

**LOCAL-LEVEL POLITICAL LEGITIMACY
AND SECURITY OF LAND TENURE
IN MOZAMBIQUE**

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

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August 1992

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1

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I. INTRODUCTION

Land tenure security is perhaps one of the most important variables affecting agricultural production and, consequently, such critical issues as food security, rural rehabilitation, and environmental preservation. Land tenure refers to the rights that an individual or community has in land; land tenure security means that the individual or community considers those rights as secure, long-term, and within their control. Property or land rights are an important factor influencing farmers to invest in their holdings. Secure, long-term land rights encourage long-term investment. If land can be used as collateral for a loan, the landholder may be able to borrow money for additional improvements. But land is more than an economic or legal issue:

[As] land provides the basic opportunity to survive and prosper in many societies, it is the object of competition among individuals and groups. Land distribution is a profoundly political question (Bruce et al. 1991).

The important issue that arises is how land tenure security is guaranteed for small, medium, and large-scale farmers, so that they will invest in landholdings and increase agricultural productivity. Many suggest that the simplest and most effective method is through land titling and registration schemes (see, for example, Feder 1987; Feder and Noronha 1987). It is argued that if the landholder is issued a title or certificate for his land this will contribute to his security and, consequently, he will invest in the land. While the benefits and disadvantages to land titling have been discussed elsewhere (see Carter et al. 1991; Bruce 1986; Wachter 1992), we believe that titling is not always the best approach for securing land tenure. While titling is important in many cases, it is not appropriate in many

others.¹ Titling may help farmers to acquire commercial credit, but it is useless in cases where credit is not available or where title is not acceptable as collateral. Furthermore, the process of titling itself may dramatically alter the very rights one is attempting to protect, where, for example, the fluid relationships in a "traditional" tenure system become frozen in a register, or where secondary and tertiary rights are excluded in favor of total security for the primary user.

We believe that there are other ways to achieve land tenure security, which are often more appropriate for small- and medium-scale landholders. We suggest that there is a direct relationship between land tenure security and local-level political legitimacy. If individuals have confidence in the mechanisms that distribute land (or make land available, or negotiate in land deals) and in the mechanisms that hear or resolve land disputes, those individuals will feel more secure on their land. This will enhance investment and production. This does not mean that a clear, legal definition of rights is not also important. These issues are closely related, but too often development planners and social scientists focus entirely on the types of rights and documentation granted, and not enough on the processes for securing those rights and the mechanisms for defending those rights.

The purpose of this paper is to discuss the relationships between local-level political legitimacy and land tenure security in Mozambique. Material for this paper is drawn from research conducted in Chokwe (Gaza Province), Vanduzi (Manica Province), Nhamatanda (Sofala Province), and Montepuez (Cabo Delgado Province) from 1991 to 1992 (see Tanner et al. 1992; Myers and West 1992).

II. LAND TITLES, SECURITY, AND CONFLICTS

At the present time the legal status and practical utility of land use titles in Mozambique remain unclear. According to the 1987 Land Regulations, the application process for use titles theoretically begins at the district level. District offices of DINAGECA are responsible for ensuring that land applied for is not presently occupied, and for posting a notice announcing the applicant's intention to secure use rights to the area. At this point the application is forwarded to the provincial level, and the applicant may occupy the land. Titles are then to be issued by the provincial offices of DINAGECA for agricultural lands under 250 hectares, or forwarded to the Ministry of Agriculture for approval in cases of applications in excess of this amount.

1. In Mozambique, specific cases where land titling may be appropriate are the following: (1) in urban and some periurban zones; (2) in highly concentrated rural areas, such as the Beira corridor or the Chokwe Irrigation Scheme; and (3) in areas where rural farm land adjoins or abuts large private holdings. In other, rare cases, it might be appropriate to register a collection of farms, as a group or block, to protect these lands from outside encroachment.

In reality, titles for agricultural land are not being issued. The reason for this is the lack of clear policy or a mandate from the central government. The government has not been willing to clarify the status of rural agricultural land rights. This has created complex problems at the local level. Where DINAGECA has been unable to protect the rights of smallholder farmers from larger commercial applicants for land due to its technical and administrative incapacities, neither have larger commercial farmers been given secure rights to the land which they are occupying. Dispossession of smallholder farmers is taking place; but, on the other hand, larger commercial farmers, not to mention some smallholder farmers, lack sufficient security to make long-term investments in the land they are claiming. When the war ends, the situation will be exacerbated by two factors: first, rural populations will be in flux as refugees, returnees, displaced people, and demobilized troops attempt to secure new land rights; second, larger commercial farmers will be entering the agricultural sector in greater numbers, thus competing with smallholder farmers for land rights. The result is likely to be widespread land conflicts.

One policy option proposed to forestall the problems resulting from this situation is the creation of smallholder reserve areas. Manica Province has begun a tentative program in this direction, demarcating areas of land for which the larger commercial farmers are not permitted to apply.² This policy, however, is considered temporary and its legal standing is ambiguous.

The demarcation of reserve areas is only one possible way to provide greater security of tenure for smallholder farmers. What is essential to any attempt to improve tenure security, however, is the participation of the local population in the process of administration of land policy through land management institutions which ensure legitimate representation.

III. LOCAL POLITICAL STRUCTURES, POPULAR PARTICIPATION, AND LAND MANAGEMENT

In the previous article by Myers and Tanner (1992), a model is proposed for a new national land authority in Mozambique. The authority would coordinate and direct land allocation, land acquisition, and land use practices. It would be responsible for proposing land policy and establishing and guiding land boards and land courts. In this article we are particularly interested in the role that the local-level land boards and land courts may play in securing land tenure.

2. A caveat must be advanced with regard to the creation of reserve areas. So long as reserve areas are scattered among larger commercial holdings, those within them may have sufficient access to infrastructure, markets, and agricultural and financial inputs. If, however, the areas are large and remote, they may give rise to the formation of "homelands," or pockets of underdevelopment where infrastructure is insufficient and required inputs are lacking. It may also lead to ecological degradation.

Legitimacy is determined and contested at the local level, and it is there that the present-day representatives of rural society will inevitably be chosen. It should therefore be the objective of the government to create institutional arrangements flexible enough to allow for the ongoing negotiation of legitimacy at the local level in response to changing economic realities. This does not entail "identifying legitimate representatives of tradition" and vesting power in them. Rather, it entails a genuine decentralization of land management and dispute settlement.

The model under discussion outlines the relationship between central government and local political authorities with regard to land distribution and dispute resolution. This model is intended merely to serve as an example. What is essential to it is that there is a clear division of responsibilities in which the central government formulates guidelines, passes legislation, and determines policy for the nation. The local level, however, is vested with the authority to implement policy through institutions whose participants, structures, and processes are popularly determined.

This represents a clear shift of responsibility over land to the local level. For this to work, a strong legal framework and a clear political mandate must be developed at the central level—without this, the local level remains vulnerable to middle-level political structures and capricious interests of private enterprises, whether domestic or international. In addition, decisions concerning the zoning of land into reserves, agricultural land, forests, and the like, would be left to the central government.

Upon this foundation, the primary responsibility for the management of agricultural lands themselves would be clearly shifted from central and mid-level government to the local level. We must emphasize that we are not simply suggesting that existing governmental institutions at, for example, the locality level take on existing administrative functions. What we are suggesting is that the people within some determined area (whether the locality or some other geographical area would prove more practical remains to be discussed) have the authority to make decisions with regard to the political structures that will administer land allocation, management, and dispute resolution procedures.

Neither are we suggesting that the objective be the reconstitution of "traditional" institutions, as they existed prior to independence, at the local level. Rural society has undergone dramatic transformations since independence and continues to change. The new political framework that we are proposing for land management must permit for a popular representation at the local level which accommodates this process of transformation. Consequently, local-level institutions would need to have enough flexibility to represent complex relations between existing local political powers while at the same time allowing rural society to renegotiate and transform those very power relations in response to new economic opportunities and constraints.

IV. POLITICAL LEGITIMACY AND LOCAL INSTITUTIONS

What we are most concerned with is the formation of local-level institutions for land management and dispute settlement which will permit the local population to actively participate in decisions that affect their daily lives. For this to be achieved, the local-level population must be capable of determining not only who their representatives will be, but also the complexion of the structures of representation and the process whereby they are created, maintained, and called to accountability. For example, in some areas there is a direct correspondence between the locality and the former *regulado*—or an area once under a unified "traditional" political structure. Other localities contain populations which represent numerous *regulados* or other political entities, while still other localities are constituted of fragments of a single entity. If the local population is to be able to maintain a balance between competing political groups, it must be allowed to create institutions with the necessary flexibility to accommodate these diverse local situations.

This discussion relates directly to the issue of "traditional" authorities and their role in official structures of government—an issue which has been the locus of protracted debate in Mozambique. Shortly after independence, the FRELIMO government took the position that "traditional" structures of authority had been corrupted by their forced cooperation with the colonial regime and, further, represented feudalistic society. Consequently, the government attempted to dissolve "traditional" power structures and replace them at the local level. The campaign against "obscurantism" and "feudalism" left "traditional" authorities no place in the program for rural development. Indeed, the state agenda placed "traditional" institutions and norms under siege.

In the past decade, local-level governments have often come to recognize the futility of this campaign and have, in many places, negotiated tentative arrangements for cooperation with former "traditional" authorities. The central government itself has begun to recognize this need. In the final analysis, the government agenda to replace "traditional" authorities arose out of a misunderstanding of the nature of "traditional" institutions which considered them to be static, backward, inefficient, and antiprogressive. The emerging vision of the government fails in this regard as well: it does not understand the dynamic nature of rural social and political institutions. This has resulted in the central government presently focusing its discussions of "traditional" institutions around a debate as to whether they are, quite simply, legitimate or not. A more appropriate focus for discussion would be the process through which tradition, and with it political legitimacy, is continually being negotiated in Mozambican rural society within currently prevailing political and economic contexts.

The crucial point is that tradition, and with it the legitimacy of particular institutions, is subject to an ongoing process of popular evaluation grounded in the political and economic experience of everyday life. Hence, when we speak of tradition and political legitimacy, we must recognize it as a cultural representation that is constantly being constructed and

reconstructed, contested and confirmed. As rural societies reproduce themselves, they transform their notions of tradition and legitimacy. Furthermore, individuals variously situated within rural society negotiate the meaning of these terms, advancing their own visions and contesting others, according to their own perspectives and political and economic interests. This they do in an attempt to take advantage of, or create, new opportunities and to avoid new constraints.

The constant appraisal of various conflicting claims to legitimacy gives rise to the process of transformation of tradition itself. Each and every time land is allocated, resources distributed, or disputes settled, those who experience power in the form of everyday practice pass judgment on its legitimacy and assess its claim to accordance with tradition.

Whether the government officially permits the process of determination of legitimacy to be located at the local level or not, such a process will occur there. Local populations have always determined representations, and the individual representatives, of popular tradition for themselves, and will continue to do so regardless of state policy. If a more harmonious and productive relationship between rural society and the state is to be established, however, official policy must recognize this process and be genuinely willing to allow it to proceed.

While this relationship encompasses more than merely the land issue, land presents an essential foundation. Land is the central means of production for the vast majority of Mozambicans. For most people, the connection to land is an intimate one, around which other social values and practices adhere. As Mozambique moves toward democratic reform, the management of land could quite possibly provide the skeleton for a more genuinely popular political process.

V. CONCLUSION: LEGITIMACY AND A MORE BENEFICIAL USE OF LANDS

Where the local population feels more secure with the institutions which manage land and natural resources, smallholders will have a more secure sense of land tenure. This has benefits not only for smallholder farmers, but for larger commercial farmers in the region as well. Where decisions concerning concessions to larger commercial farmers have been approved by institutions viewed as legitimate by the population, in accordance with a recognition of the benefits to be derived from the presence of private sector farmers (i.e., infrastructure, access to markets, transportation, inputs, employment opportunities, and so forth), larger commercial farmers' rights will be more secure as well. This will serve to decrease land disputes and give rise to a more harmonious local political environment. This, in and of itself, is a valuable objective.

Other social benefits, however, derive from greater legitimacy of local land institutions and more secure land tenure. For both smallholders and larger commercial farmers, greater

security of tenure permits for a higher level of investment in landholdings and a more effective preservation of ecological resources. No longer thinking in the short term, that is, that land rights may be compromised in the near future, farmers are able to plan for the long term, planting trees, fallowing land (where sufficient land is available), expanding area under cultivation, and investing in longer-term labor relations and transportation arrangements. All of these will contribute to higher and more sustainable agricultural productivity in Mozambique.

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