



PUTTING RURAL COMMUNITIES ON THE MAP: LAND REGISTRATION IN MOZAMBIQUE, 2007–2016

Leon Schreiber drafted this case study based on interviews conducted in Maputo and Xai-Xai, Mozambique, in November 2016. The British Academy-Department for International Development Anti-Corruption Evidence (ACE) Program funded the development of this case study. Case published February 2017.

SYNOPSIS

In April 2006, six international donor agencies established a program to help Mozambique's government register community land rights and improve tenure security for rural residents. Under Mozambique's constitution, the state owned all land. A 1997 law, adopted after a 15-year civil war, sought to recognize rural communities' customary tenure rights while encouraging commercial investment through the issuance of 50-year leaseholds. But many communities failed to register their holdings with the central government, leaving their rights vulnerable to powerful state and corporate interests. To address the problem, the donor group established the Community Land Initiative (iniciativa para Terras Comunitárias, or iTC), a program to register community parcels in the government cadastre and empower communities to negotiate with potential investors. The iTC coordinated with national and local governments as well as nongovernmental organizations to map the borders of community lands. The program informed community members about their land rights and how to use and protect them. It also established natural resource committees, which enabled communities to receive shares of the natural resource taxes paid by commercial investors working on communal lands. The iTC further created producer associations to support budding commercial farmers, resolved boundary disputes, and worked with provincial cadastral offices to issue certificates that specified property boundaries. By mid 2016, the program had registered 655 communities in the government cadastre—nearly four times the estimated 171 community registrations carried out before the iTC was established. The registrations covered 6.9 million hectares and 10% of the country's rural population.



INTRODUCTION

“Whoever takes away land takes everything away: our life, our future and that of our children. Now we won’t have access to our mangoes, bananas, nor grass to cover our houses. Just to walk we need authorization from the company. . . . When our women and children go to collect firewood they are prohibited. In the end is this land not ours?”¹ That complaint, by a member of the Micoco community in Mozambique’s northern Niassa province, appeared in a report on the government’s grant of a property concession to a consortium of local and international investors in 2005.

Under the 2005 deal, the company, known as Chikweti Forests, leased 1,000 hectares for timber production, with the intention of expanding its work area to 140,000 hectares. The government had the authority to complete the transaction because Mozambique had taken ownership of all land after its independence from Portugal in 1975. But the law also required that before the state could grant a land concession to a prospective investor, that investor had to consult with local communities to ascertain whether the land was already in use. Protesting that Chikweti had failed to consult adequately and had planted trees on land used for pasture and crops, community members took matters into their own hands by torching some of the company’s saplings.

Such confrontations became more frequent as competition escalated between investors and local communities over access to land in Mozambique. According to one report, from 2004 to 2009, the government granted more than 2.7 million hectares to investors.² The grants covered 7.5% of the country’s total arable land of 36 million hectares.³ The concessions drove members of some communities off their farms, threatening livelihoods. At the time, 70% of the population lived outside urban centers, and small-scale agriculture was the lifeblood of the economy, accounting for 80% of employment and 24% of annual economic output⁴ in a context in which 45% of the population lived on less than \$1 per day.⁵

A 1997 law had attempted to deal with the concessions problem by putting in place a system that recognized communities’ rights to use the land they occupied. The law granted a perpetual-use right—known as a *direito de uso e aproveitamento da terra* (DUAT) (*right to use and benefit from land*)—to communities that had historically inhabited the land. The same right applied to individual persons who had occupied pieces of land in good faith for at least 10 years.

Simon Norfolk, a British lawyer and land tenure expert who worked in Mozambique, said the 1997 law “effectively legalized all community land at the stroke of a pen.” But problems arose from shortcomings in implementation. For instance, because the law did not explicitly require communities to obtain formal certification from the central government to prove their rights,⁶ many had no official records establishing their boundaries.

At the same time, the 1997 law had created DUATs for commercial investments, which were valid for 50 years if no community indicated a claim to the land and the government approved the transaction.

In the absence of formal documentation of community interests, the process for issuing DUATs often bypassed the people who had the most to lose.

THE CHALLENGE

The 1997 law established a procedure known as *delimitation* whereby communities could establish their rights to specific areas and gain government certification to protect those rights. But by the mid 2000s, few communities had managed to delimit their lands and formalize their rights. In the absence of pressure from vocal constituents and lacking the financial resources to do the job, political leaders left unregistered communities to fend for themselves.

With the government focused on the income raised by issuing DUATs to commercial investors and companies, community land delimitation was not a similar priority for the government. By 2005, “it was clear what the problem was,” said José Monteiro, a forest ecologist involved in community land rights. “Even though the law says we recognize the customary land rights of communities, those rights are not registered anywhere, and communities have no way to prove that they have them. When you go to the cadastral map, you don’t see those communities.” Mozambique urgently “had to find a way to formalize community land rights in a way that put communities on the map,” Monteiro said.

Economic considerations were significant. The new, private DUAT provision helped make Mozambique an attractive destination for land investment. Mozambique had a low population density of only 28 people per square kilometer compared with 143 in neighboring Malawi, 46 in Tanzania, and 34 in Zimbabwe⁷; and at least on paper, almost 88% of arable land was not in active use.⁸ (See textbox 1)

In theory, the DUAT system thus responded to two distinct needs: First, private DUATs aimed to encourage economic development by attracting international investment in agriculture and mining. And second, community DUATs sought to protect local access to traditional lands, the focus of a broad-based social movement that had pushed for preservation of customary rights in 1992, after the end of a protracted civil war. But in practice, the state placed much greater emphasis on the first need than on the second.

The system soon ran into problems. By 2009, close to 50% of land concessions granted to investors under private DUATs either remained unused or were being only partly used.⁹ Certain large investors’ failures to make productive use of the land in accordance with the DUAT system

Textbox 1: The DUAT: A Tool to Secure Land-Use Rights

According to the Mozambican constitution, the state was the sole owner of all land in the country. However, after the civil war ended in 1992, the government reviewed land policy as part of an effort to partially liberalize the economy. In 1997, the review resulted in a new land law that established a right to use land, known as the *direito de uso e aproveitamento da terra* (right of use and benefit from land, or DUAT).

The law introduced three categories of DUATs: community, individual, and private. In terms of the land law, all three categories conferred equal rights to land on the rights holder. Local communities that occupied land under customary systems automatically acquired perpetual DUATs under the new law. Individuals who had occupied pieces of land “in good faith” for at least 10 years also automatically acquired DUATs. The third category was for local or foreign companies and individuals who wanted to invest in a particular piece of land. If the potential investor obtained approval from surrounding communities, the state could approve a DUAT for up to 50 years, with the option for one renewal.

Although private DUATs required certificates to prove lease rights, holders of customary-use and good-faith DUATs were not required to formally register their rights or to have any supporting documents. However, they could register their existing DUAT rights by obtaining delimitation certificates to prove the extent of their lands and by formally registering their DUATs in the cadastre.

DUATs obtained under customary-use provisions were transferable and inheritable. Although the land law said, “The land is the property of the state and cannot be sold or otherwise alienated, mortgaged, or encumbered,” infrastructure on the land could be sold, and the DUAT itself—that is, the right to *use* the land—could be transferred—subject to reapproval by the state.

The transfer of private DUATs involved a cumbersome, bureaucratic process that required several visits to the national deeds registry and the provincial or national cadastre. As a result of such challenging registration requirements, as well as the government’s lack of administrative capacity, many holders of private DUATs transferred their rights without official registration. The practice made it difficult to ascertain the actual ownership status of any given private land-use right.

(which granted a *use* right) generated widespread suspicion of land grabbing and speculation.¹⁰ In addition, concerns arose that some investors might have obtained concessions by paying kickbacks to government officials. And a drawn-out application process that required many approvals increased the risk of that type of corruption.

Communities paid a steep price when the private DUAT approval process went awry: the law stipulated that communities were entitled to shares of the resource taxes generated by commercial investment, but when investors or officials circumvented the procedures, communities lost out on that potentially valuable source of revenue.

By themselves, most rural communities lacked the knowledge and resources to carry out the process of defining and recording the borders of their land parcels. But even if they wanted to play more proactive roles, neither the government nor nongovernmental organizations (NGOs) had the means to assist. Only one NGO, the Rural Association for Mutual Aid, had previously worked on a pilot boundary delimitation project, and it had so worked in only one province.

Capacity and management problems at the land ministry's Serviços Provinciais de Geografia e Cadastro (SPGC, or Provincial Geographic and Cadastre Services) posed an additional challenge. The regulations the government had put in place to implement the 1997 land law empowered only the 11 provincial SPGC offices to issue the official certificates and required an official from the department to physically visit each community in order to survey and register that community's land parcel in the cadastre. But SPGC departments were often understaffed, usually lacked the resources needed to conduct field visits, and typically had poor systems for managing the process. As a result, "it sometimes took the cadastre three months or more to issue a certificate, even though the law says it should be done within two months," said Xavier Lucas, former head of the SPGC in Nampula province.

Finally, the delimitation process risked triggering conflict between communities. In some instances, separate communities had overlapping but compatible claims to the same piece of land. For example, whereas one community might use an area for grazing cattle, a neighboring community might have concurrent customary rights to collect firewood or water from that area.

Inquiries from prospective investors also caused turmoil, as communities rushed to establish boundaries that included valuable natural resources such as timber or minerals.

FRAMING A RESPONSE

In 2005, a group of international donors offered to help the Mozambican government accelerate efforts to assist rural Mozambicans obtain official evidence of their land rights by launching the iniciativa para Terras Comunitárias (Community Land Initiative, or iTC). The group chose to assist because securing community land rights would have practical economic impact as well as important effects on fairness, inclusion, and conflict reduction. Further, the law establishing the customary DUATs had emerged from an exceptionally inclusive and participatory process that signaled broad public support.¹¹

The initial idea for the program came from Simon Norfolk and Harold Liversage, land administration experts who were consultants in Mozambique. Given the lack of progress by the government, "we thought an independent funding approach would be useful in Mozambique," Norfolk said. Norfolk and Liversage pitched the idea to a group of donors from the United Kingdom, the Netherlands, Sweden, Ireland, Switzerland, and Denmark; and the group decided to establish a funding consortium led by the UK Department for International Development (DFID). Even though plans called for the iTC to be wholly donor driven at the outset, Célia Jordão, a senior policy officer from the Dutch embassy who was part of the group of donors that launched the iTC program, said, "We wanted to eventually reach

a point where we could set it up as an independent foundation so that local people could eventually take over and be recognized as an organization.”

The iTC program was designed to help rural Mozambicans obtain DUATs under any of the categories created in the 1997 law, but government regulations stipulated two distinct processes for registering the different types of DUATs: delimitation for communities and demarcation for private users.

Obtaining a delimitation certificate so a community could register land under customary or good-faith occupation was fairly simple from a bureaucratic point of view because the certificate merely recognized a customary or good-faith land right that already existed. Communities still faced the hard work of agreeing on shared borders and formally mapping them.

In contrast, the authorization of a DUAT for private, commercial uses created a new right that had not existed earlier.¹² Whereas the delimitation process merely registered an existing (customary) right, demarcation created a new (private) use right. And the demarcation process had more-rigorous requirements for surveying land parcels, creating producer associations, conducting community consultations, and erecting markers or fencing around the designated land. However, both received the same level of protection under the law.

The iTC's first goal was to help communities navigate the process of obtaining a delimitation certificate by providing land survey services and other technical advice. The 1997 law defined a community as a grouping of families and individuals who lived in a circumscribed area and aimed to safeguard their common economic and social interests.¹³ João Carrilho, a former deputy agriculture minister, estimated that the average rural community consisted of 400 to 500 families comprising 2,500 to 3,000 individuals. And although that definition left ample room for community self-determination, Carrilho said it also risked making ethnic identity a prime criterion for membership, thereby sharpening senses of difference and “creating indigenous reserves.” However, the risk that delimiting those communities' lands would inflame ethnic hostilities was somewhat mitigated by the comparatively low levels of ethnic tension in Mozambique,¹⁴ where ethnic categories were neither strongly institutionalized or ingrained and where people from different backgrounds lived together.¹⁵

In addition, by allowing a community to decide who was or was not a member, the community DUAT process left a lot of power in the hands of traditional leaders and imposed few safeguards for individuals. Individuals could apply for new, private DUAT rights to isolate their parcels from the rest of the community's land, but doing so was a complex and costly process that also required approval by community leaders.

In addition to facilitating the delimitation process, plans also called for the iTC to assist communities in setting up natural resource committees and open bank accounts. Emidio Oliveira, who worked with the DFID and later

became iTC executive director, explained that under the country's forestry law, a delimited community with a representative structure was entitled to a 20% share of the total tax revenue generated by commercial forestry enterprises on its land. The same applied to mining and tourism activities, whereby communities could respectively receive 2.75% and 15% cuts of the total tax revenues generated by those activities.

The program simultaneously tried to recruit local farmers interested in establishing producer associations and applying for private DUAT rights on their lands. For example, maize growers could join together to secure their rights to cultivate a set of parcels within the community lands. The delimitation certificate would formalize the entire community's right to use the land, and the private DUAT would separate the maize farmers' land from other community holdings, enabling them to set up a business enterprise.

The iTC planned to invite and fund NGOs to handle communication, education, consultation, and land surveys and other technical tasks. "The iTC was the policy and funding manager, but it wouldn't execute," Jordão said. "That was up to the service providers." The decision to use NGOs as service providers was based largely on donors' long-term ambition to entrench the practice of delimiting community lands at the local level. "From a sustainability point of view, we wanted to build local capacity," Jordão added.

Before it could go forward, the donor group had to secure the government's buy-in and involve it in program design. The consortium invited the national director of land, NGOs, and other donors to serve on an advisory committee whereby "we could explain the objectives, the approach, and the results we planned," Jordão said. "We looked at areas where government was also concerned [about land] and where there were conflicts or investors coming so that it would be in everybody's interest to know what communities were there and how big their land was."

Initially, officials working on land administration worried that defining a community's borders would close off the community to investment. "Some NGOs had previously given communities bad information," said Lucas, who had headed the SPGC in Nampula province until 2007. "They told people that no investor was allowed to come into your community; this is your land." In contrast, iTC's objective was "to tell the communities that, through delimitation, you can attract people to invest in your community. It's not to close [communities] off; it's to manage investments in a way that improves the community," he said. The directorate allowed the program to move ahead.

The multi-stakeholder advisory body proposed a five-year pilot—subject to review after the second year—in 3 of the country's 11 provinces: Gaza, Manica, and Cabo Delgado. The provinces included one area from each of Mozambique's major regions, selected based on the intensity of development and investment pressure on community lands, perceived demand for boundary definitions from affected communities, the presence of NGOs to

implement the program, support from provincial governments, and donor priorities.¹⁶

The new program adopted a decentralized approach to its own planning and engagement strategies in order to counter the problems that a highly centralized government had encountered in managing land issues in the past. Previously, politicians and officials at the national level had imposed decisions about land allocation on their field offices in the provinces. But it was really the field offices that had the information and the close contact with communities to handle land allocation issues effectively. Jordão said the iTC had set up advisory bodies at the provincial level with the intention to “go directly to the local level and get the people on board who have to deal with the problems and the conflicts every day.”

The iTC had no desire to try to resolve existing disputes between investors and communities. Oliveira said the group “declined requests from companies to assist them in resolving a dispute or obtaining a DUAT.” Instead, the intention was for the iTC to be forward-looking and to identify potential hotspot areas, including areas that were slated for big land investments. By delimiting the lands of communities in these hotspot areas, the consortium hoped to reduce the potential for future conflict with investors.

With both the national and provincial governments on board in mid 2005, the iTC’s next priority was to ensure sound financial management of the program, which was initially projected to cost \$900,000 per year. The group awarded the joint contract to the Mozambican office of international auditing firm KPMG as financial manager—alongside the Natural Resources Institute at the United Kingdom’s University of Greenwich as a technical partner—to manage the iTC’s operations in the three target provinces. Together KPMG and the university’s institute had the jobs of reviewing and approving proposals to map community boundaries, disbursing funding, and monitoring implementation. KPMG Mozambique and the institute’s team oversaw overall program management, and the NGO service providers carried out the day-to-day work at the community level.

GETTING DOWN TO WORK

The program got off to a slow start. Oliveira said the initial plan was for the iTC to pursue “a demand-driven approach whereby communities that wanted to have their boundaries defined would approach NGOs, who would then apply for funding from iTC on their behalf. We believed that demand would be something natural. By the end of 2007, we realized that we were too optimistic.”

Julian Quan, principal scientist at the Natural Resources Institute, added that “it was a little bit of a false start. It became clear that NGO capacity and community access to information was not sufficiently high to articulate proposals for iTC support.” Few requests from communities materialized,

and there were concerns that NGOs could run off with the money earmarked for community delimitations. The iTC carried out no delimitations in 2007–08 and only 11 in 2008–09. During the same period, the program assisted 21 producer associations in obtaining DUATs.¹⁷

André Calengo, a Mozambican lawyer who coauthored a 2008 program review, said: “The idea that communities would come and demand these services was simply not happening. We said they needed a new approach—one whereby the program would create that demand.”

In response, the iTC hired outreach officers for each provincial office to engage with communities. Calengo stressed the need to focus more on raising awareness about the benefits of delimitation certificates and about the existence of the iTC. “They also needed to create a sense of ownership within the community and prepare a community to interact with private investors once it has the certificate,” Calengo said.

The iTC “needed to change our entire way of working,” Oliveira said. The group responded to communities’ lack of awareness by creating a standardized methodology for the delimitation process, which it called *social preparation*. The iTC also drew up strict selection criteria for service providers and undertook to strengthen monitoring procedures. Alongside the operational reforms, the iTC and its donor partners focused on (1) implementing a dispute resolution mechanism, (2) issuing DUATs to producer associations, and (3) improving cadastral efficiency.

Engaging communities

The program’s early problems highlighted the importance of working closely with communities throughout the process of mapping their boundaries. “It became not only about delimiting their area but also about making people aware of the value of their space and encouraging them to see the potential of the available natural resources,” Monteiro said. The iTC’s new approach more rigorously applied the process of selecting eligible communities and prioritized areas where the program could map adjacent communities in quick succession, thereby creating economies of scale.

When a provincial iTC office identified an eligible community, it was up to the prospective service providers to engage residents, talk with leaders, and then convene mass meetings. “The first entry point is always the head of the administrative post [Mozambique’s basic form of local government], followed by the traditional leader,” said Bartolomeu Langa of ACOSADE, a rural-development NGO based in Gaza province. If local leaders were receptive, the service provider submitted a concept note to the provincial iTC office, which then decided whether to go ahead with the project.

The next step was to set up a nine-member natural resource committee within the community to oversee the delimitation process, manage the community’s resource taxes, and participate in negotiations with prospective investors. This was a delicate process, as “we have to convince the local chief

to buy into the idea of creating the committee,” said Mineses Roberto, head of the Rural Association for Mutual Aid, which was a service provider for iTC in Gaza province. “The key was to make him see that the committee would not displace his power but would complement it by giving advice.” With the chief’s buy-in secured, employees of the service provider, who lived in the community during much of the process, facilitated a mass meeting to elect community members to the committee. Roberto emphasized that at least three of the nine committee members “had to be women. That was not negotiable.” Langa added that at least six committee members had to be able to write.

Service providers then provided 10 days of training for committee members. The first five days dealt with various aspects of Mozambique’s land as well as environmental and natural resource laws, and the final five simulated negotiations with prospective investors. “The goal behind the simulations is to look at the interests of different groups, including investors, the traditional leader, and farmers. It’s also a way to help communities understand that they should continually engage with investors and not just chase them away,” Langa said.

To establish the committee as a legal entity empowered to represent the community, Mozambican law required the group to be officially recognized by the local government administrator. Oliveira added that “the committee’s recognition also had to be published in the central government gazette, saying ‘this community exists.’” It was a crucial step. “Commercial banks require the community to be registered in the gazette. If the community is registered, the committee can open a bank account for it,” Oliveira said. With a representative committee and a bank account, the delimited community became eligible to benefit from resource taxes from partnerships with private investors.

The iTC set several tasks for committees. One was to draw up a history of the community. Because millions of Mozambicans became displaced during successive periods of colonialism and civil war, it was important to document the ways community borders had evolved over time. Establishing how boundaries had shifted over time as different people moved into an area also was an important way to foreshadow potential disputes between communities.

In addition to producing a social history, committees mapped the natural resources that existed within the community’s borders, performed a SWOT (strengths, weaknesses, opportunities, and threats) analysis to help frame an economic and social strategy, and conducted an overview of the community’s traditional leadership structure and its geographic, social, and environmental features. The resulting documents were consolidated to form a community agenda.

Although Oliveira conceded that the agenda was “not necessarily very elaborate,” assembling the document was an important exercise for

communities because it encouraged them to assume greater authority over their own futures. The document itself could also be “an important asset for the design of a community enterprise business plan in the future,” Oliveira assesses. Many communities had no written record of their history, and the agenda “was a way for them to confront their perception of their own space and history. ... It is part of the effort to produce, in a few words, an identity for a community aware of their rights and ready to exert citizenship,” Oliveira said.

Mapping community lands

After the social preparation process created a firm basis for cooperation, the program’s focus shifted to the technical capacity to record in the cadastre the community’s land borders. Because the provincial SPGC cadastral office was the only institution with the legal authority to issue official certificates, SPGC technicians traveled to communities and usually stayed for about a week, Roberto said, adding that service providers were responsible for paying cadastral technicians by using project funds during their time in the field.

João Jacques, head of the cadastral division in Gaza’s provincial SPGC office, said the technical process began with the office’s opening a file with a unique reference number. Technicians held mass meetings that included members of each community, the head of the administrative post, and representatives from neighboring communities. Luis Cossa of NGO ACOSADE said the meeting’s goals were to choose five representatives each from selected and neighboring communities “who know the borders well” and to agree on a suitable date for the group’s inspection of the borders.

On the day of the mapping, the technician traveled around the borders together with the iTC service provider, members of the natural resource committee, and representatives from neighboring communities. In a bid to generate consensus and reduce disputes, Jacques emphasized that “the boundary mapping could be done only when [representatives from] all of the surrounding neighbors were present.”

If participants agreed on the locations of the borders, the technician uploaded the coordinates from a handheld device linked to a global positioning system, or GPS. The community also sketched a map to accompany the coordinates, identifying specific areas used for the purposes of agriculture, livestock, housing, and gathering firewood. The team then displayed public notices throughout the community, indicating it had completed the delimitation application.

In the final step, the provincial cadastral office processed the application and officially registered the community’s borders on the cadastral map. The SPGC office then printed the delimitation certificate, and the community and service provider organized a handover ceremony wherein the certificate was presented to the traditional leader, with copies for the natural resource committee and the iTC. The certificate, signed by the head of the SPGC,

included the name and location of the community, its reference number in the cadastre, the number of hectares it encompassed, and the number of inhabitants it covered.

The issuance of the delimitation certificate and its registration in the SPGC amounted to formal proof that the state had taken notice of a community's perpetual DUAT right to occupy and use its land. However, the SPGC offices' limited capacity to process the applications meant that communities often faced long delays, sometimes up to two years, before receiving their certificates to serve as proof of their DUAT.

Oliveira said that formal issuance of the certificate was an important step that signified a community was aware of its rights, had a unique identity, had an elected structure recognized by local authorities, had a bank account, and had a basic land-use plan for negotiations with investors and for consideration with other development plans.

Resolving community disputes

Although the iTC had no interest in trying to resolve existing disputes between investors and communities, the group was keenly aware that defining community boundaries could disrupt relationships. "There are at least three dimensions of conflict," Oliveira said. "In addition to conflicts with potential investors, there are also internal disputes like community members clashing with each other, as well as border disputes between neighboring communities."

Roberto said most of the conflicts centered on resource use. In many cases, communities without access to firewood used forest resources located on their neighbors' lands. "When we come in to do the delimitation, they then try to extend their borders to include the forest," Roberto said.

The requirement to involve neighboring communities in mapping and delimitation was important, but it was not always enough to defuse such conflicts. If the process ground to a halt because of a border dispute, the iTC drew on the skills of a pool of paralegals who had been trained by the Food and Agriculture Organization of the United Nations (FAO) and Mozambique's Centro de Formação Jurídica e Judiciária (Centre for Legal and Judicial Training, or CFJJ). Chris Tanner, a longtime FAO technical adviser to the Mozambican government who had helped design and implement the training program, said that around 200 judges and prosecutors had been trained some four years after the 1997 land law had been passed, and in 2006, with support from the Dutch government, the program trained paralegals from NGOs as well as local government officials to work directly with communities.

The need for paralegals quickly grew. The CFJJ-FAO developed a two-week course with a curriculum that focused on using acquired customary rights for development, defending these customary land rights, conflict resolution, facilitating dialogue and negotiation with investors and state

agencies, and gender and women's rights. Tanner explained that the first week was theoretical and classroom-based, although using up-to-date adult learning techniques and material. Attendees were required to bring case studies of existing conflicts involving land and natural resources, either between communities, or between communities and outside interests. "In the second week, we split them up into groups of five. Accompanied by a trainer, they then went back to the communities to sit down and try to find a solution to real conflicts," he said.

The program targeted field-workers from NGOs and provincial governments with at least a secondary education or a vocational qualification as well as some experience in working in community development in contexts in which land and resources featured prominently.¹⁸ From 2006 to 2014, the program ran 38 courses and trained 899 paralegals (328 of whom were women) from all regions across the country.¹⁹ By 2014, the iTC was directly employing 456 of those paralegals, including 131 women, who served as conflict mediators when mapping community lands.²⁰

Roberto said, "In practice, we first try to have the communities meet each other half way by perhaps fairly dividing something like a forest resource." But "if we can't find an acceptable social solution," Roberto added, "we strictly follow the law, which says that someone has a right to use the land after 10 years of peaceful occupation." Roberto also said that sometimes paralegals were able to resolve long-standing disputes within communities, citing one example in the Manjacaze district of Gaza province, where "there was a conflict that lasted for over 30 years, but through this iTC project, we actually managed to resolve it."

Issuing private DUATs to smallholder farmers

In 2009, the Millennium Challenge Corporation (MCC), a US government aid organization, brought new financial resources that enabled the iTC to expand its reach beyond its three original provinces of operation to include Nampula, Niassa, and Zambézia provinces. The program thus covered 6 of Mozambique's 11 provinces. In addition to expanding the coverage of the program, MCC also further tightened and centralized the iTC system for funding service providers.

The MCC funding also led to a shift in the emphasis of the iTC's work. Carrilho, a former deputy agriculture minister who coordinated the MCC program's land tenure component, explained that "although the objectives were the same, MCC was very target driven." The targets included specific focus on obtaining DUATs for private smallholder farmers. A private DUAT certificate (the same document that international investors obtained) could help a group of farmers within a community benefit from government support programs and gain some security of tenure for a defined number of years, thereby enabling them to plan ahead and not have to worry that others might claim plots they had improved or put under cultivation.

Whereas *delimitation certificates* recognized the existing DUAT rights of an entire community, *private DUAT certificates* registered specific land parcels in the name of community producer associations. (The iTC did not assist individuals in obtaining DUATs.)

Binit Varajidas, an iTC development economist, said, “During the initial community meetings, the service providers would consult the community members to see if there are non-formalized associations and people who are interested in forming associations, [and encourage] them to approach [the service provider].” Groups that could potentially become associations included farmers growing the same crops or raising the same kinds of livestock.

In addition to (1) strengthening producers’ bargaining power, (2) improving marketing opportunities, and (3) establishing stronger relationships with buyers, setting up an association was a prerequisite under Mozambican law for obtaining a communal private DUAT. But setting up an association was a complicated and costly process that required approval from the provincial government. The names of the associations also had to be published in the government gazette.

Once associations had been legalized—and while the delimitation process was under way—service providers helped them apply for DUATs. Jacques explained that in contrast to the community delimitation process, “private surveyors had to survey the land for private DUAT purposes. . . . The georeferencing also had to be much more detailed and precise.” Still another difference was that associations applying for DUATs had to physically demarcate their land parcels with concrete markers. And again, in contrast to the community delimitation process, producer associations’ applications for DUATs were subject also to political approval by the provincial governor, because they created new land use rights. “The purpose of the private DUAT is really to take the association’s piece of land out of the community’s land,” Jacques said. And just like outside investors, community producer associations had to obtain permissions from their neighbors, traditional leaders, and the state in order to proceed with the application for a new private DUAT right.

The MCC component’s focus on private DUATs was motivated by the potential economic benefits that the DUATs generated. According to Lucas, associations holding DUATs “were much more likely to benefit when the government or other institutions distributed seeds or implements. It was also a tool to get a loan from commercial banks.” Jacques added that one of the major potential benefits to the government was that the granting of DUATs to producer associations enabled the government to levy taxes on the associations’ business activities.

But Tanner cautioned that those benefits had to be weighed against the way in which “it creates a social differentiation within the community.” Issuing DUATs over specific, valuable resources, to a subsection of the

community—thereby effectively removing this land from the community’s control—“potentially gave a small group preferential access over what might be quite critical resources,” Tanner said, referring both to the livelihoods strategies of other community members, and the commercial potential of those resources for the whole community.

Quan said he felt that that “it was good that the MCC imposed discipline requiring action to ensure steady progress against targets on what was previously a flexible and bit of a *laissez faire* approach that risked not making the most efficient and timely use of available resources.” But he agreed that “you have to be careful in assisting associations to obtain DUATs for commercial production on community land, because they can be linked to local elites whose private interests may conflict with rights and aspirations of other sections of the community and more vulnerable groups.”

In a reflection of the momentum generated by the MCC’s involvement, a June 2014 program evaluation indicated that the annual number of DUATs issued to producer associations increased to 58 by 2012/13 from only two in 2008/2009.²¹

Improving the cadastre

As the iTC and its service providers gained experience with the process of defining community lands, it became increasingly clear that the lack of capacity in cadastral offices was a key weak link in the process chain. “Everything was done on paper,” Jacques explained. “This meant that files could get lost, and it was difficult to coordinate with [the head office in] Maputo,” Mozambique’s capital city.

Jordão said the problems “led to delays in the issuing of official documents. We sometimes had to wait two years for a DUAT certificate to be processed.” The paper-based format also opened the door to corruption. It was too easy for “officials to register overlapping use rights on the same piece of land,” Jacques said. In early 2000, all of the paper-based records and cadastral maps for Gaza province were also destroyed when floodwaters ripped through the capital city of Xai-Xai.

In reaction to these shortcomings, when the MCC expanded its contribution to the iTC program in 2009, it also launched a separate program to improve the cadastre. The cadastral support program initially focused on creating and piloting a new digital system to process DUAT applications more quickly in 12 local and provincial land conflict hotspots. But the MCC team quickly realized that a new land information management system would only work if it was implemented in SPGC offices across the country. As a result, by 2012, the program aimed to develop a national land information management system while also providing professional development for cadastral officials and upgrading office facilities throughout Mozambique.²² “The decision was to stop using all of this paperwork and to have a digital

system to register land. It's much more efficient, and it lets you see the full picture," Jordão said.

It took time to put improvements in place. For example, at the end of 2012, provincial cadastral services were still processing 202 completed applications, and the estimated time to finish that work was two to three years.²³

The MCC project hired a Mozambican information technology company, Exi, to build a customized cadastral information system for the country. The result was a data tool based on the Oracle Corp. software platform and known as Sistema de Gestão de Informação sobre Terras (Land Information Management System, or SiGIT). The system was a records database designed to replace the paper-based system for recording land-use rights processed by the SPGC.

Once operational, SiGIT would enable surveyors to upload information from the field using a tablet computer, and the system would automatically back up and consolidate all data on a central server in Maputo. Under the MCC project, which ended in December 2013, the software was installed on the computers of 10 provincial cadastral offices, where network connectivity and technology infrastructure could handle the digital system. The project also aimed to provide technical and legal training for more than 1,500 officials²⁴ on land tenure regularization, the use of land-surveying equipment, surveying techniques, geographic information system software, and upgraded physical facilities, work spaces, and technology.

But transitioning from the paper-based process to the digital system took time. Following the end of MCC funding in 2013, Dutch and Swedish donors established a new program to facilitate the software rollout and further training for officials. However, progress slowed during a 2014 postelection political restructuring and a political scandal in early 2016 that involved the government's understatement of the national debt. Many foreign donors suspended their funding to the country in the wake of the crisis. In 2016, "we had to scrap about half of our funding for the project," Jordão said. "The national land directorate didn't have the money to hire more staff or pay better salaries. It was suffering."

The political crisis also meant that the government could no longer afford to pay Exi, the company that designed the SiGIT software. "The maintenance of the program requires a considerable amount of money," said Lázaro Matlava, the former head of the SPGC in Zambézia and the acting chief of department within the directorate of land in the Ministry of Land, Environment and Rural Development. In addition to the lack of resources and technical capacity in the SPGC, some components of the software were under exclusive license to Exi, which prevented SPGC staff from working on errors themselves. As a result, officials working in cadastral offices continued to use paper and manually transferred data into the digital system.

Despite the challenges, Jacques was upbeat about SiGIT's potential: "It makes it very difficult to have overlapping claims on the same piece of land. It also saves the details of anyone who makes changes, so you can go back and see who did what. Accountability is really improved by the digital system." A 2014 evaluation report also concluded that the benefits from MCC's cadastral support program spilled over into iTC activities, noting that "SPGC [offices] are able to process applications for community certificates and association DUATs more quickly."²⁵

Cossa of NGO ACOSADE cautioned that not all of the problems were technical and financial. "For a long time, the SPGC also insisted on keeping application documents secret after they were submitted to the technician," he said. "The technician then told us: 'Your work stops there; now it's my work.'" The lack of transparency meant that the iTC and its service providers were usually unaware if there were mistakes on the forms.

In mid 2016, the iTC met with top officials from the cadastral service about that issue. Cossa said they undertook to open up the process so that service providers could access the documents during processing. "Previously, all we could do was wait," he said. "Hopefully, we will now be able to see what the problems are, fix them, and help speed up the process."

OVERCOMING OBSTACLES

While the iTC team was working to improve the efficiency of the program, the members confronted a political backlash that posed a serious threat to their work. On December 16, 2007, Mozambique's cabinet, known as the Council of Ministers, passed an amendment to the 1997 land law regulations. The action "effectively aimed to roll back the power given to communities by the law," land expert Norfolk said. "Through the amendment, the Council of Ministers sought to take control of the delimitation process."

A dramatic announcement of the amendment, published on the official government Web site, criticized provincial governors for allowing communities to claim large tracts of land. The announcement stated that communities could maintain their rights only if they actively cultivated the areas they controlled.²⁶

In a further reflection of the national government's apparent desire to gain control over community land allocation, provincial land administration officials reported that they were "being asked by the government to identify a new category of land: 'free land in state possession.'"²⁷

The amendment to the regulations further sought to subject the relatively simple process of defining community land borders to the same authorization procedures that applied to the issuance of private DUATs. That is, applications would require political approvals.

Applications for private DUATs of less than 1,000 hectares had to have the signature of a provincial governor. Applications for DUATs of 1,000 to

10,000 hectares required political approval by the minister of land, environment, and rural development. Finally, the Council of Ministers, the country's highest political decision-making body, had to sign off on private DUAT applications in excess of 10,000 hectares.

In practice, NGOs and communities often sought approval from provincial governors before proceeding with the delimitation process. But the new amendment made obtaining such political approval a legal requirement. Despite civil society organizations' resistance to the move, the national land directorate distributed a circular at the end of 2007 stipulating that the same approval criteria would now apply to community delimitation applications. The circular also called for communities to submit comprehensive development plans before they could obtain delimitation certificates.

In addition to making the process more cumbersome and more expensive, the change meant that delimitation certificate registration would become legally subject to political approval—"an approach that went against everything the land law stood for," Norfolk said.

Not everyone interpreted the reasons for the change in the same way. From Norfolk's perspective, the move was driven by some ministers' impression that "Mozambique still had millions of hectares of open land that could be allocated to investors. But now they were being confronted by cadastral maps that began to show the extent of community lands. They thought they were losing land and wanted to increase their political control."

But Carrilho, the former deputy agriculture minister, defended the land directorate's interpretation. "When the delimitations started happening, some communities got thousands of hectares. This was all wrong, because they arbitrarily decided the size of their communities." He also criticized the iTC for "targeting different levels of communities because in Mozambique you have three degrees of traditional communities: the leader of the village, the leader of a group of villages, and the paramount chiefs. Depending on where you go, the leader will give you different boundaries. The change . . . was very important because it tried to set limits" on the sizes of community delimitations.

By subjecting the process to political approval and calling for the submission of cumbersome development plans before the government would recognize communities' already existing land rights, the circular posed an existential threat to the iTC program: that the program was legally required to obtain political approvals for every community that wanted to delimit its boundaries. This step further slowed the process and bred frustration among communities, service providers, and provincial cadastral officials. It also increased opportunities for corruption in the delimitation process by giving political officials the power to approve or deny applications.

In a report, Tanner said the decision additionally reflected political leaders' "failure to understand how the land law works. . . . [For instance,]

provincial governors do not ‘attribute land rights’; land rights are already acquired by customary occupation, by law. The role of the state and its agents in this context is to reaffirm and administratively give the OK to the processes that gradually prove and spatially define them.”²⁸

At the heart of the debate were long-standing arguments about the practical implications of the state’s owning all land. Some powerful politicians reasoned that “the state” was equal to “the government” and that the government consequently had the right to decide about all land allocations. On the other hand, some provincial officials, NGOs, and legal experts argued that “the state” was equal to “all citizens” and that the land law clearly vested the land in the people, with the government’s role limited to regulating the land administration system.

The issue came to a head during a national community land conference in March 2010. In a report on the episode, Norfolk said that prior to the conference, “Activists from a number of NGOs worked with a small group of ‘champions’ within the [national land directorate] to ensure that the issue was central to the agenda” of the conference.²⁹ During the meeting, lawyers and officials from the national land directorate defended their decision to confirm the amendment. But officials from the provincial offices argued that the circular was inconsistent with the land law.

Backed by the iTC, land rights NGOs, and other civil society organizations, the provincial officials won the argument. In October, the land directorate issued a new national circular that withdrew the requirements for political approval and development plans in the delimitation process. In line with the law, the need for political approval in the case of private DUATs remained. However, the delimitation of community land was “no longer subject to the authorization of the provincial governor (nor the minister or Council of Ministers); they are now merely to be signed off by the relevant [head of the SPGC] as being complete and correctly conducted,” noted Norfolk in the report.³⁰

The willingness of provincial officials to push back against the attempt to politically capture the process of mapping community lands to register customary DUAT rights was a decisive factor in the decision to repeal the circular. “Local officials often had a better understanding than did their national counterparts of the challenges facing community land rights,” Norfolk said. But because of Mozambique’s highly centralized state structure, decisions were often imposed on local officials without their participation.

The Council of Ministers’ amendment remained on the books—even though the new circular’s interpretation meant that the provisions for obtaining political approval for delimitation certificates had been withdrawn. But just as with private investors, producer associations that wanted to obtain DUATs still had to obtain political authorization. Carrilho said it was important that the amendment remained in place, “because it at least lets them know you must be a little bit more careful [about the size of registered

community land]. At the meeting in Nampula, it was agreed that the iTC would try to stick to an informal limit of 8,000 hectares . . . Most people saw the . . . issue as a debate between centralization and decentralization. But for me it was a debate between populism and effective administration.”

During the nearly three years that the requirement for political approval was in effect, the iTC struggled to meet its targets. But once the circular was withdrawn in 2010, the pace picked up significantly.

ASSESSING RESULTS

From May 2007 to July 2016, the iTC registered and assisted 655 rural communities to obtain delimitation certificates that formalized their DUAT rights. Although that number was only a small fraction of the estimated 10,000 communities in Mozambique, the new registrations represented a nearly fourfold increase over the 171 communities that had acquired formal DUAT rights from 1999 to 2006, according to Lucas, who joined the land consultancy Terra Firma after heading the Nampula SPGC until 2007. The 655 registered communities comprised 1.8 million people, 53% of whom were women—equivalent to about 10% of the total rural population—and covered 6.9 million hectares. By late 2016, the program was active in 9 of Mozambique’s 11 provinces. (Only Inhambane and Maputo were excluded.)

The program also helped 612 rural producer associations obtain DUATs. Together, those associations consisted of 24,000 people (55% women) and 45,000 hectares. In addition, the program set up 763 natural resource committees, whose membership was 45% women. The creation of the committees enabled 101 communities to receive payments from natural resource taxes that they otherwise would have missed out on. One example of the potential impact of the resources came from the Pindanyanga community in Manica province. The community, which held a delimitation certificate for its 31,300 hectares of land, used its 20% share of the forestry tax that a commercial investor had paid to build four new school classrooms and 10 houses for teachers.³¹

A June 2014 impact assessment found that on average, 104 communities and producer associations obtained DUATs every year as a result of iTC interventions—“a positive result for the iTC in terms of achieving [its] pre-defined targets.”³²

The assessment further found that the iTC program had become more and more efficient and cost-effective. By 2012, the share of total funds spent on administrative costs had fallen to about one-third³³ from two-thirds during the early years of the program.

For Jordão, one of the major indicators of the program’s success was the government’s creation of the Terra Segura, or Land Security, program following Mozambique’s 2014 general elections. Although the long-ruling Frente de Libertação de Moçambique (Mozambique Liberation Front, or Frelimo) remained in power, the incoming cabinet demonstrated greater

political support for registering land rights. “Under Terra Segura, the government has committed itself to issuing 5 million rural DUATs by 2019,” Jordão said. “But most important, the government also undertook to issue delimitation certificates to 4,000 communities.”

In light of the previous administration’s ambivalence toward the registration of community DUAT rights, Jordão said the emphasis on new delimitations was “a direct result of iTC’s work in putting it on the map. They could have pursued only individual rights, so this represents a very important victory for iTC.”

Carrilho agreed: “Everyone now talks about the land law.”

Oliveira also pointed to anecdotal evidence that communities that had gone through the social preparation process and held delimitation certificates were in stronger positions to negotiate with potential investors. He pointed to a case in the Sena community of Sofala province, where an international investor was searching for a community to work with. “The investor found a lot of resistance from the first two communities it tried to engage, but it could easily talk with the third one,” Oliveira said. “It turned out that the third community was delimited by us and [was] much better prepared.”

The case was an important example of how the iTC’s proactive approach to delimiting communities could pave the way for amicable and fruitful negotiations with investors.

Another example came from the Sussudenga district of Manica province, where the iTC had mapped the boundaries of the local Mpunga community. The community was subsequently approached by a private organization, EcoMicaia, to establish an ecotourism lodge on the basis of a commercial partnership. The community received 60% of the project’s profits.³⁴

But Oliveira and others acknowledged that the iTC was concerned about the quality of some of the delimitations. In some cases, surveyors for the cadastre would use only four GPS coordinates when creating the map of a community. “This meant that the borders between communities were simply drawn as a straight line, when in reality they follow rivers or other natural borders,” Lucas explained. Oliveira explained that the imprecise representation of community borders resulted in a “different graphic representation of the community’s perception of their territory, which can lead to conflicts between neighboring communities, particularly if it affects the proportion of benefits to be acquired from commercial concessions.”

Further, the impasse over the 2007 amendment and continued official caution in approving delimitation of large areas may have had unintended consequences. In a 2013 study, Quan said that the uncertainty, along with practicality, had a real effect: “Now iTC always seeks to delimit community-utilized land and resources at suitable practical scales for community or joint-stakeholder management. These are usually ‘village-level’ delimitations below 10,000 [hectares] in size.”³⁵ But the emphasis on smaller parcels potentially

curtailed community access to common pool resources, such as grazing lands, that lay beyond their borders.³⁶

Some policy makers also remained skeptical that the 1997 land law and the programs associated with it were the right approaches to preserving rural people's access to land. Carrilho, the former deputy minister of agriculture, expressed reservations about the long-term social effects of using kinship ties as a significant factor in setting community borders: "The whole process of defining communities based on ethnic identity is dangerous because it is retribalizing Mozambique."

Norfolk disagreed with that view. "Communities are defining themselves based on their common interest over local resources," he said. "There is no evidence that communities in Mozambique are imposing any form of ethnic exclusion at all. . . . [Regionally], Mozambicans are at the top of the tolerance table when it comes to 'outsiders.'"

Carrilho also voiced concern that the iTC process could empower traditional leaders at the expense of progress toward democracy. "In urban areas like Maputo, everyone holds individual titles," he said. "But in rural areas, chiefs and customary laws are being empowered because of this populist and romantic idea of traditional communities. Why should people in rural areas be treated differently?"

The program—and the law on which it was based—remained an experiment in pro-poor land administration, and policy makers would have to remain alert to potential problems.

REFLECTIONS

The iniciativa para Terras Comunitárias (Community Land Initiative, or iTC) started as an externally driven intervention program. But parallel to its operations, donors and officials worked to establish the program as a local organization. They achieved that goal in October 2016, when Mozambique's cabinet approved iTC's application to become a Mozambican foundation.

Emidio Oliveira, who worked with DFID and later became iTC executive director, reiterated that from the outset "our goal is to become a fully independent foundation; a Mozambican institution dedicated to complementing the efforts of the government in the implementation of the land law to protect community rights over land and other natural resources from the perspective of economic development."

Obtaining the government's approval to set up an independent foundation was a testament to the iTC's ability to navigate the complex politics of land administration in Mozambique. Célia Jordão, a senior policy officer from the Dutch embassy who worked with iTC since its founding in 2006, stressed, "You need to have an organization that is trusted by government and all other actors."

Improving either individual or communal tenure security in rural Mozambique depended above all on the ability to balance competing political

interests. In the face of previous government inaction and even resistance to land delimitation, the success of the iTC as an externally-funded institution showed that progress was possible when land registration was conducted through an institution that was as politically independent as possible.

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