



**Policy processes of a land grab**  
*Enactment, context and misalignment in Massingir,  
Mozambique.*

Jessica Milgroom

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# **Policy processes of a land grab: Enactment, context and misalignment in Massingir, Mozambique.**

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## Abstract

The creation and enforcement of policies, international standards, or national laws have been proposed as necessary to protect rural dwellers from dispossession by land grabs. This study explores the way in which policy intended to protect people's land tenure was enacted in practice based on a case study in southern Mozambique of overlapping land claims: a foreign, large-scale land acquisition for the production of sugar and ethanol by a company called ProCana in the area set aside for the resettlement of residents of the Limpopo National Park. The way in which two policies, the national land law and the World Bank Operational Procedure for Involuntary Resettlement, were enacted to favor the land acquisition and then to terminate it is analyzed. The analysis especially focuses on the convergence and divergence among groups and how this influenced the trajectory of the land acquisition. This case suggests that actors wishing to gauge the degree to which rural dwellers are potentially protected by policy can: expect policy enactment, embrace context and recognize misalignment.

**Key words:** Policy enactment, resettlement, land grab, Limpopo National Park, Mozambique

## About the author

Originally from the United States, **Jessica Milgroom** obtained her undergraduate degree in International Agriculture at Cornell University. As a Fulbright scholar in Spain she developed hands-on tools for organic olive farmers to diagnose and manage soil erosion on their orchards. In 2012 Jessica Milgroom completed an interdisciplinary PhD bridging social sciences and agronomy at Wageningen University in the Netherlands. Her doctoral work was based on an in-depth case study of resettlement of residents of the newly established Limpopo National Park in Mozambique. The research focused both on the resettlement policy in practice as well as on post-resettlement food sovereignty. Her research interests currently include population resettlement, policy enactment, situated, interdisciplinary studies of people's use of natural resources, and applied agronomy.

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## List of abbreviations

AU	African Union
AU	Animal Unit (Table 1)
AWF	African Wildlife Foundation
CTV	Centro da Terra Viva
DUAT	Rights to the use and benefit of the land ( <i>Direito de Uso e Aproveitamento da Terra</i> )
FRELIMO	Liberation Front of Mozambique ( <i>Frente de Libertação de Moçambique</i> )
GLTFCA	Great Limpopo Transfrontier Conservation Area
ha	Hectare (Table 1)
KfW	Kreditanstalt für Wiederaufbau (now called KfW bankengruppe)
MAI	Massingir Agro-Industrial
WB	World Bank
WB OP 4.12	World Bank Operational Policy for Involuntary Resettlement

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*They come in and want to invest 510 million dollars, but I have to tell them that the law says they have to consult with the communities?? They don't want to have to do that! They just want to know if they can invest or not, and if they can't they'll go elsewhere.*

Anonymous government official September 2007

## 1 Introduction

Government officials negotiating large-scale private land acquisitions find themselves in a complicated situation. They can be stuck between adhering to policies designed to protect citizens, and demands placed on them by foreign investors, other governmental bodies, or their own personal interests to bend or reinterpret policies. National policy meant to protect people's rights to their land exists in many countries, but has proven to be minimally effective (Cotula and Vermeulen, 2011). Despite this, debates about how to protect the people most vulnerable to loss of livelihoods from the threats that large-scale foreign land acquisitions pose focus on international policy that national governments would be responsible for enforcing (von Braun and Meinzen-Dick, 2009, Seufert, 2013). While improved national laws and international guidelines may provide a resource for peasant resistance against dispossession of land, they also provide a resource for government officials and private companies to legitimate land grabs (Borras Jr and Franco, 2010; De Schutter, 2011; Li, 2011). How these policies get enacted in practice is ultimately what determines whether they will help or hinder the defense of rural dwellers' rights to their land, yet there is little research available that documents this process.

Policy analysts have long been troubled by the topic of how to narrow the gap between policy intention, such as the protection of land tenure, and policy in practice. Insights from policy analysis reveal that policy is rarely implemented in the way that was intended (DeLeon and DeLeon, 2002). Policy is in fact not implemented, implying a linear process, but *enacted*. Policy enactment is the 'creative processes of interpretation and translation, that is, the recontextualisation through reading, writing and talking, of the abstractions of policy ideas into contextualised practices' (Braun et al., 2011). The way that a policy process plays out in practice depends on the interpretation of the policy by the range of actors involved. Different actors may interpret the same policy to have contradictory practical implications, and search for other groups that have similar interests to strengthen their case (Wagenaar, 2011). This paper explores convergence and divergence among groups and how this influences the trajectory of the land acquisition. Based on a case study of a large-scale foreign land acquisition for the production of sugar and ethanol of a company called ProCana in southern Mozambique, I analyze the way two policies, the national land law and the World Bank Operational Procedure for Involuntary Resettlement were first enacted to favor the land acquisition and then the same land law was evoked to terminate it. This research was carried out primarily at the local level and provides the kinds of details that are underreported but necessary to understand the micro-politics of how large-scale land acquisition policy processes play out on the ground. This paper uses the notion of policy enactment to explore the potential for international policy to contribute to protecting the land tenure of the rural dwellers threatened by land grabs.

I first introduce land grabbing and policy enactment, then outline methods used in data collection and analysis and the background of the case study. I present the case, analyze the process of convergence and divergence of key actors and finally highlight three findings that contribute to gauging the potential for guidelines to be effective: expect enactment, embrace context and recognize misalignment.

### 1.1 Land grabbing

'Land grabs' are considered to be major land acquisitions made by transnational corporations or foreign governments in another country through long-term leases, concessions, purchases, and even theft (Rosset, 2011). Land has been acquired through 'land grabbing' for a number of purposes such

as for growing biofuel and food crops, for nature conservation, mining concessions, large infrastructure projects, carbon-credit plantations and tourism (Zoomers, 2010). These land deals, including the case presented in this paper, involve close alignment between national governments and foreign investors (Alden Wily, 2011, Borras Jr and Franco, 2010), and leave the resident population landless or without access to the natural resources that form the basis of their livelihood activities (Zoomers, 2010). Loss of access to resources for productive purposes, as well as loss of heritage and of important cultural resources is one way that land grabs are causing dispossession for local people (Vermeulen and Cotula, 2010). Loss of self-determination, autonomy and control over resources is another way in which people are being dispossessed—this is being done through administrative and procedural mechanisms that systematically exclude residents and resource users (Vermeulen and Cotula, 2010). Alden Wily demonstrates how most of the dispossession is occurring through legal means, by national governments, within the terms of domestic property laws (Alden Wily, 2012) and that the laws that govern land tenure are actually enablers of the dispossession (Alden Wily, 2011).

The general international response to this wave of land grabbing has been to propose improved governance in the host countries to minimize unjust dispossession of land and resources through, for example, improved demarcation of land and international guidelines (Deininger and Byerlee, 2011). Two sets of guidelines have been developed to regulate land grabbing: one by the African Union (AU) called Framework and Guidelines on Land Policy in Africa – Land Policy in Africa: A Framework to strengthen land rights, enhance productivity and secure livelihoods (African Union, 2009) – and the other the FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (Food and Agriculture Organization of the United Nations, 2012). There has been little reported about the implementation of these guidelines, but considerable debate on the potential for them to protect people from dispossession.

Cernea (1993) argues that the existence of guidelines that set higher standards than the existing ones, if there are any at all, provides something for affected people to lean on and mobilizes political and economic resources in support of the cause. Some cases illustrate the way in which resistance of local populations can and do shape land deals (Neville and Dauvergne, 2012, Smalley and Corbera, 2012). The role of mobilization of people and resources including knowledge is fundamental in negotiating and challenging land grabs (White et al., 2012). A policy or a code of conduct can become a resource in this process of mobilization. As Vermeulen and Cotula (2010) suggest, the struggle to maintain control of land and resources may well open new space for political organization among marginalized groups.

Some authors think, however, that guidelines will do little to curb the processes of land grabbing (Zoomers, 2010). Others argue that the idea of guidelines does not sufficiently question the underlying causes of land grabbing, accepts that land grabbing is inevitable and embraces the assumption that transparent and participatory land acquisitions are better than non-participatory ones (Borras Jr and Franco, 2012). De Schutter (2011) argues that attempts to regulate foreign land acquisition presupposes that investments can lead to a desirable situation if properly managed, and goes on to describe why this is not the case. Borras and Franco (2010) describe how any effort to regulate a land-deal is unlikely to produce positive outcomes for local people, barring the local elite, if the main aim of the land acquisition is not primarily to protect and advance the interests of the residents. These guidelines could also become enablers of dispossession in the way that Alden Wily (2011) describes that national laws have become. Borras and Franco (2010) suggest that a human rights-based approach should be taken to prevent land grabbing rather than accept a second-best response to an inevitable advancement of capitalist interests. Cotula and Vermeulen (2011) suggest focusing efforts on legal empowerment, collective action and improvement of national policies and procedures rather than on the development of international guidelines.



International policy assumes that governments have an interest and the capacity to improve practices and protect the rights of rural dwellers, but it has been argued that this is not necessarily the case (Wisborg, 2013; Cotula and Vermeulen, 2011; Hall and Paradza, 2012). The governments of countries where land grabbing is an important phenomenon tend to also be those countries most interested in foreign investment, as well as those that can be considered to be 'weak states' (FAO et al., 2010). However, the conclusion that 'improved' governance is the answer to the problems of land-grabbing fails to take into consideration the micro-politics at hand (Li, 2011). Many states are in fact active partners in land deals (Wolford et al., 2013) in which individuals in government stand to benefit significantly from the deals (Fairbairn, 2013). The 'state' as a player in land grabs is often evoked as a single, unified institution whereas in practice it often consists of multiple, contradictory and ambiguous perspectives (Hall and Paradza, 2012). Governments and governance processes would more usefully be seen to be a collection of processes, people and relationships (Wolford et al., 2013). The theoretical lens of policy enactment is ideal for unbundling, not just governments and governance in this way, but also other key processes, actors and relationships.

### *1.2 Policy enactment*

Despite the fact that it is widely recognized that policies are not implemented in a linear fashion, the policy process continues to be conceptualized linearly, from policy formulation to some sort of practical improvement of the problem at hand (Keeley and Scoones, 2003). This is evident in international debates about environmental and social problems, such as land-grabbing that end in a call for new policies, guidelines or treaties, or better enforcement of existing ones. Many earlier explanations for the 'gap' between policy intention and policy in practice identified technical practicalities, such as the wording of the policy text, miscommunication, lack of incentives or lack of capacity to be major causal factors (DeLeon and DeLeon, 2002, Yanow, 1996). This kind of explanation is based on the assumption that the problems are concrete, fixable and the 'correct solution' can be found (Hofmann, 1995, Yanow, 1996).

This perspective ignores the inherently political nature of policy (Keeley and Scoones, 2003). Such assumptions ignore that individuals experience and interpret policy ideas reflexively on the basis of their own agency, perceptions and knowledge. Studies of policy analysis have shown how the same policy artifact can give rise to different events, outcomes and practices in different contexts (DeLeon and DeLeon, 2002). Actors come to understand policy messages based on their pre-existing knowledge, practices and understanding of the world, their social context and the nature of their connections to the policy (Coburn, 2001, Spillane et al., 2002, Yanow and Schwartz-Shea, 2006). Policy is often not actually read by actors, but policy ideas are transmitted to them by other people through networks, already embodying one level of interpretation (van Bommel et al., 2010).

When policy is enacted in ways not intended by the policy-makers, the capacities or political will of governments is often blamed for the discrepancies. However, interpretive policy analysis points to the question of whether in fact the problem is not lack of political will, lack of skills or opportunistic interpretation of policy for personal interest, so much as misconceived expectations of how the policy process works (Coburn, 2005). The contextualized practices resulting from policy enactment are finally determined by a combination of factors including political, historical, social contexts, as well as power struggles and socially constructed meanings of the policy ideas (Yanow, 1995). The way that actors converge to actively create, maintain and change the meanings of policy ideas, and diverge when contexts change and interests are no longer aligned is an important factor that influences the course of the policy process (Milgroom, 2012).

In this paper I use the concept of enactment to refer to the process of interpretation and reinterpretation of policy ideas, in whichever way they reach the actors involved, into contextualized

practices (Braun et al., 2011). Conceptualizing policy implementation as enactment shifts the focus of an analysis of the policy process from the policy artifact to the actors involved in the policy process, highlights the importance of context and brings micro-politics to the fore. It also helps to break up monolithic institutions, such as 'the State', to see heterogeneity within groups, as well as track changes over time. The case in this paper of two overlapping land claims will be presented in a chronological fashion in order to illustrate how, through convergence and divergence of groups that shift their alignment in response to changing contexts, policy is initially circumvented and later evoked by the same governmental bodies.

## 2 Data collection and analysis

This paper is based on ethnographic research carried out between December 2006 and June 2010, in the district of Massingir. Research was focused on the process of resettlement of people from the LNP, specifically the enactment of the World Bank Operational Policy for Involuntary Resettlement (WB OP 4.12). However, when the conflicts between the resettlement project and ProCana became a central part of the resettlement process in 2007, I also turned to focus on the 1997 Mozambican Land Law. Participant observation and interviews were the main methods employed while living in the first village resettled from the LNP over a period of two years during the preparation for resettlement (December 2006 to November 2008), and for 18 months in the post-resettlement location (November 2008 to June 2010). Deliberations between village residents, park officials and representatives of company ProCana, as well as between donor representatives and government officials were documented. More than 200 open and semi-structured interviews with residents in eight villages, district, provincial and national government officials (including park staff), donor representatives, private consultants, and NGO staff were conducted. In addition, ten park and two internal village meetings were attended. Meetings and interviews were transcribed and translated, as were unpublished park documents, consultancy reports and meeting minutes.

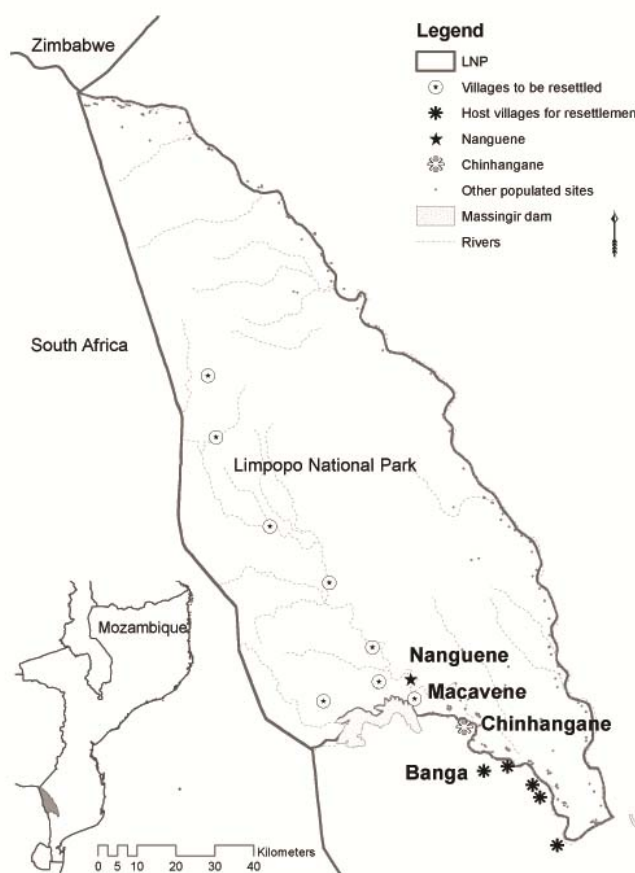
## 3 Background: a rush for land and the policies in place

### 3.1 Overview of the case

In 2001 the LNP was established in the province of Gaza in Southern Mozambique as part of the Great Limpopo Transfrontier Conservation Area (GLTFCA). The GLTFCA connects the Kruger National Park in South Africa, with Gonarezhou National Park in Zimbabwe and Zinhave, Banhine and Limpopo National Parks in Mozambique. Inside the boundaries of the park there were 27,000 people who claimed the land as their home. Park managers decided in 2003, after the establishment of the park, that approximately 7,000 of these people, those living in the centre of the park, would be resettled outside the park's boundaries, mostly to the south of the park, in the district of Massingir (Milgroom and Spierenburg 2008) (Figure 1). Major funding for the creation of the LNP and for resettlement was provided by the German development bank that was then called Kreditanstalt für Wiederaufbau (KfW)<sup>1</sup> (Wolmer 2003; Duffy 2006; Spierenburg and Wels 2006; Milgroom and Spierenburg 2008), but KfW made an agreement that the World Bank (WB), which was also funding a different part of the Transfrontier Park project, would oversee the resettlement process because of the WB's experience with resettlement (Milgroom, 2012). The World Bank Operational Policy for Involuntary Resettlement was adopted by the Ministry of Tourism, the ministry in charge of the national parks, as the guiding framework for the resettlement initiative.

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<sup>1</sup> KfW is now merged into the KfW bankengruppe.



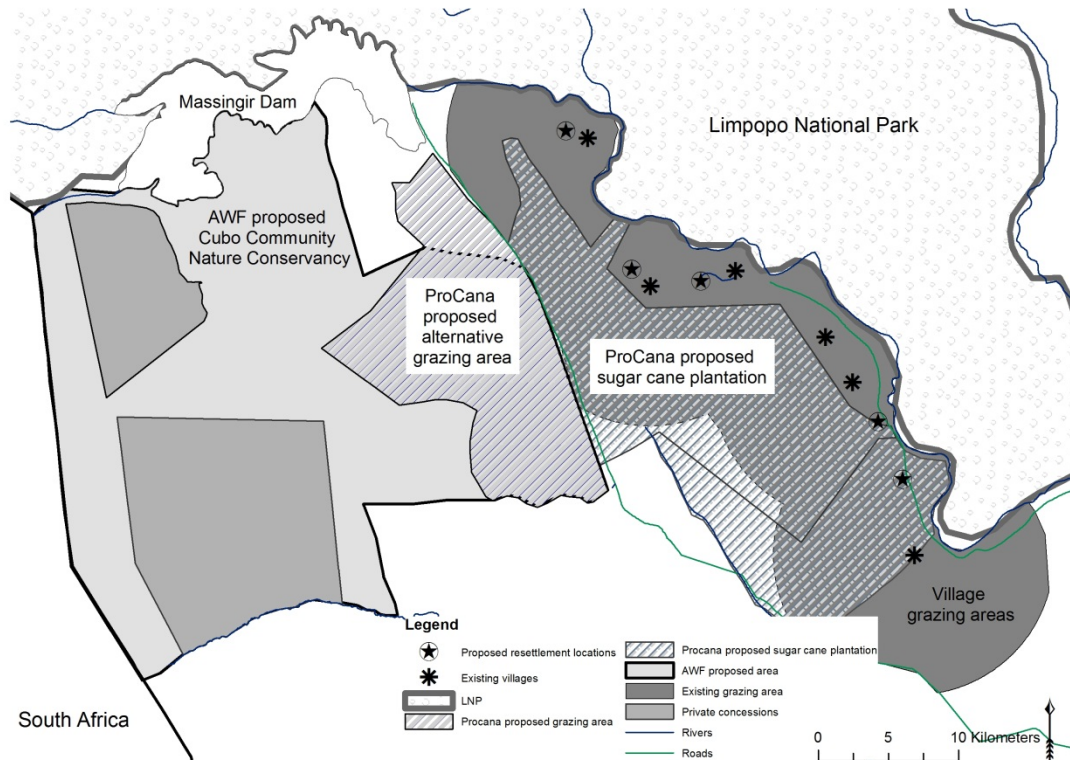
**Figure 1** The location of the Limpopo National Park in Mozambique, the first two villages to be resettled: Nanguene and Macavene, and their respective host villages (post-resettlement locations): Chinhangane and Banga. Source of map: J Milgroom.

The land that was planned for resettlement, but not officially registered through the national cadastre, was granted in 2007 by the Ministry of Agriculture to a company called ProCana, a subsidiary of the Central African Mining Company, who proposed to invest 510 million US dollars to grow sugarcane for ethanol production. A global hype about the potential for biofuels to become a lucrative business swept Mozambique between approximately 2004-2010, peaking in 2008. Fuelled by discourses of a widespread economic, fuel and food crises, governments across Africa began to map their so-called 'marginal' and 'empty' lands in an effort to identify areas for the production of crops suitable for biofuel production (Borras Jr et al., 2011).<sup>2</sup> Strategically located next to the Massingir dam and along the Elephants River, the area offered a source of reliable water, ample land and proximity to South Africa.

In order to compensate the villages already living there for the grazing land that the plantation was going to occupy, and to make an alternative plan for the resettlement villages, a plan was devised between the Ministry of Agriculture supporting the ProCana project, the Ministry of Tourism in

<sup>2</sup> In Mozambique, by 2008 the Ministry of Agriculture had purportedly received 17 proposals from companies wanting to invest in biofuel projects (Schut et al 2010). These projects requested a total of 245,404 ha of land and implied an investment of 1,301 million US dollars (Schut et al 2010). For further details on land grabs in Mozambique see also (Hanlon, 2011).

charge of the national parks and the company ProCana itself to occupy lands on the other side of the road (Figure 2). This land was already occupied with a project run by the African Wildlife Foundation (AWF). A participatory project, the nature conservancy was to cover approximately 41,000 ha (Contour Project Managers, 2006), an area that included the land belonging to three communities. The details of the case, how decisions were made, local participation in these decisions and the role of the two main policies enacted will be presented below.



**Figure 2** Overlapping land claims in Massingir district, Mozambique. The land secured for the AWF community nature conservancy overlapped with two existing private concessions. The concession given to ProCana overlapped with grazing areas for existing villages and the areas designated for resettlement of villages from the LNP. To compensate villages for lost grazing area, alternative land was identified in AWF's project site causing the community nature conservancy project to stop and AWF to leave Massingir in 2008. ProCana withdrew in 2010. Source of map: J Milgroom.

### 3.2 Two Guiding Policies

The two main policies that came into play in this case were the Mozambican National Land Law and the World Bank Operational Policy 4.12. Both are described briefly here.

#### 3.2.1 The Mozambican National Land law

The Frelimo party (Liberation Front of Mozambique) has been the governing party in Mozambique since independence from Portugal in 1975. Originally harboring a Marxist-Leninist orientation, the end of the Mozambican civil war in 1992 marked a gradual shift to market capitalism, democracy and an administrative decentralization that attempted to promote local-level autonomy (Abrahamsson and Nilsson, 1995). The Mozambican land law, passed in 1997, is a reflection of the political history of the country (Tanner, 2010). This law was considered one of the most progressive land laws in the world at the time, and continues to be considered one of the most progressive in Africa, having been drafted through a participatory process, and recognizing customary land tenure (Nhantumbo and Salomão, 2010). Under the land ownership of the state, individuals and

communities can request that their land be delimited so that they can hold a certificate of occupancy that secures the rights to the use and benefit of the land (*direito de uso e aproveitamento da terra*-- DUAT), with which the holder can choose to sell, rent or lease their rights to use the resources on that land. This provides a mechanism to facilitate private investment and at the same time provides communities with the right to be consulted about private use of their land (Tanner, 2010). The law requires investors to engage in consultation with communities in order to negotiate use of their land, relegating the state to the role of mediator or regulator (Lunstrum, 2008; Norfolk, 2004). In the historical context of Mozambique this land law was of particular importance for communities given upheaval caused by the war and repatriation and the race for land control by elites (Lunstrum, 2008). However, the ways that this law is implemented in practice is still intricately tied up in politics and the interests of elite groups (Fairbairn, 2013).

### 3.2.2 The World Bank Operational Policy for Involuntary Resettlement

Aware of how politically complex resettlement is, and having decided to resettle people from the LNP, the German Development Bank, KfW, depended on the World Bank to support them in this aspect of their project (Milgroom et al., submitted). The World Bank Operational Policy for Involuntary Resettlement was therefore adopted as the guiding policy for the resettlement project. Adherence to this policy, and a smooth resettlement process was a condition for the continued funding of the LNP park project (Milgroom et al., submitted).

In 1980 the WB developed the first international policy for resettlement (Cernea and McDowell 2000). After a thorough review of resettlement projects funded by the WB (World Bank 1994b), the Bank's in-house sociologist, Michael Cernea, developed the Impoverishment Risk and Reconstruction model (Cernea 1997). The model defines the risks commonly associated with resettlement, including economic (landlessness, joblessness and loss of access to common property), socio-cultural (social disarticulation, marginalization) and social welfare risks (homelessness, food insecurity, and morbidity and mortality). This model became the basis for the current World Bank Operational Policy on Involuntary Resettlement

WB OP 4.12 is one of the most widely used policies in a wide range of resettlement schemes in both WB and non-WB funded projects around the world (Scudder, 2012). It has been adopted as the foundation for many national policies on resettlement (Cernea and Schmidt-Soltau 2006). One of the WB principles of the policy particularly relevant to this case is that it refuses to fund or support projects on disputed lands. Therefore, a fundamental prerequisite for WB approval of projects that involve resettlement is to prove that there are no overlapping land claims. Whether this principle is requested and enforced or not is case-specific.

## 4 Enacting policy in favor of the land acquisition (2007-2008)

ProCana managed to secure a DUAT in less than a year when many other projects take many years to attain this certificate. The land granted to the AWF community-based nature conservancy project had been secured over a period of five years following the procedure in the 1997 land law (see also Lunstrum, 2008) (Figure 2). According to the project reports it took more than three years for the three communities to get their own land delimited and to secure the certificates of occupancy (Stalmans, 2004; Contour Project Managers, 2006).

The land granted to ProCana overlapped with land needed for resettlement (Figure 2), which had been identified in 2005 (Massango and Chaúque, 2005), but not officially registered with the national cadastre. When the WB, responsible for overseeing the resettlement project, found out about the ProCana project on a visit in July of 2007,<sup>3</sup> the representative responsible for the project

<sup>3</sup> External consultant to the LNP resettlement project, Massingir, March 2008.

evoked the principle in the WB OP 4.12, stating that there must not be overlapping land claims on land reserved for resettlement. In January 2008, the funding for the LNP project was stopped until this issue was resolved.<sup>4</sup>

Despite conflicts over the overlapping land claim between the Ministry of Agriculture supporting ProCana and the Ministry of Tourism supporting the resettlement project, representatives from both of these Ministries were in favor of finding a rapid solution to the problem so that both of their projects could continue. This convergence of interests allowed for the two policies at hand to be enacted in such a way so as to favor the land acquisition of ProCana.

#### *4.1 Convergence between ProCana and the Ministry of Agriculture*

ProCana was able to obtain a DUAT, or a 50 year lease of 30,000 ha of land belonging to villages and other private concession holders, in less than a year. ProCana guaranteed that they adhered to the requirements of the land law, but residents of the villages do not agree with this. In the political context of a heavy-handed government, many residents and leaders thought they had no choice but to agree to the project. The representatives of ProCana were accompanied by district government officials on their community consultation visits. While community consultation about use of land is supposed to consist of thorough negotiation, these meetings were carried out with a number of villages in a short time period (between October 2006 and early 2007). District officials reportedly instructed the leaders of the villages to find land for ProCana to use (Manuel and Salomao, 2009). As one village leader described the situation,

*ProCana just came here and met with the leaders of the communities and in the first meeting leaders had to sign. Some of them just wanted to drink so they took their 300 meticais because they thought it was a government project and that they had no choice at all. But then when the community found out, they were very unhappy. They were upset with the leaders for signing before being informed and they were upset with the project because they would be left with very little space for their cattle.<sup>5</sup>*

Widespread rumors of bribery at many different levels pervade discussions about ProCana. They are blamed for offering money to the district government officials, to national-level officials from the Ministry of Agriculture and to the leaders of the villages. ProCana did set up their offices in the district administration building, inspiring even more speculation as to the relationship of the company with the government.

While the LNP was entirely inside of Gaza Province, it was a national park, and therefore governed primarily at the national level by the Ministry of Tourism, overstepping district and provincial governments. With decentralization efforts in full swing, the governor of the province often disregarded park efforts because the provincial level of governance was regularly bypassed when regarding park issues.<sup>6</sup> The governor supported ProCana fully, as did the provincial level and initially the district level branch of the Ministry of Agriculture. The investment of 510 million USD represented a significant amount for the province, which was at the time one of the least developed provinces of the country. Rumors spread about the actions that the provincial government was taking to create support for the project at the district level. An anonymous government official reported,

*It is also clear that various district level agriculture directors and district authorities have*

<sup>4</sup> Jean Michel Pavy, Programme Director at the World Bank, Massingir, April 2008.

<sup>5</sup> Leader of a village in the area claimed by ProCana, March, 2008.

<sup>6</sup> External consultant, Massingir, July 2007.

*been taken from their posts and moved to other places in Massingir for not being in agreement with the ProCana plan. The previous district level official in the department of agriculture saw clearly all the confusion of the plan proposed by ProCana and stated in a report, which was commented on by the LNP, some of the potential negative consequences of ProCana's plan. Apparently that report was modified and those parts cut out before they got to the national level government and he got moved because of it.<sup>7</sup>*

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These kinds of actions made protest against the ProCana project difficult. The convergence between the Ministry of Agriculture and the ProCana Company was initially too strong for resistance by residents, NGOs or other governmental bodies to have any impact.

#### *4.2 Convergence among the World Bank, the Ministry of Agriculture, Ministry of Tourism and Procana*

The WB was responsible for monitoring the resettlement project and its adherence to the WB OP 4.12. In January 2008 KfW halted all funding to the resettlement project, at the recommendation of the WB, until the concerns around the validity of the resettlement project were resolved. Besides the overlapping land claims, the WB was also concerned with amount of available land for grazing in the resettlement sites and the lack of consultation with local residents about the ProCana project.

In September 2007 the Economic Council of Ministries called a meeting to address the case. In this meeting, according to the revised contract signed between the Ministry of Agriculture and ProCana, ProCana agreed to compensate the resettled communities for grazing land they would develop for sugarcane by providing alternative land for grazing. However, the alternative area identified by ProCana was land on which AFW was planning their project (Figure 2). ProCana promised to improve the grazing potential in the alternative area and to establish an intensive grazing system, complete with boreholes, fences and new varieties of cattle (Contrato Final Procana-LNP, September 2007). AFW was offered a significantly less desirable piece of land, a long strip that measured 4 km x 22 km and was not feasible for developing a conservancy. Having been forced to abandon their investment of around 100,000 USD and more than five years of work, AFW closed their office in Massingir in late 2007. As an AFW employee described it,

*It is a long strip of land that is half outside of our community land. What can we do with this? We are interested in conservation—what can we conserve in a space like that? The vegetation is homogeneous, there is no water and it is surrounded by private game concessions. [...] We couldn't even put up a lodge there because there is nothing attractive about the place... There is not even room for a campsite there! What are we doing? We can't go ahead with a project that is not sustainable and will never be valid!<sup>8</sup>*

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The resolution of this conflict was ironic in the sense that it highlights the insecurity of the land tenure established through the national land law. As one government official described it,

*AWF helped to delimit land and get land titles for the villages, and went through a process of consultation with the villages, who then agreed to the AFW project. But even still, that land is being taken away and used for something else, therefore they say that the resettlement land could also be taken away, therefore the resettlement land is not secure.*

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<sup>7</sup> Anonymous, Massingir, July 31, 2007.

<sup>8</sup> AFW employee, Massingir, September 17 2007.

*The problem is that this is the only instrument that we have in Mozambique right now and I don't know what kind of instrument they want to use to make it more secure.<sup>9</sup>*

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Yet, the option to provide grazing for the resettled villages on AWF's land satisfied the WB's concerns that there were competing land claims, despite the fact that it implied that AWF had to leave the region after five years of work.<sup>10</sup>

To resolve concerns raised by WB representatives about the lack of consultation with the resettling villages by ProCana, and the viability of the grazing resources for the host and resettling villages, ProCana and the LNP organized meetings with the village leaders and a carrying capacity study to be carried out to be sure there was enough grazing resources for all the villages involved.<sup>11</sup>

In order to formally document the consultation with villages, on August 23 2007, a meeting was held by ProCana in Massingir with government officials, park staff and the leaders of the villages affected by the ProCana project. After this meeting an agreement was drafted stating that,

*All of the leaders were unanimous in affirming that they were waiting to see the ProCana project advance, they had enough land for all of the communities, they had already accepted the proposed grazing areas because these were going to help with the control of the livestock and contribute that their sons would go to school instead of to herd cattle, and that the project was taking too long to start.<sup>12</sup>*

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It is unclear exactly what happened in this meeting, but according to many of the leaders, they were not, in fact, in agreement with these statements and many others on the signed agreement. A similar strategy was used with resettling residents when park staff and government officials from the Ministry of Tourism asked the leaders of the villages slated for resettlement to sign a document saying that they agreed to the meeting minutes, but in actual fact the document was used by the Ministry of Tourism to prove to KfW and the WB that residents had participated in the design of the resettlement houses and agreed to be resettled (Milgroom et al., submitted).

LNP staff and government officials from the Ministry of Tourism contracted consultants to carry out studies to determine if there was sufficient land to support both ProCana and the grazing needs of the current and resettling residents in the pilot project. The hired consultant produced three versions of the first consultancy report in which the area of land estimated to be available differed significantly (Table 1). The conclusion of the first version was that there was enough land to support the cattle belonging to the host and resettlement villages of the pilot project, i.e., Nanguene, Chinhangane, Macavene and Banga, but it also noted that after one year there would no longer be enough land because the herds were expected to grow through natural reproduction (Escrivão, 2007). This version calculated the area of available land to be 20,000 ha. The second version gave a significantly reduced figure for the total area available (8,000 ha) and concluded that there was insufficient land even for the existing livestock (Escrivão, 2007). The third version concluded that there was enough land at the time of resettlement and for the future for the villages of Nanguene and Chinhangane, but that there would not be enough for Macavene and Banga, and therefore the additional alternative land where AWF had its project would be needed (Escrivão, 2007). This last version was the one presented to the WB representatives, who gave their approval to continue the

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<sup>9</sup> Government official, Maputo, January 2008.

<sup>10</sup> Jean Michel Pavy, Programme Director at the World Bank, Massingir, April 2008.

<sup>11</sup> Jean Michel Pavy, Programme Director at the World Bank, Massingir, April 2008.

<sup>12</sup> Agreement signed on August 23, 2007 by the village leaders present. Copies were made and circulated amongst them.



project. A WB representative explained his perspective about the situation in the following way,

*We demanded a carrying capacity study and when we got it, it said that indeed even with ProCana there was enough space for all the cattle in both Chinhangane and Nanguene. What worries me is that there was JUST enough room for the existing animals but not for growth of the herds. But then I was told that they don't even use all of the grazing area—they sometimes send their cattle far away to graze from where they live.<sup>13</sup>*

The use of different figures to calculate carrying capacity was described by an external observer to comprise a process akin to trial and error:

*They hired a consultant from the university to do a quick carrying capacity study of Chinhangane and it showed that given the figure of 20,000 available ha, at a use rate of 7/8 ha per animal unit, this was not enough land. I asked him where he got the figure of 20,000. He said that it was a government official that told him. The consultant goes to find another figure using maps and found 3,500 ha of available land. Given this area, there was no way that it could support even the existing cattle in Chinhangane after ProCana. DNAC consulted the cadastre and found a new figure of 7,000 ha by borrowing land from Banga. Using 7,000 ha and 5 ha per animal unit the animals of Chinhangane and Nanguene can just squeeze in. This information was submitted to the World Bank and they approved the RAP again<sup>14</sup>.*

After the resettlement project was underway again in 2008, a second study was carried out to determine carrying capacity based on more thorough research and measurements of land (Rural Consult, 2008). The report's authors measured the land available for grazing based on GPS points, excluding the land proposed to be used by ProCana, and concluded, embedded in a paragraph in the final chapter of the report, which was only in Portuguese, that there were only 1,621 ha available for Chinhangane and Nanguene and that this could satisfy only 50% of their current livestock's needs (Table 1).

<sup>13</sup> Jean Michel Pavy, Programme Director at the World Bank, Massingir, April 2008.

<sup>14</sup> External observer, Massingir, March 30 2008. The Resettlement Action Plans were submitted to KfW who depended on the World Bank for support in the resettlement process.

**Table 1.** Two consultancies were carried out to determine available land for grazing in post-resettlement, one in December 2007 before funds were stopped due to overlapping land claims, and one in May 2008 after the project had already been allowed to continue. Conclusions about available land differed between versions of the same consultancy and between the two consultancies. The third version of the first consultancy (shaded in grey) was the one the Ministry of Tourism presented to the World Bank to obtain approval for the project to continue.

Date	Consultancy report version	Village	Grazing land available (ha)	Carrying capacity (AU)	Total requirement after resettlement	AU	Calculated balance (AU)	Final conclusion
December 2007	1	Chinhangane + Banga	20,000	2,875	2,427		+448	The current grazing area is enough to support resettlement, but after one year there will be a deficit of land because of growth of herds
	2	Chinhangane + Banga	8,000	1,375	2,426		-1051	There is not enough land to support the existing livestock before resettlement
	3	Chinhangane + Banga	7,300 3,000	1,137 637.5	1,015 1,412		+122 -774	There is enough land to support livestock from Chinhangane and Nanguene There is not enough land for the livestock of Banga and Macavene, but alternative land will be made available (20,000 ha)
May 2008	1	Chinhangane	1,621	565	1,131		-566	Area available for grazing only covers 50% of the needs of the livestock in Chinhangane with Nanguene
		Banga	2,630	1,106	1,568		-462	Area available for grazing only covers 60% in Banga with Macavene.

## 5 Enacting policy against the land acquisition (2008-2009)

In December 2009 the government of Mozambique evoked the national land law to rescind ProCana's contract. The land law decrees that long-term leases can be retracted if the holder of the lease does not comply with commitments outlined in the contract. The official reasons for the termination of the government's contract with ProCana was that the company had not complied with commitments, only having plowed 800 of the 30,000 ha granted to them, and had not been able to begin to produce sugar cane, much less ethanol, despite investments. NGOs applauded the government's actions in a public letter to the government reminding us that the contract was rescinded in a moment of elevated conflict between residents and the company and requesting that future projects take care not to jeopardize the rights and interests of the local communities (Centro da Terra Viva, 2010).

The phase of the policy process in which the same policies enacted in favor of the land acquisition were enacted against it, overlaps with the first phase. This is because tensions began to mount during 2008, but until the first village was resettled from the LNP in November of 2008 the Ministry of Tourism's interests were still aligned with the Ministry of Agriculture's interests: to allow peaceful continuation of both projects. In 2009, however, tensions between local residents, the district government and ProCana influenced a shift of alignment of the Ministry of Agriculture that facilitated the evocation of the land law again, this time against the land acquisition.

### 5.1 Distrust between ProCana and residents

Tension between ProCana and local residents mounted in 2008. The relationship was characterized by distrust from the beginning of the project in late 2006 and early 2007 when ProCana only held meetings with leaders and important elders of the villages to establish consent to use the land. This distrust and lack of transparency was augmented by the suspicions of corruption on the part of some government officials. Then, in September of 2007, when the private interests of the company prevailed over the community-based AWF project, a project that was generally seen as genuinely for the benefit of and run by the villages involved, resentment began to grow. Later, in late 2008 and 2009, ProCana was felt to have disrespected agreements about the boundaries of the land. Leaders of the villages went with ProCana managers to decide on the boundaries they could use and were found later to be cutting trees along another boundary, one closer to the villages, in some cases leaving very little land for grazing and charcoal making. When LNP staff inquired about this, ProCana apparently responded that it was a mistake,<sup>15</sup> yet when village residents complained, ProCana responded that they were marking the line that the airplane told them to mark (referring to GPS points).<sup>16</sup> One village, Marenguele, allowed ProCana to temporarily use a plot of land for a demonstration of a drip irrigation system for one year, but it was not returned until two and a half years later when ProCana withdrew from the region (CTV, 2010).

### 5.2 NGO support of residents against ProCana

NGOs also supported the villages in their resistance against ProCana by giving publicity to the cause, organizing meetings and providing the residents with information. However, the role that NGOs could play in the first phase was at first severely hampered by pressure from both government and ProCana not to make 'noise.'<sup>17</sup> One NGO, ORAM was publically reprimanded by the governor of the province in a speech in which he stated that ORAM was working against the government who was trying to do everything possible to promote the development of the area.<sup>18</sup> This was a common

<sup>15</sup> LNP staff, Massingir, January 2009.

<sup>16</sup> Chinhangane leader, January 2009.

<sup>17</sup> As a researcher inquiring about the activities of ProCana, I was verbally accosted by ProCana managers who thought that I was working for an NGO.

<sup>18</sup> External observer, July 31, 2008.

discourse among ProCana and government officials in an attempt to discredit NGO activity. A ProCana manager said,

*These NGOs are getting in the way of development. They don't want these people to come out of poverty. No NGO has ever lifted a country out of poverty. We are trying to and they are just trying to stop us. You should know that rich countries get rich through business, not through small-scale agriculture.<sup>19</sup>*

This pressure was so strong that when AWF was forced to leave the area and abandon their project, they decided not to question the decision made by the Council of Ministries, but to accept it out of fear of being discriminated against by the government if they wanted to continue to work in other places in Mozambique. They were well aware of the injustice of the decision for the residents of the area who had invested time and effort into establishing the community-based nature conservancy, and that the decision went directly against the national land law. Not wanting to jeopardize their work in Bahnine National Park, an AWF employee said,

*We thought about making a case of this and bringing it to court, but we have to ask ourselves some things: Are we prepared to take this case to court? Would we take it on? Or would the community take it to court and we pay for the lawyer? Are we able to win this case? We decided that we didn't want to be seen as making more conflicts and we didn't want to get involved with land conflicts here in Mozambique.<sup>20</sup>*

Later in the process, in 2009, once the resettlement of the first village was completed (November 2008) and as ProCana began to progress with their activities, other NGOs including Centro da Terra Viva (CTV) organized meetings and debates to provide a forum for discussion between the local residents and ProCana.

### **5.3 Misalignment between the district government and ProCana**

Increasingly the district level government was also called in to resolve problems caused by ProCana that put them in uncomfortable positions, stuck between their allegiances to the project and their obligations to serve the local population. As the conflicts escalated, ProCana began to lose support from the district government. Many people speculated that perhaps ProCana was no longer offering financial reward to the district government, but this could not be confirmed.

### **5.4 Unlikely bedfellows: LNP and residents**

Increasing conflict between ProCana and local residents as well as between ProCana and the LNP also created a situation of unlikely alliance between the LNP and local residents. At the beginning of the conflict about the overlapping land claims (early 2007), it was unclear where the park stood with respect to ProCana. As one Nanguene resident said, 'The park says, "we are in the process of delimiting land with ProCana" and we said, "they are stealing our land."<sup>21</sup> But as time went on and tensions rose, park meetings with resettling residents became increasingly focused on ProCana. LNP staff responsible for resettlement facilitated discussions within the meetings organized to plan resettlement actions about the pros and cons of ProCana (employment, future development, better future for their children, etc.). These discussions were an attempt to prepare leaders of resettling villages and host villages to confront ProCana. LNP staff attempted to equip them with a united response about their position towards the ProCana project. Commissions were even set up in these

<sup>19</sup> ProCana employee, Massingir, May 10, 2007.

<sup>20</sup> AWF employee, Massingir, September 17, 2007.

<sup>21</sup> Nanguene resident, Nanguene, June 23, 2007.

meetings to spearhead actions against ProCana, and a park staff member offered to set up a meeting between residents and the district administration about their concerns regarding ProCana.<sup>22</sup> The principles of the WB OP 4.12 were evoked regularly as park staff informed residents about their rights to compensation for the grazing land. Although follow-through was not as promising as the original discussions about potential actions, it was the beginning of an alliance between the LNP and local residents that was strengthened as conflicts with ProCana escalated after ProCana began its activities.

### *5.5 Divergence between the Ministry of Agriculture and ProCana*

ProCana confronted many challenges in their business endeavor, partially because of the resistance against them by the LNP (Ministry of Tourism), NGOs and later the district level government. Had the company been successful, it is unlikely that their contract would have been terminated. However, these fault lines in the support for ProCana, between the Ministry of Tourism and the Ministry of Agriculture, and between the national and the district and provincial governments, as well as alliances between the park and the residents, and with support of NGOs eventually contributed to the divergence between the Ministry of Agriculture that ultimately ended in the withdrawal of ProCana's contract.

In 2011 the land that had been previously granted to ProCana was granted to Massingir Agro-Industrial (MAI) (Hall and Paradza, 2012). With many of the same Mozambican partners, the company has begun to re-launch the failed ProCana project as what will be known as the Massingir Project for Biofuel Development, this time with a different international partner: TSB, formerly Transvaal Suiker Beperk, from South Africa (Esi-Africa, 2011, Hall and Paradza, 2012).

## **6 The power of convergence and policy enactment**

This case illustrates that when there was a strong alliance between the foreign private company ProCana and the Ministry of Agriculture within the national government, the convergence made it possible to enact the land law and the WB OP 4.12 in such a way to favor the land acquisition. When misalignment between ProCana and the Ministry of Agriculture began to appear because the ProCana project was not running as planned, however, resistance against ProCana on the part of other actors helped to widen the divide. Conflicts between the Ministry of Agriculture and the Ministry of Tourism, resistance from residents, friction in the district level government and NGOs protests against ProCana began to be heard. This contributed to the evocation of land law again by the Ministry of Agriculture, this time to rule against the continuation of the project for not having made sufficient progress in the first two years of their long-term lease.

This case supports the conclusion of Fairbairn (2013) that the support of elite groups (or lack thereof) for a land acquisition shapes the way the land law is enacted in practice. The case presented in this paper shows how this can also be the case over time in the context of one land acquisition. When there was sufficient support for the land acquisition, actors involved made a silent pact to allow the policy details to be overlooked. This was evident in the way the land law was fast-tracked for ProCana, allowing consultations with communities to be superficial and not approving them when there was widespread resistance against the proposed plans. This was also evident in the manipulation of the area available for grazing. The consultant hired by the LNP was asked to change the calculations until they provided a conclusion that would be accepted by the World Bank. This evidence points to the fact that it is impractical to expect companies or governments to adhere to international policy, voluntary or otherwise, against their own interests.

Policy enactment entails all of the interpretation of policy that we have seen in this case ranging

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<sup>22</sup> Park meeting, May 22, 2007.

from near disregard of the policies (in the form of turning a blind eye) on the part of the national government, the World Bank and KfW to allow the projects to go forth, to a resuscitation of the same policy for contrary purposes, to terminate the ProCana project. This brings to the fore the importance of having policies in place to be used as resources. I conclude, however, that understanding the degree to which the guidelines actually have the kind of impact that is intended by those who draft them is of secondary importance. Of primary importance to gauging the potential influence of policy is that policy will be enacted in unexpected ways. Each case is likely to be different, and is likely to change over time. International policy such as voluntary guidelines or national policy aimed at improving domestic institutions governing land issues can become both a resource for activists, residents and NGOs fighting against land grabs, as well as a resource for governments and companies to legitimize these land claims.

## 7 Conclusions

The analysis presented contributes to the debate about the potential for international policy on land grabbing, whether voluntary or not, to protect rural dwellers from dispossession of land. This case suggests that actors wishing to gauge the degree to which rural dwellers are potentially protected by policy can expect policy enactment, embrace context and recognize misalignment.

First, expect enactment. While conceiving of the policy process as implementation of a preformed plan that has a beginning and an end, expecting enactment allows for a vision of the process that is much longer term and considers the deeper effects of policy as a course of action. Seeing policy as a resource that can be used in many contradictory ways rather than a document and an official set of decisions brings the focus onto the actors involved in the policy process. While this may seem futile in the face of power imbalances common among government, local elites, companies and marginalized people, policy is rarely written, or analyzed with this in mind. Expecting and understanding enactment may help to identify and foresee key processes before they occur.

Second, embrace context. Context, such as lack of capacity, is often seen as the reason that policy is ineffective. This case (and many others) has shown that context, such as the timing of events, the interests of actors involved, as well as political and historical trajectories in fact shapes policy enactment. Context is a central factor determining how policy is translated into practice, therefore it would be useful to take it as the starting point for policy, rather than a complicating factor impeding the achievement of policy goals. Important contextual issues that emerged in the case described in this paper are: political culture, competing policies, micro-politics of negotiation, dynamics of resistance and inter-governmental conflicts, and legal empowerment.

Third, recognize misalignment. Misalignment among powerful groups allows for unlikely bedfellows to create alliances in favor of the protection of land tenure rights. The facilitation of legal empowerment among local people, of NGO activity supporting tenure rights as well as transnational activism is important, but insufficient in the face of powerful convergence of major actors. Fault lines within or between governmental bodies, however, does create the potential for some headway to be made.

There has been a considerable amount of high-quality research carried out on land-grabbing across the world in the last few years, but much of it has focused on questioning the implications of large-scale land acquisitions for development (Li, 2011, De Schutter, 2011), the socio-politics of land-grabs (Wolford et al., 2013, Neville and Dauvergne, 2012) and mapping the actors and their interests (Borras Jr et al., 2012, Klopp, 2000, Visser and Spoor, 2011). While there has been debate about the potential influence of voluntary guidelines on land grabbing (Borras Jr and Franco, 2010, Seufert, 2013), there is little work available that analyzes existing policy processes surrounding land acquisitions. This paper contributes to the debates on land grabbing by providing an in-depth

analysis of a complex policy process of one large-scale land acquisition over three years. Drawing from insights from policy enactment literature, I conclude that any policy in support of the rights of rural dwellers is likely to be a resource for groups attempting to protect people from dispossession. However, policy can be interpreted and used in unexpected and contradictory ways. There is no way around this besides to expect it to happen: to embrace the importance of locally-specific contexts and to search for the spaces and issues around which powerful actors might converge in support of rural dwellers' rights.

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## LDPI Working Paper Series

A convergence of factors has been driving a revaluation of land by powerful economic and political actors. This is occurring across the world, but especially in the global South. As a result, we see unfolding worldwide a dramatic rise in the extent of cross-border, transnational corporation-driven and, in some cases, foreign government-driven, large-scale land deals. The phrase 'global land grab' has become a catch-all phrase to describe this explosion of (trans)national commercial land transactions revolving around the production and sale of food and biofuels, conservation and mining activities.

The Land Deal Politics Initiative launched in 2010 as an 'engaged research' initiative, taking the side of the rural poor, but based on solid evidence and detailed, field-based research. The LDPI promotes in-depth and systematic enquiry to inform deeper, meaningful and productive debates about the global trends and local manifestations. The LDPI aims for a broad framework encompassing the political economy, political ecology and political sociology of land deals centred on food, biofuels, minerals and conservation. Working within the broad analytical lenses of these three fields, the LDPI uses as a general framework the four key questions in agrarian political economy: (i) who owns what? (ii) who does what? (iii) who gets what? and (iv) what do they do with the surplus wealth created? Two additional key questions highlight political dynamics between groups and social classes: 'what do they do to each other?', and 'how do changes in politics get shaped by dynamic ecologies, and vice versa?' The LDPI network explores a range of big picture questions through detailed in-depth case studies in several sites globally, focusing on the politics of land deals.

### **Policy processes of a land grab: Enactment, context and misalignment in Massingir, Mozambique.**

The creation and enforcement of policies, international standards, or national laws have been proposed as necessary to protect rural dwellers from dispossession by land grabs. This study explores the way in which policy intended to protect people's land tenure was enacted in practice based on a case study in southern Mozambique of overlapping land claims: a foreign, large-scale land acquisition for the production of sugar and ethanol by a company called ProCana in the area set aside for the resettlement of residents of the Limpopo National Park. The way in which two policies, the national land law and the World Bank Operational Procedure for Involuntary Resettlement, were enacted to favor the land acquisition and then to terminate it is analyzed. The analysis especially focuses on the convergence and divergence among groups and how this influenced the trajectory of the land acquisition. This case suggests that actors wishing to gauge the degree to which rural dwellers are potentially protected by policy can: expect policy enactment, embrace context and recognize misalignment.



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