

# Implications of Land Deals in Africa for Equitable and Sustainable Development in Mozambique

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## Research

### *Introduction*

The 2004 Constitution of the Republic of Mozambique has moved a step further from the earlier versions of 1975 and 1990 in the search of legal mechanisms to ensure equitable and sustainable rural development where the rural poor are given voice and power in decision-making related to management of land and other natural resources. By establishing a "Community Public Domain" over natural resources, Article 98.3 has been interpreted as aiming to reinforce the principles of participatory governance already included in the legislation (Salomão, 2007). This is also seen as a move to reinforce the goals and objectives of community-based natural resources management as an instrument for promotion of local participation in rural development (Draft CBNRM Strategy.2009). The concept of "Community Public Domain" and the legal regime that should orient its implementation is yet to be adopted.

So far, the main mechanisms from the Land Law (Law No.19/97, of October 1) for ensuring inclusion, equity and sustainability in land distribution and management include the delimitation of community areas, a process through which the limits of community areas are (re)confirmed using customary norms. This process integrates the customary system into the formal administrative system through the issuance of a Community Land Certificate by government institutions. In the context of interaction between communities and investors, existing legal mechanisms include community consultations for attribution of land rights to investors, partnership agreements between investors and communities, and the environmental licensing process, involving an environmental impact assessment, as imposed by the National Environmental Law (Law No.20/97, of October 1).

### *Problem*

Despite being reputed as one of the best land laws in southern Africa, government implementation of the Mozambican land law, especially the progressive provisions that balance community and private land rights, has been under attack due to the gap between theory and practice. In a recent communication presented at the First Public Seminar of the Presidency of the Republic on February 23, 2011, rural communities, research institutions and national NGOs indicated that the practice in implementing the provisions of the law shows a big disconnect with policy discourse. The government is seen as failing to effectively protect the rights of the rural poor by favoring private interests. In fact, evidence from these institutions show that so far the number of community land delimitations is far less than expected; community consultations are not undertaken in a manner that involves and considers community positions and priorities; benefits promised by investors are not materialized and; government officers are not held accountable for their involvement in unlawful actions in the attribution of land use rights (Salomão, A. and Remane, S. 2007; Tanner, C and Baleira, S. 2006).

These problems were exposed in recent years by the race of foreign investors to large tracks of land in Mozambique and other African countries, and by the Presidential campaign for promotion of biofuels production through massive plantation of Jathropa. A research report on land grabbing in Kenya and Mozambique (2010. FIAN International) indicates that in 2007 alone agro fuel investors applied for land use rights covering close to 5 million hectares in Mozambique. It was also in this year that the government approved one of the most controversial investment projects due to its adverse impacts on local communities. The Procana project received 30,000ha of land in Massingir for biofuels production, in a process that confirmed the problems indicated above, and exposed conflicts between investors and local communities, between the government and local communities and within the government itself (Nhantumbo, I. and Salomao, A. 2009). The apparent lack of clarity in the on-going green revolution campaign which has also triggered the race to acquisition of enormous areas for food crops production is fuelling an ongoing debate.

With regard to land deals and their impact on community rights there are concerns related to the current partnership models between the large and small scale producers of agriculture crops and even forest plantations, as they are mostly limited to: (a) provision of employment generally low paid positions; and (b) contract farming with provision of inputs by the company which then purchases the product (raw material) (Ibid).

Therefore, these approaches may be 'inclusive' insofar as they involve local people, but they also raise important questions: do these models and the existing legal provisions ensure that large scale landholders contribute to local stability and development or do they merely perpetuate dependency and exacerbate rural unrest and poverty? Can the community benefit in a more productive and less dependent way from large scale land use investments, through alternative forms of partnerships?

### ***Research Objective***

This research intends to analyze governance issues in decision-making for land attributions, and the current models of engagement between big investors and rural communities. The research will look at, and seek greater understanding of, these issues with the objective of contributing to the formulation of the legal concept and regime of "Community Public Domain" in a way that raises the voice and reinforces the power of local communities in negotiations of land deals.

### ***Hypothesis***

While large land concessions represent a threat to local rights and more equitable and sustainable local development, it is possible to develop institutional, political and legal mechanisms which can integrate such concessions into the priorities, interests and socio-cultural concerns of rural communities.

### **Biography**

Alda Isabel Anibal Salomão is an environmental lawyer with considerable experience in drafting and reviewing environmental legislation, policies and programs and in the implementation of land and forestry legislation. Considerable experience in the coordination of environmental law and policy research programs, in the review of environmental impact assessment reports and in the design, implementation and monitoring of environmental programs and projects. Expertise in legal and institutional aspects of environmental good governance. Proficiency in Portuguese and English.

***Recent publications include:***

Salomão, A. 2003. Environmental Legislative Representation

Salomão, A. 2005. Public Participation in Natural Resources Management

Salomão, A. 2008. Commentários à Lei do Ambiente

Salomão, A. Goncalves, S. 2008. Guião para Consultas Comunitárias

Salomão, A. Nhantumbo, I. 2008. Boa Governação na Gestao de Recursos Naturais

Nhantumbo, I., Salomão, A. 2009. Biofuels, Land Access and Rural livelihoods in Mozambique