

Land and Poverty Conference 2016

Scaling up Responsible Land Governance

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AN ANALYSIS OF WATER USER ASSOCIATIONS ON THE IMPLICATIONS FOR THE TRANSFER OF IRRIGATION MANAGEMENT ON LAND AND WATER RIGHTS IN MALAWI

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HIGHLIGHTS

Importance of the wider national land and policy reforms
Towards a nuanced understanding of the 'customary' space
The Trust model: A useful tool for security of water rights

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BACKGROUND

The IRLADP

2006–2015

the Irrigation, Rural Livelihoods and Agricultural Development Project ('IRLADP')

- Government of Malawi ('GoM')
- The World Bank
- IFAD

... address poor water management practices, low food productivity, and low profitability levels of smallholder farmers.

BACKGROUND

The GoM's Agricultural Investment Plan [also known locally as the agricultural sector wide approach ('ASWAp')]

GoM seeks to increase the area under sustainable irrigation from 72000 ha to 280000 ha under the Green Belt Initiative

THE LEGAL FRAMEWORK

The Constitution

- Liberal democracy
- Constitutional supremacy
- Advocacy of a market economy

Constitutionally protected right to property

THE LEGAL FRAMEWORK

The Land Act

- Categories of Land
 - Public
 - Private
 - Customary

The law does not grant an enforceable right at law to protect their rights and interests in land under the 'customary' space

THE POLICY FRAMEWORK

The National Land Policy

Adopted in 2002

It must lead to a comprehensive land law 'with immense economic and social significance.

Ten guiding principles: secure land tenure; sustainable land management; productive and efficient land use; effective land administration; protection of vulnerable groups (these are women, children and persons with disabilities); development of an institutional framework for land management, land information system, and optimum utilization of land

Two – pronged goals: Economic growth and alleviation of poverty through access to land

WATER USERS ASSOCIATIONS IN MALAWI

The Water Users Association under IRLADP

196,500 rural households = 827, 000 individuals

11 districts in Malawi

Farmers' groups

Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme

WATER USERS ASSOCIATIONS IN MALAWI

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Registration as trusts under the law

Registration of transfer of land from Public land to Private land

Registration of transfer of land from Customary land to Private land

Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme

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The either-or debate

The PRT Model

The IMT Model

Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme

WATER USERS ASSOCIATIONS IN MALAWI

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Wider consideration: Land pressure in Malawi

Financial and Technical expertise for efficient and effective management of the irrigation schemes

Skewed land ownership: Pervasive patriarchy and women's participation in the WUAs

Social capital and the politics of traditional leadership in the countryside

Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme

WATER USERS ASSOCIATIONS IN MALAWI

The Water Users Association under IRLADP: The Lessons

(Re-)Conceptualisation of the 'customary' space

Financial and Technical expertise: The Need for capacity assessment

Targeted women participation in the WUAs

Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme

TOWARDS A 'UNIVERSAL' MODEL OF WUAs

The Water Users Association under IRLADP

A 'Trust' Model that combines the IMT Model–PRT Model

Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme

WATER USERS ASSOCIATIONS IN MALAWI

The Water Users Association under IRLADP

WUA under Public Land

The community should be mobilized as a WUA and proceed to be registered as a trust under the Trustees Incorporation Act. Further, the public land ought to be converted from public land to private land – with the Board of Trustees as the title holder – under the process of conversion under the Land Act.

Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme

The Water Users Association under IRLADP

WUA under Private Land

The community should be mobilized as a WUA and proceed to be registered as a trust under the Trustees Incorporation Act. Further, the private land ought to be transferred from the incumbent title holder to the Board of Trustees as the new title holder – under the process of conversion under the Registered Land Act.


Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme

The Water Users Association under IRLADP

WUA under Customary Land

The community should be mobilized as a WUA and proceed to be registered as a trust under the Trustees Incorporation Act. Further, the customary land ought to be converted, first, from customary land to public land; and second, from public land to private land – with the Board of Trustees as the title holder – under the processes of conversion under the Land Act and the Registered Land Act respectively.

Direct beneficiaries of irrigation infrastructure have strong incentives towards effective and efficient management of an irrigation scheme



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