

# **Land policy reform programme document and poverty alleviation in Malawi: a christian theological contribution to the debate**

*Felix Chingota*

## **Introduction**

Poverty has been defined as “a condition characterized by serious deprivation of basic needs in terms of food, water, health, shelter, education; and a lack of means and opportunities to fulfill these basic needs.” *The Malawi Growth Through Poverty Reduction* (United Nations and Malawi Government [UN and MG] 1993:5) document has listed the following groups of people – smallholder, estate households, and urban households - as being affected by poverty. The Draft Policy Framework for Poverty Alleviation Programme has the following groups of people: smallholder farmers, female-headed households, estate workers, tenant farmers in estate agriculture, ganyu labourers, children in poverty, youth in poverty and urban poor.

The analysis of poverty can be very complex indeed. A document, *Situational Analysis of Poverty in Malawi*, jointly published by UN and MG (1993), has tried to do this in graphic form. Four elements are highlighted as manifesting poverty in Malawi and these are: low agricultural production, low income, low education, and poor health. These elements are interlinked with one another in terms of cause and effect. Furthermore, each of these elements is a result of certain other factors. For example, factors that contribute to low agricultural production include limited land, low productivity, and climatic conditions. These in turn are as a result of further factors. Low productivity can be due to low technology, inadequate agricultural inputs, limited extension workers. Thus we have chain of cause and effects. Rapid population growth and weak institutional structures too are factors, which contribute to poverty situation in Malawi. For example, institutional structures such as central government, local government, traditional authorities, which play critical roles in determining the policies and programmes that affect the whole community can contribute to the

community's well-being or to its negative development. However, it has been noted that inadequate domestic and external resources and social and cultural factors have negatively affected the operations of these institutions (UN & MG 1993:7). For the purposes of this paper I will concentrate on low agricultural production because according to *Situation Analysis of Poverty in Malawi* document one of the factors affecting low productivity is limited land. Accordingly, it is the government document of *Land Policy Reform Programme* of 2002, which will specifically be dealt with to ascertain the extent to which it relates to the government policy of poverty alleviation. The discussion will be under four sub-headings. Firstly, I will discuss the causes of poverty. Secondly, I will give an analysis of the *Land Policy Reform Programme* document. Thirdly, I will look at the Christian theological contribution to the debate about the contribution of the *Land Policy Reform Programme* in alleviating poverty in Malawi, and lastly I will recommend actions for the Church to take as a way forward.

## **Analysis of poverty situation**

In so far as the Land Policy Reform Programme aims at alleviating poverty in Malawi, it is proper to begin discussion of the Programme with an analysis of poverty situation in Malawi. The analysis will be on two levels. The first level is a description of the historical roots of poverty, and the second level is an analysis of the factors prevailing now.

### **The historical determinants of poverty in Malawi**

In order to understand poverty situation in Malawi a historical overview of land policies in Malawi from the colonial period to modern times is very much in order. It seems to be the case that land policies during the colonial period were driven by commercial motives (Krishnamurthy 1972). In 1891 a British protectorate status was declared over the Shire Highlands of Nyasaland with Sir Harry Johnston as its first High Commissioner and Consul-General. Johnston had an aim of turning Nyasaland into a Crown colony ( Oliver 1959:220). What this meant was that the local chiefs were to hand over all sovereign rights to the Crown whether under pressure or by their own free will. All land would then be regarded as under the British crown.

Before the declaration of British East African Protectorate, British missionaries, planters and traders who had come into the country had acquired pieces of land from local chiefs. From the point of view of the chiefs these land concessions

were regarded as simply conferring occupation licenses and not at all conferring property rights. In 1881 John Buchanan acquired 3,065 acres of land, Michiru Estate, from Chief Kapeni in exchange for one gun, 32 yards of cloth, two red caps, and few other small things (Pachai 1978:31). The value of the objects Buchanan gave to chief Kapeni was very insignificant in comparison to the amount of land he acquired from him. Eugen Sharrer bought 60,000 acres of land in exchange for trade goods such as cloth, coloured stuff, gun powder, brass wire and beads, which were all valued at 50 pounds sterling (Wanda 1986:3). African Lakes Company obtained a grant of 7,000 acres from Chief Kapeni. British consular representatives such as Sir Harry Johnston, Alfred Sharpe entered into treaties with African chiefs and headmen in the name of the British sovereign. There were 81 such treaties and 63 of them were made before the declaration of British Protectorate in 1891 (Pachai 1978:35). A number of grants were also made to white settlers who were unable or unwilling to negotiate with indigenous chiefs.

When Johnston's protectorate administration started in 1891 there were only 57 Europeans. Three years later the number had increased to 237 (Pachai 1978:17). Competition for land became inevitable. In the context need arose to clarify land rights. For example, there was a case in which African Lakes Company claimed rights over land belonging to the Kololo chiefs in the Shire Highlands. However, the Kololo chiefs repudiated those claims. Johnston's response was to ask for submission of land claims with supporting documents. After a thorough investigation a Certificate of Claim was issued. The Certificate of Claim conferred land rights, which was equivalent to 'freehold title'. The basis for all this was that by declaring the land British Central Africa Protectorate, then the radical title to the land was transferred to the imperial sovereign, and so Johnson as the High Commissioner and Consul-General could issue any land tenure right. Between 1892 and 1894 Johnston had issued 66 Certificates of Claim covering 3,705,255 acres out of landholding potential in the Protectorate of 25,161,924 acres, which translated into 15% of good arable land. Of this total alienated land 867,000 acres represented the finest arable land in the Shire Highlands (Pachai 1973:41). The largest single holder was African Lakes Company with 2,704,376 acres (Certificate of Claim no.61 of 19<sup>th</sup> Sept. 1893) (Pachai 1978:41).

The problem was how to guarantee the security of tenure of the Africans who were on the alienated land. Johnston claimed that he was duty bound to protect the natives from becoming 'serfs' of the white man when he began to appear as

their landlord. Accordingly, he maintained that his land settlement policy was aimed at completely freeing the natives from any dependency on the white settler by restoring to them their inalienable occupancy of their villages and plantations. To this end he inserted in the title deeds a 'non-disturbance clause'. According to this clause, existing villages and plantations were not to be disturbed without the consent in writing of the head of administration (Pachai 1973:683). The aim of inserting the non-disturbance clause was surely a good one. However, it seems that the task of providing security of tenure for the original African inhabitants and their descendants was carried on half-heartedly. The weakness of the 'non-disturbance' clause was clearly indicated in Judge Nunan's ruling in a case between the Supervisor of Native Affairs and British and East African Company (B & EA) in 1903.

In 1903 the Supervisor of African Affairs, J C Casson petitioned the High Court on behalf of Africans residing on the Ruo and Cholo estates belonging to B & EA. It was argued that the agreement under which the land in question was alienated had not been registered; that the agreement was inequitable and illegal because it contravened the protective clause embodied in the original land grant; and finally that the local chiefs were not empowered to dispose of traditional lands. In fact apart from the land grant of 1893 (certificate of Claim no. 36) the company entered into another agreement with the local chiefs in 1902 according to which the inhabitants were to renounce the land security rights conferred upon them by the Certificate of Claim. In exchange for this they were allowed to change their villages and garden sites, and to enjoy various privileges as tenants. The privileges in question were that the residents on the estate agreed to give two months labour when called upon during the rainy season or at such other times as might be required by the land owner in lieu of rent and if any one of them worked for any employer other than B & EA such person (s) would pay rent for six shillings per annum. On its part B & EA agreed to pay tax for anyone who worked for two months and also guaranteed quiet and no disturbance (Pachai 1978:15). It was this new agreement, which was being challenged in court by government.

In his ruling judge Nunan said that the new agreement was both inequitable and illegal and that chiefs and headmen had no powers to dispose of traditional lands. He also noted that the non-disturbance clause was not being enforced. The reasons for this were: the African custom of shifting cultivation, which forced villages to move from place to place was not taken into account. In the

meantime there was an influx of immigrants from Mozambique who were welcomed on estates by estate owners because they constituted a ready supply of labour. The judgment of Judge Nunan revealed the weakness of Johnston's land settlement policy by pointing out the difficulty of distinguishing the original dwellers, who were supposed to be protected by the clause, from later arrivals. In fact no records were made of the original inhabitants before a Certificate of Claim was issued. The boundaries of the lands belonging to the original inhabitants were not marked. The judgment also revealed that the estate owners were interested in labour more than rent. It also reminded the policy makers that in future land allocations should take into account village or community rights and protection rather than simply individual rights. It is clear from the weaknesses pointed out by Judge Nunan that Johnston land settlement policy was more concerned with European economic enterprise than with the security of the Africans on estates.

The government then set up a land commission known as the British Central African Lands Commission with mandate to inquire into the land matters (Wanda 1986:18). Judge Nunan chaired the commission. The findings of the commission included the following: a) that landowners were doing nothing to provide their African inhabitants with sufficient land and security of tenure; and b) that labour-tenancy (*thangata*) was subject to all sorts of abuses. Thus the commission recommended money rent and a new land settlement. According to this, all estate owners outside a radius of 3 miles from the District Collector's Office in the principal townships of Zomba, Blantyre, Chiromo, Fort Johnston (Mangochi) should set aside 1/10 of their undeveloped land (which would be from 800 acres and above) in blocks of 80 acres each to be distributed to Africans residing on estates on the basis of 8 acres per hut. In return the hut owner was to pay the estate owner a minimum annual rent of 4 shillings and a maximum rent of 2 shillings per acre for those estates, which were within 3 miles from the townships. Moreover the 8 acres could be rented out for 4 shillings or bought at a fee not exceeding the total of ten-years rental, that is, 40 shillings. Furthermore the commission recommended that estate owners could sell their undeveloped land. The fee simple value per acre of undeveloped land located in the Shire Highlands was 5 shillings (Wanda 1986:19). The total effect of these recommendations was to do away with non-disturbance clause and turn the original inhabitants into tenants.

These recommendations were incorporated into a Bill known as the 1904 Land Ordinance (Native Locations) no. 5, which was passed by the British

government. In spite of this Sir Alfred Sharpe wanted the support of the estate owners because they provided financial support to his administration. The British Central Africa Chamber of Agriculture and Commerce opposed the bill particularly because of the provision that their undeveloped land should be parceled out to African on perpetual lease. They were not interested in money but in labour. Thus though the Land Ordinance (Native Locations) of 1904 found its way into the statute book it remained there as a dead letter until it was repealed in 1928.

The hostile reaction of the private sector against the Lands Ordinance (African Locations) of 1904 and the failure on the part of the government to implement it because of this opposition are good examples of how commercial interests can override social concerns. In fact another bill, the Native Tenants (Agreement) Bill whose aim was to abolish compulsory labour was opposed in Legislative Council in 1914 (Wanda 1986:21).

Meanwhile the population in the Shire Highlands increased from 95,000 in 1902 to 210,000 in 1909. More land therefore became necessary, the security of tenure for the African inhabitants and their conditions of labour were very bad. The social situation became so bad that in 1915 it resulted into social unrest known as Chilembwe Rising (Shepperson and Price 1958:189-201). In 1917 the government tabled another bill, Native Rents (Private Estate) Ordinance that prohibited landowners from exacting any labour in lieu of rents, or placing the Africans under any obligation, restriction as a condition for residence. The African tenant was entitled to a site for a hut, cultivation and firewood. The tenant could, however, be evicted after giving him a six months notice. Again the landowners opposed the ordinance because provision of labour was not made as condition for residence (Wanda 1986:24-25).

In 1921 government set up another land commission. Amongst its findings were that the Africans on alienated land were either tenants or employees. It also noted that landowners were disregarding the 1917 ordinance and Africans were being evicted if they refused to offer labour in lieu of rent. The commission then recommended that rights of landowners to demand labour instead of money be recognized; *thangata*, that is, forced labour should be allowed provided ways were found to protect the African tenant from harsh effects of the system; tenancy agreement should be for 4 years but renewable; African tenants should provide labour between the months of October to March

the following year. (These months mark the rainy and planting season in Malawi). The recommendations clearly favoured the landowner. The security of the African tenant was made conditional to provision of labour during the rainy and planting season.

Johnston had the view of partnership between the Africans, Asians and Europeans for the economic development of Nyasaland. In his first coat of arms for British Central Africa he had the three colours, black, yellow and white, which were symbolic of the partnership between the three races. However, as it has already been noted the effect of Johnston's land settlement policy with respect to private estates was that resident Africans were regarded as tenants who provided labour to the estate owners. Johnston did not look up to these tenants to be producers in their own right.

The government seemed not to encourage agricultural production by Africans. If the conversion of land to private ownership was the key to economic development, the question is: did any African acquire land in this way? The answer is in the affirmative. Between 1893 and 1899 eleven Africans<sup>1</sup> had acquired land on freehold basis. These people constituted the first batch of African cash croppers, producing cotton and tobacco. However, Africans faced a lot of hardships. The cotton seeds, which the African farmers received from local planters was of poor quality. The proposal to have an experimental farm was turned down by the government because it was not ready to part with more than 100 pounds sterling. There were difficulties finding buyers. Moreover, there were transport problem to bring cotton to the nearest ginnery. Although by 1910 another 18 Africans acquired land on freehold basis or leasehold, the government turned down 47 applications by Africans (Pachai 1978:693)

Government policy towards Crown land did not encourage Africans to participate in the economic development of the country either. The average size of a farm for an Africa smallholder on Crown land was two acres or even half acre. This piece of land was used for both subsistence and commercial farming. When government turned down 47 applications for land by Africans it was argued that the Crown lands were scarce because of overpopulation. However, the same government was able to alienate large blocks of land to Europeans. For example, in 1902 Sir Alfred Sharpe was asked by Foreign Office to set aside 360,000 acres as subsidy to British Central African Company, which was to build a railway in Nyasaland. Sharpe also alienated 100,000 acres to both old and new settlers.

In 1911 Manning succeeded Alfred Sharpe. Immediately he tackled the land problem. Manning was aware that giving land to British Central African Company would affect Africans residing on that particular land. Besides, the amount of land was too much. After all a lot of land that was held as freehold was left uncultivated. Therefore it was wasteful and uneconomical to continue issuing lands in freehold grants. A number of measures were taken by the government in order to secure sufficient agricultural land for African needs. For example, the government levied a tax of half penny an acre on all undeveloped land held by private estates. In addition, the government abolished the 'option of purchase' concession which was granted by Sharpe. The 1912 Crown Lands Ordinance provided for disposal of Crown land on freehold and leasehold basis by auction. The leasehold would be granted for periods of 21 years for faster growing crops and 99 years for slow growing crops. The rental was to be re-assessed during every third year of the life of the lease. Furthermore, compensation should be paid at the end of the tenure if the lessee did not want to renew his lease. The purpose of the ordinance was to discourage outright grants. In the case of freehold half the price was payable at the time of the sale and the balance a month later.

The provision of disposing land through auction meant that even Indians who had money could acquire it. There was therefore no guarantee that a European applicant would get the land once it came up for sale. This observation necessitated the amendment of the 1912 Crown Land ordinance. In the 1920 Crown Lands (Amendment) Ordinance it was maintained that Crown land could still be disposed of through auction. However, the government could sale land directly. Therefore the sale of land through auction became discretionary rather than compulsory. Besides, the bidder must have government approval. The implication of the ordinance was to discriminate against Asians.

Did the 1920 Crown Lands (Amendment) Ordinance imply that pieces of Crown land could now be alienated to Europeans without regard to African interests? Perhaps. However concern about the security of Africans on Crown land had always been there since 1912 (Pachai 1978:56) only that the Government was not taking action. In 1924 the question came up again following the finding and recommendations of East Africa Commission set up by the British government with mandate to report on measures to accelerate the general development of the dependencies and closer co-ordination of policy;



the steps necessary to ameliorate the social conditions of Africans; the economic relations between Africans and non-Africans and the taxation of Africans. The Commission's mandate was in line with the spirit of the British government White Paper of 1923, which affirmed British trusteeship for natives (Pachai 1978:176). During its tour of Nyasaland the East Africa Commission was able to speak to leading Africans such as Levi Ziliro Mumba. The Commission recommended among other things the setting up of Native Trust Lands. The implementation of these recommendations was the passing of Nyasaland Protectorate (Native Trust Lands) Order in Council of 1936. According to this Order, 87% of land in Nyasaland was reserved for African occupation and use. Through this 1936 Order in Council land was now divided into three categories, namely, Crown land; Reserved land; and Native Trust land.<sup>2</sup> The definitions of the three categories of land tenancy were as follows:

- Crown or Public land: all land and interests in land acquired or occupied by or in behalf of His Majesty.
- Reserved or Private land: all land alienated through Certificates of Claim
- Native or African Trust land: all land of the Protectorate except Public and Private land.

The ownership of Native Trust land was vested in the Secretary of State and was administered by Governor for the benefit of Africans. The government could grant right of occupancy to African Trust land to non-Africans provided that he was doing so to promote African interests in accordance with existing African laws (Pachai 1978:182).

The 1936 Nyasaland Protectorate (Native Trust Lands) Order in Council gave security of tenure to Africans. However, this did not immediately translate into economic development because the Nyasaland government did not promote African agricultural production. The Africans living on the African Trust lands were in the main smallholders and they used hoes for cultivation. Agricultural inputs such as fertilizer and good cotton-seeds were not available to these smallholders. Although this African Trust land, which counted for 7/8 of all land in the Protectorate could have been exploited for economic development, it was not exploited during the colonial period.

The task of the new African government was to develop the customary land (previously known as African Trust Land). The land reform policy of that time was still based on principle of individual ownership. So when Dr H. K Banda,

Malawi's first president, was introducing the 1967 Customary Land (Development) Act he said:

"Under our present system of land holding and land cultivation, no one either as an individual or as an institution, will lend us money for developing our land because our present methods of land holding and land cultivation are uneconomic and wasteful. They put responsibility on no one. No one is responsible here and now for uneconomic and wasted use of land because no one holds land as an individual. Land is held in common. They say 'everybody's baby is nobody's baby at all. We have to put a stop to this even if only gradually, otherwise there will not be and there will never be any development in this country in the true sense of the word' (cited in Pachai 1978:193).

The difference between the colonial period and the period after Malawi attained her independence is not so much the belief that absolute individual land tenure system would lead positively to economic development rather it is the agents of this development. While in the colonial period African cash-croppers were largely but not wholly neglected and regarded simply as appendages to European enterprise, in the independence period they have been encouraged.

### **Current determinants of poverty situation**

The 1997/98 household survey, in which the cost-of-basic needs approach was used to determine poverty line, showed that about 60% of the Malawian population lives below the poverty line. 91% of the poor live in rural areas. (Fozzard and Simwaka 2002:5). This is 33 years after independence. This is partly explained by the development policy pursued by the first African administration under Dr Banda. It has been noted that the goal of development policy under Dr Banda was to increase national income through the promotion of investment in industry and commerce, export-oriented agriculture. The agricultural policy was characterized by dualism (Fozzard and Simwaka 2002:5) in the sense that there were agricultural estates and smallholder farmers. Through a number of legal instruments customary land was converted to leasehold estates in order to expand tobacco production. The consequence was that the number of estates increased from 1,200 in 1979 to 14,671 in 1981 leading to the emergence of a class of poor tenant farmers and a reduction in the acreage available to small farmers (Fozzard and Simwaka 2002:2). It has been noted that education and health public expenditures during the Banda era leaned more towards the production of skilled manpower and opportunities for the elite through a heavily subsidized secondary and tertiary education and the provision of tertiary care mainly in urban areas respectively than towards poverty

alleviation. The official view then was that poverty was not widespread in Malawi and that it was as a result of an attitudinal problem; poverty could be eliminated through hard work and did not require specific government interventions (Fozzard and Simwaka 2002:7).

In the case of Muluzi administration 'poverty alleviation' was the main developmental policy of the government. In fact in October of 1995 a document, *Policy Framework For Poverty Alleviation Programme*, which was published by the Ministry of Economic Planning was launched by the State President. In its "Vision and Mission Statement" the document says "the mission of the Poverty Alleviation Programme (PAP) is to transform the economic structures to ensure that they meaningfully contribute towards the raising of the standards of living where the people have access to and ownership of land. A year later, on 18<sup>th</sup> March 1996 the government appointed a commission of inquiry known as The Presidential Commission of Inquiry on Land Policy Reform under the chairmanship of Mr. Patrick M Saidi. The commission was mandated among other things to recommend to government "principles of a new land policy, which will foster a more economically efficient, environmentally sustainable and socially equitable land tenure system".<sup>3</sup> The mandate of the commission reflects two major concerns of the government, namely, social justice in respect of land distribution, on the one hand, and the proper use of land as one of the resources for economic development, on the other. The government's concern for economic development through proper use of land resource is also reflected in a document published in 1998 on development programme known as "Vision 2020."<sup>4</sup> Thus land reform has been perceived as the key to poverty alleviation and economic development. The finding and recommendations of the Presidential Commission of Inquiry on land Policy Reform were later published as *Land Policy Reform programme* in 2002. It is this document which will be analyzed below. However, before this is done something must be said about the external factors impacting on poverty in Malawi.

In trying to answer the question "Why are the poor in that condition of poverty?" the two documents, namely, *Malawi Growth Through Poverty Reduction* and *Situation Analysis of Poverty in Malawi* have concentrated on the immediate surroundings of the targeted people.<sup>5</sup> However, it has been pointed out that in order to adequately explain the poverty of the targeted people one must also ask the question, "Why are the rich in that condition?" In other words, poverty and wealth are interconnected. And the point made here is

that the poor do not simply “appear” and they will not simply “disappear”. Rather they come into being out of socio-political processes, which develop through time. The poverty of the poor is not something inherent in their genetic make-up, but it is something created by the rich people within a nation or internationally. Teresa Hayter (1981) has dismissed a number of what she calls ‘conventional explanations’ for poverty. Laziness cannot be the explanation for the majority of Third World people because slavery thrived because the slaves from Africa, Asia were regarded as hard working. Lack of entrepreneurship is not an argument either because there were thriving civilizations in Africa (Egypt) and Asia before colonization. To explain poverty in terms of lack of capital is to beg the question. Why should one pick on lack of capital as a cause of poverty within in the first place before asking the question why the poor do not have that capital. Lack of capital is not so much a cause of poverty as the effect of those socio-political and economical processes. Population growth cannot just be used to explain poverty in Africa. Through the slave trade the population of Africa decreased and in the process able-bodied women and men were taken away. That was a double disaster for Africa such that some writers have ascribed the relative lack of development in Africa to the decrease in population, and the resultant ‘brain drain’.

In place of these explanations Hayter maintains that it is the establishment of a world economic system that has created world poverty. In the face of this economic system the poor are practically powerless. They do not belong to the dominant groups that exercise power. And in the majority of cases the interests of those who exercise that power are diametrically opposed to those of the poor. Here the fundamental problem as far as poverty is concerned is the exclusion of the poor from participating in the political and economic processes of society where decisions are made regarding production, distribution and allocation of resources. In this way economic and political power is concentrated in the hands of a few. The argument given for this sort of situation is that this is necessary for innovation, saving and accumulation of capital, which ultimately is supposed to benefit the poor as it “trickles down” to them. It is an argument, which has been used to justify the deprivation of the poor of what little they may have in the form of land and other resources

The oppressive economic system is a manifestation of the ideologies of neo-classical economics whose ideas can be traced back to the views of Adam Smith. In his book *The Wealth of Nations* Adam Smith has argued that

specialization and exchange would bring an increase in productivity and the level of productivity corresponds to the extent of market (Smith 1976:7). It is, therefore, important to have a broad market. In this connection the role of government is to provide an enabling environment. There should not be any constraints put for a particular form of economic activity. This is what has been described as a *laissez faire* form of government.

These ideas do form the ideology of the multinational institutions such as the International Monetary Fund (IMF) and the World Bank.<sup>6</sup> Their policy prescriptions known as structural adjustment policies or programmes have two main components, namely, stabilization and structural reforms. A standard set of stabilization measures include the following:

- Devaluation of currency to reduce balance of payments deficits;
- Raising taxes and reforming the tax systems as well as reducing government expenditure in order to reduce budget deficits;
- Restructuring foreign debts;
- Increase in financing government deficits by borrowing on the capital market such as through treasury bills;
- Increase in interest rates to mobilize savings; reducing subsidies on food prices, and introducing user fees for public services;
- Decrease in (real) wages.

A standard set of structural reforms which aim at changing the structure of production and consumption, and an increase in the efficiency and diversity of the economy include:

- Liberalization of markets so that prices reflect relative scarcities of goods;
- Privatization of public enterprises;
- Increase in the efficiency of government tasks that are not privatized;
- Institutional reforms, like creating new financial institutions.

These structural adjustments programmes (SAP) have a number of problematic areas. First of all, one wonders whether the designers of the policies do really diagnose the problems of the developing countries and apply the right solutions? For example, although neo-liberal economics see the international arena as the source of growth for poor countries through international trade, when it comes to the solution attention is directed to internal matters of the

developing countries. The developing countries are asked to liberalize both administratively and economically. Yet we know that some of the major constraints to economic progress for poor countries come from the external constraints of declining terms of trade, and trade barriers. The need to change the international economic order so that there is fair trade and equal exchange is ignored or given lip service.

Secondly, there is selectivity in the recommendation of policy instruments and in the countries to which they should apply. For example, removal of trade barriers is demanded of poor countries, but the countries of the North have serious barriers especially of the non-tariff type. So the practice of neoliberalism should be resisted partly because it forces policies on poor countries that rich countries do not follow, and thereby create competitive disadvantage. In fact one can say that the SAPs are inappropriate for the following reasons:

- They are based on a fundamental disrespect for the role of governments in the development process. Markets alone cannot steer an economy on the right path. Markets are concerned with the profit motive and making maximum financial gain is the only goal of economic activity. Surely other goals of society such as equity or income redistribution cannot be left to the market forces. The realities of public goods, the legitimate role of the government in the economy, are trivialized. There is no evidence that markets alone have led to significant growth of any economy. The objective of growth over time itself cannot be achieved through uncoordinated efforts of atomistic economic agents. The proponents of structural adjustment programmes have ignored lessons of Japan, Germany, and the Asian tigers. The question we should be asking is how can we get our government to be an agent of economic development i.e. have a long-term strategic vision of how to mobilize financial and human resources for growth? Apart from policing regulatory/judiciary/licensing the government should be directly responsible for structuring incentives, selecting promising entrepreneurs and building them up; scouting for export markets.
- SAPs are a contradiction in terms: while government are required to withdraw from the economy, on the one hand, they are also required to force citizens to endure hardship. While requiring free enterprise,

which requires political liberalization, the policy instruments are enforced without consultation. The result in most cases is militarism and repression of citizens who rise against the government due to consequences of SAP.

- Whether countries should be adjusting or not is not the issue. Rather the issue is whether they should be using World Bank model or select a set of policies suitable for their situations. For example, the consequences of devaluations are not good at all. Locally produced goods have high import content even if only in the form of transport costs of fuel. Inflation and the high cost it poses for imports that go into production processes reduce the impact of devaluation in stimulating exports. Emphasis that government should reduce expenditure has meant less expenditure on social services like health and education. The result has been the human capital formation too has suffered. And if the effects of HIV/AIDS on human resource are added the situation becomes pathetic.

SAP minimizes the goals of development or assumes that they can be achieved through market forces. This is not realistic, as growth does not trickle down. It is also not a good approach because when political governance is liberalized, people expect a fast change in their material well being or else conflicts abound. Adam Smith wrote another book, *A Theory of Moral Sentiments*, in which he expressed that compassion is the basis of civilization, and that the 'invisible hand' of the market needs an 'invisible handshake' of compassion.

In assessing the SAPs one would like to look at the results of such programmes. In general the SAPs have not matched expectation or what is required to pull poor countries out of their dire situations. For example, on the stabilization part, government deficits and balance of payments imbalances, and inflation still persist.

Privatization has led to a closure of several companies with people losing their jobs. Where local companies have bought by international institutions there has not been any increase in industrialization or output of manufactured goods. GDP growth is very small and does not match population growth, leading to a fall in per capita growth. As a result poverty has deepened due to increase in inflation, job losses, removal of agricultural input subsidies among other factors.

The two documents, *Malawi Growth Through Poverty Reduction* and *Situation Analysis of Poverty in Malawi* may be criticized for not taking the international economic arrangement seriously.

## **The land policy reform programme**

In 2002 the Government of Malawi produced a Land Policy Reform Programme. After some consultation and discussions it was adopted. In the document it is acknowledged that Malawi is basically an agricultural country. Her foreign earnings are based primarily on agricultural production. Furthermore, the majority of citizens, about 85% live in the rural area where agriculture is the main source of their living (UN & M<sub>G</sub> 1993:19). In this context a land policy has become a centerpiece of the nation's economic development.

The policy document notes that although the Land Ordinance of 1950 provided for customary land, in fact this land was in essence defined as a mere species of 'public land'. This meant that indigenous citizens had no control whatsoever over this land. Instead it was under the control and management of the Governor. The 1965 Land Act did not change much as far as indigenous control and management of customary land was concerned. The Governor was simply replaced by a President.

The land policy document also notes that Malawi government has operated without a comprehensive land policy since independence. Because of the absence of land policy there have been a number of problems relating to land. They include the following:

- Residual effects of Colonial Land Policy: By this it is meant that as a result of two developments - fertile land being alienated to white settlers, and the expansion of estate agriculture – some Districts in the Southern Region such as Chiradzulu and Mulunje are already becoming potential areas for conflict:
- High population to Land Ratio: With an average population growth rate of 3.2% per annum it is estimated that by 2020 national population density may exceed 220 persons per square kilometer. The Southern Region has the highest population density
- Fragmented and Uneconomic Family Holdings: In 1992 it was estimated that 78% of households in the smallholder sub-sector controlled less than 1



hectare of land. However, in some districts per capita arable land available could be as low as 0.024 hectares.

- Provocative Trespassing: There are many cases of people encroaching upon private lands, gazetted forests, national parks and other protected areas
- Corrupt Administrative Practices: This refers to fraudulent disposal of customary land by headmen, chiefs, and government officials. In this way people who are in desperate need of land are denied access.
- Land degradation: There is evidence of destruction of soil cover in watersheds and catchments areas, erosion of agricultural soils, and destruction of indigenous forests

The drafters of the land policy document have maintained that failure to deal with the land policy concerns from 1960s and 1970s may have directly contributed to to-day's problems of poverty, food security, and perceived inequalities in access to land.

In view of the Malawi government's commitment to sustainable development principles, the goal of Land Policy the primary goal of the policy is to ensure tenure security and equitable access to land, and to facilitate the attainment of broad based social and economic development through optimum and ecologically balanced use of land and land based resources.

The 1965 Land Act categorized all land into three. The land policy document has maintained that categorization. However, because previously customary land was essentially part of public land the present land policy tried to clarify this. Accordingly, land can be Government land, public land or private land. The 'government land' is specifically a) that land acquired to be managed or used by agencies of government to serve a specific national purpose. This may include land acquired for government building, schools, hospitals, national parks and reserves and sensitive areas acquired for military, ecological, conservation and for historic cultural purposes. b) Land that the government has leased to individual, companies or institutions, for which ground rent is paid, is also government land.

'Public land' included what used to be customary land, but also all land placed under the control and management of government or agents of government. What is new here is the principle of trusteeship. The principle states that

Holding land in trust for the citizens does not make the Headperson, Chief, or the President the owner of the land. It is as a basic arrangement for land management

that has some policy advantages. For example, customary lands vested in the President and managed by the Minister responsible for lands does not make the President owner of the land, but as a trustee, the actions of Minister, acting on behalf of the government is subject to the rules of trusts (UN & MG 1993:34).

The Presidential Commission of Inquiry on Land Policy Reform had recommended the abolition of freehold land tenure. Nonetheless, the policy document argues that because the welfare and the development objectives of the nation can best be achieved within a system of private ownership of interest and private enterprise, the radical title to all land in Malawi, irrespective of land tenure regime, will continue to vest in the state, traditional authorities and in some cases individuals and families.

The policy has tried to address a number of land concerns. For example, on the question of equitable access to land the policy says that any citizen or group of citizens can access land in any part of Malawi, so long as land is available for disposal in that part of the country where access is being sought; the person agrees with land owner to adhere to the covenants, customs and practices legally enforceable under the laws; the person undertakes to utilize the land in accordance with land use plans, environmental regulations and community land management duties and obligations applicable to all such lands in the area.

The document has tried to protect indigenous citizen from becoming landless because foreigners have grabbed most of the land. To this effect from January 2002 non-citizens are no longer allowed to acquire new freehold land. Foreign investors are allowed to access freehold land for investment purposes if they have formed a partnership venture with Malawian. The standard leasehold term for land leased for purposes of investment shall be a renewable term of 50 years or less. The renewable term for owner occupied residential development shall be 99 years.

With regard to mechanisms in order to prevent fraudulent selling of family customary estates, the document provides that no sale of a customary estate will be allowed to persons who are not immediate family members during the first five years after the land has been registered. In case there shall be a justifiable need to sale the land within the first five years then such sell shall only take place if it proved to the Customary Land Committee and the village Headperson that all named family members above 18 years of age have agreed to the sale

Currently good arable land is held as freehold while poor Malawians have been pushed to the margins. It is imperative that government must reacquire land from private owners and redistribute it to Malawians who are in dire need of it. Government is empowered by the land policy document to acquire that is privately owned for some function sanctioned by law. In such cases the landholders are entitled to compensation. In the 2004/2005 national budgets a certain amount has been set aside for compensation purposes when government acquires land for redistribution to those in need of it.

The land policy has also addressed the problem of scarcity of land. There are a number of options. One of them is for the government to acquire land from private landholders and distribute it to those in dire need of it. The other is to encourage resettlement of landless and land-short households in pockets of sparsely populated customary areas throughout the country. To this end it is proposed to establish a Land Resettlement and Social Development Board. In the selection of beneficiaries the Board shall be guided by the principles of equity and efficiency.

## **A christian theological perspective on the land policy reform programme**

In January 2002 the cabinet of the government of Malawi adopted the land policy reform programme as one providing a blueprint for its poverty alleviation interventions. Before a Land Bill was presented in Parliament for debate the civil society requested that time should be given for more consultation because there were a number of gray areas in the Policy. This was accepted. The Civil Society Advocacy Taskforce on Land Policy did conduct consultations in nine districts. Frank Namangale<sup>7</sup> reported on the land problems, which were cited during a consultation in Mangochi District. The land problems cited included landlessness due to overpopulation and culture, the existence of idle or abandoned land, the delay by courts to settle land disputes, people leasing out customary land illegally and encroachment. Even prior to the cabinet adopted the Land Policy a number of concerns, which covered inclusiveness, constitutionality, ownership, compatibility and equitability, were raised. It was reported that the government ignored them. It is expected that the land policy reform programme will be tabled in Parliament in March 2005. The period in between provided an opportunity for the Churches to bring in their input. It must be acknowledged that here the government intended through the land policy reform programme to achieve

sustainable development, or poverty eradication. To achieve this people must be assured of security of tenure, equitable access to land resource, an ecological balance as land is being used to its optimum level.

The Churches' response to the government's initiative to use land as a central piece in its attempts to eradicate poverty must be one of approval. The Churches must join hands with government in its attempt to build a new society through land reform. In this struggle for nation-building the Church brings in its theological insights, which can be gathered together through the concept of covenant.

Land is central to God's covenant with his people. In his covenant with Abraham God promised to give land to Abraham's descendants (Gen 15:18; 17: 8). The people of Israel were landless as they came out of Egypt and God gave them land (Exod. 3: 8,17; 6: 4, 8; 13: 5, 11; Dt 1: 8; 26: 2,9; 27:). This means, first of all that land belongs to God and not to Canaanite gods such as Baal. As God gives land freely to humankind, the latter become thereby stewards of God's gift. Here is a warning against those who think they own land. It is salutary in this context to note that in the Land Policy the principle of trusteeship is emphasized.

Secondly it also means that landlessness is a form of existence that is contrary God's will. Access to land is a basic human right. What poor people need is not charity, but respect for their rights and dignity. While charity may be good, it also creates regrettable dependence, and allows unjustified paternalism. In this context the jubilee provisions in Lev 25 whereby land must be returned to its rightful owner after 50 years becomes very relevant. The dignity of the poor can be respected as they are given the means to be self-reliant. They must be given the opportunity to work for their own sustenance. After all human work for food is not a result of the Fall, but part and parcel of the divine mandate for the good order of creation (Gen. 2:15).

Two basic Christian convictions of justice and participation<sup>8</sup> are relevant here. Justice in biblical terms implies God's mandate 'that human judgment ought to rescue the weak and the poor, and save them from the clutches of the wicked men' (Ps.82: 4). This is different from the Greek and the Roman concepts of justice where it is basically individualistic and distributive, that is, each receiving his or her due. The biblical concept emphasizes more on restorative

justice. Therefore it is deeply social and often leads to a radical critique of existing political and economic relationship. Therefore, it is not enough simply to talk about equitable access to land because society is such that some are weak and some are strong. Thus although people may be given equal opportunities to access land, the strong will outdo the weak. Therefore the government must be proactive to protect the weak from the strong and greedy people. It is perhaps in this context that the policy statements in section 6.24, which aim at regulating access to land by non-citizens, must be read. It is clearly stated that the rights and interests of indigenous citizens of Malawi shall be safeguarded against foreign international companies.

The Mangochi consultation raised an issue whereby individuals were informally leasing out land to developers. After making informal agreements the developer would rush to the government to get the land formally leased. Thus although policy statements in section 6.24 protect weak indigenous Malawians from foreigners, the question is how to protect weak Malawians from their fellow strong Malawians? This question is addressed in policy statements in sections 7.11; 7.13; and 7:17. 17.

The other basic Christian conviction is participation. The point here is that where justice is done, the weak and poor are then lifted up to the level of equality with others. Therefore, they are treated as full participants in those decisions, which affect their lives and destinies.

Furthermore, the covenant framework I have suggested above entails that everyone must share in the fruits of the land. This is reflected in the celebration of the Eucharist. The fruits of the ground – wine and bread - are offered in thanksgiving to God, after which they are shared. However, land, which is a gift of God to meet human need, can also become an arena of greed. Greed for land does bring divine judgment (Is. 5: 8-9; 1 kings 21). Land speculation and the coveting of land lead to injustice (Mic 2: 1-5). Ruthless exploitation of small tenants by landlords is condemned in the Bible (Amos 5:11). The land issues raised by the Mangochi consultation become relevant. The community expressed sadness that while many people were landless some estates were just lying either abandoned or idle. The Land policy has also taken note of this problem. In this case the policy empowers the President to repossess any land left idle by landlords and to redistribute the same to those in dire need of it.

Drimmelen has given two quotations on these themes. The one is from St Ambrose and the other from St Chrysostom. St Ambrose said, 'You are not making a gift of what is yours to the poor persons, but you are giving them back what is theirs. You have been appropriating things that are meant for the common use of everyone. The earth belongs to everyone, not to the rich' (Drimmelen 1998:94). St Chrysostom said, 'God never made some rich and some poor. God gave the same earth for all. The whole earth is the Lord's and the fruits of the earth should be common to all' (Drimmelen 1998:52) This brings back to the global economic arrangement as one of the causes of poverty, and specifically the question of international aid to poor countries. Hayter (1998) has described how international aid creates world poverty. She has quoted speeches by the former president of World Bank, Eugene Black, the former presidents of United States, J F Kennedy and Nixon. For example, in 1969 Eugene Black, according to Hayter (1981:83-84):

Our foreign programs constitute a distinct benefit to American business. The three major benefits are: (1) foreign aid provides a substantial and immediate market for United States goods and services. (2) Foreign aid stimulates the development of new overseas markets for United States companies. (3) Foreign aid orients national economies towards a free enterprise system in which United States firms can prosper.

In 1961 Kennedy said, 'Foreign aid is a method by which the United States maintains a position of influence and control around the world and sustains a good many countries which would definitely collapse or pass into the Communist bloc', and in 1968 Nixon said, 'let us remember that the purpose of American aid is not to help other nations but to help ourselves'.

## **Conclusion**

The discussion above has shown that there is a point of contact between the Land Policy document and Christian principles. The convergence of ideas makes it very urgent for the Church to translate its conviction into action. It must be recognized that implementation of land reforms does meet with various obstacles.<sup>9</sup> There can be fierce opposition from established power groups who may describe the whole programme as 'confiscation in reverse'. Others may warn that turning land over to small farmers will prompt a drop in farming output. Another problem is how to source funds for compensations.

In spite of the obstacles the Church must see land reform as one way of furthering the Kingdom of God here on earth. Committed to that vision the

Churches must begin to do an analysis of the specific economic and trade policies and their impacts on poverty. The task of nation- building must be contextual, and so the aim of this social analysis will be to uncover not only the causes of suffering and exploitation, but also the signs of new birth that reside within the community. Furthermore, the Churches must conduct awareness campaigns among the poor so that they are able to see the effects of land policies and other economic activities on their quality of life and what aspects of it can be changed, so that they can demand change. These campaigns against unfair economic policies must be done both locally and internationally. For effective campaigning the Churches are well advised to form alliances with similar NGOs organization so as to create a strong voice on justice, participation and sustainability as important Christian principles, which should determine land, economic and trade policies. The point is that it should be one of the tasks of the Church as it endeavors to reconstruct society to imbue it with genuine democratic culture, which respects the dignity of people, the right to dissent and a meaningful political and economic participation. This may require the Church to challenge those structures – cultural, economic, and political – which exclude a section of society from active participation in decisions, which affect their lives and destinies.

## **Notes**

1. The names of the Africans are Chief Kuntaja, Donald Malotta, Joseph Bismarck, Tom Bokwito, Paton Somanje, Duncan Njilima, Thomas Lulanga, George Chikabwino, Peter Kambona, Peter Somanje, Sam Sambane (see B Pachai, 1973 p. 693 and Pachai 1978, p.51)
2. According to the 1950 Nyasaland Protectorate (African Trust Land) Order of Council the three categories of land were referred to as Public land, Private land and African Trust land respectively
3. Preliminary Report of The Presidential Commission of Inquiry on Land Policy Reform to His Excellency The President of the Republic of Malawi April 1998 p.3
4. Vision 2020 vol.1 National Long-Term Perspective Study 1998 (published by National Economic Council, Malawi, March 1998). p.83
5. Apart from this, the two documents differ somehow on their main foci. Whereas the main focus of the first document is to suggest strategies of reducing poverty in Malawi, the main focus of the second document was to analyze the factors, which contribute to poverty situation in Malawi. It is surprising that the second document, which was published in 1993 does not

make any reference to the first document which was published in 1990. Does this mean that the writers of the second document were not aware of the first document? It is difficult to make firm conclusion regarding the publication of the *Situation Analysis* document. Does it mean that the strategies suggested in the *Malawi Growth* were not implemented? If they were implemented does it mean that they did lead to the intended results?

6. In this section I am indebted to the article by N Ngwira , 'The Economic Governance' in *The Malawi We Want*, unpublished document by Church of Central Africa Presbyterian, pp.29-44
7. *The Daily Times*, Tuesday, Sept. 21, 2004 p.3
8. There is a good discussion of three principles of justice, participation and sustainability in Diogo de Gasper ed. 1981, p.37-38
9. Charles Villa-Vicencio (1992) has discussed 'social analysis' and other tasks of the Church in nation building in his book under the theme 'Towards a Nation-building Theology'.

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*Department of Theology and Religious Studies*  
*Chancellor College*  
*PO Box 280*  
*Zomba*  
*Malawi*  
*fchingongata@chanco.unima.mw*