



Inclusive Land Governance in Mozambique: Good Law, Bad Politics?

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It has become commonplace to claim that the Mozambican land legislation, with the 1997 Land Law as its hallmark, is amongst Africa's most innovative and progressive. Mozambique's legal framework may have many positive aspects, but its implementation has faced many challenges. Some of these concern the legal framework itself, others relate to the land administration and governance more broadly. Institutional fragility combined with corruption and the capture of the state and economic resources by the ruling elite pose significant obstacles to implementing the legal framework, particularly with regards to its most progressive elements. The ability to protect the legally acquired land rights of rural communities has been further challenged by the surge in demand for land that has accompanied Mozambique's economic development and, until recently, the large inflows of Foreign Direct Investment attracted to the country by natural resource endowments, price incentives and the development of special economic zones and growth corridors. In a context of a fragile governance framework, this has resulted in unlawful land occupation and widespread conflict with the local population.

This paper discusses inclusive land governance in Mozambique across three themes: (i) legal and governance frameworks; (ii) space and territory; and (iii) conflict. It focuses extensively on the country's legal framework and the DUAT, the right to use and benefit from the land. The DUAT is a distinctive element of the Mozambican legislation that has land as the property of the state but recognises land use rights for occupants and users on the basis of a unitary system of tenure. The challenges of putting in practice what is thought to be one of Africa's most progressive legal frameworks are analysed. These are set in a context where despite land abundance there are concerns over land grabbing and dispossession of rural communities, which constitute over 70 per cent of the country's population. The law may be progressive but government politics are not, as an increasingly hegemonic elite controls Mozambique's political system and resources.

Against such context, demand for sound land governance and advocacy for the rights of customary occupants and local communities has been growing and civil society organisations (CSOs) have become a prominent force. Besides their advocacy work, CSOs are key service providers, building local awareness about the law and strengthening capacity of local people and communities to engage with government and investors of land issues. Given the vulnerability of local communities, the work by CSOs of safeguarding legally established rights remains fundamental.





Yet, connecting the protection of rights with the promotion of rural development is a major challenge in the current context, where neither government nor the private sector have so far created opportunities for inclusive development. The negative track record of land concessions, including major flaws in compliance with legally required community consultations, has damaged confidence in government authorities and investors. This has seriously compromised the implementation of the so-called 'open border' model of community delimitation that was expected to allow communities the opportunity to become active actors in the deployment of their tenure rights. Notwithstanding the potential of community delimitation as an empowering tool for local communities, this paper argues that delimitation should be employed less as an act of ring fencing land and more as an instrument for strategically looking for ways of strengthening people's livelihoods. For that to happen, land tenure security would need to be addressed in conjunction with broader rural development efforts.

We find that despite having an overall progressive land legislation – that protects local communities' tenure rights, recognises customary practices and promotes participatory governance – several key aspects remain ambiguous and insufficiently regulated. The notion of 'local community' that is central to safeguarding tenure rights of rural people remains a critical issue that deserves attention from a broader governance and rural development perspective and beyond land rights. We also find that CSOs have played a key part in protecting and promoting the rights of rural people but it has been harder to connect this work with the promotion of development opportunities for rural communities. Private investment in agriculture and natural resource extraction have generally not benefited local communities but often generated conflict. The delimitation of community land can work not only as an instrument of tenure security but potentially also as a mechanism of conflict prevention and territorial planning. Yet, delimitation is no silver bullet and its practice needs to be thoroughly assessed.

SDC's cooperation programme is well placed to play a leading role in combining land governance with rural development efforts, given its track record with broader governance and socio-economic development issues in Mozambique. SDC is also well placed to promote, alongside local partners such as OMR or CTV, a research agenda on land that fills current gaps. Areas that require in-depth analysis include: (i) experiences with community empowerment processes on land (such as delimitation) and implications for local governance and impact at the community level; (ii) the changing dynamics of land conflict over time (with a need for more in-depth and longitudinal analyses on individual cases that allow for a more rigorous assessment of impacts and successes in conflict management); and (iii) the competing perspectives on the value of land and how land should be valued (beyond a narrow definition of productive use and market value and taking into account the wider significance of land as a place for living, social reproduction and environmental management) as part of an inclusive land governance agenda.

