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Locating the Community: Administration of Natural Resources in Mozambique

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Land Tenure Center

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All views, interpretations, recommendations, and conclusions expressed in this paper are those of the author and not necessarily those of the supporting or cooperating institutions.

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ABSTRACT

This paper does not presume to offer definitive answers to complex questions raised around the new emphasis on “local communities” in Mozambique. Such answers vary and depend upon the sociopolitical histories of each community. Instead, the paper briefly explores the concept of local community in the lexicon of Mozambican law as well as NGO and donor discourse.

This paper argues that a simplified representation of local communities as harmonious and homogeneous units served a useful purpose in the era of postwar reconciliation and reconstruction. Now that local communities have begun a process of empowerment, however, these idealized representations must be broadened to more accurately define and address the issues of community territoriality and community representation. This must be done in such a way so as not to promote political polarization nor exacerbate social inequalities predicated on gender, lineage or other biological characteristics.

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INTRODUCTION

In 1997, the Mozambican parliament formally approved a new land law, which has the potential to enhance the tenure security of the country's rural smallholders. As with a growing body of Mozambican legislation, the new law might represent a significant step in the process of devolving authority and autonomy with respect to land and other natural resources to local indigenous populations throughout the country. This represents a significant departure from historical trends in which both colonial and post-colonial regimes sought to impose foreign ideas and philosophies on indigenous populations. In the former case, colonial administrators hoped to incorporate the Mozambican peasantry into a broader economic system, which exploited local resources for the financial enrichment of Portuguese business and governmental interests. In the latter case, policies created largely in reaction to colonial abuses attempted to bypass traditional local authorities for their supposed complicity with the colonial government. The effect in both cases was similar: the participation of local groups in the decision-making process was weakened and very often ignored completely.

This paper does not presume to offer definitive answers to the complex questions raised around the new emphasis on "local communities" in Mozambique. Such answers vary and depend upon the sociopolitical histories of each community. Instead, the paper briefly explores the concept of local community in the lexicon of Mozambican law as well as NGO and donor discourse.

PERSPECTIVES ON "LOCAL COMMUNITY"

Given Mozambique's turbulent colonial and recent history, any discussion centering on the concept of local community must first address the issue of definitions. One critical question centers on the simple matter of defining local community in territorial terms. An apparently straightforward model might base assessments on existing state/party boundaries and equate local communities with what today are called cells or circles. Others would advocate discarding these predetermined territorial grids and allowing local communities to define themselves, using

a blend of rural participatory assessment methods and mapping and remote sensing techniques. However, neither of these alternatives would be problem-free.

A major difficulty with the state/party territorial grid is that legitimacy or acceptability of the cell or circle boundaries among local populations would vary from region to region or even within regions. For example, in the District of Maganja da Costa in Zambezia Province, the majority of persons interviewed in a recent survey made little reference to boundary disputes with neighboring cells. In that zone, confidence in such territorial limits could, therefore, be acceptable once contiguous communities recognize and agree on boundaries separating them. Nevertheless, in the same district, residents of two cells are involved in a bitter, ongoing dispute over their common border. Clearly, local circumstances would have much to do with defining community boundaries.

Another problem with existing state or party administrative lines has to do with their historical origins. Local inhabitants frequently express the conviction that community frontiers have always been the way they are now. For example, communities often cite Portuguese colonial maps as proof of population boundaries; these maps, however, were created to facilitate the expropriation of lands by commercial interests. Also, studies reveal that the Portuguese colonial administration in the 1930s and 1940s fixed many boundaries in an effort to differentiate between those populations that were under the control of distinct traditional authorities for purposes of tribute and corvee labor. Thus, community boundaries established by colonial authorities for their own commercial purposes cannot be treated as accurate depictions of either ethnic or communal dividing lines.

Thus, the new emphasis on local community raises complicated questions for the Mozambican government, donors, international and Mozambican NGOs, and rural dwellers themselves. Specifically, what is a "local community"? Who is or are the legitimate representatives of local communities? Upon what basis is that authority or legitimacy constituted? Are the territorial boundaries of local communities clearly defined and, if so, upon what basis? How are the communities themselves differentiated on the basis of gender, lineage, age, or wealth and to what extent do these differences create divergent interests which could, once local people have greater power and authority to administer their resources, exacerbate social inequalities and aggravate tensions with the community or beyond?

This paper argues that a simplified representation of local communities as harmonious and homogeneous units served a useful purpose in the era of postwar reconciliation and reconstruction. Now that local communities have begun a process of empowerment, however, these idealized representations must be broadened to more accurately define and address the issues of community territoriality and community representation. This must be done in such a way so as not to promote political polarization nor exacerbate social inequalities predicated on gender, lineage or other biological characteristics.

RECENT HISTORICAL BACKGROUND

Following independence, the ruling Frelimo party adopted an ideological approach, which centralized political and economic decision-making authority within a Marxist vanguard party-state (Hall and Young 1997). Nationalizing ownership of land and centralizing control over land and its resources was viewed as a critical component in the drive to construct socialism

throughout the country. While the state assumed ownership over land, smallholder families and communities retained their use rights to the land they occupied under customary tenure. In part, the decision to nationalize land was rooted in a Marxist-inspired dualism that pitted a "traditional," fairly homogenous ("semi-feudal") peasant sector against "modern" capitalist elites that would, if land was not nationalized, entice or deceive smallholders into selling their land for minimal financial return and short-term gain (O'Laughlin 1996).

A critical component of this strategy was to wrest allocative and adjudicatory power over land away from traditional authorities whom Frelimo had derided as colonial puppets and lackeys throughout the struggle for independence. Arguing that these traditional authorities had mercilessly exploited rural dwellers in their colonial roles as labor recruiters, tax collectors, and local policing agents, Frelimo attempted to banish such figures and replace them with community-level party representatives (*secretarias*) that were vertically integrated into a state/party hierarchy emanating from the capital, Maputo. As individuals imbued with "modern" socialist notions, these secretaries presumably would replace lineage elders and traditional authorities as the primary actors allocating land and resolving community conflicts (West 1997).

Certainly by the early 1990s, it became increasingly transparent that the national legal and regulatory framework governing land use rights left investors, both smallholders and larger commercial interests, with insecure tenure rights. Studies by the Land Tenure Center at the University of Wisconsin–Madison revealed that the process in which state farm enterprises were privatized (through the establishment of joint venture companies with international commercial firms) lacked transparency. In some cases, the privatization process alienated land from neighboring communities or those families that had been occupying state farm land, thereby exacerbating political tensions in the countryside (West and Myers 1996; Myers and West 1993).

Even more troubling was the accumulating evidence that provincial-level officials were granting land concessions to individuals and commercial firms without consulting rural smallholders regarding their use rights of a requested parcel of land. In theory, district government officials were required to ensure that smallholders in the "family sector"—who usually lacked written title—were not already occupying or otherwise using the requested parcel of land. In practice, however, district-level officials frequently were left out of the process. Even if involved, such officials rarely had the resources or perhaps the inclination (especially during the war) to consult with such communities. Instead, they posted the proposed land request in the office of the district administrator or the district director of agriculture, a location where the affected people would be very unlikely to see it, much less possess the requisite literacy skills to read it (Myers and Meneses 1995). In addition, even in cases where community consultation may have occurred, government officials could still authorize the land concession request despite community claims that they were already occupying the land.

LEGISLATION

Recent attitudes toward community participation in natural resource management are most clearly represented in two arenas: forestry and land tenure. After many years of debate, the 1997 land law makes, among other things, a serious effort to involve local communities in land tenure issues. With respect to forested land, the national parliament began to discuss legislation that would modify the administration of forest resources, and the law was passed in July 1998.

There is a popular, but mistaken, perception that the 1997 land law and its accompanying regulations require local communities to be consulted regarding forestry activities. Short-term timber extraction licenses (*licenses simples*) and long-term forestry concessions (*contratos de concessões florestais por arrendamento*) grant only limited use rights to a particular area. Holders of the land, be they a medium-sized investor producing cotton or a non-titled smallholder farmer, can continue to reside on the land and engage in agricultural activities. The 1997 land law only addresses situations in which entities request acquisition of full and exclusive land use rights (*direitos de uso e aproveitamento de terra*) either through occupancy or the formal titling process. Thus, the land law's procedures for consultative requirements are not applicable for forestry license and concession requests.

The draft forestry and wildlife law made periodic references to the importance of community participation in the management of natural resources. Nevertheless, the general tenor of the draft legislation was one that *protects* rather than *empowers* local communities. For example, Articles 10 to14 of the draft forestry law outlined a process for acquiring forestry concessions and short-term timber extraction licenses that provides no steps in which community opinions are elicited. The draft law encouraged, rather than required, local community involvement in deciding how to use local resources (Article 3b, Article 14).

Unlike the land law and its accompanying regulations, the draft forestry and wildlife legislation also failed to grant local communities the authority to block logging activities or to negotiate with companies regarding material advantages in the form of employment, social services, or a share of the profits. As with the current legal framework, state officials and not local communities would continue to define and decide how best to promote local community interests. Current realities suggest that such an approach is prone to abuse and leaves local communities with few incentives to assist state officials in the difficult task of monitoring timber harvesting.

The 1998 draft of the forestry law discussed the importance of community participation in conserving forests. Further, it stated that forestry concessions would not permit the concessionaire to proscribe local inhabitants from harvesting forest products for non-commercial purposes, preserving local communities' access to forestry and wildlife resources for customary and subsistence-based practices (Articles 3b; 3e; 9; 14). Overall, however, the language and tenor of the proposed forestry law does not establish a framework that the government's own agricultural and natural resource program (PROAGRI) specifies as critical to the success of their forestry and wildlife programs—a framework in which local communities are empowered to assume a more proactive role in managing their resources and in interacting with state and private investors.

Perhaps most problematic is the fact that the forestry and wildlife law is supposed to be another brick in an emerging legal and regulatory edifice in which both smallholders and other investors enjoy clear and secure tenure rights over land and other natural resources. The land law is the cornerstone of this edifice. Unfortunately, the draft forestry and wildlife legislation failed to require community consultations; by conferring only limited use rights to local communities over forest resources, the law made a potentially contradictory contribution.

ROLE OF LOCAL COMMUNITIES IN FOREST MANAGEMENT

Interviews with government and logging company officials demonstrate that to the extent that they envision communities participating in the forest harvesting and management process, their role is primarily to assist in identifying good tree stands, enforce government rules, and perhaps garner a few material perks in the form of local employment and token gifts. Indeed, the replies of the provincial head of the forestry and wildlife department to two questions is revealing. When discussing the requirements of enforcing logging rules and regulations, he stated that the involvement of local communities is absolutely critical: "Even if we in the SPFFB had helicopters and many more personnel, Zambezia province is vast and it would be impossible to monitor the entire province. This is why local communities will be so important." Later in the same interview, however, when the same individual was asked whether local communities receive any money or a share of the profits from logging activities, he replied that he wasn't certain and that such arrangements would depend upon each individual logging firm. In short, while this official expects the communities to expend energy and resources to help enforce logging regulations, he has barely considered what material benefits communities may or may not be receiving or can and should demand in exchange.

This attitude is probably the norm, as demonstrated by the ways in which logging companies currently interact with local communities in Zambezia province. When the representatives of four companies were asked about benefits local communities acquired in the process, all emphasized local employment opportunities.[1] Although the company employs its own personnel for more technical activities (drivers, equipment operators), they hire local inhabitants to clear paths, identify tree stands, and transport and load logs when equipment cannot be used. Beyond providing employment opportunities, one firm noted that a nurse hired to assist employees also provides medical services to non-employees residing in the areas; the same firm also purchased a maize mill for one community.

The general rule, however, is for local companies to do little more than purchase articles for a traditional ceremony venerating spirits in the forest (which entails alcohol, meat, rice, or maize meal) and perhaps provide soap, cloth or other items to selected community members. The reply of one company official to the question on whether he pays local communities for the right to harvest timber is revealing: "I would not say 'pay'; rather I would use the word 'thank'" ("*Nao diria pagar; diria agradecer*"). Indeed, the dominant paradigm influencing the thinking of government officials and private operators is one in which local communities are, at best, minor custodians of forest resources who should be acknowledged and gratified with insignificant forms of tribute and patronage. They are not perceived as owners of the forests with whom one must negotiate. Indeed, as already discussed, current legislation and practices provide no reasons for thinking otherwise.

It is important to emphasize that the problem may not only rest with government officials and logging companies. Local communities, after years of colonial and post-independence rule in which they have not been consulted or have been ignored in decisions regarding the use of

[1] Many of the individuals employed are related to local leaders. One company representative noted that he always pays a salary to the local traditional authority, even though the individual is not required to work. Another company official noted that many of the individuals hired are relatives or close associates of the traditional authority, party secretary, or other local leader.

forestry resources, may not have a keen sense of ownership. One NGO representative noted that when smallholders were asked during seminars on the new land law who they believed owns the forests, the common replies were "God" or "the State." It could be that while community members recognize that forests are within the domain of a particular community, the boundaries of which are often perceived as being rooted in "tradition" or "custom," this does not translate into a perception that they have clear property rights that can be relied upon to extract material advantages for themselves. At the same time, this is an issue that requires further research, the findings of which will likely reveal that the sense of property and ownership varies from community to community.[2]

ASSESSMENT

In assessing the winners and losers in the process of defining legal access to and decision-making authority over natural resources, a variety of authors and practitioners have presented a somewhat simplified analysis. These have tended to pit an undifferentiated smallholder sector against avaricious economic and political elites whose acquisition of land necessarily impinges on the interests of the former. Recently, a number of scholars have begun to question the reliance upon images of undifferentiated groups of smallholders or local rural communities pitted against similarly undifferentiated "largeholders" that may or may not have ties to state elites.

For example, in an unveiled critique of the analytical reliance upon "dualisms" such as smallholder and largeholder or "traditional" subsistence production and capitalist cash economy, O'Laughlin (1996) points out that smallholders have historically not exclusively relied upon subsistence agricultural production to secure their livelihood. Instead, rural livelihoods and food security also have been conditioned on the opportunities for wage labor and off-farm employment within or outside of Mozambique. Differentiation within local communities, O'Laughlin argues, is a complex and ongoing historical process linked to the nature of each family's historical insertion into southern Africa's various labor regimes as well as to the family's control over critical agricultural means of production such as land, cattle, and agricultural implements.

The problem with a dualist conception of a traditional, homogenous peasantry standing in opposition to large-scale commercial enterprises is that it "leads to a narrow focus on land ownership as the major issue in rural class structure and to an overemphasis of the importance of 'traditional' chiefs as a cultural and political institution in rural life" (O'Laughlin 1996, p. 2). O'Laughlin suggests that any long-term economic recovery in rural areas cannot be predicated simply upon improvements in smallholder production but must also include revitalization of other sectors, such as the commercial sector, to reestablish not only marketing infrastructure but also provide sources of wage employment.

[2] "I would suggest that communities and smallholders may have a very different concept of ownership of land and natural resources such as land, water, and forests, that they may not regard them as privately-owned assets to be exploited for personal profit" (commentary by Dr. Lastarria-Cornhiel).

CONCLUSIONS

Considerable disagreement exists within Mozambique regarding who should speak for local communities. Opposition members in parliament suggest that *régulos* and traditional authorities are the legitimate representatives of their communities. Others challenge this position, arguing that community-level authority structures in Mozambique vary and that such heterogeneity should be preserved by not declaring that a particular group of individuals (such as *régulos*) should represent local communities. Members of these communities should instead decide for themselves who best represents their interests.

The Mozambican government deserves much credit for having formulated and approved one of the most promising legal frameworks in sub-Saharan Africa with respect to strengthening smallholder land tenure security. If effectively implemented, it can also facilitate the creation of a more constructive relationship between rural communities and outside investors seeking land use rights in such communities.

For this potential to be realized, the government will obviously need adequate resources to carry out local community consultations. At present, many provincial cadastral offices do not possess vehicles to travel to rural communities; the situation is even worse for personnel from some district administrations. Clearly, a critical element in realizing the land law's potential will be the provision of adequate logistical and other material resources to the relevant state institutions.

Also important, however, will be the creation of a clear set of procedures that ensures that local communities have adequate time to select accountable individuals who can represent community interests in a process that is clearly documented and that facilitates well-informed decision-making. Such as procedure has been defined for consulting local communities in the formal titling process of land. A similar process may be needed for forestry management and concessions.

Interpreting the implications of different pieces of legislation through the prism of "largeholder" and "smallholder" interests has provided a simplifying logic that helped highlight the need for devolving more power to local communities. Continuing reliance on such categorizations will be necessary as the government clarifies the practical implications of broader principles enshrined in the 1997 land law. Nevertheless, as communities begin exercising their new rights and responsibilities over land and natural resources, research that assesses ongoing dynamics within and between communities will be critical. This is especially true given that any decentralization of power or authority will be accompanied by a decentralization of the struggle over resources, which will have divergent effects on differing groups within communities.

In an effort to address some of the imbalances and injustices associated with a colonial past and a turbulent post-independence history, Mozambique has looked to "local communities" as a vehicle through which the rural peasantry can be empowered to protect its individual and communal rights. A simplified version of the concept has proved useful in the early years of the post-colonial era, but must now be broadened to more accurately define local communities and delimit the scope of responsibilities devolving on their legitimate representatives. It goes without saying that a key in this process will be the identification of truly representative spokespersons and their empowerment to enable participation in legal and institutional processes that safeguard the tenuous position of rural smallholders.

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