Challenges of Land Conflict Negotiation in Mulanje District of Malawi

By

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DECLARATION

I, Felix Benson Mwatani Editor Lombe, hereby declare that this thesis entitled *Challenges of Land Conflict Negotiation in Mulanje District of Malawi* is my own work and that I have not previously submitted it, in part or in its entirety, at any university for a degree or examination. All sources that I have quoted have been indicated and acknowledged by means of reference.

Felix Lombe

Signed: _____ Date: _____

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DEDICATION

This thesis is dedicated to my sweetheart Lizzie Chimala and my little Johannah Chisomo who endured the loneliness created by my studies. Lizzie, whom I left barely five months into our marriage, was a great source of encouragement as well as spiritual and material support.

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however, above everybody else indebted to the Almighty God for His Love, Wisdom and Sovereignty displayed to me up to this very day. While the acknowledged individuals and organizations assisted me in several respects, factual errors, omissions and mistakes in this thesis are my own responsibility.

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ABBREVIATIONS AND ACRONYMS

ANC	African National Congress
CBLRDP:	Community Based Land Rural Development Project
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
MD	Managing Director
MP	Member of Parliament
NGO	Non-Governmental Organization
SHTECO	Small Holders Tea Company
STA	Sub-Traditional Authority
TA	Traditional Authority
TRFCA	Tea Research Foundation of Central Africa
VH	Village Headman
ZANU-PF	Zimbabwe African National Union- Patriotic Front

ABSTRACT

Economies of many countries in Africa's Sub-Sahara region are heavily dependent on agriculture. With rising unemployment rate, subsistence agriculture still remains the single largest source of livelihoods. Coupled with high rates of population growth, land is consequently a hotly contested resource and as a result, a strong factor in many causes of conflicts. Thus as long as land is scarce and its access is made intricate and difficult (either deliberately or unintentionally), occurrence of land conflicts in predominantly agricultural economies is inevitable to some extent. That notwithstanding, land conflicts can cause undesirable and devastating consequences. It is therefore of paramount importance that land conflicts are managed and handled in such a way that they do not bring forth undesirable outcomes. Unfortunately, the dynamics of land conflicts in the empirical world are not so often easily amenable to theoretical prescriptions of conflict management tools. Conflict management tools such as negotiation, mediation, conciliation and facilitation face different challenges, depending on the nature, profiles and the actors in each land conflict.

This study identifies and discusses the challenges of negotiation as a conflict management tool with reference to the negotiation process of the land conflict in the Mulanje district of Malawi between tea companies and the villagers who live around the tea estates. Although the negotiation process started on 15th January 2000, there were no expected outcomes as of end of October 2008. In order to identify the challenges of the negotiation process, the study has specifically provided in-depth analyses of the land conflict and the negotiation process in Mulanje.

Using a purely qualitative research design, the study noted that the conflict between the tea companies and the villagers dates back to the colonial era and that it is anchored by deep levels of poverty among the villagers and the soured relationship between the main parties. The study has also shown that apart from the main conflicting parties, there are also indirect parties, such as politicians, the government and non-government organizations – each party having different interests in the conflict. With regard to the negotiation process, the study has concluded that poverty, soured relationship of the main parties, behavior of the negotiators constituents, lack of negotiating skills on the part of negotiators as well as

the behavior of other indirect parties posed serious challenges on the progress of the negotiation process.

The study consequently has recommended, among other things, the introduction of conflict transformation initiatives as a way of mending the relationship between the conflicting parties, institutionalization of conflict management training, review of the role of government and strategic cooperation of stakeholders in addressing the structural causes of conflicts among other recommendations.

CHAPTER ONE: INTRODUCTION AND BACKGROUND

1.1 CHAPTER OVERVIEW

This chapter provides a general background to the study with specific overviews of Malawi's economy, land availability at national level and land situation in the case study area of Mulanje district. Presented thereafter are the objectives and significance of the study. This chapter also provides conceptual definitions and clarifications of key terms used in the fields of conflict management and negotiation and which will be frequently used in this thesis. The chapter ends with an outline of chapters for the whole thesis.

1.2 BACKGROUND TO THE STUDY

Agriculture is the largest source of livelihood in Africa Sub-Saharan region (Ohlsson, 2000). This is so because the structure of many Sub-Saharan countries is predominantly agriculture (Deininger, 2003). The rising unemployment rate and high rates of population growth have caused land to be a hotly contested resource and as a result a major catalytic cause of many conflicts (Deininger, 2003). However, the effect of population increase on land conflicts in most Sub-Saharan Africa countries is exacerbated by the effects of a history of discrimination and highly unequal land access by colonialists, which as Andersson (1999: 553) observed "concentrated Africans on marginal lands". In the case of Malawi - which was essentially colonized because of its "potentially rich agricultural resources which served as a source of raw materials for expanding British industries in the nineteenth century" - the colonial authorities encouraged British and other European nationals to acquire huge lands while discouraging some natives who also had the potential and capacity to acquire and use such portions of land meaningfully (Moyo, *et al.,* 1993: 112). The post-independence regimes were consequently left with a task of dealing with land conflict between the natives and the white farmers which started to manifest as the population and unemployment increased in few African countries (Gordon, 2001).

Land conflicts of this type in the world, have been handled through, among other methods, reform programmes (legislation and expropriation); land invasions; negotiations between the land owners and governments; and negotiations between land owners and

local communities (Neels & Mazower, 1992). In the case of Malawi, a land reform programme was introduced in 2002, among other objectives, to control the occurrences of land conflicts between different groups of people – with the common ones being between the tea companies (which own the tea estates) and the villagers living around the tea estates areas who occupy the land - without authorization - for cultivation, grazing and settlement purposes. Land conflicts of this nature, which are also characterized by violence, have been common in Mulanje, Thyolo and Zomba districts. However, in the exceptional case of Mulanje district examined in this thesis, the conflicting parties (tea companies and the villagers) undertook an initiative to resolve the conflict through negotiation. This negotiation process started on 15th January 2000. Surprisingly, despite eight years of negotiation, the parties have not succeeded in resolving the conflict. This study consequently aims at identifying the challenges of negotiation to manage the land conflict between tea companies and the villagers in Mulanje district.

1.2.1 Brief Overview of Malawi's Economy

Malawi, a country populated by 13 million people, is located in the southern part of Africa and shares boundaries with Zambia to the west, Tanzania to the north and northeast and Mozambique to the southeast, south and southwest (Malawi Government, 2008a) (See Annexure 1: Map of Malawi). It was a British colony from 1891 to 1963 (Nzunda & Ross, 1995: 7, Magolowondo, 2002: 19). Malawi is "desperately" and conspicuously a very poor country amongst its Sub-Saharan Africa allies where roots of poverty have also deeply penetrated more than any other part of the world (Institute of Social Studies 1985, Tobin & Knausenberger, 1998: 5, Kajee, 2006). It is ranked 164 in terms of human development (amongst 177 developing countries) with half of the countries below Malawi just recovering from war (Arrehag *et al*., 2007: 23, UNDP Human Development Report 2008: 237). Over 50 percent of the Malawi population lives below the national poverty line of US$ 165 annually, and about one fifth "are ultra-poor and cannot afford to meet the recommended daily food requirements" (Arrehag *et al*., 2007: 23) The Gini coefficient (measure of inequality) is estimated at 0.38, "indicating an appreciably more unequal distribution of income than its neighboring countries such as Tanzania and Mozambique" (Arrehag *et al*.. 2007: 23, Orr *et al*., 2009: 227). Economic growth has been "sluggish for decades with an average annual growth per capita income

of only 0.2 percent between 1975 and 2006 against an average population growth rate of over 1 percent in the same period (Banda *et al*., 1998, Chinsinga, 2002: 29, Nthara, 2003, Arrehag *et al.* 2007: 23, Matchaya, 2007: 5, Orr *et al*., 2009: 227)

Just as many underdeveloped countries, Malawi's economy is "dependent on agriculture (as well as on foreign aid), exporting tobacco (which alone contributes over half of the value of exports), tea and sugar, along with a range of other food crops" (Ng'ong'ola, 1992, Todaro, 1985, Peters & Kambewa, 2007: 2, Landsberg, 2007: 98). Most people still live in rural areas as evidenced by the fact that the rural population, between 1977 and 2007, had only decreased from 91 percent to 84 percent respectively (Peters & Kambewa, 2007:2).   Many Malawians draw on land for their own consumption as well as produce for sale (Ibid 2007: 2). Consequently, 80 percent of the national employment and 40 percent of the Gross Domestic Product (GDP) comes from agriculture (Tobin & Knausenberger 1998: 406). The main staple food is maize. Between 1990 and 2005, over 1.6 million Malawians were experiencing hunger annually due to erratic rainfall and lack of fertilizer inputs needed to restore the eroded fertility in the soil (ActionAid International, 2006: 3). The poor in rural areas are always the hardly hit as 90 percent of the population consists of subsistence farmers, who rely on the food they grow themselves for survival (ActionAid International, 2006: 3, UNDP, 2008: 1).

The dominance of agriculture as backbone explicitly implies that land is one of the highly competed for resource and by induction one of the major sources of conflicts amongst rural Malawians just as it is the case with other poor countries in the Sub-Saharan region of Africa (Arve *et al.,* 2002, Bannon & Collier, 2003, Brown , 2006, Narain *et al*., 2008).

1.2.2 Brief Overview of Land Situation at National Level

According to the Malawi Government (2001: 20), the "current land problems in Malawi are characterized by encroachment of protected areas and conservations, unauthorized occupations of private land (for small-scale cultivation, grazing of animals, firewood, poles and settlement), worsening land pressure and high population to land ratio". Malawi's physical area is estimated at 118,324 square kilometers (about 12 million

hectares) of land and water, of which 94, 080 square kilometers (about 9.8 million hectares) is land and out of which 53,070 square kilometers is considered suitable for cultivation (Malawi Government, 1999). Agricultural estates – which are mostly owned by a small number of whites farmers - occupy 1.2 million hectares and the area potentially available for agriculture by small farmers is approximately 4.5 million hectares after adjusting for wetlands, steep slopes and traditional protected areas (Malawi Government, 2002a: 8).

With more than 175 inhabitants per square kilometer of arable land, "Malawi has one of the highest population densities in Africa and this has contributed to land degradation and accelerated deterioration of natural resources" (Pryor, 1990: 5, Tobin & Knausenberger, 1998: 406, World Bank ,2000: 244, Government of Malawi, 2008a: 10) (See Annexure 2). Since 1979, the amount of arable land per capita has decreased from 0.20 hectares to 0.16 hectares per capita in contrast to 0.20 hectares for Africa as a whole (World Bank, 2000: 244, FAO, 2005:80). It is hence not a surprise that one major form of land conflict since the colonial era has been the conflict between estate owners and the communities around these estates where the latter aggressively occupy these estates (without any authorization from estate owners) as a quick solution to the growing land pressure, inaccessibility and scarcity – for farming and settlement purpose. It is estimated that as of the year 1999, about 50 percent of the privately owned large estates (of areas above 500 hectares) were being occupied illegally (Kanyongolo, 2005:129).

1.2.3 Brief Overview of Land Conflict in the Case Study Area of Mulanje District
As a result of the factors mentioned in sections 1.2.1 and 1.2.2 above, nowhere else in Malawi has land conflict between estate owners and the neighboring communities been fiercer than in the fertile-mountainous district of Mulanje in the Southern region of Malawi (Moyo *et al.,* 1993). The district shares boundaries with Zomba, Thyolo, Chirdzulu and Phalombe districts (which are also currently facing land problems) while the southern part shares boundaries with Mozambique (See Annexure 3). Mulanje district occupies a total of 202,100 hectares, a third of which (71,125ha) is cultivable, while 21,660 hectares are occupied by the tea estate sector (Immink, 1995: 38) (see Annexure 4 and 5). It has five Traditional Authorities (TAs) and one Sub-Traditional Authority (see

Annexure 6). It has the total population of about 525,500 and the population density of about 300 people per square kilometer which is an indication that the district is highly populated (Malawi Government 2008b: 11) (see Annexure 2 and Annexure 7). Over 60 percent of 200,000 smaller holder farmers cultivate plots of the size below 0.3 hectares (Immink, 1995: 5). The problem of high population density in this district is best explained by the district's geographical location and the colonial tax regime. Firstly, the district shares its boundaries with Zomba district, which was the first capital city of Malawi (then Nyasaland) (Kanyongolo, 2005). It is also close to Blantyre which was and still is a major commercial city. This meant that Zomba and Blantyre districts were relatively safer than other districts. The spill-over security coverage consequently also made Mulanje a safe place for stay and farming. This encouraged massive settlement of white farmers who were also attracted by Mulanje's fertile soil, cold weather and tourism features such as Mulanje Mountain and the green vegetation. It is also documented that a lot of Lomwe people who were running away from their cruel chiefs in Mozambique in 1900 ended up settling in Mulanje (Moyo *et al.*, 1993: 97). Most of the people who flocked to Mulanje ended up settling in the district permanently. Later, between the late 70s and early 90s land pressure was also made worse by the influx of Mozambican refuges that settled in Mulanje and did not return even after the war in Mozambique was over (Moyo *et al.*, 1993).

Secondly, the influx of white farmers in turn attracted local natives from other districts who were looking for employment. The high number of local natives who flocked to Mulanje is explained by the fact that the colonial administration introduced the head tax which left many natives with no option but to seek employment with white farmers in order to meet their tax obligations (Kanyongolo, 2005). The influx was later reinforced by the reduction of head tax for farm workers (Deininger, 2003: 12). At one point, the colonial government also implemented a system where tax could only be paid by way of labour on these white farms (Deininger, 2003).

However, the relationship between the estate owners and the villagers living around the estates has never been a cordial one since the pre-independence era (Moyo *et al.*, 1993). Through the free-labour system (known as *thangata* in vernacular language), the natives were forced to work in the estates belonging to the white farmers (Moyo *et al.*, 1993). In

1915, there was a violent uprising by the natives against the system where crops were destroyed and a lot of white farmers were wounded while a few were killed (Pachai, 1973a, Pachai, 1973b). As the population increased, so did the land pressure and as part of the land belonging to white farmers continued to remain idle, quite a few natives started to occupy it. However, the post-independence dictatorial and oppressive era of President Kamuzu Banda which began in 1964, favoured the white farmers (Pachai, 1973a). This, to a large extent, helped to reduce the occurrence rate of land occupations of this nature as people feared the brutal actions of the police (Lembani, 2006).

Towards the end of the 1970s, three owners of tea estates established their tea companies which were processing tea grown in their respective tea estates. After few years, they ventured into business partnerships with other owners of tea estates. As of 1990, all tea estates therefore belonged to these three tea companies. In the year 2000, the number of tea companies in the district increased to five. Tea estates were consequently no longer identified with one individual owner but rather as tea companies. From 1994, after the introduction of multiparty politics, incidences of illegal occupation of idle land belonging to these tea companies started increasing drastically largely due to unfulfilled promises of the politicians who promised to make land available to the villagers if they vote for multiparty system of government (Martin, 2004, GTZ Malawi, 2005). The response of the tea companies has ranged from passiveness to violent confrontation with the natives (GTZ Forum for Dialogue and Peace, 2006). Towards the end of the 1990s, representatives from both sides realized the need for face-to-face negotiations to resolve the land conflict (GTZ Forum for Dialogue and Peace, 2006). Surprisingly, despite the fact that negotiations have been taking place since the beginning of the year 2000, the conflict in question still remains manifest with incidences of violence between the two groups appearing every year - an apparent indication that the negotiation process is facing some challenges.

1.3 STATEMENT OF RESEARCH PROBLEM

The negotiation initiative of land conflict between the villagers and the tea companies in Mulanje district of Malawi, which started in the year 2000, was seen by several stakeholders as the best alternative to the violent confrontations between the two groups. Since Malawi's economy agro-based, tea production by tea companies and food

production by the peasants are activities which the Malawi government cherishes a lot. The violent land conflict between the tea companies and the villagers in Mulanje therefore put the Malawi government in a dilemma of not knowing how the interests of the two groups could be simultaneously advanced without conflicts. Therefore, the negotiation initiative by the tea companies and the villagers promised to remove the government from the dilemma and also created hopes and higher expectations to other stakeholders such as non-governmental organizations (NGOs), the Police and the Courts.

However, to the disillusionment of the stakeholders, despite taking eight years, the negotiations talks have not improved the situation on the ground. The villagers continue to occupy the land that belongs to tea companies without any authorization (GTZ, 2007). Violent confrontations between the two sides are as numerous as before. It is therefore reasonable to conclude that negotiation as a conflict management tool between tea companies and the villagers is facing formidable challenges worthy deeper analysis and study. This study therefore aims to identify the challenges that negotiation, as a conflict management tool, is facing within the case study of this land conflict between tea companies and the villagers in Mulanje, through an in-depth analysis of the land conflict and the negotiation processes. Ultimately, recommendations and suggestions on how these land negotiations can be handled will also be made based on the in-depth analyses of the conflict and negotiation process.

1.4 OBJECTIVES OF THE STUDY

The following are therefore the objectives of this study:

i) To provide an in-depth analysis of the conflict between the tea companies and the villagers living around the tea estates in Mulanje district,

ii) to analyze the negotiation processes between the tea companies and the villagers in Mulanje district,

iii) to identify the challenges of negotiation process between the tea companies and the villagers in Mulanje district; and,

iv) to provide recommendations to the two sides as well as other stakeholders on how similar challenges of land negotiation can be dealt with.

1.5 SIGNIFICANCE OF THE STUDY

The significance of this study rests on three factors. Firstly, a good number of researches on conflicts in Malawi have focused on political conflicts (Chirwa et al 2000). There are so many studies on the nature of political conflicts and the analysis of macro, *meso* and micro level political conflicts. These studies have exhaustively and ably managed to identify lack of intra-party democracy and good governance as some of the major causes of Malawi's political conflicts (Nkomba, 2008, Hussein, 2008, Lembani, 2006, Khembo, 2004, Dulani, 2004, Patel, 2004, Lwanda, 2004, Gloppen et al., 2003, Meinhardt & Patel, 2003, Kanyongolo, 2003, Baker, 2001, Chirwa *et al.,* 2000, Ott *et al.*, 2000, Phiri & Ross, 1998). A documentation of political negotiations and lessons of experience has also been done. Unfortunately, few studies have been conducted in the area of land conflicts and corresponding conflict management tools such as negotiation in Malawi (Kanyongolo, 2005: 119, GTZ, 2007). It is also an open secret that there are several land conflicts in Malawi as well as their related conflict management initiatives which equally deserve the attention of peace and conflict researchers. The Vwaza Marsh, Lengwe National Park, Mulanje district and Illovo-Alumenda Sugar Estate land conflicts are examples of such conflicts. The Mulanje district land conflict research in question is therefore a step further in inviting the attention of academics and researchers to the land conflicts in Malawi.

Secondly, the immediate economic implications of land conflicts in Malawi and Mulanje district in particular is a necessary condition to reinforce the need amongst researchers to take keen interest in any initiatives (such as negotiation) aimed at resolving such conflicts. The short and medium-term futures of Malawi's economy still rest on agriculture. The vision of the current government has also been to transform Malawi from an importing to a predominantly exporting country (Mutharika, 2005). On the other hand, the land needs of the peasantry community cannot be ignored.

Thirdly, at a time when the judiciary in Malawi is encouraging out-of-court dispute settlement mechanisms, negotiation remains one of the important conflict management tools in Malawi's land conflicts. It makes great sense to draw lessons from the challenges of negotiations that have been undertaken so far if the lessons are to be shared. This study is therefore in line with this need to promote the out-of-court dispute settlement

mechanisms by bringing to light practically relevant challenges that some of these out-of-court dispute settlement mechanism have faced so far and how these challenges can de addressed. As Nieuwmeijer (1992: 29) equally observes, "knowledge of negotiation can only be substantiated if it is based on research".

Finally, despite the introduction of the 2002 Land Policy which was generally expected to deal with land conflicts of this nature; this has not been achieved in the case study area of Mulanje district. There is therefore a need for a deeper analysis of these land conflicts as proposed in this study, if, appropriate, long term and sustainable interventions are to be made.

1.6 DEFINITION OF KEY CONCEPTS

This thesis will frequently use and refer to different terms common in the fields of conflict and negotiation. It is therefore important that such terms are clarified at the onset. These terms include conflict, conflict management, conflict analysis, transformation, parties, position, interests, issues, negotiation and negotiation analysis.

Conflict has been assigned several definitions by a number of scholars. Kriesberg (1973: 17) defines conflict as "a relationship between two or more parties who believe they have incompatible goals". Coser (1956: 8) on the other hand defines conflict as a "situation in which at least two actors or their representatives try to pursue their perceptions of mutually incompatible goals by undermining directly or indirectly, the goal seeking capacity of one another" for scarce status, power and resources through neutralizing, injuring or eliminating the rivals. This thesis subscribes to Anstey's definition who describes conflict as a relationship that ensues "when parties believe that their aspirations cannot be achieved simultaneously or perceive a divergence in their values, need or interest (latent conflict) and purposefully employ their power in an effort to defeat, neutralize or eliminate each other to protect or further their interests in the interaction (manifest conflict)" (Anstey, 2006: 6). The choice of Anstey's definition is based on the fact that it has incorporated the two major forms in which conflict is expressed. These forms are physical (or observable action) and internal or latent form where the conflict is not yet expressed in an observable form.

Conflict Management means processes and efforts aimed at "preventing the escalation of negative conflict" and dealing with "the negative implications and manifestations of conflict" (Lund & Mehler, 1999: 25, Miller, 2005 :7). Conflict management is premised on the fact that conflicts can rarely be contained as they are "an inevitable aspect of human interaction and an unavoidable concomitant of choices and decisions" which necessitate only keeping them 'in bounds' (Pruitt & Rubin, 1986, Zartman, 1997: 197 Rankhumise *et al.,* 2008: 115). In the context of land conflict examined in this thesis, conflict management can therefore be defined as initiatives and efforts aimed at controlling or preventing the possible socially undesirable aftermaths of land conflict such as hatred, ill-will and derailing of developmental programmes. These are resultant factors which could not have happened if the parties were not in conflict.

Conflict Analysis is a careful and systematic study of the causes, profile, actors, and dynamics of the conflict (Ropers, 2008). The purpose of conflict analysis is to help third parties or conflicting parties themselves to constructively understand the conflict in order to come up with an appropriate intervention strategy and processes (Fraser & Hipel, 1984: 8). Conflict analysis specifically identifies the parties and their relationship; the conflict issues (with specific reference to positions, interests, values and needs of the parties); the history of the conflict; the structural features of the conflict; and, the parties' understanding of the conflict and their perspective about possible intervention strategies (Ropers, 2008). In the Mulanje land conflict examined in this study, conflict analysis therefore entails among other things examining the previous relationships between the tea companies and the villagers that live around the tea estates, the interests, values and positions as well as the impact of all the parties to the conflict.

Conflict Transformation is a "process of engaging with and transforming the relationships, interests, discourses and if necessary the very constitution of society that supports the continuation of conflicts" (Miller, 2005:4). Conflict transformation theorists argue and contend that "contemporary conflicts require more than reframing of positions and the identification of win-win outcomes" and that in many instances, the conflictual relationship of parties may be a result of the nature and structure of their relationship (Miller, 2005: 4, Spies & Patel, 2003). In the words of Lederach (1995: 17), the concept of conflict transformation "points descriptively towards its inherent dialectic nature" and

recognizes that "conflict is a phenomenon of human creation, lodged naturally in relationships". The concept acknowledges that "conflict transforms events, the relationships in which conflict occurs and its very creators" (Lederach, 1995: 17). Consequently, conflict transformation "emphasizes that conflict does not just happen but is instead the effect of deliberate decision-making and action (of human beings)" (Heinrich, 1997:5). In the Mulanje land conflict, conflict transformation would entail making deliberate efforts not necessarily aimed at eliminating the land conflict but to improve the relationships of the conflicting parties with the aim of ensuring that they are able to constructively address the conflict issues in a manner that also improves their relationship further.

Parties (also known as actors) to the conflict are people, groups, organizations or entities that play a decisive role in a particular conflict (GTZ, 2002). Parties to the conflict fall in at least three categories: conflicting parties, indirect parties and third parties. Conflicting parties are the actors who are "directly concerned and are confronting each other and who bear most of the responsibility for the conflict" (GTZ, 2002: 65). Indirect parties on the other hand are parties who are "not directly involved but who nevertheless have their own interest in the conflict through their link with one or both conflicting parties" (GTZ, 2002: 65). Third parties are actors who "have maintained certain neutrality in the conflict by not having any interests in the issues and who are perceived as being independent" (GTZ, 2002: 65). Third party intervention takes several forms. The common third party intervention methods are mediation, and arbitration (Raiffa, 1993: 14). Mediation is a "facilitated negotiation through which a neutral third party, the mediator, assists disputing parties in reaching a mutually satisfactory resolution" (Kovach, 1994: 16). Arbitration on the other hand is a third party intervention where the arbitrator or a judge "imposes an agreement after taking into account facts as presented by each party" - which is binding on the conflicting parties (Raiiffa, 1993: 14, Piron , 1982 quoted in Spoelstra & Pienaar, 1996: 7).

Position on the other hand is a "party's stated solution to the conflict" (United Nations: 29). It is basically what they say they want to have or must be done in a conflict at hand. In the words of Best (2007:62), a position "is based on the fears of a party, its understanding of the conflict, and how best parties believe they are protecting their

interests". For example, in a land conflict between two parties, one party might take the position of sharing land into two equal portions.

Interests are the basic needs, concerns and fears which underlie the actors' positions in a conflict. In the above example, the interest of a party proposing the sharing of land might be to attain food sufficiency by cultivating land which can also be achieved by venturing into irrigation farming on a piece of land which he or she is already having. Moore (1996) categorizes interests into three: substantive, psychological and procedural. Substantive interests relate to material or tangible resources such as money, land, water, time while psychological interests refer to issues of fairness, respect, trust and honesty (Moore 1996). Procedural interests on the other hand relate to "the way the dispute will be resolved, who will be involved and how decisions will be made" (United Nations, 2001: 29).

Issues are what the parties' claim the conflict is all about (Anstey, 1993, Kriesberg, 1982). Best (2007:66) defines issues as "interpretation and understanding of a conflict by parties to the conflict, but also by independent observers, of what is happening in that conflict, and from the perspectives of the parties". In the Mulanje land conflict, issues would imply what tea companies and villagers as well as the government and non-governmental organizations and other stakeholders are saying to be the core thrust of the land conflict.

Negotiation is a conflict management tool "in which two or more parties talk with one another in an effort to resolve their opposing interests whereby both or all modify their demands to achieving mutually acceptable compromise without resort to arbitration or other judicial processes" (Kilombe, 1981: xi-xii, Kennedy *et al.,* 1987: 14, Morley & Stephenson, 1977: 26). Depending on the approach adopted, negotiation usually depicts various degrees of the four conflict handling mechanisms namely competition, accommodating, compromising and collaboration (Hocker & Wilmot, 1985, Lewicki & Litterer, 1985, Rubin *et al.,* 1994: 170). In the Mulanje land conflict case study, negotiation would entail the talking and discussion processes between tea companies and estate owners, emanating from the wish to resolve the conflict where one or both of them would modify their lands demands without using force or arbitration or adjudication.

Negotiation Analysis is a systematic process that seeks to understand and explain the dimensions of negotiation namely: actors, structure, strategy, communication and outcome (Underdal, 1991, Faure & Sjöstedt, 1993). From the actors' dimension, negotiation analysis seeks to understand how the interests, positions, behavior and negotiation skills of the individual, groups or organization affect the negotiation process (Sebenius, 1991). From a structural dimension, negotiation analysis looks at how external constraint structures such as the number of parties involved in a conflict, "number of issues at stake and the way they relate (and have previously been relating) to each other, distribution of power between negotiating parties, the organizational setting, the degree of the transparency of the negotiations for non-participants such as non-governmental organizations and the media" (Faure & Sjöstedt, 1993: 9-10). By focusing on strategy, negotiation analysts on the other hand examine how parties devise plans to achieve goals that have values to them. By looking at communication, negotiation analysis factors in the effect of communication styles on the negotiation process (Faure & Sjöstedt, 1993). Finally, negotiation analysis looks at how actors, structure, strategy, and communication jointly influence the outcome of negotiation (Faure & Sjöstedt, 1993).

1.7 CHAPTER OUTLINE

This thesis is divided into five chapters:

Chapter One: Introduction and Background

This chapter introduces the study. It provides a general background to the study with specific overviews of Malawi's economy, land availability at national level and land situation in the case study area of Mulanje district. It also provides the objectives and significance of the study. It ends with an overview of the chapter outline of the whole thesis.

Chapter Two: Theoretical Framework and Literature Review

This chapter provides conceptual clarifications of key terms used in the field of conflict management and negotiation, theories of conflict and negotiation relevant to the case study. It also presents a conceptual discussion of the negotiation process (focusing on the basic prerequisites for negotiation, approaches to negotiation, challenges of negotiation

and criteria for assessing the successful outcome of negotiation). The chapter also reviews literature on the dimensions of land conflicts and negotiation as well as the evolution of land conflicts and negotiation in Malawi. The experiences of South Africa and Zimbabwe in land conflicts and negotiation are also examined.

Chapter Three: Research Methodology

The chapter describes the research design and methodology used in the study. It also includes the ethical statement that guided the researcher and limitations of the study.

Chapter Four: Presentation of Research Findings

This chapter provides empirical research findings, analysis and discussion of these findings.

Chapter Five: Conclusion and Recommendations

A summary of the study findings, recommendations on how to address the challenges of land conflict negotiation as well as recommendations for future research are given in this chapter. It ends with a conclusion for the whole study.

CHAPTER TWO: THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 CHAPTER OVERVIEW

This chapter discusses theories of conflict and negotiation relevant to the case study and also provides a conceptual discussion of the negotiation process (focusing on the basic prerequisites for negotiation, approaches to negotiation, challenges of negotiation and criteria for assessing the successful outcome of negotiation). It also reviews literature on the dimensions of land conflicts and negotiation as well as the evolution of land conflicts and negotiation in Malawi. The experiences of South Africa and Zimbabwe in land conflicts and negotiation are also examined.

2.2 THEORIES OF CONFLICT

Theories of conflict ideally aim at explaining why and how conflicts occur and prevail amongst human beings in their social settings. The most widely documented are structural theories which focus on structures and institutions of society in explaining the causes of conflict and therefore look at structural transformations as a major solution to conflicts. Four structural theories as propounded by Karl Marx, Ralf Dahrendorf Marx Weber and Talcott Parsons will be discussed because despite their weaknesses, the theories' tenets of political, economic, social and historical factors provide a relevant framework in which the Mulanje land conflict can be analyzed.

2.2.1 Karl Marx's Historical Materialism Theory

Karl Marx's thesis on the causes of conflicts stems from his concept of historical materialism which asserts that long term social changes in any society passes through stages which are driven by "class conflicts and forces of production (technology, raw materials and scientific knowledge) and relations of production (i.e., ownership of means of production between the ruling and working class)" (le Roux & Graaff, 2001: 48-49). The forces of production and relations of production combined are called the infrastructure (Giddens, 1971). In Marx's reasoning, it is this infrastructure or economic base (material conditions) which 'largely determines what happens in the political, social and cultural spheres of society (or the superstructure)" (le Roux & Graaff, 2001: 29).

Marx contends that since the material conditions of a society form the "basis of its social structure and human consciousness", it follows also that conflicts have their "roots in the material conditions of life" which are in turn entrenched by class differences between people (Marx quoted in Tucker, 1978: 4, Schellenberg, 1982: 62, Carnoy, 1984: 46). In Marx's analysis, the capitalist society - which ideologically and legally uphold class differences (between the proletariat and the bourgeoisie) - can not be devoid of class conflicts which he predicted that in the long run will see the masses organizing a revolution to overthrow capitalist exploitation (Offe, 1974, Webster, 1990).

However, although Marx established one of the solid steps towards a comprehensive explanation of the causes of conflicts, Callinocos (1985) observes that Marx's is economic deterministic in nature. In other words, Marx attributes almost all conflicts to economic forces, ignoring other factors.

2.2.2 Ralf Dahrendorf's Political Power Theory

Dahrendorf, a contemporary sociologist most identified with conflict theory, developed his own concept of conflict by adopting some of Marx's propositions while discarding the ones which he felt were misleading (Dahrendorf, 1959: 125, Schellenberg, 1982). Dahrendorf, agrees with Marx that that economic structure of any society determines other aspects of the society and that economical structure is at the base of social conflicts (Dahrendorf, 1959: 125. He also concurs with Marx that class conflicts are inevitable (Schellenberg, 1982: 68). Dahrendorf also sustains Marx's proposition that there is always the dominance of one group over the other and that "from any given dispute, there are never more than two positions that struggle for domination in which one group presses for change while the other one for the status quo" (Dahrendorf, 1969: 26). Despite these agreements, Dahrendorf departs from Marx by arguing that changes (hence conflicts) in social structure can be caused by endogenous factors (factors originating from the structure itself) and exogenous political factors (which he refers to as authority) which in his thesis are regarded as a more prominent cause of conflicts than economic factors (Dahrendorf, 1959: 127, Schellenberg, 1982: 68). This proposition repositions Dahrendorf to view the state and the economy as two separate institutions. Dahrendorf further argues that while "classes always tend to show antagonistic relations (struggle),

this is not necessarily so" (Dahrendorf, 1959, Schellenberg, 1982: 69). According to Dahrendorf, effective use of political power (which according to him, does not necessarily arise from economic power) and legitimacy leads to orderly and stable societies (Dahrendorf, 1959).

2.2.3 Max Weber's Power and Authority Theory

Focusing on the role of power in conflicts, Weber extends Marx's conceptions by showing that power may lead to either of two unrelated scenarios: conflicts or social order. In Weber's analysis, the scarcity of resources and rewards (which entails that one person or entity gains at the expense of the other) results in competition amongst groups of people. Conflicts in a social setting in Weber's theory are therefore an outcome of this competition. However, these resultant conflicts do not necessarily lead to warfare or violence (Giddens, 1971).

Defining power as "the probability that an actor will be able to get or realize what he wants even against opposition or competition from others with whom he is in a social relationship", Weber argues that those who successfully compete gain more power than those who fail to do so (Giddens, 1971: 156). Through this process, he postulates, society is hierarchically ordered, with the powerful individuals or entities (or authorities) at the top and the less powerful at the bottom. Weber further asserts that the legitimacy of these authorities is anchored by society's norms, customs, convention and law which are also to large extent, products of the authorities (Giddens, 1971). Through their legitimacy, he argues, authorities use their power to restore order and stability. As Giddens (1971: 154) comments, "the most stable form of social relationships is the one in which the subjective attitudes of the participating individuals are directed towards the belief in a legitimate order". While subordinates profoundly obey authorities because of the belief in their legitimacy, two other motives may also propel the subordinates to obey the authorities: "the possibility of obtaining materials rewards and the securing of social esteem" (Giddens, 1971: 156).

2.2.4 Talcott Parsons' Functionalism Theory

Renowned for his functionalist concept, Parsons likens human society to biological organisms where different institutions (just as different parts of biological organisms) make a society and "are interrelated and interdependent with one another in a system" (So, 1990: 20). Also, just as each "part of the biological organism performs a specific function for the good of the whole, each institutions also performs a certain function for the stability and growth of the society" (So, 1990:20). Parsons argues that every society must perform four crucial functions for it to survive: "adaptation to the environment (performed by the economy); goal attainment (performed by the government), integrating or linking all institutions together (performed by legal institutions and religion) and maintaining values from generation to generation (performed by the family and education)" (So, 1990: 20). Institutions in any society strive to maintain a 'homeostatic equilibrium'. Where there is disequilibrium, conflicts will occur in order for society to adjust accordingly to the changes, strains, tensions and contradictions in one institution (So, 1990: 20-21).

Talcott's functionalism is nevertheless widely criticized for not being explicit on the sources of the conflicts and for assuming that society strives towards harmony (Ibid 1971).

2.3 THEORIES OF NEGOTIATION

The main use of negotiation theories is to explain modifications in the initial positions and interests of the negotiators "that facilitate an eventual convergence on mutually acceptable outcomes" (Spector, 1994:73). They essentially explain why and how modifications of interests and positions take place. Theories of negotiation also provide a tool kit for negotiation analysis (Spector, 1994). A critical appraisal of negotiation theories therefore centers on the theories' ability to comprehensively explain the behavior of negotiators during negotiations (that is, its ability to act as a tool for the analysis of a particular negotiation.) Theories of negotiation fall either in the category of agency theories or structural theories. Agency theories of negotiation are derivatives of classical agency theory of social action in which human conduct is seen as emanating from intentional activity - or "freedom of will' - of individuals (agency) who use the

influence and control that they have (Giddens, 1977: 179, Astley & Van de Ven, 1983, Callinocos, 1985). While culture and some factors are recognized, the free will of human beings ensures that their conduct is influenced little by these factors (Noble 2000). Thus, agency theories argue that the environment is not so much a determining factor but a constraint over which human beings have control (Kolb & Faure, 1994: 116) It is in the same vein that agency theories of negotiation place strong emphasis on the negotiator unfettered decisions when explaining his behavior during negotiations and when analyzing the negotiation process.

Unlike agency theories, structural theories emphasise the importance of social structures (made up of social, political, cultural and economic forces as well as masses of people) and the surrounding environment in shaping and influencing human conduct or social action (negotiation, in this sense). Talcott Parsons, an advocate of structural theory, argued that the symbolic or cultural environment "which designates goals to be attained and the appropriate means, establishes the permissible limits to action, defines priorities and suggest choices" have an influence on human action. (Rocher, 1974 :30).

In this thesis, one agency theory (decision theory) and one structural theory (organization theory) will be discussed despite their respective weaknesses because the two theories' put forward two critical but relevant assertions on the impact of negotiators' preferences or values on the outcome of negotiation as well as the influence that their organizations and constituents exert on the outcome of the negotiation.

2.3.1 Decision Theory

Developed in the field of business administration, decision theory describes how negotiators take appropriate courses of action that "coincide with their values and preferences" (Spector, 1994: 74). It therefore explains how individuals incorporate their beliefs and values into their "decision calculus" and how negotiators "perceive, process, and evaluate decision situations and decisions options, given uncertainty, risk, and interactions with other stakeholders" (Spector, 1994: 74). The key element according to Kahneman and Tversky (1986) is the preference of the negotiators. These preferences are therefore the "filters through which decision makers frame and reframe – perceive and define – their national interests and salient issues as well" (Spector, 1994: 75). By

evaluating the negotiators' preferences, the theory argues that it is possible to understand the negotiator's rationale for selecting one strategy over another, why some strategies were rejected, the perceived likely outcomes of alternative strategies, and "the probabilities of the occurrence of the other-party strategies and other uncontrollable events" (Spector, 1994: 75).The decision theory of negotiation therefore places strong emphasis on the individual negotiator and his or her perspectives, preferences and values as clues for understanding the offers and counteroffers that he or she makes during negotiation.

Decision theory, however, has three major weaknesses. As an analytical tool, it is only suitable when analyzing current conflicts and not historical cases where data about the preferences of negotiators can be collected by inferring from the organization (structure) and analysis from experts (Spector, 1994). The theory is also only suitable for analyzing a situation in which there are only two parties involved and not a multi-party negotiation situation where, as Spector (1994: 91) observes, "the process of position modification becomes complex to track and explain". Finally, the theory is also not "equipped to address other key dimensions of the negotiation process such as structure (organization from which the negotiators is coming from), the effects of situation, power and strategy" (Spector, 1994: 91).

2.3.2 Organization Theory

Organization theory departs from a picture of freelance individuals conducting their negotiations "unfettered by organizational expectations or constraints" (Kolb & Faure, 1994: 113). It recognizes that organizations from which negotiators come from play an important role in influencing their behaviours. Explicitly, the theory posits that the structure and culture of organization influences the form and course of a negotiation (Ibid 1994). In the words of Kahn (1991: 148), the theory takes into account, the *"organization embeddedness"* of the negotiators. It contends that "negotiators are motivated "in large part by organizationally mediated rewards and penalties, the hope of organizational preferment, organizationally generated feelings of solidarity with others, identification with organizationally defined missions, and organizationally determined standards and values" (Kahn, 1991: 149). According to this theory, organizations have formal and informal structures which influence the behavior of negotiators.

Formal structures include "hierarchical reporting relationships, the rules and process that guide organizational activity, and goals and objectives toward which members work (Mintzberg, 1979 quoted in Kolb & Faure, 1994:114). Informal structures on the other hand are "a set of norms and taken-for-granted understandings about how decisions are made and work gets done which complement and sometimes modify formal structures" (Kolb & Faure, 1994:114). Apart from taking into account the *organization embeddednes* of the negotiators, the theory also takes into account the *environmental embeddedness* of the organizations from which negotiators are coming from. This *environment embeddeness* of the organizations connotes the interdependence of the organization to other organizations (from which rival negotiators are coming) (Kahn, 1991). Seen in this way, interdependence of the two organizations constitutes a structure which affects the behavior of negotiators. Through the organization's formal and informal structures, the theory argues that the interdependence of organization from which negotiators are coming from affects the way the negotiation proceeds. The major weakness of organizational theory is that it does not explicitly and clearly explain the interface between organizational structure, cultures and procedures on one hand and negotiation on the other hand (Kahn, 1994).
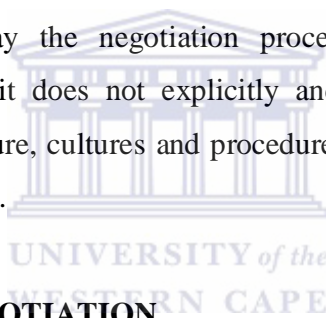
2.4 APPROACHES TO NEGOTIATION

Approaches to negotiation offer prescriptive insights into how parties to a conflict negotiate to defend their interests. There are basically two major approaches of negotiation: positional (distributive) and interest based (integrative) negotiation (Pruitt, 1981, Fisher & Ury, 1981).

2.4.1 Positional (Distributive) Negotiation

Positional negotiation refers to a "competitive process in which parties make offers and counter-offers which they feel will resolve the conflict (United Nations, 2001: 29). Usually, in positional negotiation, parties start by making offers which will maximize their benefit (United Nations, 2001). Each party then attempts to draw the other into their bargaining range by using a series of counter-offers and concessions until a solution is found. If parties are still apart, it degenerates into an impasse (United Nations, 2001).

This approach is called positional negotiation because, the process is characterized by parties "successively adopting and then relinquishing a sequence of positions in an effort to achieve settlement without overcoming or exposing their interests, while at the same time attempting to pressure the other party to do so" (Anstey, 1994: 126).

Positional negotiation is usually associated with situations "where parties with competing interests are involved in dividing a limited resource amongst themselves" (Anstey, 1994: 125). According to Moore (1996), this approach is usually used when there is little or no trust between parties; when a party perceives and believes that it will gain from making the other party lose; when need for a continuing cooperative relationship is not of paramount importance; and finally, when parties have sufficient power to damage the other if they reach an impasse.

However, using positional negotiation can be disadvantageous at times. Firstly, as Fisher and Ury (1981:5) observe, "arguing over positions produces unwise agreements since parties tend to lock themselves into those positions". It is observed that "the more parties clarify their position and defend it against attack, the more committed they become to it" and the "more they try to convince the other side of the impossibility of changing their position, the more difficult they become to do so". Secondly, positional negotiation is not efficient time-wise as both parties are locked in their positions. Where there are many parties, positional negotiation is not only inefficient but also chaotic (Ury, 1981: 5). Finally, positional negotiation, "endangers an ongoing relationship' since each party is egocentric as it tries to satisfy itself (Ury, 1981:5).

2.4.2 Interest Based (Integrative) Negotiation

Interest based negotiation is a process where parties discuss the "issues that face them and express the interests, values and needs that they bring to the table" (United Nation 2001: 31). In this approach, parties are not locked in competition but they look at solutions of options that will meet the interests, values and needs of all the parties" (United Nations, 2001). Through this process, parties do not focus on their positions but rather the objective criteria for making decisions (Filley, 1985).

Interest based negotiation is usually appropriate where parties have interdependent interests (Assefa, 1993); where it is possible to come up with win-win solutions; where

parties value the relationship between them; where parties are willing to "switch from adversarial interactions to more cooperative one"; and, "where there are principles (e.g. human rights standards) which parties are bound to uphold" (United Nations 2001: 33).The most important process in interest based negotiation is for the parties to jointly identify interests which are of priority as well as those which are of less priority to all of them (Bartos, 1974, Borisoff & Victor, 1989).

2.5 CHALLENGES OF NEGOTIATION

Research has shown that just as any conflict management tool, negotiation is also susceptible to several challenges, the major ones being motives of the parties, behavior of constituencies of the parties, skills and background of negotiators, perceptions of parties on each other, and the use of tactics. The motive behind negotiation determines the prospects of successful negotiation (Anstey, 1994). Where one party has no deep motivation to negotiate but simply wants to save its face from public fingers, it is very unlikely that it will be committed to finding a solution to the conflict.

Constituency accountability also poses a serious challenge to negotiation. In representative situations, "negotiators are not participants on their own behalf but are mandated by and report back to constituencies" (Anstey, 1994: 169). This makes them to have "unrealistic or inflexible expectations of the outcome (and this places) serious constraints on their negotiating team" (Anstey, 1994: 169).

Lack of skills on the part of negotiators can also result into time inefficiencies and solutions which do not necessarily address their interests but simply fulfill their positions (Watkins, 1999, Wheel, 2006). Perceptions (especially negative ones) of the parties on each other can also be a challenge to negotiation if there is no deliberate effort to change these perceptions. Quite often, as Fisher and Ury (1981) observe, parties in a conflict do not separate the people from the problem (that is, thinking that the other party is both a problem and its cause) and tend to deduce their intentions from their fears (that is, thinking that whatever fear they have, the other side has got the plan to do it).

Finally, where one party (or both) decides to use tricky tactics, negotiation is doomed to end up in a stalemate. These tricky tactics include, "deliberate deception

(misrepresentation of facts, authority and intentions); phony facts (false statements); ambiguous authority (where one side makes you believe that they have authority to compromise but in reality they do not have); personal attacks (verbal attacks to make the other side uncomfortable); use of threats (to seek compliance); escalating demands (for each concession they make); calculated delay (to buy time and maintain the status quo) and finally, take-it-or-leave-it" approach (to force compliance on the part of the other party (Fisher & Ury, 1981: 137-148).

2.6 ASSESSMENT CRITERIA FOR A SUCCESSFUL OUTCOME OF NEGOTIATION

Although negotiation processes depend on the nature of a conflict at hand, there is a consensus amongst conflict resolution researchers and practitioners on the criteria for assessing the success of any negotiation process. According to Anstey (1994: 123-124) a negotiation process is successful "if an agreement to the problem's solution has been achieved and such agreement meets the legitimate interests of the parties; is durable; does not damage the relationship between the parties; is workable; and, is owned by the parties". A negotiation outcome is also regarded as successful if it is "ratified by all the parities' constituencies and has no adverse political consequences for leaders; is unambiguous; can be achieved within an acceptable time frame; and, promote(s) the use of the negotiation process" (Lind & Tayler, 1988, quoted in Achankeng, 2006:12).

2.7 LAND AS A SOURCE OF CONFLICTS

Land availability in most developing countries remains one of the foci of national and international actors' policy interventions. A consensus is emerging among many scholars that access to land has economic, political and spiritual dimensions which can hardly be ignored (Andersson, 1999: 553, Cocozzelli, 2006: 49). From the macro-economic point of view, agricultural based economies depend on land for the production of crops that are exported as well as consumed. At micro level land is one of the main sources of livelihood (through cultivation and grazing) especially in developing countries where job opportunities are also scarce (Hallward, 2006). Van Rooven and Mbuli (1996:466), and Olsson (2000:3) agree that that access to land, though not a prime factor, is an important factor in addressing poverty (van Rooyen & Mbuli, 1996: 466, Ohlsson, 2000: 3). It is in

this vein that lack of access to land is regarded as a major loss of livelihood for many people especially in developing countries (Chambers, 1983: 103, Huggins & Clover, 2005, Myers, 2006: 67).

From a political dimension, land availability is to a reasonable extent determined by the land policies of the political regime in power. Izumi (1999: 9) observes that political parties have used the question of the direction, the pace and the way in which land problems are handled as a means of bidding for and acquiring power in the political arena. Izumi's observation is fair descriptions of most agro-based governments which, motivated by the quest to preserve their legitimacy amongst ordinary citizens, usually adopt land reforms in a reactive as opposed to a pro-active way. The land experience of Zimbabwe discussed in section 2.8.4 below supports this generalization.

Spiritually, as Huggins and Clover (2005: 6) comment, land provides "a source of feelings of ancestral belonging, as ancestors are buried within traditional territories". Some typical examples of spiritual inclinations include the continuous refusal by residents of Malawi's Shire Valley district of Nsanje and Mozambique's Resende island (in Caia district) to leave their flood prone areas and relocate to upland areas for fear of deserting and therefore angering their ancestral spirits (Mozambique News Agency, 14.03.2006, Malawi News, 10.01.2009).

Thus it can be argued that while the strength of each of these dimensions greatly varies in many countries, it is not debatable that lack of access to land can cause conflicts (Ohlsson 2000). It can, however, be argued that it is the extent of the scarcity of land which significantly determines the extent to which economic, political, gender and spiritual forces will cause the conflicts. In Rwanda for example, the loss of livelihood as a result of scarcity of arable land enabled the *genocidaires* of Rwanda to mobilize a large part of the population as perpetrators in the 1994 Rwandan genocide (Percival & Thomas, 1995, Ohlsson, 2000, Bigigaza, *et al.,* 2002: 50)

Essentially, the scarcity of land access is caused by three major factors. Firstly, land degradation causes the total size of an imagined resource pie to shrink. Bakut (2007: 246) places Niger, Somali and Sudan's Darfur region in the category of countries where land degradation has caused scarcity of land. Secondly, high population growths in countries

such as Malawi and Sudan's Darfur region prevent equitable sharing of land (Bakut, 2007: 246). Thirdly, as observed by Ohlsson (2000) and Cross & Friedman (1997), unequal land access which allows powerful segments of the population to capture large amounts of (land) resources usually leads to land scarcity for large but weaker groups of the population.

2.7.1 Negotiation of Land Conflicts

In African countries, land capture dates back to the colonial days when colonialism enabled white settlers to gain control of prime land. The resulting outcome was that many African natives had no land or were relegated to poor lands. It is in this vein that most land conflicts in the post-independence era were (and are still) between white settlers and local natives such as in the Mulanje case study district examined in this thesis. The thrust of the conflict between the white settlers and the natives who live around the estates (that belong to white farmers) has been the latter's encroachment of the white farmers' estates for cattle grazing, farming, firewood and unauthorized occupation of the estates for settlement purposes (Moyo *et al.*, 1993).

Generally, such land conflicts have been handled through government land reform programmes (such as restoration, redistribution and tenure reforms) and invasions. Besides land reform programmes and invasions, negotiation amongst parties has also proved useful especially in cases where it is felt that land reform programmes and invasions are not offering the desired solutions (Neels & Mazower, 1992, Christiansen 1996). Land reform programmes are, however, the preferred method at governmental level while invasions and negotiations are common methods at local level. However, in cases where negotiation is employed by the parties at local level, government usually takes keen interest in the process and outcome of such negotiations. While the interest of the natives who encroach and occupy land without authorization is (usually) to obtain a source of livelihood, the interest of white farmers is to maximize profits. Governments on the other hand are interested in creating a conducive environment for commercial farming, steer economic growth and serve the needs of the masses in a bid to protect their (governments) legitimacy.

The next three subsections provide a discussion of how land issues in Malawi have evolved and how the government has been approaching such conflicts since the colonial era. This will help to put into perspective the Mulanje land conflict case study examined in this thesis. The sections will also discuss the experiences of South Africa and Zimbabwe with regard to land conflicts and how negotiation and other land conflict management tools were employed. The brief examination of these two countries is meant to provide a pool of lessons that can be drawn and used in the analysis of the Mulanje land conflict and the challenges of the negotiation process. The choice of these countries is based on three common features that they share with Malawi. Firstly, in these two countries, colonialism (and apartheid in the case of South Africa) brought a highly uneven land distribution between the whites and blacks. Secondly, the two countries also used negotiation at one point in trying to resolve land conflicts between estate farmers (mostly whites) and the local communities. Thirdly, in both cases, negotiation processes and agreements have faced serious hurdles.

2.7.2 Evolution of Land Conflicts and Negotiation in Malawi

Land conflicts have attracted little academic and research attention in Malawi. Edge Kanyongolo, one of Malawi land conflicts analysts has bemoaned the topic's invisibility among academic and policy debates, despite the fact that land encroachment and invasions "are one of the strategies that both rural and urban poor have increasingly used to engage in direct action against private land owners and the state" (Kanyongolo, 2005: 118). Kanyongolo cautions against turning our attention away from land conflicts in the country because land has the "potential impact on agrarian development which is central to (Malawi's) national political economy" (Kanyongolo, 2005: 118)

The current land tenure in Malawi, as noted by the government, is a "product of colonial history and settlement patterns, policies of the Kamuzu Banda's one party era and recent demographic trends coupled by customs and human beliefs" (Malawi Government, 2002a: 7). A historical dimension of land tenure issues cannot be ignored if an effective intervention mechanism is to be devised. As Deininger (2003: 8) puts it, "dealing with current land issues is therefore impossible without an awareness of the underlying historical dimensions". A review of major literature on land show that major land laws

were passed in 1920, 1946, 1967 and 2001. Before 1920 most settlers acquired land by agreeing with local chiefs who would in turn transfer ownership on behalf of their communities (Kanyongolo, 2005). Kanyongolo (2005) contends that, in reality, such transfers were mostly fraudulent although the colonial administration would later issue such settlers with titles of ownership. From 1920 to the present, Malawi has been implementing various land acquisition and reform policies whose aim has been to create and maintain a capitalist economy based on large scale exports-oriented agriculture at the expense of peasants (Mhone, 1992). In 1920, the Land Commission recommended the enactment of a law which would assure settlers of the security of their holdings and also attract new settlers (Nyasaland Government 1920: iii). The 1920 Land Act - which did not have any input from the local natives - was partly in response to few cases of land conflicts between settlers and natives (Pachai, 1973a). The 1920 Land Act also redefined native rights strictly as 'occupation rights' in order to discourage the establishment of land rights equivalent to freehold or the concessions claimed by the settlers. In tandem with the spirit of the 1920 Act, Gray (1960:73) estimates that white settlement increased from 13, 757 acres to 118, 506 acres between 1920 and 1921.. Between 1920 and 1946, several land conflicts between settlers over land tenure were reported (Nyasaland Government 1946: 15). The government nevertheless did not do anything. As bemoaned by Kanyongolo (2005: 122), the government instead went ahead to enact the 1946 Land Act, the core focus of which was securing some rights of labour tenants against eviction and maintaining the status quo.

After independence in 1964, the situation did not change. Kamuzu Banda's postcolonial rule, did very little to change the status quo and insecurity of customary land rights but largely retained the colonial land laws (Chinsinga, 2002, Chirwa, 2004, Kishindo, 2004, Kanyongolo, 2005, Silungwe, 2005). As Chinsinga (2008: 8) comments, "instead of rectifying the adverse effects of the colonial land policies, the post colonial independence agricultural strategy merely exacerbated the colonial land tenure patterns and ownership". Banda's emphasis on estate agriculture as the engine of economic development, backed by the 1967 Land Act reinforced the colonial strategy that favoured estate farming (Sahn & Sarris, 1990: 399). The 1967 Land Act distinguished three categories of land: private land, customary land and public land. Public land was defined as "all land occupied or acquired by government and any other not being private or customary" (Kishindo, 1994:

57). This category of land was vested in perpetuity in the president. Customary land on the other hand was "land held under customary law", although the law also vested this category in the president and grants the power of its administration and control to the minister of lands (Kanyongolo, 2005: 123). Private land was defined as that land "held under leasehold, freehold or Certificate of Claim title" (Kanyongolo, 2005: 123). In theory, any parcel of land could be converted from one type of ownership to any of the two (Ibid 2005). Historically, however, it has mostly been customary land that has registered net loss of total hectarage to other categories, while both public and private lands have registered total net gains. For example, between 1967 and 1994, the government estimates that more than 1 million hectares of customary land were lost to private and public land (Malawi Government, 1999: 66).

The consequence of the 1967 Land Act (which provided mechanism for converting customary land into private land and denationalized land ownership) was therefore that a number of privately owned estates increased: a situation which saw more peasant farmers loosing their land, partly also through "fraudulent disposal of customary land by headpersons, chiefs and government officials, more often than not at rates well below the market value" (Chinsinga, 2002: 25). As Kanyongolo (2005: 123) observes, the 1967 laws did not address the 'legacy of landlessness and land hunger'. To worsen landlessness, the government through privatization of communal land, also acquired large tracts of land for a wide range of its purposes, including the establishment of forest reserves, wildlife reserves, national parks, and environment protection areas (Kanyongolo, 2005: 125). Estimates show that 21 percent of Malawi total land area consists of these protected areas although these areas have little relevance to Malawians as they are only frequented by foreigners (Malawi Government, 1983: 15).

The alienation of peasant and customary lands and their conversion to private or state ownership has progressively created and expanded a mass of land-short and landless peasants, who in effect have been presented with the options of either continuing to labour on estates; migrate to urban centers and become part of the underclass eking out a living at the periphery of the formal market or engage in counter-systemic actions such as occupation and encroachment of private or state-owned lands (Kanyongolo, 2005: 126). Of these options it is the encroachment and unauthorized land occupations of private

owned lands which is rampant in Shire Highlands districts of Mulanje, Thyolo and Zomba, where land scarcity is worse off than in other parts of the country. The Government of Malawi refers to the occupations of private land as 'provocative squatting' (Malawi Government, 2001: 20)

The response of the government – albeit slow as it was only came after close to 40 years - was made through a rather neo-liberal 2002 Land Policy which purports (on paper) to place land reform at the centre of the country's poverty alleviation strategy (Chinsinga, 2002). The policy does not mention any immediate comprehensive land redistribution and restitution. True to its neo-liberal character, the policy only made a passing mention of its plans to resettle people "contingent to the government having money" (Kanyongolo, 2005: 135). It is in this framework that some land conflicts occurring between white estate owners and the villagers living around these estates are still rampant with sporadic cases of negotiation attempts between these two groups such as in the Mulanje case being examined in this study.

2.7.3 South Africa's Experience

The South African land history combines the colonial, apartheid and post-apartheid eras. Since the colonial era, the main land issue in South Africa has been access to land (Cross 1991). May (2000: 29), observes that the land laws introduced by the colonialists clearly restricted access to land "while dispossessing those identified as living in areas designated for other population groups" (May, 2000: 29). Sihlongonyane (2005), observes that after gaining formal independence from Britain in 1912, the white supremacist government carried land alienation further, in securing and safeguarding land for the white population. Through this process, huge portions of land were transferred into state control and white capital at subsidized rates, and this was reinforced by segregative legislation (May, 2000). The Native Land and Trust Act (1936) made a provision for the restriction of blacks in land ownership and consequently substantial areas were also added to the reserves that had previously been defined in the 1913 Act to eliminate various forms of black tenancy that occurred outside them (Mabin, 1991). In 1950, the National Party led-government passed the famous Group Areas Act which exacerbated problems of land access for non-whites. Through this law, all Blacks were

forced to live in what were called homelands (Festeinstein, 1987, Francis ,1999: 50). The situation for Blacks became worse-off following the enactment of the 1951 Prevention of Illegal Squatters Act and the 1953 Reservation of Separated Amenities Act which sanctioned the government to remove people and demolish their places without any notice and made available reservation of public amenities for the use of people belonging to a certain category (Sihlongonyane, 2005).

Estimates by Platzky and Walker (1985) indicate that 3.5 million people were removed to homelands between 1960 and 1980. Christopher (1994) estimates further that by 1985, over 60 percent of the Black population were living in the homelands. As of 1996, approximately 87 percent of the agricultural land was held by 67 000 white farmers while the remaining 71 percent of the population (which is predominantly black) lived on 13 percent of the land on high density areas (homelands) (van Rooyen & Mbuli, 1996: 461). In raw statistics, white commercial farmers occupied 102 million hectares of land while 11.2 million non-white households occupy 17 million hectares in the former homelands as of 1996 (Marcus *et al.,* 1996: 97). In most cases, these homelands onto which these people were settled were either inadequate (less than one hectare per household) or infertile due to high concentration of people's draining effect (Cowling, 1990). It is an irrefutable postulation that the enactment and implementation of the land legislation in the period between British colonialism and 1994 led to untold impoverishment among the majority blacks (Cowling, 1990: 29).

Unsurprisingly, skewed access and ownership of land as well as separation in the provision and quality of services was one of the bases for anti-apartheid political struggle in South Africa (Makopi, 2000:143). Under the banner of African National Congress (ANC), the black majority demanded "a return of their land to communities who were forced off their land under apartheid; court hearings on competing claims of land; change in the unequal distribution of land between the whites and blacks and protection of the communal tenure system" (Neels & Mazower, 1992:5). Christiansen (1996: 369), contends however, that in the transition era (1991-to mid 1994), few cases of land invasions by non-whites were also reported.

Upon assuming power in 1994, the ANC- led government consequently committed itself to and undertook a land reform exercise – thorough the 1994 Reconstruction and

Development Programme (RDP) (ANC 1994) – with the objectives to "effect widespread land transfers to the landless disentitled and dispossessed people of South Africa, and secondly to ensure that when supported by the cost effective provision of services, increased agricultural production, entrepreneurial activity and secure rural livelihoods (would) result" (van Rooyen & Mbuli, 1996: 462). Emphasizing on equity, the land reform programme had three elements: restitution, redistribution and tenure reform (Makopi, 2000: 143). Land restitution (sanctioned by the Restitution and Land Rights Act 22 of 1994) was aimed at restoring land and providing other restitutionary remedies to people who were dispossessed by racially discriminatory legislation and practices, thereby achieving the goals of reconciliation, reconstruction and development (Department of Land Affairs, 1997). The land restitution programme in essence therefore deals with people who lost rights to land as long as they meet specified criteria (Makopi, 2000: 143). Land redistribution on the other hand was aimed at providing the poor and disadvantaged with land for residential and other productive purposes. Legally, it is sanctioned by the 1993 Provision of Land and Assistance Act. The land redistribution programme's focus is on the poor, labour tenants, farm workers, women and emergent farmers. These categories are provided with assistance (a grant of R16, 000) in order to access land (Makopi, 2000: 144). Land tenure reform prescribes the terms and conditions on which land is "held, used and transacted or transmitted" (Makopi, 2000: 144). It is aimed at providing security to people and communities who occupy and use land for communal areas (Makopi, 2000).

The South African land reform's restitution, redistribution and tenure reform have unfortunately not been fully effective. It is estimated that by the end of 1998, the deadline for lodging land claims, some 63 000 claims had been lodged with the Commission on the Restitution of Land Rights and yet only 41 claims had been settled (National Land Commission, 2002). It also estimated that in 2002, 55,000 farmers still owned more than 80 percent of land, some of which still remained idle (National Land Commission, 2002). It has also been argued that the R16,000 household grant aimed at acquiring land is limited due to inflated prices and may not be enough to enable the beneficiaries develop the land. Added to this problem is the fact that land can only be made available on the willing buyer-willing seller basis. Others have also questioned the commitment of the government in the implementation of land reform programme, considering its neoliberal

macroeconomic programme (Sihlongonyane, 2005). It is on this account that South Africa's land issue is widely seen as not resolved and that a possibility of land invasions such as those in Zimbabwe cannot be ruled out (Commey, 2002:12) through what James (2001: 94) calls a "neighbour syndrome".

2.7.4 Zimbabwe's Experience

Huggins and Ochieng (2005) try to present the exact origin of the land struggle in Zimbabwe. They argue that the impetus for land dispossessions in Zimbabwe was given when Britain declared Zimbabwe (then Rhodesia) as a self- sustaining white colony, thereby encouraging more land holdings along racial lines (Huggins & Ochieng, 2005: 5). Between 1960 and 1980, 1 percent of farmers, (most of them whites) owned half of the agricultural area and the bulk of fertile land. Thus, the guerilla war of the 1970's was fought principally to overthrow white rule and gain power and win back 'lost' lands, just as the case of South Africa's ANC in the struggle against apartheid. Robert Mugabe of Zimbabwe African National Union (ZANU) promised that when the whites were defeated, "every one would be given land" (Meredith, 2002:118).

At the 1979 Lancaster House negotiations, land was one of the difficult issues to resolve. The white settlers and Britain insisted that land rights were entrenched in a bill of rights in the new constitution (Meredith, 2007). Reluctantly, Mugabe conceded that land would only be available through the willing seller-willing buyer process. It was also agreed that the government could expropriate any underutilized land, but government was to fully pay farmers in foreign currency. Britain committed itself to paying half the costs of the resettlement programme on this willing seller-willing buyer basis (Neels & Mazower, 1992: 35). Explicitly, this meant that as long as sellers were not willing to sell their land, there would be no available land for those who wanted it. The clause which gave powers to government to expropriate under-utilized land was difficult to implement considering that the definition of under-utilized land was not clear (Neels & Mazower, 1992). Goodhope (2004) and Meredith (2007) asserts that Mugabe was aware of these loopholes but hoped that once he got majority power, he was going to amend the constitution in such a way that government could get more land from the white settlers to be allocated to those who did not have it.

The land reform process that the Mugabe's ZANU-PF government has been undertaking in Zimbabwe can be placed in three periods: 1980-1992, 1992-1999 and 2000 to 2005. The 1980-1992 period was characterized by relatively slow progress in the redistribution of land. Saruchera (2002) estimates that only 52,000 families had been allocated land by 1989, representing less than a third of the government target of 162,000 families (Cliffe 2007: 6). At least two major reasons explain this slow progress. First, according to Huggins and Ochieng (2005: 43), there was no political will on the part of the government since it got a lesson from Mozambique which was facing an economic decline due to the departure of Portuguese settlers after independence. This made the government to honour the willing-seller willing-buyer system which was agreed at Lancaster. Secondly, Huggins and Ochieng (2005: 43) also argue that the rising balance of payments deficits in the mid 80's prompted the government to follow International Monetary Fund's (IMF) capitalist prescriptions which were incompatible with radical land reforms (Huggins & Ochieng, 2005, Blair, 2002).

In the second phase (1992-1999), the government showed strong signals of its decision to undertake radical land redistribution programme (Moyo and Matondi, 2003) . This was necessitated by increased land demand which came as a result of high levels of unemployment precipitated by the 1990 structural adjustment programme (SAP) through which the employment rate decreased from 2.5 percent to 1.5 percent between 1990 and 1996 (Raftopoulos, 2004: 8, Kanyenze, 2003: 68, Moore, 2001: 260). Taking advantage of the expiry of the Lancaster House negotiation agreements, the government proceeded with a new Land Acquisition Act (1992) which legalized compulsory land acquisitions but with earlier provisions of market-principle compensations and legal recourse (Moyo & Yeros, 2005: 184-185). The new course of action taken by the government was strongly resisted by white farmers and the British government. Public dissatisfaction with the manner in which beneficiaries of the distribution programme had been chosen posed legitimacy challenges to the ruling ZANU-PF. It was specifically at this point, in the year 1998, that commercial land invasions started occurring in large scale. {It is important to note that land invasions had always been there since the doom of independence era (Huggins & Ochieng, 2005: 44). However, most of these invasions were done on idle non-commercial land, the owners of which had migrated to other countries. The government apparently tolerated these non-commercial land invasions}.

It was, arguably, in the third phase (2000-2005) that Zimbabwe's land conflict reached its climax. In the year 2000, a strong disgruntled section of ZANU-PF, called war veterans invaded 800 white farms (Huggins & Ochieng, 2005). Having already lost in the constitutional referendum (in which land was one of the main issues) in the same year, the ruling ZANU-PF consequently realized that it was also going to lose in the June 2000 parliamentary elections. Having attributed its referendum loss to white farmers whom it alleged were pro-opposition, the government supported land invasions and on its own also undertook massive land redistribution (Huggins & Ochieng, 2005). It is estimated that by 2002 (when presidential elections were held), 384,000 families had been allocated 10 million hectares of land, representing 90 percent of the white commercial farmland (Huggins & Ochieng 2005: 46, Moyo & Yeros, 2005:188). The violent evictions of white farmers were characterized by rampant incidences of deaths, rape and torture (Kriger, 2003, Kanengoni 2004, Moyo & Yeros, 2005)

Reinforced by other governance problems, Ndlovu-Gatsheni (2007: 312) and Hawkins (2008:5) conclude that the land conflict has left the people of Zimbabwe and the economy worse-off than the 1980-1990 situations.
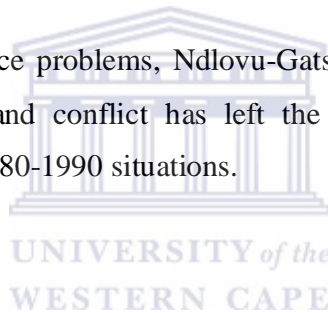
2.8 CONCLUSION

In conclusion, this chapter has discussed four structural theories of conflict and two theories of negotiation. Each of the discussed theory of conflict placed different emphasis on political, social, economic and historical factors as causes of conflicts. Despite the weaknesses of each theory, it is therefore possible to analyze the Mulanje land conflict within the combined framework of all the four theories. In the same vein, the discussed theories of negotiation placed varied emphasis on agency and structure as causes of conflicts. Analyzing the Mulanje land negotiation process within the framework of these two theories will also be strategic as weaknesses of each theory are apparently covered by the rival theory. A thorough discussion of negotiation (approaches to negotiation, challenges of negotiation and criteria for assessing the successful outcome of negotiation) was also made in this chapter. The chapter reviewed the literature on the dimensions of land conflicts and examined the evolution of land conflicts and negotiation in Malawi. The experiences of South Africa and Zimbabwe in land conflicts and negotiation were

also examined. Discussion of South African and Zimbabwean experience has revealed some critical differences in the history of the land conflict between these countries on one hand and Malawi on the other hand. Such differences need to be examined further in terms of whether and how they play a significant role in the challenges of land conflict in Mulanje district.

CHAPTER THREE: RESEARCH DESIGN AND METHODOLOGY

3.1 CHAPTER OVERVIEW

This chapter presents the methods, tools and sources of research data collection, target groups and organizations where data was collected. It further discuses how data were documented, processed and analyzed. It also provides the limitations of the study, time frame, ethical framework that guided the study and the conclusion of the whole chapter.

3.2 RESEARCH DESIGN

According to Mouton (2001:72), designing a social research "requires a researcher to map out strategies or a research design he or she will be using as guiding tools for enabling him or her to get the most valid results for the problem being investigated". Berg (2001:60) defines a research design as a "road map used for planning when undertaking a research study" while Yin (1994:20) defines a research design as a "logical plan for getting from here to there where 'here' is the initial set of questions to be answered by the participants and 'there' is some set of conclusions derived from the findings". Since the central aim of the thesis was to identify (and understand) challenges of the negotiation process of a particular natural setting of human beings (Mulanje district), the research design predominantly adopted in this study was a qualitative one. As confirmed by Babbie *et al* (2008: 270) "qualitative research attempts to study human action from a perspective of the social actors themselves and the primary goal is to describe and understand human behavior. As Jayaratine and Stewart in Mangi (2002:35) confirm further, qualitative approach produces descriptive data from respondent or participants, expressed by their own writings or verbal words and their observable behaviours. Creswell (1994: 7) perceives qualitative methodology as one where "inductive logic prevails, where categories emerge from informants, (rather than a priori by the researcher) providing rich context-bound information leading to patterns or theories that explain a phenomenon.

The choice of qualitative design for this study was further justified by the objectives of the study which displayed five features that theoretically require a qualitative design. Firstly, the research was conducted in the natural setting of the social actors themselves (i.e., villagers and representatives of the tea companies). Secondly, the focus was more on

understanding the process of negotiation as compared to the outcome. Thirdly, the research sought to make an in-depth analysis and evaluation of social action (land conflict and negotiation process). Fourthly, the study sought to understand the social action (conflict and negotiation process) of the actors in their own social context (case study area) rather than generalizing to some theoretical notion. Finally, as it will be disclosed in the next sections, some of the respondents were illiterate. This makes qualitative design even more relevant as it ensured that those who were illiterate could take part in the study through their oral responses which needed some summary thereafter.

3.2.1 Selection of Mulanje as a Case Study

The selection of Mulanje as a case study was based on a number of reasons. Firstly, Mulanje is one of the six districts (others are Thyolo, Phalombe, Zomba, Machinga and Mangochi districts) where land conflicts between the local communities and tea companies have been persistent for over nine decades - since the colonial era.

Secondly, it is only in Mulanje where negotiation of land conflicts between representatives of the two sides (those whose land is occupied and those who occupy the land without authorization) was initiated by the main parties (tea companies and the villagers who live around the tea estates) themselves in the year 2000. Added to this, is the fact that these negotiation initiatives have not made any tangible positive impact on the conflict between the two sides.

Thirdly, the researcher had some insights of Mulanje district, its land conflict and the negotiation processes that have been taking place. This is so because the researcher was until early 2008, an employee of the German Technical Agency Forum for Dialogue and Peace (GTZ-Forum) which is a bi-lateral organization between the Malawi and German governments aimed at institutionalizing conflict management in Malawi. As a Senior Programme Officer, the researcher was responsible for designing and overseeing the financial and technical support that GTZ-Forum was giving to local conflict transformation initiatives and organizations. Through this, the researcher interacted frequently with officials from Lands Department, some directors of tea companies, as well as traditional leaders who were in one way or the other involved in the land conflict

and the negotiation process. It was actually this previous connection that the researcher took advantage of in getting access to some of the key respondents.

Fourthly, Mulanje, unlike other land conflict ridden districts, is inhabited by people who despite being of *Lomwe* tribe speak *Chichewa* - the only vernacular language in Malawi that the researcher is conversant with. The language aspect meant that the researcher was in a position to communicate effectively with illiterate people without going through an interpreter. Direct communication between the researcher and some of the people who were illiterate was also advantageous in the sense that raw primary data was not diluted by translators.

Finally, the road network in Mulanje is relatively good as compared to other districts that have similar land conflicts. This enabled the researcher to travel easily from one place to another without facing serious transport hiccups.

3.3 RESEARCH METHODOLOGY

Research methodology refers to the methods of identifying, collecting, condensing, organizing and analyzing data in the process of undertaking a research in social science (Bryan 2001, Mouton 2001). It therefore focuses on the research process itself and the kind of tools used and procedures followed.

3.3.1 Sampling Methods

A sample means "a special subset of a population observed in order to make inferences about the nature of the total population itself" (Babbie *et al.,* 2008: 203). Sampling is therefore the process of selecting a sample of respondents. Purposive sampling, snowball sampling and stratified random sampling were used in this study. In purposeful (or judgmental) sampling, a researcher "uses his or her own judgment in the selection of sample members" (Babbie *et al.,* 2008: 202). The researcher therefore used purposeful sampling to get data from respondents and informants that he felt had first hand or second hand knowledge and information about the progression of land conflict as well as the negotiation process in Mulanje district. Some of the respondents who were sampled using this method were managing directors (MDs) of tea companies, representatives of the local communities, Lands Department officials in the district and representatives of

NGOs working on land issues in the district. The researcher was able to effectively use purposeful sampling as he had interacted with most of the respondents before when he was working for GTZ Forum for Dialogue and Peace, which also has an office in Mulanje.

The researcher supplemented the purposeful sampling with snowball sampling. In snowball sampling, members of the target group are asked to provide information about other people who would be in a position to provide information. Snowball sampling was hence used to identify community members who were involved in the actual unauthorized occupation of estate farms. The researcher used snowball sampling because despite having some knowledge about the people who had information on land conflict and its negotiation process, his information of all the important actors in the conflict was not exhaustive. The essence of using snowball sampling was also to ensure that possible subjectivities in the analysis of the data which could have resulted because of the researcher's prior details of the land conflict in Mulanje. In other words, by bringing on board other respondents outside the chain of the researcher's earlier contacts, the researcher was braced to face new insights on the conflict which he did not have before.

The research also used stratified sampling. Stratified sampling is always used when the population is heterogeneous. In this study, stratified sampling was used to ensure that the sampled population was a representation of various groups within the population, that is, those who were involved in the actual occupation of estates and those who were not. Finally, the study used informants. In social research, unlike respondents who provide information about themselves, informants normally talk about the group. The researcher used conflict experts, and NGOs working on issues of land in Mulanje district (Oxfam and NASFAM) and two officials from Mulanje District Assembly. The purpose of using these informants was to enable the researcher get a broad and diverse view of the land conflict and the negotiation processes and to triangulate some data obtained from people who were directly involved in the conflict and negotiation processes. All these sampling methods were used in order to come up with the richest data possible which can only be gathered if different sampling methods are used (Lofland & Lofland, 1995).

3.3.2 Data Collection Methods and Sources

Qualitative data collection methods were chosen so that they would conform to the qualitative research design adopted in this study. Qualitative data collection methods were specifically chosen in this research because as Neuman (2000:71) also observes, they "provide an array of interpretative techniques which seek to describe, decode, translate, and finally, easily draw meaning out of data rather than frequencies". Ngadlera (2005: 5) and Rubin and Rubin (1995: 43) commend qualitative methods for being flexible and easily applicable in situations that necessitate the changing or rephrasing of the questions to suit both the interest of the interviewer and interviewees. Qualitative data collection methods also enable the researcher to "easily establish respondents' views, feelings and attitudes on a particular subject under investigation and their views can easily be elicited" (Mangi, 2002:38). Creswell (1998:15) also adds that "qualitative techniques are more focused and enable the researcher to interpret respondents' views regarding the subject matter there and then". Qualitative data collection methods were therefore employed in order to enable the researcher get qualitative data which enabled deeper understanding of the land conflict and the challenges of negotiation process. Since in qualitative data collection methods, the answers can not be predicted and predetermined, the researcher used open ended guiding questions to get such qualitative data (See Annex 8, 9, 10 and 11). Besides, the analysis of the conflict and negotiation process needed respondents and informants to give their own opinions, assessment, attitudes and perceptions of other people and processes in the land conflict and negotiation. This could only be made possible by using qualitative methods which ably capture respondents' attitudes, opinions, assessments and perceptions. Finally, though there were some guiding questions, the researcher wanted to deeply probe some of the specific issues mentioned in the answers given by respondents. This meant that there was a need for rephrasing and reformulating some questions. Such flexibility could only be achieved through qualitative data collection methods.

Specifically, the research used secondary sources (literature review, study of raw data documents) and primary sources (through questionnaires, in-depth interviews and focus group discussions). These methods are explained further in sections below.

3.3.2.1 Secondary Sources

3.3.2.1.1 Literature Review

A host of authors such as Hussey and Hussey (1997: 86), Mouton (2001:86), and Neuman (2000: 44) confirm the importance of undertaking a review of literature of this nature because researchers learn from existing knowledge and build on what other researchers have already done while examining a similar or related problem. This therefore helps the researcher to avoid duplication of information and it also saves time (Birungi, 2005: 39). Literature review also shows how a researcher has reviewed relevant body of literature and the extent to which she or he is reasonably aware of the relevant information, discourse and old and current debates in the subject area (Hussey & Hussey, 1997:86, Dale, 2004: 144). Furthermore, literature review helps also in guiding the researcher to conceptualize relevant research questions in the course of her or his study.

This study's literature review focused on five primary areas. The first part dealt with conceptual clarification of key terms in the field of conflict management, relevant theories of conflict and negotiation as well as conceptual discussion of negotiation focusing on approaches to negotiation, challenges of negotiation, assessment criteria for successful negotiation outcome and the dynamics of land conflicts. The final part of the literature review examined the historical developments of land conflicts and negotiation in Malawi. In addition the experiences of South Africa and Zimbabwe in land conflicts and negotiations were also examined.

3.3.2.1.2 Study of Raw Data Documents

The study also benefited from raw data that was collected by the Mulanje District Land Office. While the aim of the data is for the office's planning purposes, the researcher was given permission by District Lands Officer to use the information as part of the base line for the study.

3.3.2.2 Primary Sources

3.3.2.2.1 In-depth Interviews

In-depth interview is "an interview process where the researcher is not only interested in the content of the conversation but also in the process by which the content of the conversation came into being" (Babbie *et al.*, 2001: 291). This means that apart from capturing certain information about the respondent, the interviewer is interested in knowing why and how the respondent came to behave, act and think in a specific way. In social research, in depth interviews are undertaken based on the "expectation that the interviewed persons are more likely to express their views spontaneously in a relatively openly designed interview situation" (Abiche, 2004:10). Open ended questions are therefore important when undertaking an in-depth interview (Hussey & Hussey, 1997, Flick 1998). Consequently, open-ended questions were posed to key respondents in order to enable the researcher get on-the-ground details of the Mulanje land conflict and the negotiation processes that have been taking place since the year 2000. The qualitative nature of the study entails also that the questions in Annexure 9, 10 and 11 were only meant to act as a set of guiding questions and that the structure of administering the questions would vary from respondent to respondent. The in-depth interviews were specifically aimed at capturing the key respondents' understanding of and views on land conflict issues, their assessment of the negotiation process and its challenges in Mulanje, district. Categories of respondents who were interviewed using in-depth interviews were representatives of tea companies (managing directors and estate managers of tea companies, village headmen (VHs), Lands Department officials in the district, conflicts analysts, Members of Parliament (MPs), a representative of Mulanje Police, a representative of the First Grade Magistrate Court, traditional authorities (TAs), sub-traditional authority (STA), representatives of villagers who are not involved in the conflict and representatives of key NGOs working on land issues in the district. Identification of some of these people was done using purposeful sampling. It was after meeting the first group of respondents that the researcher was referred to other key respondents who were also interviewed in depth (snowball sampling). The purpose of using informants such as, conflict analysts and NGOs working on land issues in the district was to triangulate some of the responses give by other respondents.

Altogether, in-depth interviews took place with five MDs of the five tea companies, five estate managers of the five tea companies, 24 VHs (representing their villagers), four officials from Lands Department, two conflict analysts, two officials from Oxfam and NASFAM (NGOs), two officials from Mulanje District Assembly, Officer-In-Charge of Mulanje Police Station, five MPs from the district, the Executive Director of Mulanje Community Radio, Mulanje First Grade Magistrate, five traditional authorities (TAs), one sub-traditional authority (STA) and five villagers who have never taken part in the unauthorized occupations of land. There were therefore 62 respondents in in-depth interviews (see Table 1).

3.3.2.2.2 Focus Group Discussions

Focus group discussions are advantageous in several respects. They help participants to voice their own opinion on the subject under discussion (Baumgartner & Strong, 1998: 183). They also "provide direct evidence about similarities and differences in the participants' opinions and experiences as opposed to reaching such conclusions from *post hoc* analyses of separate statements from each interview" (Morgan, 1997: 292). The researcher used this technique to gather data from 120 villagers who were involved in unauthorized land occupations from 24 villages namely Muhowa, Manja, Msikita, Kalnje, Kunduwelo, Chapenga, Namlaika, Mussa, Sekeri, Chisitu, Chitakale, Nande, Nessa, Bodo, Nandolo, Bona, Songwe, Kashoni, Muloza, Kaliza, Samson, Kambali, Mphika and Thabwa. Each village was therefore represented by five participants. The participants were put in clusters of five villages each, implying that the total number of participants in each focus group was 25 with the exception of one group which had 20 participants. The focus group methodological approach was used in order to capture wide views of villagers on land conflict (See Annexure 8) as well as to save time. Specifically, focus group discussions were used in order to generate reliable data on the villagers' interests in the conflicts, the main reasons for their involvement in unauthorized land occupations and the nature of their relationship with estate owners. Focus group discussions were also aimed at getting the villagers' opinions on major causes of land conflict as well as their views or suggestions on how the conflict can be resolved. The criterion that was used for identifying the five participants from each village was that they were supposed to be directly involved in the actual conflict and each group was to include an older person of age above 70 years, who could provide historical details of the

conflict where possible. Identification of the participants was done with the help of village headmen and officials from the Lands Department in the district as well as some villagers who were not involved in the occupation of land.

3.3.3 Data Documentation

Data documentation refers to the way or form in which the researcher initially captures and keeps his or her data. Since this researcher used secondary and primary sources in collecting data, it was important that the methods of capturing data should take into account the different nature of these sources in order avoid omissions of valuable data. For secondary data, summaries of such data were written on paper while original documents were safely kept for possible future inferences and references (where it was possible to retain the documents). For primary data collection methods such as in-depth interviews and focus group discussions, the researcher used a tape recorder. This was done after getting consent from the respondents. The use of a tape recorder proved useful mainly for focus group discussions (where the researcher was also a facilitator and could not therefore simultaneously take down the notes. The tape recorder also proved useful during some in-depth interviews where taking down the notes could have disturbed the flow and direction of the interviews.

3.3.4 Data Processing

Data processing refers to the method of organising data in a way that will enable easy retrieval for analysis purposes (Babbie, 2007). The data processing method employed by the researcher was manual coding in which data was classified into categories that would enable the systemic analysis of data. In qualitative data, the main coding unit is concept (Babbie, 2007). Since the research was mainly aimed at identifying the challenges of negotiation in Mulanje district through the analysis of the land conflict and the negotiation process , data was placed in the concepts (codes) such as causes, profile, actor, and dynamics of the conflict, background of the negotiation process, conflicting parties' understanding of negotiation and their initial expectations, rules of the game that were followed during the negotiation process, positions of parties during the negotiation, offers and counter-offers that were made by both parties during the negotiations, behavior of the constituents, powers of the negotiators and behavior of other important actors. These codes (concepts) were generated from a theoretical discussion and literature review

of conflict, negotiations, land conflicts and land negotiations. This formed the original checklist. Additional codes were, however, developed during the field research to capture relevant issues which were not envisaged prior to the development of the initial checklist. All transcripts were thereafter checked while the audio tapes were listened to over again to avoid losing vital information.

3.3.5 Data Analysis

The qualitative nature of the data gathered naturally required qualitative data analysis. Babbie et al (2001: 490) defines qualitative analysis as "analysis of data that was gathered using qualitative techniques regardless of the paradigm used to govern the research". In qualitative data analysis, "the researcher sorts and sifts the data, searching for types, classes, sequences, processes, patterns or wholes" (Nsewa, 2005: 19). The aim of this process is to "assemble or reconstruct the data in a meaningful or comprehensible fashion" (Jorgensen, 1989 quoted in Nsewa, 2005: 19). Potter (1996:121) proposes the "organizing of raw data, generating of categories, themes and patters, researching for alternative explanations of the data collected" as major steps of analyzing qualitative data. Equally, in this research, data was analyzed by an inspection and examination of the relationship between the coded data (concepts) in order to determine sequences, process, patterns, trends, and wholes to obtain themes, meaningful analytical units and alternative explanations through relating the findings to the existing theoretical framework.

3.4 ETHICAL STATEMENT

The study was conducted after the University of the Western Cape's (UWC) Institute for Social Development (ISD), Arts Faculty and Senate approved the proposal for this study. The research was conducted in alignment with the ethical research standards and the legal ethical requirements of the UWC. The researcher had obtained a letter of introduction from UWC's Institute for Social Development which explained the purpose of the study and confirmed that the researcher was a student of the UWC (See Annexure 12). Considering that the case study area fell under the administrative jurisdiction of Mulanje District Assembly, the researcher also obtained consent from the District Commissioner of Mulanje before embarking on the actual research. With regard to the interviews, written request to conduct interviews with some interviewees was made while for others,

the request was made verbally either through phones or in person. Participation in the research was voluntary, with no form of coercion used against participants. In cases where participants were asking for a permission to be obtained from his or her superior authority before the interview, the researcher accordingly obliged by obtaining such permission from the superior of that participant.

The researcher also endeavored to explain and clarify the objectives of research in general and the interview in particular in advance, to all who participated in the research. All the information provided by participants was treated sensitively and confidentially with the exception of Managing Directors and Estate Managers who gave consent to have their identities revealed by just mentioning their positions and the tea companies that they represent but without mentioning their real names. The researcher also recognized and respected the right of participants to withdraw from the research at any stage for whatever reason. Finally, the researcher strove to conduct himself in a manner that could not irritate and offend the participants' cultural values. For instance, at the end of each interview and discussion session, the researcher acknowledged the role of the participants by thanking them.
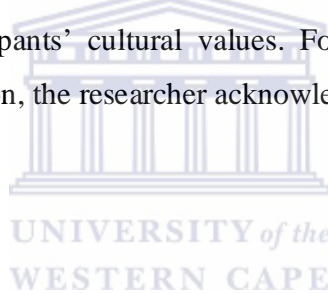
3.5 TIME FRAME

The data was collected in the months of October, November and December 2008.

3.6 LIMITATIONS OF THE STUDY

This study was not devoid of some challenges: Firstly, the poor record keeping and filing system in the Mulanje Lands Department led the researcher to rely on oral information on some issues from the office's personnel who participated in the research. This problem was complicated by the fact that a number of government personnel who witnessed major events in the conflict were dead by the time this study was conducted.

Secondly, although the researcher had clarified the purpose of the study, it was clear from the responses of a number of participants, mainly the villagers and the traditional leaders, that they were exaggerating the extent of their inability to access land and the extent of the resultant poverty. There was a speculation among some villagers that this study was

aimed at identifying the most poverty-stricken households who could be financially assisted by the organization that they thought this researcher works for.

Thirdly, some representatives of the tea companies suspected that the researcher would pass on the information to media houses for publicity just as some previous researchers had allegedly done. This led to a number of postponements of interviews with tea representatives in the first two weeks as each of them kept on referring the researcher to another representative. In the end, the original schedule for the field research was entirely affected and had to be revised. This led to further time clashes with the participants whose schedules could hardly be shifted. This researcher therefore had to add extra days for his field research in order to accommodate these participants.

Fourthly, two thirds of interviews with the research participants was done in *Chichewa* language. The major challenge in this regard was therefore that of translating the *Chichewa* responses to English without losing the original meaning that the villagers attached to their responses.

To surmount some of the above challenges, the researcher crosschecked some of the important oral responses with some official records which the researcher was allowed to access. To do away with false expectations and fears of some respondents, the researcher produced relevant evidence to show that he was a student and also emphasized and clarified the purpose of the study. In order to surmount the challenge of losing the meaning of responses due to translation, the researcher translated the original guiding question into *Chichewa* questions well in advance. This ensured that the Chichewa questions were grouped accordingly in a way that ensures a similar flow of responses as would have been obtained in English interviews.

3.7 CONCLUSION

This chapter has described the design and methodology of the research. It has shown that the design of this study was qualitative because of the objectives of the study which required to a large extent descriptive data from respondents or participants expressed by verbal words and behavior (such as land occupation). It has also shown that qualitative methods of gathering data such as in-depth interviews, focus group discussions and the

study of relevant documents were used. The chapter also indicated that among other reasons, the researcher opted for Mulanje district as a case study because it is the only district in Malawi where negotiation of land conflict was initiated and is facing some challenges.

However, bearing in mind that this was a purely qualitative research and that the researcher had prior to the research been involved in the management of the conflict, it was extremely crucial that the research methods were devoid of subjectivities as much as possible. It was for this reason that sampling involved several people and also that data analysis involved other players as well. Finally, the chapter has also shown that there were some ethical guidelines that the researcher strictly followed during in field research.

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CHAPTER FOUR: RESEARCH FINDINGS AND DATA ANALYSIS

4.1 CHAPTER OVERVIEW

The study had four objectives. The main objective was to identify the challenges that the negotiation process of land conflict in Mulanje district is facing. The specific objectives were to undertake an in-depth analysis of the conflict between tea companies and the villagers living around the tea estates; to analyze the negotiation process between tea companies and the villagers; and finally, to come up with recommendations and suggestions on how to deal with similar challenges. This chapter will provide empirical research findings, analysis and discussion of the findings on the first three objectives. The chapter is consequently divided into three main sections, each devoted to one of these three objectives. (Recommendations on how to deal with negotiation challenges will be made in chapter five, which will also provide the conclusion of the whole study). The analysis of data in the three sections below is based on secondary sources as well as in-depth interviews and focus group discussions (See Annexure 8, 9, 10 and 11) which the researcher had with participants of the research as shown in Table 1 below.

Table 1: List of Research Participants and Data Collection Methods

Data Collection Method	Participants
In-Depth Interviews	-5 Managing directors of the five tea companies
	- 5 Estate managers of the 5 tea companies
	- 24 Village headmen (representing their villagers)
	-5 Traditional Authorities (TAs)
	-1 Sub Traditional Authority (STA)
	-5 Villagers who have never taken part in the unauthorized occupations of land
	- 4 Officials from Lands Department
	-2 Officials from Mulanje District Assembly
	- 2 Conflict analysts
	-2 Officials from Oxfam and NASFAM representing NGOs
	-Officer-In-Charge of Mulanje Police Station

	- 5 Members of Parliament (MPs), --The Executive Director of Mulanje community radio station. -The Mulanje first grade magistrate
Focus Group Discussions	120 male and female villagers (from Muhowa, Manja, Msikita, Kalnje, Kunduwelo, Chapenga, Namlaika, Mussa, Sekeri, Chisitu, Chitakale, Nande, Nessa, Bodo, Nandolo, Bona, Songwe, Kashoni, Muloza, Kaliza, Samson, Kambali, Mphika and Thabwa) who were involved in unauthorized land occupations of estate owners

Source: Author's own compilation from study findings.

4.2 ANALYSIS OF THE LAND CONFLICT

The study endeavored among other objectives to make an in-depth analysis of the land conflict between tea companies and the villagers living around the tea estates in Mulanje district. Fraser and Hipel (1984: 8) posit that conflict analysis aims at studying "the, actors (parties), profile, causes, and dynamics of the conflict". It was in this regard that data for this objective was captured on a number of sub-themes with the aim of identifying the parties to the conflict; tracing the history of the conflict and the previous relationship between the conflicting parties; understanding conflict issues; the causes (both structural and proximate) of the conflict; parties' understanding of the conflict and their perspective about possible intervention strategies. The analysis of the conflict was also supplemented by examining the relevance of the theories of conflict - that were discussed in the theoretical framework - in the light of research findings on the causes of Mulanje land conflict.

4.2.1 Parties to the Conflict

In identifying parties to the conflict, participants of the research were asked to mention the people of groups that have been involved in the conflict and how they have been involved in the conflict. This essentially was aimed at categorizing the parties into conflicting parties, indirect parties and third parties.

4.2.1.1 Conflicting Parties

All respondents to the in-depth interviews as well as participants in the focus group discussions hinted that the main conflicting parties which are directly involved in the conflict are five tea companies on one hand and villagers who occupy land without authorization on the other hand. The five tea companies that own estates in Mulanje are Eastern Produce, Lijeli Tea Estates, Small Holders Tea Company (SHTECO), Tea Research Foundation of Central Africa (TRFCA) and Chitakale Tea Estate Company. Each of these companies own different tea estates as shown in Table 1 below. It was argued by the two conflict analysts and two representatives of NGOs that since legally, these companies are independent entities that can sue and can be sued on their own, it would be appropriate to look at these tea companies as direct parties and not their representatives – the view which the researcher also shared. The second conflicting party which was easily identified by all respondents is composed of villagers from Muhowa, Manja, Msikita, Kalinje, Kunduwelo, Chapenga, Namlaika, Mussa, Sekeri, Chisitu, Chitakale, Nande, Nessa, Bodo, Nandolo, Bona, Songwe, Kashoni, Muloza, Kaliza, Samson, Kambali, Mphika and Thabwa villages who have been involved in the occupation of land that belong to the tea companies. It was noted from the focus group discussions that a majority of these villagers are ordinary people from the dominant *Lomwe* tribe who earn their living through subsistence farming.

Table 2: Names of Companies and their Tea Estates

Names of Company	Names of Tea Estates Under the Company
Eastern Produce Company	Glenorchy, Esperanza, Louderdale, Likanga, Minimini, Thornwood, Eldorado, Ruo, Phwazi, Chisambo, Limbuli
Lujeli Tea Company	Sayama, Broomfield, Lujeli, Suwazi, Khongololi
Small Holder Tea Company (SHTECO)	Smallholder Estate
Tea Research Foundation of Central Africa	Mimosa, Suwazi
Chitakale Tea Company	Chitakale

Source: Ministry of Labour, Mulanje District Office

4.2.1.2 Indirect Parties

The study sought also to identify the indirect parties in the conflict. These are parties who are not directly involved but who nevertheless have their own interest in the conflict through their link with one or both conflicting parties (GTZ 2002). Responses given by 96 villagers indicate that the indirect parties in the conflict were village headmen (VHs) of the villages from which these villagers come from. These VHs are Muhowa, Manja, Msikita, Kalnje, Kunduwelo, Chapenga, Namlaika, Mussa, Sekeri, Chisitu, Chitakale, Nande, Nessa, Bodo, Nandolo, Bona, Songwe, Kashoni, Muloza, Kaliza, Samson, Kambali, Mphika and Thabwa. In their response, the 24 VHs indicated that they became involved in the conflict because of the direct involvement of their subjects in the conflict. In the *Lomwe* culture the VHs– who are bestowed with great recognition, respect and powers – are regarded as *de facto* representatives in social issues that affect the welfare of their subjects. The other indirect party is composed of five managing directors (MDs) and the five estate managers of the five tea companies whose land is being occupied by the villagers. According to in-depth interviews held with the MDs and the Estate Managers, they became involved in the conflict because they are the "human faces" of the tea companies (Interview with the Managing Director of Eastern Produce on 7th November 2008).

The other in-direct party which was mentioned by the villagers and the five MDs is composed of five Members of Parliament (MPs) in the district whose constituents are also the same villagers who are involved the occupation of land. During the focus group discussion held with the villagers, it was repeatedly mentioned that the MPs, in the1999 and 2004 election campaigns, promised to secure land for the villagers from the tea companies once voted into office. It was also reported by villagers that the MPs have been secretly encouraging their constituents to occupy the land. Though the MPs neither confirmed nor denied this report, four of the five MPs indicated to the researcher that they did not see anything wrong with the behavior of the villagers. They admitted that their involvement in the conflict stems from the fact that they were in favour of the idea that tea companies should make available some land to the villagers. In the view of the two conflict analysts interviewed, this would indirectly ensure that the MPs are able to fulfill the promise they had made to their constituents during the elections campaign period.

The other indirect parties which were mentioned during the interviews with the five MDs and the 24 VHs is a composition of two NGOs, (Oxfam and NASFAM) that are working on land issues in the district and Mulanje Community Radio Station. Finally, the four officials from Lands Department and the two officials from the District Assembly indicated that the government was an indirect party to the conflict in the sense that it was interested in making land available to the villagers while at the same time ensuring that productivity by the estate companies is increased.

4.2.1.3 Third (Neutral) Parties

As discussed in section 1.6 of chapter 1, third parties normally maintain certain neutrality in the conflict by not having any substantial interest except in the procedure of resolving the conflict and the sustainability of the possible positive outcome (GTZ 2002). 96 villagers, the five MDs and two representatives of NGOs who participated in this study indicated that they perceive the Mulanje Magistrate Court in the district as one of the entities that qualified as a third neutral party. The First Grade Magistrate also indicated that he sees the role of his court as a neutral role. It was disclosed by these respondents that the Magistrate Court has been involved in the adjudication of violent land conflicts especially in cases where villagers as well as security guards working for the tea companies were injured. There were, however, different views regarding the neutrality of the Mulanje Police Station. While the five villagers who have not been involved in the land conflict, five MDs and the two conflict analysts placed the police in the category of a neutral party, the villagers who took part in focus group discussions expressed the feeling that the police are always biased towards tea companies because in most cases where the conflict had been violent, they are the ones (villagers) who got arrested – so they claimed. However, a further in-depth interview with the Mulanje Police Officer-In-Charge and the Magistrate revealed that the police have at times also arrested the security guards of the tea companies during violent incidences whenever they (security guards) were also deemed to have offended the law. It was in view of this, that the researcher also placed the police in the category of third parties. Table 3 below summarizes the categorization of people and organizations into conflicting, indirect and third (neutral) parties.

Table 3: Parties to the Conflict

Conflicting Parties	Indirect Parties	Third (Neutral)Parties
-5 Tea Companies -Villagers from 24 villages	-Managing directors, estates managers and security guards of tea companies. -24 Village Headmen -The media. -5 politicians (MPs). -Lands Department. -NGOs.	-Magistrate Courts -The Police

Source: Author's own compilation from study findings.

4.2.2 History of the Conflict and the Previous Relationship between the Parties

In order to establish the nature of the previous relationship between the villagers and the tea companies, the researcher heavily relied on secondary sources as well as five respondents whose ages ranged from 80 to 95 years who managed to give an oral account of the nature of the previous relationship between the two conflicting parties. Thus, the guiding questions were aimed at soliciting the answer on the nature of the previous relationship between estate owners and the communities in Mulanje district, and the kind of conflict (if any) that the two sides have previously been involved in apart from the current land conflict.

Documented history confirms that British settlers occupied a lot of land in Mulanje district a few years after the declaration of Malawi (Nyasaland then) as a protectorate of the British Empire in the year 1891 (Kanyongolo, 2005). However, according to the five old-aged respondents, although the British settlers occupied a lot of land, land availability took a long time to become a serious problem. Historical accounts show that there was no any serious shortage of land (Ng'ong'ola, 1992: 112). One explanation given by the five respondents and also confirmed by literature is that the population of the natives was so low to the extent that each family had enough land (Ng'ong'ola, 1992). Thus, notwithstanding the political and financial muscles of the white farmers in the 20th century, it could also be argued that lack of serious resistance by the natives to the white settlers was partly because land scarcity was not a serious problem (Kanyongolo, 2005).

Not surprisingly, as commented by Pachai (1973b), historical accounts indicate that initial conflicts between white estate farmers and the local natives were labour conflicts. The colonial government had a head tax law through which all males from the age of 21 were obliged to pay tax (Pachai,1973b). This indirectly forced the natives to relocate from other districts to Mulanje where they worked as estate laborers in order to earn income that would help them fulfill their tax obligations and also support their families. This was a deliberate policy by the government aimed at attracting people to work in tea estates that belonged to the white farmers (Pachai, 1973a). However, since some people could manage to pay tax through income earned by other means, the government enacted a law in 1928 which provided that head tax could only be paid in form of labour to the white farmers' tea estates (Pachai, 1973b). This finally left the local natives with no other choice except working in the estates as laborers.

Both written accounts (Nyasaland Government, 1946, Mhone, 1992, Ngo'ngola, 1992) and oral accounts obtained from the old villagers (who also worked in tea estates in the mid 20th century) confirmed that working conditions were very poor. They were forced to work the whole day, they could only eat once and their remuneration was also low (Pachai, 1973b). The local natives felt that they were being exploited and ill-treated in their own land (Pachai, 1973b). Besides the bad remuneration, the white farmers introduced the *thangata* (vernacular word for 'thanks') system in which people living on the land which the whites declared as theirs, were forced to work on the estates for free as a "token of appreciation for staying on the whites' land" (Hynde, 1924: 4.). This was most applicable to the *Lomwe* migrants who came from Mozambique in 1900s, running away from the harsh conditions there (Pike & Rimmingtone, 1965: 134, Vail, 1983: 50, Phiri, 2004). The white farmers were taking advantage of the *Lomwe* custom - in which the subjects were working in their chiefs' garden as a token of appreciation for the social protection provided by the chiefs – in order to justify the free labour that the natives were providing in their tea estates (Pike & Rimmingtone, 1965: 134). Theft of crops during the night was a secret demonstration which the natives undertook against the white farmers (Pachai, 1973a). There were therefore constant frictions between estate owners and natives which in many cases resulted into deaths on both sides (Pachai, 1973a). The colonial government did not make a decisive intervention (Pachai, 1973a).

However, it was not until late 50s that the issue of land was added to the labour conflicts. The influx of families to Mulanje started creating land pressure on those lands that were not occupied by the white farmers (Kanyongolo, 2005). The native families started using some of the land belonging to white farmers which was idle for their (natives) subsistence farming (Kanyongolo, 2005). This was a consequence of the feeling that they were being robbed of land in their own country. However, such unauthorized occupations were still meeting violent resistance from white farmers (Pachai, 1973b). Even after attaining independence in 1964, the post-colonial government did not make any decisive intervention on labour conflicts and land issues. Thus, since the colonial era, the natives and the white estate owners have had no peaceful relationship (Pachai, 1973b).

4.2.3 Causes of the Conflict

4.2.3.1 Structural Causes

In order to unearth the structural causes of the land conflict in Mulanje district. Respondents were asked to explain the following: what they think are the underlying causes of this conflict and the causes of the conflict they perceive to be beyond the immediate control of the two conflicting parties in the land conflict?

In the opinion of the two representatives of NGOs, the main structural cause of the conflict is lack of access to land. This factor was also noted during a consultative meeting of a consortium of NGOs in Mulanje district that aimed at establishing the root causes of the land conflict in Mulanje. The meeting that was held on 12th May 2003 at Mulanje Inn Motel concluded that the structural cause of the conflict was lack of access to land by the natives who were also in majority (Mulanje Land NGOs Consortium, 2003). This observation, however, contradicts the response that was given by the 20 of the 24 VHs. In their view, the structural cause of the conflict was the entrenched poverty amongst the villagers. The VHs argued that their subjects are facing serious livelihood challenges caused by lack of land (as source of livelihood), lack of employment (due to low levels of education and scarcity of jobs) and lack of capital through which they can start small scale businesses. Although some villagers are employed in tea estates as casual laborers, the tea companies have been reducing the causal labour workforce from 48,000 in the year 2000 to 25,000 as of mid 2008 (Mulanje Labour Office, 2008). This consequently

means that the number of unemployed people is very high mainly when one considers that over half of the workforce is from other districts (Mulanje Labour Office, 2008).

In the view of two officials from Mulanje District Assembly, the livelihood challenge in Mulanje becomes further conspicuous when one considers also that the remuneration of those who work in tea estates is very low as compared to the cost of living. 85 percent of those who work in tea estates (or over 21,000 workers) get a daily remuneration of 130 Malawian Kwacha, which translates into US$0.80 cents (Mulanje Labour Office, 2008: 20). Besides this situation, the ground assessment that the researcher made shows that the villagers living around most of the tea estates also lack basic facilities such as schools and hospitals as well as basic utilities such as electricity and water. The lack of such utilities translates into a number of problems for the villagers. For instance, lack of schools means that children have to travel long distances in order to access education while lack of clean water means a high susceptibility to waterborne diseases. In the views of the 20 VHs, such a miserable life which is a consequence of lack of a strong source of livelihood and the interplay of lack of basic utilities has made a lot of villagers to regard the tea companies as failing in their corporate-social responsibility to uplift the lives of the people who live around the tea estates.

According to the responses given by these 20 VHs and 108 villagers in the focus group discussion, land occupation is their last resort in their search for a source of livelihood aimed at reducing poverty caused by lack of livelihood and lack of utilities. Though the villagers indicated that they recognize that the government was supposed to provide some of these facilities, they felt that the tea companies could have made some efforts to develop the areas from which they (tea companies) are benefiting. They felt that tea companies were exploiting the land without investing back into the society. The villagers gave examples of the neighboring Zomba and Thyolo districts where tea and coffee companies allegedly helped in the construction of health centers, school blocks as well as the provision of potable water. When asked why they resorted to the occupation of land and not simply presenting their grievances, the villagers indicated that the nature of their previous relationship made it difficult to follow such a channel. They disclosed that labour conflicts which started in the colonial regime created a very cold relationship which prevented simple disputes from being settled amicably. It was disclosed by the

villagers that this unhealthy relationship created a high propensity to conflict between the two groups.

The observation that a deeper level of poverty is the structural cause of the conflict was also made by the two conflict analysts that this researcher interviewed, the First Grade Magistrate and the Officer In-Charge of Mulanje Police Station. They noted that although it was the shortage of land which was being presented as the main cause of the conflict, it was specifically the miserable living conditions (caused partly by the shortage of land) of villagers that were behind the "behavior of the villagers". They argued that if land access was the main structural problem on its own, the natives would not have been reluctant to relocate to other districts where the government had secured land for them. Through the land access programme called Community Based Land Rural Development Project (CBLRDP) which was started in 2004 and funded by the World Bank, the government identified Machinga, Ntcheu and Mangochi as districts where willing villagers from Mulanje could be relocated in order for them to have access to sufficient land (Malawi Government, 2004, Chinsinga, 2008). Through CBRLDP, the government was making available some settlement allowance of 10,000 Malawian Kwacha (an equivalent of US$ 80) in addition to some house construction materials (Malawi Government 2004). It was revealed in the course of focus group discussions with the villagers as well as the interviews with four officials of Mulanje Lands Department that despite the reasonable availability of land in these designated districts, a lot of villagers were unwilling to resettle in these places for fear of being separated from their relatives who provide social protection as well as other necessities.

On their part, representatives of tea companies (five MDs and five Estate Managers) also admitted that poverty was behind the behavior of the villagers. However, unlike the villagers who said that they were being frustrated by the laxity of the tea companies to improve their (villagers) lives, representatives of tea companies felt that the levels of poverty is what was making the villagers to be envious of the tea companies: leading to their (villagers') occupation of land.

Few observations can be made from the different responses given above by different groups. First, it is clear that both conflicting parties as well as other respondents

converged on a common response that although land access was a problem, it is deep levels of poverty - caused partly by lack of land as a source of livelihood – which was the structural cause of they conflict. High unemployment rate, low salaries from tea companies, lack of potable water, heath centres as well as schools (in addition to lack of access to land) exacerbated the levels of poverty amongst the villagers. Secondly, it is clear that the previous unhealthy relationship between the parties made it difficult for the parties (mainly the villagers) to express their concerns in a peaceful manner. Thirdly – as it also came out clearly during the course of the research - this cold relationship between them emanated from their previous labour disputes. Finally, the conclusion that land pressure is not the structural cause of the land conflicts on its own (but just part of the structural cause, i.e., poverty) gets validated when one considers the fact that a lot of people refused to relocate to other districts after the government had identified land on which to resettle them as the villagers felt that they would be separated from their families which provide some form of social protection.

4.2.3.2 Proxy Causes

Proxy causes are immediate triggers of the conflict (GTZ, 2002). The guiding question which was posed to different respondents was therefore: "how did the land conflict between the two conflicting parties start?" According to responses given by 108 villagers and five MDs, the land conflict was triggered (or ignited) by occupation of tea companies' 'idle land' by some villagers in 1995. This was confirmed by the Officer In-Charge of Mulanje Police Station and the Mulanje First Grade Magistrate whose respective offices have been handling the resultant land disputes. It was disclosed by the five estate managers and the Officer In-Charge of Mulanje Police that for two years, the tea companies left the people to cultivate the land without stopping them. The estate managers indicated that the tea companies had left the villagers because they (tea companies) did not have plans to use the land at that time. They also indicated that they did not stop them because they did not cultivate too close to the actual tea plants. According to the estate managers, the type of crops cultivated by the farmers such as maize and vegetables are susceptible to certain plant diseases which also easily affect tea plants if they are planted close to each other.

However, as time went by, the tea companies wanted to start using this "idle land" According to the villagers and estate managers, the tea companies did not warn the villagers to stop cultivating. When the representatives were asked as to why they did not warn the villagers, they indicated that villagers had started cultivating too close to their crops hence it was risky to warn them first as that would have caused delays. Both the Officer-In-Charge of Mulanje Police and the five estate managers recalled that the villagers resisted when they were told to stop cultivating the land in the year 1997. According to the Officer In-Charge of Mulanje Police and the First Grade Magistrate (who had handled the first case) it was at this point that the fight between the security guards of the tea companies and the villagers erupted.

4.2.4 Conflict Issues

4.2.4.1 Interests of the Parties

Interests are the basic needs, concerns and fears which underlie the actors' positions in a conflict (Moore 1996). Interests are therefore usually gauged from the parties' deeper reasons for taking a specific position in a conflict (Moore, 1996). In order to identify the interests of all parties (conflicting, indirect and third parties), the participants were therefore asked to explain why they took their respective positions and how beneficial it was to them? In the case of conflict analysts, they were asked to explain what they thought were the interests of various parties.

All the (120) villagers who participated in the research converged on a common response that their position was based on the need to improve their destitution and poverty. In their view, if land can be made available to them, they would be in a position to meet some of their subsistence food and other needs which would enable them meet some of the basic obligations such as school fees for their children. With high unemployment rate, they claimed that their only "source of life and income" was agriculture which could only be realized if they had enough land to cultivate. They felt that transferring to other designated districts which have enough land - through the government's Community Based Land Rural Development Project (CBLRDP) – as it is being championed by the Lands Department is not a viable solution as that would mean being placed away from a lot of their relatives who provide much of the social protection and capital. While the

villagers expect their lives to improve a bit through the land made that can be made available by the tea companies, they also expressed their desire to see a lot of development initiatives by tea companies which would improve their lives. They repeatedly mentioned clean water, heath centres and schools as the main facilities that they want the tea companies to provide to them as part of their (tea companies' social responsibility). On their part, the five MDs disclosed to this researcher that the position of their companies was based on the need to have tea production unaffected in a negative way. In their view, if the land was to be made available to the villagers, there was great likelihood that that they would start planting crops such as maize and rice which was not to their (tea companies') interest. The representatives of tea companies claimed that these two crops (rice and maize) are prone to diseases which also affect tea plants.

The indirect parties (village headmen, representatives of tea companies, MPs, Lands Department, NGOs and Mulanje Police) also indicated their interests. The 24 VHs who are *de facto* representatives of the villagers indicated that their main interest was to see that their subjects are out of poverty through the availability of land, health, water and education facilities while at the same time consolidating their (VHs) power by ensuring that the number of their subjects is not decreasing. They therefore confessed that they disagree with government plans of transferring their subjects to other districts where they would be able to access sufficient land because such arrangements would reduce the number of their subjects and hence reduce their territorial powers. On their part, the five MDs and the five estate managers disclosed that their main interest as individuals in the conflict was to ensure that they are able to effectively represent their respective companies. Although they individually appreciated the challenges of poverty that the villagers were facing, they (representatives) indicated that they cannot commit themselves to doing something which was going to negatively affect the production and profitability of their respective companies.

The five MPs on other hand also indicated that their main interest was to be re-elected into office. Malawi uses the Direct Representation System (DRS) where the aspiring parliamentary candidates are voted directly by the constituents (Malawi Government 2002b). Onus is therefore on the aspiring candidate to campaign in such a way that would ensure that he wins a relative majority of votes. In poverty stricken Malawi, this election

system has seen a lot of politicians making non-feasible promises to the electorates (Matlosa & Patel, 2006:15). During the in-depth interviews, the five MPs asserted that they could only win in parliamentary elections by promising what the electorates (or the villagers) need most such as land and other necessities. Though they acknowledged the challenge of making land available to the electorate, they felt that they could not win without promising to facilitate measures that will make land available to the electorate. They confessed that it was on this basis that throughout the conflict, they have been hoping that tea companies would finally release part of their land. According to the two conflict analysts who participated in the research, this would portray the incumbent MPs as having fulfilled the promises that they made during the campaign period, thereby increasing their chances of being re-elected in the next parliamentary elections.

On their part, the two representatives of the NGOs that are working in the area indicated that their main interest was to ensure that ordinary villagers are able to meet their subsistence food needs through the availability of land while the four officials from the Lands Department indicated that the interest of the government was two-fold. Firstly, the government was interested in creating a conducive environment for tea companies with the aim of boosting tea production. Government expects increased tea production would bring the much needed foreign currency as well as create employment for the people. On the other hand, the government is interested in ensuring that the villagers are in position to meet some of their subsistence needs mainly food. Through the provision of land to the villagers, the government believes that the people will be able to meet some of their needs. On the part of the Police, the Officer In-Charge hinted that the interest of the Police is to maintain law and order by ensuring that the conflicting parties in the land conflict were able to sort out their differences without resorting to violence. Finally, the First Grade Magistrate hinted that the interest of Mulanje First Grade Magistrate was to ensure that justice was being administered in a non-biased way to the parties who are in conflict. Table 4 below summarizes the interests of the parties as captured during the focus group discussions and in-depth interviews.

Table 4: Interests of Various Parties to the Conflict

Party	Interest
Villagers	-To improve destitution and poverty levels
Tea Companies	-To increase tea production and profitability
Village Headmen	-To reduce the poverty levels of their subjects and consolidate their territorial powers
Representatives of the tea Companies	-To effectively represent, defend and protect the interests of their respective companies.
Politicians (MPs)	-To be re-elected as MPs
Government (Lands Department)	-To create conducive environment for increased tea production and exports -To raise the living standards of villagers
NGOs	-To ensure that villagers meet their subsistence needs
Police	-To ensure crime and violent-free society
First Grade Magistrate Court	-To administer justice

Source: Author's own compilation from study findings.

4.2.5 Parties' Perspectives about Possible Interventions

Parties' perspectives about possible interventions are in most instances the same as their positions in a conflict. They are therefore based on the "fears of a party, its understanding of the conflict, and how best (they) believe they will be protecting (or fulfilling) their interests" (Best, 2007:62). In order to gauge the positions of the parties (namely, the villagers, representatives of tea companies, NGOs, five MP and the police and the First Grade Magistrate), the following questions guided the research: What were the positions of the parties? What were the perspectives of the parties (conflicting, indirect and third parties) about the possible intervention?

108 villagers who participated in focus group discussions indicated that their poverty levels would be reduced if the tea companies can make available some portions of land while at the same time providing employment and other necessities such as clean water, health facilities, schools as well as electricity. This perspective was shared by 24 VHs and the five MPs in the district. On their part, the tea companies (through the five MDs

and five estate managers) felt that making land available to villagers will not be enough to deal with the destitution and poverty that was haunting the villagers. They argued that the land that the villagers wanted was of very low quality and not fertile to the extent that no cash or food crop could grow without application of huge amounts of fertilizer. With the cost of fertilizer being high in Malawi (about US$90 per bag), they contended that most farmers would not be in a position to realize yields from the land as they would expect. They also reasoned that the fact that villagers will still need to apply fertilizer which many of them could not afford implied that the villagers would still be facing the same challenges of poverty and that they would still be demanding apportionment of extra land from tea companies. They further argued that even in a situation that the villagers were in a position to harvest enough food crops; they would still be lacking money that would help them buy some necessities. Coupled by the fear that some food crops are prone to diseases that also affect tea crops, they proposed that they should sell some of their land to the government which would in turn take the responsibility to distribute the land to the villagers. The attached condition, according to the companies, would be that the villagers will have to be planting only tea as a crop which would in turn be sold to the tea companies. The five MDs indicated that their respective companies could commit themselves to be subsidizing the cost of fertilizers and other farm inputs to the villagers. Through the arrangement, the tea companies believe that the villagers would have some source of income which will enable them to deal with their deep poverty and destitution. Regarding the provision of essential necessities such as safe water, health centres, schools and electricity, the five MDs contended that it was unrealistic to expect them to shoulder such responsibilities. They felt that the most of the responsibility of meeting such needs rests with the government, claiming that they could only come in as development partners.

The government, through the four officials from Lands Department, on the other hand believes that the problem of land could only be solved by relocating some villagers to other districts where land is available. They disclosed that this was the basis of the land redistribution programme that it introduced Community Based Land Rural Development Project (CBLRDP) in the year 2004 where residents of highly populated district such as Mulanje and Thyolo are being relocated to other districts which are not currently facing

high land pressure. The government argued that apportioning land from tea companies to the villagers would reduce the tea companies' productivity and reduce the countries' exports. On the provision of health, education, water and electricity facilities, the officials argued that the tea companies should assume more responsibilities because they are the ones who are making their business out of those places. The view that the responsibility of providing the facilities lies more in the hands of the tea companies than the government was also shared by the District Commissioner of Mulanje District Assembly in the in-depth interview.

On their part, the two representatives of the NGOs working in the area contend that the problem can be can be sorted out if the people are given some land as well as facilities such as water, electricity, heath centers and schools. In their view, relocating the villagers to other districts would not be a viable solution unless the government undertakes to provide essential facilities such as water, electricity, heath centres and schools in the new designated areas. On the part of the Mulanje Police and the First Grade Magistrate (through their representatives), while avoiding to suggest a specific solution, they argued that the conflict can be sorted out if the two conflicting parties "could sit down calmly" and chart the way forward (Interview with Mulanje First Grade Magistrate on 8th November 2008). Table 5 below summarizes the parties' perspectives on possible solution.

Table 5: Parties' Perspectives on Possible Solution

Party	Proposed Solution(s)
Villagers	-Tea companies should give land to the villagers and provide essential facilities such as water, schools and health centres.
Tea Companies	-Selling of land to the government which would then be distributed to villagers on condition that they (villagers) grow tea only. -Government should provide the essential facilities.
Government (MoL)	-Relocation of villagers to other districts through (CBLRDP). -Tea companies should be in the fore-front providing essential facilities.
NGOs	-Land should be made available to villagers. -If government insists on CBLRDP programme, it should ensure that essential facilities are also provided in places where the villagers are to be relocated.

The Police	-Conflicting parties should amicably resolve the conflict
The Magistrate Court	-Conflicting parties should amicably resolve the conflict

Source: Author's own compilation from study findings.

4.2.6 Current State of Affairs in the Land Conflict

In order to establish the stage at which the Mulanje land conflict is, participants were asked to describe the current state of affairs in the land conflict. All respondents to the study indicated that the two conflicting parties have been locked in negotiation talks aimed at coming up with a lasting solution to the conflict. These negotiation talks started in the year 2000. However, according to the Officer In-Charge of Mulanje Police Station, violent conflicts between the two parties are still being reported and these violent incidences have not decreased but have remained the same.

4.3 ANALYSIS OF THE NEGOTIATION PROCESS

As discussed in chapter two, negotiation analysis is a systematic process that seeks to understand and explain the dimensions of negotiation regarding: actors (how the interests, positions, behavior and negotiation skills of the individual, groups or organization affect the negotiation process); structure (how external constraint structures such as the number of parties involved in a conflict, number of issues and how they relate of have been relating to each other, transparency of negotiation process); strategy (how parties devise plans to achieve goals that have values to them); and outcome (Faure & Sjöstedt, 1993, Underdal, 1991).

The subsections below will therefore examine and analyze the whole negotiation process of the land conflict in Mulanje district by specifically looking at background to the negotiation process, conflicting parties' understanding of negotiation and their initial expectations, rules of the game that were followed during the negotiation process, positions of parties during the negotiation, offers and counter-offers that were made by both parties during the negotiations, behavior of the constituents, mandate of the negotiators and behavior of other important actors. The analysis of data is also based on secondary sources as well as in-depth interviews and focus group discussions which the researcher had with participants of the research as already shown in Table 1.

4.3.1 Background to the Negotiation Process

In order to examine the background to the negotiation process, the focus of the research questions was on factors that led to the negotiation process, how the negotiation process was initiated, who initiated it and why they initiated it. According to the responses given by the five MDs, the 24 VHs, the five traditional authorities (TAs) and one sub-traditional authority (STA) in the district, the negotiation talks between tea companies and the villagers were initiated after the tea companies noted that they were so many legal suits from the villagers who were being injured in the violent fracas between security guards of tea companies' estates and the villagers. While the employees of the tea companies were also being wounded and while their property was also being damaged, they (tea companies) were not getting compensation for damages from the villagers owing to the fact that most villagers could not afford to pay the cost of damages to the tea companies because of their poverty. In most instances, the villagers who were convicted by the court ended up serving a jail sentence as an alternative for failing to pay the fine. Thus in most instances, the tea companies were forced to meet the cost of the damages as well as the cost of compensation to their wounded employees. This had a direct impact on the tea companies' level of profits. This led the five MDs to approach Traditional Authorities (TAs) Mabuka, Mkando, Chikumbu, Juma, Mthiramanja and Sub-Traditional Authority (STA) Lasken Mpama for a possible negotiation process that would culminate into a lasting solution.

According to the four TAs, they decided to refer the request to the 24 VHs (Muhowa, Manja, Msikita, Kalnje, Kunduwelo, Chapenga, Namlaika, Mussa, Sekeri, Chisitu, Chitakale, Nande, Nessa, Bodo, Nandolo, Bona, Songwe, Kashoni, Muloza, Kaliza, Samson, Kambali, Mphika and Thabwa) who are their juniors. The 24 VHs automatically became the negotiators because they were delegated to do so by the TAs (who are their seniors) while the five tea companies were represented by their five MDs because of their role as Chief Executive Officers of their respective companies.

During the focus group discussion 96 villagers indicated that they were initially less willing to negotiate because they felt that negotiation would end up in a situation where they would be told to hand-over the land that they have occupied. They therefore accepted to negotiate on the belief that the issue of giving back the land would not arise.

On the other hand, all the five MDs indicated that they were more willing to negotiate because they felt that it was the only way of minimizing the losses that they were incurring through the land conflict.

4.3.2 Parties' Understanding of the Negotiation as a Conflict Management Tool and their Initial Expectations

The way parties understand what is meant by the word negotiation influences the way they handle and approach negotiation. It also determines their expectations from negotiation process (Anstey, 1994). Through the in-depth interviews, five MDs (who were representing the tea companies) and the 24 VHs (who were representing the villagers) were asked to explain their interpretation or understanding of the word 'negotiation'. A similar question was also posed to villagers during the focus group discussions.

In their responses, all five MDs indicated that they perceive 'negotiation' as the "exercise where two or more parties who were fighting or quarreling stop the fighting and quarreling after discussions". In their view, negotiation occurs when warring parties stop fighting or quarrelling. When they were asked if the discussions that precede the ceasefire (or stopping of fighting and quarreling) constitute negotiation, three of them said that such discussions do not form an important integral part of negotiation while the other two MDs said that "it depends" on the quality of the discussion that precede the outcome. Thus from the responses of the MDs, all the processes that happen before the ceasefire do not necessarily fall in the category of negotiation. While they accepted that discussions culminates into what they called 'negotiation' (the actual ceasefire), they argued that discussions alone cannot necessarily be referred to as negotiation if the actual stopping of fighting has not taken place. 22 VHs on the other hand understood negotiation as the 'reaching an agreement where each of them gets something and loses something'. In their view, the essence of negotiation is to reach a compromise where each party gains and loses something at the same time. This response was also given by 96 villagers during the focus group discussions. While the VHs and their villagers referred to negotiation as *zokambirana,* in vernacular language, meaning discussions, they did not, however, look at the discussions as being the essential part but viewed the actual final

agreement as constituting the actual negotiation, mainly if the outcome is acceptable by both parties (Focus Group Discussion 1 Held on 28th October 2008).

From the above interpretations, it is possible to draw some features of each definition given by the five MDs representing the tea companies and the VHs. For the five MDs negotiation is largely preceded or necessitated by fighting. To them it is fighting which gives birth to negotiation. Secondly, negotiation occurs or is a one-off event and not a process. While discussions lead into the actual negotiation, such discussions do not necessarily constitute negotiation on their own. Thirdly, negotiation can only be said to have occurred if the parties stop fighting. Emphasis is therefore on stopping the fighting.

From the side of the villagers and the VHs, negotiation is also an event and not a process. It can only be said to have occurred if all parties agree to lose something and win something. Emphasis is therefore on sharing and losing something.

Apart from giving an explanation of their understanding of the word 'negotiation', the researcher also wanted to know the initial expectations of these three parties from the negotiation process. All five MDs indicated that their expectation when they proposed negotiation in the year 2000 was that the negotiation would lead to the end of the fighting between their security guards and the villagers and those villagers would stop the occupation of their land. 110 villagers and the 22 VHs on the other hand indicated that they expected that negotiation would lead into a situation where the tea companies would concede to give away some of the land to them while they (villagers) would stop further occupations. From these, the researcher observed that their initial expectations were a clear reflection of how the representatives of the tea companies, village headmen and the villagers understood the word "negotiation"

4.3.3 Rules of the Game

It is imperative in every negotiation that the parties should agree on the ground rules that will guide the negotiation process (Nieuwmeijer, 1992). The aim of in-depth interviews and focus group discussions in this regard was therefore to solicit responses on the two areas: the rules of the game (negotiation process) that were agreed by the parties and how the agenda for negotiation talks were being set.

According to responses given by the five MDs and the 24 VHs , after the TAs had delegated the matter to the VHs, the first thing that the MDs did was to invite all the 24 VHs to a meeting which took place 15th January 2000 at the Eastern Produce Conference Hall. The meeting was chaired by the Chairman of the Eastern Produce (Eastern Produce 2000). At that first meeting a reconfirmation was made that the tea companies and the villagers would be represented by the five MDs and 24 VHs respectively. In cases of absence and other commitments, the meeting agreed that the VH and the MD were to be represented by the representative of their choice (Eastern Produce, 2000). On the issue of minute taking and record keeping, all the 24 VHs and the five MDs indicated that they did not make any agreement. On the issue of a *rapporteur* they also indicated that there was no agreement on who would be taking down the minutes and how the minutes would be circulated. However, according to the five MDs a secretary from the Eastern Produce Companies was brought in (to be taking down the minutes) by the MD of Eastern Produce who chaired the first meeting. This secretary also acted as a *rapporteur* for successive negotiation meetings. The five MDs disclosed that the minutes for each meeting were only being circulated to the five MDs. On the venue of their meetings, the five MDs and the 24 VHs indicated that they had been using the Eastern Produce Conference Hall as the venue. This venue was proposed by the tea companies during the first meeting (Eastern Produce, 2000). In their response, 23 VHs indicated that they did not initially have any problem with using the Eastern Produce Conference Hall.

There was no agreement on how the transport costs to the venue of the meeting would be met. However, according to the responses given by 18 VHs, it became a custom that after the meetings, they (VHs) were always given some 'sitting allowances' by the tea companies.

On the negotiation calendar, the five MDs and the 24 VHs indicated that there was no official calendar or deadline agreed. There were also no specific dates or days which were agreed by all parties in advance for the meetings. However, the 20 VHs alleged that it became a custom that the five MDs could convene the meetings depending on their (MDs) convenience and schedules. The 24 VHs and the five MDs also indicated that that it became a tradition that invitations for meetings could be sent to few VHs who could then pass on the message to their fellow village headmen.

From responses given by the five MDs and the 24 VHs, all the discussions were chaired by the MD of Eastern Produce. The MDs indicated they decided to entrust the role of chairing meetings to the MD of Eastern Produce Tea Company because his company was the biggest of all and he was the one who was instrumental in masterminding the negotiation initiative on their side. According to the MDs, it was them who were determining the main agenda for all the meetings although they indicated that there was no prior agreement with the VHs on this arrangement.

On the specific roles of the negotiators, the five MDs indicated that they had agreed among themselves as a team that that the MD of Eastern Produce would be their key negotiator who would also articulate issues on their behalf. However, on the part of the VHs, the 24 VHs indicated that there was no similar arrangement to have one person who could be speaking on a number of issues on their behalf. Each VH understood his role as speaking on behalf of his specific subjects.

All the five MDs and the 24 VHs also indicated that there was no agreement on who would be the official spokespersons mandated to speak to the press from each side. They also indicated that they did not agree on whether land occupations should be stopped to pave way for negotiations or not. Thus the conflict situation remained the same even during the negotiation talks.

4.3.4 Segmentation of Negotiation Talks

According to responses given by the five MDs and the 24 VHs, the negotiation talks, as of 24th October 2008, were held as depicted in Table 6 overleaf.

Table 6: Summary of Negotiation Meetings

Date(s) of Meetings	Activity/Discussion Points	Outcome of the Meetings	Effects/Repercussions of the Outcome
15th January 2000	-Expression of interest by the tea companies to negotiate with the villagers -Discussion on the modalities for negotiation	-All parties expressing eagerness to negotiate	-Some ground work for the actual negotiation laid
13th, March 2000, 20th March 2000, 1st April 2000, 10th May 2000, 2nd June 2000	-Offer by the village headmen to stop land occupations if some land is made available by the tea companies. -Counter offer by tea companies to consider their request if villagers stop land occupations first. -Counter-offer by village to stop land occupation if one person per household is employed. -Counter offer by tea companies to provide loans to villagers who meet a criterion	-Agreement that land occupations will stop on condition that small financial loan will be made available to villagers who meet a criterion set by the tea companies.	-Tea companies and village headmen satisfied with the outcome of the meeting -Villagers unhappy with the outcome of discussions and continue with land occupations.
5th June 2000– 11th February 2001	**Fresh Occupations of Land**		

12th February 2001, 15th March 2001, 16th April 2001 & 10th May 2001	-Expression of all interest to resuscitate negotiation talks -Offer by village headmen to stop land occupations on condition that tea companies should construct schools, heath centers and drill boreholes -Counter-offer by tea companies to provide cement and iron sheets on condition that the villagers should provide labour and the remaining materials	-Agreement that tea companies would provide iron sheets and cement while the villagers would provide labour and the remaining construction materials	-Tea companies and village headmen satisfied with the outcome of the meeting Villagers unhappy with the outcome of discussions and continue with land occupations.
15th June 2001 – 10th February 2004	**Fresh Occupations of Land**		
18th June 2004, 10th August 2004, 3rd December 2004, 1st April 2005, 1st June 2005	-Offer by tea companies to sell some land to government which would then distribute it to villagers on condition that only tea should be grown by the villagers and that it should be sold to the tea companies. -An additional offer by the tea companies to provide loans for farm inputs	-Agreement that land would be sold to government and that the government would distribute the land to the villagers on condition that they should only grow tea which would be sold to tea companies -Agreement that tea companies would provide loan for farm inputs	-Tea companies and village headmen satisfied with the outcome of the meeting Villagers unhappy with the outcome of discussions and continue with land occupations.
15th June 2005 – 10th June	**Fresh Occupations of Land**		

2007			
28th June 2007, 24th October 2008	-No offers and counter-offers by both parties	- No agreement on land occupations	Villagers continue with land occupations

Source: Author's own compilation from study findings

4.3.5 Negotiators' Positions: Offers, Counter-Offers and Deadlocks

According to the five MDs and the 24 VHs a total of 17 negotiation talks were held between 15th January 2000 and 24th October 2008 as shown in Table 6 above. These negotiation talks fall in four phases as also shown in Table 6. Using in-depth interviews, the researcher asked the five MDs and the 24 VHs what positions they had taken during the four phases of the negotiation talks. The researcher also sought to know the kind of compromises (and the accompanying offers and the counter-offers) that the two negotiating teams made.

In the first round of talks (which took place from 15th January to 2nd June 2000), the first offer, according to five MDs and 20 VHs, was made by the VHs who offered to stop their villagers from further occupying the land if the tea companies would give away some portion of their land to the villagers. The tea companies - through the MDs - on the other hand countered this offer by promising to consider their request only after the villagers had stopped occupying the land. To this counter-offer, the VHs offered to stop their villagers from occupying the land if the affected villagers were to be employed in the estates so as to enable them get some income for their survival. The village VHs wanted one person per household to be employed. The five MDs felt that this would not be possible and would not be financially feasible on the part of their companies. The five MDs in turn offered to make available some small-scale loans to the villagers who would meet a certain selection criteria. This would enable them to start some small scale businesses. According to the five MDs and 20 VHs, all the 24 VHs agreed to this offer, although during the in-depth interviews, all the 24 VHs indicated that they did not consult their respective subjects or villagers on this deal. Hence, according to 96 villagers, when the news got them that their representatives (VHs) had conceded to stop the occupation of land in exchange for loans that were to be made available to selected people, they expressed sadness and embarked on further occupations of land on 5th June 2000 - three months into the negotiation talks. According to the villagers, they wanted the loans to be made available to everybody who was willing to get the loan without passing through selection criterion. According to the five estate managers, a fresh round of land occupations took place between 5th June 2000 and 11th February 2001. This fresh round

of occupations of land opened a new round of conflicts between tea companies and the villagers until the MDs revamped the talks on 12th February 2001.

In the second round of talks, which took place between 12th February 2001 and 10th May 2001, each side also made fresh offers and counteroffers. The VHs indicated that they offered to order their subjects to stop the occupation of land on condition that the tea companies should construct school blocks, health centers and drill boreholes. The MDs agreed to provide iron sheets and cement for the construction of schools and health centers on condition that the villagers were to provide the remaining materials and labour. According to 96 villagers who participated in the research, this news did not again amuse them as they wanted the tea companies to provide all the materials as well as meet the labour charges. A fresh round of land occupation therefore ensued again between 15th June 2001 and 10th February 2004. On 18th February 2004, a third round of negotiation talks commenced.

The third round of negotiation took place between 18th June 2004 and 1st June 2005. In the third round of talks, the MDs offered to sell part of their idle land to government which would in turn distribute the land to the villagers. The condition attached was that the villagers were to grow tea only which would be sold to the tea companies. They pledged that the tea companies would provide loans for farm inputs such as fertilizer and tea seeds. 20 VHs interviewed indicated that they accepted the offer. Unfortunately, the villagers were not happy with this agreement as they argued that they wanted to be free to cultivate crops that they wanted. Consequently, according to the five Estate Managers, a fourth round of land occupations took place on 15th June 2005 and 10th June 2007. From the response of the Officer In-Charge of Police, this round of occupations resulted into violent clashes between the villagers and the tea companies' security guards. Between 28th June 2007 and 24th October 2008 fresh talks were initiated but ended up in a deadlock again on 24th October 2008 with no shifts from earlier offers and counter-offers. From the responses of the respondents, as of 25th October 2008, the deadlock had not been resolved and incidences of conflicts were still being reported.

4.3.6 Mandate of the Negotiators

The outcome of negotiation depends to a reasonable extent on the mandate or power given by their constituents to make some decisions during the negotiations without referring the issues to negotiators (Anstey, 1994: 169). It was in this vein that the researcher wanted to know the extent of the mandate or powers that the two negotiating teams had to make certain decisions on their own during the negotiation process.

All the five MDs indicated that they were given the full authority to make offers and counter-offers on behalf of their respective companies as long as they were in the best interest of their companies. They were only required to brief their respective companies the proceedings and each stage of the negotiation. To avoid contradictions amongst themselves, they indicated that they used to agree amongst themselves ahead of each negotiation meeting, about the offers and the counter-offers that they were prepared to make. On their side, the 24 VHs indicated that although they were given the mandate to represent their subjects, there was no prior agreement with their respective villagers that they had been given the mandate to make offers and counteroffers without refereeing issues back to their subjects, although in practice they made offers and counter offers without consulting their respective villagers. Unlike the five MDs from the tea companies, the VHs indicated that they had no united plan, ahead of each negotiation meeting, about the offers and counter-offers that they were prepared to make. They indicated to the researcher that it was not possible for them to agree in advance because they were too many to reach a consensus in advance. The VHs indicated that only four VHs from their group had spoken in each negotiation meeting. It was thus the offers and counter-offers that these four VHs made that the rest of the VHs were supporting. On the issue of reporting back to their subjects, the VHs indicated that there was no initial arrangement for them to be reporting back to their subjects although they had planned to be reporting back had their respective subjects "remained calm" before embarking on further land occupations.

4.3.7 The Role and Impact of the Constituents (Followers)

As already discussed in the theoretical framework, constituencies can at times be a stumbling block to successful negotiation if through their behavior or "unrealistic or inflexible expectations of the outcome" they are placing serious constraints on their

negotiating teams (Anstey, 1994: 169). In the same vein, the researcher wanted to assess the impact of the constituents or followers behavior on the negotiation process by examining the behavior and expectations of their respective constituencies of the two negotiating teams during the negotiation process. The five MDs indicated that they did not face any serious obstacles from the personnel of their respective companies. They indicated that management and boards of their companies were very supportive through out the negotiation talks. On their part, all the 24 VHs indicated that they found the behavior very disturbing. During the in-depth interview, one VH said that he found the behavior of his subjects very "unbecoming, satanic, demonic and strange" (Interview with the Village Headman Nande, on 11th November 2008). The VHs indicated that they were frustrated because their subjects were derailing the negotiation talks by "taking pleasure" in land occupations even amidst the negotiation initiative. During the focus group discussion with the villagers, the researcher wanted to know how the villagers behaved during the negotiation process and why they were behaving in such ways. While all the 120 villagers in the focus group discussions openly disclosed that there were further occupations of land after each phase of negotiation talks, they argued that their behavior was based on the fact that they believed that their VHs had become 'sellouts' and had been 'palm oiled' in order to 'extinguish' the fight of their subjects (Focus Group Discussion Held on 14th November 2008). The villagers also indicated that they were disappointed by the fact that their VHs were not consulting and reporting back to them. They argued that in most instances, they were getting partial reports of the negotiation talks from a community radio station as well as from some individuals close to their headmen. The villagers in the focus group discussion also indicated that their actions were based on reports that they were getting from these sources.

4.3.8 The Role and Impact of Other Parties

Apart from constituencies, the behavior of other parties can also affect a negotiation process (GTZ, 2002). In this vein, the researcher wanted to know if there were other parties who played a decisive role in the negotiation and if so, what impact did these parties have on the negotiation process. In the view of the Officer-In-Charge of Mulanje Police, two conflict analysts, the 24 VHs, the five estate managers of the tea companies and 108 villagers, the two parties who played a decisive role on the progress of the negotiation talks were the media (a Community radio in Mulanje district) and the five

MPs. They disclosed Mulanje Community Radio publicized the outcome of each negotiation meeting in all phases of the negotiation. With no official spokesperson representing all negotiators, the community radio in most instances was publicizing the outcome of the negotiation using some VHs as sources of its news. According to the Executive Director of the Community Radio Station, most of the VHs who were being used as news sources were also the ones who were not happy with the progress of the negotiation talks. According to the 24 VHs, the news comments of the community radio were conspicuously advocating for apportioning some of the tea companies land to the villagers as a solution.

On the part of the politicians, the villagers in the focus group discussions disclosed that for each phase of the negotiation process, politicians (mainly the MPs from the affected areas) were addressing political rallies which were in a way inciting people not to accept any negotiation agreement that does not lead them into getting land from the tea companies.

4.3.9 Assessment of the Outcome of the Negotiation Process and the Current Situation

As already discussed in the theoretical framework, a negotiation process can be labeled as successful if an agreement to the problem's solution has been achieved and such agreement meets the legitimate interests of the parties; is 'durable'; does not "damage the relationship between the parties"; is 'workable' ; is 'owned by the parties'; is "ratified by all the parities' constituencies and has no adverse political consequences for leaders"; is 'unambiguous'; can be 'achieved within an acceptable time frame'; and, "promote(s) the use of the negotiation process (Anstey, 1994: 123-124, Lind & Tayler, 1988, quoted in Achankeng, 2006:12) The researcher wanted to find out the actual outcome of the negotiation process and to assess whether measured against this criterion, the outcome of the negotiation process can be described as successful. According to the assessment of 108 villagers, five MDs, 24 VHs, two conflict analysts, two representatives of NGOs and four officials from Lands Department, the land conflict in Mulanje has not improved as evidenced by fresh occupations of land as well as violent fighting. The two conflicting parties indicated that their relationship has deteriorated further as evidenced by frequent incidences of violent clashes between security guards of tea companies and the villagers.

The five MDs and the 24 VHs indicated that no agreement has been reached and the parties are still rocked in a hostile relationship and that as of 25th October 2008, the deadlock had not been removed. It is with these considerations that the researcher concludes that the negotiation process as of 25th October 2008 was unsuccessful and still facing some challenges.

4.4 CHALLENGES OF THE NEGOTIATION OF THE LAND CONFLICT

The main objective of the study was to identify challenges of the land conflict negotiation process between the tea companies and the villagers in Mulanje district by analyzing the conflict and the negotiation process. Apart from identifying these challenges through the analysis of the land conflict and negotiation process, the researcher also sought the views of the participants of the research on what they observed to be the challenges of the negotiation process. Nine key challenges were identified by these participants and are shown in the table below as follows:

Table 7: Respondents' Views on Challenges of the Land Conflict Negotiation Process

Respondents	Identified Challenge
Villagers, MDs, Estate Managers, conflict analysts, Lands Dept officials, representatives of the NGOs, VHs, Officer-In-Charge of Police	Nature of the previous relationship of the conflicting parties
Villagers, MDs, Estate Managers, conflict analysts, representatives of the NGOs, VHs	Present and previous governments "stander-by" and "spectator "approach"
Villagers, MDs, Estate Managers, conflict analysts, Lands Dept officials, representatives of the NGOs, VHs, Officer-In-Charge of Police, MPs, Mualnje First Grade Magistrate.	Poverty
MDs	Parties understanding of and expectation from negotiation
Conflict analysts, Lands Dept officials, representatives of the NGOs,	Lack of negotiation skills by negotiators

MDs, Estate Managers, conflict analysts, Lands Dept officials, representatives of the NGOs, VHs, Officer-In-Charge of Police	Behaviors of the some negotiators' constituencies (villagers)
MDs, Estate Managers, conflict analysts, Lands Dept officials, representatives of the NGOs, VHs Officer-In-Charge of Police	Behavior of other actors
Conflict analysts	Complicated nature of the conflict
Conflict analysts, Estate Mangers, MDs	Lack of genuine wiliness to negotiation on the part of villagers

Source: Author's own compilation from study findings.

4.4.1 Previous Relationship of the Conflicting Parties

As already noted in section 4.2.2 of this chapter, since the colonial era, the villagers and tea companies have never had a cordial relationship. According to the views of the 24 VHs, five MDs, two conflict analysts, four Lands Department officials, two representatives of the NGOs, Officer-In-Charge of Police and 84 villagers who participated in the research, this soured relationship between the tea companies and the villagers pose a serious challenge on any method that aims at solving the land conflict without first considering the broken relationship between the parties. They all indicated that negotiation could not therefore effectively succeed without simultaneously mending the broken relationship.

4.4.2 Present and Previous Governments "Stander-by" and "Spectator" Approach

As pointed already pointed out in the literature review (sections 2.7.2, 2.7.3 and 2.7.4 of chapter two), land struggle was not part of the agenda in the political liberation struggle as was the case in Zimbabwe and South Africa. In addition, no land negotiations had taken place concurrently with negotiations for political transition as was the case in these two countries. In the views of two conflict analysts and two representatives of the NGOs, who participated in this research, a big opportunity - of signaling to a prospective post-independence government of land reforms that were necessary - was therefore missed by the natives when they were fighting for independence in the early 60s. This situation remained unchanged in the first post-colonial regime because of the fact that the first post

colonial government entrenched the colonial land distribution pattern. In their views, the consequence of these two missed opportunities has been the wide discrepancies in land access in Malawi's population strata. This, in their view, created a dilemma on successive governments as they have to tread carefully in any land programme they can undertake - lest they are labeled as "communist and enemies of liberalized markets" (Interview with Conflict Analyst on 4th November 2008).

When the negotiation talks started in Mulanje on 15th January 2000, the government also did not take any step to come in and seize the opportunity of being involved in land negotiations initiated by the tea companies and the villagers as has also been the case in South Africa and Zimbabwe. 96 villagers, the five MDs, 20 VHs, two representatives of the NGOs and two conflict analysts argued that there could have been a positive impact if the government had been involved in the negotiation. This according to the villagers gave them an impression that they are 'government's abandoned children' and that it was not supporting their cause. For this reason they decided to continue taking the law in their own hands by further embarking on land occupations. In addition, by the mere factor that the structural cause of the conflict is poverty as analyzed in section 4.2.3.1 of this chapter, the researcher also concluded that the government's failure to provide loans that would enable the villagers to start small business and facilities such as water, health centres and schools - that the villagers were lacking and which are also causing the villagers to embark on land occupations – is indirectly fuelling the conflict.

4.4.3 Deep Levels of Poverty

As revealed in the analysis of the structural causes of the Mulanje land conflict in section 4.2.3.1 of this chapter, the levels of poverty among the villagers are so high to the extent that the villagers saw land occupations as a means through which they would be in a position to mitigate the impact and reduce the deep levels of poverty. The villagers are also lacking the basic needs such as water, schools and health facilities which eventually put them in a poverty trap. According to observations of the five MDs, two conflict analysts, four officials from Lands Department and the two representatives of the NGOs, the positions that the VHs took during the negotiations were to a greater extent an indication of hope that they (and their subjects) are placing on land as a source of livelihood. The researcher consequently concluded that any intervention which is not

accompanied by the mechanisms of addressing this challenge of poverty can hardly work and cannot be sustainable. Therefore, considering that there are no parallel initiatives aimed at reducing poverty levels among the villagers, negotiation as a conflict management tool is facing a formidable challenge.

4.4.4 Parties' Understanding of Negotiation versus their Expectations

As already discussed in section 4.3.2 of this chapter, both negotiation teams understood negotiation as an event and not a process. With regard to expectations, the five MDs expected that negotiation would end the fighting between their security guards and the villagers while the 24 VHs expected that negotiation will lead into a situation where the tea companies would concede to give away some of the land to the villagers. The five MDs and 24 VHs admitted having realized later on that although they considered their expectations as attainable, these expectations could have hardly been met without carefully working on the process that leads to the final outcome.

It is in the same vein that the researcher observed that the effect of looking at negotiation as an event and not a process is that there was no deliberate effort by parties to ensure that all the processes that lead towards a final decision were carefully handled. The negotiating teams therefore failed to appreciate that the quality of the final outcome of negotiation depends on how the process - which includes mending the broken relationship - leading towards the final outcome have been handled. It is therefore in this vein that the parties understanding of negotiation as a conflict management tool and their expectations from negotiation also posed a challenge on the land conflict negotiation.

4.4.5 Lack of Negotiation Skills by Negotiators

According to the observation made by the two conflict analysts, four officials from Lands Department, two representatives of the NGOs and the Officer In-Charge of Mulanje Police Station, both negotiating teams lacked negotiating skills needed to deal with the type of conflict that they were handling which according to them was evidenced by the fact that they had no official spokespersons who could be systematically disseminating the information to various stakeholders including the media. In their view, lack of official spokespersons created a leeway through which the media could contact some of the negotiators (especially the village headmen) who prematurely divulged the information about the agreements made during negotiations. As analyzed in section 4.3.3, of this

chapter, the negotiators also did not have major ground rules which could enable them to forge ahead with negotiations without major interruptions. For example, the issue of completely stopping land occupations while negotiation was in progress had not been addressed. This, according to the above respondents created a loophole in which the villagers could embark on further land occupations which ultimately disturbed the progress of negotiation talks.

As also already discussed in section 4.3.5 of this chapter, both parties focused on their positions through the offers and the counter-offers that they felt would satisfy their constituents during the actual negotiation exercise. The style of negotiation adopted was therefore positional (distributive) negotiation and not interest-based negotiation. Consequently, the researcher contends that a lot of time was wasted arguing over positions because of the positional negotiation approach which both parties used.

Lack of negotiation skills on the part of the VHs is also apparent when one considers the fact that they did not at any point in the negotiation process formally inform their constituencies (subjects) of each outcome of each negotiation phase as examined in section 4.3.5 of this chapter. This, as observed by the researcher partly, was important considering that there was no prior agreement with their respective villagers on whether they (VHs) had been given the mandate to make offers and counteroffers without refereeing issues back to their subjects or not. As discussed in section 4.3.7 of this chapter, it was this failure to brief and update their constituencies which partly resulted into a situation where the constituencies relied and acted on media updates, which unfortunately did not have full information.

4.4.6 Behavior of the Constituents
According to the five MDs, five Estate Managers, two conflict analysts, four Lands Department officials, two representatives of the NGOs, Officer-In-Charge of Mulanje Police Station and the 24 VHs, the behavior of the villagers greatly derailed the progress of negotiation talks. As discussed in section 4.3.7 of this chapter the villagers' tendency to embark on fresh occupations of land as a protest against the agreement made between their representatives and the tea companies placed fresh and prolonged deadlocks in each phase of negotiation. These respondents argued that while the appropriate option could have been to verbally disagree with the specific agreement and constructively influence

their headmen not to accept some offers made by the tea companies, the villagers chose to complicate the negotiation by embarking on fresh land occupations. Notwithstanding the fact they were not being consulted and given feedback by their representatives, the researcher also observed that some of the demands such as the universal loan provision were to some extent very unrealistic.

4.4.7 Behavior of Other Important Actors

In the view of the Officer-In-Charge of Mulanje Police, two conflict analysts, the 24 VHs, the five estate managers, 108villagers and the four Lands Department officials, the behavior of other actors, mainly the politicians (MPs) and the media also posed serious challenges on the progress and outcome of the negation process. They argued that for their political gains, (as also discussed in section 4.3.8), the politicians kept on inciting the villagers to reject any proposal that did not end up in the apportionment of land away from the tea companies to the villagers. This according to the these respondents ended up putting a lot of pressure on village headmen not to accept any other offer from tea companies except the apportionment of land that belongs to the tea companies. While the village headmen argued that they could have tried to persuade their villagers not to embark on fresh land occupations, the politicians made it difficult for such possible persuasion to work. They argued that in a country such as Malawi where the promotion of village headmen to group village headmen is influenced by MPs especially those that belong to the ruling party, it was difficult to openly challenge the politicians who indirectly influence their promotion and demotion.

The behavior of the media, especially the community radio in Mulanje as argued by these respondents also affected the progress and outcome of negotiation. Their coverage of the negotiation talks which had no full information incited the villagers, leading to frequent deadlocks as well as a delay in reaching the final agreement as already shown in section 4.3.8.

4.4.8 The Complicated Nature of the Conflict

As already analyzed in sections 4.2.2 and 4.2.3, the causes of the conflict are poverty and broken relationships (due to labour disputes) between the two parties. The interplay of these issues in the researcher's view is complicated mainly when considered in the light of the interests of other parties such as politicians (MPs). As argued by two conflict

analysts during the in-depth interviews, there was a need to clearly understand how these issues and interests were affecting the conflict so that they are taken into account during the negotiation process. In their view, this can only be done through systematic conflict analysis issues. Unfortunately, as noted by the researcher in section 4.4.5 above, both parties did not have the required skills to jointly undertake a conflict analysis.

4.4.9 Lack of Genuine Willingness to Negotiate

As discussed in section 4.3.1, the villagers were less willing to negotiate as compared to the tea companies. While the tea companies were willing to negotiate in order to avoid incurring losses, the villagers somehow feared that negotiation would make them give back the land. In the view of the two conflict analysts and the five MDs, and four Estate Managers, it was this initial unwillingness which propelled the villagers to embark on fresh land occupations during the negotiation process. Thus in the view of these respondents, the behavior of the villagers was to some extent motivated by the desire to frustrate the negotiation process.

4.5 A CRITICAL ASSESMENT OF THE RELEVANCE OF THE THEORETICAL FRAMEWORK

This research was aimed at identifying the challenges of land conflict in Mulanje district between the tea companies and the villagers (and ultimately come up with recommendations), through in-depth analyses of the land conflict and negotiation process. The theoretical basis of the land conflict analysis was provided by the four structural theories of conflict. The theoretical basis of negotiation process on the other hand was provided by decision theory and organizational theory of negotiation. The following two sections briefly assess the relevance and congruence of these conflict and negotiation theories to the research findings respectively.

4.5.1 Theories of Conflict vis-à-vis Research Findings

Four structural theories of conflict which explain why and how conflicts occur were examined in the theoretical framework of chapter two. Karl Marx's historical materialism, Ralf Dahrendorf's political power theory, Max Weber's power and authority theory and Talcott Parsons' functionalism theory.

In the researcher's observation, Marx's theory has proven relevant in the conflict between the tea companies and the villagers where, as discussed in 4.2.3.1, it was noted that one of the causes of the conflict is deep levels of poverty among the villagers. Poverty on its own is largely a material condition and economic aspect (Todaro 1982: 1, White et al., 2001: xvii) and therefore qualifies also as an aspect of infrastructure as conceptualised in Marx's Theory. Therefore, looked from the lens of Marx's Theory, poverty (an aspect of infrastructure) structurally caused the land conflict in Mulanje, thus confirming the theory's assertion that conflicts have their "roots in the material conditions of life" (Carnoy 1984: 46). Apart from the structural causes, the research also disclosed that ownership of vast lands by tea companies has been entrenched and legally upheld by all political regimes in Malawi through the capitalistic laws which protect the interests of capital (land in this case) owners (or the *bourgeoisie* according to the theory's conceptualization) at the expense of the villagers (*proletariat*).True to Marx's theory, the situation resulted into conflicts between those who have land (*bourgeoisie)* and those who do not have land (*proletariat).*

Dahrendorf's theory is arguably also congruent to the research findings. As already mentioned, the study revealed that post-colonial government's failure to embark on comprehensive land reforms that would ensure easy land access resulted into a situation where the villagers now have problems in accessing land. The government (political force) is also currently failing to provide essential facilities to the villagers. As argued in section 4.4.2, if the government could do these two things, it would be possible to address the causes of the conflict and therefore maintain some stability between the tea companies and the villagers. Therefore the government - and not only poverty (as Marx's Theory would have argued) - partly contributed to the causes of the conflict. This empirical result consequently validates the academic praises that Dahrendorf's theory has received for taking into account exogenous factors (Government of Malawi's inaction in this case) as causes of conflict which Marx's theory ignored through its emphasis on indigenous factors.

For Max Weber, the major proposition of his power and authority theory which is very relevant to the Mulanje land conflict is the aspect of scarce resources, competition and to a certain extent the concept of power. In Weber's analysis, the scarcity of resources and

rewards (which entails that one person or entity gains at the expense of the other) results in competition amongst groups of people. Conflicts in a social setting according to Weber's theory are therefore an outcome of this competition (Giddens 1971). As has been discussed in section 4.2.2, land conflict in Mulanje district was to a certain extent precipitated by the increase in the population of the villagers which consequently resulted into competition for land (and hence conflicts) with the tea companies. With regard to power, Weber's theory argued that those who successfully compete (for scarce resources) "gain more power than those who fail to do so" (Giddens, 1971: 156). Through this process, Weber argued, society is hierarchically ordered, with the powerful individuals or entities (or authorities) at the top and the less powerful at the bottom (Giddens, 1971). Looked from this perspective, the material hierarchal ordering between the tea companies and the villagers would put the tea companies at the apex and the villagers at the bottom. Through giving or refusing employment to people, the tea companies (or authorities as Weber would have called them) consequently exercise power to the villagers, thus confirming Weber's theory that those who are at the apex exercise power over those who are the bottom (villagers in this case). True to Weber's theory, the villagers recognize the power of the tea companies because they offer "materials rewards" (Giddens, 1971: 156) through employment.

Weber's theory also argued that the legitimacy of the authorities (tea companies) is also anchored by society's norms, customs, convention and law (Giddens, 1971). The aspect of laws anchoring the legitimacy of the authorities (tea companies) is also congruent to the empirical findings of this research in section 2.9.2 where it was noted that both pre and post colonial governments' land laws recognized, protected and promoted the rights of owning land by the tea companies.

Other than the above propositions, Weber's proposition that laws which anchors the legitimacy of the authorities (tea companies in this case) are to a large extent products of the authorities (tea companies) is not applicable in the case study. Land laws which protect the rights of tea companies are not the product of the tea companies but the product of the government of Malawi. Secondly, although the tea companies qualify as authorities in Weber's usage of the term, they do not have powers to restore order and

stability on their own as argued by the theory. It is the government, as another authority on its own, that has the power to restore order and stability in Malawi.

Finally, Parsons' functionalism theory is also relevant to the findings of this research. In the theory, Parsons argued that society must perform four crucial functions for it to survive: "adaptation to the environment (performed by the economy); goal attainment (performed by the government), integrating or linking all institutions together (performed by legal institutions and religion) and maintaining values from generation to generation (performed by the family and education)" (So, 1990: 20). Institutions in any society strive to maintain a 'homeostatic equilibrium'. Where there is disequilibrium, conflicts will occur in order for society to adjust accordingly to the changes, strains, tensions and contradictions in one institution (So,1990: 20-21). The study revealed in section 4.4.2 that it is possible to control the conflict to some extent if the government can play its role (of providing the facilities that the villagers needed). The same also applies to politicians and the media whose behavior caused 'disequilibrium' by inciting the violence. However, Parsons' theory also rightly observed that where there is a conflict, different sectors of the society (government inclusive) adjust accordingly to the changes caused in one institution. In the case of Mulanje land conflict, the government (as part of the society) adjusted itself by introducing land access programme called Community Based Land Rural Development Project (CBLRDP) in which the government identified Machinga, Ntcheu and Mangochi as districts where willing villagers from Mulanje can be relocated in order for them to have access to sufficient land (Malawi Government 2004). Also as examined in section 4.2.4.1, the government's aim on one hand is to ensure there is a conducive environment for tea companies to boost tea production which would generate foreign currency and employment for the people while on the other hand it is interested in ensuring that the villagers are in a position to meet some of their subsistence needs mainly food. Arguably, government's aim in this sense is to promote goal attainment by different sectors or units (households and the economy) as also contended by the theory.

4.5.2 Theories of Negotiation vis-à-vis Research Findings

As discussed in the theoretical framework, negotiation theories explain modifications in the initial positions and interests of the negotiators "that facilitate an eventual convergence on mutually acceptable outcomes" or why and how modifications of

interests and positions take place in negotiations (Spector 1994:73). Two negotiation theories (decision theory and organization theory were discussed in the theoretical framework.

As already discussed in theoretical framework, decision theory describes how negotiators take appropriate courses of action that "coincide with their values and preferences" (Spector, 1994: 74). Applied in the context of the Mulanje land conflict negotiation, the theory would therefore postulate and hypothesize that the offers and the counter-offers which the negotiators (the five MDs and 24 VHs) were taking during the negotiation talks were influenced by their own preferences and values. The empirical results of this research in section 4.2.4.1 indicated that the VHs' interest in the conflict was to improve the destitution and poverty of their subjects while the interest of the five MDs was to have their tea production unaffected. Section 4.3.5 also showed that the offer and counter-offers that these two parties were making during negotiations were in line with what they believed would meet their respective interests. Thus applied only to this extent, decision theory is congruent with the empirical results. However, while the interests and preferences of the 24 VHs and five MDs indeed determined the offers and counter-offers they made during negotiations, the theory becomes irrelevant when we consider that the interests of these two teams of negotiators were actually the interests of their respective constituencies (tea companies and the villagers). This validates the criticism leveled against the theory that theory ignores the influence that negotiators' organizations exert on the negotiators (Spector, 1994).

Organization theory on the other hand, departs from a picture of freelance individuals conducting their negotiations "unfettered by organizational expectations or constraints" (Kolb & Faure, 1994: 113). As discussed in the theoretical framework, organization theory recognizes that organizations from which negotiators come from play an important role in influencing the behavior of negotiators. Juxtaposed with the negotiation process of land negotiation in Mulanje, the theory would therefore put forward three hypothesis or arguments. Firstly, the theory would argue that the strategies of the MDs and VHs were guided by the goals of their respective organizations (or constituencies) - in this case their tea companies and villagers respectively. Secondly, within the concept of environmental *embeddedness* (as argued by Kolb & Faure, 1994:114), the theory would argue that the

MDs were influenced by the interdependence of their companies to other companies as well the interdependence of their companies to the villagers, while on the part of the village headmen, they were influenced by the interdependence of their villages to other villages and to the tea companies as well. Finally, the theory would argue that constituencies of the village headmen and the managing directors had an influence on the outcome of the negotiation process.

The first theoretical argument that the strategies, offers and counter-offers of the MDs and the VHs were influenced or guided by the goals of their respective organizations is supported by the empirical results of this research. As it was noted in section 4.2.4.1, the goal of the villagers is to reduce poverty and destitution while the goal of the tea companies if to maximize profits. Consequently, as a way of achieving this goal, their respective goals, the VHs negotiated for land and other essential facilities (such as water, health centers and schools) to be made available while the MDs negotiated for the evacuation of land by the villagers as examined in section 4.2.5.

The second theoretical argument that the strategies of the village headmen and managing directors were influenced by the organization *embeddedness* is also validated by the empirical results of this research. As already discussed, the five MDs negotiated as a united force. It was also noted in section 4.3.1 that the negotiation between the villagers and the tea companies were initiated because implicitly both parties realized that they can not achieve their goals without coming together. Consequently, the offers and counter-offers that the MDs and the VHs made during the negotiation were also a reflection of this interdependence.

Finally, the theoretical assertion that that constituents of the village headmen and the managing directors had an influence on the outcome of the negotiation process is also empirically supported by the research findings where it was noted in section 4.4.6 that the behavior of the villagers – which was influenced also by their lack of willingness to negotiate - had a negative effect on the negotiation process.

4.6 CONCLUSION

In conclusion, this chapter has analyzed the conflict between the villagers and the tea companies. It has shown that the conflict directly involves five tea companies and villagers from 24 villages while indirect parties in the conflict are Members of Parliament from the district, NGOs working on land issues in the district and the government. Third parties as identified by the respondents are the police and the magistrate courts in the district. Historically, the initial conflict between these two main parties was a labour conflict but the land issue surfaced due to the high population growth which created pressure on the land. With the already existing sour relationship, this land conflict has always been violent. Structurally, the conflict is caused by deep levels of poverty and destitution among the villagers. The chapter also analyzed the negotiation process between the two parties. Through the analysis of the negotiation process (and the conflict), the chapter identified the challenges that the negotiation process is facing, some of which are the soured relationship between the two parties since the colonial era, government's inaction, lack of negotiation skills in the negotiators, the behavior of the constituents and other important parties and lack of genuine willingness to negotiate. Finally, the chapter also reviewed theories of conflict and negotiation against the empirical results of the research. It has also come out clearly in the review of the theories of conflict and negotiation that although each of them offers relevant explanation on some respcts in the Mulanje land conflict, each of them has some gaps which failed to exahsutively explain the dynamics of land conflict and negotiation processes.

CHAPTER FIVE: SUMMARY, RECOMMENDATIONS AND CONCLUSION

5.1 CHAPTER OVERVIEW

This chapter provides the summary of major research findings on the land conflict, the negotiation process and its challenges in Mulanje district. It also provides recommendations and policy options on how the challenges of the negotiation of the land conflict in Mulanje, discussed in chapter 4 can be addressed both now and in the future. The chapter ends with a conclusion drawn from the whole study.

5.2 SUMMARY OF THE MAJOR RESEARCH FINDINGS

5.2.1 The Land Conflict between the Tea Companies and the Villagers

The study showed that the land conflict in Mulanje is between the five tea companies namely Eastern Produce, Lijeli Tea Estates, Small Holders Tea Company (SHTECO), Tea Research Foundation of Central Africa (TRFCA) and Chitakale Tea Estate Company (that own tea estates) on one hand and villagers from Muhowa, Manja, Msikita, Kalnje, Kunduwelo, Chapenga, Namlaika, Mussa, Sekeri, Chisitu, Chitakale, Nande, Nessa, Bodo, Nandolo, Bona, Songwe, Kashoni, Muloza, Kaliza, Samson, Kambali, Mphika and Thabwa villages on the other hand. Villagers from these villages have been occupying and cultivating land that belongs to tea companies without any authorization. The conflict has in some instances been violent especially when villagers resist the forceful eviction by the tea companies. The indirect parties which were identified by the study are managing directors (MDs) of tea companies, village headmen (VHs) from the involved 24 villages, Members of Parliament (MPs) from the district, NGOs working on land issues in the district as well as the government through Lands Department. The study identified Mulanje Police Station, Magistrate Court as the third parties.

Historically, the land conflict has some of its roots in colonial land policy and labour issues between the tea companies and the villagers who were working in the tea companies during the colonial era. This created a sour relationship between the tea companies and the villagers. This sour relationship between the two groups - coupled by

land pressure due to population growth on the part of the villagers – consequently led to the conflict between the tea companies and the villagers.

Structurally, the land conflict is being anchored by high levels of poverty and destitution among the villagers. Lack of viable sources of income, unavailability of facilities such as potable water, schools and health centers has propelled the villagers to assume that they can manage to reduce poverty and destitution levels if they are given land that currently belongs to tea companies. The position of the villagers therefore is that they should be given the land while the tea companies want the unauthorized occupation of land to be stopped. The tea companies are arguing that the only way to manage the conflict is for them (tea companies) to sell the land to the government which should in turn distribute it to its villagers on condition the villagers should plant tea which will be sold back to these tea companies. The government feels that the conflict can be managed by relocating the villagers to districts where land is not a problem.

The study used the four structural theories of conflict - namely, Karl Marx's historical materialism theory, Ralf Dahrendorf's political power theory, Max Weber's power and authority theory and Talcott Parsons' functionalism theory – to analyze the research findings on the causes of conflict. The empirical results of the research showed that while each of the theories was congruent with the research findings in some respects, almost all of them have limitations which can be overcome if all the theories are used in the analysis in order to complement the shortfalls of each other.

5.2.2 The Negotiation Process and its Challenges

The study showed that negotiation talks between tea companies and the villagers were initiated by the tea companies after they noted that they were incurring losses in paying compensation for its injured security guards as well as in defending the legal suits that the villagers were filing against the company. The negotiators to the conflict were VHs Muhowa, Manja, Msikita, Kalnje, Kunduwelo, Chapenga, Namlaika, Mussa, Sekeri, Chisitu, Chitakale, Nande, Nessa, Bodo, Nandolo, Bona, Songwe, Kashoni, Muloza, Kaliza, Samson, Kambali, Mphika and Thabwa (a total of 24) who represented their subjects while Eastern Produce, Lijeli, Small Holders Tea Company (SHTECO), Tea Research Foundation of Central Africa (TRFCA) and Chitakale tea companies were represented by their respective MDs. The study disclosed that the negotiation talks

between the tea companies and the villagers started on 15th January 2000. As of 24th October 2008, the negotiation talks had gone through four phases and deadlocks. The study findings show that the main challenges of the negotiation of the land conflict in Mulanje district are the following:

1) **Previous Relationship of the Conflicting Parties:** The study found that the sour relationship between the two parties which dates back to the colonial era had a very negative impact on the negotiation process as both parties hardened their positions in the conflict.

2) **Present and previous governments "stander-by" and "spectator" approach:** The study found that the political administrative regimes of Malawi since independence have not been taking an active role in addressing land conflicts and negotiations as compared to Zimbabwe and South Africa.

3) **Deep levels of poverty:** The study concluded that the structural cause of the conflict is deep levels of poverty in the villagers. The villagers have no reliable source of income and they also lack basic facilities such as water, schools and health centres. They look at land as their final source of livelihood. This means that negotiation alone is incomplete in the absence of measures aimed at simultaneously addressing the problem of poverty and destitution.

4) **Parties' understanding of negotiation versus their expectations:** The study revealed that the negotiators' understanding of negotiation negatively affected the negotiation process. It was noted that they all viewed negotiation as an event and not process. Little emphasis was therefore given to the process and procedures leading to the negotiation. The study noted that the expectations of the parties can hardly be met unless negotiation is treated like a process and not an event.

5) **Lack of negotiation skills in the negotiators**: It was revealed that negotiators from both sides lacked negotiating skills needed to deal with the type of conflict that they were handling. For example, there was no official spokespersons, there were no major ground rules which could enable them to forge ahead with negotiations without major interruptions, they adopted positional negotiation and not interests-based negotiation despite the fact that there was a need to address the issue of their sour relationship

and, the VHs were also not consulting and giving their subjects reports and feedback of the negotiation meetings.

6) **Behavior of the negotiators' constituencies:** The research revealed that the behavior of the villagers greatly derailed the progress of negotiation talks through their tendency to embark on fresh occupations of land as a protest against the agreement made between their VHs and the MDs of the tea companies.

7) **Behavior of indirect parties:** The study concluded that the behavior of politicians and the Mulanje Community Radio Station incited further occupations of land by the villagers and this consequently led to frequent deadlocks in the negotiation process.

8) **The complicated nature of the conflict:** The research showed that the causes of the conflict plus the interests of other actors mainly politicians created a conflict which was complicated and needed a systematic conflict analysis in order to come up with an appropriate negotiation and other interventions. Observably, both parties do not have the skills to undertake such conflict analysis**.**

9) **Lack of genuine willingness to negotiate**: It was shown in this study that the villagers were less willing to negotiate as compared to the tea companies. This unwillingness resulted into a situation where the villagers frustrated the negotiation process.

The study also showed that the above findings were to a larger extent more in harmony with organization theory of negotiation that decision theory of negotiation

5.3 RECOMMENDATIONS

In view of the findings of the study, the researcher makes the following recommendations to the parties directly and indirectly involved as well as other stakeholders on the above challenges:

➢ **Recommendation 1: Introduction of conflict transformation initiatives.** It is recommended that the conflicting parties in Mulanje land conflict undertake conflict transformation and healing of memories initiatives to mend their broken relationship which can be taken simultaneously with negotiation. This is in consideration of the

fact that there is a broken relationship between the main conflicting parties which dates back to the colonial era. As already defined, conflict transformation is based on the fact that contemporary conflicts require more that reframing of positions and the identification of win-win outcomes and that in many instances, the conflicting relationship of parties may be a result of the nature and structure of their relationship Spies & Patel, 2003). Conflict transformation is hence a "comprehensive process which involves all parties and stakeholders at different levels" (Lederach, 1997: 39). While the negotiation process is in progress, the people at the grass roots (such as the villagers and staff of the tea company need to be involved in activities that would ensure that the relationship between the two parties is healed completely. This might involve the establishment of peace and reconciliation groups, joint activities such as charitable work, religious activities and sports. The current situation where the villagers play their own game (soccer) while the staffs of the tea companies and their families play golf and tennis can be improved by introducing sporting activities such as volleyball and running marathons where both parties can participate and enhance their interaction. It is through interaction in such forums that the perception of the parties towards each other will begin to improve. It is also recommended that NGOs working in the area intervene by sponsoring initiatives of this nature.

➢ **Recommendation 2: Review of the role of government**. It is recommended that the government of Malawi actively take an active role in coming up with strategies that would deal with land issues in the long term. As it was noted, unlike the South African and Zimbabwean governments, the Malawi government adopted a very market-oriented land policy. However, in a poor country like Malawi, the researcher contends that it is not possible to entirely execute market-oriented land policy without further suffocating the poor. The government therefore may have to consider adopting a land policy which ensures wide accessibility of land to a lot of poor masses. In the short term, it is recommended that the government take an active role in conflict management activities that other parties might come up with. The government therefore may have to keenly follow such conflict management initiatives and offer the assistance that might be needed from it. In the case of the Mulanje land conflict, the government can intervene by providing some of the facilities such as water,

schools and health centers that the villagers were demanding. This would reduce the friction between the tea companies and the villagers in the short term.

➢ **Recommendation 3: Cooperation of stakeholders in addressing the deep rooted causes of conflicts in Mulanje.** It was noted that at the very base of the land conflict in Mulanje lays destitution and poverty. However, the villagers' living conditions and their levels of poverty cannot be improved by a single actor. It is recommended that the stakeholders join hands in uplifting the lives of the villagers by introducing different loan facilities and training villagers in different vocational skills. This will ensure that the villagers venture into some small-scale businesses that will enable them earn income without entirely depending on agriculture. Tea companies may also consider introducing a deliberate policy where recruitment preference would be given to the near-by villagers when it comes to casual work in tea companies. On their part, NGOs and other stakeholders can consider providing some of the facilities that the villagers are lacking such as water, schools and health centers in a bid to address the structural cause of the conflict.

➢ **Recommendation 4: Institutionalization of conflict management.** The study noted that the negotiators lacked conflict analysis, conflict management and negotiation skills that would enable them to understand the deeper and complex interplay of the land conflict's dynamics and how to appropriately handle them. Arguably, through training, the main players and constituents may understand the need for displaying the behavior that is conducive to negotiation and other conflict management tools. Institutionalization of conflict management in Mulanje and throughout the country is therefore recommended as a way of improving the conflict management skills of people. NGOs can also consider offering tailor-made training to parties involved in conflict management activities in Mulanje District. Religious institutions, NGOs and formal educational systems can also mainstream conflict management training in their programmes and activities while a conflict management course can also be introduced as a full subject in formal primary and secondary school curriculum.

➢ **Recommendation 5: Inclusion of other important actors/parties in a conflict**. The behavior of the media and politicians would have been controlled if they were actively involved in negotiation. This would have enabled the negotiators to present

their expectations from the media. Through their involvement, the media and politicians would have also appreciated the need to desist from certain behaviors that negatively affect negotiation and fuel the conflict. It is therefore important that close parties who have a high potential to disturb the progress of negotiation (especially the media) are incorporated into negotiation.

➢ **Recommendation 6: Regular updates by negotiators to their constituents.** The behavior of the constituents (the villagers) in the Mulanje land conflict was partly explained by the fact that they did not receive regular and accurate updates. Where constituents are left in darkness, speculation is common and in most instances, people will believe in and act on information which might not be accurate. It is therefore important for negotiators to be updating the villagers on the progress of negotiation so that the villagers are also given a chance of presenting their views.

5.4 RECOMMENDATIONS FOR FUTURE RESEARCH

In view of the limitations in the design and scope of this thesis, future studies should be extended to areas concerning land conflicts, negotiation and other land conflicts interventions. In this regard, the following aspects stand out:

➢ On the transformation of the relationship of the parties in the land conflict, it may be vital to explore an appropriate model of activities through which such relationships can be healed and transformed. It is therefore important for future studies to identify types of joint activities and initiatives that have high potential to permanently cement the relationships of the two parties and that can consequently be used in conflict transformation process in Mulanje district and Malawi in general.

➢ On the role of the government, there is need for further studies on how the current land policy can be modified and amended in order to ensure that poor people have access to land and hence deal away with land conflicts which are arising because of lack of access to land. It is also important that subsequent research should focus on how the needs of tea companies and small-scale farmers can be taken on board in the new land policy without generating land conflicts between these two groups.

➢ On the cooperation of stakeholders in addressing deep levels of poverty and destitution, future studies should systematically identify specific poverty areas or

dimensions which have a direct and high capacity to cause conflicts. These poverty areas are the ones which can then be prioritized in a coordinated manner by the stakeholders.

➢ On institutionalizing conflict management training, there is need for a thorough investigation on the kind of curriculum and training content which would be user-friendly and relevant to deferent categories of people in Malawi. Conflict management training needs-assessment of different groups such as the media, politicians, youths and women and other ordinary people are also important in ensuring that the designed training and curriculum address the real needs of the different groups. Research is also important on the mode of training to these groups.

5.6 CONCLUSION

The need to manage any conflict which has negative social and economic consequences cannot be overemphasized. The expectations of different stakeholders on the possible positive outcome of the negotiation process of land conflict between the tea companies and the villagers in Mulanje district are justifiable in light of its adverse social and economic effects manifested so far. That notwithstanding, it is extremely crucial to be aware and mindful of the dynamics of the land conflict as well as the challenges that the negotiation process in facing as analyzed in this research. While the surface issue of the land conflict is the occupation of tea companies' land by the villagers, this study noted that there are two underneath factors which cannot be ignored when coming up with an appropriate and sustainable intervention. These factors are the high poverty levels among the villagers and the broken relationship between the villagers and the tea companies which date to the colonial era. Unsurprisingly, these two factors were the challenges that the negotiation process of land conflict between the tea companies and the villagers faced. Other challenges as identified by the research include the previous and present government's 'stander-by' and 'spectator' action parties', the mismatch between the parties understanding of negotiation and their expectations; lack of negotiation skills by the negotiators; behavior of the constituencies; behavior of other important actors such as politicians and the media and lack of genuine willingness by the villagers to negotiate.

While the nature, history, type, issues and actors in any conflict differ, few key general lessons can be borrowed from the progress of Mulanje land conflict negotiation so far. Firstly, the nature of the relationships of conflicting parties needs to be taken into account if the negotiation is to be effective and efficient. Secondly, structural causes of conflict can not be ignored in negotiation. It is in most cases beyond the role of the conflicting parties to address these structural causes. Stakeholders therefore need to join hands in addressing structural causes before they are deeply entrenched. Finally, the negotiating skills of negotiators, coupled by the behavior of constituencies and other actors strongly determine the outcome of any negotiation process. It is consequently important that conflict management is institutionalized both at formal and informal learning systems with the technical and financial support of the government, religious organizations and NGOs. Where possible, tailor-made conflict management training that takes into account the training needs of different actors needs to be encouraged in conflict-prone areas.

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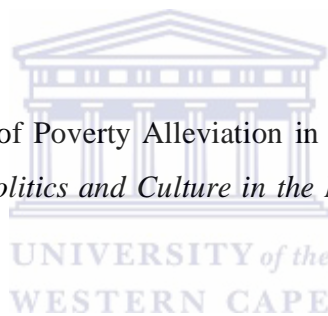
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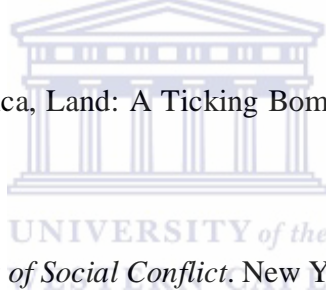
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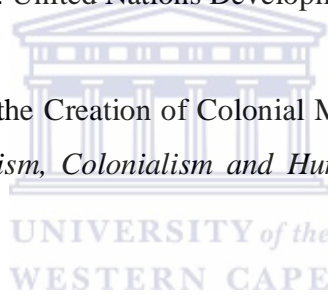
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Interviews

Interview with Conflict Analyst on 4th November 2008, Mulanje Inn Motel, Mulanje

Interview with the Managing Director of Eastern Produce on 7th November 2008, Eastern Produce Board Room, Mulanje.

Interview with Mulanje First Grade Magistrate on 8th November 2008 at Magistrate's Chamber, Mulanje.

Interview with the Village Headman Nande, on 11th November 2008, Vilage headman Nande's Compound, Mulanje.

Focus Group Discussions

Focus Group Discussion Held on 12th November 2008 with villagers from Nande, Nessa, Bodo, Nandolo, Bona villages held at Nande Football Ground.

Annexure 1: Map of Malawi

Annexure 2: Map of Malawi showing Population Density by District
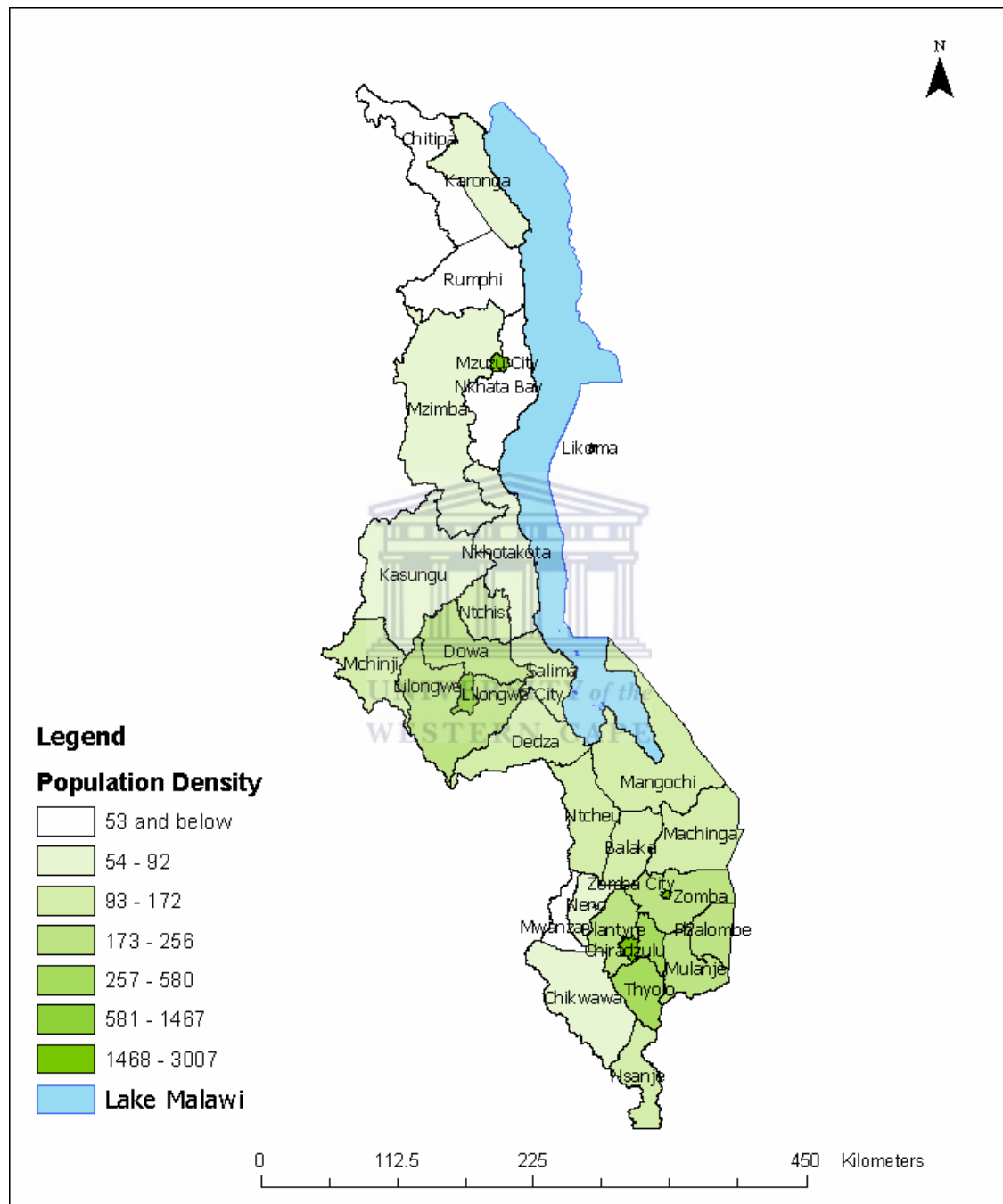
Source: 2008 Malawi Census Preliminary Report

Annexure 3: Map: Location of Mulanje District

Map:___ Location of Mulanje District
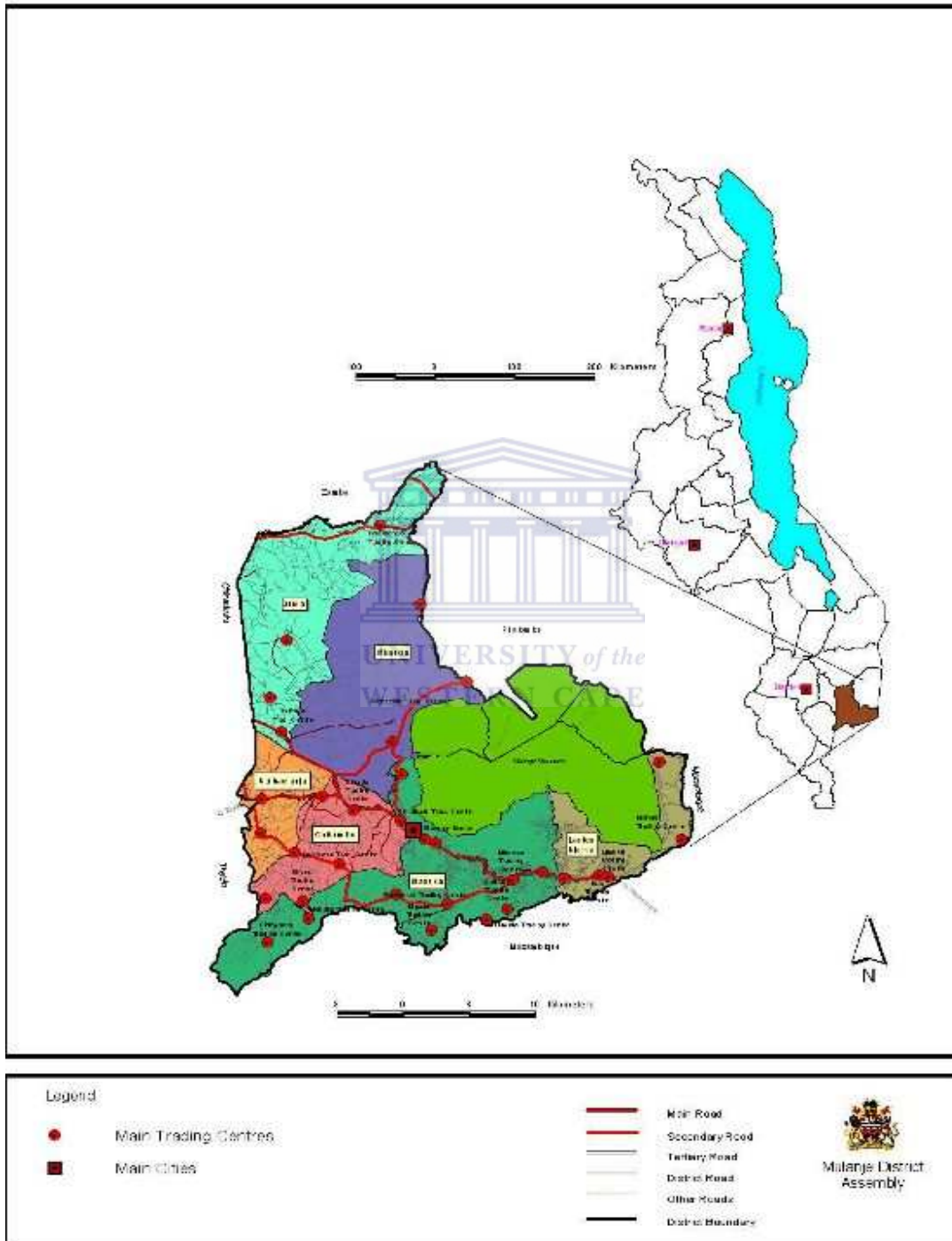
Source: Mulanje District Lands Office (October 2008).

Annexure 4: Map: Land Use Cover and Forest Reserves in Mulanje District

Map: Land Use Cover and Forest Reservs in Mulanje District

Source: Mulanje District Lands Office (October 2008).

Annexure 5: Map: Tea Estates in Mulanje District

Map:__Tea Estates in Mulanje District

Source: Mulanje District Lands Office (October 2008).

Annexure 6: Map: Traditional Authorities in Mulanje District (TAs and STAs)
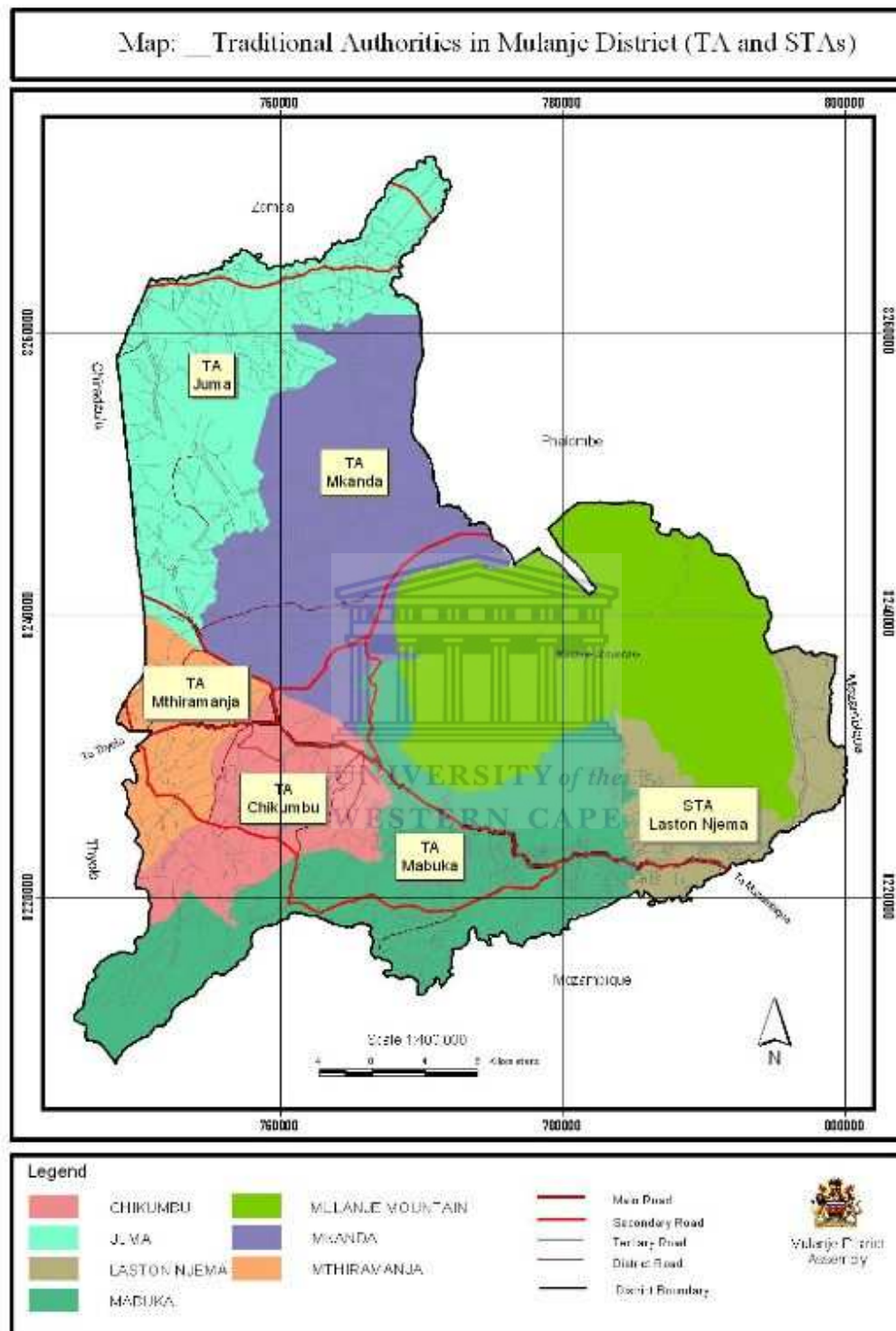
Map: Traditional Authorities in Mulanje District (TA and STAs)

Source: Mulanje District Lands Office (October 2008).

Annexure 7: Map: Population Distribution in Mulanje District

Map: __Population Distribution in Mulanje District

Source: Mulanje District Lands Office (October 2008).

Annexure 8: Guiding Questions for Focus Group Discussions with the Villagers

Date………………………   *Name of Villages ………………*

Group Represented   ……

Place of Interview   …………

PART A: CONFLICT ANALYSIS

1) What has been the nature of your relationship in the past with the other party?
2) What kind of conflict (if any) have you ever been involved with the other party in the past?
3) How did the land conflict between you and the other party start?
4) What impact do you think your previous relationship and previous conflicts with the other party have on the current conflict?
5) What do you think are the causes of the conflict?
6) What has been your stand (position) on this land conflict?
7) Why did you take that position and how beneficial is that position to your side/party?
8) What would you lose if you give up that position?
9) Which other parties have been indirectly involved in this conflict apart from your counterparts?
10) What parties do you consider as neutral parties?
11) What has been the influence of these other parties on the current state of affairs?
12) What is your perspective about possible intervention?
13) What do you think might be needed for your proposed solution to be effective?
14) What compromises are you prepared to make (and which ones would you not compromise) for a possible solution?

15) How has the conflict been progressing and what is the state of affairs now?

16) What do you think might have to be done both in the long run and short term to prevent similar conflicts in the future?

PART B: ANALYSIS OF THE NEGOTIATION PROCESS AND ITS CHALLENGES

1) What is your understanding of negotiation as a conflict management tool?

2) Who initiated the process? If it was you who initiated, explain why did you initiate? If it was not initiated by you, why did you accept it?

3) What were your expectations from the negotiation process?

4) How important to your party was it for this conflict to be managed through negotiation?

5) Would you have lost anything if you had not come to negotiate?

6) In what phases did the negotiation process pass?

7) What mandate and power did you give to your representatives?

8) What were your demands from your representatives?

9) Where you satisfied with the way they were handling the negotiation? If yes or not explain why?

10) What was your reaction in the way the negotiation was being handled?

11) Why did you react in that way?

12) What do you think was the impact of other indirect parties on negotiation process?

13) What was the outcome of the negotiation process and why did it end that way?

14) What would you consider in general to have been the major challenges in your negotiation processes?

Annexure 9: Guiding Questions for In-depth Interviews with Representatives of Tea Companies (Managing Directors and Estate Managers) and Representatives of the Villagers (Village Headmen)

Date…………………… Name of Interviewee ……………

Group Represented …… Portfolio……………………………

Place of Interview ………… Contact Details………………………

PART A: CONFLICT ANALYSIS

1. What has been the nature of your relationship in the past with the other party?

2. What kind of conflict (if any) have you ever been involved with the other party in the past?

3. How did the land conflicts between you and the other party start?

4. What impact do you think your previous relationship and previous conflicts with the other party have on the current conflict?

5. What do you think are the causes of the conflicts?

6. What has been your stand (position) on this land conflict?

7. Why did you take that position and how beneficial is that position to your side/party?

8. What would you lose if you give up that position?

9. Which other parties have been indirectly involved in this conflict apart from your counterparts?

10. What parties do you consider as neutral parties?

11. What has been the influence of these other parties on the current state of affairs?

12. What is your perspective about possible intervention?

13. What do you think might be needed for your proposed solution to be effective?

14. What compromises are you prepared to make (and which ones would you not compromise) for the possible solution?

15. How has the conflict been progressing and what is the state of affairs now?

16. What do you think might have to be done both in the long run and short term to prevent similar conflicts in the future?

PART B: ANALYSIS OF THE NEGOTIATION PROCESS AND ITS CHALLENGES

1) What is your understanding of negotiation as a conflict management tool?

2) Who initiated the process? If it was you who initiated, explain why did you initiate? If it was not initiated by you, why did you accept it?

3) Who was setting the agenda?

4) What rules of the game (negotiation process) did you agree, if any?

5) Why were you chosen as a representative of your group/party?

6) What were your expectations from the negotiation process?

7) How important to your party was it for this conflict to be managed through negotiation?

8) Would you have lost anything if you had not come to negotiate?

9) What positions did you take during negotiation? Why did you take that position?

10) What was the position of your counterparts?

11) What compromises and offers (if any) did you make and why?

12) What compromises and offers (if any) did your rivals take?

13) What were the demands of your constituencies (or the people whom you were representing)? Would you have compromised further if it were not for your constituencies' demands?

14) What powers or mandate did you have as representatives of your respective parties/groups to make certain decisions on your own?

15) How would you describe the behavior of your constituents?

16) What do you think was the impact of other indirect parties on negotiation process?

17) Did you take time to explore other options (of meeting interests for both of you) together with your rivals apart from your initial positions?

18) What was the outcome of the negotiation process and why did it end that way?

19) What would you consider in general to have been the major challenges in your negotiation processes?

20) What lessons did you gain from the process?

Annexure 10: Guiding Questions for In-Depth Interviews with Conflict Analysts and the Villagers who were not involved in the Conflict

Date …………………..   *Name of Interviewee* ………………….....................

Organization …………………..   *Position* …………………………………………..

Place of Interview …………………   *Contact Details*   …………………….........

PART A: CONFLICT ANALYSIS

1. What has been the nature of the relationship between tea companies and the villagers?

2. What kind of conflict (if any) have these two sides been involved in apart from this one?

3. How did the land conflict between these two sides start?

4. What do you think are the causes of this conflict?

5. What impact does the previous relationship and previous conflicts of the two sides have on the current conflict?

6. What issues do you think are beyond the control of the two sides in the current conflict?

7. What has been the stand (position) of parties in this land conflict?

8. What in your view are the interests of the parties?

9. Why in your view the parties took those positions and how beneficial was it to their parties?

10. How would you describe the progress of the conflict?

11. Which other parties have been involved in this conflict apart from the main actors?

12. What have been the positions of these parties?

13. Why do you think they have taken these positions?

14. What has been the influence of these parties on the current state of affairs?

15. What other external events or factors have had an impact on this conflict and your position?

16. What solution to the conflict would you propose?

17. What in your view might be needed for that solution to be effective?

18. What compromises do you think are needed for a possible solution?

19. What in your opinion needs to be done both in the long run and short term to prevent similar conflicts in the future?

PART B: ANALYSIS OF THE NEGOTIATION PROCESS AND ITS CHALLENGES

1. Why do you think the parties entered into negotiation talks?

2. What rules of the game (negotiation process) do you think were needed in the negotiation process?

3. How would you rate the skills of the representatives (negotiators)?

4. In your opinion, do you think there could have another method apart from negotiation? Justify your answer?

5. How would you describe the interests of the parties and their expectations from the negotiation process?

6. What was the role or the impact of constituencies in the negotiation process?

7. What do you think was the impact of other parties on negotiation process?

8. What was the outcome of the negotiation process and why did it end that way?

9. What would you consider in general to have been the major challenges in the negotiation processes?

10. What lessons would you draw from the whole negotiation process?

11. What recommendation would you make for future negotiation or conflict management endeavors?

Annexure 11: Guiding Questions for In-depth Interviews with Indirect and Third Parties to the Conflict (or their representatives)

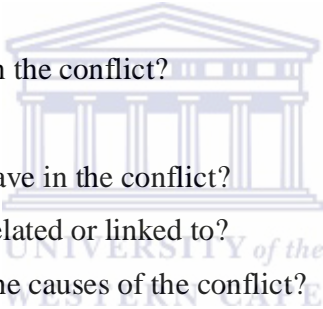*Date………………………*   *Name of Interviewee ………………*

Group Represented   ……   *Portfolio……………………………*

Place of Interview   …………   *Contact Details………………………*

PART A: CONFLICT ANALYSIS

1) How involved are you in the conflict?
2) Why are you involved?
3) What interests do you have in the conflict?
4) Which parties are you related or linked to?
5) What do you think are the causes of the conflict?
6) How would you describe the interests and positions of the parties?
7) What solutions would you propose to the conflict?
   Why do you propose that solution?

PART B: ANALYSIS OF THE NEGOTIATION PROCESS AND ITS CHALLENGES

1. Which party were you linked with during the negotiation?
2. What role did you play in the negotiation?
3. Why did you play that role?
4. What do you think was the effect of your role?
5. How would you describe the negotiation process?
6. What challenges do you think were faced in the negotiation?
7. What recommendations would you make to deal with these challenges?

Annexure 12: Letter of Introduction from the University

INSTITUTE
FOR SOCIAL
DEVELOPMENT
University of the Western Cape
Private Bag X17, Bellville 7535, Cape Town, South Africa
Telephone :(021) 959 3858/9 Fax: (021) 959 3865 /49
E-mail : pkippie@uwc.ac.za or pieterleroux@gmail.com

October 16, 2008

TO WHOM IT MAY CONCIRM

Dear Sirs/Madams,

LETTER OF INTRODUCTION

This letter serves to introduce Mr. Felix Benson Lombe who is our registered MPhil (Development Studies) student. In partial fulfillment of MPhil Degree, Mr. Lombe has undertaken to write a thesis titled, "Challenges of Negotiation of Land Conflicts in Mulanje District of Malawi". The nature of his thesis consequently requires him to meet various individuals, groups and organizations' representatives who have relevant and valuable information in this subject matter.

We would therefore be grateful if you could grant Mr. Lombe an interview and provide him with relevant information. From an ethical point of view, he has signed the University Research Ethics Declaration, which prescribes the acceptable pattern of behavior when conducting interviews and research. We would also want to confirm that Mr. Lombe's work is purely an academic exercise.

The University of the Western Cape cherishes the support it gets from individuals and organizations through their continued humble gestures to our students.

I thank you in advance

Prof M.Keim Lees
Supervisor

INSTITUTE FOR SOCIAL DEVELOPMENT
UNIVERSITY OF THE WESTERN CAPE

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