

Renewed Land Debate and the 'Cargo Cult' in Mozambique

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Land is again the subject of debate in Mozambique. The 1997 land law was passed following widespread consultation in one of the most democratic processes in Mozambique in the 1990s, and the law won praise for protecting peasant rights while creating space for outside investment. This balance is now being questioned. The law gives communities the right to delimit and register their land; once registered, potential investors need to negotiate with communities rather than merely consult them. About 100 communities have had land delimitations approved, but so far there have been no negotiations with investors. The international community and senior government officials argue that development in Mozambique will only come from private investors, mainly large foreign investors. They want greater emphasis on improving conditions for would-be investors, including speeding-up the consultation process, and less stress on peasant land delimitation. Pressure to change the constitution to allow land privatisation has been rejected, but debate continues on permitting land 'titles' (effectively, leases) to be sold and mortgaged. This article argues that the land debate is actually a proxy for a debate about rural development. A minority see the need actively to promote some form of peasant-based development. However, most of the Mozambican élite and the international community have become adherents of a 'cargo cult' which believes that development is something that flies in from outside – from the World Bank and foreign investors.

Introduction

Mozambique's 1997 land law was approved after what was surely the most democratic process in Mozambique in the 1990s. The law has been praised, even by the World Bank, for the way in which it protects peasant rights as well as for the innovative way in which it deals with collective and community tenure. Land is owned by the state and cannot be sold or mortgaged, although individuals and communities have the right to occupy their land and gain a title document, and then to use the land, develop it, and even rent it out. Regulations are slowly being introduced, and about 100 peasant communities have had land demarcated and registered. Investors can negotiate with communities to lease registered land, or attempt to gain a title to 'unoccupied' land – although there is an intense debate as to whether such a thing exists. In 2001 an unexpected, intense, diffuse and confused debate on land law was opened when Agriculture & Rural Development Minister Hélder Muteia unexpectedly proposed a discussion on land privatisation. Shortly after this, the World Bank and the United States Agency for International Development (USAID) strongly backed land privatisation. By the end of 2002, privatisation had dropped off the agenda, but the land debate continues to bubble and to raise important issues about development policy, foreign investment and government attitudes toward peasants. Views of land use are

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directly related to how people see Mozambique developing, and there is little agreement either within Mozambique or within the international community. Is the stress to be on foreign or domestic investment? Is the priority to be bigger projects or peasant farmers?

Mozambique is unusual in southern Africa in that there is no felt need for a 'land reform'. Although there are some large plantations, in most areas there is little land pressure and little landlessness, and at local level there is often a willingness to allocate land to outside investors, making the land debate very different from that in other countries in southern Africa, such as Namibia, Zimbabwe and South Africa. Production, however, is very low, and poverty levels in rural areas are very high and worsening.¹ Thus, there is substantial discussion about how to encourage investment and increase productivity in rural areas.

This study grew out of a commission by the Oxfam GB Regional Management Centre for Southern Africa, which was initially concerned with possible land privatisation. As the underlying development policy issues became clear, I expanded the study into its present form. I interviewed seventeen Mozambicans and eight non-Mozambicans, some of them several times. Interviews were open-ended and were conducted in April and May 2002 in Maputo. The goal was to canvass the broadest spectrum of relevant opinion, and interview subjects ranged from the Minister of Agriculture and Rural Development to activists with peasant associations and the land campaign; also interviewed were academics, business people and influential foreign agencies. A number of Mozambicans working for international agencies and the government did not want to be quoted, opposing the views of their superiors or funders. For this reason, about one-third of the interviews were carried out on the promise of confidentiality. Similarly, I was shown internal papers on the promise that I would not quote directly from them. These promises have been kept. In this article, quotes attributed to individuals without another reference come from these interviews; where people are not named it is because confidentiality was promised. For historical material on the development of the land law, I drew on my own past writing.² Translations from Portuguese are mine unless the cited reference is in English.

This article examines only the issue of rural land. It does not look at access to housing land in urban and peri-urban areas, which is subject to a very different debate; in an urban context the environment is very different with land shortages, serious corruption in the allocation of land, and an informal land market.³

The 1997 Land Law and Peasant Rights

The end of the Cold War brought the decade-long war of destabilisation against Mozambique to a close in 1992, and peace opened up many rural areas to free movement. Large numbers of refugees and internally displaced people returned home or settled in new areas, leading to some conflicts. There were concerns both about land grabs as well as that genuine proposals for agricultural development were being caught up in endless bureaucratic processes. Land policy seemed to be failing to live up to its aims of protecting peasant rights while encouraging development.

1 Zambézia is potentially the richest province agriculturally, yet it remains the poorest province. 'Real GDP per capita' in Zambézia fell from \$106 in 1997 to \$78 in 2000 and Zambézia's share of national GDP fell from 10.3 per cent to 8.8 per cent in the same period, according to the *Mozambique National Human Development Report 2001* (Maputo, United Nations Development Programme, 2002).

2 See, for example, *Mozambique Peace Process Bulletin*, 17 (November 1996) available at http://www.geocities.com/Paris/1661/mozpeace96_2.html

3 See, for example, P. Jenkins, 'Strengthening Access to Land for Housing for the Poor in Maputo, Mozambique', *International Journal of Urban and Regional Research*, 25, 3 (September 2001), pp. 629–648.

In 1995, the government launched a two-year national debate in what is probably the most broadly democratic process in Mozambique since the war.⁴ After a last-minute struggle between parliament and the council of ministers, the 1997 Land Law (Lei de Terras 19/97)⁵ was approved. Detailed regulations to the law for rural areas were approved in 1998,⁶ and a technical annex on delimiting community land was approved in 2000;⁷ these set out detailed procedures that are discussed in the relevant sections later in this article.

Mozambique's constitution (article 46) says 'land is the property of the state' and it cannot be sold or mortgaged.⁸ The new land law defines three ways in which people can gain land use rights:

- (1) Mozambican individuals and communities have the right to land that they have traditionally occupied. This right of occupancy is permanent.
- (2) Mozambicans have a right to land which they have occupied 'in good faith' for at least ten years. This right of occupancy is permanent.
- (3) Mozambican and foreign individuals and companies can be authorised by the government to use land for 50 years, and this can be renewed once for another 50 years. This is, in effect, a lease.

Perhaps the most innovative aspect of the law is the definition of a 'local community' as 'a group of families and individuals living in a defined area, smaller than a locality, that wants to safeguard its common interests by protecting its living area, farming areas whether cultivated or fallow, forests, sites of socio-cultural importance, pasture, water sources and areas of expansion'. This is both broad and vague – communities are self-defined and can be traditional clans with chiefs, or can be extended families, or can simply be a group of neighbours.

The law is an attempt to balance the need for a simple system to guarantee the rights of most Mozambicans to the land they occupy, while creating a modern land title system that is seen as necessary for investment. Individuals and companies which are given leases by the government are granted '*títulos de uso e aproveitamento da terra*', a 'title for use and improvement of the land', known in local shorthand simply as a 'title'.

Communities, individuals and good faith occupants have automatic and overriding rights to the land they occupy. If they wish, they can take steps to register their land rights formally. First, they can have their land delimited and have the resulting sketch map registered in the land registry, after which a certificate (*certidão*) is issued (see Delimitation of community land, below). Next they can carry out a more precise and more costly mapping exercise called a demarcation, which includes the placing of cement markers at reference points around the perimeter, and then apply for a formal title document.⁹ This is the same 'title' as is used for a government-granted lease, but is a right for occupants and is permanent. Local communities manage the land within their area and can use 'customary'

4 The best detailed summary of the process of development of the law is a 2002 UN Food & Agriculture Organisation (FAO) paper by Christopher Tanner, 'Law-Making in an African Context – the 1997 Mozambican Land Law', FAO Legal Papers Online, 26 (<http://www.fao.org/legal/prs-OL/lpo26.pdf>). FAO provided much of the technical support for the process and helped to facilitate the debate. A shorter report of the key points of the law is in the *Mozambique Peace Process Bulletin*, 17 (November 1996) on http://www.geocities.com/Paris/1661/mozpeace96_2.html

5 Lei de Terras 19/97 de 1 de Outubro.

6 Decreto no 66/98 – Regulamento da Lei de Terras, approved by Counsel of Ministers, 15 July 1998.

7 Diploma Ministerial no 29-A/2000 de 17 de Março – Anexo Técnico ao Regulamento da Lei de Terras, MADER.

8 Translations from Portuguese are by the author.

9 The cheaper and simpler 'delimitation' is only available to occupants; new investors must do a full 'demarcation'.

procedures. Within a community, individuals can apply for a personal title, but this must be agreed by the community as a whole.

In the case of disputes and in establishing community rights and good faith occupancy, courts must accept verbal evidence. This was a problem under the previous law and regulations, which gave precedence to paper titles even if they had been incorrectly issued, even when the land was already occupied by someone else; now evidence of occupation takes precedence. Women are given specific rights (which should not have been necessary since the constitution guarantees women's rights); in particular, titles can be inherited and inheritance procedures cannot discriminate by sex. Nevertheless, there is a concern that this definition of 'community' increases conservative and normally male 'traditional' authority, and that this may work against the interests of women.¹⁰

An individual or company that does not occupy the land it wishes to use submits an application to the SPGC (Serviço Provincial de Geografia e Cadastro – Provincial Mapping and Land Registry Service). This application must include 'a development plan and/or investment project'.¹¹ There must be a 'consultation' with the local community to 'confirm that the land is free and has no occupants'; titles cannot be issued for land that is already occupied. A provisional authorisation is granted, for five years for Mozambican companies and individuals, and for two years for foreigners. The development plan must be carried out within that period. If it is, the applicant then receives a title. Provincial governors can approve applications for up to 1,000 hectares, the Minister of Agriculture & Rural Development 1,000–10,000 hectares, and the Council of Ministers above that, but only as part of an agreed land-use plan.

The technical annex on delimiting community land makes clear that communities are free to enter into contracts for economic activities on their land.¹² Local communities also must participate in managing natural resources in their area. Although communities have overriding rights to their land, there is a huge procedural difference, and probably a major practical difference, if they have a certificate or title. If an outside investor wants to use land for which no title or certificate has been issued, the local community is simply 'consulted' by the government. The land law says that 'the process of granting a title for use and improvement of land includes an opinion by the local administrative authorities, preceded by a consultation with the respective communities for the purpose of confirming that the area is free and has no occupants'.¹³ Where there is a certificate or title, the investor negotiates directly with the local community, which in practice 'owns' the land; the investor enters into a contract with the community and the government is not involved. The Land Campaign¹⁴ issued a poster saying 'The community can sign contracts' showing an investor sitting at a desk with the peasants. Although a certificate or title document gives a community real power to negotiate with potential investors, the system is very new, and there are only a few examples of negotiations having been opened – for a game farm, for mining of semi-precious stones, and for small farms by outsiders. By the end of 2002, no contracts had been signed.

The importance of the two different approaches revolves around very different interpretations of whether or not there is land in Mozambique which 'is free and has no occupants'.

10 R. Waterhouse and C. Braga, 'Seeking Security – Women's Tenure Rights in Zambézia' (Maputo, ORAM, World Vision, Zambézia SPGC, 2002).

11 Form 'Processo Simplificado de Autorização do Direito de Uso e Aproveitamento da Terra', as published in *Notícias* (Maputo, 14 November 2001), and *GeoTerra* (Maputo, DINAGECA [Direcção Nacional de Geografia e Cadastro – National Directorate of Mapping and Land Registry], January/February 2002).

12 Diploma Ministerial no 29-A/2000, article 3.

13 Lei de Terras 19/97, article 13.

14 Campanha Terra is a coalition of Mozambican and international non-governmental organisations (NGOs) campaigning on land rights and issues.

Mozambique is less densely populated than many parts of southern Africa. There are substantial parts of Mozambique that could be used more intensively and significant areas where local people would encourage and support investment, but they are not free or unoccupied. Nearly all land in Mozambique 'belongs' to some group or individual. Even land that seems to be vacant has uses, as a source of firewood or wild produce or as a watershed or space for future farmland as the community grows larger. 'There is some vacant land, but it is precisely where people don't want to invest', comments Mozambique land expert José Negrão, a founder and member of both the Land Forum¹⁵ and the research network *Cruzeiro do Sul* (Southern Cross). But such land lies in parts of Niassa Province, far from roads and services, or remote areas of Gaza. 'Even in Nampula there is vacant land. But it is on mountain tops. All the useful land is claimed', explains Domenico Liuzzi, director of the Mozambican NGO *Kulima*, a subsidiary of the Italian NGO *Cesvitem* (Centro Sviluppo Terzo Mondo). 'We have never found a community which says it doesn't want investors', notes Ismael Ossemame of UNAC (União Nacional de Camponeses – National Peasants Union). But this is not the same as saying the land is unused or vacant.

The sharp difference in interpretation is shown in this series of quotes:

'The Agricultural Census of 2001 shows that 83%–90% of Mozambique's arable agricultural land (not forest) is not producing anything' – Cynthia Rozell, USAID.¹⁶

'88% of land is not occupied' – Minister of Agriculture & Rural Development, Hélder Muteia.

'Mozambique has about 37 million hectares of land for agriculture and actually uses only 4.5 million hectares, which means that we have 30 million hectares still to be farmed, and it makes no sense to tie up this land to prevent investment' – Hélder Muteia.¹⁷

'People are wilfully misusing the Agricultural Census when they say 80% of land is free. It actually shows that only 50% of arable land is not used' – José Negrão.

'In Nampula and Zambézia, there is unoccupied land – "no man's land"' – donor official.¹⁸

'There is no "no-man's-land".' – senior official of MADER (Ministério da Agricultura e Desenvolvimento Rural – Ministry of Agriculture and Rural Development).

'There is no free land; one community goes up to the next' – Ismael Ossemame, UNAC.

'With few exceptions, all land falls under the customary occupation of at least one community, and there is no "free" land between communities' – Land Campaign position, 25 November 1999.

Peasants and their allies look at how the land is being used now; those promoting outside investment look at how the land could be used and dismiss present activities as marginal. But in the context of such sharp differences of interpretation and totally opposed views of the reality on the ground, consultation and delimitation become important.

Investment and Consultation

Communities must be 'consulted' about any proposed development in their area on land not delimited or demarcated (that is, land where there is no certificate or title). José Mucombo, director of DINAGECA (Direcção Nacional de Geografia e Cadastro – National Directorate of Mapping and Land Registry), argues that 'in practical terms, the land belongs to the community. If it rejects a proposal, a private investor cannot enter. The community has a

¹⁵ Fórum Terra is a Mozambican NGO.

¹⁶ C. Rozell, letter to Joseph Hanlon, 29 January 2002, Ref: USAID/75/02

¹⁷ *Domingo*, 8 July 2001.

¹⁸ Several people agreed to be interviewed only on condition that they not be identified, and this has been respected.

veto'. DINAGECA issued instructions in 1999 on carrying out consultations. A first meeting is with the district administrator, the land applicant, SPGC (Serviço Provincial de Geografia e Cadastro – Provincial Mapping and Land Registry Service) and 'a majority of community members'. The rights of the community are explained and the proposal presented, and the meeting selects between three and nine people. Those representatives meet a second time with the administrator, applicant and SPGC, and all must sign the minutes of the meeting and any final agreement.

The instructions sound good in principle, and some consultations seem to have been reasonable; however, many have been poorly carried out and have violated these instructions, in part because communities lack the skills to participate in these formalised procedures (see Empowering peasants, below, for further discussion of this). Although consultations are supposed to involve two separate meetings, most seem to have been cursory and just a single meeting, with some as short as 20 minutes, and poorly recorded. Maria da Conceição de Quadros, director of the Technical Secretariat of the Inter-Ministerial Commission to Revise the Land Law, notes that some consultation exercises have been 'rudimentary in the extreme. Cases have been recorded where cadastral teams go to the district in question, quickly inform the community, and gather together the 3–9 signatures needed. In just a few hours the future of significant land resources is decided for the next 50 or 100 years'. She cites one example of a company that in 1999 applied for 2000 hectares for cashew and coconut trees and 1,000 hectares for pasture for cattle; 20 unskilled people would be employed. The SPGC report said the land was not occupied, although it also said the land had cashew and mango trees and family farms (which means it was occupied). There was a consultation meeting with the district administrator, the head of SPGC, and 93 local people. The meeting agreed that the land contained many local farms and some houses. Nevertheless, because of the jobs the community was prepared for the 2,000 hectares of trees to go ahead, but not the cattle because they would destroy local farms. Suddenly, in March 2001, the applicant reported that the community had agreed to the whole project, after it had been paid 62.3 million mt (then \$3,500) compensation – buying land for just over \$1 per hectare. More interesting was that different individuals had been given different amounts – 29 received an average of \$25 each, six received \$55 each, and eighteen received an average of \$130 each. No explanation was given for the differences.¹⁹

In Zambézia there have been 137 consultations with rural communities and in only a few cases have communities rejected the proposal.²⁰ However, 1,141 titles have been issued for 570,012 hectares, and an ongoing study of Zambézia indicates that a significant number of applications for titles have been approved without any recorded consultation with the community. As an official part of the consultation process, the investor is expected to pay the community 300,000 mt (about \$12). But this is sometimes treated as a bribe-like payment for signing the final papers. Arlindo Chilundo of the Land Studies Unit said there have been occasions where 'leaders' acted for personal interest and signed papers in exchange for money – something which has happened in other countries as well.

Not all consultations have been bad. Three examples show that local communities can make gains and choices. In Maganja in Zambézia province, a community negotiated with three different forestry companies and picked the one offering the best deal – eight paid jobs as forestry guards, with bicycles, and an agreement not to fell trees in sacred areas. In

19 M. da C. Quadros, 'Country Case Study Mozambique', paper given at the World Bank land conference, Kampala, 2002 (hereafter referred to as Quadros, Country Land Study).

20 S. Norfolk and H. Liversage, 'Land Reform and Poverty Alleviation in Mozambique' (2002) (<http://www.sarpn.org.za/CountryPovertyPapers/Mozambique/LandReform/index.php>).

Guruè in Zambézia, Rachel Waterhouse and Carla Braga report an example where a private investor arrived with a 'credential' from the governor and asked for a particular piece of land for grazing, but the community refused, and the district court judge backed the community.²¹ In Namialo, Nampula province, César Tique reports that a community had to decide whether 700 hectares would be given to a Portuguese private farmer or a local small and medium farmers' association, both of whom wanted to expand cotton production; they opted for the private farmer, in part because he offered jobs and inputs for peasant cotton cultivation.²²

In Manica province on the border with Zimbabwe, at least 60 white Zimbabwean farmers who lost land in Zimbabwe are opening farms to produce tobacco and flowers for export. (See Poul Ove Pedersen's article, 'Zimbabwe's Changing Freight Transport and Logistical System: Structural Adjustment and Political Change', in this issue of JSAS. Although his focus is on transportation and logistical changes in Zimbabwe in the 1990s, he also describes how commercial Zimbabwean farmers have set up horticulture projects in Mozambique.) Governor Soares Nhaca has limited the incoming farmers to 1,000 hectares each, much less than they initially requested, and has required that they be spaced out across the province rather than grouped together. The negotiations are taking months and sometimes more than a year, rather than two days, in part because serious consultations are being carried out. So far, the process has been seen as successful. The new farmers are gaining local approval because of the substantial number of jobs being created. Nhaca reports increasing demands by Zimbabwean farmers for land,²³ so the slower consultation process does not seem to have discouraged investors.

Previously applications took years to process, creating massive possibilities for corruption. With wide publicity including full-page newspaper advertisements, on 22 October 2001, DINAGECA introduced a new simplified application procedure for land-use titles. There is a shorter form and a promise of a decision within 90 days. But that 90-day period includes the consultation with the community.²⁴

'Some people want things to take a long time. We have to discuss and consolidate before we advance. In the past, it took a year to talk to the community. That won't do. When we decided to cut the application time down to 90 days there was a lot of resistance, but I said no. And we see that applications are being processed in 90 days', Minister Hélder Muteia told me.

José Elias Mucombe, National Director of Mapping and Land Registry²⁵, told me he wants to reduce this to 45 days, and DINAGECA's annual plan for 2002 repeatedly stresses the need to 'speed-up' access to land as a way of encouraging investment.²⁶

Delimitation of Community Land

One Mozambican consultant commented: 'It takes a lot of work to get people to think about land rights and how to use land'. It also requires substantial negotiation within the community between different interest groups. Thus 'consultation' is a long, slow process,

21 Waterhouse and Braga, 'Seeking Security'.

22 C. Tique, 'Rural Land Markets in Mozambique', paper for Regional Workshop on the Moçambique Land Law, 4-5 April 2002.

23 *Mozambique Business – Daily Investor Intelligence*, 15 October 2003, Centro de Promoção de Investimentos (Investment Promotion Centre), Maputo.

24 There is no commitment to approve the Environmental Impact Assessment required for approval of large projects within the 90 days, and it may not be possible.

25 Technically, land must be registered twice, once with DINAGECA or its provincial SPGCs, which fall under the Ministry of Agricultural and Rural Development, and again with the Buildings Registry (Conservatório de Registo Predial) of the Ministry of Justice. The latter is not active in the land debate, however.

26 DINAGECA, 'Informe ao Conselho Coordenador', 11 April 2002.

based on regular contact and multiple visits – not just one 20-minute meeting with the chiefs. As DINAGECA works to speed up consultations in order to approve titles within 45 days, it leaves even less time for the preparatory work needed to help a community discuss its land and the potential uses of that land. This means that the consultation is done in isolation by a totally unprepared community.

Without a certificate or title, a community has only to be ‘consulted’, and the investor then obtains a 50-year title to the land and the community has no further influence. Once the community has a certificate, any potential investor has to negotiate with the community to obtain a lease and the state no longer plays an intermediary role (see above). The Zambézia Agricultural Development Project²⁷ argues that community delimitation should ‘be done before land concessions are approved. It is very unlikely that there can be adequate community consultation in a land concession application unless the community, its leadership, boundaries and neighbours have been properly identified, a process which effectively amounts to community land delimitation’.²⁸

Delimitation is defined as the ‘identification of the limits of areas occupied by communities ... including entering this information in the national land registry’.²⁹ An entire technical annex to the land law was issued in 2000 to show how this should be done. This starts with a ‘participatory analysis’ (*diagnóstico participativo*) in which the community talks about its history, use of land and natural resources, special occupation conditions, population dynamics and possible conflicts and methods of resolution. Various groups draw rough ‘participatory maps’. The team undertaking the delimitation combines these into a sketch map (*esboço*) and prepares a written report setting out the boundaries of the community land based on streams, roads, or even trees and piles of stones. The team is required to work with both men and women and representatives of ‘diverse socio-economic groups’, as well as with people from neighbouring communities. The final report with the *esboço* and boundary explanations must be signed by representatives of the community – ‘between 3 and 9 men and women chosen at a public meeting’ – as well as representatives of neighbouring communities, plus the district administrator. It is then sent to the land registry and the Provincial Directorate of Mapping and Land Registry (SPGC) issues a certificate.³⁰

I could not find anyone who had undertaken an effective delimitation without regular visits to the community over more than a year. Local disputes within communities and between neighbouring communities seem to be the main reasons for delays. Virtually all communities have land within their boundaries used by outsiders – titles issued recently or long ago, or simply land which has been farmed for a long time. An investigation in Zambézia found that up to half of the land in some communities had titles issued to companies and individuals; there are overlaps between these titles and SPGC files did not agree with local knowledge. There are also several ongoing and acrimonious disputes between communities and people claiming big tracts of land dating from population movements during the war, from the state farm era, and even back to the colonial era, with communities trying to reclaim land taken from them for plantations in the 1920s and 1950s.

There were a number of initial problems, but the position improved with the publication of a *Manual on Delimiting Community Lands*³¹ and the retraining of 120 technicians

27 The Zambézia Agricultural Development Project (ZADP) was funded by Britain’s Department for International Development (DfID), and its land tenure component worked with ORAM and the Zambézia SPGC to develop methods to implement the 1997 land law.

28 H. Liversage, ‘Briefing Document for the Joint Technical Mission on Land’ (Quelimane, ZADP, 2000).

29 Diploma Ministerial no 29-A/2000, article 2, ‘Definitions’.

30 Diploma Ministerial no 29-A/2000.

31 Comissão Inter-Ministerial para a Revisão da Legislação de Terras, *Manual de Delimitação de Terras das Comunidades* (Maputo, Comissão Inter-Ministerial para a Revisão da Legislação de Terras, 2000).

(SPGC and NGO staff). The attitudes of SPGC staff and other local government officials remains very variable, however; some see the role of consultation and delimitation solely in clearing the way for investment, while others have a genuine sense of protecting peasant rights. In both Nampula and Zambézia, SPGC now accepts delimitations organised by NGOs, and quite broad delimitations are being accepted and approved at provincial level. My own estimate is that about 100 communities had delimitations recognised at district or provincial level by the end of 2002. It appears that no delimitations had been rejected at provincial level.

Delimitation should be participatory, which makes it labour intensive, involving many people in the process of getting the community to map its territory, and that makes it expensive. Several international agencies are paying national NGOs to do pilot delimitations, mainly in Nampula, Zambézia and Manica provinces. In Nampula, the Catholic Church is also involved. Three groups have done enough delimitations to estimate costs. Kulima has had eighteen community land delimitations recognised, with a total of 95,511 hectares, about 1 per cent of the area of Nampula province. Kulima figures suggest it costs about \$2,000 to do a community consultation and another \$600 to do the final detailed delimitation. Chris Tanner, an FAO consultant to the Technical Secretariat of the Land Commission, estimates the cost at \$2,000 to \$6,000 per community based on 21 pilots which were carried out during the writing of the technical annex. The peasant association ORAM (Associação Rural para a Ajuda Mútua – Rural Association for Mutual Help) estimated the cost of delimitation at \$3,000 per community, but that estimate seemed to exclude some of the actual costs.³²

This allows a very rough estimate of the cost of delimiting communities nationally. In general, it appears that rural communities are being defined in terms of areas under individual *régulos* or other chiefs, referring back to maps from the colonial era (even though this is not necessary, as communities can define themselves in other ways). That suggests Mozambique has several thousand communities, which implies a delimitation cost of \$10–30 million. If this were spread over ten years, it would be between two and six per cent of the budget of the Ministry of Agriculture and Rural Development (MADER – Ministério da Agricultura e Desenvolvimento Rural). It could be argued that doing a delimitation first would actually encourage investment since it would reduce disputes, and that this could be considered necessary pre-investment spending by government and donors.

Calls for Privatisation

At the time of the drafting of the 1990 constitution, there were calls for land to be privatised, but under pressure from peasant interests as well as peri-urban co-operatives, this was rejected and the constitution retained the formulation that land belongs to the state and cannot be sold or mortgaged. In the debate before the 1997 land law, privatisation was pushed by the World Bank and the United States, as well as by Mozambican élites who rushed to obtain land concessions, which they hoped to be able to sell. Peasant organisations concerned about landlessness were opposed to this, and won the argument. The issue seemed dead until Minister Hélder Muteia raised it unexpectedly in an interview in the Sunday newspaper *Domíngo* on 8 July 2001, when, in a somewhat guarded way, he said 'I think the time has come to begin the discussion about a land market compatible with our reality'. The debate rumbled on with a series of newspaper articles, and then the issue was raised by the usual suspects, the World Bank and the United States, at the donor

32 H. M. Vicente and H. Liversage, 'The Land Issue in Zambézia, Land Tenure Component', (Quelimane, ZADP and SPGC, 2000).

Consultative Group (CG) meeting in Maputo, 25–26 October 2001. Darius Mans, the newly appointed World Bank Country Director for Mozambique, took the hardest line, demanding that the government ‘facilitate the use of land as collateral’ and saying that ‘land use rights need to be clarified and monetized, so that land can be used as collateral and so that, in time, a given stretch of land will be used by the most productive users’.³³ He seemed to be saying that less productive peasants should be pushed off their land, and he seemed to be demanding a change in the constitution to make this possible. James Smith, USAID Acting Deputy Assistance Administrator for Africa, told the CG that ‘insecure land tenure arrangements are inhibiting investment by commercial as well as peasant farmers’.³⁴ In a follow-up statement in response to questions from me, the then USAID Mission Director in Maputo, Cynthia Rozell, said that ‘after nearly five years of design and five years of implementation, there is little indication that [the 1997 Land] Law can achieve its objectives’. She argued for ‘privatization of some portion’ but not all rural land; land ‘appropriate for commercial agricultural exploitation by companies and individuals’ could be fully privatised. Community land should be owned by the community, not the state. She may have been pushing hard on this issue, but she also made clear that although the US was asking Mozambique ‘to consider the possibility of privatizing arable agricultural land – we do not make it a condition or a requirement of our assistance’.³⁵

Muteia and Rozell were responding to a renewed interest by part of the Mozambican élite for land privatisation and speculation. With the encouragement of Western diplomats, Hernando de Soto’s book, *The Mystery of Capital*, had caught the attention of many in Maputo. De Soto writes that ‘most economic reform programmes in poor economies may be falling into the trap that Karl Marx foresaw: the great contradiction of the capitalist system is that it creates its own demise because it cannot avoid concentrating capital in a few hands’. And he warns that ‘at present, capitalist globalization is concerned with interconnecting only the elites’ and that ‘capitalism is viewed outside the West with increasing hostility, as an apartheid regime most cannot enter’.³⁶ This is strong language from an economist of the far right. De Soto was a governor of Peru’s central bank and a backer of the 1992 ‘auto-coup’ by Alberto Fujimori and his CIA-linked security head, Vladimiro Montesinos.³⁷ As Fujimori’s principal adviser, he initiated the economic reforms that brought such hardship to Peru that Fujimori and Montesinos were eventually overthrown. Perhaps because of his acceptance of so much Marxist analysis and the critiques of globalisation, and his references to apartheid, his book had some resonance in Mozambique.

In his book, De Soto argues that there must be a formal property system with titles.³⁸ This is more than just ownership, De Soto argues, because formal titles are an abstraction to something that is more easily tradable and transferable, and are the fundamental explanation of ‘why capitalism triumphs in the West and fails everywhere else’.³⁹ He also argues that formal titles allow poor property owners to mobilise the ‘sleeping capital’ embodied in their land and labour potential because these titles are a basis for ‘contracts

33 D. Mans, ‘Chairman’s Opening Statement, Mozambique Consultative Group Meeting’, Maputo, October 25 and 26, 2001.

34 J. Smith, ‘Opening Statement of the US Delegation, Thirteenth Consultative Group Meeting for Mozambique’, Maputo, 25 and 26 October, 2001.

35 Rozell, letter to Joseph Hanlon.

36 H. de Soto, *The Mystery of Capital* (London, Black Swan, Transworld, 2001), pp. 221, 224, 241, 242.

37 *El Comercio*, Lima, 31 March 2002.

38 For Mozambique, the importance of this argument lay in rural areas. As noted below, urban housing can be bought and sold, and the land goes with the buildings. This is discussed more later; however, the focus of this article is on rural land.

39 De Soto, *The Mystery of Capital*, pp. 55, 108ff, 219ff, 241.

with strangers', in particular as the way to obtain credit. But 'what made this stake meaningful was that it could be lost. A great part of the potential value of legal property is derived from the possibility of forfeiture'. If people 'have no property to lose, they are taken seriously as contracting parties only by their immediate family and neighbours'.⁴⁰ Thus, the risk that people will be thrown off their land is fundamental to De Soto's system of bringing capitalism to the poor. Landlessness, at least for some, is intrinsic to his strategy, and is also intrinsic to the opposition to it.

Privatisation Rejected

However, the backlash came quickly. Both locally and in international institutions, the support for privatisation was thinner than expected, and privatisation of rural land has been firmly rejected. Agriculture Minister, Hélder Muteia, then a would-be presidential candidate, may have felt his suggestion of privatisation would gain him support from the new élite in Frelimo, but in practice his stand triggered a backlash and he was harshly criticised within the party. The theses for the Eighth Party Congress in June 2002 reflect this, declaring in a bold heading that 'The party reaffirms the principle that land remains the property of the state'. It then stresses that 'Frelimo party policy over land is to guarantee that the Mozambican people do not lose their most valuable resource – land, which, as well as its economic value, also has a fundamental cultural dimension'. It goes on to say that 'the Frelimo party struggles to guarantee the respect and application of the Land Law – by reducing the bureaucracy of issuing of titles for use and improvement of land, adopting mechanisms to encourage and aid peasants to obtain titles, and prioritising legitimate traditional occupants of the land – as a way of preserving the right to use this valuable resource'.

A discussion paper on 'Land Policy' from the British Department for International Development (DfID), released in April 2002, was explicitly critical of De Soto and the World Bank, while strongly backing Mozambique's land law as 'innovative' and a model which 'provides local people with clear rights over their land under the law, with opportunities to negotiate with private investors for development purposes'.⁴¹ In a specific attack on De Soto, the paper says 'Freehold titles are unlikely to meet the needs of many of the poor, and titling has not in general led to improved access to formal credit'. Furthermore, 'land titling programmes run the particular risk of land capture by elites at the expense of the poor, creating opportunities for the powerful to assert absolute property rights and concentrate land at the expense of weaker community members'. It is very unusual for a national aid agency to criticise the World Bank, but the DfID paper attacks World Bank 'stand-alone technically driven land reform [and] pre-conceived models not focused effectively on poverty reduction'. DfID warns that 'lenders may also impose conditions, such as requirements to introduce freehold tenure or complete land registration exercises – intended to support the operation of land markets and the desired macro-economic scenarios'.⁴²

In fact, the World Bank was sharply split on the issue, and parts of the Bank had already changed their position on land. In April 2002, World Bank land expert, Hans Binswanger (sector director for environmental, rural and social development, Africa), visited

40 *Ibid.*, pp. 54–55. This is the same rationale that has underpinned some 30 years of incrementalist, aided self-help policies for urban low-income housing, since the adoption by the World Bank and other agencies of the ideas propagated by John Turner and Walter Mangin.

41 J. Quan, 'Better Livelihoods for Poor People: the Role of Land Policy', discussion draft (London, DfID, April 2002).

42 *Ibid.*

Mozambique and sharply contradicted Mans' line. Mans seemed to be quoting the Bank's 1975 policy, but in a 1999 paper Binswanger had recanted: 'The 1975 World Bank land reform policy recommended that communal systems be abandoned in favor of freehold titles and the subdivision of the commons. Today it is recognised that some communal tenure arrangements can increase tenure security and provide a (limited) basis for land transactions in a way that is more cost-effective than freehold titles'.⁴³ The paper goes on to argue that 'removing the restrictions on markets for land sales may not be the most urgent requirement for increasing efficiency – and may have a negative effect on equity.' In areas of low population density an 'alternative is to award property rights to communities, which then decide on the most suitable tenure arrangements' – exactly the situation in Mozambique.

In June 2003, the World Bank issued its new policy document on land, *Land Policies for Growth and Poverty Reduction*, replacing the previous 1975 *Land Reform Policy Paper*.⁴⁴ The new document firmly dismisses De Soto as well as the demands made on Mozambique by USAID and the Bank's own Darius Mans, and explicitly reverses some of the recommendations made 28 years earlier. 'It is now widely recognised that the almost exclusive focus on formal title in the 1975 paper was inappropriate', the new report admits, and it goes on to dismiss what it calls 'an often ideological stance in favour of full private ownership rights'.⁴⁵ The Bank's own summary of the report notes that 'while secure tenure and rentals overwhelmingly benefit poor people, the report found that sales rarely improve land access to the poor. Poor people faced with crop failures, a serious family illness or other economic shock are often unable to borrow and may be forced to sell their land at distress prices. This can result in speculators amassing large land holding and depriving poor people of access to land'.⁴⁶

Group tenure rights guarantee adequate security, and it is expected that with development there will be a gradual shift to individual rights.⁴⁷ In customary systems, delimitation of boundaries and legal recognition of existing rights 'is generally more effective than premature attempts at establishing formalised structures'.⁴⁸ And the report argues that it should be left to communities to decide on land transactions with outsiders.⁴⁹ Finally, the report praises the Mozambican system for securing tenure rights without the need for complex and expensive individual titles.⁵⁰

Security and Transferability

The issue of freehold titles became confused with the very different issues of security and transferability. As we have already seen, the Mozambican system, in principle, guarantees security and protects the rights of the poor, while the present law allows three kinds of transfers – renting, the sale of improvements, and the sale of companies that have land titles.

The major change in the World Bank report is its stress on rental markets, which are much more quantitatively important than land sales.⁵¹ It argues that land rentals 'have a

43 K. Deininger and H. Binswanger, 'The Evolution of the World Bank's Land Policy', *World Bank Research Observer*, 14, 2 (August 1999). (<http://www.worldbank.org/research/journals/wbro/obsaug99/evolution.htm>)

44 K. Deininger, *Land Policies for Growth and Poverty Reduction* (Washington DC, World Bank; and Oxford, Oxford University Press, 2003).

45 *Ibid.*, pp. xiv, 186.

46 'Land Rights for Poor People Key to Poverty Reduction, Growth – World Bank Report', press release (Washington DC, World Bank, 19 June 2003).

47 Deininger, *Land Policies*, pp. xxiv, 53.

48 *Ibid.*, p. xxvii.

49 *Ibid.*, p. xxxvii.

50 *Ibid.*, pp. 64, 171.

51 *Ibid.*, p. 187.

positive impact on equity' because they allow temporary transfers of land and because they allow migration and specialisation. Some family members, particularly those with less agricultural skill or interest, will migrate to the cities or take other work but still have the cushion of the land and rental income; while more skilled farmers or families who have more labour than land will take over the land and use it more productively and profitably – so everyone benefits.⁵² In Africa, rental markets improve both efficiency and equity.⁵³ Tenure security is crucial on both sides: to rent out land, families must have secure enough tenure to be able to reclaim the land at the end of the contract, while if the renter is to make investments in land conservation, tree planting, and irrigation, he or she must have a long enough secure rental tenure to make a profit on those investments.

Mozambican law already permits the renting of land and the creating of leases and other tenure arrangements in many circumstances. The peasant association, ORAM, applied for collective titles for land for associations with the assumption that associations would then enter into contracts with their members covering their individual plots of land. José Negrão points to 'an efficient market between the poor' at a community level, in which rural land is rented, share-cropped and transferred in a variety of ways. Trees are usually owned by individuals and are a major asset; trees are bought and sold and sometimes the land is transferred as well. But these transfers normally occur only within the community and do not endanger the basic land holdings of the group; 'empirical evidence is that peasants don't normally sell their basic plot of land', says Negrão. The law and regulations explicitly permit communities that have delimited land to rent their land to outside investors, who could bring capital and skills and thus benefit both sides. There seems to be no legal restriction on the sale and mortgage of leases and improvements, so long as this is permitted in the original contract.

The second legal method of land transfer is that the Land Law and regulations permit infrastructures, buildings and other improvements in rural areas (known as *prédios rústicos*) to be sold and mortgaged; under normal circumstances the land goes with the improvements, but the transfer of the land is not automatic and requires government approval.⁵⁴ Criteria for approval are not stated, except that the regulations stipulate that the provincial *serviços de cadastro* (land registry) must confirm that taxes have been paid and that the development plan linked to the provisional title has been carried out.⁵⁵ 'Improvements' are quite broadly defined, and even include work to prevent the deterioration of the land as well as anything that increases the value of the land, including walls and canals.⁵⁶ Although this has never actually been tested, it seems clear that improvements include irrigation and anti-erosion works, orchards and other trees, and almost any longer-term work. I was told that a few irrigation systems and other improvements have been mortgaged.

The third way in which commercial farms can be transferred is that land can be in the name of a company, and the company can be sold.

One problem is that the difference between renting out land and selling improvements, which is legal, and selling land, which is not, has never been made adequately clear to rural Mozambicans. In some ways, this confusion is possibly being encouraged by the Mozambican élites, who hope to obtain the titles to land after 'consultations' yet before the communities gain the certificates themselves. Having a title is, in effect, a permanent occupation right, which may have been gained after paying only tiny compensation to the

52 *Ibid.*, p. 86.

53 *Ibid.*, p. xxxiii.

54 In the case of urban buildings to be mortgaged and sold, the land title goes with the building automatically; banks already offer mortgages on houses.

55 Lei Terras 19/97, article 16, Decreto 66/98, articles 15, 16.

56 Decreto no 66/98, article 1.

community. By contrast, even a badly drawn up rental contract eventually comes to an end and the land reverts to the community. Vitor Muchanga of the Land and Development Studies Unit (NET – Nucleo de Estudos da Terra e Desenvolvimento) of Universidade Eduardo Mondlane tells of an irrigation scheme around the Pequenos Libombos dam which had been supported by the Italians. However, once they left it collapsed and, as a result, the people living in that area became increasingly in debt to the irrigation system. Eventually, more than one-third of the people there sold or rented their plots to urban dwellers to grow bananas. Often, the original occupants stayed on and worked, and found themselves earning three times more as employees than they had earned as farmers on the same plot. For those who rented out their plots, it was a good deal for both parties, while those who sold their plots illegally will, most likely, lose out. Yet to many, this distinction may be totally unclear.

Should Titles be Transferable?

An illegal market in land in urban and peri-urban areas undoubtedly exists,⁵⁷ and to a much lesser extent also in rural areas, particularly near towns or main roads. Some people are calling for the legalisation of a trade that already exists and which cannot be stopped: land is a commodity that is bought and sold throughout the country. In his interview that opened the whole privatisation debate, Agriculture and Rural Development Minister, Hélder Muteia, said that

if we open a land market, we would very quickly have some landless people, because peasants are pauperised and vulnerable and will be forced to sell their own land. ... But those who are asking for privatisation are a group of commercial farmers. The majority of farmers in our country are peasants, and all of the family farmers' associations say this is not the time to privatise. But is it possible to create areas with different treatment.⁵⁸

Former agriculture minister, Carlos Agostinho do Rosário, suggested in a May 2001 study that private property be permitted only in limited areas – urban and peri-urban housing and some agro-industrial and tourist zones.⁵⁹

Some have argued for a market in titles rather than in the underlying land. Yet community titles would not be tradable because of restrictions already in the law, so only individual and company titles would be marketed, which effectively means just the commercial sector. Thus, a trade in titles would create the suggested dual system. In England, leases are sold and mortgaged separately from the underlying freehold, and a trade in titles would represent a similar system. But there is a sharp debate among the lawyers as to whether or not this is constitutional, reviving a debate that took place at the National Land Conference at the Hotel Polana in Maputo 5–7 June 1996, before the agreement regarding the 1997 land law was reached. Mário Machungo, president of Banco Internacional de Moçambique (BIM) argued that titles, rather than the land itself, could be sold and mortgaged. Prominent lawyer, Teodato Hunguana, responded that the constitution (article 46) says that 'land cannot be sold or in any other way transferred' (*alienada*) and that the phrase 'any other way' is not redundant but applies to all other transfers of rights, including

57 'A land market exists in Mozambique, both amongst the urban élites (new urbanization and the expansion of large cities), and in peri-urban and rural areas (valleys and green belts around cities producing vegetables, and rice production in areas where irrigation is possible)', according to Maria da Conceição de Quadros, Director of the Technical Secretariat of the Inter-Ministerial Commission to Revise the Land Law. (Quadros, Country Case Study).

58 *Domingo*, 8 July 2001.

59 *Domingo*, 27 January 2002 and C. A. do Rosário, 'Vantagens e Desvantagens da Propriedade Privada de Terra e Alternativas Para o Caso de Moçambique', May 2001.

titles. In 2003, Hanguana was appointed to the Constitutional Council, where his views will carry some weight.

The real interest is in trying to create a market in vacant land, which at the moment is difficult. A provisional title to land is granted in respect of a development plan, and the law makes it clear that the land cannot be transferred until that plan has been carried out. Should it be possible to sell the provisional title? In Britain and elsewhere, planning permissions are sold along with the land, and this is really the same thing. Many of the proponents of a market in titles of vacant land are members of the élite who have organised land concessions but do not have the money to develop the land or to carry out the plans on which their provisional title was based. Critics argue that allowing a trade in vacant land would only promote speculation and encourage land grabs by party and state officials. Some observers accuse Muteia of fronting for politically well connected urban people who have large tracts of empty land. He told me that he supports 'triangular' relationships, in which people with local knowledge obtain the land and then go out and look for investors. Although this approach is potentially useful, it seems more like a justification for élite land grabs.

Implementation

The land law is good on paper and even in practice. However, I reject totally the view of Cynthia Rozell that 'there is little indication that law can achieve its objectives'. Instead, I tend to opt for Ismael Ossemane's view that 'we are satisfied with the law, but it has only started to be applied'. Moreover, the interviews I conducted for this article suggest that the way in which the law is being applied is improving rapidly. However, four linked problems remain: land grabs by the Mozambican élite, extensive corruption throughout the justice and administrative systems, a lack of clear rules for some procedures, and a lack of skills and experience at the level of the peasantry.

Even before the 1997 land law was passed, there was concern about the trend to place 'vast areas of land into the hands of individuals or enterprises that did not use them', and the law tried to control this, according to Conceição de Quadros, director of the Technical Secretariat.⁶⁰ All title approvals are provisional and depend on the investor carrying out an agreed development, but no one checks to see whether this happens, so much of the land ceded to government and Frelimo party officials remains unused. The problem continues. One knowledgeable person told me:

The problem is not foreigners stealing Mozambican land, it is the new Mozambican élite stealing land from peasants. In some places a serious foreign investor can only get land through a dodgy Mozambican.

Senior people in government, the military and party continue to obtain land and either bypass the consultation procedures completely, or use the district administrator to force through a token consultation. Often they consider the acquisition of land a right attached to their posts, as well as a way to ensure they will have something on retirement. District administrators have extensive power and have used it to obtain land for themselves, or to force outside investors to take local partners. It was only pressure from the Nampula provincial land campaign that stopped the district administrator in Rapale from taking community land, for example.⁶¹

60 Quadros, Country Case Study.

61 N. Kanji, C. Braga, and W. Mitullah, *Promoting Land Rights in Mozambique and Kenya: How do NGOs make a difference?* (London, International Institute for Environment and Development, 2002).

Much of the titling process depends on the integrity and knowledge of the staff, which is improving. District magistrates and state attorneys were given a short course in 2001 on land, forest, wildlife and environment laws. Some of the new, younger and better trained administrators know the law; they tend to be more sympathetic to peasants and try to support them in the consultations. District agriculture directors are now better trained and 90 per cent now have cars or motorcycles with which to make field visits. In part to keep tighter control on district administrators, the annual co-ordinating council meeting of MADER in late April 2002 agreed that district agriculture directors as well as district administrators had to be involved in consultations. But there is still corruption in the Provincial Mapping and Land Registry Services (SPGCs); many of the development plans on which titles were granted have simply disappeared, which makes them impossible to enforce, and there seems to be at least one example of a falsified consultation report. Moreover, the court system remains so corrupt that it is impossible to enforce any contract or agreement.

Third, there are no procedures or rules governing requests to transfer rural land along with buildings, which is an open invitation to corruption. CTA head, Sérgio Chitará, says that the government has intervened to block the transfer of titles in 'many cases', in part due to corruption, while Deputy Minister, João Carrilho, says there have been only a few transfers of titles, but none has been refused. In 2001, MADER set up a working group on 'land law and other obstacles' with representatives of private and commercial sector associations and two peasant groups, which argued for automatic land transfers if buildings and improvements are sold.⁶²

Empowering Peasants

The fourth problem with implementation is that peasants lack skills and experience, which sharply reduces their power. Communities need more information, so that they can understand the real value of their land. Communities being 'consulted' often have no understanding that they are giving up this land permanently, and they also have no understanding of the value of what they are giving away. Consultation now amounts just to selling land and communities are, in effect, selling land for \$1 per hectare. This may seem like a lot of money to local people, but they are losing the land forever. And yet, some people are pleased with a relatively cheap sale – one community, which traded a piece of land for a maize mill, finds its quality of life significantly improved. The Technical Secretariat of the Land Law Commission organised a conference in June 2001 on consulting local communities, which also concluded that it was insufficient simply to 'ask investors to build schools, health posts or mills' and suggested that they should rather opt for partnerships and 'more sustainable options'.⁶³ Communities need to make deals that involve regular payments over a long time. Land consultant, Simon Norfolk, argues that this should be in the form of rental and a guarantee of employment.⁶⁴

'No one is assisting the communities. They do not have lawyers. They are vulnerable and have no one to defend them. Civil society must organise itself. We need community advocates', said Arlindo Chilundo of the Land and Development Studies Unit (NET). 'Proposals must be more widely publicised and consultations more widely advertised. We need local NGOs to do this'. A Mozambican consultant suggested that 'Someone needs to

62 Síntese dos Grupos de Trabalho de Reflexão Sobre o Regime Jurídico da Propriedade da Terra e outros Constrangimentos, MADER, August 2001.

63 Reunião Nacional Sobre Consultas às Comunidades Locais, Beira 14–15 June 2001. Documento Final, Organizada pelo Secretariado Técnico da Comissão Interministerial de Terras.

64 S. Norfolk and D. Soberano, 'From Conflict to Partnership – A Report on Relationships and Land in Zambézia' (2000).

negotiate in the name of the community'. ORAM has suggested a 'barefoot lawyer'. Hans Binswanger of the World Bank suggested some sort of 'community agents' who would work on a performance-based contract to try to find investment partners for a community. Whatever name they took, these community organisers could be involved in several overlapping roles: supporting communities during consultations when an outsider applies for a title and there is no community certificate, working with communities on delimitations, helping communities to monitor existing title-holders within their area, doing more detailed work with communities to help them identify their resources, helping communities to understand the need for ensuring a long-term income from any investment through rents and jobs, and serving as a professional intermediary between investors and the community but explicitly on the side of the community.

But there is little donor or government interest in promoting community organisers or barefoot planners. 'Not only is little attention given to the registration of community use rights as a means to improve the capacity to "negotiate" out of poverty, but there would also appear to be a growing level of government resistance to this aspect of the new policy framework', conclude Simon Norfolk and Harold Liversage of the Zambézia Agricultural Development Project.⁶⁵

Furthermore, while donors seem willing to fund pilot delimitation projects and multiple information campaigns to inform peasants of their rights, they seem less willing to provide larger amounts of money to help peasants exercise those rights. As Chris Tanner told me,

Assisting communities with the complex task of delimitation, and afterwards, negotiating with outside interests, has the potential to end dependence at local level, and by extension, end the present national dependence upon external assistance.

But donors are not interested.

Development Models

Although corruption and élite land grabs are important, the real issue underlying the land debate and the choices that both donors and government make regarding their priorities is the question of who will develop Mozambique. Here the disagreements are real and genuine. No one denies that Mozambique needs substantial agricultural development, which will require investment, or that there is a real demand by peasants for wage labour. The debate is about who invests and where, as well as about the balance between jobs and family farming. The people I interviewed suggested four different groups as possible vehicles for agricultural development; most people promoted two of the four groups outlined below, and tended to oppose or dismiss as unimportant the other two. The four groups from largest to smallest, are: foreign investors, the urban élite, 'advanced' peasants and family farmers.

Foreign investors

'To develop we have to attract foreign investment. We don't have strong national capital', said José Mucombe, National Director of DINAGECA, which means the priority must be to speed up investment approvals. For Agriculture and Rural Development Minister, Hélder Muteia, foreign direct investment (FDI) is clearly the main engine of rural development. In an interview with me, he said:

⁶⁵ Norfolk and Liversage, 'Land Reform'.

Our grand objective is to facilitate investment. We have to be able to respond to an investor who arrives and says: 'I want 10,000 ha to grow soya and my plane leaves in two days.' We want to be able to meet in an office and have him able to leave 90% sure that he will have the land he needs.

More than \$100 million has been invested by foreign companies in sugar plantations; similar investment is needed in other sectors, he argued.

This is the most controversial strategy. One senior donor official complained: 'the government's only strategy seems to be to wait for foreign investors'. While a senior MADER official told me: 'The idea of foreign investors flying in is total nonsense'. With the exception of sugar, which is highly protected by the government, the traditional plantation companies are in trouble or out of business and big new investors have yet to appear. Indeed, there is now a shift away from plantation agriculture into outgrower schemes for tobacco, cashew, cotton, sugar and other crops, where a big company provides the inputs and modern technology, but the peasants rather than the big company carry the risk.⁶⁶ Foreign or domestic investors promoting outgrower schemes don't need large tracts of land, but they do need peasants for security of tenure.

This trend is shown quite clearly by tobacco, which has attracted foreign investment. Universal Leaf Tobacco, a US-company, has expanded burley tobacco production in Mozambique from 6,000 tonnes in 2000 to a forecast 30,000 tonnes in 2004. Of this, 7 per cent is generated by the 45 Zimbabwean farmers that the company has backed to invest in Mozambique (see above); the remaining 93 per cent of its production comes from 40,000 peasant farmers.⁶⁷

Investment can also be domestic, and need not be on the grand scale imagined for foreign investors. The remaining three categories comprise different domestic investors. No one doubts that Mozambican agriculture is hugely undercapitalised and that substantial investment is needed to increase productivity. There is also a view that peasants need to move away from shifting agriculture to fixed farming, with more investment in raising the fertility of the soil, developing irrigation, etc. One expert commented:

Politicians say Mozambique is rich, but this is not true. Mozambican soils are fragile and lack fertility, and can support only a low level of exploitation. Intensifying use will require organic methods over time to build up the soil structure.

But does this investment in the land come from inside or outside? Deputy Minister of Agriculture & Rural Development, João Carrilho, feels that farmers can generate much of their own investment. What is needed is investment in agro-processing and marketing. 'We don't need investors to grow tomatoes for Maputo – our farmers already do that. What we need is investment in packing and processing'. These intermediate sectors create rural jobs and markets (and thus income) for farmers.

66 D. Glover and K. Kusterer, *Small Farmers, Big Business; Contract Farming and Rural Development* (London: Macmillan, 1990); S. Atkins and A. Terry, 'The Changing Role of Sugar as a Vehicle for Economic Development within Southern Africa', in D. Simon (ed.), *South Africa in Southern Africa; Reconfiguring the Region* (Oxford, James Currey; Cape Town, David Philip; Athens, Ohio University Press, 1998); F. Zaal and R. H. Oosterdorp, 'Explaining a Miracle: Intensification and the Transition towards Sustainable Small-scale Agriculture in Dryland Machakos and Kitui Districts, Kenya', *World Development*, 30, 7 (2002), pp. 1,271–1,287.

67 'The Crop and Market Report January 2004', Richmond VA, USA, Universal Leaf Tobacco Company, 2004, (www.universalcorp.com); 'Tobacco Processing Plant under Construction', AIM (Mozambique News Agency), Maputo, 25 September 2003.

The Urban Élite

Most urban Mozambicans still feel some rural link. The new urban élite, usually senior government and army officials with good political connections, are obtaining land concessions of several thousand hectares. Cattle-raising is proving to be particularly fashionable and some urban dwellers are setting up small farms in their home areas. Too often these are hobby or weekend farms, which are rarely successful. Many of the people I interviewed argued that farms, big or small, are only successful when the farmer actually lives there. Where land has been allocated because the 'farmer' has political connections, there have been some highly public conflicts with local people. Even where there are no conflicts, the urban élite does not have the money to make major investments; relatively few jobs are created, most often these are jobs as guards.

However, not all urban investment is bad. Serious investors from the urban areas, who invest in their traditional family areas, could be quite an important development vehicle even if their investments are fairly small. Vitor Muchanga tells of communities in Boane and Nhamatanda who decided what land they could release, and then tried to locate investors by making contact with relatives in Maputo and Beira.

Advanced Peasants

'After the war, everyone started out equally. Now, you can see some peasant farmers doing better than others', commented a World Bank official. A number of people within the donor community and MADER feel that efforts should be concentrated on this 'peasant vanguard'. This is an old concept – these are the 'master farmers' of colonial Rhodesia, 'yeoman farmers' of colonial Kenya, and the kulaks of the early USSR. The idea is that they are brighter, better educated, often younger, and more receptive to new ideas and new technologies than other peasants, and they are already moving more rapidly from family to commercial farming. The hope is that if they are supported, they can increase the rate of production, while at the same time serving as role models for their neighbours.

Deputy Minister, João Carrilho, emphasises individual advanced peasants, and he argues that it is 'indispensable' that peasants who want to invest should have individual titles and not simply be part of a community or collective title; they need absolute security of tenure. The titles do not need to be saleable and they can be issued under the present system. Indeed Carrilho suggests a form of 'community title' in which communities would set up their own formal title registry, which would register permanent occupancy as distinct from shifting occupancy. This, he feels, would be enough to encourage investment. The Land Law (article 13) specifically allows individuals within communities to obtain the personal titles to their land, although this provision has apparently not yet been used.

Family Farmers

The fourth development vision involves trying to raise the production and productivity of the mass of peasant farmers through secure land tenure, better marketing, extension services, and so on. As well as doing more to lift the poor majority out of poverty, it requires less of a jump in productivity for three million peasant families in contrast to the huge jump needed by a few thousand advanced peasants to make the overall production leap needed.

However, family farmers are not engaging solely in 'subsistence' agriculture; peasants are involved in the market, and peasant families try to have at least one member doing wage labour to bring in a cash income. In part because of the migrant labour tradition, and in part

because Mozambican hoe farming is so back-breaking and so unproductive, there is real pressure for the creation of jobs that pay a wage. The various development strategies put different emphases on jobs. In general, the big farm, heavy investment strategy is about creating jobs, while the peasant farming strategies are about improving the lives of farmers.

Finally, there are substantial overlaps between the last three categories; for example, an advanced peasant might be partly capitalised by a relative with a job in the city.

Commercial Farmers, Not Peasants, are the Priority

Cutting across all four of the above groups is another group often called 'commercial farmers' by government. These are individuals with 100–5,000 hectares who often seem like the big farmers in neighbouring Zimbabwe. They are professional farmers who live on their own farms and have substantial marketed output. Some are foreign investors from South Africa or Zimbabwe, others are Portuguese who stayed after independence. Indeed, the largest group of recent foreign investors has been 60 white Zimbabwean farmers plus a few South Africans in Manica province, most of whom, in turn, have received foreign backing to produce tobacco for sale to the US and flowers for export to Europe (see Pederson, 'Zimbabwe's Changing Freight Transport and Logistical System: Structural Adjustment and Political Change', in this issue of JSAS). A few commercial farmers are families of the urban élite. Some are farmers who expanded their land in the 1990s, particularly on the former state farms (which themselves were often former colonial settlement areas) while others are 'advanced peasants' made good; Mozambican commercial farmers are now important in cotton production, for example. Many commercial farmers have land in peasant areas, and there is substantial potential for both conflict and cooperation.

At MADER's annual coordinating council meeting in 2002, it was agreed that, although peasants were important, 'the priority is promoting the growth of commercial farmers who can be oriented toward greater productivity, use of inputs, and better access to markets'.⁶⁸ This effective prioritisation of the commercial sector is also reflected in Mozambique's Poverty Reduction Strategy Paper (PRSP, PARPA).⁶⁹ Although it stresses that both 'family sector' and 'commercial sector' agriculture must play a key role in economic growth, the actual programme concentrates on those 'districts with the greatest economic potential'.⁷⁰ In effect, peasants in poor areas are to be left to their own devices. The PARPA notes 'the fact that Mozambique has one of the lowest urbanisation rates in the world. This means that there is an inevitable tendency for migration to urban areas'.⁷¹ Taken together, this suggests that poorer peasants from districts of lower economic potential will not be helped, and will be allowed to migrate to the cities. Perhaps, given Mozambique's lack of resources, this is inevitable. Deputy Minister João Carrilho, who tends to support a more interventionist policy and gives priority to supporting the more 'advanced' peasants, also argues that it is necessary to promote those farmers who are already near markets – say within fifteen kilometres of a road, shop and telephone. 'You can only start close to roads', he says.

Marc Wuyts, a leading authority on Mozambican development, warns that present policy is forcing poor peasants to search for wage labour. He stresses that,

68 *Demos*, 1 May 2002.

69 PARPA – *Plano de Acção para a Redução da Pobreza Absoluta* (2001–2005) – Action Plan for the Reduction of Absolute Poverty (2001–2005) – Mozambique's Poverty Reduction Strategy Paper (PRSP) (Maputo, República de Moçambique, April 2001).

70 *Ibid.*, p. 147.

71 *Ibid.*, p. 82.

under the impulse of economic reforms, the patterns of social and rural differentiation have become more accentuated. Access to land, equipment and credit is slanted – by design or by default – in favour of large-scale enterprises, on the one hand, and a rapidly developing stratum of medium and small scale capitalist farmers on the other. ... the poorer peasantry and the marginalized regions were left out of the picture.

The abandoned poor peasants 'need cash to pay for (part of) their food needs and for cheap imported consumer goods', so they search for jobs. Wuyts concludes:

Although the process can undoubtedly lead to the recovery and growth of agricultural production, it is unlikely to provide a basis for broad-based development due to the persistent and continued exclusion of the poorer peasantry from the benefits of economic growth'.⁷²

Conclusion: Waiting for a *Deus Ex Machina*

What is striking about the debate on land is that the international community and the Mozambican élite seem to be in agreement that 'development' and particularly agricultural development is something that someone else does – foreign investors, the 'market' or the World Bank – and that the government should just stand back and wait. It is a curiously disempowered vision.

'We plan big projects without any base in reality and then wait for investors – this time big private companies from the West instead of state companies from the East', commented one MADER official. 'This is the arrogance of socialism being recreated' – the big project, central planning, modernisation model embodied in the 10-year plan of 1981. Indeed, the projects are often the same ones, which in turn were inherited from the colonial era planners. And the big-project advocates have kept the same goal – to turn the peasants into a working class. The 10-year plan called for defeating underdevelopment within a decade. The big project approach again argues that accelerating accumulation and development means that there is no time to modernise the peasantry, and instead peasants must be moved off the land into jobs created by outside investors with money and modern technology. As Simon Norfolk and Harold Liversage, of the Zambézia Agricultural Development Project comment,

There has been an emphasis on the part of the state and Frelimo towards the privatisation of land and a bias against the family sector. ... There is a perception that the family sector does not have the resources to expand production potential and to significantly contribute to the economy. There is also a perception that the strengthening of security of tenure of rural communities will 'scare off' investors.⁷³ [Indeed, there are] clear indications from senior officials that the provisions of the Land Law that are designed to protect community tenure are considered to be obstacles to the objective of attracting capital investment and land development in rural areas. This view maintains that there are already enough disincentives to rural investment in Mozambique without requiring investors to enter into expensive consultation processes with local communities.

Similarly, Sérgio Chitará, Executive Director of the Confederation of Business Associations of Mozambique (CTA – Confederação das Associações Económicas de Moçambique) argues that:

The World Bank is dreaming if it thinks the private sector will invest in agriculture here. The World Bank must think people are irrational, because no rational person will invest. Even foreigners don't invest, except in sugar which has government protection. When the government wanted Mozal [the billion dollar aluminium smelter], it organised cheap electricity. If the

72 M. Wuyts, 'The Agrarian Question in Mozambique's Transition and Reconstruction', WIDER Discussion Paper 2001/14 (Helsinki, United Nations University, 2001).

73 Norfolk and Liversage, 'Land Reform'.

government expects agricultural investment, it will have to provide support. Agriculture in Mozambique is not viable, except perhaps for tobacco.

All the factors of agricultural production – seeds, fertiliser, pesticides, equipment, spare parts, electricity – are more expensive in Mozambique than in neighbouring countries, claimed the 2001 MADER working group on land law and other obstacles. ‘In an environment of high production costs, agricultural production and agro-industry cease to be viable. ... It is false to say that agriculture must function in terms of the market’, it concluded.⁷⁴ If Mozambique wants agricultural development, it will have to provide subsidies, just as in Europe or the United States. Small farmers cannot afford the full cost of water but there are no subsidies for irrigation schemes, and leaving marketing entirely to the private sector means that crops often cannot be sold. But World Bank structural adjustment policy still limits what the state can do, and Muteia rejects the demand for state support. ‘I met farmers in Chókwè who wanted to relaunch rice production. They said if the government wants us to produce rice, then it has to guarantee to buy it. But I said no’.

A senior Mozambican working for a donor commented:

Who will resolve the problems of this country – foreign investors or the people who are here? Big investors are not the answer. We have to analyse our own history. The reality of the past 10 years is that foreign investment is not protecting and creating jobs. But how do we create small investors when there is no access to banks and credit, to cheap inputs and water, to roads, etc? Peasants don't produce because there is no market.

Yet peasants and family farmers are very much part of the ‘private sector’ and suffer many of the same constraints as larger private farmers.

Perhaps the most striking thing in all of my interviews was the way that Mozambicans working for donors and international agencies criticised their compatriots in government for not challenging the donor and World Bank obsession with no government role in agriculture. ‘I get frustrated that the government never presents strongly argued alternatives’, said one, ‘... The current generation has lost the ability of the Marxist Frelimo generation to debate and analyse. This group just automatically accepts what the World Bank tells it. Ministers need to be proactive’. Another said, ‘the headquarters of my agency says we must follow World Bank policies. We need local economists to challenge the World Bank line and show that it is not working here’.

In the end, the land debate is really a proxy debate, to replace one about development policy that remains taboo. Development policy is still a catechism set in Washington and recited by senior figures in the Mozambique government and at the headquarters of donor agencies. Arguing about land privatisation and land policy is a coded way of talking about development strategies. Rural land privatisation may have been rejected as unnecessary, but the interventionists remain a weak minority. Agriculture & Rural Development Minister, Hélder Muteia's, image of ‘an investor who arrives and says: “I want 10,000 ha to grow soya and my plane leaves in two days”’, is exactly the traditional image of a ‘cargo cult’ – of the *deus ex machina* or the aeroplane flying in with unimagined wonders. After two decades of war and aid, the Mozambican élite and its international allies have become adherents of a ‘cargo cult’ that is simply waiting for development to arrive from somewhere else.

74 Síntese dos Grupos de Trabalho de Reflexão Sobre o Regime Jurídico da Propriedade da Terra e outros Constrangimentos, MADER, August 2001.

Abbreviations

- BIM – Banco Internacional de Moçambique – Mozambique International Bank
CG – donor Consultative Group which meets annually
CTA – Confederação das Associações Económicas de Moçambique – Confederation of Business Associations of Mozambique
DfID – UK Department for International Development
DINAGECA – Direcção Nacional de Geografia e Cadastro – National Directorate of Mapping and Land Registry
MADER – Ministério da Agricultura e Desenvolvimento Rural – Ministry of Agriculture and Rural Development
NET – Nucleo de Estudos da Terra e Desenvolvimento – Land and Development Studies Unit (Universidade Eduardo Mondlane)
ORAM – Associação Rural para a Ajuda Mútua – Rural Organisation for Mutual Help
PARPA – Plano de Acção para a Redução da Pobreza Absoluta (2001–2005) – Action Plan for the Reducation of Absolute Poverty (2001–2005) – Mozambique's Poverty Reduction Strategy Paper (PRSP)
ProAgri – Programa de Investimentos Públicos na Agricultura – Programme of Public Investment in Agriculture
SPGC – Serviço Provincial de Geografia e Cadastro – Provincial Mapping and Land Registry Service
UGC – União Geral das Cooperativas – General Cooperative Union
UNAC – União Nacional de Camponeses – National Peasants Union
USAID – United States Agency for International Development
ZADP – Zambézia Agricultural Development Project

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