and allocate/sale the serviced parcels. Each body is also charged with the provision of land to meet different markets as shown in Table 2 below:
CHAPTER 3: BACKGROUND TO THE STUDY AREA

Table 2 Land delivery options

<table>
<thead>
<tr>
<th>Land sector</th>
<th>Provider</th>
<th>Income group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>High</td>
</tr>
<tr>
<td>Private formal</td>
<td>Private company or individuals</td>
<td>yes</td>
</tr>
<tr>
<td>Public formal</td>
<td>Lands Department</td>
<td>yes</td>
</tr>
<tr>
<td></td>
<td>Malawi Housing Corp.</td>
<td>yes</td>
</tr>
<tr>
<td></td>
<td>Blantyre City Assembly</td>
<td>no</td>
</tr>
<tr>
<td>Popular informal</td>
<td>Informal players (chiefs and other squatters)</td>
<td>no</td>
</tr>
</tbody>
</table>

The only formal body charged with the provision of land for the low income in the city is the Blantyre City Assembly. This responsibility was placed on the City of Blantyre only in 1992 when as part of the Government’s decentralization programme (Government of Malawi, 1987), a decision was made to make the large urban authorities in Malawi responsible for providing land for low income households. Previously this had been the responsibility of the Malawi Housing Corporation (MHC).

3.6. Land tenure

3.6.1. The legal situation

Land in the city of Blantyre falls under two legal definitions – private land and public land. The Land Act (Cap. 57:01) defines private land as “….all land which is owned, held or occupied under a freehold title, or a leasehold title, or a certificate of claim or which is registered as private land under the Registered Land Act”. Public land is defined as “….all land which is occupied, used or acquired by the government and any other land, not being customary or private land….”.

Freehold land can be grouped into two categories, private freehold and public freehold (Kawonga, 1996). The private freehold land is mainly land belonging to private individuals and to private companies and organizations. After public land, private freehold is the most dominant category reflecting the colonial legacy when British companies obtained in freehold large tracts of land in the city. The public freehold land is the land that has been conveyed to public institutions for the purposes of implementing government policy such as housing policy. This mainly refers to land owned by the Malawi Housing Corporation (MHC) and the City Assembly. The extent of these land holdings in hectares is shown in Figure 3 below.
3.6.2. The de facto situation

Although legally the land in Blantyre is described to be either public or private and formal, the situation on the ground is that customary practices still abound on large tracts of land. These practices are prevalent on land that is occupied without formal title. Over time as the city’s boundaries got extended, the city incorporated within its boundaries land that was customary and administered using customary law. However four sets of provisions in four different acts seek to address the fate of customary land once it is incorporated into the city boundaries and who is to manage it.

3.6.3. Town and Country Planning Act and the Lands Act

Section 29 of the Town and Country Planning Act gives powers to the minister responsible for town and country planning to declare a customary area to be a planning area. This happens upon the extension of the city boundary. When this is done the minister responsible for lands declares that customary land to be public land. This is done under section 27 of the Lands Act which gives power to the minister for lands to declare customary land to become public land in the event that the land is needed for a public purpose, that is to say a purpose which is for the benefit, direct or indirect, of the community as a whole, or a part of the community.

3.6.4. The Chiefs Act

The Chiefs Act (Act 39 of 1981) makes provision for the recognition, appointment, and functions of chiefs as well as Group Village Headmen and Village Headmen and for certain aspects of district administration. It is important because of the relationship between the areas of jurisdiction of traditional leaders and the areas of jurisdiction of local authorities. The Act specifies that no traditional leader shall exercise jurisdiction within the area of a city, municipality or township, except with the written approval of the appropriate assembly. However customary law is deeply ingrained in Malawi society and the de facto situation is that the chiefs are accorded powers by their people who call on them for the allocation of land even within local authority areas (Blantyre City Assembly, 1999).

The authority of the traditional leaders was in some ways diminished with the Registered Land Act (Cap 57:01). With the passing of this Act traditional leaders were not supposed to act independently in mat-
ners relating to customary land. Although the Minister responsible for land matters is supposed to direct traditional land management decisions, the reality is that traditional leaders continue to retain the power to authorise the use and occupation of any customary land within their jurisdiction.

3.6.5. Consequences of tenure conversion

The consequence of customary land being turned into public land is that all customary tenure rights are extinguished. Those whose rights have been extinguished are supposed to be compensated and relocated outside the city limits. However in many instances communities have hardly been compensated and relocated. The result has been that the communities continue to live on this public land and the traditional leaders continue to administer the land under customary norms creating a great deal of confusion as both government and traditional leaders seek to administer the same tracts of land.

3.7. The rise of informal settlements

The large scale growth of informal settlements in the city is a relatively recent phenomenon. During the colonial period the rural-urban migration of indigenous Africans was strictly controlled with most Africans only being allowed into the city to work. When such restrictions were removed after independence in 1964, an influx of people into the city was inevitable.

To overcome the problem of providing serviced land to an ever increasing urban population, the government established the Malawi Housing Corporation (MHC) in 1964 (Ministry of Housing, 1995). The MHC was the sole agency that was charged with the provision of serviced plots for the low income. Site and Services were developed and these were officially called traditional housing areas (THAs). They were set up as a means to allow households to construct traditional housing (hence the name) on public land whose title had been ceded to the MHC to become public freehold land. The MHC provided a basic level of services to these areas.

However this attempt at providing for the low income was unable to meet the demand for such plots. Already between 1971 and 1982 the gap between the demand and supply of serviced plots grew from 512 to 10,630. Additionally the provision of serviced plots for other income groups was nowhere meeting the demand. The number of applicants on the waiting list had risen from 7,000 to 32,000 during the same period (MHC, 1984). The result of this situation was that not only the low income but also the middle income were competing for the limited number of ‘low income’ plots available. It was becoming clear that the establishment of sites and services could only accommodate a limited number of the targeted households. A considerable proportion of these plots were going to the medium income groups and better-off sections of the low income (see also Payne ed. 1984).
As a result of failure to meet its key objective, the development of sites and services was abandoned in the early 1980s. However nothing was put in its place and this has resulted in a significant increase in the number of people living in informal settlements in the city. While the proportion of the city’s population that is living in various types of formal settlements (high, middle and low income) has reduced between 1977 and 1999, that for informal settlements has increased from 44% in 1977 to just over 67% in 1999 as Figure 4 below shows:

![Population distribution trends by housing category](image)

**Figure 4** Population distribution trends by housing category.


### 3.7.1. Cost recovery and affordability

Although the development of sites and services has resumed in the 1990s, a new factor has been introduced that is still hindering access to formal serviced land by the low income. While the THA plots developed in the 1960s and 1970s were heavily subsidized, the new sites and services are not subsidized and schemes must meet full cost recovery targets.

A study carried out by the Blantyre City Assembly in 1998 (Blantyre City Assembly, 1999) showed that about half of the city’s population does not earn enough to afford a THA plot with basic services as Fig. 5 below shows. Nearly half (48.55%) of the city’s population cannot afford to participate in the formal access to land at full cost recovery. The result is that people who are unable to participate in the formal land market due to low levels of affordability have resorted to the informal sector to access land. The next section addresses where in the city this informal access to land has/is happening and what the government policy is regarding formalisation of such settlements.
3.8. Relationship between tenure, location and informal settlements

Informal settlements are in many cases located on land which is in governmental ownership and also on marginal locations (Turkstra, 1998 p.20). In Blantyre while public land has been extensively squatted, there is evidence that private land is also proportionally as heavily squatted (Blantyre City Assembly, 1999). While squatting on public land is to be expected, squatting on private land can in large measure be explained by the fact of absentee landlords who have not been present to challenge the unnegotiated settlement of their land. Much of the private freehold land in the city is owned by very few but large landlords. Sometimes the landlords have been present but the scale of settlement has overwhelmed them. Politics has also played a significant part in the inability of private landlords to secure their lands from unauthorised occupation. During the charged political transition period of the early and mid 1990s, politicians in a bid to win popular votes maintained that freedom and democracy meant among other things, the ability to build anywhere without hindrance.

Informal settlements are spread throughout the city but a pattern of their location can be established. The pattern of location of the informal settlements seems to have three aspects as Map 2 below shows. Informal settlements gravitate along major roads and/or towards the CBDs of Blantyre and Limbe and/or adjacent to the established THAs.

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3 Discussion with Regional Lands Officer.
3.9. Registration of title and planning control in Blantyre

There is a significant difference with respect to formalisation and registration prospects between those who have squatted on public land and those who have squatted on private land. Squatters on public land cannot be formalized and registered under the existing law. Therefore no formalisation of title can be accorded to those who squat on public land. This policy also applies to squatted public freehold land such as that owned by MHC and Blantyre City Assembly. Squatters on private land are the only ones whose tenure can be formalized under the law. Not only is their tenure formalized but they also gain freehold title if they have squatted for at least twelve years without challenge from the land owner. With regards to urban planning, formal control of development is introduced in those areas which are formalised and titled. While development existing at registration is not affected, all new development is expected to adhere to formal planning and development standards.

3.9.1. Title registration

The formalisation and registration of title in Blantyre was carried out from 1987 to 1991. This was part of the Urban Housing Project administered by the Department of Housing and Physical Planning with World Bank funding. The project aimed at giving people including squatters on private land secure tenure guaranteed by government. It was hoped that secure tenure would result in a quick, efficient and inexpensive method of dealing with land. It was also hoped that secure tenure would attract investment as well as giving the local authority the basis for property taxation and the institution of planned devel-
CHAPTER 3: BACKGROUND TO THE STUDY AREA

opment in these areas. The process of adjudication was systematic and compulsory. Title registration was based on parcels of land, precisely defined as a unit to give permanence to the record. The unit of property is what was registered and the ownership identified. Subsequent changes of ownership would then be registered with reference to the land itself. Registration would provide validity to transactions. The Blantyre Land Registry was created to handle land records.

Very large private land owners with extensive squatter settlements on their land fully supported the whole project because they thought they would get a final record of who had legal rights and then could prevent others from unauthorised occupation. Local chiefs in squatter sites did not actively support the new system. They got a good pay off whenever they permitted buildings or even informal transactions. However they never opposed the work. From personal communication with Mr G. Adlingt on, the demarcation and registration officer of the project.

3.9.2. Urban land use planning

The major urban areas including Blantyre have structure plans which give details of specific land uses within the jurisdiction of the city. The structure plan is a legally binding document at the city level. Below the level of the structure plan is the city district plan. Together they provide the basis for planning decision making and development control. All development in statutory planning is subject to town planning control (Government of Malawi, 1987). Development is defined in the Town and Country planning Act as, “…any building, rebuilding, engineering, or mining operations in, on, under, or over land and any material change in the use of land or building.” The specific instruments used for enforcing planning standards are municipal building, environmental and public health by laws as well as the Town and Country Planning Standards and Guidelines for Development which cover such standards as plot size and shape, building lines, plot coverage, density, access, design/materials, utilities, landscaping etc.

3.10. The study settlements – Mbayani A and Mbayani B

This research will use the case study of two settlements in the city of Blantyre. One settlement which for the purposes of this study will be called Mbayani A which is the settlement where formalisation and registration of title has taken place and Mbayani B where formalisation and registration of title has not taken place. While Mbayani B is not titled, Mbayani A has 131 titles. Of these 14 are held by government and the rest by private individuals. Government held titles are those pieces of land which were unclaimed/unsettled at the time of registration.

Mbayani A and Mbayani B are settlements that are adjacent to each other and are separated by a dirt road running between them. Both settlements are located in the Mbayani township of the city of Blantyre at a distance of 2 kilometers from the Blantyre CBD (see Map 3). The size of Mbayani A is 0.17 square kilometers and Mbayani B is 0.16 square kilometers. Mbayani A had a 1998 population of approximately 3500 and Mbayani B had a 1998 population of approximately 3200. The Zalewa Road runs to the west of the settlements. The settlements are contained between the Likhubula River to the

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4 From personal communication with Mr G. Adlington, the demarcation and registration officer of the project.
5 Calculated by multiplying average household size with number of buildings in 1998. Likely to be an underestimate because many buildings are occupied by multiple households especially those in rented accommodation.
west and south and Namiwawa River to the north and east. The terrain is undulating and dissected by several streams. The lowest part of the study settlements is the Likhubula River at about 920m above sea level and the highest at about 970m towards the eastern edge of Mbayani B.

Map 3 Location of Mbayani A and Mbayani B in relation to Blantyre CBD

3.11. Demographic and socioeconomic characteristics

A demographic and social economic survey of Mbayani and similar low income informal settlements carried out in 1999 and the key characteristics are shown in Table 3 below. As can be expected, the socioeconomic status of Mbayani is lower than the Blantyre average. Except for variables such as employment, income, access to electricity, water and waste collection services, there is no significant difference in the other variables. The Blantyre average approximate to the Mbayani figures and this is a reflection of the fact that 67% of the city’s population live in settlements such as Mbayani and this has tended to bring down significantly the Blantyre average.

Interesting is the fact that there are more people in Mbayani holding land in freehold (41%) than the Blantyre average (35%). This is largely a reflection of the dominance of private freehold land in Mbayani whose squatters were given titles.
3.12. Early settlement

Mbayani village is shown in earlier planning reports to have existed before 1971 (Blantyre Planning Team, 1971). Other records indicate that there was already some scattered settlement in Mbayani in the early 1940s (Blantyre City Council, 1998). The first settlers in the area were the Ngoni people from central Malawi who came to sell their cattle at the veterinary office in Blantyre. Other tribes which settled later included the Yao and Sena from Mozambique and the Tumbuka and Tonga from northern Malawi. These tribes came to seek employment and business opportunities. However growth of the settlement for the next 30 years was very slow in spite of its proximity to the city centre. This was largely because

- The settlement could not be easily accessed due to lack of a motorable road.
- From the mid 1960s the government through the MHC was providing thousands of low income plots in other settlements.
- In the early 1970s the government evicted squatters who had settled closest to the city centre and the fear of further evictions prevented the fast growth of the settlement.

Table 3 Demographic and socioeconomic profile of Mbayani in relation to the Blantyre average.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mbayani A and B</th>
<th>Blantyre average</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of households per plot</td>
<td>2.1</td>
<td>1.6</td>
</tr>
<tr>
<td>Av. household size</td>
<td>4.5</td>
<td>4.8</td>
</tr>
<tr>
<td>Av. no. of persons per plot</td>
<td>9</td>
<td>7</td>
</tr>
<tr>
<td>No. of buildings per plot</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Rented accommodation</td>
<td>45%</td>
<td>43%</td>
</tr>
<tr>
<td>Freehold ownership</td>
<td>41%</td>
<td>35%</td>
</tr>
<tr>
<td>Unemployment</td>
<td>72%</td>
<td>54%</td>
</tr>
<tr>
<td>Literacy</td>
<td>58%</td>
<td>60</td>
</tr>
<tr>
<td>Skills</td>
<td>14.3%</td>
<td>14.8%</td>
</tr>
<tr>
<td>Walk to work</td>
<td>59</td>
<td>54</td>
</tr>
<tr>
<td>Av. monthly income per capita</td>
<td>US$ 30</td>
<td>US$ 54</td>
</tr>
<tr>
<td>Access to water</td>
<td>48%</td>
<td>78%</td>
</tr>
<tr>
<td>Access to electricity</td>
<td>53%</td>
<td>77%</td>
</tr>
<tr>
<td>Access to sewerage system</td>
<td>0%</td>
<td>0.05%</td>
</tr>
<tr>
<td>Access to refuse removal</td>
<td>11%</td>
<td>30%</td>
</tr>
</tbody>
</table>

Source: Blantyre Urban Structure Plan Background Studies Report, 1999
Note: The survey was for the whole of Mbayani (titled areas and untitled areas) and the data were not disaggregated.

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6 From discussions with VH Mbayani.
3.13. Recent growth

3.13.1. Physical growth

The rapid growth of the settlement took off in the early 1980s and several factors have contributed to this fast growth.

Since the 1980s there has been no further large scale development of plots for the low income. This has created an acute shortage of planned low income plots. The result has been the expansion and densification of settlements such as Mbayani. In 1986 the Mbayani settlement was opened up with the construction of the Zalewa Road linking Blantyre and Lilongwe. Thus the area with its proximity to the city centre became attractive for settlement. A significant contributory factor to the growth of the settlement in the 1990s has been changes in the political landscape of the country. Before 1994 Malawi was a one party dictatorship where the fear of eviction was prevalent. The coming of multiparty democracy which was achieved partly because of campaign promises of no evictions has led to the sprouting of what are called ‘multiparty houses’ (squatter houses) in informal settlements such as Mbayani.

3.13.2. Growth of the land market

The growth of the land market in Mbayani can be traced only from the 1970s. Before then when land was plentiful, the Village Headman (VH) allocated land to whoever wanted it. The land was used principally for farming purposes and any housing was ancillary to the main use of agriculture. After one year’s harvest, the allottee would bring some produce of the land to the VH as a thank you. However with time the original allottees would subdivide their land and allocated the parcels to their children and relatives. Encroaching urbanization and the reduced amount of land that was available for allocation by the VH led to further subdivisions of existing parcels which were then being sold to new comers into Mbayani. The VH was at the time obliged by the government to keep a register of all subjects with property in his area. This register was used for the collection of the poll tax. The poll tax was abolished in the early 1990s but the register is now used by the VH for registering land transactions but this is not recognized by the government.

3.14. Traditional leadership

Mbayani A and Mbayani B are headed by Village Headman (VH) Mbayani. The VH reports to Group Village Headman (GVH) Chemussa who reports to the Traditional Authority (TA) Machinjiri. TA Machinjiri is responsible to the District Commissioner for Blantyre who reports to the Minister for Local Government and District Administration. Traditional leaders assume their leadership role through inheritance. All traditional leaders are assisted by their councilors in the performance of their tasks. The councilors are appointed by the traditional leaders. Although the Chiefs Act provides no role for traditional leadership within the area of jurisdiction of the city, the de facto situation is that the traditional leadership still plays an important role especially in informal areas such as Mbayani. The main activities of VH Mbayani include the following:

- Overseeing community events such as funerals and weddings

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7 From discussions with Village Headman Mbayani and Group Village Headman Chemussa.
Promotion of development in his area
Settling disputes among the people including land disputes
Promoting unity among community members
Administration of land matters including land allocations when land was available.

The traditional functions of traditional leaders under customary law revolve around land delivery and land dispute settlement. In performing these duties the traditional leaders serve, not only as adjudication officers but also as notaries to transactions. However no formal arrangements exist to ensure these functions are performed in a judicious and transparent manner. Although customary law does not apply in the city, customary practices are prevalent especially in informal settlements such as Mbayani.

3.14.1. Community Development Committees (CDCs)

Community Development Committees (CDCs) are democratically elected community bodies charged with the responsibility of initiating and overseeing development activities in the low income areas of the City. These committees exist in both titled and titled informal settlements all over the City. The Mbayani CDC is the development committee responsible for both Mbayani A and Mbayani B. The CDCs are recognized by the City Assembly and operate under a constitution. They act as a bridge between the City Assembly and the local community on development matters. However the CDC always have to defer to the traditional leaders for although legally the traditional leaders are not recognized by the government and the City Assembly the authority of traditional leaders is recognized by their subjects in all other social and cultural matters affecting the respective communities. Indeed even politicians seek the support and influence of the traditional leaders during political election campaigns or when initiating development projects in their areas.

3.15. Summary

Informal settlements form a significant proportion of land settlement in Blantyre and accommodates about two-thirds of the city population especially the urban poor. Formalisation and registration of title was introduced by government to give greater security to those in informal settlements. However the informal settlers who benefited from this exercise were only those who live on private freehold land. This limitation was imposed by the law. Thus Mbayani A which originally belonged to one private landowner in freehold is now owned in freehold by the beneficiaries of the title registration exercise. Mbayani B has been in public freehold ownership first with the MHC and, since 1992 with the Blantyre City Assembly. The occupants of the land are regarded as squatters and do not have legal rights in the land. Although both settlements are within the city, traditional leaders still play a leadership role in many aspects including land administration although this is contrary to the law.
4. Research methodology

4.1. Introduction

This chapter describes the research methodology and details the research methods used. It discusses the criteria used to select the case settlements. Field data and spatial data gathering methods are explained. The spatial indicators used to measure investment and spatial development trends are presented as well as the role of aerial photographs in deriving the indicators is discussed. The chapter concludes with a discussion on the limitations of the research.

4.2. Research process

The objectives of this research will be achieved by a two step methodology that first establishes the behavioural patterns of those living in titled and untitled settlements and secondly, using spatial data, establish the investment and spatial development trends in both settlements. Therefore the first step will test how far the introduction of title registration has affected perceptions of tenure security on the one hand and the formalisation of land transfers and land development on the other. This will be by means of non-spatial data collected using field questionnaire and interviews.

The second step establishes the spatial impacts of title registration in terms of investment and orderli-ness of development i.e. the extent to which the settlement is developing in a planned manner after title registration. This will be achieved by spatial data analysis using spatial data derived from aerial photographs of 1990 which is the year of title registration and 1998 which is the year of the latest aerial photographs of the city. A diagrammatic representation of the research process is shown in Figure 6 below.

4.2.1. Scale

The behavioural data was researched on the micro scale where a sample of the population in the settlements provided the data. The spatial data was researched on the macro scale where the entire ‘population’ of the settlements provided the data through the use of data derived from settlement wide aerial photographs. The two hypotheses in Chapter 1 imply that the micro level data should be borne out in the macro level data and vice versa.
Figure 6 The research process

It is important that in assessing the impact of urban policy on a subject such as the one under study, it must be possible to compare the situation in a settlement that is titled with the situation in a settlement that is not titled. As the impacts of such a policy normally manifest themselves in the medium to the long term, it is important to compare not only between settlements but also over time.
4.3. Selection of settlements

The comparative study involved two settlements. The study settlement is the one in which title registration has taken place. The control settlement is the one in which title registration has not taken place. Such a study however had to overcome two challenges:

1. One of the unique characteristics of land is that no two pieces of land are the same: not least because they differ in location for no two settlements can occupy the same space. The question therefore is how to compare the two and come up with results that are credible.

2. Related to the challenge above, if we are measuring the impacts of a policy on a settlement by the use of the comparative study method described above, how do we ensure that what we measure is the impact of that policy alone and not the impact of that policy plus other factors. These other factors (extraneous factors) must, as far as possible, be eliminated or their influence reduced to such a level that they do not influence to a significant degree the findings of this research.

For this research the key to overcoming these challenges lay in the selection of the two settlements. Criteria were developed to guide the selection of the settlements. The criteria sought to select those settlements which are similar in key characteristics. The only thing differentiating them being the fact that in one settlement the squatters had their titles formalized and registered and in the other the land rights are not formally recognized nor registered. Figure 2 presents the conceptual model for the settlement selection.

4.4. Criteria for settlement selection

**Distance to central business district (CBD).** Classical urban theory suggests that variables such as land values and therefore attractiveness of a settlement for habitation and investment are influenced by distance of that settlement from the CBD. Empirical evidence also suggests that in developing cities distance from the CBD which is the center of commerce and administration is an important consideration for decisions on settlement and investment. To be comparable the two settlements had to be located at similar distances from the CBD.

**Age of settlements.** The age of settlements will have a bearing on a settlement’s consolidation levels including the level of service provision as well as the general development pattern of the area. The two settlements therefore had to be of similar age. As there was no data readily available for this, old aerial photographs (1976) were used to compare development levels which gave an indication about the relative ages of the settlements.

**Socioeconomic characteristics.** The socioeconomic characteristics of the people in the settlements has a bearing on the rate and quality of development of the settlements. The two settlements had to be of similar socioeconomic characteristics. Although the socioeconomic data that is available is from 1999 it was
assumed that as both settlements had the same beginnings (squatting by the low income), the 1990 socio-economic profile was similar for both settlements.

**Distance between the settlements.** As discussed above, while no two settlements can occupy the same space, consideration was given to settlements that are as close to each other as possible. A locational advantage or disadvantage applying to one settlement is most likely also to apply to those settlements that are nearest to it than those that are further away.

**Physical characteristics.** The settlements had to have similar characteristics. The desirability of a settlement and ease of development are partly influenced by its physical characteristics.

**Level of service provision.** Services particularly water and electricity influence the development of an area. As much as possible the two settlements had to have similar levels of service provision. It was not possible to obtain data relating to levels of service provision. The service organizations do not as yet have spatial data of their services in these areas. It was assumed that at 1990 when both settlements were similar viz a viz their legal position, a similar service provision policy applied to both. At the time Government policy was not to provide services to squatters in order to discourage squatting. In practice however some managed to obtain, often clandestinely, access to water and to some extent, electricity.

### 4.5. The conceptual model of settlement selection

The settlements selected using these criteria are both in Mbayani Township of the city. As they do not have distinct names, the settlement with title registration has been called Mbayani A and the settlement without title registration has been called Mbayani B for the purposes of this study.

With the extraneous factors between the two settlements as similar as possible, the behavioural and spatial differences between Mbayani A and Mbayani B can be attributed to title registration as Figure 7 below shows.

![Conceptual model of settlement selection and comparison](image)

**Figure 7** Conceptual model of settlement selection and comparison.
4.6. Behavioural data collection

The fieldwork to collect the data that is necessary to fulfill the objectives of this research was undertaken in the City of Blantyre in September 2001. Primary data collection was done using an open ended questionnaire and semi-structured interviews with households and officials (formal and informal) respectively. The list of informal and formal officials interviewed is shown in Appendix 1. Secondary data collected included aerial photographs, official documents on land, previous studies and reports.

An open ended questionnaire was administered in the two settlements that were selected for this case study. Before the actual interviews could start, it was necessary to carry out a pre-test. The main purpose of the pre-test was to test the questionnaire in order to identify specific problems and find possible solutions to the problems. The pretest determined if the open-ended questions would draw out the needed information from the respondents. It sought to remove sources of weaknesses and error in the research instrument. It was therefore useful for validating the questions themselves and to checking whether they are relevant or useful or give the information that is required. The evaluation of the various materials collected and the lessons from this exercise permitted the modification of the questionnaire. The final copy of the questionnaire used in the interview is shown as Appendix 2.

The open-ended questionnaire was chosen because it was suitable in this case where more qualitative data was required. The open-ended research questions enabled the gaining of further insights into the practices, behaviour and attitudes of people in titled and untitled settlements.

4.6.1. Sampling and the interview

The sampling strategy chosen for both settlements was the stratified random strategy. The respondents were only those who were owners\(^8\) of property and had also acquired their property since 1990 the year of formalisation and title registration of the titled settlement. All respondents were adults who had the information that was being sought. Invariably in certain instances certain detailed information such as purchase price of the property was not obtained because the husband “who keeps such information is away”. Due to time constraints, it was not possible to return to the house to get this information. Since the key information sought related to practices, behaviour and attitudes, the interview was considered valid if these were obtained. In all a total of 25 valid interviews were concluded in each of the two settlements.

In keeping with established local protocol, the village headman of the settlements was informed of the intended interviews in his settlements. This was also important for the safety of the researcher especially in a potentially sensitive research area as this. To avoid the risk of the village headman influencing the answers of the respondents, the interviews were conducted without the presence of the village headman or any of his officials.

The size of the settlements that were studied was determined by the time available and also by the need to do detailed mapping of both settlements which was time consuming as such detailed maps were not available.

\(^8\) Ownership in this case means both legal ownership and de facto ownership as opposed to renting tenants.
In-depth interviews were also carried out with Village Headman Mbayani and Group Village Headman Chemussa under whom Mbayani falls. These interviews sought to cross check the information that was obtained during field interviews and to get further insights into the role of traditional leadership in dealing with land matters in the urban area in both titled and untitled settlements.

Further in-depth interviews were held with officials of the Lands Department and the Blantyre City Assembly to look at the background to formalisation and title registration, the operation of the land registry, land administration and planning control in the city.

4.7. Spatial data

Possession of legal tenure or lack of it will also be manifested in the way settlements develop. The development of settlements is a result of decisions by those who live in them but also by government through its land management practices. A comparison of how the settlements have developed was made through data derived from aerial photography of the year when title registration was done (1990) against data derived from aerial photography of 1998 which is the year of the latest photography of the city. A set of spatial development indicators was used to test the hypotheses. Figure 8 below shows the spatial information processing methodology.

![Figure 8 Spatial information processing methodology]

4.8. Investment indicators

The investment indicators are based on the theoretical models which suggest that if security of tenure is perceived to be secure, people will invest more on their land in the knowledge that the investment is secure (Doebele, 1987; Gilbert, 1994; Payne, 1997).
**Quality of new buildings.** The greater the perception of tenure security, the greater will be the proportion of new permanent houses as opposed to new temporary houses.

**Average size of new buildings.** The greater the perception of tenure security, the greater the average size of new buildings.

**Number of new trees.** The greater the perception of tenure security, the more the number of trees planted per hectare. Due to the time trees take to mature, they are seen as long term investment. Therefore those who are sure of their long term security are likely to make this investment.

### 4.9. Land development indicators

Where land transfers and development are being carried out formally, the settlement will start taking on a more structured form of development. This will be due to constraints (standards) imposed by the public planning system. Once an informal settlement is formalized, formal planning practices are imposed on the settlement. Land titling therefore becomes a tool to aid official planning of settlements. The indicators for orderliness of development are as follows:

**Building density.** If land transfers and development are carried out formally, the density of development will be lower in titled settlement than in the untitled settlement.

**Distance to motorable roads.** If land transfers and development are carried out formally a greater proportion of buildings will be within a certain distance from a motorable road in the settlement with title registration than in the settlement without title registration.

**Development on marginal lands.** If land transfers and development are carried out formally there will be a lower rate of intrusion of development on marginal lands in the settlement with title registration than in the settlement without title registration.

**Building quality.** If land transfers and development are carried out formally, there will be, proportionally, fewer new traditional houses in the titled settlement than in the untitled settlement. Conversely there will be more new permanent houses, proportionally, in the titled settlement than in the untitled settlement.

### 4.10. Role of aerial photographs

Aerial photographs provided the data for the measurement of these spatial indicators. Once the settlements were selected the relevant aerial photographs for both settlements for 1990 and 1998 were obtained and detailed mapping was carried out (see Figure 9 above). The scale of the 1990 photography was 1:12500 and the 1998 photography was 1:5000. The total RMSE was 0.317m. The ground controls were scaled off existing 1:2500 topo map sheets of Blantyre City of 1976/7 topo maps. The themes were plotted using a Wild A8 Aviograph stereo plotter with SOS Map software. The output was digital.
DXF files of Mbayani A and B in 1990 and 1998. From the DXF files, shapefiles of the different themes were created in ArcView 3.2 a. The spatial analysis was carried out using ArcView 3.2a software.

4.11. Research limitations

This research had several limitations which must be taken into account when reading its findings and conclusions in chapters 5 and 6 respectively:

- Formalisation of title was carried out in 1990. Effects of land policies including title registration take a long time to manifest. Eleven years may not be a period long enough to gauge with certainty the effects of title registration.
- The study area and the control area are, by comparison to both titled and untitled areas in the city, very small indeed. Thus they may not be representative of what is happening in the rest of the city.
- Due to the limited time that was available for this research, only 25 respondents were interviewed in each settlement. Although the random stratified sampling strategy was used, the small nature of the sample may affect its representativeness to the whole population. However the findings from the spatial analysis which covers the whole settlement population will be a means to doublecheck the findings of the questionnaire and interviews. Also as the questionnaire and interviews were aimed at collecting behavioural (qualitative) data the size of the sample is not too critical.
- The latest aerial photography of these settlements was carried out in 1998. In highly dynamic settlements such as these, these may be said to be already out of date. Thus the spatial development patterns identified in this research may not be the same as they are at the present time.
5. Behaviour and spatial changes

5.1. Introduction

This chapter presents the findings of the research. The non spatial data findings on how land is transferred and developed in both settlements as well as people’s attitudes to tenure security are presented in the first section. The second section presents the findings of the spatial data analysis on investment and land development patterns in both settlements.

5.2. Land transfer methods

5.2.1. Formal method

Registered title must by law be transferred following formal procedures. The willing seller and the willing buyer agree to transfer property. The buyer contracts a lawyer to prepare transfer documents. The lawyer does a search in the land registry to ascertain ownership and see if there are any charges on the property. If everything is in order the lawyer prepares transfer documents. A title in favour of the new owner is prepared and necessary changes are recorded in the register. Charges include

- Legal fees (3% of value of property)
- Registration fee (US$2)
- Stamp duty (3% of value of property)

Each registration consists of three sections – the property section, the proprietorship section and the encumbrances section. The property section contains the spatial information of the title including the registration section, piece number, area (ha) and the registry map sheet number. The proprietorship section records the name and address of the proprietor as well as the consideration and the encumbrance section records the particulars of the encumbrances on the land.

5.2.2. Informal method

The informal method involves the Village Headman (VH) as a key player. He oversees the transfer and keeps the register in which the transfers are registered. The seller and the buyer after reaching agreement on the sale price present themselves before the Village Headman. A witness must be present for both parties in the transaction. The VH certifies that the property indeed belongs to the seller. This is done by counterchecking in the register. Additionally the seller must bring his wife and children before the VH and these must also give their consent to the sale. The sale will not go ahead if these do not give their consent. This is done to prevent the sale going ahead in the interests of one person only as the property is seen to belong to the entire household and not just to one individual. The seller must also explain the reason why he wants to sell the property. This is meant to ensure that the property is not being sold for trivial reasons that would bring suffering on the women and children. Sometimes evidence of alternative accommodation must be given before transfer can be authorised.
Once registration has taken place, the new owner is given a certificate that bears the VH’s stamp and signature as well as the signatures of the seller, buyer and their witnesses. Sometimes before presenting themselves before the VH, the seller and the buyer would present themselves before the party chairman of the ruling party. This is optional and is done mostly out of courtesy. The chairman does not keep a register. The informal process is demonstrated in Figure 9 below.

**Figure 9 Informal land transfer registration**

The transfer performed using the informal procedure is not recognized in law by the government. Although the Government recognizes customary land law, urban land is not customary and customary practices are not recognized.

The field survey also revealed that acquisition of property cannot be categorized only as formal or informal. It is also a mixture of both informal and formal processes as the findings below demonstrate.
Of the 25 respondents who acquired their property in Mbayani A after title registration all of them used the informal path to acquire the property in the first place. In due course only 2 went on to formally have the transfer registered with the government land registrar. Of the 9 households who made no additional investment, only one has any plans to formalise the transfer and of the 9 who have formalized or plan to formalise, 7 have made additional investments in permanent buildings (see Table 4). Six of those who have formalized or intend to formalise have additional investments of 2 or more buildings (see Table 5). Therefore it would appear that the greater the investment the more inclined people are to seek to formalize their tenure. However it would appear that legal tenure does not increase access to formal credit because the government land registrar shows that of the 117 individual (not government) titles issued in Mbayani A none shows a charge against it. This can be explained by the fact that the financial market in Malawi is as yet underdeveloped with only one building society.9 Prevailing lending rates of 50% make borrowing extremely expensive for all and especially the urban poor who are in the majority in these settlements. In Mbayani A formal title is sought to protect substantial investment that has already been made rather than as collateral to obtain formal credit for investment. Figure 10 shows the current status of formalisation in Mbayani A.

<table>
<thead>
<tr>
<th>Count</th>
<th>temporary house, permanent house, n/a</th>
<th>temporary house</th>
<th>permanent house</th>
<th>n/a</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>plan to formalise, no plan to formalise, formalised</td>
<td>7</td>
<td>1</td>
<td>8</td>
<td>16</td>
<td></td>
</tr>
<tr>
<td>plan to formalise, formalised</td>
<td>1</td>
<td>5</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>8</td>
<td>8</td>
<td>9</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

Table 4 Relationship between building type and intentions to formalise transfer

n/a = not applicable i.e no additional investment made on plot.

<table>
<thead>
<tr>
<th>Count</th>
<th>1 house, 2-3 houses, 4-5 houses, &gt;6 houses</th>
<th>1 house</th>
<th>2-3 houses</th>
<th>4-5 houses</th>
<th>n/a</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>plan to formalise, no plan to formalise, formalised</td>
<td>5</td>
<td>3</td>
<td>8</td>
<td>16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>plan to formalise, formalised</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>7</td>
<td>8</td>
<td>1</td>
<td>9</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

Table 5 Relationship between formalisation intentions and size of building investment

n/a = not applicable i.e. no investment made on plot.

Although no socioeconomic data was collected for the respondents, it is suggested that the lack of additional investment amongst some of the respondents is due to the high poverty levels in the area as opposed to insecurity of tenure as the evidence on tenure security perception in the next section shows.

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9 The New Building Society was established in 1990 as part of the World Bank Housing Project to support access to housing loans.

10 Published lending rates ‘The Nation’ Friday 28 September, 2001.
5.3. Tenure security perceptions

5.3.1. Mbayani B

The majority (24 out of 25) of the respondents in Mbayani B followed the informal procedure to acquire their property. Respondents viewed the social security provided by registration with the VH as being very crucial in that it allowed social acceptance within the community and access to community social benefits as described below. None of the respondents perceived their tenure security to be under threat pointing out that registration with the VH offers adequate security and that in the new democratic dispensation, the government cannot dare evict them. They indicated that during political campaigns, politicians had assured them that they could not be evicted.

One respondent indicated that he acquired his property by presenting himself and the prospective seller before a lawyer as commissioner of oaths. He obtained a document signed by the seller, himself the buyer and the lawyer as witness.

5.3.2. Mbayani A

Those who formalized and those who intend to formalize cited the following reasons for their doing so: They felt that should it become necessary for the government to move them from this area, they would get compensation on the strength of the title which is issued by the same government that intends to move them.

They were preventing future problems for their children so that in the event of the death of the parents, no one would take away the land from the children.

They felt that they had invested so much in the property and feared that should anything go wrong with the Village Headman’s register such as loss or destruction of the register or should anything happen to the Village Headman such as death and he is replaced by a corrupt village headman, the security of their property may be compromised. They considered that with government the records are safe from loss or destruction or from any changes of government. However all of them pointed out that it is necessary also to first register with the VH in order to access the benefits that such registration brings. Only then should one decide whether formal registration would be necessary.

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11 This however could not be verified as he claimed that the document was kept by his brother.
The majority of the households in Mbayani A (72%) do not have any intentions to formalise their tenure. The reasons cited for not wanting to do so are

- They feel that the VH has given them adequate protection so far and they do not think that anyone can evict them.
- They feel that the government cannot dare move them because ‘Malawi is now in a democratic dispensation’.
- They fear that title registration is ‘a government ploy to make us start paying city rates’.
- They feel that there are tangible benefits that result from registering with the VH. These benefits include the ability to bury the dead in the settlement’s cemeteries, support in times of difficulties or joy such as funerals or weddings. It is pointed out that such benefits do not come with official title registration.
- The respondents also feel that the registration with the VH protects women and children from arbitrary property sales by the husband.
- They feel that the official system is meant for the rich and the educated who can afford the expenses and understand the language.

A danger of not acquiring property under the auspices of the VH is that there have been cases where the same property has been sold to more than one buyer. Thus apart from the social security provided by the informal system, the certification by the VH ensures that the dangers of buying property that has already been sold to someone else are reduced.

5.3.3. The register

The VH maintains a register of all land transfers that he oversees. Photograph 1 shows VH Mbayani’s register. Information recorded in the register includes the following particulars of the buyer:

- Name
- Name of wife/husband
- Name and ages of children
- Employment address
- Home (rural) address
- Name of the sub-ward where the property is located
- Names of witnesses
- Date of purchase

Details of wife and children are recorded so that in the event of subsequent sale, their agreement should be obtained. These details are also necessary for in the event of death of the household head, it is clear who will inherit the property. This is important because inheritance is a problematic issue in society. The writing of wills is not common in society. Traditionally in patrilineal societies deceased property is inherited by the uncle who is supposed to look after it in trust of the children but not the wife. Invariably this trust has been abused by uncles who simply grab the property for themselves. In matrilineal societies the wife looks after the property on behalf of her children. However in the urban informal settlements the practice is not so much patrilineal or matrilineal but it is centred on the household made up of husband, wife and children.
Of interest also is the fact that the buyer’s address of his rural home village is recorded. Most urban dwellers maintain strong links with their village homes where close relatives still live. The concept of permanent ancestral home in the village is still very much alive. In case of an emergency such as death or illness, the closest relatives in the ancestral home can be contacted. This detail also helps to prevent property grabbing by distant relatives in the event of death. This is particularly important due to the fact that many people die intestate. There have been cases where some distant relatives have claimed deceased property. The authenticity of these ‘relatives’ can be confirmed by those from the ancestral home.

Photograph 1 The land register maintained by Village Headman Mbayani.

Note: The details for each transaction are entered in one paragraph. This page of the register shows four entries i.e. four transactions.

The only spatial detail of the actual property recorded is the sub-ward in which it is located. Most sub-wards can be traced to the tract of land allocated to the original family head and most bear the names of those family heads to date. These sub-wards may contain hundreds of properties. There is no spatial unit that is recorded beyond this.

5.3.4. ‘Kugula manda’

One of the prominent roles played by the VH is that of administering the cemeteries in his area. Every death is reported to the VH and he gives authority for burial to take place in the cemetery. Authority to bury the dead is given only to those who are known to the VH through the register. Strangers i.e. those who are not in the register are not normally allowed to bury their dead in these cemeteries. As transporting the dead to a distant cemetery is an expensive undertaking, people put great store in having themselves registered with the VH such that this registration is also known as ‘kugula manda’ (buying burial space).
5.3.5. ‘Thank you’
Both the seller and the buyer pay a ‘thank you’ to the VH\textsuperscript{12}. The amount paid is arbitrary but it would seem to depend on the sale price. Of the 24 respondents in Mbayani B who bought their property following the method laid out in Figure 10 above, 19 indicated that they paid a ‘thank you’ to the VH. Those who could remember how much was paid indicated the amounts shown in Table 1. Thus it would appear that the higher the price of the property, the bigger the ‘thank you’.

<table>
<thead>
<tr>
<th>Price of property</th>
<th>‘Thank you’ to VH</th>
<th>No. of respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;US$40</td>
<td>0*</td>
<td>5</td>
</tr>
<tr>
<td>&gt;US$40&lt;US$200</td>
<td>&gt;US$0&lt;US$7</td>
<td>9</td>
</tr>
<tr>
<td>&gt;US$200</td>
<td>US$12</td>
<td>1</td>
</tr>
<tr>
<td>Can’t remember</td>
<td></td>
<td>10</td>
</tr>
</tbody>
</table>

Table 6 ‘Thank you’ payments to the VH.
*Note: Some of those who claimed to have paid nothing when pressed indicated that they may have given a token ‘thank you’ of items like a loaf of bread or a packet of sugar.

5.3.6. Transfer period
The process of transferring property can take anything form one day to over 3 months. The major determinant being how fast one is able to mobilize funds. If payment is made at once, the process can take one day. However if payment is by installations the process takes as long as the final payment is made.

5.4. Plot disputes and resolution
4 of the respondents in Mbayani A had plot disputes and 6 for Mbayani B. All disputes were to do with alleged encroachments into the neighbour’s plot or, in one case, the closure of a footpath by new development. All disputes in both settlements were resolved by the VH. Land disputes can be a measure of insecurity. The land disputes in the case of the two settlements are not to do with the fundamental question of ownership but rather with the adjudication of boundaries between plots of land.

5.5. Land development and management
5.5.1. Planning control
All development in the city must obtain planning permission from the Blantyre City Assembly before it can go ahead. Also for development to be approved the prospective developer must legally own the land. What this means is that if a squatter applied for planning permission to develop a piece of land, permission would not be granted even if they met the zoning and building standards. Therefore all squatters in

\textsuperscript{12} Although the VH claims not to demand this payment, there is social pressure that this ‘thank you’ must be paid by both parties.
Mbayani B do not have official planning approval for any of the developments that have been carried out.

For Mbayani A upon title registration all development is expected to be sanctioned by the City Assembly before it can proceed. A team of town rangers was deployed to detect and stop all illegal developments in the area. However it appears that rather than detecting and stopping illegal development, these rangers may have encouraged illegal development through corrupt practices. Respondents cited instances when the rangers required payment of a fee to them (the rangers). A fake receipt would be issued and the developer would proceed to develop without hindrance from the rangers.

All respondents reported that they had not applied for nor obtained official approval for their development although some of those who had paid a fee to the rangers believed that the fee constituted official approval. This view was strengthened by the fact that the rangers never bothered them again upon production of the (fake) receipt.

However a different picture emerges regarding informal control exercised by the VH. As Figure 11 below shows, all respondents in Mbayani A informed the VH of their intention to develop. In Mbayani B only about a third of the respondents informed the VH of their intention to develop their land.

![Informal permission to develop land](image)

**Figure 11 Informal permission to develop land**

Those respondents in Mbayani B who did not inform the VH about their intention to develop reckoned that the registration with the VH at the time of acquiring the property also served as permission for them to do anything as they wished with their property without further recourse to the VH.

Only the construction of a house is reported to the VH. Other development activities such as sand extraction in streams or the cutting of trees are not reported. Developers are not required to submit any plans of the house to be built, only the fact that they intend to build is enough for the VH. On informing the VH, the developer is expected to pay a small fee to the VH. This fee is mostly in the form of items such as a loaf of bread or a packet of sugar.

The VH is informed not so much to make a decision one way or the other but out of courtesy and also as most of these houses are built for rent, this information for the VH is to make him aware that there will be tenants on the property. The tenants are also offered the same social security as the property owners.
The VH does not make a site visit to the proposed development site nor look into the suitability of the site or the standards of the development. The VH used to visit all building sites when rate of development was small and would exhort the developer to ensure that environmentally or culturally sensitive areas are not tampered with. However as building land has become more scarce and the demand for it and the rate of construction has grown, the VH no longer has the capacity to monitor and control developments.  

5.5.2. Subdivisions

Planning permission is required to subdivide land. The local planning authority uses this instrument to control density of development by controlling the size of the plots. The minimum size of a plot in a high density area such as Mbayani is 240 sq.m. As some of the titled plots were already less that the minimum standard at the time of registration, these are not allowed to be subdivided further. All other plots can be subdivided if they meet the minimum standards. In Mbayani A, 4 respondents reported that they had subdivided their land. Subdivisions are done to create additional plots which are then sold. None of those who subdivided their land had obtained any permission from the local planning authority. However all subdivisions had been reported to the VH at the time of sale of these new plots for registration of the new owners in the VH’s register. The reasons why the respondents in Mbayani A did not seek planning permission for their development included the high costs of obtaining that permit, the lengthy process involved and the sophisticated nature of the process which is beyond the comprehension of many.

The formal planning system takes on average 50 days to have a plan for building a house or for subdivision approved by the local planning authority. The applicant must incur the costs of hiring an architect and payment of planning fees to the local planning authority. Such costs easily make up a significant proportion of the construction costs and for many poor households, they are unaffordable. The costs in terms of time and money incurred by a developer to construct a house formally and the informal alternative are shown in Table 7 below:

<table>
<thead>
<tr>
<th>Costs (money and time)</th>
<th>Formal</th>
<th>Informal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Architect fees</td>
<td>3% of construction cost</td>
<td>Optional</td>
</tr>
<tr>
<td>Planning fees</td>
<td>0.8% of construction cost</td>
<td>Equivalent to loaf of bread</td>
</tr>
<tr>
<td>Occupation fees</td>
<td>0.1% of construction cost</td>
<td>0</td>
</tr>
<tr>
<td>Processing period</td>
<td>Average 50 days</td>
<td>One day</td>
</tr>
</tbody>
</table>

Table 7 Comparison of formal and informal costs of obtaining building and occupation permits.

---

13 Personal communication with VH Mbayani.
5.6. Spatial statistics

The second hypothesis of this research is that the behaviour of the people in a titled and in an untitled settlement will be manifested in the spatial development patterns on the ground. If title registration brings greater perception of security of tenure than de facto tenure, this will manifest itself in increased investment in the titled settlement. For the purposes of this study investment changes were measured using the indicators of building quality changes, building size changes and trees.

If land transfers are formal i.e. registered in the official land registry, this will provide reliable land information that is useful not least for purposes of planning control. Equally important for planning control is the fact that where planning control is established as was the case when title registration was carried out, developers must obtain the necessary permits to subdivide and develop land. To obtain a development permit, a development must satisfy laid down planning standards. The adherence to standards means that titled settlements will start to take on a more planned appearance than untitled settlements on account that untitled settlements are not subject to official planning control. For the purposes of this research the appearance of a more planned settlement will be seen in the protection of environmentally sensitive areas, building density, building quality and accessibility.

5.6.1. Investment

One of the key indicators of the impacts of title registration is the effect it has on the levels of investment. In this study spatial data derived from aerial photographs of different periods was used to determine changes in levels of physical investment in the settlements by means of changes in quality, quantity and size of buildings between 1990 (which is the year of title registration in Mbayani A) and 1998 (the year of the latest aerial photography for both settlements).

Investment was also measured from the point of view of trees. Trees are considered to be a long term investment on account of the length of time they take to reach maturity. It is considered that households will have the incentive to plant trees if they feel confident about the long-term security of their tenure.

For this study temporary buildings are defined as all buildings that have a thatched roof. Thatch is the traditional way of roofing buildings in Malawi. These buildings are considered temporary because the roofing is temporary. The thatch has to be renewed annually. Thatch represents a lower level of investment than corrugated iron sheets. Thus for this study permanent buildings are all buildings that are roofed with corrugated iron sheets. Corrugated iron sheets are a more permanent roofing material which can be in use for tens of years and represents a higher level of investment than thatch. Buildings with such roofing are defined, for the purpose of this study, as permanent (see Photograph 2). Buildings under construction refer to those buildings that are not roofed.

Note that the definition of temporary and permanent building is based only on roof quality and not wall or floor quality as these cannot be identified from vertical aerial photography.
Photograph 2 Temporary building (thatched roof with plastic sheeting to protect against rain) and permanent building (corrugated iron sheet roof) in Mbayani.

### 5.6.2. Overall building investment

Building investment identified from air photos of 1990 and 1998 for both settlements has been analysed to give the findings in Tables 8 and 9 below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Under construction</th>
<th>Temporary</th>
<th>Permanent</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>28</td>
<td>60</td>
<td>156</td>
<td>244</td>
</tr>
<tr>
<td>1998</td>
<td>21</td>
<td>267</td>
<td>507</td>
<td>795</td>
</tr>
</tbody>
</table>

Table 8 Number of buildings in Mbayani A

<table>
<thead>
<tr>
<th>Year</th>
<th>Under construction</th>
<th>Temporary</th>
<th>Permanent</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>20</td>
<td>85</td>
<td>158</td>
<td>263</td>
</tr>
<tr>
<td>1998</td>
<td>48</td>
<td>335</td>
<td>372</td>
<td>755</td>
</tr>
</tbody>
</table>

Table 9 Number of buildings in Mbayani B

In terms of overall growth over the eight years both settlements registered very high growth with Mbayani A growing faster at 326% and Mbayani B at 287%. The spatial changes in terms of building and tree investment between 1990 and 1998 are shown in Maps 4 to 7 below. The Figures which follow have been derived from spatial analyses of the maps using Arcview GIS software.
Map 4 Existing buildings and trees in Mbayani A in 1990.
Map 5 Existing buildings and trees in Mbayani A in 1998.
Map 6 Existing buildings and trees in Mbayani B in 1990.
Map 7 Existing buildings and trees in Mbayani B in 1998.
Overall investment in temporary and permanent buildings showed that between 1990 and 1998, Mbayani A registered a higher growth in both types of buildings over the eight year period compared to Mbayani B as Figure 12 below shows.

![Figure 12 Growth in permanent and temporary buildings in Mbayani A and Mbayani B.](image)

While the proportion of buildings in Mbayani A and Mbayani B does not differ greatly, the figures show that there were nearly twice as many permanent buildings in Mbayani A as there were temporary while in Mbayani B there were as many permanent buildings as there were temporary ones. Clearly Mbayani A received greater investment in permanent buildings. However this investment cannot be attributed to access to formal credit for the government land registry records do not show any charge against any title. There are clearly other sources of funds for investment. The investment may partly be attributed to wealthier people buying and developing land in Mbayani A attracted by the prospects of formal legal tenure. It could also be that Mbayani A has a locational advantage that Mbayani B does not have. Although the settlement selection process sought to eliminate or reduce such differences, it remains that Mbayani A is closer to the main Zalewa Road and therefore closer to main services than Mbayani B although none of the settlements has direct road access to the Zalewa Road. However the cost of bringing in services would be lower for Mbayani A than Mbayani B.

### 5.6.3. Building quality changes

It can be assumed that in 1990, all those who had permanent, temporary or buildings under construction in Mbayani A had their title regularized and registered. The following figures 13 to 15 show the investment changes that have occurred since 1990 compared to their counterparts in Mbayani B which is not regularized and registered.

#### Physical changes to buildings under construction

Four types of investment changes which manifest themselves in aerial photographs were identified:

1. No change. Buildings under construction in 1990 were still under construction by 1998.
Slightly more (55%) buildings under construction in 1990 went on to become permanent buildings by 1998 in Mbayani B than in Mbayani A (50%). However a higher percentage (40%) became temporary buildings in Mbayani B than in Mbayani A (28%). Mbayani A registers a high rate of house collapses (18%) than Mbayani B (5%).

**Physical changes to temporary buildings**

Three types of physical changes can be identified in buildings which were temporary in 1990.


Mbayani B had less change to its temporary buildings than Mbayani A with as much as 49% remaining temporary compared to 30% for Mbayani A. While Mbayani A experienced a higher percentage of building collapses (36%) compared to Mbayani B (28%), it experienced a higher percentage of conversion from temporary to permanent at 33% compared to 22% for Mbayani B.

Building collapses are particularly prevalent in the rainy season when, on account of the quality of construction, some buildings are unable to withstand the elements. Leaking roofs, poor foundations and unprotected green bricks for walls make buildings vulnerable to collapse especially in the rainy season.

Investment changes in permanent buildings

A comparative analysis of the changes to buildings that were permanent in 1990 is shown in Fig. 6 below. Three types of changes are identified

iii. Collapse. Permanent buildings in 1990 had collapsed / or been demolished by 1998.

![Physical changes to permanent buildings 1990-1998](image)

Figure 15 Physical changes to permanent buildings

A higher percentage (63%) of the permanent buildings retained their status by 1998 in Mbayani A compared to 50% for Mbayani A. While the proportion of collapsed buildings was the same for both settlements at 11%, Mbayani B experienced a greater proportion of conversion of permanent buildings into temporary buildings. Several reasons may be responsible for the downgrading in quality of buildings: Replacement of leaking iron sheets with thatch. This is especially the case with old rusty sheets or using sheets that have already been used elsewhere. Corrugated iron sheets may also be removed from one roof for reuse on another house elsewhere.
5.6.4. Building size changes

The mean sizes of buildings have reduced for the buildings under construction in 1998 in both settlements compared to what they were in 1990. This reduction is a reflection of the increasing consolidation of the settlements as less and less land becomes available for development. Both settlements experienced an increase in mean building sizes for permanent buildings with Mbayani A registering a 5% increase and 2% for Mbayani B (see Figure 16).

![Changes in Building Mean Sizes 1990-1998](image)

Figure 16 Changes in mean sizes of buildings 1990-1998

The largest permanent building in each settlement is a church (503sq.m for the Mbayani B church and 461sq.m for the Mbayani A church). Although both churches have a disproportionate influence on the mean sizes, they have been included in the calculation because they represent an investment albeit a communal investment. At the other extreme the smallest buildings in both settlements are probably toilets at 3 sq.m and they too have been included in the calculation because they represent an investment.

5.6.5. Trees

Table 10 below shows that as the settlements consolidate, the amount of trees grown increase. While it would have been expected that settlement consolidation might lead to less trees as more land is taken up for development, this certainly is not the case. While tree investment per building increased in both settlements, the increase is higher (245%) in Mbayani A than in Mbayani B (133%). While trees may be an indicator of the perception of tenure security, field evidence suggests that the primary use for trees is actually for defining and protecting boundaries as Photograph 3 below shows. As such they may also represent insecurity especially with regard to encroachments.
CHAPTER 5: BEHAVIOUR AND SPATIAL CHANGES

INTERNATIONAL INSTITUTE FOR GEO-INFORMATION AND EARTH OBSERVATION, ENSCHEDE, THE NETHERLANDS

### Table 10: The growth of investment in trees

<table>
<thead>
<tr>
<th>Settlement</th>
<th>Trees 1990</th>
<th>Trees 1998</th>
<th>Trees per building 1990</th>
<th>Trees per building 1998</th>
<th>% increase in trees per building</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mbayani A</td>
<td>127</td>
<td>994</td>
<td>0.51</td>
<td>1.25</td>
<td>245</td>
</tr>
<tr>
<td>Mbayani B</td>
<td>218</td>
<td>775</td>
<td>0.77</td>
<td>1.03</td>
<td>133</td>
</tr>
</tbody>
</table>

5.7. Land development patterns

5.7.1. Environmental protection

One aspect of environmental protection were investigated namely the preservation of stream reserves. The Environmental Management Act (1996) provides for the protection of stream reserves from development. The City of Blantyre building by laws define a buffer zone of 15 m on either side of a stream in which no building development is permitted. Mbayani A has 1360 m of stream length.

In 1990 22 of the settlement’s 244 buildings or 9% were within the 15m stream reserve. However in 1998, 130 of the settlement’s 795 buildings or 16% of all buildings were constructed within the protected stream reserve. Note that in 1990 the largest stream, Likhubula, which is prone to flooding did not have any construction within the protected reserve. In 1998 the Likhubula side of the settlement had 36 buildings in the reserve.
Mbayani B has 709m of stream length. In 1990 35 of the settlement’s 263 buildings or 13% were within the 15m stream reserve. In 1998 125 (or 16.5%) of the settlement’s 755 buildings had been constructed within the 15m stream reserve.

These findings show that title registration and the subsequent imposition of official planning control in Mbayani A has not resulted in a better preservation of environmentally sensitive areas as evidenced from increased development in stream reserves (see Map 8). This is further confirmed by the fact that Mbayani A has not performed better than Mbayani B in the preservation of these areas.
Map 8 Development in stream reserves before and after introduction of planning control in Mbayani A

Map 9 Sub standard development before and after introduction of planning control in Mbayani A
5.7.2. Building quality

The City of Blantyre building by laws lay down the building standards that must be adhered to for all developments in planned settlements. Many of these standards cannot be interpreted from aerial photographs. However the roof quality can be and was determined from aerial photographs. The building standards do not permit the use of thatch in buildings. Corrugated iron sheets or tiles are the permitted modes of roofing buildings.

In Mbayani A buildings with thatched roofs accounted for 28% of all buildings (excluding those under construction) in 1990. This percentage rose to 34% in 1998. In Mbayani B 35% of all buildings (except those under construction) were thatched in 1990 and this figure rose to 47% in 1998. Although thatched buildings make up nearly half of all buildings in Mbayani B as compared to nearly a third in Mbayani A, the growth in thatched buildings in Mbayani A was higher at 445% than Mbayani B at 394% between 1990 and 1998. Therefore title registration in Mbayani A has not led to a reduction in the development of sub-standard buildings in this settlement (see map 9).

However the development of buildings with corrugated iron roofs showed a marked increase in Mbayani A (318% growth) than in Mbayani B (235% growth) between 1990 and 1998. This however is unlikely to be the result of planning control for, as the behavioural data has shown, none in the respondent sample had obtained any official planning approval for their buildings. Rather as discussed earlier, it is likely to be due to wealthier people moving in with the prospect of obtaining legal tenure and also the locational advantage of Mbayani A in relation to the main Zalewa Road. It is also suggested that the possibility of obtaining formal legal tenure at some future date if required may have stimulated greater investment in Mbayani A than Mbayani B which cannot be formalised under the present law.

5.7.3. Building density

Building density in Blantyre is controlled by both subdivision control which sets the minimum size of a plot and, building control which sets the maximum plot coverage of development. The minimum size of a parcel is 240 square meters. No subdivision is permissible on registered parcels that are below this minimum. With regard to plot coverage all new development must not exceed 33% of the parcel area.

In 1990 Mbayani A had 4.7% of its area under buildings. This increased to 15.6% in 1998. For Mbayani B, 5.6% of the area was under buildings in 1990 and this increased to 15% in 1998. Both settlements display similar proportions of plot coverage in both years. Both settlements’ densities are way below the maximum coverage allowed. It is therefore not possible in this instance to make any conclusions regarding the settlement that is growing within or outside the stipulated building density.

5.7.4. Accessibility

All parcels in a planned area must have direct vehicular access. However for Mbayani A this is not possible for planning is coming after development. The standards for new development are therefore lowered to require new development to be within 50m of an access road. This also implies that access roads have to be built to meet such standards.

The aerial survey analysis shows that between 1990 and 1998 there had been no addition to the 3720m of motorable road frontage for Mbayani A. Similarly for Mbayani B there had been no addition to the
3025m of motorable road frontage. In other words Mbayani A did not receive additional investment in new road length despite titling. The percentage of houses within 50m of an access road reduced slightly from 87% in 1990 to 84% in 1998. For Mbayani B despite a constant length of road frontage, the percentage of buildings within 50m of an access road increased slightly from 69% in 1990 to 72% in 1998.

These figures also indicate that a policy cannot operate in a vacuum. If the planning standard is that buildings must be within 50m of motorable roads, then those motorable roads have to be built. In the case of Mbayani A no such roads have been built and it cannot be expected that a declaration that all buildings must be within 50m of a motorable road will have the desired effect in such circumstances.

5.8. Summary

This chapter has presented the findings of the research. Using primary data collected in Mbayani A and Mbayani B and from public officials and traditional leaders in the City of Blantyre in Malawi, the study has established how title registration has impacted on the way in which people transfer and develop land and how they perceive their tenure security.

Using secondary data in the form of data derived from aerial photographs of different periods, the study has established the spatial impacts of title registration insofar as they manifest themselves in investment (through physical changes to buildings and changes in the number of trees grown) and the orderliness of spatial development. The findings have shown the persistence of the informal system despite titling and the implications of this behaviour are reflected in the investment and patterns of spatial development in the settlement.

The conclusions to be drawn from these findings and the recommendations therefrom are the subject of the next chapter.
6. Conclusions and recommendations

6.1. Introduction

This thesis has established the impacts of title registration on household behaviour and spatial structure patterns in informal settlements. These impacts have been established using a case study of Blantyre City in Malawi. The settlements of Mbayani A (representing a titled settlement) and Mbayani B (representing an untitled settlement) were selected as the study and control settlements respectively.

The behavioural changes have been established by the use of a ground survey using a questionnaire and semi-structured interviews. The questionnaire was administered to respondents in the two settlements while the semi-structured interviews were carried out with traditional leaders as well as public officials. The spatial changes have been established by the use of time series aerial photographs which were mapped to provide the indicators used in assessing spatial changes. The use of spatial analysis using Arcview GIS software enabled the analysis of the spatial changes to be carried out.

This chapter consists of two sections. The first section draws the conclusions based on the findings of this research which in turn sought to answer the research questions in Chapter 1. The second section of this chapter consists of the recommendations drawn from the conclusions.

6.2. Conclusions

6.2.1. Behavioural changes

Land transfers
The data acquired in this research has shown that title registration in informal settlements has not led to a wholesale change in the process and procedures for acquiring or transferring land. Formal procedures and processes for transferring land introduced through title registration have not replaced informal procedures and processes. This conclusion confirms what McLaughlin and Palmer (1996) have pointed out that an informal property system can seldom be legislated away in favour of a formal one. Contrary to legal provisions, informal systems continue to play a central role in the administration of land in so far as land transfers are concerned in both Mbayani A and Mbayani B.

Factors affecting behaviour
Several factors have been identified as to the persistence of the informal system in the titled settlement. Informal registration is appealing, particularly but not exclusively, to the poor who are the majority of the inhabitants of these settlements. Formal title registration emphasizes the individual and the independence of the individual from others. The survival strategies of the poor depend to a large extent on being part of and accepted as a member of the community. The Village Headman is the pivotal figure at
the centre of this community. Registration with the Village Headman enables the household to access social services which formal registration does not provide. These are services such as guaranteed burial space within the settlement’s cemeteries (which is also part of the social continuity mechanism) and, community support and help in times of need or difficulty such as death or illness. This support is mobilized by the Village Headman. As Bruce, Migot-Adholla and Atherton (1994 p259) have observed in the case of Kenya, the behaviour of the people of Mbayani A reflects the conclusion that the social security function of land remains paramount and that compliance with community mores and access to community mechanisms for coping with hard times are still of great importance.

By registering not only the household head but also the spouse and the children and by seeking the consent of all in any transactions, the informal system is protecting the interests of women and children. This is not the case with title registration and it has been shown in Tanzania for example (Shivji quoted in Payne, 2001) that formal titling has worked against the interests of women and children. Therefore although title registration had individualized tenure, this is only on paper. In practice social values concerning land persist and land is transferred not on the whims of the individual but with the consent of the family in order to ensure equity and protection of all concerned parties. Thus whenever there is a conflict between social justice and economic reality, it is always resolved in favour of the former.

It is clear that traditional leaders in the titled settlement have refused to be sidelined by the new formal property rights system. Traditionally their authority has emanated from their land administration function. In the urban setting the monetary and material benefits they get from land administration is also an important factor that prevents them from relinquishing this role. The fact that they did not oppose the title registration exercise can be explained by the prevailing political situation of the time. Up until 1994 Malawi was a dictatorship and government decisions could not be questioned or resisted openly. What is telling however is the fact that while the local chiefs did not oppose the new system, they did not actively support it.

The differences between formal and informal registration would seem to show that the introduction of title registration has not been in keeping with the current dynamics of land tenure relations in Mbayani A. As Figure 17 below shows land tenure relations are not static but keep evolving even without government intervention in the man-land relationship despite the persistence of certain social values concerning land. The data has shown that the current stage of land tenure relations is where ownership right vests in the nuclear family and alienation is permissible only with the consent of interested family members. This has evolved from the time of the initial settlement of Mbayani when rights vested with the clan (or extended family), alienation was not permissible and the traditional leaders allocated land. For the government the desired outcome of title registration would be individual ownership where residuary ownership vests with the registered owner who would be free to sell or mortgage their property as and when they wished. However the government’s desired stage is yet to be reached in the majority of cases. Informal registration therefore reflects the current dynamics of tenure relations in the settlement while the government intervention can be seen as a forced intervention whose time has not yet come.

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14 Personal communication with Mr G. Adlington who was the demarcation and registration officer of the Blantyre titling project.
What is clear is that the informal system is not static but is responsive to new needs and opportunities. Under the pressure of market forces and growing land values, the informal system has come to accept land alienation and ownership is no longer based on tribal or clan basis but has been narrowed to the family. This process of transition has been characterized by Binswanger and McIntire (quoted in Migot-Adholla and Bruce, 1994) as moving from more diffuse and collective to more specific and exclusionary individual rights. This transformation has been gradual and evolutionary. However formal title registration has represented a revolutionary change in land tenure relations and the findings of this research suggest that this revolution has failed to carry the people with it, and confirms what Payne (2001) has advised, that caution must be exercised in effecting major changes in tenure systems.

While the informal system has not been replaced by the formal, the data also suggests that in certain cases the formal system is beginning to exist alongside (but not in place of) the informal system. The data has shown that while people in Mbayani A continue to acquire property informally, some of these proceed to formalize the acquisition and register formally in the government land register. There is a positive correlation between the level of investment and those who have formalized or intend to formalize their tenure. The greater the investment on the property the more likely the owner has formalized or plans to formalize the tenure.

**Figure 17 The evolutionary process in land tenure relations in Mbayani.**

Note that each evolutionary stage is not necessarily exclusive of other stages. It is only the dominant one at a particular time.
The evidence from the research findings in section 5.2 also suggests that increased investment in Mbayani A does not result from formal title registration but formal title registration is triggered by increased investment. This contradicts some theoretical models which suggest that there is a positive causal relationship between gaining legal tenure security being followed by increased investment in housing (Gilbert, 1994; Payne, 1989; Doebele, 1987). With lending rates at 50% and an underdeveloped financial market, it is not surprising that title has not brought about a greater access to formal credit in Mbayani A. Although people may not use formal title to obtain formal credit, the data suggest that the possibility of getting formal title in the future may induce greater investment in the knowledge that such investment could always be fortified if necessary with a formal legal title. This may explain why despite lack of access to formal credit, Mbayani A registers greater investment in permanent buildings than Mbayani B. Mbayani A also witnessed a greater conversion of temporary buildings into permanent buildings.

**Tenure security perception**

The relationship between investment and title registration leads to the conclusion that as people invest more, they view social security provided by the informal system as still necessary but not sufficient. They therefore seek to add legal security to the social security already obtained with informal registration. The fear is not so much that of eviction but fear of the impermanence of the informal system and its ability to protect the security of their property and their children in the future in a rapidly changing environment. They feel that the level of investment made is so significant that it requires additional protection in the form of legal security which cannot be destroyed even with changes in regimes. Since the security obtained under the informal system is dependent not only on the register but also on social relations between the Village Headman and his subjects and between the subjects themselves, a Village Headman who is corrupt or does not get on well with his people is likely to bring insecurity especially to those who have much to lose. However security from formal title is not dependent on social or personal relationship between the holder and the government.

The tenure security perception of those in Mbayani B and the majority of those in Mbayani A confirms what Zetter (quoted in de Souza, 1998) has suggested that perceived security of occupation through de facto government, political and community attitudes can be as important as tenure per se in the consolidation process. Security is felt when there is no possibility of eviction or if people feel that their houses are not going to be demolished overnight and not necessarily the security of having a title for the land they are living on. Households who have no title in Mbayani A and those living in Mbayani B which is considered ‘illegal’ have developed a sense of security of their tenure even in the absence of legal tenure. As Migot-Adholla and Bruce (1994) have argued, land tenure security does not necessarily follow from legal ownership. A formal title is, at best, merely an affirmation of the social guarantee of tenure security. It does not create it. Stable social relations among the people which are underpinned by traditional leadership; the fact that there have not been any evictions in Blantyre for 30 years and political promises of no evictions have also served to assure people of their security. This explains why Mbayani B with no titles continues to be settled also with some substantial investment.
6.2.2. Land development changes

Local authority control

The introduction of formal planning control on Mbayani A as a result of title registration has not resulted in the adoption of formal building development procedures and practices. The research data has shown that none of the respondents had obtained planning approval from the Blantyre City Assembly to carry out the development of their land. Local authority intervention in land management in Mbayani A has failed even with teams of town rangers patrolling the area to detect and stop illegal development. It has failed because the people have not made use of the formal systems and the local planning authority has not come up with effective means for instituting planning control in the settlement.

Land records have become out of date and irrelevant for planning purposes. While there were only 117 individual private titles issued in Mbayani A in 1990, the register and the registry map shows the same number of parcels in 2001 suggesting that there have been no subdivisions in the settlement. The reality however is different. As many as 16% of the respondents indicated they had subdivided and sold off parts of their parcels and while the VH may be aware of this, the government and the local planning authority have not been able to capture this information. Therefore the plot demarcations shown on the registry map bear little or no resemblance to what is on the ground. As Payne (2001) has pointed out, if full titles are granted to residents in squatter settlements, it sends a signal to land-owners and developers that significant and sudden increases in land values can be realized by subdividing land illegally. Title registration may therefore have stimulated the very process of unauthorized development it seeks to prevent.

The approach to land management adopted by the local planning authority is foreign to the people of the settlement. The procedures are too complex to be understood by the ordinary people. With a literacy rate of only 58% and the use of the English language in the procedures, many people have been excluded from the possibility of understanding the system. The long time taken to obtain official planning approval for development means that the urban poor especially who live from hand to mouth cannot wait for as long as 50 days to be told that they can or cannot proceed to build their house. Also the high cost of obtaining formal planning permission is a further deterrent to adopting the formal planning procedures. The local planning authority has not recognized that the people are capable of planning the natural space where they live and it has failed to ‘establish a space for participation’ (Rene, quoted in Barry, 1999) so that the affected community of Mbayani A is able to be an active and willing partner in the proper management of their settlement.

What is interesting however is that rather than getting official planning approval for development from the local planning authority, the respondents in Mbayani A informed the Village Headman prior to commencement of development. It has been established that this notification is not used to achieve any spatial ordering of the settlement but rather to enable the Village Headman to know what is going on in his settlement. In practice however the Village Headman benefits from this as the developer generally pays a small fee to the Village Headman. The fact that only about one third of the respondents in Mbayani B informed the Village Headman of their intention to develop compared to 100% in Mbayani A may suggest a reaction to title registration by the Village Headman. Afraid of losing his authority and influence over Mbayani A to the local authority, the Village Headman may have intensified development patrols in the area as opposed to Mbayani B where his authority is not threatened.


**Investment and spatial development patterns**

With regard to investment the picture is more mixed although insofar as trees and permanent buildings are concerned, Mbayani A shows greater investment than Mbayani B, suggesting that people invest more with the prospect of obtaining legal tenure in the future. It is not clear as to how far trees can be used as a measure of investment in these settlements. Evidence in the field seems to suggest that the main role for trees is to define boundaries. In this regard, this may suggest that the beacons installed at time of adjudication are no longer relevant in defining boundaries as the official boundaries have now been overridden by new informal subdivisions. It could also be an indication of greater property boundary disputes although this is not borne out by ground survey results which showed more disputes in Mbayani B than in Mbayani A.

Eight years after title registration and the introduction of formal planning control, Mbayani A continues to develop in an unplanned fashion – protected stream reserves are not respected and building and access standards are flouted. These findings suggest that the integration of informal settlements into the formal city demands much more than just imposing new tenure relations (Barry, 1999) or by new formal procedures for developing land.

### 6.2.3. Hypotheses

This study has explored two hypotheses with regard to behaviour change or lack of it and its spatial manifestations:

1. *Title registration in informal settlements changes people’s behaviour with respect to tenure security, land transfers and development. By introducing formal legal tenure and formal land transfer and land development procedures and practices, title registration replaces de facto tenure with legal tenure and informal land transfer, development procedures and practices with formal ones.*

From the findings of this research, it can be concluded that title registration in Mbayani A has not brought about a change with respect to people’s behaviour in land development. Despite the introduction of formal planning following from title registration, the people have not adopted formal procedures in the development of their land. Land is still developed informally with no effective control exercised by the local planning authority. With respect to land transfers, the informal system persists despite the introduction of the formal system. While informal transfers are done as a matter of routine for all, formal transfers are done only when it is necessary to do so. The underlying perception of tenure security is that in the absence of any threat of eviction, de facto tenure is adequate. However where substantial investment has been made, people want additional security for that investment through formal legal tenure.

2. *The behaviour adopted by the people in informal settlements as a result of title registration manifests itself spatially in investment and land development patterns.*

The spatial manifestations identified from the aerial photography are what would be expected of the behaviour displayed by the households. The continuation of unplanned and disorderly development of Mbayani A reflects the reluctance of the community to adopt formal development procedures and norms. Also the local planning authority do not have the up to date land information required for planning purposes as most of the people do not register formally. Therefore the resulting haphazard devel-
development as identified in the spatial analysis is to be expected in a situation where the planning system is simply inoperative. The greater investment in permanent buildings in Mbayani A reflects the possibility of obtaining legal tenure in the future which may stimulate investment now. However the fact that there is no perceived threat of eviction in both settlements can account for the substantial settlement and investment that is nonetheless occurring in both settlements.

6.2.4. **Aerial photographs**

The research findings show that aerial photographs can be used to demonstrate the impacts of urban policy interventions where the outcome of such intervention has spatial manifestations. However there are limitations as to how far aerial photographs can be used for this purpose. Where building investment changes are being measured, the investment indicators that vertical aerial photographs can show are roof type and size of building (as measured by roof area). However other important building investment indicators such as wall and floor quality cannot be determined and this may compromise the reliability of the data.

Ground truthing is important; whereas trees may have been expected to be an investment indicator the reality on the ground is that trees are generally used for defining property boundaries. While this may be so, this function of trees can also point to perception of tenure security. As development intensifies, the possibilities of encroachments increase and the fear of losing portions of land to encroachers may be leading people to physically define their boundaries by planting trees in strategic positions. Planting trees to define boundaries is also strongly engrained in traditional culture and is therefore part of the informal tenure system.

6.3. **Summary**

In conclusion, the findings of the spatial analysis are in keeping with the findings of the field survey. In the light of these findings, it is concluded that there is a relationship between the behaviour of the people and the spatial development patterns.

The behavioural and spatial impacts that were expected by government have not been realized. The informal register has more up to date ownership information than the official register. The Village Headman has information about developments in his settlements which the local planning authority do not have and therefore, potentially, the Village Headman is in a better position to control development in his settlement than the local planning authority. In the next section, a way forward to overcome the current deficiencies is suggested.

6.4. **Recommendations**

The main recommendations are based on an approach that preserves the advantages of the existing informal system to the community while ensuring that the underlying policy objectives of title registration are met. It recognizes, clarifies and formalizes the role of traditional leadership in land administration thereby ensuring that their role is not legislated away and therefore ensuring their cooperation. It recog-
nizes the limited capacity of the formal institutions to administer and manage land from the centre and takes advantage of existing informal infrastructure. In this regard the following are recommended:

6.4.1. Behavioural aspects

The land administration role and responsibilities of traditional leaders must not be legislated away, but they must be formalized and made more democratic and transparent and protected by statute.

Title registration must not extinguish the rights of dependents in the family, but must recognize the family ownership nature of land. It must record those aspects that are seen to be important by the community, but also by the municipality and the government. It must overcome the cultural deficiencies of the existing formal registration but also overcome the spatial and legal deficiencies of the existing informal registration.

To establish a more democratic and transparent system of land management in the community, it is recommended that a Community Land Committee consisting of the VH as chairperson and elected members be established. The existing democratically-elected Community Development Committee (see chapter 3) should take on this function. The VH is still at the centre of land matters, but his exclusive authority over land matters comes to an end in the interest of transparency and accountability. The responsibilities of this Committee should be as follows:

- the enforcement of community land management policies
- adjudication and land dispute settlement
- serve as notaries to land transactions and protect the community’s cultural values and social welfare.
- Maintain a local land register.

The Community Land Committee should be required to register all land transfers occurring within their jurisdiction and maintain a Community Land Register.

The research has shown that while informal registration with the traditional leadership is almost universal and seen by all to be necessary, subsequent formal registration has been the option of a select few. It is recommended that a similar pattern should be maintained by introducing a ‘provisional title’ for all when they register with the local register and a full title can be applied for from government for those who need it as and when they need it.

As with the existing informal procedures of registering transfers, the Land Committee transfer certificate should be prepared once all the concerned family members have agreed to the transfer. A copy of the certificate should be kept by the Land Committee and another copy lodged with the central registry for the issuance of a title when needed and the updating of the central land registry records. The certificate issued by the Land Committee should constitute a recognized provisional (or junior) title which can be upgraded to full title as and when required.

In keeping with the provisions of the National Decentralisation Policy and the new Local Government Act which seek to devolve to local authorities functions, including land administration,
which are currently carried out by central government, it is recommended that the central land registry should be administered by the municipality which is also the planning authority.

A Land Liaison Officer must be employed to work with and within the community giving advice and technical support to the local land committee. It is important that the officer should be trained in community development, land tenure issues and be competent in basic map preparation as well as land record keeping.

An extensive civic education programme should be carried out in the community to sensitise the beneficiaries of any titling programme on the principles of adjudication, title registration, ownership and concepts of private property law.

6.4.2. Spatial development

If introduction of formal planned development after title registration is to be successful, title registration must not be undertaken in isolation of spatial planning and the provision of infrastructure (or infrastructure corridors) to support the planning. In particular

Private individual titles must not be given for those lands that are in stream reserves or other fragile areas such as steep slopes. Titles for such lands must be held by the City Assembly which must delegate their management to the Community Development Committee (CDC). The CDC should serve as agents of the City Assembly for enforcing conservation, environmental and planning regulations throughout the settlement.

To prevent squatting on land reserved for public services or on protected lands, the municipality must in consultation with the community draw up management plans for such areas which will then be implemented by the community with technical support from the municipality.

Technical support and advice on land development matters in the community shall be provided by a Development Liaison Officer who will work with, and within, the community. The officer should be trained in community development, building and environmental matters.

This research has shown that the concept of obtaining permission from the traditional leaders to develop is not new in these settlements. However many view formal planning and the enforcement of physical planning requirements with some apprehension. To remove this fear it is recommended that

Spatial planning should be done as a dual process in which the community participates fully to create a sense of ownership thereby ensuring that the plans and norms are accepted and implemented primarily by the community themselves.

The Development Committee must be empowered to become the body controlling development at the local level, except cases where developments are seen to be controversial, or of more than local nature, which would then be referred to the City Assembly. In this way planning control will come closer to the people which will promote compliance.

The community must be sensitised through civic education on the benefits of spatial planning, environmental monitoring and enforcement of land use policies.
At the community level, the City Assembly would require information to monitor physical planning compliance. The community itself is the best agent for monitoring compliance and social sanctions can be used to enforce compliance. The Development Liaison Officer will transfer data collected in the community by the community leaders to the municipal offices for planning and monitoring purposes. Previously unavailable information on land transfers and development permissions by traditional leaders shall be available through the land and development liaison officers working with and within the community.

To avoid corruption and the resistance of parties, such as the traditional leaders, who benefited financially from the informal systems of land transfers and land management, it is recommended that the formalized services carried out by the traditional leaders, the CDC and the liaison officers should be adequately remunerated.

**6.4.3. Legal implications**

The proposed approach is consistent with the Malawi Government’s National Decentralisation Policy and the new Local Government Act of 1998 which, inter alia, aim to empower local authorities and local communities in land administration, planning and development of their areas. Malawi has operated without a comprehensive policy on land matters for a long time. The present system is a product of colonial history and settlement patterns, policies of the one party era, and recent demographic and urbanization trends. At the moment Malawi is at a crossroads. There is a national debate on land whose eventual aim is to come up with a comprehensive land law for the country. It is recommended that the new land law should recognize, clarify and formalise the role of existing informal land administration and management structures and cultures, not least in the country’s informal urban settlements.

**6.4.4. Policy implications**

The behavioural and spatial impacts of title registration in Mbayani have important implications for future policy design. The findings of this study suggest that the government cannot impose private property rights outright and that community and customary norms remain important even after custom begins to evolve in response to economic pressures.

The findings of this research have shown that those introducing land titling programmes in Africa must avoid adopting a one-size-fits-all policy for all regardless of the existing cultural and socio-economic contexts that communities find themselves in. Policy makers responsible for titling programmes must, in deference to the continued salience of community norms and customary practices, tailor such programmes to the cultural and socio-economic situation of the beneficiaries.

Policy makers must never ignore the interests of groups who would lose out in any titling programme such as traditional leaders who fear loss of authority (and also money) and vulnerable members of households such as women and children whose rights would be cut off. To do otherwise is to court behavioural change resistance and make the titling exercise a failure as such groups are capable of frustrating the whole exercise.

African policy makers must change the mindset which all too often tends to regard western concepts as superior to African ones. The findings in Mbayani show that the informal systems are actually more egalitarian in the sense that they ensure equity, offer protection to the vulnerable and provide a coping
mechanism especially for the poor. It must however be noted that many titling projects are donor driven and it is important for donors also to change their mindset and listen to the needs at the grassroots.

Malawi is considering a nation-wide title registration exercise and it is vitally important that the policy issues raised here are carefully considered before pouring resources into such a massive exercise. Otherwise the lessons of Mbayani will not have been learnt and it will be money down the drain.

6.4.5. Recommendation for future research

It is recognized that transformation of tenure relations must be gradual and incremental (Payne, 2001) and must not aim at replacing existing positive community social infrastructures which have evolved as coping mechanisms for people, especially the urban poor. Rather any transformation of tenure relations must build on the positive aspects of existing social infrastructure. In this way the desired behavioural responses of the people and the expected spatial development patterns will be achieved. Therefore in terms of the research needs in the future what Bruce, Migot-Adholla and Atherton (1994) have observed about tenure policy research needs for rural Africa is also relevant for titling in informal settlements in Blantyre today:

“….the task of tenure policy research for the next decade is to elaborate such gradualist approaches, relying to a significant extent on incremental patterns. We should be moving away from a ‘replacement paradigm’ in which indigenous tenures are to be replaced by tenure provided by the state, toward an ‘adaptation paradigm’” (Bruce, Migot-Adholla and Atherton, 1994, p. 261).

Future research must identify the positive aspects of the informal system that must be adapted and the positive aspects of the formal system from the point of view of both the beneficiaries of titling project and also the government. Such research could start answering the more fundamental question that needs to be addressed: if something works, why try to fix it? If informal tenure systems have not collapsed but instead are evolving in response to pressures such as population growth and urbanisation, to what extent are titling programmes necessary in settlements such as Mbayani A?
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Appendices

Appendix 1

INFORMAL AND FORMAL LEADERS AND OFFICIALS INTERVIEWED

**Informal leaders**
Mrs G. Khofi – Advisor to Group Village Headman Mussa Magasa.
Group Village Headman Mussa Magasa.
Village Headman Mbayani.

**Officials**
Mr K. Ngwira – Regional Lands Officer, Department of Lands.
Mr A. Juta – Senior Demarcation and Land Allocation Officer, Department of Lands.
Mr M.F. Makaka – Land Registry Clerk, Department of Lands.
Mr G.K Mchoma – Regional Commissioner for Physical Planning (South), Department of Physical Planning.
Mr F. Mondiwa – Acting Director of Town Planning and Estates, Blantyre City Assembly.
Mr Nakutepa – Department of Surveys.
Mr Ngwale – Department of Surveys.
Mr Makuta – Blantyre Water Board.
Mr G. Adlington – Formerly Demarcation and Registration Officer with the Malawi Government Department of Lands.
Appendix 2

QUESTIONS TO OWNERS WHO ACQUIRED PROPERTY BETWEEN 1990 AND 2001

Serial no.…………….                                      Date of interview……………………….
Settlement…………………….                       Name of interviewer……………………

1. What is your interest in this property?
   - Owner (if owner proceed to question 2. Otherwise end the interview)
   - tenant

2. When did you acquire this property? (If after 1990 proceed with the interview. Otherwise end the interview)

3. In what form was the property acquired?
   - Land
   - Land and house

4. What was the purchase price?

5. Existing house characteristics.
   - No. of rooms
   - Floor type
   - Wall type
   - Roof type

6. House characteristics of original house.
   - No. of rooms
   - Floor type
   - Wall type
   - Roof type

7. a) What was the cost of construction of the original house?

b) What is the cost of improvements to the house?
8. Apart from the house, what other investments have been made on the property?

9. Where did you live before you acquired property in this area?

10. Why did you choose to acquire property in this settlement?

11. How did you know that this property was on the market?
   a. Estate agents
   b. Newspaper advertisements
   c. Local notices
   d. Word of mouth
   e. Other

12. a) What procedure did you follow to acquire this property? (Refer to checklist)

   b) How long did this process take to complete?

   c) How much did the whole procedure cost you?

13. Why did you choose the procedure you have just described?

   If property was acquired informally

14. a) Do you have plans to formalize the transaction?
   Yes/ No

   b) Why?

15. a) Have you ever subdivided the original property you acquired?
   Yes/ No

   b) If yes to 14a above
   What procedure was used to effect the subdivision? (refer to checklist)

16. Was your house built with official planning approval?
17. a) Has your ownership of the property been contested after you bought it?
   Yes/No

d) If yes to 16a above
   How was the dispute resolved? (Find out the institutions involved in its resolution).

18. For those with legal tenure
   a) What benefits has formal legal tenure brought to you?

   b) What disbenefits has legal tenure brought to you?

19. For those without legal tenure
   a) What do you know about legal tenure?

   b) Do you think it could bring you benefits/disbenefits?