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Tobacco Production and Tenancy Labour in Malawi



Treating Individuals and Families as mere Instruments of Production



Centre for Social Concern

Acknowledgements

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Foreword

Beyond its economic usefulness, human work “has an ethical value of its own, which clearly and directly remains linked to the fact that the one who carries it out is a person.”¹ This special value of work, based on the personhood of the worker, is the basis for the principle of the priority of labour over capital which is the “the fundamental and perennial heart of Catholic Social Teaching on human work.”²

The principle of priority of labour³ over capital states that within an economic system, the person of the worker is of primary importance, and everything else is subordinate to them. It is, therefore, important that in approaching contemporary debates about labour and economic policy, the guiding question should be: Does this labour and economic arrangement respect the dignity of persons within it, by enabling them all to flourish as free and creative beings? The priority of labour over capital corroborates the fundamental *rights of workers*.

Among the core rights of workers is the right to a just wage, sufficient to secure basic goods for oneself and one’s family. It is asserted that “in the context of the present there is no more important way for securing a just relationship between the worker and the employer than that constituted by remuneration for work.” It is further urged “that it should also be noted that the justice of a socioeconomic system and, in each case, its just functioning, deserve in the final analysis to be evaluated by the way in which man’s work is properly remunerated in the system.”⁴ Hence, in every case, a just wage is the concrete means of verifying the justice of the whole socioeconomic system and, in any case, of checking that it is functioning justly. It is not the only means of checking, but it is a particularly important one and, in a sense, the key means. Other rights include: to have security, the right to rest, and the right to form unions, and the right to affordable healthcare – “medical assistance should be easily available for workers and that as far as possible it should be cheap or even free of charge.”

Tenancy labour in its current practice is characterized by very low-returns and often exploitative arrangements; the labour and economic arrangements done within this system of production, exploit, marginalise and degrade the workers. In this day and age, current tenancy labour practices should be discouraged if not abolished. Evidence has shown that the tenancy labour problems cannot simply be wished away, something needs to be done. It is, therefore, of pivotal importance that tenancy labour must be made to conform to some legal framework as a gradual procedure of graduating farmers onto use of other labour means e.g. wage-based or hired labour.

Lastly, it should be emphasised that the attainment of worker’s rights cannot however be doomed to be merely a result of economic systems- which on a larger or smaller scale are guided chiefly by the criterion of maximum profit.⁵ Government has the responsibility to look at and evaluate any labour and economic arrangement however primitive or technological, to determine how it can enhance the dignity of the worker; government has the primary responsibility for the whole orientation of policy. Such a particular responsibility entails conducting a just labour policy in the context of the broader operation of the economy. A policy is just when the objective rights and duties of both employer and worker are fully protected; thus a just policy ensures that the work relationship between the employer and employee presents a mutuality of duties and rights.

Fr Jos Kuppens
Director
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¹ Pope John Paul II, *Laborem Exercens*, - “On Human Work”, September 14, 1981. Available at <http://www.catholic-pages.com/documents/> #6

² *Laborem Exercens*, §1

³ *Laborem Exercens*, §15

⁴ *Laborem Exercens*, #19

⁵ *Laborem Exercens*, #17

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Executive Summary

Introduction

The tobacco estates' labour force consists of a mixture of different labour regimes. The main three labour regimes include: (a) *tenants and their (unpaid members) family members*, employed to produce tobacco on a plot allocated by the leaseholder; (b) *permanent labourers* hired for a period lasting from a few months to year-round. These are employed for multipurpose duties including direct crop production, crop or labour supervision, assistance to tenants; (c) *casual labourers (locally referred to as ganyu)* are hired on a daily or weekly basis to perform specific tasks during peak labour demand periods.

The relative importance of permanent and casual labourers varies with the size and overall nature of estates. Crucially the tenants provide the largest labour input accounting for some 63% of the required labour force to produce the crop and prepare it for sale.

The tenancy system is premised on the employment of family labour including women and children; as such tenants also constitute the highest population on the estates. Both permanent and casual labourers are needed to supplement the tenant labour input.

Tobacco has been habitually cultivated by farmers from large scale to smallholdings, using tenancy system, casual labour and wage workers. Under a Malawian tenancy labour work contract, the estate owner grants the tenant access to a parcel of land on the estate and provides them with materials, agricultural inputs and services, in consideration for an undertaking by the tenant to produce and sell agricultural commodities, exclusively, to the estate owner. The tenancy labour system of production is often characterised by very low-return and often exploitative arrangements. The practices present high levels of informality, casual work arrangements, labour force fragmentation, gender and age-based inequalities. Tenants' working conditions are often poor and access to social protection is limited. Furthermore, the tenants are the least protected by legislative frameworks and social dialogue on the subject is generally weak

As of 1992, it had caught the attention of several social actors that the individuals and families involved in tenancy labour remained largely invisible to policy and decision makers in government, intergovernmental organisations as well as to many civil society organizations. In attempts to remedy the situation, in 1992 government through the Ministry of Labour set in motion the process to develop the Tenancy Labour Bill to regulate the relations and transactions between tenants and landlords. Since, then there have been several versions of the bill which have gone through numerous revisions and the latest is the Tenancy Labour Bill 2010 which has been discussed by Cabinet towards the end of the year 2011. However, towards the end of 2013, the government made reservations to pursue further the enactment of the tenancy Labour Bill on the grounds that enacting the bill would be legitimising forced labour and that the sector was modernising in such a way that the employment of tenancy labour would be self-eradicated as estate owners graduate onto the employment of hired labour and wage workers.

Contract farming, also referred to as *Integrated Production System (IPS)*, has been championed as the enabling factor of the graduation process from the employment of tenancy labour to hired labour and wage workers. . But the assumption that current contract farming would enable farmers to graduate from the employment of tenancy labour to hired labour and wage workers has had poor results so far.

Researching an Evidence-based Understanding of Tenancy labour force in tobacco estates

The Centre for Social Concern and its coalitions, through this research, seek to inform and provide further basis for the discussions between government and social partners regarding the tenancy labour bill and its significance in the regulation of the tenancy labour force in the agricultural sector. The design and implementation of the research work was informed by the following objectives;

- a) To appraise the prevailing socio-economic characteristics of the tenancy labour work and tenancy labour workers.
- b) to gain insight into the nature of labour relationship and management practices between the tenant and the estate owners
- c) to identify critical elements within the current management of tenancy labour work that would necessitate regulatory framework

Summary of Findings

Labour arrangements

77% of the sampled tenants migrated from the southern region to the tobacco growing districts in the Central and Northern regions; particularly from the districts of Mangochi, Machinga, Zomba, Phalombe, and Thyolo. Only 23% of the tenants originated from the tobacco growing districts in the Central and Northern regions together. The migration labour force consists in reality of whole families, although formally only the head of the family is employed.

Fewer estate-owners are currently recruiting through the district labour office than they did in the past 3 years, indicating an increasing use of aggressive means of recruitment such as middlemen and returning tenants. Tenants are becoming victims of highly informal recruitment practices. With growing competition and demand for cheap labour, the system is shifting from a form of local artisanry to a more extensive organisation and linked fraudulent networks for migration of tenant individuals and families.

Written contracts between estate owners and tenants are exceedingly rare, existing only for a few large-scale estates. Most tenancy agreements are oral, with wide variations in the range of pre-specified terms and the content of such terms. A total of 71% of tenants have either oral or no contract at all with their landlord. Oral contracts depend solely on the confidence and trust that both parties will faithfully perform their obligations. Nonetheless, should there be any disagreement on the provision of the contract, it becomes extremely difficult to enforce.

Living and working Conditions of the tenants

A total of 44% of tenants and their families live in extremely poor shelter construction. These are characterised by overcrowded installations and poorly ventilated grass or tobacco stalks huts. The increasing percentage of total labour force, with a rising share of tenancy labour force on the tobacco estates has put huge pressure on the quality of housing.

Hours of work tend to be extremely long during planting and harvesting, with shorter hours at off-peak times. During rush periods, fieldwork can go from dawn to dusk. Much of the work is by its nature physically demanding, with manual handling of heavy loads and application of pesticides in different stages, such as during seedling production, following sowing and transplantation; and during pest control and harvesting. The work involves a lot of hazardous activities, done without proper gear, having potential for dramatic effects on labour productivity and the livelihoods of the tenants.

There are limited sources of water available to provide clean drinking water to most tenant populations. Surface water sources (rainfall and its runoff to rivers or wells) are common and groundwater sources (water that is being pumped through boreholes) are few, mostly found at large-scale estates or most structured estates in terms of resource management. Women and young girls, who are the major role-players in accessing and carrying water, are prevented from doing income-generating work or attending school, as the majority of their day is often spent walking miles for their daily water needs.

The insufficiency of food rations provided was the main complaint registered by the tenants. Food rations normally consist only of maize or maize flour with other foods generally rare, save for Christmas when isolated landlords also provide meat. Food insufficiency appears to be most severe in the month of February and more generally over the January to March period. Opting for one meal a day was one of the most common coping mechanisms; other options include doing casual labour in the nearby village or estate in exchange for food. A total of 60 out of 90 tenant household heads or their family members reported to have frequently done casual labour elsewhere for food in order to make up for their food supplies shortages; a practice that is not accepted by the estate owners.

Tenants have limited access to amenities. The majority of these people are far away from the public services (a situation of geographical exclusion); accentuating this are the difficulty and cost of transport and the lack of communications infrastructure. Only 5 estates out of 18 have a radius of a kilometre to public services and amenities (school, and clinic). Tenants from the other 13 estates are travelling more than two kilometres to the closest medical service and school for children.

Women Welfare

A total of 51% of the tenants' household members are women and girls (below 18years). Although formally only the head of the family is employed as a tenant, generally estate owners prefer married couples to single individuals as tenants and for large-scale estates it is an absolute necessity that the tenants be married individuals. Women benefit less than men from working on the tobacco estates for equivalent jobs and comparable levels of efforts. Large work burdens of women are not counted for simply because officially only the male household head is employed

Due to low income, women find it extremely hard to provide themselves for their other needs such as sanitation. Reportedly, *"when it comes to monthly hygiene, sanitary pads are unaffordable and rarely available"*; as such *"women and girls of age use pieces of cloth which are simply washed with hot water for lack of soap and money to buy soap"*- these are compromised hygiene habits

Child labour

Children are involved in a large variety of activities, as part of the family enterprise but above all as unpaid family workers. 15% of children have at sometime been involved in casual labour for food and the practice is common among small to medium estates. A total of 55% of children handled tobacco by tying the leaves in readiness for curing; the tendency is prevalent among large- scale estates. Children's participation is especially important during peak times. In order to increase workforce and provide for insufficient labour at peak, it is a penchant for tenants to use family labour rather than hired labour. As such, children are mostly relegated to highly seasonal and laborious activities and they are, more than often, the substitution of adults in household chores and labour when parents are working in the field.

Children's Education

84% of the children are overage; thus many children attending primary school are outside of the official age range. Only 14% of primary school children are in the appropriate grade for their age; the on-time proportion declines in the higher grades. 87% of the girls in primary school are overage compared to

85% of the boys. Late entry into primary school and grade repetition are the main factors contributing to overage numbers of children in first grade and higher grades respectively. These factors are a result of tenancy labour workers' life styles such as the frequent migration of families as well as the children's frequent involvement in unpaid family work.

Remuneration

Tobacco selling procedures between the tenants and landlords are marked by precarious and varied practices, a limited number of estate owners adhere to government officially-sanctioned prices and procedures. Only 11% of the estate-owners followed the officially-sanctioned system. These are mostly the large-scale estates. 72% of the estate-owners used average systems of purchasing the leaf from the tenants. There are a multiple of practices that are usually referred to as average system of selling and purchasing the tobacco; (a) agreeing to split the sale sheet net pay for the landlord after sales at the Auction floors into rations of 70% landlord and tenant 30%; (b) an agreed price for a bale of 100kg for any grade and size at the end of the growing season; (c) agreed fixed sum of money at the end of the season to be paid to the tenant. The variability in the grading and pricing systems, together with their lack of transparency generate uncertainties and misconceptions as well as the potential for unfair treatment of tenants.

Cost of inputs and services

The costing is entirely at the discretion of each estate owner. In many instances, tenants are not informed of the costs of such inputs/services until the end of the season when their final balance is determined. In the sampled 18 estates only 2 large scale estates had information that was readily available to the tenants and considerable numbers of tenants on these estates knew how much they were being charged for inputs and other services. A substantial number of 10 medium-scale estates do not pre-specify tenant charges for individual inputs. Instead, these farmers pragmatically cost their inputs at the end of the season in line with actual or expected results from the sale of the tobacco at the auction floors; and these are prone to manipulation thereby taking away from tenants their fair share

Labour Disputes and legal protection

A total of 91% of complaints registered at the four labour offices are those that have been reported by tenants against the estate-owners; only 9% of the complaints have been reported by estate-owners against the tenants. These results, arguably, indicate that tenants bear most of the risk of production in tobacco sector.

District Labour Officers of the tobacco growing areas referred to lack of specific legal provisions on tenancy labour in current legal frameworks as a major hindrance to administering justice when it comes to tenancy labour disputes and jurisdictions. The complexity lies in the generic nature of provisions in the labour legal frameworks on the subject of the tenancy labour; e.g. the employment act 2000.

Tenants in general do not have a clearly defined legal status; thus jural relationship does not exist between the estate owners and the tenants and as such they have minimum legal recourse where tenancy labour disputes arise. Comparing to those working in other economic sectors, tenants are only poorly protected by national labour law.

Increasing demand for cheap labour; benefiting from the *status quo*

Casual labourers have greatly increased particularly on large-scale-estates. Overall, the tenancy labour workforce has risen by 41% from the 2005 baseline study on the sampled tobacco estates. The rate increase in employment of tenancy labour is concentrated on small-to-medium-scale estates. These are also the estate size categories that have heavily benefited from the credit facilities being provided by the tobacco companies.

Estate owners prefer to engage tenants rather than regularly hire labour on wage basis; Some of the reason for such a preference include; (a) With little money available throughout the season it is cheaper to have the tenants than the hired labour; (b) When a tenant family signs on, it assumes part of the risk but also gains access to potentially higher earnings; this provides a level of commitment and motivation which would normally be lacking in a hired labourer; (c) Tenants come as families, which provide a ready pool of labour in the form of wives, relatives and children who can be drawn upon as the demands of tobacco ebb and flow through the season.

Conclusion

Tenants provide most of the labour and bear most of the risk in production of the tobacco crop, and yet they receive only a fraction of end sale of the tobacco, have no job security, are typically provided with poor housing and few social services amenities, and have little or no leverage at all in negotiating or enforcing their verbal contracts; and last they have inadequate legal protection with regard to their plight.

The tenancy labour workers belong to a distinct class within the Malawian rural communities, in particular socio-economic circumstances which must be standardised through policy and practice. The tenancy labour problems cannot simply be wished away

Government has the responsibility to look at and evaluate any labour and economic arrangement however primitive or technological, to determine how it can enhance the dignity of the worker; government has the primary responsibility for the whole orientation of policy. Such a particular responsibility entails conducting a just labour policy in the context of the broader operation of the economy; a policy is just when the objective rights and duties of both employer and worker are fully respected. A just policy ensures that the work relationship between the employer and employee presents a mutuality of duties and rights

Recommendations

The country must standardize the tenancy labour contract with a framework that promotes the personal development of the tenancy labour worker and the estate owner; there must be mechanisms that grant a win-win situation instead of the current zero-sum game, highly skewed in favour of the estate owners.

- A. Consider adoption of the Tenancy Labour Bill as subsidiary to current labour legal regimes in such a way that adequately provides for the regulation of the tenancy labour and the adjudication of disputes between tenants and estate-owners
- B. In the immediate term, through institutions such as Tobacco Association of Malawi, government must provide basic terms of the tenancy labour contract between estate owners and tenants that explicitly obliges estate owners to:
 - Adhere to officially-sanctioned system of selling and purchasing of tobacco produce between tenants and Estate-owners.
 - Register the tenants and their families at the labour offices of either the place of origin or at the district of destination

- To have written contracts with the tenants.
 - Specify the types and unit costs of inputs and production support services to be provided by the estate owner
 - Specify measures against tenants stealing and selling the tobacco produce to other than the estate-owners
- C. In the medium-term, invest in and implement monitoring exercises of the estates by district labour officer
- D. Decentralise some of the legal powers of the industrial court to district magistrates to provide for coverage and easy reach of the rural labour sectors such as agricultural industry

1. Background and Purpose of the Study

1.1 Background

Malawi's economy is dependent on tobacco as its main export product and foreign exchange earner.⁶ Tobacco accounts for some 60% of its exports, 13% of its GDP, and 25% of its total tax base. Tobacco is the second largest source of total income following foreign aid. One in five Malawian households relies substantially upon income from tobacco production or employment. Malawi, a small, landlocked country, is one of the world's leading exporters of burley tobacco leaf. Despite international efforts to reduce cigarette use because of its adverse health effects, world demand for Malawi's tobacco has remained robust for many years. There are relatively few examples elsewhere of a similar level of dependence on one sub-sector in a country's export earnings, employment and income inflows

The commercial cultivation of tobacco has a long history in Malawi, dating back to the 1890's.⁷ By the 1920s, tobacco assumed a prominent place in the economy; its expansion and contractions remained a major feature of the colonial economy. In the period following Malawi's independence in 1964, tobacco took on an even more central role in the political economy of the country, as large segments of the nation's political leadership and economic elites invested in the crop, backed by supportive policies, regulations and public resources. With the rapid expansion of the industry in the 1970s and 1980s, tobacco became the country's primary source of wealth, political patronage, employment and foreign exchange earnings. As of 2014, at 50 years of independence, the country is yet to diversify its economy meaningfully in attempts to wean off tobacco; tobacco, thus, still remains central to the country's economy, probably more so than ever, in the light of unreliable donor aid inflow.

Tobacco has been habitually cultivated by farmers from large scale to smallholdings, using tenancy system, casual labour and wage workers. Under a Malawian tenancy labour work contract, the estate owner grants the tenant access to a parcel of land on the estate and provides them with materials, agricultural inputs and services, in consideration for an undertaking by the tenant to produce and sell agricultural commodities, exclusively, to the estate owner. Currently, the tenancy labour workforce consists of both internal and cross-border migration of individuals and families to fulfil the labour requirements for ever expanding industry.

⁶ McKnight RH & Spiller HA. Green Tobacco sickness in children and adolescents, *Public Health Rep*, 2005:120/6

⁷ Collin Wilshaw, A century of growth: Malawi Tobacco Industry, 1893-1993, Blantyre: central Africana Ltd

As of 1992, it had caught the attention of several social actors that the individuals and families involved in tenancy labour remained largely invisible to policy and decision makers in government, intergovernmental organisations as well as many civil society organisations. They remain unrecognised in terms of goals, policies, programmes and activities to eliminate poverty; they are overlooked by labour laws and employment statistics. It has been recognised that tenants and their families bear the largest share of risk of production on tobacco farms; in terms of labour protection and labour rewards.

As a response to the situation, in 1992 government through the Ministry of Labour set in motion the process to develop the Tenancy Labour Bill to regulate the relations and transactions between tenants and landlords. Since, then there have been several versions of the bill which have gone through numerous revisions and the latest is the Tenancy Labour Bill 2010 which had been discussed by Cabinet towards the end of the year 2011. However, towards the end of 2013, the government made reservations to pursue further the enactment of the tenancy Labour Bill on the grounds that enacting the bill would be legitimising forced labour and that the sector was modernising in such a way that the employment of tenancy labour would be self-eradicated as estate owners graduate onto the employment of hired labour and wage workers. Contract farming, also referred to as *Integrated Production System (IPS)*, has been championed the enabling factor of the graduation process from the employment of tenancy labour to hired labour and wage workers.

Contract farming, as a system of production, aims at promotion of high value tobacco leaf, lowering costs of production with better extension; and the first presumption is that contract farming would raise returns to the farmer by assured market and higher prices for the produce as buyers will undertake to purchase all the produce grown, within specified quality and quantity parameters. Second presumption is that contract farming will improve the economic status of the farmers; and as a spinoff the farmers will in turn be able financially to improve the livelihoods of their tenants by better remunerations and better living conditions. The research survey, therefore, endeavoured to correlate these presumptions with the real status of tenants on selected tobacco farms.

1.2 Purpose and Governance of the Study

The Centre for Social Concern and its coalitions, through this research, seek to inform and provide further basis for the discussions between government and social partners regarding the tenancy labour bill and its significance in the regulation of the tenancy labour force in the agricultural sector.

Accordingly, the goal of the research was to deepen understanding of the tenancy labour issues in the agricultural production, with specific focus on tobacco sector, in order to increase constructive engagement around the issues of tenancy labour; the nature and scope of the tenancy labour work.

The design and implementation of the research work was informed by the following objectives;

- d) To appraise the prevailing socio-economic characteristics of the tenancy labour work and tenancy labour workers.
- e) to gain insight into the nature of labour relationship and management practices between the tenant and the estate owners
- f) to identify critical elements within the current management of tenancy labour work that would necessitate regulatory framework

1.3 Research Methodology

Data Collection

Desk research work was conducted to understand previous work of similar nature and put into perspective the tenancy labour generally. The research used a combination of primary and secondary data collection tools. Previous research by the Centre for Social Concern on tenancy labour work in tobacco estates was carefully reviewed. Data was collected and analysed from a sample of 18 estates, covering five receiving districts of Kasungu, Lilongwe, Mchinji, Mzimba and Rumphi. These were complemented by data collected from the district labour offices of the four supply districts of Mulanje, Thyolo, Zomba, and Machinga. In order to collect more in-depth qualitative information a semi-structured questionnaire was administered to five tenant households on each farm. The study also used formal interviews with key informants in the aforementioned district labour offices, as well as landlords and managers in order to get further insight into the issues.

Selection of Case Study Estates

Field visits were done in 18 estates from the thirty-five previously surveyed during the baseline study in 2005. The estates were selected from five districts and stratified by estate size categories; three estates from each of the following size categories were selected:

Table 1: Estates Sampling

Estate Size Category	Number of Estates Sampled
Up to 10 hectares	3
10.01 to 25 hectares	3
25.01 to 50 hectares	3
50.01 to 100 Hectares	3
100.01 to 150 Hectares	3
More than 150 Hectares	3
Total	18

The sizes of the estates vary widely in their organisational structure. The estates of less than 50 hectares are generally managed by the owner or with the help of a relative of the owner whereas of estates with 100+ hectares had salaried managers.

Comparative Analysis of Tenancy Labour force Management Practices

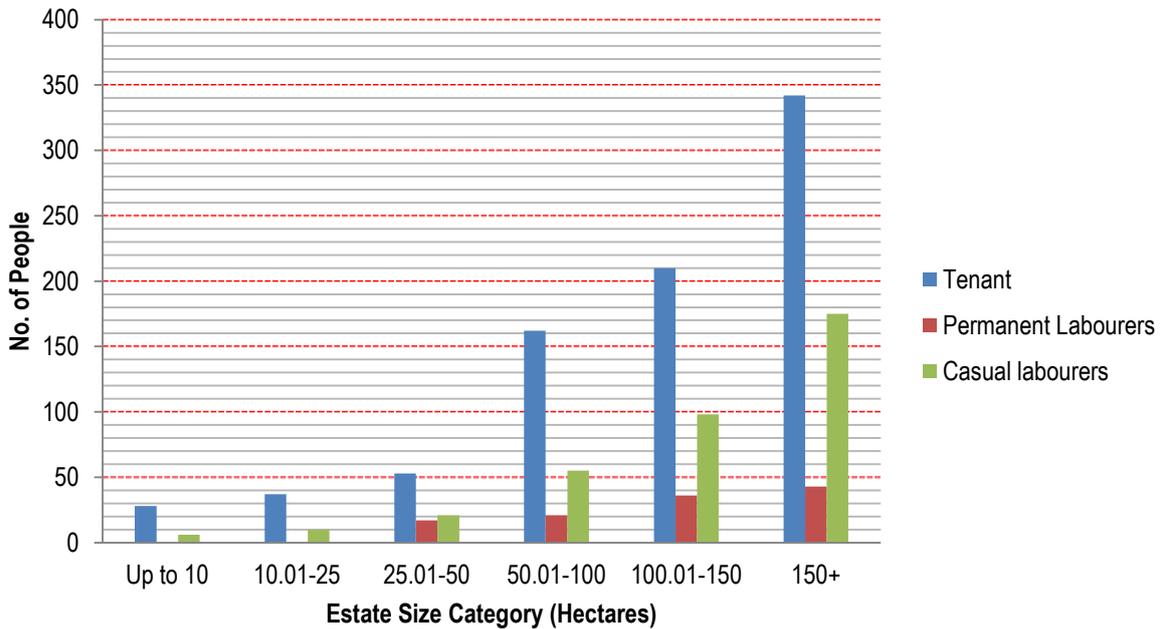
The purpose of comparative analysis of practices related to tenancy labour force was to learn from different estates' experience. The analysis was informed by the data collected through a questionnaire which covered the labour arrangements (*recruitments procedures and form of contracts*); *living and working conditions*, (*social welfare indicators and social amenities available to tenants*; economic characteristics (*remuneration and production support in form of loans or others*); disputes and legal protection. These were supplemented by a series of case studies involving detailed analysis of some estate records and files pertaining to tenants' employment conditions, and remuneration. Lastly, visits to district labour offices of four supply districts were undertaken in order to examine in detail the nature of tenants employment/recruitment methods and processes.

2. Understanding Tobacco Estates workforce

2.1 Composition of tobacco Estate workforce

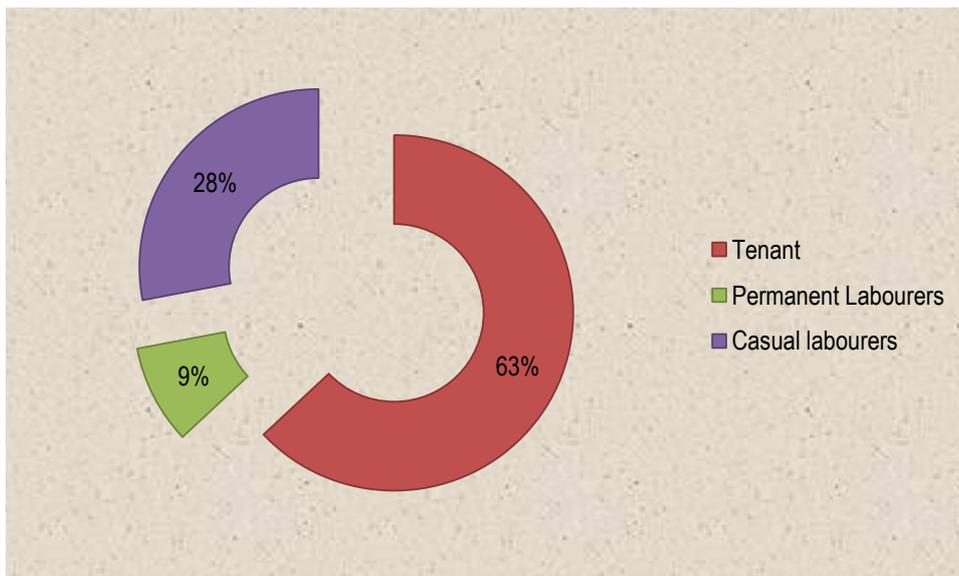
The estate labour force consists of a mixture of different labour regimes. The main three labour regimes that characterise production of tobacco include the following: (a) *tenants and their (unpaid members) family members*, employed to produce tobacco on a plot allocated by the leaseholder; (b) *permanent labourers* hired for a period lasting from a few months to year-round. These are employed for multipurpose duties including direct crop production, crop or labour supervision, assistance to tenants; (c) *casual labourers (locally referred to as ganyu)* are hired on a daily or weekly basis to perform specific tasks during peak labour demand periods. Some casual workers come from villages surrounding estates, while others have migrated considerable distances and work for periods of up to several weeks. The following figure shows the population of each category of labour force.

Figure 1:-Workforce population of sampled estates by estate-size categories



The relative importance of permanent and casual labourers varies with the size and overall nature of estates. While the relative importance of these different types of labour forces differs across components of the estate, crucially the tenants provide the largest labour input accounting for some 63% of the labour force required to produce the crop and prepare it for sale; see figure two.

Figure 2:- Percentages of workforce composition



It should be noted that the tenancy scheme is premised on the employment of family labour including women and children; as such tenants also constitute the highest population on the estates. Both permanent and casual labourers are needed to supplement the tenant labour input.

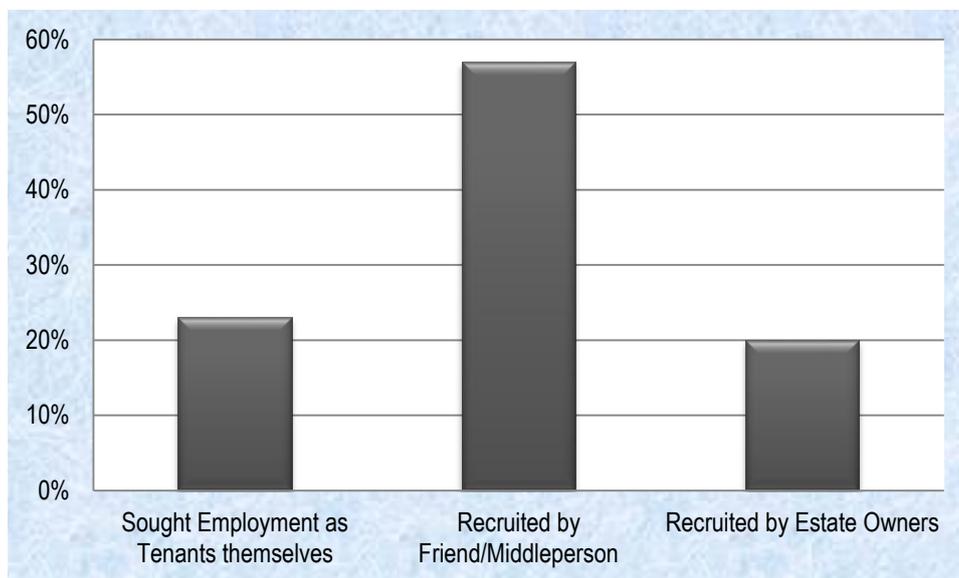
3. Findings of the Research

3.1 Labour Arrangements

3.1.1 Recruitment Procedures

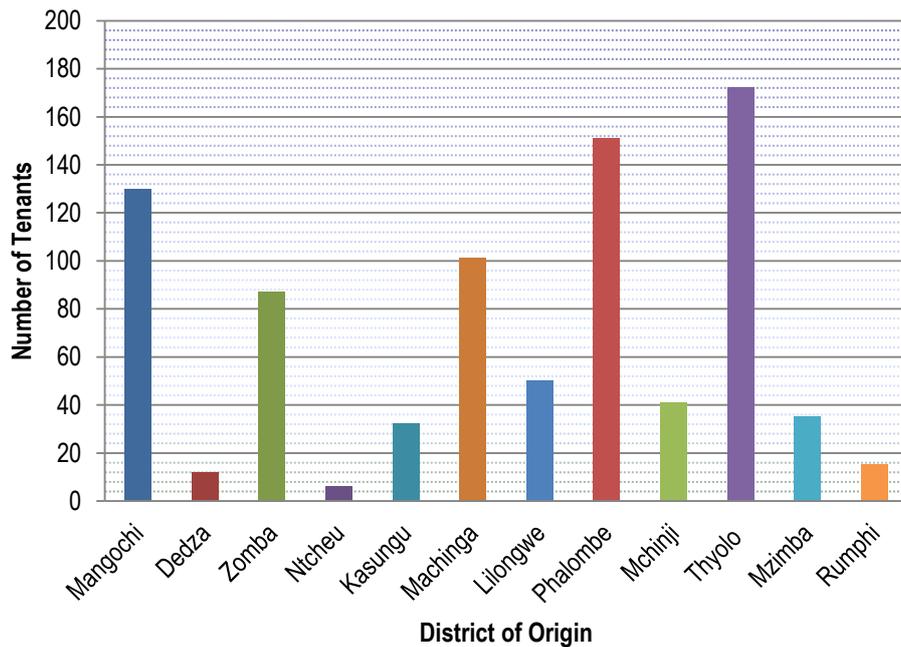
Tenants are recruited to the estates by a number of different means. The figure below shows the different recruitment procedures that are currently in use.

Figure 3:-Percentages of tenants Recruited through a particular Procedure



Tenancy labour workers accounting for 23% from the sampled estates personally went to the estates to apply for employment, either coming from their home villages or coming from another estate in the area where they were previously working as tenants. A substantial 57% of tenants got to the estate through the assistance of either a friend or a middleperson who has previously been working on the estate. The remaining tenants accounting for 20% were directly recruited from home, thus the estate owner, or a manager picked them up in a lorry and transporting them to the estate just prior to the production season. Most of the tenants migrate from their place of origin to tobacco growing districts as depicted in figure 4 below.

Figure 4:- Number of Tenancy Labour Workers by District of Origin



A high percent of the sampled tenants (77%) migrated from the southern region to the tobacco growing districts in the Central and Northern regions; particularly from the districts of Mangochi, Machinga, Zomba, Phalombe, and Thyolo. Only a small proportion (23%) of the tenants originates from the tobacco growing districts both in the Central and Northern regions. The migration labour force consists in reality of whole families, although formally only the head of the family is employed.

While a high percentage of tenants have migrated from the districts of *Mangochi, Machinga, Zomba, Phalombe, and Thyolo*, however, data from these districts indicate that fewer estate-owners are currently recruiting through the district labour office than they did in the past few years. For instance in the 2013/2014 growing season, Machinga registered only 35men and 30 women contrary to the past three years when the office used to register more than 300 individuals on daily basis; in 2013/14 season, Thyolo district only registered 1,001 individuals in comparison to 3,075 individuals in 2011/2012 growing season. The registered numbers of tenants at the labour offices do not correspond to high numbers of new arrivals on estates in the receiving districts from the same supply districts. As such, indications are that estate-owners are increasingly using the aggressive means of recruitment such as middlemen and returning tenants as shown in figure four above.

The process of involving middlemen undermines the whole employment relationship, creating a grey area around the estate owner's responsibilities and leading to a disregard for human rights. Tenants are becoming victims of highly informal recruitment practices, whether directly by the estate owner or

via an intermediary person or organisation. The forms that this takes may be more or less illegal, even criminal. In general the middlemen are former tenants, returnee tenants or simply self-employed worker who offers gangs of labourers. With growing competition and pressure from labour shortages, the system is shifting from a form of local artisanry to a more extensive organisation and linked fraudulent networks for migration of tenant individuals and families. Almost all the people recruited will not have observed the conditions on the estate prior to accepting employment there; in the process the conditions for employment are generally insecure leading to exploitation of the workforce, particularly the children and women.

3.1.2 High Levels of informality

Written contracts between estate owners and tenants are exceedingly rare, existing only for a few large-scale estates. Most tenancy agreements are oral, with wide variations in the range of pre-specified terms and the content of such terms. These oral agreements are simply for the duration of the work.

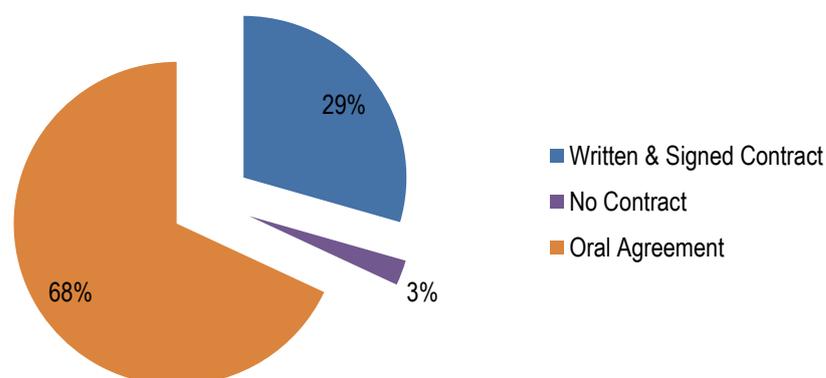
Table 2: Types of contract between tenants and landlords

	Estate Size Category (Hectares)						Total
	Up to10	10.01-25	25.01-50	50.01-100	100.1-150	150.01+	
Type of Contract							
Written & Signed	0	0	0	5	42	198	245
No Contract	8	3	6	4	0	0	21
Oral Agreement	20	34	47	153	168	144	566
Total	28	37	53	162	210	342	832

Oral contracts depend solely on the confidence and trust that both parties will faithfully perform their obligations. Nonetheless, should there be any disagreement on the provision of the contract, it becomes extremely difficult to enforce; these are agreements that are non-legally binding.

A total of 71% of tenants have either oral or no contract at all with their landlord (see figure below).

Figure 5: Percentages of Tenants having a particular type of contract



Data from the district labour offices of Mangochi, Machinga, Zomba, Mulanje and Thyolo show that in many instances several of the terms which serve to define the tenancy oral agreements are initially overlooked or left ambiguous, with attention initially focused only on the nature of work to be performed. Frequently overlook or left ambiguous are various aspect of selling and purchasing of the product from the tenants, and social welfare issues. Considering that these agreements are orally done, the conditions of the agreements are later easily manipulated by estate-owners, with tenants in a weak position to challenge alleged discrepancies or without leverage to enforce them.

3.2 Living and Working Conditions of Tenants on Tobacco Estates

3.2.1 Housing

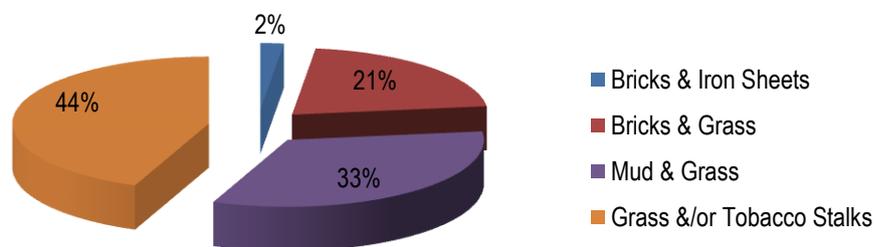
Tenants live within the estate with their families. A limited number of estates do provide tenants with houses. The houses, in most cases, are of poor quality and are not permanent structures. The types of dwelling most found on the estates are as presented below.

Table 3:- Type of Dwelling for Tenants by estate-size category

Type of Dwelling	Estate Size Category (Hectares)						Total
	Up to10	10.01-25	25.01-50	50.01-100	100.1-150	150.01+	
Bricks & Iron Sheets	0	0	0	0	0	16	16
Bricks & Grass	0	0	0	0	0	175	175
Mud & Grass	0	0	5	9	111	151	276
Grass or Tobacco Stalks	28	37	48	153	99	0	365
Total	28	37	53	162	210	342	832

Only 2 estates from a total of 18 featured brick-walled houses with iron-tins (16 houses); 4 estates had brick-walled houses thatched with grass (175); 3 estates had mud-walled houses with grass-roof (262 houses). For the remaining 9 estates, tenant housing was found to consist of small grass/reed or tobacco stalks huts with grass-roof; in other words temporary shacks. In small-to-medium-scale estate, housing is the responsibility of the individual tenant. While frequently permitted to source mud, tobacco stalks and other materials from the estate grounds, it is the tenants' responsibility to construct their own houses despite the fact that they are promised free accommodation at the time of the recruitment negotiations

Figure 6: - Percentages of Types of Dwelling for tenants on Tobacco Estates



A total of 44% of tenants and their families live in extremely poor shelter construction. These are characterised by overcrowded installations and poorly ventilated grass or tobacco stalks huts. The increasing percentage of total labour force, with a rising share of tenancy labour force on the tobacco estates has put huge pressure on the quality of housing.

3.2.2 Working Conditions on Estates

On tobacco estates labour input fluctuates with the nature of work during the season. Hours of work tend to be extremely long during planting and harvesting, with shorter hours at off-peak times. During rush periods, fieldwork can go from dawn to dusk. Much of the work is by its nature physically demanding, with manual handling of heavy loads and application of pesticides in different stages, such as during seedling production, following sowing and transplantation; and during pest control and harvesting.

Holidays are not provided for anywhere under any circumstances except when serious illness puts one off work. As for women in maternity period it takes the wisdom and judgement of the husbands to see

the necessity of a break particularly as to when they see fit that the wives should no longer be involved in the physical work of the field; thus the dangers of the nature of work to the unborn baby and the mother are not the primary reasons to stop handling tobacco or being engaged in physically demanding work.

Further, there is a general lack of protective measures against the exposure to agrochemicals at the times of use. The exposure to agrochemicals has very high potential health risks such as acute pesticides poisoning; though there were no reports of notable instances during this research period. Other health and safety concerns, include green tobacco sickness; an occupational poisoning that can affect workers who cultivate and harvest tobacco. It occurs when workers absorb nicotine through the skin as they come into contact with leaves of the mature tobacco plant. The hazardous activities have potential for dramatic effects on labour productivity and the livelihoods of the tenants.

3.2.3 Drinking Water

The availability of potable water is a problem on a large number of estates. There are limited sources of water available to provide clean drinking water to most tenant populations. Surface water sources (rainfall and its runoff to rivers or wells) are common and groundwater sources (water that is being pumped through boreholes) are few, mostly found at large-scale estates or most structured estates in terms of resource management.

Table 4:- Water Facilities available to tenants by estate-size Category

Main Water Source	Estate Size Category (Hectares)						Total
	Up to10	10.01-25	25.01-50	50.01-100	100.1-150	150.01+	
Tap Water	0	0	0	0	0	1	1
Borehole	0	1	1	2	2	2	8
Water Well	3	2	2	1	1	0	9
							18

It had been observed during estate visits that where wells were available and water sanitation facilities were developed; these were improperly managed. As such, not only is there poor access to clean water, but even when water is available in most estates the sources are not properly taken care of, thus there are high risks of contamination. The implications of lack of clean water and inadequate sanitation are widespread. Diseases such as diarrhoea were reported to be rampant during the rainy season. Women and young girls, who are the major role-players in accessing and carrying water, are prevented

from doing income-generating work or attending school, as the majority of their day is often spent walking miles for their daily water needs.

3.2.4 Food Insecurity

The most important source of food for tenants is food rations provided by the estate owner. Food rations normally consist only of maize or maize flour with other foods generally rare, save for Christmas when isolated landlords also provide meat. The length of time in which rations of food are provided varies by estates. More commonly rations are provided between four and nine months. The norm is for eight months from August to March. It is assumed that by March, certain crops such as beans, peas and pumpkins will have reached maturity helping to stave off hunger within the tenant households during the period prior to the maturation of the maize crop. However in most instances this is not the case.

The insufficiency of food rations provided was the main complaint registered by the tenants. Food insufficiency appears to be most severe in the month of February and more generally over the January to March period. On most small to medium estates, the size of the food rations for tenants does not vary with household size; for instance on 11 small to medium scale estates, it was established that both a three-member household and a seven-member household are provided with 50kgs of maize or similar kilograms of flour for a 15 days period.

Opting for one meal a day was one of the most common coping mechanisms reported among the tenants faced with inadequate food rations; other options include doing casual labour in the nearby village or estate in exchange for food. A total of 60 out of 90 tenant household heads or their family members have frequently done casual labour elsewhere for food in order to make up for their food supplies shortages. It is important to note, however, that by this time of the season, the tobacco crop is well developed, rendering the tenants household heads "captive" to the crop and unable to leave the estate in search of food or other work; as such for most tenants it appears quite normal to send children to do *ganyu* on neighbouring villages or estates in order to bring back food.

The food rations system fails most commonly and severely on small to medium scale estates given their more common problems to manage the production and/or procurement of sufficient maize. Many large-scale estates allocate land for maize crop production; these estates also provide seeds and fertilizers. However, in such instances the maize produced by the tenants is sold entirely to the estate-owners at a price set by the estate owner/manager. Such maize supplies are sold back to the tenants in form of food rations or bags for which is either paid for on the spot or deductions are made from tobacco income of the tenant at the end of the season; the latter mostly applies to new comers on the

estate and the former to staying-on tenants. Small-medium estates rarely allocate land for the purpose of maize production; the most common reason for not doing so among the sampled estates owners was the fear that tenants would allocate too much of their labour time to food crops than tobacco which is the core business. As a result, food insecurity largely remains a continuous and widespread problem among small-medium scale estate; it is currently further exacerbated by increasing labour force that estates owners are bringing under their charge.

3.2.5 Limited access to amenities

Tobacco estates are in rural areas, being among rural populations they are often very spread out and the density of services in rural areas is low. As such, the majority of these people are far away from the public services (as situation of geographical exclusion); accentuating this are the difficulty and cost of transport and the lack of communications infrastructure. Only 5 estates out of 18 have a radius of a kilometre to public services and amenities (school, and clinic). Tenants from the other 13 estates are travelling more than two kilometres to the closest medical service and school for children.

Inadequate standards of living have the direct and indirect costs on the labour power of the tenant as well as the whole estate productivity. These costs include loss in household labour availability due to disease or death, including the time of the sick individual and the time of one or more caregivers. Time losses include time at home, at the treatment centre or travelling to and from the treatment centre. The direct financial costs of medical care, including hospital or clinic fees, transport.

3.2.6 Women Welfare

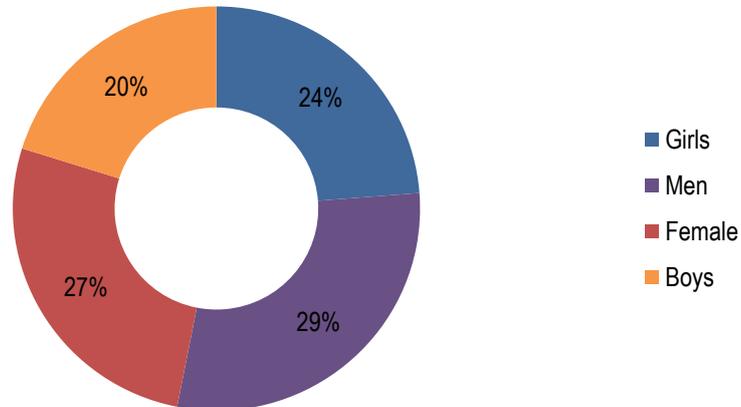
Although formally only the head of the family is employed as a tenant, generally estate owners prefer married couples to single individuals as tenants and for large-scale estates it is an absolute necessity that the tenants be married individuals.

Table 5:- Composition of Tenant Households Members Selected from the 18 Estates
(5 Households from each estate)

Estate Size Category (Hectares)	Gender				Total
	Men	Female	Boys	Girls	
	18+yrs	18+yrs	6-17yrs	6-17yrs	
Up to 10	15	10	7	9	41
10.01-25	15	12	5	11	43
25.01-50	15	15	9	13	52
50.01-100	15	15	12	10	52
100.01-150	15	15	14	17	61
150+	15	15	15	13	58
Total	90	82	62	73	307

A total of 51% of the tenants' household members are women and girls (below 18years) see figure below.

Figure 7:-Percentage of Tenants Households Members composition of Selected Estates



The tenants' household members provide a ready pool of labour in the form of wives, relatives and children who can be drawn upon as the demands of tobacco ebb and flow through the season. Usually, this extra labour resource is not officially paid.

Women benefit less than men from working on the tobacco estates for equivalent jobs and comparable levels of efforts. Large work burdens of women are not counted for simply because officially only the male household head is employed.

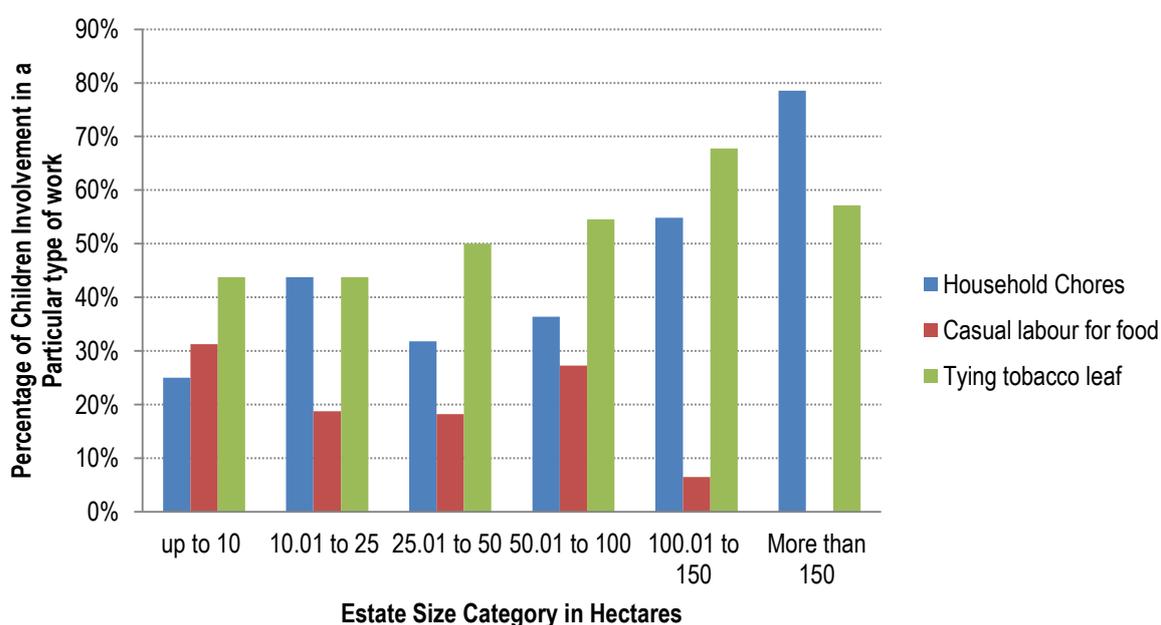
Women have a double-burden, in terms of workload due to the competing demands of care responsibility and productive work growing tobacco/economic activity. Women are active in the growing of the tobacco but they are also responsible for the bulk of unpaid care work. The long hours dedicated to unpaid care work are often undervalued even if they are crucial to wellbeing and fuel economic growth through the reproduction of a healthy and active labour force.

Due to low income, women find it extremely hard to provide themselves for their other needs such as sanitation. Reportedly, *“when it comes to monthly hygiene, sanitary pads are unaffordable and rarely available”*; as such *“women and girls of age use pieces of cloth which are simply washed with hot water for lack of soap and money to buy soap”*- these are compromised hygiene habits. Tenancy labour standards of living mirror a broader context of gender disparities which negatively affect the intra-household division of labour and bargaining power, as well as the value given to different types of work.

3.2.7 Child Labour⁸

Among tenant households, all family members are found to be engaged in tobacco and food production with women and children joining the households' heads in performing all tasks other than barn construction. Children are involved in a large variety of activities, as part of the family enterprise but above all as unpaid family workers; they are evidently an important element of the workforce in tobacco estates. Common types of work where children are mostly involved include household chores, tying tobacco leaf and casual labour for food- see figure nine.

Figure 8:- Percentages of Children involved in particular types of work by estate-size Category



15% of children have at sometime been involved in casual labour for food and the practice is common among small to medium estates. A total of 55% of children handled tobacco by tying the leaves in readiness for curing- the tendency is prevalent among large- scale estates. Children's participation is especially important during peak times. In order to increase workforce and provide for insufficient labour at peak, it is a penchant for tenants to use family labour rather than hired labour. As such, children are mostly relegated to highly seasonal and laborious activities. Just as one tenant put it, *"most children are involved in the tying of tobacco leaf"*.

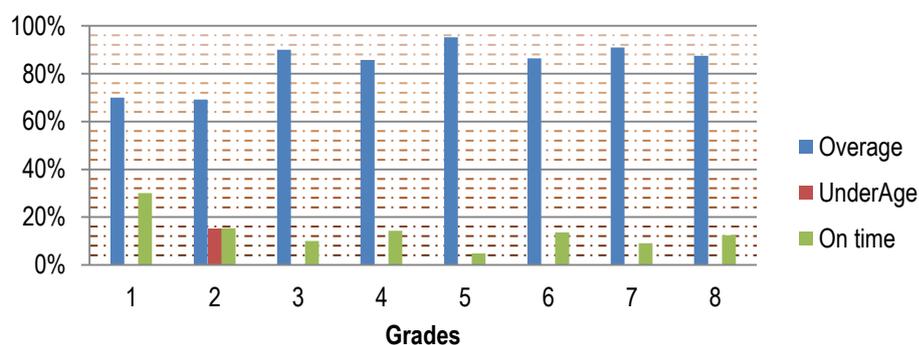
⁸ Government of Malawi, *Child Labour National Action Plan for Malawi 2010-2016*, Pg2. "Child Labour: Any activity that employs a child below the age of 14 or that engages a child between the ages of 14 and 17 and prevents him or her from attending school or concentrating on school, or negatively impacts on the health, social, cultural, psychological, moral, religious and related dimensions of the child's upbringing" ILO, 1999 "Convention on the Abolition of Worst forms of Child Labour- C182, section (d) defines the worst forms of child labour as "work which, by its nature or in the circumstances in which it is carried out, is likely to harm the health, safety and morals of children. This is referred to as hazardous child labour

These activities involve long period of sitting, stooping, and carrying out repetitive movements in awkward body positions. Children, especially in tying the tobacco leaf, come into contact with leaves of the mature tobacco plant, thereby, being highly exposed to nicotine absorption through their skin that can lead to green tobacco sickness; an occupational poisoning that affects workers who cultivate and harvest tobacco. The nature of the work is likely to harm the health and safety of children.⁹

Children are, more than often, the substitution of adults in household chores and labour when parents are working in the field. 48% of children have been involved in household chores. Ultimately, while children may perform certain household's chores in their tenants' family as way of learning future roles, however, it should be noted that there is a difference between children doing so along their parents and the children being left with the full responsibility of performing household chores; as the later has potential of negatively impacting on the wellbeing of the children physically, emotional and psychology as the workloads in these circumstances are massive for the children.

Impacts of child labour are varied but one important aspect came out prominently during data collection for the survey; it was observed that many children attending primary school are outside of the official age range. Children are considered to be on-time if they are at the official age for the grade; overage if they are one or more years older; and under age if they are one or more years younger. The official starting school age for primary school in Malawi is 6 years. The figure below shows categorises of school going children among tenants' households.

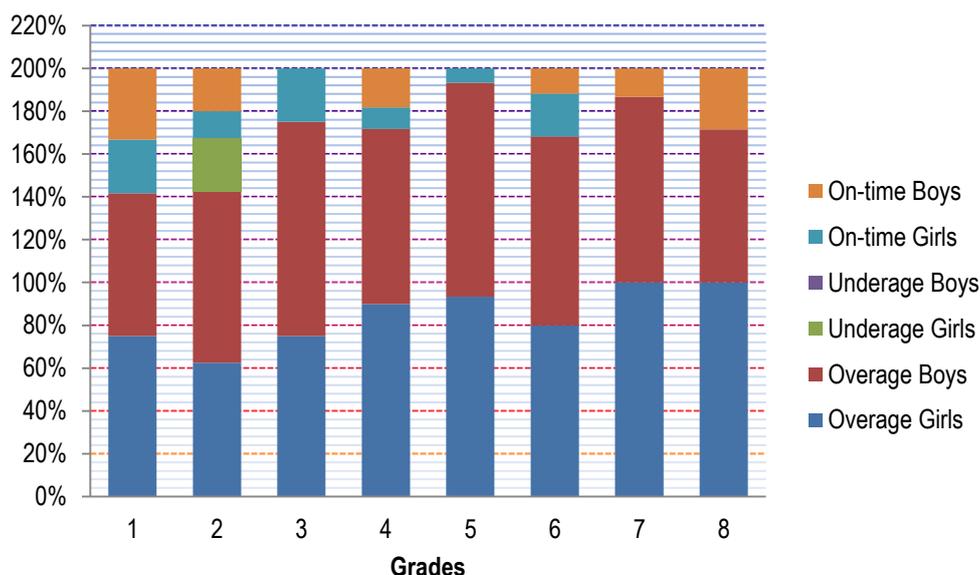
Figure 9:-Percentage of On-time, Underage and Overage Children in primary school of selected tenants' households



⁹ ILO, 1999 "Convention on the Abolition of Worst forms of Child Labour- C182, section (d) defines the worst forms of child labour as "work which, by its nature or in the circumstances in which it is carried out, is likely to harm the health, safety and morals of children. This is referred to as hazardous child labour

84% of the children are overage; thus many children attending primary school are outside of the official age range. Only 14% of primary school children are in the appropriate grade for their age; the on-time proportion declines in the higher grades. Being overage for a class can have tremendous impact on the experience in the classroom for these children and their learning abilities. There are gender disparities among primary school age children in tobacco estates with more girls than boys being overage- See figure10.

Figure 10: -Percentage of On-time, Underage and Overage Children in school by gender



87% of the girls in primary school are overage compared to 85% of the boys. A total of 3% of primary school girls are younger than the official age for the grade that they are attending. Late entry into primary school and grade repetition are the main factors contributing to overage numbers of children in first grade and higher grades respectively. These factors are a result of tenancy labour workers' life styles such as the migration of families, and frequent involvement of children in tobacco related works.

Arguably, the results suggest that involvement of children in tobacco production setups has negative influence on their early education and compromises long-term human capital investment. It is unlikely that these children will attain high level education; entailing low future productivity, poor employment prospects and livelihoods. It is important to note that child labour in tobacco farms is mostly about the broader circumstances in which the children and the parents find themselves; hence efforts to combat child labour must be integrated into policy frameworks that aim at improving the tenancy labour households' predicament.

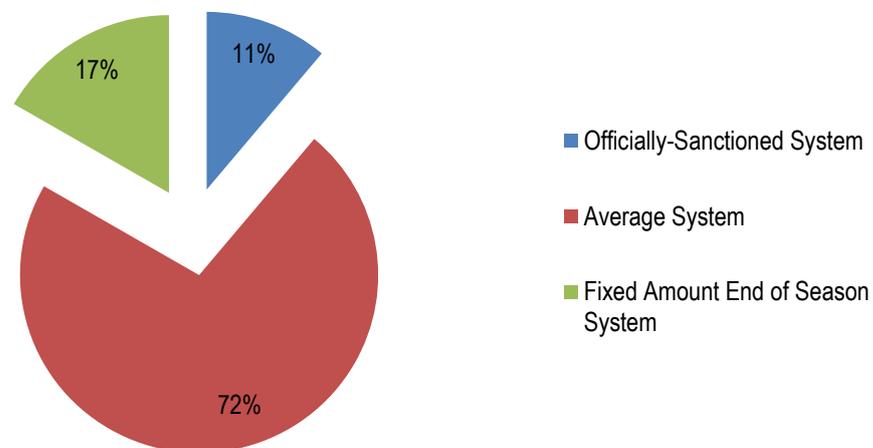
3.3 Economic Characteristics

The tenancy labour workers rely mostly, if not solely, on the use of labour as their main productive asset for earning livelihoods. The income that the tenancy labour workers derive from their labour depends to large extent on the quantity of labour with which the household is endowed. If either the quantity or the rate of return to labour is low, the tenancy labour workers are likely to live in poverty forever. However, research findings indicate that several other deficits, within the tenancy labour system further jeopardise the returns to the labour of tenants; these deficits are discussed below.

3.3.1 Non-adherence to Officially- Sanctioned selling and purchasing System

Procedurally, selling and purchasing of tobacco between the tenants and landlord is meant to follow the officially-sanctioned system of grading tobacco by its size, colour and overall firmness with many individual grades. However, the research findings indicate that tobacco selling procedures between the tenants and landlords are marked by precarious and varied practices, a limited number of estate owners adhere to officially-sanctioned prices.

Figure 11:- Percentages of estates applying a particular Selling and Purchasing system



Only 11% of the estate-owners followed the officially-sanctioned system. These are mostly the large-scale estates. However, among these there are some who apply the officially-sanctioned system but with slightly lowered maximum price rates; thus tobacco is graded and weighted according to their grades and sizes, nonetheless, bought by the landlord at slightly lower than government approved prices.

72% of the estate-owners used average systems of purchasing the leaf from the tenants. The average system is predominantly applied by small-to-medium scale estates. There are a multiple of practices that are usually referred to as average system of selling and purchasing the tobacco. The first one is that of the landlord and tenant agreeing to split the sale sheet net pay for the landlord after sales at the Auction floors where the landlord gets 70% and tenant gets 30%.

The second scenario is an agreed price for a bale of 100kg for any grade and size at the end of the growing season; in the sample of this research the prices for a bale of 100kgs burley tobacco ranged between K13, 500 and K15, 000; flue cured was slightly higher at between K17, 500 and K18, 000. Third, the Landlords approximate the officially-sanctioned system by having the tobacco leaf graded and weighted according to their grades and sizes; however, the total wage bill for the tenant was calculated at half the prices of the officially-sanctioned system.

The last and least used selling and purchasing system involves applying a fixed sum of money at the end of the season to be paid to the tenant; the system does not take into account the amount of tobacco leaf or bales the tenant will have produced at the end of the season; the predominant fixed amount for a hectare or gafa range between K80, 000 and MK120, 000 depending on the type of tobacco, flue cured or burley tobacco.

Concerns over selling and purchasing of tobacco between the landlord and tenants, mostly centred on non-adherence to officially-sanctioned systems. Furthermore, the average system pricing agreements are easily flouted by the estate owners, rarely are tenants paid the dues as agreed upon at an earlier time of contract negotiations. Accordingly, the variability in the grading and pricing systems, together with their lack of transparency in some cases, generate uncertainties and misconceptions as well as the potential for unfair treatment of tenants.

3.3.2 Cost of inputs and other Services

Estates providing material inputs provide them on credit, hence credit services are an integral part of the tenancy relationship. Some additional services are provided only on large estates; these include tractor ploughing of tenants' plots and tobacco curing services in holding barns. Other services more common throughout the range of estates include more general labour services, with permanent or casual labourers being assigned to individual tenants during peak labour demand periods.

For each of the inputs and services, the tenants are charged a cost which is deducted from their end-of-season tobacco revenues. The costing is entirely at the discretion of each estate owner. In many instances, tenants are not informed of the costs of such inputs/services until the end of the season when their final balance is determined. In the sampled 18 estates only 2 large scale estates had information that was readily available to the tenants and considerable numbers of tenants on these estates knew how much they were being charged for inputs and other services.

A substantial number of 10 medium-scale estates do not pre-specify tenant charges for individual inputs. Instead, these farmers pragmatically cost their inputs at the end of the season in line with actual or expected results from the sale of the tobacco at the auction floors. It is also common practices among these estates that 95% of the tenants are not provided with a written or any other record of their deductions. The small-scale estates, who also mostly use the IPS, claim to be currently providing inputs and services for free except for advanced money.

These practices have potential for disputes, It is essential to note these problems are imminent, considering that tenants' agreements are verbal and lack of clear/prior specification of the unit costs to be charged for production and consumption credit items; tenants hold that they are failing to derive significant benefits from their tobacco proceeds arguably due to the some of these undisclosed costs, and are of the opinion that estate-owners are treacherous regarding the costs of inputs and services.

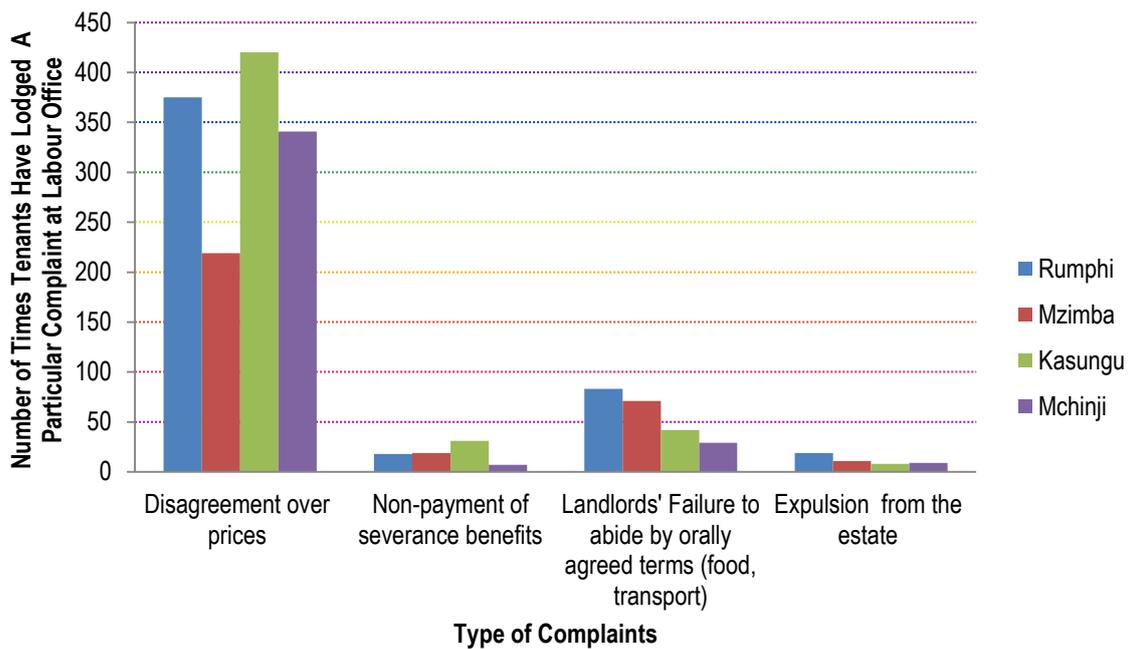
3.4 Labour Disputes and Legal Protection

District Labour Offices of Rumphu, Mzimba, Kasungu and Mchinji, (*also referred to as receiving districts*), have records of the frequency and types of complaints lodged by either tenants or landlords or managers. These complaints and their frequency are of varied magnitudes.

3.4.1 Complaints Handling and District Labour Offices in Tobacco Growing Areas

Complaints filed at district labour offices are varied in magnitude and types. They include; (a) theft and selling of tobacco to vendors by tenants; (b) poaching of tenants by other estate owners; (c) disagreement on contractual agreements- food issues, prices etc; (d) negligence or inability by tenants to do the work (failure to deliver at work); (e) failure by either party to abide by their agreed terms of the agreement; (f) violent tenants to their landlords usually under the influence of alcohol and/or other abusive drugs; (g) non-payment of terminal benefits such as severance allowances; (h) under payment (i) expulsion of tenants from the estate.

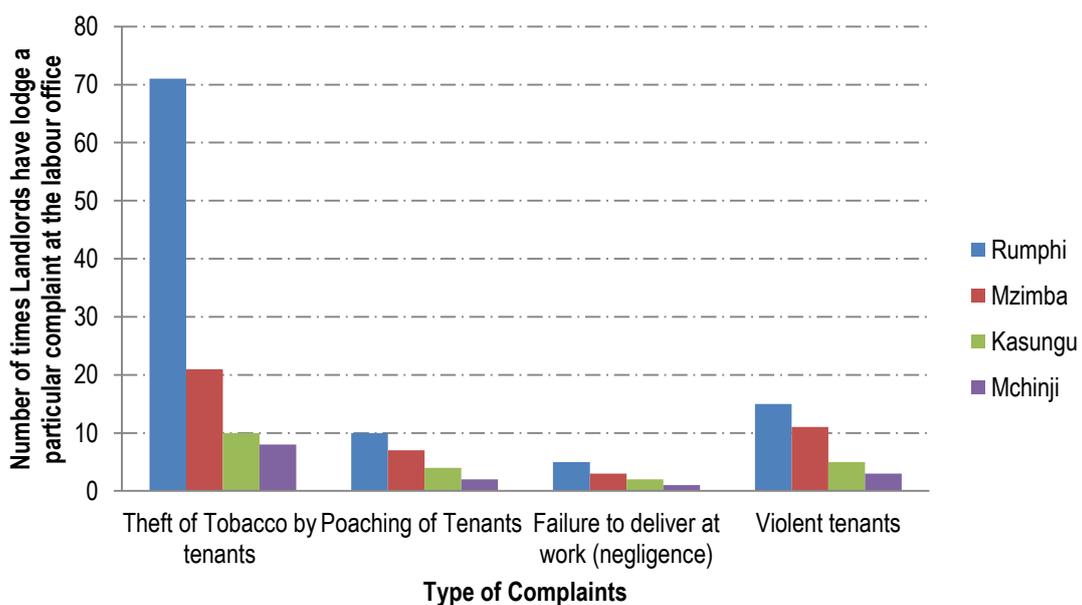
Figure 12:-Frequency and Type of Complaints by Tenants filed at Labour offices



Disagreements over the pricing of the produce ranked the highest of the complaints reported by tenants at all the four labour offices. The predominant nature of the other complaints is the landlords' failure to abide by verbal contracts.

Estate-owners have complaints against the tenants as well as those that are against other estate-owners as shown in the figure below.

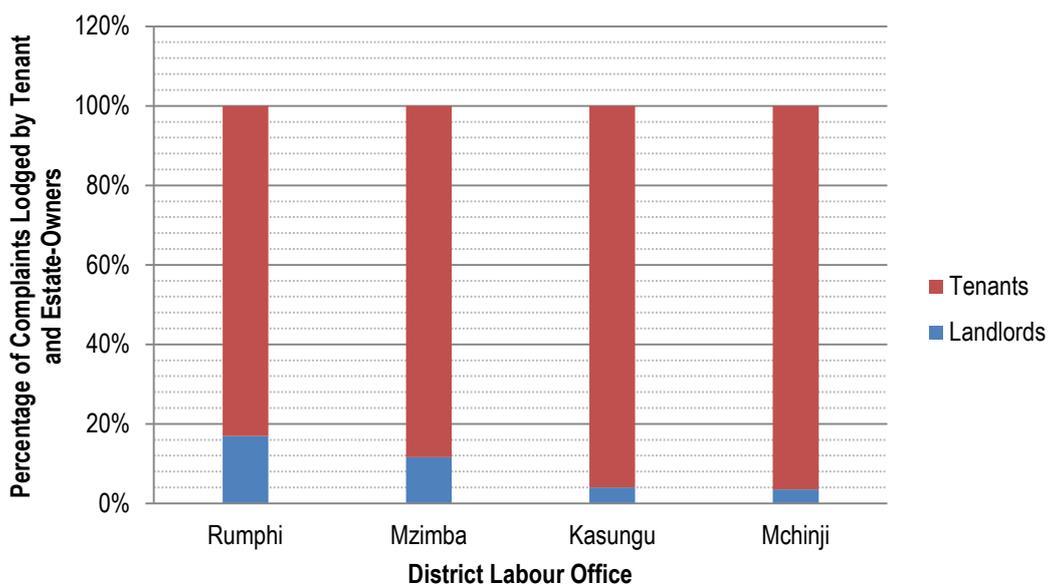
Figure 13: Frequency and Type of Complaints by Estate Owners filed at Labour offices



Theft of the produce by tenants ranked highest of all complaints reported by estate-owners against tenants. Tenants sell tobacco on parallel markets, particularly to vendors, rather than exclusively to the landlord as per the general understanding of the tenancy labour agreements. One other noticeable complaint reported by estate owners was against other estate owners for poaching of tenants; the practice is common considering that tenants are on a constant search for better returns for their labour hence any estate owner who seems to be delivering on such promises attracts a considerable influx of tenants to their farm especially from farms that have low returns for the tenancy labour.

A cross examination of complaints reported by both parties indicates that tenants have little leverage in tenancy relationship; just as depicted by figure below.

Figure 14: Cross tabulation in Percentage of Complaints reported by tenants and Estate-owners



A total of 91% of complaints registered at the four labour offices are those that have been reported by tenants against the estate-owners; only 9% of the complaints have been reported by estate-owners against the tenants.

Complaints reported by both tenants and estate owners are characterised by lack of specificity of the oral agreements in tenancy labour recruitments and the tenants' lack of leverage in negotiating or enforcing them. These results, arguably, are an indication that tenants bear most of the risk of production in tobacco sector.

District Labour Officers of the tobacco growing areas referred to lack of specific legal provisions in current legal frameworks as a major hindrance to administering justice when it comes to tenancy labour disputes and jurisdictions. The complexity lies in the generic nature of provisions in the labour legal frameworks on the subject of the tenancy labour; e.g. the employment act 2000.

3.4.2 Inadequate legal protection for tenancy labour workers

The tenancy labour workers, who account for a substantial percentage of the total agricultural workforce-(with particular reference to the tobacco sector),-remain largely invisible to policy-and decision-makers in government, intergovernmental organisations as well as to many civil society organisations and groups. Tenancy labour workers remain unrecognised in terms of goals, policies, programmes and activities aimed at poverty alleviation, strengthening of labour standards and human rights. Generally, tenancy labour workers are generically and sparsely covered by national labour legislation, in theory and practice.

Tenants in general do not have a clearly defined legal status; thus jural relationship does not exist between the estate owners and the tenants and as such they have minimum legal recourse where tenancy labour disputes arise. Comparing to those working in other economic sectors, tenants are only poorly protected by national labour law. The scope of the current legislation is limited to industrial enterprises and their workforce; to some extent the tenancy labour is specifically excluded from the scope of general labour legislation and most of what exists is not fully applicable to this sector.

A wide variety of arrangements under which work is performed or services are provided are not guided by appropriate legal framework. There is lack of clear rules which are indispensable for fair governance of labour. It is the responsibility of government, under the Malawian Constitution to ensure that its policies and practices “enhance the quality of life in rural communities”.

3.5 Tenancy Labour: End not in sight

3.5.1 Increasing demand for cheap labour; benefiting from the *Status quo*

The number of tenants compared to other labour force regimes has increased substantially from the baseline study in 2005; signifying an increase in the employment of tenancy labour work within the tobacco estate sector. The following table shows the different trends in all labour force regimes between the baseline study 2005 and 2014.

Table 6:-Workforce populations on selected estates in 2005 and 2014 by estate-size Category

Estate size Category	Number of workers by category 2014 Survey			Number of workers by category 2005 Baseline Study		
	Tenant	Permanent Labourers	Casual Labourers	Tenant	Permanent Labourers	Casual Labourers
Up to 10	28	0	6	16	0	5
10.01-25	37	0	10	22	0	7
25.01-50	53	17	21	47	16	17
50.01-100	162	21	55	110	22	45
100.01-150	210	36	98	181	35	75
150+	342	43	175	214	43	100
Total	832	117	365	590	116	254

Casual labourers have greatly increased particularly on large-scale-estates. Overall, the tenancy labour workforce has risen by 41% from the 2005 baseline study on the sampled tobacco estates. The rate increase in employment of tenancy labour is concentrated on small-to-medium-scale estates. These are also the estate size categories that have heavily benefited from the credit facilities being provided by the tobacco companies.

The bulk of expansion in tobacco estates employment of tenancy labour can be accounted for by the drastic improved access to inputs by the estate-owners; contract farming has improved the productive capital for estate-owners, and has correspondingly created a demand for labour. The dramatic expansion in farmers' ability to produce more tobacco is also in tandem with the increased demand and supply for labour within the tobacco growing sector; and it is not just a demand and supply of any labour but cheap labour- mostly the tenancy labour.

When estate owners were asked as to why they prefer to engage tenants rather than regularly hire labour on wage basis for the tobacco growing season, the responses were very similar across different districts and estates visited. The following are a concise of those responses;

- With little money available throughout the season it is cheaper to have the tenants than the hired labour.
- When a tenant family signs on, it assumes part of the risk but also gains access to potentially higher earnings; this provides a level of commitment and motivation which would normally be lacking in a hired labourer.

- Tenants come as families, which provide a ready pool of labour in the form of wives, relatives and children who can be drawn upon as the demands of tobacco ebb and flow through the season.
- Tenants are the best way the estate can keep the labour it needs for the full season; otherwise, there is too much risk of a hired labourer walking out mid-way through the season and of the landlord not being able to replace him or her before serious losses have been encountered
- Married tenants with their dependants are less likely to desert the estate in the middle of the growing season”, said one estate manager.

3.5.2 Poor and Lack of Investment in Labour Saving Equipment

Most tobacco estates are highly labour intensive, and the level of investment in labour saving equipment on most estates is generally low and non-existent on most of others. The absence of tractors and to a great extent ploughs on the vast majority of estates shows that most land preparation is still done by hand labour with a hoe.

Conclusion

The basic terms of the tenant contract are beneficial to both tenants and landowners, but that the benefits are skewed in favour of the estate-owners. Tenants provide most of the labour and bear most of the risk in production of the tobacco crop, and yet they receive only a fraction of end sale of the tobacco, have no job security, are typically provided with poor housing and few social services amenities, and have little or no leverage at all in negotiating or enforcing their verbal contracts; and last they have no legal protection with regard to their plight.

Evidence shows that tenancy labour practices will not end soon. The assumption that current contract farming would enable farmers to graduate from the employment of tenancy labour to hired labour and wage workers has had poor results so far. It is, therefore, of pivotal importance that policy should be put in place to make the practice conform to legal framework. Regularisation of the practices will eventually make the use of tenancy labour tedious, costly and economically unviable; thereby forcefully make farmers consider other workforces e.g. wage-based and hired labour. Regulating the tenancy labour should be done within the strategy of abolishing tenancy labour practices as the gradual process.

While the country ponders on how best to address the plight of the tenants it will be important to cast such a process in the light of the importance of human work and human dignity as well as the responsibility to ensure protection of workers' basic rights.

Recommendations

The country must standardize the tenancy labour contract with a framework that promotes the personal development of the tenancy labour worker and the estate owner; there must be mechanisms that grant a win-win situation instead of the current zero-sum game, highly skewed in favour of the estate owners. The evidence gathered through this research coupled with domestic constitutional obligations of the nation provide the ample rationalization for immediate need to regulate the tenancy labour system. As such the research report has the following policy recommendations which allow for a policy mix:

- A. Consider adoption of the Tenancy Labour Bill as subsidiary to current labour legal regimes in such a way that adequately provides for the regulation of the tenancy labour and the adjudication of disputes between tenants and estate-owners
- B. With regard to the tobacco industry: In the immediate term, through institutions such as Tobacco Association of Malawi, government must provide basic terms of the tenancy labour contract between estate owners and tenants that explicitly obliges estate owners to:
 - Adhere to officially-sanctioned system of selling and purchasing of tobacco produce between tenants and Estate-owners.
 - Register the tenants and their families at the labour offices of either the place of origin or at the district of destination
 - To have written contracts with the tenants.
 - Specify the types and unit costs of inputs and production support services to be provided by the estate owner
 - Specify measure against tenants stealing and selling the tobacco produce to other than the estate-owners
- C. In the medium-term, invest in and implement monitoring exercise of the estates by district labour officer
- D. Decentralise some the legal powers of the industrial court to district magistrates to provide for coverage and easy reach of the rural labour sectors such as agricultural industry

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