

COLONIAL LAND LEGACIES IN THE PORTUGUESE-SPEAKING WORLD

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Land Governance as a Source of Legal Opportunities in Struggles Around Large-Scale Land Acquisitions in Mozambique

Laura Gerken

Introduction

External control and land use in Mozambique has taken multiple forms from colonial times until today. In the context of the food, financial, and energy crises, specifically since 2008, large-scale land acquisitions (LSLA)¹ became a globally increasing phenomenon as investors tried to find solutions to bypass these challenges. The rush for land targets mainly areas in the Global South,² particularly in sub-Saharan Africa. On the one hand, such investments promise economic growth and development for the target countries. On the other, the rural population living in the areas covered by these investments often lacks strong protection of its used land, mainly because 90 per cent of the total land area in sub-Saharan Africa is governed through customary systems.³

In the same period, the governance of land increased on several levels. Transnationally and regionally, many rights and regulations particularly focus on land issues. But also documents about development, human rights, and environmental issues increasingly recognized the crucial role of land for rural livelihoods and well-being. Similarly, several countries adopted more detailed approaches to address land issues in their legislation. In the context of increasing LSLA and the protection of land tenure, Mozambique provides a puzzling frame. While it already strengthened customary rights in its land law of 1997, it was still

one of the main targets of LSLA in Africa since the beginning of the rush for land.⁴ Moreover, large-scale investments in land provoked resistance or conflicts addressing social and environmental impacts in most, if not all, cases.

Drawing on social movement literature about legal opportunity structures, I compare the Luso-historical trajectory and analyze the social mobilization around two examples of LSLA in Mozambique to discuss the following question: How is land governance a source of legal opportunities for social movements in struggles around LSLA? To this end, the chapter starts with an overview of the characteristics of LSLA. This is followed by a section about the trajectory of the Mozambican land legislation. The approach of legal opportunity structures is then depicted. Based on data gathered during fieldwork in Mozambique, I will present the cases of the Wanbao project and the ProSavana program and provide insights into the Luso-history of the project sites. This is followed by a reflection on the use of rights and regulations as reference points in the social mobilization in both. Finally, a concluding discussion contrasts the findings.

The Rise of Large-Scale Land Acquisitions

Since the mid-2000s, academics, non-governmental organizations (NGOs), and the media have paid increasing attention to LSLA. Particularly after a report of the NGO Grain describing a “rush into farmland,” different actors have problematized this phenomenon.⁵ LSLA is characterized by a sharp increase of investments in land on a global scale and, consequently, more competition for land. Target areas of these investments are often located in sub-Saharan Africa, Asia, Latin America, and to a lesser extent in Oceania and eastern Europe.⁶ Countries of the Global South, especially, were the main targets in the early stages of LSLA. In many of these countries, land use is regulated through customary rights.

Acquisitions, taking, and loss of land happened throughout history, especially during colonialism, and LSLA shares some similarities with those processes. As in the first decade of the 1900s, global economic commodity crises triggered the rush for land in Africa.⁷ In Mozambique, large-scale production on plantations of colonial companies dates back to the same period. As in colonial large-scale production—for instance, in the case of Madal⁸—current large-scale projects are closely related to the setting up and expansion of infrastructure. Moreover, in both circumstances, the rationale behind agricultural modernization is the substitution of the peasantry with larger production patterns.⁹ Also, foreign investors were often involved in Mozambican large-scale production during colonial times, and they remain so today.¹⁰

Yet, LSLA still has some specific characteristics that mark it as a new development. As Potts notes when comparing LSLA with the colonial past in southern

Africa, land is offered by sovereign states and not within a colonial system.¹¹ Payments for the current transfer of land are made, though to different extents. Also, the economic interest behind the large-scale production differs insofar as colonial production was mainly incentivized for intensification, while LSLA focuses more on exports. Lastly, she stresses the differing cultural component. While colonial large-scale production was implicated in questions of tradition, settlement, and identity, current investments do not address these aspects.¹² The communities in the vicinity of such projects are not forced labourers, as happened in colonial large-scale production,¹³ nor are they regarded as hindrances of modernization, but may become part of the project and may profit from it.¹⁴ Another difference is the Mozambican legal context—namely, the requirement to consult potentially affected communities before starting a project.¹⁵

Besides these (dis)continuities with colonial large-scale investments in Mozambique, the phenomenon of LSLA cannot be regarded independently from the context of globally rising LSLA and its peculiarities since the mid-2000s: States voluntarily transfer the land to investors and promote large-scale projects to support economic growth.¹⁶ The stakeholders involved are not necessarily governments or governmental corporations but cover a wide variety of transnationally linked actors, foreign direct investments, or development projects in North-South and South-South relations.¹⁷ The overall development, size, and velocity points, following Sassen, “to a break in a long-term trend that might indicate a larger structural transformation in an old practice.”¹⁸ Such land investments are characterized by the transfer of land (use) rights of large areas of more than two hundred hectares of land,¹⁹ and for long periods ranging between thirty to ninety-nine years, either in the form of leases or sales.²⁰ The complex interrelations of investors are one reason for the opacity of LSLA deals, many of which are undertaken without sufficient information about large-scale land projects.²¹

The Trajectory of Mozambican Land Regulation

Mozambique provides an especially interesting frame through which to study large-scale land projects and land rights. First, it has been one of the main targets of LSLA in Africa since the beginning of this phenomenon, in terms of both the number and size of investments, in accordance with land use prices and the political will needed to attract investments that would yield the promised benefits of LSLA.²² Second, at the same time, several of these projects provoked resistance that ranged from *everyday forms of resistance*, including sabotage from the local population, to large-scale transnational networking and campaigns of social movements. Third, the Mozambican land law is often described in the literature as “one of the most progressive land laws in Africa” because it is a formalization

of the customary land right.²³ The current land law, the *Lei de Terras*, dates back to 1997 and follows the legacy of the independent constitution in which land use rights are granted, yet land cannot be possessed by anybody other than the state. In the following, I summarize the development of land governance in Mozambique, depicting customary, colonial, post-colonial, and post-independence land regulation up to today's debate about the revision of the land policy and land law.

The customary law is not uniform throughout the whole country, but what can be said in a general way is that land is traditionally passed through inheritance.²⁴ Until the eighteenth century, the Portuguese colonizers, whose presence dates back to the landing of Vasco da Gama in 1498, had little interest in the interior and only opened provisioning stations along the coastline. In the late seventeenth and early eighteenth centuries, they introduced the *prazo* system, in which Portuguese settlers, the *prazeiros*, governed the land and the people on it in a feudal-like system.²⁵ This was still focused on the coasts until what is today Mozambique was annexed to Portugal at the Berlin Conference of 1884–5. Thereupon, the Portuguese established provincial governors in the 1890s and early 1900s and restructured, often while downsizing, existing chiefdoms and maintained control by involving the chiefs.²⁶ This system ignored differences between the North and the South of the country, as traditionally in the North, local elders, rather than chieftaincies, were the ruling institution. The social organization was thus oriented along southern Mozambican traditions and artificially imposed on the northern parts of the country.²⁷

In the same period, the Portuguese introduced three big companies, the Niassa Company, the Zambezia Company, and the Mozambique Company, to produce cash crops in the central and northern parts of the country. The economic model in southern Mozambique was based on labour migration to South African mines, which created cash revenues for the area.²⁸ In 1901, a land law allocated all land not privately owned into state ownership, resulting in land loss and displacement of the African population, as traditional land tenure was disregarded. While Africans were able to claim use rights for land utilized for more than twenty years, it was only granted if nobody else showed interest in it, leaving Africans at a legal disadvantage.²⁹ In his book of 1969, Mondlane concludes that the Portuguese land rights did not change much after that.³⁰

After the Portuguese abandonment of colonial farms in 1975, all land was nationalized in the Republic of Mozambique's first constitution. These areas turned into state farms and communal fields, where Mozambicans were expected to work.³¹ Consequently, after independence, land use was characterized by collectivized farms, villagization, and state farms. The collectivized farms date back

to the armed struggle of the 1960s. For the villagization, more than 20 per cent of the population were resettled after 1975 (see Aharon deGrassi's chapter in this volume for more on this process). As for the state farms, the villagization program led to land use conflicts, were costly, and negatively affected agricultural production.³²

The first post-independence land law dates to 1979, four years after independence. It puts a focus on the family sector, including households and communities. As in the 1975 constitution of the republic, land is owned by the state and cannot be possessed.³³ Instead, individuals or communities can get the right to use and benefit from land (*Direito de Uso e Aproveitamento da Terra*, or DUAT).³⁴

Due to the difficulties in the collectivized production, the FRELIMO³⁵ party's Fourth Congress in 1983 changed the economic development strategy, reorganized the state farms, and shifted the focus from large-scale to rather small-scale production support.³⁶ Accordingly, the private sector gained more attention as FRELIMO opened it with a structural adjustment program, following donor support for economic recovery, structural rehabilitation, demobilization, and other measures.³⁷ This unlocked the opportunity for private investors to occupy and invest in land, such as abandoned co-operative and state farms.³⁸

With the revision of the land right in 1995, a more liberalized land policy was introduced, which enabled further investments to support economic development after consulting communities.³⁹ These changes laid the legal ground for the land law of 1997. The land policy resulted from a debate between a large variety of actors, including officials, civil society organizations, international organizations, peasants, and others. Between interests for liberalization and aims to support customary rights, the resulting law builds on traditional land distribution and use.⁴⁰ As mentioned before, land was also owned by the colonial state or its companies during Portuguese rule. However, under independence, the rationale is the state's socialist ideology, as the state that owns the land is constituted by its own people.

According to the current land law, if nationals, individually and collectively, use land for more than ten years and have a witness for that, they have a DUAT. It does not matter whether this is officially registered or noted; the right is in place as soon as these conditions are fulfilled.⁴¹ It can, however, be additionally registered at public registration services. The existence of land use rights even in the absence of documentation allowed this practice to persist without a comprehensive cadastral system. DUATs may be revoked for the sake of public interest.⁴² The above-mentioned opportunity of the African population to claim land if they used it for more than twenty years in the early twentieth century was imbalanced

and unequal. Still, the mechanism behind granting the land (i.e., the base for land claims) is very much alike.

Those interested in claiming land that was not used before by an individual or a community must first consult the community living in the area to ensure that the land is available and not already used. If land is then granted to nationals for family farming or habitation, the DUAT does not expire and can be passed through inheritance.⁴³ If the interest in the land is economic in nature, communities in the area must be consulted at least twice—first to inform them about the intended project, and second to discuss (dis)agreement and compensation.⁴⁴ Investors must provide a project plan and get a provisional DUAT once an agreement with the community is made. After two years for foreigners and five years for nationals, the project's progress is evaluated and, if found to be in accordance with the project plan, the use right is renewed to a fifty-year DUAT.⁴⁵

In 2017, President Filipe Nyusi announced the revision of the land policy. The ensuing debate has taken place, especially since 2020, alongside public hearings involving different actors, including civil society organizations. While this process aims to respond to current socio-economic developments in the country, the land is supposed to remain in state ownership. In sum, some mechanisms of land assessment and the ownership of land by the government resemble colonial land regulation. What is different is that the current Mozambican land right includes and supports customary rights, and civil society organizations are involved in past and ongoing debates addressing land.⁴⁶

Rights and Regulations as Legal Opportunities

As just described, civil society organizations push for and are involved in creating and elaborating legal instruments dealing with land governance. Activists may use these rights and regulations in campaigns and various efforts at social mobilization to support claims. Building on social movement literature, I argue that such legal instruments offer opportunity structures for social mobilization around land. More specifically, if activists regard rights or regulations as useful in their work, they become *legal opportunity structures*. Actors must perceive opportunities as such, as they are not objectively given but actively created by agents.⁴⁷

Legal opportunity structures encompass norms, guidelines, legislation, access to courts, and judicial receptivity, thus the legal context in which social mobilization unfolds. Focusing in this contribution on land rights, activists may refer strategically to such to embed their claims and increase their legitimacy.⁴⁸ Also, if such legal instruments are violated, they may point at this, call for their improvement, or hold actors accountable. To be clear, the repeated reference to

legal instruments that have been violated may open up this legal opportunity.⁴⁹ In the following, I will show how multi-level rights and regulations as legal opportunities unfold in two cases of mobilization around LSLA. While the national legal framework is the first reference point for claims in both cases, other domestic laws and cross-border legal instruments likewise constitute important benchmarks when addressing the lack of information about projects or social and environmental (anticipated) impacts.

Data and Methods

The data for the comparative case study is a result of fieldwork conducted from March to June 2019 in Mozambique, where I researched two examples of resistance to large-scale projects: the Wanbao rice farm in Gaza Province and the ProSavana program in the country's North. In a most-similar case design, both projects share certain general aspects, such as an agricultural purpose, experiencing resistance, involving several civil society actors, and social mobilization beginning in 2012 (see table 10.1). Beyond these similarities, the cases differ in many general conditions. In the case of Wanbao, the social mobilization began once the project started, while ProSavana experienced resistance in its planning phase. Lastly, both varied substantially in terms of size. The Wanbao project area, never fully exploited, covers 20,000 hectares, while ProSavana was planned on up to 14.5 million hectares.⁵⁰

Luso-historically, due to the ambiguities of the ProSavana project plan, descriptions about the area can only be made in broad terms,⁵¹ in contrast to more specific details about the history of the Wanbao project area. In the latter, rice production dates back to colonial times, when intensification through an irrigation scheme increased the agricultural output, but this stopped when the Portuguese abandoned the country in 1975.⁵² In the three provinces included in the ProSavana project plans, broadly speaking, either colonial companies or other colonial plantations schemes were active. Nampula, the province addressed to the largest extent by ProSavana, produced especially cotton, which was sometimes successful but other times not.⁵³

After independence, large parts of Mozambique underwent restructuring to villagization, state farms, and co-operative farms, as was the case with the Wanbao area and parts of the ProSavana project area.⁵⁴ The infrastructure makes both areas attractive for large-scale agricultural production; in the case of Wanbao, the irrigation scheme, and in the case of ProSavana, the railway. Both were constructed in the colonial period and have been rehabilitated and extended since the 2000s.⁵⁵

Table 10.1. Comparison of Wanbao and ProSavana

	Wanbao	ProSavana
Investor	Chinese Private Company	Governments of Mozambique, Japan, Brazil
Location & Size	Gaza Province 20,000 hectares (originally planned)	Nacala Corridor 14.5 million hectares (disputed, not officially confirmed)
Purpose	Agricultural development project; Large-scale plantations	Agricultural development project; Large-scale plantations
Luso-History	Rice plantations set up in 1950s	Partly managed by colonial companies between 1890s and 1930s. plantations for different cash crops, as in Nampula around 1950s
Infrastructural Special Features	Drainage and irrigation Scheme	Railway with connection to ports
Beginning	Followed smaller Chinese project of 2005	Basic framework signed in 2009
Public Information	2012 with project implementation	2011 in planning phase
Involved Actors in Mobilization	Alliance of local groups, national* NGOs, and individuals	Alliance of local, national* and international NGOs, and individuals (Mozambique, Brazil, Japan)
Activities (Selected)	Occupation, Demonstrations, Petitions, (Open) Letters	Demonstrations, Petitions, Open Letters, Lawsuit
Situation until 2020	Project Area Reduced	Project Paused, Adjustment since 2015, Abandoned in 2020

*embedded in transnational networks.

Source: Compiled by author.

While Wanbao is located in the country’s South, ProSavana was planned for the North, two areas that differ demographically and politically. Historically, large colonial companies were only set up north of the Save River. Many labourers from southern Mozambique migrated to South African mines and supported the local economy back home through remittances.⁵⁶

Methodologically, this depiction and discussion of the historical background are based on a secondary literature review. Further, I studied the mechanisms that

enable social mobilization to unfold in situations of LSLA. My assumption is that information about project plans and intentions are vague, as this is characteristic of such projects, and that the increasing governance of land offers opportunity structures to activists. The data derive from thirty-four semi-structured expert interviews with a broad variety of actors, such as activists, researchers, officials, business experts, and a small number of peasants. Interview transcripts were analyzed with a structuring content analysis after Mayring.⁵⁷ Additionally, campaign documents serve as complementary sources for the analysis. Regarding limitations, it is essential to mention the lack of clarity in several regards as relates to LSLA. For instance, publications about project size, people living in the project area, and related issues are often contradictory.⁵⁸ Also, the limited access to officials from different levels as interviewees results in a lack of broader governmental perspectives on the cases.

The Case of Wanbao

The Wanbao project is a privately owned rice plantation in the area around the city of Xai-Xai, the capital of Gaza Province. Ganho distinguished four historical phases of irrigated agricultural production in the area: “from colonial capitalism (1950s–1975) to Socialist/planned economy (1975–1983), and transition to market economy (1983–2000) to the current (2000–present) market economy.”⁵⁹

White immigration to Mozambique only gathered pace after World War II, and large irrigation schemes, as well as grants and loans, attracted Portuguese settlers.⁶⁰ As happened in the Lower Limpopo Valley, where the Portuguese introduced a drainage and irrigation scheme for flood controls,⁶¹ the Regadio do Baixo Limpopo (RBL) enabled rice and other cash crop production. With as many as half of the male workers from that area migrating to South African mines, mainly female forced labourers worked at the production sites.⁶² The area of the RBL extended from 400 hectares in 1952 to 11,300 hectares by 1967. As a consequence, agricultural production intensified.⁶³

After independence in 1975, a mass out-migration of white settlers, who controlled most sectors of the colonial economy, caused an economic crisis. In the Lower Limpopo Valley, specifically, it caused the disintegration of colonial commercial agriculture, as it resulted in the abandonment of the coordination and maintenance of the irrigations scheme.⁶⁴ From 1975 to 1983, besides communal villages and co-operatives in the area, FRELIMO created the Unidade de Produção do Baixo Limpopo (UPBL). This large state farm sector took over the former Portuguese agricultural land in the context of the national agricultural development plan after independence.⁶⁵ In 1977, a severe flood decreased the productivity in the area, and damaged homes and livestock as well as the drainage

and irrigations system.⁶⁶ Another agency, the Lower Limpopo Irrigation System, has managed water and water infrastructure since 1978.⁶⁷

After FRELIMO's Fourth Congress, which reformed the collectivized agricultural production, regional coordination structures, called *Unidade de Direcção Agrícola* (UDA), were created. The UDA of Xai-Xai was set up in 1985. It divided the UPBL into six smaller state farms. At the same time, some abandoned land from unsuccessful co-operatives and state farmland was allocated to private medium-scale farmers and peasants.⁶⁸

After 1992, with the end of the civil war, rehabilitation of the irrigation system was planned but delayed until the early 2000s. For a decade, production at the RBL stopped, due to further destruction of infrastructure by another large flood in 2000 and further labour migration to South Africa. With the financial support of the African Development Bank, a rehabilitation project targeting parts of the former infrastructure and the reorganization of agricultural production started in 2003.⁶⁹ RBL is now organized into twelve blocks, used by different groups, including smallholder groups, medium-scale farmers, and a Chinese and a Portuguese company. Still, RBL is publicly owned and covered around 12,000 hectares in 2013.⁷⁰

In 2005, the Chinese Hubei Province and the Mozambican Gaza Province signed an agreement for a co-operative project to test different varieties of rice and implement production on 300 hectares. In 2008, this program started similar testing on a smaller scale, but this ended in 2012.⁷¹ That year, a private Chinese investor took over and founded Wanbao Africa Agriculture Development Limited, intended as a development program. It aims to improve local rice production through technology transfer and the introduction of more fertile varieties. The project was planned on an area of 20,000 hectares and included the setting up of rice processing facilities.⁷² It is embedded in a national strategic plan for agricultural development. By 2014, the project was running on 7,000 hectares.⁷³

After the flooding of the project area in 2013 and 2015, the Chinese government cancelled a loan due to the flood-prone location. Since then, the financing has remained insecure.⁷⁴ Still, the project was running during my fieldwork in 2019, and an interviewee reported that it was active on 8,000 hectares by that time.

Once the private Wanbao project started in 2012, it gained more attention from the local population as civil society organizations raised concerns about displacement and water access.⁷⁵ Extending the project area, workers started plowing up family farms and small-scale farms. They destroyed crops ready for harvest, so local producers organized and addressed the district government. Confronted with unresponsiveness on the part of local officials, they went back to their farms and blocked the land to stop further destruction.⁷⁶ Wanbao, in

turn, did not see itself as responsible for the conflict, as this land was granted to the project in the agreements concluded with the state.⁷⁷

In parallel, civil society organizations of national reach started investigating Wanbao after hearing about the project and the resulting conflict. After some unsuccessful requests at the RBL agency, they finally arranged a meeting, and the land was returned to the farmers within the year.⁷⁸ In 2013, Wanbao resumed its work on the same land, which provoked an even larger response from peasants, peasant associations, and provincial and national civil society organizations. Activities included a demonstration that ended with handing over a petition to the provincial governor in 2014, and an open letter to the then-President of the Republic Armando Guebuza, among others.⁷⁹ Also, activists continue to use the biannually meeting provincial exchange platform Observatório de Desenvolvimento (Observatory of Development) to raise concerns repeatedly. The network of individuals and organizations involved in the social mobilization continuously exchanges information about the situation.

Rights and regulations on the transnational, domestic, and traditional levels present essential reference points for activists in statements and campaign documents. Activists explained that legal instruments help them to support claims and show that issues raised are not mere sensitivities but are in fact legally grounded. Foremost, the land law and the Constitution of the Republic are central domestic legal tools to address land access, traditional customs, and the importance of rural development, and both place the people at the centre. Further, activists stressed that the right of community consultation, compensation after the transfer of land rights, and the DUAT itself was violated. This is because people were not included in planning processes and the land was granted to the company, even though the DUAT exists through the use of land for ten years. Other domestic laws not directly addressing land issues supported claims and campaign documents, including the environmental law, the decree of resettlement, and others.

Transnational rights and regulations, then, embed concerns legally to further increase the legitimacy of claims: “It gives more weight, more emphases, to show that not only the national right, but also internationally this issue is recognized and defended. So, this gives more weight and more emphasis.”⁸⁰ Understanding traditional rights as rules within local communities likewise constitutes legal opportunity structures. Peasants living around the Wanbao project area backed their concerns by first explaining their ownership of the land due to inheritance. Still, they added that the domestic land right also supports this claim. The lack of transparency concerning the project especially is thematized in the context of transnational concepts, such as free, prior, and informed consent (FPIC), rooted

in the rights of Indigenous peoples. In the same regard, different campaign documents refer to regulations that link land rights and information access in the context of investments, such as the International Labour Organization's ILO Convention 169. In sum, concerns are raised with the support of domestic and transnational legal opportunity structures, entwining social rights, such as community or labour rights, environmental rights, and transparency.

The Case of ProSavana

The Program of Triangular Co-Operation for Developing Agriculture in the Tropical Savannas of Mozambique (hereafter ProSavana) was a trilateral development project of the governments of Mozambique, Brazil, and Japan. The implementation area was located in parts of the Nacala Corridor, specifically in its eastern sector in the provinces of Niassa, Zambezia, and Nampula, covering nineteen districts.⁸¹ As mentioned above, the information about the intended project size varies hugely, with some sources mentioning 6 million hectares,⁸² but many others saying 14.5 million hectares.⁸³ An interviewee involved in the project planning stated that the latter figure is based on miscommunication.

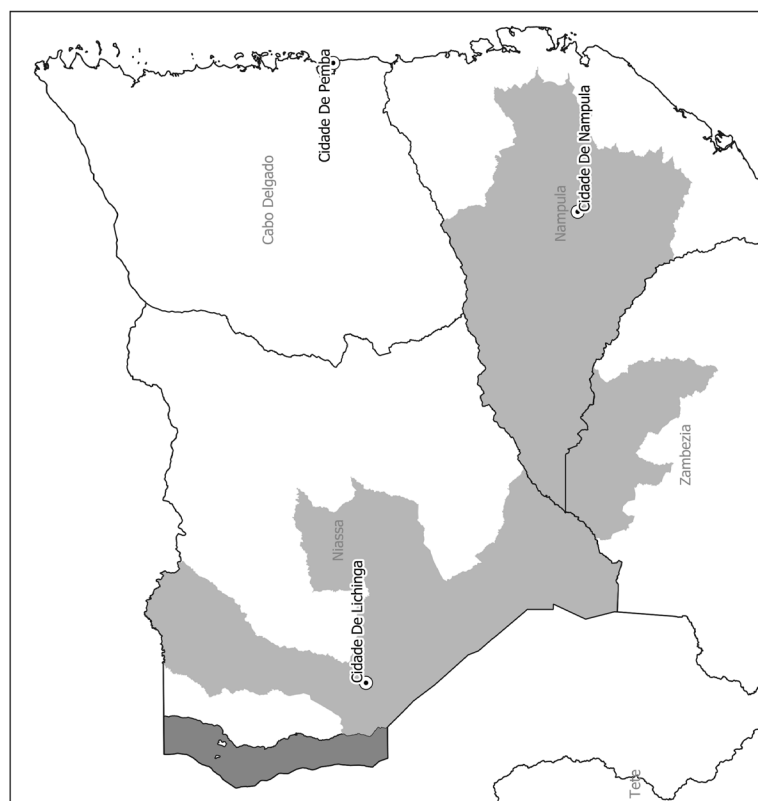
This uncertainty about the actual extent of the project makes it challenging to trace its history. Following the program's master plan, large parts of the three provinces are included in a ProSavana study. This area (see map 10.1) is also a reference point for many of ProSavana's critics. Following the master plan, of the 19 districts involved, 10 are located in Nampula Province, 7 in Niassa Province, and 2 in Zambezia Province.⁸⁴

Looking at the Luso-history of the project area, the Companhia do Niassa, or the Niassa Company, was established in 1891 to manage today's Niassa and Cabo Delgado Provinces. It had sovereign rights in its territory and could grant sub-concessions. Established to strengthen the Portuguese presence and develop the economy, the company failed to fulfill these purposes.⁸⁵ Sub-concessions to foreign investors undermined Portuguese dominance, and ongoing under-financing prevented the desired economic development.⁸⁶ In 1928, the company was consequently dissolved.⁸⁷ While another colonial company was found in Zambezia Province,⁸⁸ the two districts of the province included in the ProSavana project plan were not part of its territory.

The majority of ProSavana's area is in Nampula Province. Due to fertile soils and the production of cash crops, such as sisal, cashews, and especially cotton in the area, the colonial government built an east-west railroad in the province to reach the port of Nacala.⁸⁹ Agricultural production at colonial companies, such as the cotton producer Companhia dos Algodões de Moçambique, turned some small-scale farms into production sites around the 1950s.⁹⁰ While some of those

Map 10.1.
ProSavana
research area
in northern
and central
Mozambique

Source: Gerken
based on Ministério
da Agricultura
e Segurança
Alimentar, "Plano
director para o
desenvolvimento
agrário do
Corredor de Nacala
em Moçambique."
Esboço versão
0. Cooperação
triangular para o
desenvolvimento
agrário da savana
tropical em
Moçambique
(2015); Open Street
Map. Cartography:
Rui Pinto.



production patterns prospered in the province, others were unsuccessful. The latter often occurred in areas with poor infrastructure.⁹¹

Regarding infrastructure, many argue that the existing infrastructure today, especially the railway, made the area of the Nacala Corridor particularly attractive for the ProSavana project. A decree for the construction of the railway was signed in 1912 to connect, as said before, the cotton production of Nampula Province first with the Lumbo port and later with the Nacala port. The first track sections opened in 1924. In the 1970s, it was extended to Malawi.⁹² To connect the Moatize coal mines in Tete Province with the port, the railway was further expanded in the 2000s. This project is embedded in the Nacala Agricultural Growth Corridor, part of a national strategic development plan for economic development.⁹³

Following the original ProSavana project plan, the area should be used to grow soybeans and maize on plantations. The project Prodecet in the Brazilian Cerrado served as a model and dated back to the 1970s when it was supported by Japanese capital.⁹⁴ Brazil's role in the ProSavana project thus was to transfer gained know-how to increase the production in Mozambique, as happened in Prodecet. Politically, then-President of Brazil Luiz Inácio Lula da Silva and his government also promoted South-South co-operation.⁹⁵ Japan's input in ProSavana is the capital, but also its experience of agribusiness co-operation with Brazil. Further, the produced crops would be exported to the Japanese market. Mozambique itself was supposed to provide land, labour, and fiscal benefits for the project, and was expected to increase production and economic development.⁹⁶

ProSavana's basic framework was signed in 2009, but the Mozambican public only learned about it in 2011 after an interview with the country's minister of agriculture, José Pacheco, with a Brazilian newspaper.⁹⁷ This information travelled via Brazilian activists to those in Mozambique, the two groups already co-operating in other contexts. Followed by further reports in the media and speeches, more insights into the intended project were given. The lack of clear information about ProSavana raised mistrust, and, driven by concerns about land loss and potential social and environmental impacts, civil society actors tried to learn more about it.⁹⁸ Using existing networks, activists reached out to already established partners in Brazil and created new linkages with civil society in Japan. In 2012, members of Mozambican peasant organizations were invited by their Brazilian partners to visit the Cerrado. Networks already existed through memberships in umbrella organizations, such as La Via Campesina, and international NGOs that are active in both countries. After the trip, a documentary about the environmental and social impacts of monocultures in the Cerrado was released in Mozambique to inform about the project and mobilize people.⁹⁹ Partnering

Japanese NGOs raised concerns at a policy dialogue forum with the Ministry of Foreign Affairs in Japan in the same year.¹⁰⁰

In 2013, a confidential master plan for the project was leaked, which led to further contestation of the agribusiness-oriented project. Though the three governments involved stressed that the plan was merely preliminary, it triggered further mistrust.¹⁰¹ Activists intensified their trilateral network, published joint statements and open letters, organized exchange conferences in the three countries, and launched the campaign *Não ao ProSavana* (No to ProSavana).¹⁰² In the following month, the program received less attention because the upcoming elections in Mozambique shifted the public focus. Likewise, in Brazil, attention moved toward the elections in 2014 and the country's political crisis, which led to the impeachment of Dilma Rousseff in 2016. The subsequent interim administration did not revive the Brazilian role in the ProSavana project.¹⁰³

In 2015, a revisited master plan was published; it sought to respond to some of the raised concerns but was still contested as it failed to address all reservations and was often vaguely formulated. Besides that, the Ministry of Agriculture and Food Security invited civil society actors to annual exchange meetings to further revise the program.¹⁰⁴ Though these meetings still took place in the following years, the end of the ProSavana project was announced in 2020.¹⁰⁵

As in the case of Wanbao, several rights and regulations were invoked in the activism around the project. Likewise, they served the purpose to either support and legally embed claims or point toward the violation of specific legal instruments. However, the latter was used less frequently in the case of ProSavana, which is mainly due to the fact that the two social mobilizations started at different points in time. In the case of Wanbao, the project was already running, while in the case of ProSavana, complaints were raised in its planning phase. Again, rights and regulations were thought to be useful for showing that activists' concerns were not random but enforced through legal documents. Though the whole social mobilization involved the transnational realm, the domestic land law and the Constitution of the Republic were still core reference points for claims, as was mentioned, for instance, in a campaign document ("We encourage the government to scrupulously observe the Land Law and the Article 109, paragraph 3 of the Constitution of the Republic and ensure its implementation"),¹⁰⁶ which talks about the crucial role of land for the wealth and well-being of the Mozambican people.¹⁰⁷

As in the other case, further domestic laws together provided legal opportunities, especially rights addressing information access and transparency. Transnational rights and regulations again comprised complementary benchmarks and covered the topics of human rights, food security, and information

access. These issues are not treated individually, but are instead closely interrelated, as a campaign statement demanding more transparency claims: “1) respect for human rights, 2) improved transparency and accountability, and 3) valid and ‘Meaningful Dialogue’ based on FPIC.”¹⁰⁸ As in the case of Wanbao, domestic and transnational rights and regulations thus constitute legal opportunity structures to embed and legitimize claims or show that existing rules have been violated.

Concluding Discussion

The comparison of the Luso-historical background of the two cases and the resistance they engendered indicated similarities and differences but also pointed to larger (dis)continuities of practices and regulation since colonial times. At the same time, innovative aspects of legal instruments constitute reference points in activism to challenge continuities of agricultural production schemes.

Before diving into the case comparison, it is necessary to frame and stress the extent to which LSLA constitutes a new phase and is not a straight continuation of land concessions. Though foreign investors were already involved in the concessions of colonial companies in Mozambique, the current wave of new investments in farmland is embedded in a global context. Still, as outlined above, Porsani sees a continuation of the production model that aims to substitute smallholder farmers with large-scale production schemes.¹⁰⁹ In the same regard, Li points out that monocultures are still given preference over small-scale farmers in Indonesia,¹¹⁰ and this chapter showed that the same happened in the two cases studied in Mozambique.

Comparing the trajectory of land use in Wanbao and ProSavana, even if much more concrete in the first and vague in the second, they share some similarities regarding the colonial past. In both cases, the closeness to particular pieces of infrastructure makes the project area highly attractive for cash crop production. Both under Portuguese rule and today, access to an irrigation scheme in Gaza or the railway in the Nacala Corridor promises benefits.

Another trajectory points toward contrasts between the projects themselves. Wanbao is set up in the area of a former colonial plantation. Yet the dimensions of both the colonial production and the Wanbao project are much smaller than the intended ProSavana project. Likewise, the central and northern areas of Mozambique were governed by gigantic colonial companies in the past. This divide thus constitutes another continuity of land use in the different parts of the country. The differences between the country’s North and the South are a long-standing issue. Northern customs were ignored during colonial land governance, and southern social structures were imposed on the North. As shown in the area of the Wanbao project, labour migration to South Africa supported the

local economy through remittances. And even today, the South of Mozambique is wealthier than the North.

Regarding the legal context in Mozambique, the current land law features some widely praised paragraphs, especially those espousing support of community rights, the closeness of the law to customary land governance, and the requirement to consult potentially affected communities before signing an investment treaty. Still, some continuities from the colonial regime appear in the area of land governance. It is the case that the state owns the land and that use rights might be granted. While the ideologies in the different periods differs strongly, the mechanism for granting land use rights is very similar to that of the past. Also, as mentioned in the beginning of this discussion, concessions to companies are often granted, even without implementing community consultations, or informing local communities at all.¹¹¹

Still, the law protects peasant rights and community rights, making it a useful tool to challenge large-scale projects like Wanbao and ProSavana. In both cases, governance instruments play an essential role in advancing claims as legal opportunity structures, linking social, environmental, and transparency issues. As described above, legal opportunities in the form of rights and regulations can be used in two ways: either to increase the legitimacy of a claim by legally embedding it, or to point toward the violation of a specific rule. About the first, complaints are made in an anticipatory way to bring about compliance with rights and regulations in the future. In the activism around Wanbao and ProSavana, legal opportunities were used in this way. However, I argue that this type was more prevalent in the case of ProSavana, as the project itself has not yet started, so concerns instead addressed potential harmful impacts.

Regarding the second way of using rights and regulations as legal opportunities, claims are made about neglecting a specific right. This occurred in both cases and often thematized a lack of transparency in the projects. Specifically, the land law and its language related to community consultation offered in this context an important benchmark. The activists are agents creating this legal opportunity by repeatedly referring to a law, even if it has been violated. Following my analysis, this type was used in the case of Wanbao due to the fact that the social mobilization only started once the project began—that is, when specific rights had already been violated.

Besides domestic legal instruments, transnational ones also constituted reference points for advancing claims. Domestically, a variety of laws, but foremost the land law and the Constitution of the Republic, with its focus on community rights, proved helpful. In this regard, linkages were created between land use, the inclusion of (potentially) affected communities, and transparency. Likewise,

transnationally, a broad range of rights and regulations concerning human rights, transparency, and community inclusion are reference points in documents and claims.

Overall, both cases are alike in that each project saw a lack of transparency that shaped the resistance and social mobilization around it. In such situations, even if information is later shared, the atmosphere is already marked by mistrust about the specific project, as well as the general perception about large-scale investments.

NOTES TO CHAPTER 10

- 1 The phenomenon is described in different terms, some of which some (e.g., “land grabbing”) are normatively loaded. I instead use the more neutral “large-scale land acquisitions.”
- 2 I am aware of the generalization the term “Global South” makes and try to be specific where possible. For a deeper discussion about the use of such terminology, see Nina Schneider, “Between Promise and Skepticism: The Global South and Our Role as Engaged Intellectuals,” *Global South* 11, no. 2 (2017): 18–38.
- 3 Liz Alden Wily, “Enclosure Revisited: Putting the Global Land Rush in Historical Perspective,” in *Handbook of Land and Water Grabs in Africa: Foreign Direct Investment and Food and Water Security*, ed. Tony Allan, Martin Keulertz, Suvi Sojamo, and Jeroen Warner (Routledge, 2013), 11–23; Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard, and James Keeley, *Land Grab or Development Opportunity? Agricultural Investment and International Land Deals in Africa* (International Institute for Environment and Development, 2009); Annelies Zoomers, “Globalisation and the Foreignisation of Space: Seven Processes Driving the Current Global Land Grab,” *Journal of Peasant Studies* 37, no. 2 (2010): 429–47.
- 4 Klaus Deininger et al., *Rising Global Interests in Farmland: Can It Yield Sustainable and Equitable Benefits?* (World Bank, 2011); GRAIN, *Seized! GRAIN Briefing Annex: The 2008 Land Grabbers for Food and Financial Security* (GRAIN, 2008); Kerstin Nolte, Wytke Chamberlain, and Markus Giger, *International Land Deals for Agriculture: Fresh Insights from the Land Matrix: Analytical Report II* (Land Matrix, 2016), 17.
- 5 Deininger et al., *Rising Global Interests*, xiv, 51f.; GRAIN, *Seized!*, 8.
- 6 Saturnino M. Borras Jr., Ruth Hall, Ian Scoones, Ben White, and Wendy Wolford, “Towards a Better Understanding of Global Land Grabbing: An Editorial Introduction,” *Journal of Peasant Studies* 38, no. 2 (2011): 209–16. The current academic literature increasingly discusses land grabs in northern countries. For an example, see Ramona Bunkus and Insa Theesfeld, “Land Grabbing in Europe? Socio-Cultural Externalities of Large-Scale Land Acquisitions in East Germany,” *Land* 7, no. 3 (2018): 1–17.
- 7 Wendy Wolford, “The Colonial Roots of Agricultural Modernization in Mozambique: The Role of Research from Portugal to ProSavana,” *Journal of Peasant Studies* 48, no. 2 (2021): 255.
- 8 See Adalima, this volume.
- 9 Juliana Porsani, “Livelihood Implications of Large-Scale Land Concessions in Mozambique: A Case of Family Farmers’ Endurance” (PhD diss., Södertörn University, 2020), 69.
- 10 See Adalima, this volume.
- 11 Deborah Potts, “Land Alienation under Colonial and White Settler Governments in Southern Africa,” in Allan et al., *Handbook*, 24–42.
- 12 Potts, “Land Alienation,” 39.
- 13 Potts, 38.
- 14 Porsani, “Livelihood Implications,” 69.
- 15 Porsani, 69.
- 16 Saskia Sassen, “Land Grabs Today: Feeding the Disassembling of National Territory,” *Globalizations* 10, no. 1 (2013): 29.
- 17 Leah Temper, “From Boomerangs to Minefields and Catapults: Dynamics of Trans-Local Resistance to Land-Grabs,” *Journal of Peasant Studies* (2018): 18; Zoomers, “Globalisation.”

- 18 Sassen, "Land Grabs," 26.
- 19 Following most publications on LSLA and the Land Matrix, a database about large-scale land projects.
- 20 Cotula et al., "Land Grab," 52f.
- 21 Lorenzo Cotula and Emma Blackmore, *Understanding Agricultural Investment Chains: Lessons to Improve Governance* (International Institute for Environment and Development, 2014); David Zetland and Jennifer Möller-Gulland, "The Political Economy of Land and Water Grabs," in Allan et al., *Handbook*, 257–72.
- 22 Deininger et al., "Rising Global Interests"; GRAIN, *Seized!*; Nolte et al., "International Land Deals," 17.
- 23 Saturnino M. Borras Jr. and Jennifer C. Franco, "Global Land Grabbing and Trajectories of Agrarian Change: A Preliminary Analysis," *Journal of Agrarian Change* 12, no. 1 (2012): 50.
- 24 Gregory Myers, *Land Tenure Development in Mozambique: Implications for Economic Development* (Land Tenure Center, 1995), 10f.
- 25 Eduardo Mondlane, *The Struggle for Mozambique*, 2nd ed. (Zed Books, 1983), 23f.
- 26 Mondlane, *The Struggle*, 28f.
- 27 Myers, "Land Tenure," 13.
- 28 See Adalima, this volume.
- 29 José Laimone Adalima, "Changing Livelihoods in Central Micaune, Central Mozambique: From Coconut to Land" (PhD diss., University of Pretoria, 2016), 44f; Mondlane, *The Struggle*, 30f.
- 30 Mondlane, *The Struggle for Mozambique*.
- 31 Bridget O'Laughlin, "Past and Present Options: Land Reform in Mozambique," *Review of African Political Economy* 22, no. 63 (1995): 99–106; Porsani, "Livelihood Implications," 45.
- 32 Myers, "Land Tenure," v, 6f., 15.
- 33 Assembleia da República, *Constituição*, art. 8.
- 34 Myers, "Land Tenure," v.
- 35 FRELIMO (Frente de Libertação de Moçambique) was the movement that led the armed struggle and transformed in 1977 into a political party. Edalina R. Sanches, *Party Systems in Young Democracies: Varieties of Institutionalization in Sub-Saharan Africa* (Routledge, 2018). It governs Mozambique today.
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- 37 Myers, "Land Tenure," vi, 8.
- 38 Roesch, "Rural Mozambique," 86.
- 39 Juan Obarrio, *The Spirit of the Laws in Mozambique* (University of Chicago Press, 2014), 49; República de Moçambique, *Política nacional de terras; Aprova a política agrária* (1996), Resolução No. 10/95.
- 40 Scott Kloock-Jenson, *Análise do debate parlamentar e da nova Lei Nacional de Terras para Moçambique* (Land Tenure Centre, 1997), 2; Boaventura Monjane, "Is Nationalisation and State Custodianship of Land a Solution? The Case of Mozambique," *Amandla* 65 (2019): 33; Maria de Conceição de Quadros, *Breve nota sobre a questão de terras em Moçambique* (Maputo, 1999), 3.
- 41 *Lei de Terras. Lei No 19/97* (1997), arts. 12–14.
- 42 *Lei de Terras. Lei No 19/97*, art. 18.
- 43 *Lei de Terras. Lei No 19/97*, arts. 13, 17.
- 44 Ministério da Agricultura, *Diploma Ministerial No. 158/2011* (2011), art. 1.
- 45 *Lei de Terras. Lei No 19/97*, arts. 15, 25, 26.
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- 48 Scott L. Cummings, "Law and Social Movements: An Interdisciplinary Analysis," in *Handbook of Social Movements Across Disciplines*, ed. Conny Roggeband and Bert Klandermans (Springer International, 2017), 260; Gianluca de Fazio, "Legal Opportunity Structure and Social Movement Strategy in Northern Ireland and Southern United States," *International Journal of Comparative Sociology* 53, no. 1 (2012): 3–22.
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and the Paradox of Legal Mobilization by the Environmental Movement in the UK," *Law & Society Review* 46 (2012): 543, 548.

- 50 The size of the ProSavana project must be treated with caution, as numbers vary largely, as will be discussed in the section about the program.
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- 53 M. Anne Pitcher, "Disruption Without Transformation: Agrarian Relations and Livelihoods in Nampula Province, Mozambique 1975–1995," *Journal of Southern African Studies* 24, no. 1 (1998): 120ff.
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- 55 Phyllis Bussler, "Wachstumskorridore als neue geographische Scale? Das Beispiel des Nacala Korridors in Mosambik," in *Kritische Geographien ländlicher Entwicklung: Globale Transformationen und lokale Herausforderungen*, ed. Michael Mießner and Matthias Naumann (Westfälisches Dampfboot, 2019), 229; Sérgio Chichava et al., "Brazil and China in Mozambican Agriculture: Emerging Insights from the Field," *IDS Bulletin* 44, no. 4 (2013): 107; Ganho, Ana Sofia, "'Friendship' Rice, Business, or 'Land-Grabbing'?" The Hubei-Gaza Rice Project in Xai-Xai," *Land Deal Politics Initiative* 32 (2013): 4ff.; Antonio Gomes de Jesus Neto, "Entre trilhões e rodas: Fluidez territorial e os sentidos da circulação de mercadorias em Moçambique" (master's thesis, University of São Paulo, 2016), 20f.; Pitcher, "Disruption," 120; Porsani, "Livelihood Implications," 42f.
- 56 Porsani, "Livelihood Implications," 42f.; Roesch, "Rural Mozambique," 74.
- 57 Philipp Mayring and Thomas Fenzl, "Qualitative Inhaltsanalyse," in *Handbuch Methoden der empirischen Sozialforschung*, ed. Nina Baur and Jörg Blasius (Springer VS, 2014), 543–56.
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- 62 Porsani, "Livelihood Implications," 42f.; Roesch, "Rural Mozambique," 74.
- 63 Ganho, "Friendship," 5.
- 64 Filipe and Norfolk, "Understanding," 78; Roesch, "Rural Mozambique," 75.
- 65 Roesch, "Rural Mozambique," 76.
- 66 Roesch, 76.
- 67 Ganho, "Friendship," 6.
- 68 Ganho, 6; Roesch, "Rural Mozambique," 79, 86.
- 69 Ganho, "Friendship," 6.
- 70 Chichava et al., "Brazil and China," 107; Ganho, "Friendship," 4ff.
- 71 Sérgio Chichava, "Chinese Rice Farming in Xai-Xai: A Case of Mozambican Agency?," in *China and Mozambique: From Comrades to Capitalists*, ed. Chris Alden and Sérgio Chichava (Jacanda Media, 2014), 129; Chichava et al., "Brazil and China," 107.
- 72 Chichava et al., "Brazil and China," 107; Ganho, "Friendship," 10.
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- 88 See also Adalima, this volume.
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