



**Exploring unexpected outcomes of a progressive land policy:
Mozambican land law and industrial tree plantations in Niassa province.**

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List of Acronyms

BRICS	Brazil, Russia, India, China and South Africa
CSO	Civil Society Organizations
DNTF	National Direction of Land and Forest (<i>Direção Nacional de Terras e Florestas</i>)
DUAT	Land use and benefit right (<i>direito de uso e aproveitamento da terra</i>)
FIAN	Food First Information and Action Network
FRELIMO	Liberation Front of Mozambique
GSFF	Global Solidarity Forest Fund
IMF	International Monetary Fund
ORAM	Rural Organisation for Mutual Help (<i>Organização Rural de Ajuda Mutua</i>)
PARPA	Plan of Action for Poverty Reduction (<i>Plano de Acção para a Redução da Pobreza Absoluta</i>)
PEDSA	Strategic Plan for the Development of the Agrarian Sector
RENAMO	Mozambican National Resistance
SPGC	Provincial Public Services of Geography and Cadastre
SDAE	Public Services of Economic Activities (<i>Serviço Distrital de Actividades Economicas</i>)
TNI	Transnational Institute
UPCN	Peasant Union of Niassa Province (<i>União Provincial de Camponeses de Niassa</i>)
UNAC	National Peasant Union (<i>União Nacional de Camponeses</i>)
UNPD	United Nation Development Programme
USAID	United States Agency for International Development

Abstract

This paper seeks to problematize the role of the state and the ‘formal and informal bundle of powers exercised by different actors’ (Wolford et al. 2013) within the outcomes of the implementation of a progressive land policy. The study attempts to provide an empirical base to apply some theoretical concepts to the processes of land grabbing. The paper has illustrated to what extent and how a progressive land policy can protect people from the impacts of the land grabbing phenomena in three steps. First, it has explored the features of the Mozambican land law. Second, the political economy and political ecology of the problematic have been illustrated with the outcomes of a land grabbing case for industrial tree plantations. Third, the balance of powers among the different parties involved in the process has been discussed. Finally it has been concluded that a legal mechanism to protect land rights like a law, cannot shield people from the current of capital accumulation by itself. The power exercised by the state and the other actors involved in the process of a land law implementation are relevant as well.

Relevance to Development Studies

Land policy implementation and land grabbing are relevant to Agriculture and Rural Development studies because they are embedded in social and political processes around the dynamics of agrarian change. The study of issues related to land are essential for rural development as many people depend on land as their main asset for their subsistence. Therefore, understanding the connections between land dispossession and the current of capital accumulation is fundamental to untangled the imbalance of powers in these processes.

Keywords

Land grabbing, land policy implementation, tree plantations, state, capital accumulation

Chapter 1: Introduction

In the last two decades, some Southern African countries formulated new land policies recognising customary land rights and promoting land governance at local levels such as Botswana Tribal Land Act 1968, Mozambique's Land Law 1997, Tanzania's Land Act and Village Land Act 1999; Madagascar land laws 2005, among others... (Cotula et al. 2004:5). Despite the differences among the land laws, all of them were considered as progressive laws because they offer protection of customary rights and consider the registration of common rights over land. These features contrasted with the promotion of private property rights supported by market-led institutions as the World Bank and IMF at that time. Among the mentioned progressive land laws, Mozambican Land Law attained international recognition due to several particularities after the declaration of the state's ownership of the land. The law recognises customary rights and under communities' consent, creates space for a partnership between investors and communities in order to attract capital and diminish the rural poverty (Hanlon 2004).

However, some outcomes of the implementation of such progressive land policies have not been the ones that the lawmakers were expecting. This point has become relevant in particular after the hundreds of cases reported as the phenomenon known as 'land grabbing' (GRAIN 2008). Some of those cases have occurred in territories with 'progressive' land policies. As it has been reported by several scholars, after the 2008/09 food, fuel and financial crisis, the international attention focused on the vast extensions of 'unproductive' land in some developing countries. Most of the grabbed land extensions were in Africa, but also in South America, Central America, Southeast Asia, and the former USSR (Borras et al. 2011a). These vast tracts of land could supply food, biofuels and timber (as other tree products) to the developed countries as well as the BRICS. The main results are land dispossession, and lack of access to land, water and other natural resources, as forests. These outcomes can result in food insecurity, among other impacts.

In these land transfers, each state plays an important role. According to Alden-Wily (2012) these land transfers have been done in many cases over common property lands of which the legal owner is the state (Alden-Wily 2012). Besides, as Hall (2011) has discussed '[t]he flurry of land rights law and policy development of the 1990s in the region [Southern Africa] has given way to deeply ambivalent positions of states on the question of citizens' land rights vis-a-vis state authority over land' (Hall 2011:206). Consequently the state, among other actors like local elites has a role in relation to the implementation of the land grabbing. Therefore, a gap exists between the theoretical protection that these policies are supposed to offer and the real outcomes of their implementation under the pressure of the international (and domestic) land investments. This paper aims to explore the extent to which a progressive land policy can protect poor people from effects of the land grabs.

Formulating a 'progressive' and 'well-intentioned' land policy is not sufficient to balance the control and access to natural resources. Nowadays it is broadly believed that the

formulation of a new land law it is not sufficient. It is just as important to consider the local context and to acknowledge politics and power relations (Knight 2010:13). The interpretation of the law and its regulations will result in different outcomes according to those who have more power in the implementation. Therefore an analysis of the results and the perceptions of each party involved can shed more light in the understanding of the power imbalance. Mozambican Land Policy offers a good case to study.

Mozambique is still one of the poorest countries in the world despite the increasing economic growth in the last years (Monsalve Suarez et al. 2010, FIAN 2012). It is estimated that about 75% of the population is employed the agrarian and fishery sectors (INE. 2013). The bulk of the rural population relies on farming, characterised by low productivity and dependent on the rainy season. The significance of the connection between the rural population and the land has become more evident with the emergence of land grabbing cases in different parts of the country (Hanlon 2011). Besides, current debates have pointed out, that the phenomena known as land grabbing, not only involved land dispossession but it also embraces grabbing of water and labour (Borras et al. 2011b).

In this context, foreign investors' attention to land has clashed with the interests of some Mozambican rural communities. Especially when 'after the mid-2000 rising food and fuel prices and new climate change-related attention on forests triggered the interest of investors in Mozambique, particularly for trees [for paper, timber and carbon credits] and agrofuels [notably sugar cane and jatropha]' (Hanlon 2011:2). This interest on land has resulted in unexpected outcomes, which the 1997 Land Law and its regulations did not foresee, such as land and water dispossession or restricted access to them, and incomplete accomplishment of promises of jobs (Hanlon 2011, Fairbairn 2013). Tree plantations have become the activity for which the largest areas have been acquired, especially in the provinces of Zambezia and Niassa (Hanlon 2011).

This paper will present a case study of land grabbing for tree plantation by the company 'Chikweti Forest of Niassa' in the North of the country, funded with Swedish, Norwegian and Dutch capital. FIAN (2012) has published a report which affirms that the activities of this company have resulted in the 'loss of access to land forests and water and that 'Chikweti Forest of Niassa' impairs the enjoyment of the right to adequate food and the right to water of the peasant communities in the project area' (FIAN 2012:32) in the districts of Lago, Sanga and Lichinga in Niassa Province. This case was chosen for the research because tree plantations are the main economic activity involved in land grabbing in Mozambique. Besides there is reliable information to illustrate the case due to the acts of advocacy and condemn that some civil organizations have done such as UNAC, TNI and FIAN.

This study has as its main objective to investigate how the implementation of a land policy can be distorted by the different perceptions of the land policy and the power exercised by the key actors involved in the process. To attain the goal Mozambican Land Law and Chikweti Company case will be explored. The 1997 Land Law was famous for respecting the Mozambican's right of access to land (Hanlon 2004), however a number of cases of

land grabbing for agriculture, forestry and other extractive industries have been documented in several places in Mozambique (Matavel et al. 2011). This may lead one to think that the Land Law and its regulations have some loop holes which would have been facilitating a privatisation of the land.

Research Question

Taking into account that even well intentioned land legislation can deliver more access to the more powerful groups who will take advantage of it (Vermeulen and Cotula 2010), this paper attempts to answer the following question:

To what extent and how can a progressive land policy protect people from the negative consequences of land grabbing?

In order to approach a response to this question, the following sub-question will be answered:

- *How have some of the outcomes of the Mozambican land policy been shaped?*
- *Who are the local population affected by the land acquisitions?*
- *What has been the role of the Mozambican state in the land deals?*
- *Who are the parties involved and what role have they played in the process of acquiring/ceding land?*
- *How is the perception and understanding of these parties about the implementation of the land policy?*

Methodology

This research qualitatively looks into the results of the implementation of a land policy. Concretely it analyses the outcomes of the implementation of the Regulation of the 1997 Land Law. In order to achieve this objective, the paper addresses the general problematic, land grabbing and the role of the Mozambican state and other actors involved in this process. Taking as a case study the impacts of the implementation of tree plantation investments by the company 'Chikweti Forest of Niassa' in the north of Mozambique, the research analyses the different interpretations that the involved actors make about the implementation of the Law and the power relation among them using an agrarian political economy approach.

Secondary data from different publications about the outcomes of the implementation of the regulations of the land law and the documented case of land grabbing by Chikweti have been used to support the arguments. This method was chosen because it 'allows researchers to be neutral, capitalize on existing data, explore what people produce, and eliminate the need for physical access to research subjects' (O'Leary 2010:229).

In addition, open interviews have been done to complement the secondary data and actualise them. Therefore, I have considered as an advantage to supplement the secondary data with primary data, as I was already familiar with the Mozambican context after working there for four years. An open interview can supply more authenticity than only working with secondary data from texts; understanding authenticity as “concerned with truth value while recognizing that multiple truths may exist. Also concerned with describing the deep structure of experience/phenomenon in a manner that is ‘true’ to the experience” (O’Leary 2010:43). I have interviewed what I consider key informants to evaluate the power relations embedded in the processes of deciding when a community cedes (see appendix A). Three focus groups, comprised of members to the Committees for the Management of Natural Resources, were also interviewed. Focus group discussion allows knowing respondents’ opinion with a minimum influence of the facilitator/researcher in the group of participants (O’Leary 2010:196). However the results were not very satisfactory, except for the women focus group, because the conversation in two of the focus groups was led by mainly one person of each group.

The decision of going to field to interview the key actors was taken, because the author has previous knowledge of the Mozambican context. I have been living and working in the northern province of Cabo Delgado which has some similarities with Niassa Province regarding to farming, costumes and livelihoods.

The contact and interviews with the people of the communities were possible thanks to the Provincial Union of Peasant of Niassa (UPCN). All the interviews and focus group discussion were facilitated by a translator from ‘Yao’ to Portuguese. The translator was one of the members of the UPCN, who has been doing campaigns against the tree plantations companies during the last 3 years. I noticed in some cases that some of the answers were almost exactly the same that I found before in the published papers. Some of the authors of these publications also worked with the UPCN. Even I did not have enough time to check it in the field; this may suggest that the attention raised by the Chikweti case can produce some bias in the answers of the respondents. New information was only found in some of the interviews as I present in Chapter 4 and 5.

Scope and Limitations of the research

This paper does not attempt to evaluate all the outcomes of the implementation of the Regulations of the Mozambican Land Law. A detail description of the land grabs in Mozambique is beyond the scope of this study. The research is trying to shed some light on the power relations among the different agents involved in the case study. A detailed analyses of the Mozambican Land Law as well as deeper explanations of the traditional and legal chieftaincy in the province of Niassa are also outside the reach of this paper, due to they are complex topic which will require specific studies for a complete explanation.

Besides, the author acknowledges the possible bias in the election of the villages and interviewed people during the field work, because they were selected by the members of the UPCN. However, having access to the local communities was only possible through

this organisation, because according to the local costumes, it is not possible to enter in a community and make contact with any member without the acknowledgment of the community leader.

Overview of the chapters

In order to address the research question, Chapter 2 presents the theoretical underpinnings and analytical tools which are used to discuss the context and the outcome of the Regulations of the Land Law. Next, Chapter 3 offers an overview of the legal mechanisms that the land law and its regulations offer. Chapter 4 presents the case study of Chikweti Company and the impact that its activities have caused in the province. It also presents and analysis of the politics of the land grabbing case. Chapter 5 using the Chikweti company case, collects and analyses the actors' perceptions about the land law and the investment projects with the aim to uncover the power relations among them which can affect the implementation of a land policy. In addition this section analyses the role of Mozambican state in land governance. Finally, Chapter 6 analyses the findings and tries to shed some light in the debate of land policies and land grabs.

Chapter 2: Analytical Framework

Theoretical underpinnings

This section presents some theoretical concepts that will be used in the subsequent discussion. First, land grabs, capital accumulation and industrial tree plantations are introduced. Second, some general considerations about the interaction between the state and society are described. Third, the paper illustrates this interaction with examples of some progressive African land policies, giving especial emphasis to the analysis of the Mozambican state. Finally a brief reflection on the tendencies of land governance closes this section.

Land grabbing, capital accumulation and industrial tree plantations

Any aspect implying a shift in the control or access to land is considered sensitive when land supposes the main asset for food security and livelihoods. Land grabbing has drawn the attention of many scholars and organisation which have given it very different definitions. Some of them are ‘too narrow’ involving only foreign grabbers and damaging national food security (Borras et al. 2012). Others are considered as ‘too broad’ gathering any kind of land transactions: from corporate land grabs to any type of dispossession among small and medium scale producers (ibid). Land grabbing is assumed in this research according to the definition of Borras et al (2012):

capturing control of relatively vast tracts of land and other natural resources through a variety of mechanisms that involve large-scale capital that often shifts resource use orientation into extractive character, whether for international or domestic purposes, as capital’s response to the convergence of food, energy and financial crises, climate change mitigation imperatives, and demands for resources from newer hubs of global capital (Borras et al. 2012:851).

This description has been considered here because it involves the ‘extractive character’, domestic and international interests and climate change mitigation. These characteristics are linked to the case study which will be used to illustrate this research: land grabs for industrial tree plantations. This activity constitutes an extractive procedure which is integrated in the current of capital accumulation. Understanding capital accumulation as ‘not only the piling up of durable objects of wealth’, but rather ‘the constant creation of new means of production’ (Maurice Dobb in Byres 1995:564). The phenomena of land grabbing mostly result in a flow of materials and means from developing countries to developed ones. Industrial tree plantations utilise water, fertility of soils and local labour from the ‘Global South’ to create a product (timber, pulp or biomass). Its benefits will have a bigger repercussion in the hands of those who control the means of production in the ‘Global North’ and the new hubs of development. In addition, tree plantations are used as carbon sinks for carbon credits speculation which can be considered as a form of ‘appropriation of the nature’ (Fairhead et al. 2012). So, the relevance of land grabbing appears when this search for capital accumulation has some consequences such as

‘companies and governments enclose commons (mainly land and water), dispossess peasants and indigenous people and ruin the environment’ (Borras and Franco 2012).

What is more, some authors have already discussed that the land grab debate is polarised between those who think that large scale investments is the only way to rescue poor countries from poverty, such as the World Bank; and those who believe that is a new form of colonialism, namely *La Via Campesina* (Wolford et al. 2013). These scholars believe that it is necessary to consider the role of the state as an active actor in the land deals, as well as other participants. So next the role of the state on land governance is considered in general and briefly illustrated with some African progressive policies. However, a study of the land governance must embed ‘formal legal mechanisms, such as rights, but also the formal and informal bundle of powers exercised by the different actors’ (Wolford et al. 2013:191). This second component will be discussed in Chapters 4 and 5 with empirical data.

The role of the State and capital accumulation

In order to explain the unexpected outcomes of a land policy, it is essential to take into account the interaction between state and society. An important part of a land policy implementation will depend on this interaction. Fox (1993) has discussed the relevance of distinguish autonomy and capacity of the state for understanding ‘how state actors decide to exercise their power’ when implementing a reform (Fox 1993:12). In this research, this argument will be used in comprehension of the contradictory role of the state when it has to intervene in the implementation of a progressive land policy.

Fox (1993) has explained, based on James O’Connor’s work, the incongruous role of the state. It’s self-contradictory because the state’s need to accumulate capital and maintain a certain level of political legitimacy in this process (Fox 1993:15). This concept can be identify in implementation of some land policies. Despite the efforts done through the decentralisation policies, many cases have shown that final decisions are still deliberated by the central State. Many times this was possible due to subsequent amendments of land laws which promoted the decentralisation of the decision making. Therefore, the states through their capacity could change the progressive land policies in order to attain their objectives of maintain the control of land, that could be interpreted as a kind of capital accumulation.

Additionally, several scholars have argued the importance of the state in the comprehension of how land deals ‘are both shaped by and shape, by forms of governance (...) at the level of state and throughout society’ (Hall and Paradza 2012, draft:3). In this context, Wolford et al. (2013) recognise four aspects that compose the interaction of the state in governance of land deals: territory or ‘the legal extension of state power on the ground’; sovereignty or ‘the capacity of rulers to control the conditions of their own reproduction’, but sovereignty also denotes ‘the ability of people in a given community to control their own fate whether through localized resources or the capacity to access state resources that buffer persons from risk’; authority or ‘capacity to assume decision-making power in a given context’; and subjects or ‘the constitution and influence of new actors who (...) are either empowered or dispossessed of the ability to make claims on the state’

(Wolford et al. 2013). Next, some practical examples of these dimensions can be found looking at the implementation of African land policies.

Progressive land policies in Africa

Some of the latest land policies were formulated in Southern Africa in the last two decades. During that period, two streams were essentially confronted by the lawmakers. The first one is the current which defending formal titling of land; the idea is to convert a static capital (land) into an active one. This can give poor people access to financial transactions and allow them to enter in the markets (Soto 2000). To attain this target, individual land titles were considered indispensable. The second position takes into account the socio-political aspects of the land tenure and not only an economic view. This approach tries to avoid the land rush and protect and recognise customary land rights (German et al. 2011). As it was pointed out in the introduction, many land policies in African countries were framed under this second position and were considered progressive.

For example, in Botswana the customary authorities were assimilated in the formal system for land administration (Tanner 2002). Nevertheless, later amendments to the Land Law have allowed a new interpretation of it resulting in an increase of the state land control; this has enabled to the elites to accumulate land and enrich themselves (Knight 2010:94).

In contrast, Village Land Act of Tanzania was an important advance due because it allowed local administrations governing by themselves according to some customary laws in the areas design as village land (Knight 2010). This Act differentiates among village land (for exclusive use of the communities), reserve land (of the public interest that includes investments, game reserves, forests and others) and general land (the rest). However, there is a huge gap in the Tanzanian land law. Although villages can register their land the Tanzanian President has the right to transform village land into reserve land (Knight 2010). As a consequence, this model of land governance was not able to stop biofuel investments by corporations in territories where people had already claimed their rights (Cotula et al. 2009).

Another paradigm appears in Madagascar. The outcomes of the Malagasy Land Laws suppose a good example of the contradictory role of the state. The 2005 Land Laws ‘should protect smallholders through the decentralisation of land management and the legal recognition of local rights’ (Burnod et al. 2013). But the results were the opposite: international land deals pushed to state representatives to issue new legislations which ‘encourage the recentralisation of land management’ (ibid).

The Mozambican State

Next, the four dimensions acknowledged by Wolford et al. (2013) about the implication of the state in land governance are considered. But before, it has to be considered that it is not simple to make a distinction between the party and the state, because since the

independence from the Portuguese colony, FRELIMO party (Liberation Front of Mozambique) has been in power (Bowen 2000).

The first dimension is territory. Although Mozambican Government made an international call for private investments based on the availability of idle land, many cases have demonstrated that a big part of that land has owners; for example the case study of Procana in the South of Mozambique (Borras et al. 2011b, Hall and Paradza 2012, draft). This case illustrates how the government ceded the land belonging to several communities to a sugarcane investment and to the extension of a national park at the same time. Customary tenure of the land supposes a demanding task for the state desiring the development of agribusiness and for investors aiming to expand their profits (Hall and Paradza 2012, draft). Consequently, meeting the needs of communities and investors in a same territory is challenging.

The second dimension, sovereignty, has also been considered in the Mozambican context by Hall and Paradza (2012, draft). Communities profess the control of land under the customary rights and at the same time they control their own future when they negotiate with a potential investor about their land (Hall and Paradza 2012, draft). However, Mozambican government asserts control over the legislation after the Land Law was amended to recentralise decision-making over the land. The results has been that communities have lost sovereignty.

The third dimension of the state intervention in land governance is authority. As Hall and Paradza demonstrate with the case of Massingir (location of Procana project), the state 'is not a monolithic institution which exercises authority in top-down institutions' (Hall and Paradza 2012, draft:23). The authority was 'fragmented' when different Ministers permit the use of the same land for different activities. In addition, there are other actors as the domestic elites who can play an important role. Madeleine Fairbairn (2013) considers five sources of power in the Mozambican land deals: are: traditional authority, bureaucratic influence, historical accumulation, locally-based business knowledge and networks, and control over the development agenda. Therefore the state is not the only actor to considerate in the exercise of authority.

Subjects and subjectivities are the fourth aspect about state's implication in land governance contemplated by Welford et al. (2013). As it was pointed before, the changes made in the land legislation resulted in a shift on the ability of the communities to claim their rights. In addition, Hall and Paradza (2012) have observed, among other contradictions, that the Mozambican state has been seen as low efficient at the time of divulgating the law and solving land conflicts (through civil servants and courts). However 'the same institution in its various guises assumes and (relentlessly?) seeks to secure the interest of external investors and local elite business and political interests' (Hall and Paradza 2012, draft:25).

In sum, regardless the different historical context and land tenures regimes, in most of the cases the outcomes of these policies are very alike: first, customary land rights are lost

(German et al. 2011); and second, the state plays an important role exercising its power through land governance and intervening with amendments to the legislation to fulfil its own interests.

Tendency of land governance: a policy does not self-implement nor self-interpret

Having a good land policy is not an indicator of a successful and desired result. As Franco (2008) has stated 'laws are not self-interpreting either self-implementing' (Borras and Franco 2010). Most of the efforts from Governments, NGOs and International Development Agencies have been based on supplying a legal title to secure and protect the land tenure of poor people. After the formulation of a law, the practical implementation is usually based on administrative and technical aspects, such as the expedition of land titles and the construction of a cadastre through satellite images (Borras and Franco 2010), however 'it is infrequently seen as an issue of how the land policy can help to distribute the power and the wealth' (ibid). Therefore, if the outcomes of a land policy are analysed, it could be discerned where this distribution of power has been transformed.

Additionally, other scholars have discussed that land grabbing has forced to many states to promote land legislations and policies oriented to regulate land transactions, which have resulted in different outcomes (Borras et al. 2013). The three tendencies are: '(i) regulate to facilitate land deals; (ii) regulate to mitigate negative impacts and maximize opportunities; and (iii) regulate to stop and rollback land grabbing (ibid: 168). Mozambican land policy might be integrated in the second one, because it tries to implement a number of international land governance tools, with the main aim of linking small producers with investors. Besides it also promotes the state as a referee to mediate between the parts, avoid people being expelled from their lands and call for a negotiation on the terms of the land transfer between communities and investors. However, there is evidence that the Mozambican state has no capabilities to enforce all these tasks (Knight 2010).

Tools for analyses

Agrarian Political Economy

Agrarian Political Economy as an analytical tool can be very convenient to investigate the outcomes of a land policy due to its capacity to examine the 'social relations and dynamics of production and reproduction, property and power in agrarian formations and their process of change, both historical and contemporary' (JPS cited in Bernstein 2010:1). Embedded in this definition are three concepts, among others, to which Byres (1995) remarked in his explanation of political economy: accumulation, class and state. Firstly, accumulation is related to the appropriation of surplus, whether is benefit or rent (ibid). The surplus can be productive possessions of labour. This concept is also intrinsically related to the social relations of production and reproduction (see Bernstein 2010). Secondly, the notion of class is linked to property which translates into class differentiation. Thirdly, the role of the state is central due to its power intervention in critical moment of a process (Byres 1995).

To apply this definition to a research topic, Bernstein's four questions of political economy can be utilised (Bernstein 2010:22). The first question (Who owns what?) contributes in the comprehension of the distribution of the land and other resources are distributed. Here essential to consider the regime of tenure of the land and access to natural resources. For example the analysis will be different if the land is a private property or is under a communal tenancy. The second question (Who does what?) refers to the social division of labour. In the context of land grabbing, this question can be applied to who is having access to the employments of the new investments and at the same time which companies are having access to those investments. The third question (Who gets what?) is about who is getting the benefits of the new investments, 'the fruits of the labour'. Finally, the fourth question (What do they do with it?) concerns with the accumulation of the land, labour and benefits of the investment.

Besides, the concept coined by David Harvey (2005) 'accumulation by dispossession' must be considered in this framework to refer to the public assets which are enclosed and utilised to make profit from their resources (Harvey 2005). In this process the state can be an ally of the capitalist interests (ibid). Therefore, studying the social relations among the actors involved and affected by the implementation of a land policy can shed some light in the understanding of some of its results.

Political ecology of industrial tree plantations

In addition to Agrarian Political Economy framework, Political Ecology will be used to consider the burdens of impacts of the industrial tree plantations in the environment and human groups. This gives a wider framework because as some authors have already proposed 'political ecology combines the concerns of ecology and a broadly defined political economy. Together, this encompasses 'the constantly shifting dialectic between society and land-based resources and also within classes and groups within society itself' (Blaikie et al. 1987:17).

At a global level the expansion of industrial tree monocultures have been substantial: an increase of a 48% of the growing area between 1990 and 2010, mainly of pine and eucalyptus used for timber and pulp (Kröger 2012). This growth is seemed to be caused by the increase in consumerism, which has risen the demand of timber, cardboard for packing and paper for advertisement (Carrere et al. 1996, Kröger 2012). Besides, industrial tree plantations are used as carbon sinks (as plantations to speculate with REDD+), bio-energy production (palm trees and wood chips) and rubber production (Gerber 2011:165). Consequently, all this demanding consumption has been translated into the need of new areas to expand the plantations around the world. According to FAO, 'forest plantations' have increased from 95 to 153 million ha between 1990 and 2010 (FAO 2010). This search for monoculture tree crops in new spaces, mainly in the Global South, entails conflicts for land, water and other natural resources, as well as environmental consequences.

Besides the occupation the vast extensions of land, industrial tree plantations have a high water consumption which can affect hydrological cycles (Carrere et al. 1996:69). Several

scholars have pointed out evident reductions of stream flows near tree plantation, although not always the effects are visible near a plantation (Carrere et al. 1996, Gerber 2011, Kröger 2012). A third consequence is the reduction of biodiversity in the affected area. This can be mainly to the use of agrochemicals, which are able to accumulate in water streams and organisms causing pollution (Gerber 2011). But also the decrease of biodiversity is associated with the loss of native forests when they are substituted with monoculture tree crops which negatively affect livelihood of human groups (Carrere et al. 1996). Finally, the forth impact is associated with soil fertility. Growing tree plantations imbalances the mineral natural cycle. As logs are harvested, most of the dead organic matter is not given back to the soil. In addition, the regenerative activity of bacteria and fungi from the soil use to reduce in eucalyptus and pine plantations (Carrere et al. 1996). Therefore all these factors can have grave implications on food security and human and ecosystem health.

Chapter 3: Contextualizing the implementation of Land Policies: Mozambican land policy

In order to understand better the outcomes of the Mozambican land policy, this chapter is going to describe the historical context in which it was formulated and what makes the land law special. Later, it is going to consider some of the general outcomes of the implementation of the Regulation of the Land Law. These two points are trying to answer how the land policy has shaped some of its outcomes. Next, the role of the state in Mozambican land governance is going to be pointed out. Finally, some conclusions of what extend the land policy can protect Mozambican people have been brought.

But before beginning to discuss these points, the concepts of local community and rural poverty in Mozambique are going to be introduced due to their significance for this research.

Meaning local community

The word ‘community’ is commonly used among civil servants, NGO and development workers and the general public to make reference to Mozambican rural population. According to the Land Law, article 1/1, local community is defined as:

A grouping of families and individuals, living in a circumscribed territorial area at the level of a locality [the lowest official unit of local government in Mozambique] or below, which has as its objective the safeguarding of common interests through the protection of areas of habitation, agricultural areas, whether cultivated or in fallow, forests, sites of socio-cultural importance, grazing lands, water sources and areas for expansion. *Translated in* (Tanner 2002:29)

This definition tries to embrace the different models of communities due to the cultural diversity of the country. This designation has received many criticisms because it is not accompanied with deeper provisions and this has led to many misunderstandings (Tanner 2002). Generally speaking, the term ‘community’ is used for all the inhabitants of a territory, regardless their class. This includes rich, middle and poor farmers, different traditional and formal authorities and often different ethnic groups (due to the resettlements during the colonial and post-independence periods). Therefore the expression ‘community’ will be used throughout this research paper many times but with the awareness that it is an imprecise term.

Rural communities are mostly associated with poverty in Mozambique. As the Technic Secretariat of Food and Nutritional Security of Mozambique (SETSAN) has pointed out poverty includes inability to access economic resources, lack of food, proper habitation, health, hygienic and education services (Republica de Moçambique 2007). It is considered that the 56.9% of the rural population and the 49.6% of the urban population are under the limit of the poverty line (Republic of Mozambique 2010). Most of the Mozambican people are depending on agriculture, almost subsistence agriculture: they just sell few surplus

productions. Agriculture production is very low and most of the people practice an itinerant agriculture cycle. Small-scale producers farm a plot during 3-4 years and leave it fallow until it recovers the fertility several years later. There are several nutrition problems among pregnant women and children under 5 years old (Republic of Mozambique 2010). The access to education and health services in rural areas is very precarious. Across the country there are many difficulties to find a wage-earning job. The main employer is the state; nevertheless many private companies have arrived under extractive projects. Therefore the main source of income for the rural households is agriculture.

Another important term is *regulo*. The ‘*regulos*’ are members of the community who were transformed into assistants of the administrative authorities by the Portuguese colonialists; they were usually the former traditional chiefs, but in some cases they were not legitimated by their own people despite their legality (Åkesson et al. 2008). As a consequence, many power disputes have appeared among legitimated and illegitimated leaders which it has been reflected in land conflicts and in the acceptance of investments.

Mozambican Land Tenure and the formulation of the 1997 Land Law and Regulations

The land tenure in Mozambique was different during and after the Portuguese colonisation. Its characteristics also show how land tenure is intrinsically linked to the labour regime in the agriculture sector in each period (O’Laughlin 1995). The shifts in the tenure regimen of land began with Portuguese colonisation by classifying the land and creating a ‘migrant labour system’ (ibid), mainly for cotton farming. With the intention of suiting colonial interests and promoting investments, the Portuguese categorised land into three types: urban land in and near the cities, village land, and ‘free’ land (Burr 2005:966). In this classification, the fertile soils were reserved for the production of food for the cities; the ‘free land’ was reserved for the colonial plantations and the Mozambicans were relegated to the less fertile lands (ibid). But for the first time, customary rights were recognised.

After independence from Portugal, the Republic of Mozambique declared that the ‘land is the property of the state’ under the Marxist Leninist ideology adopted by FRELIMO, the party in power. The Independence War was followed by the Civil War, which confronts FRELIMO and RENAMO (Mozambican National Resistance), the opposition supported by South Africa and Rhodesia. This bitter and long conflict destroyed most of the Mozambican rural economy (Tanner 2002). During and after the armed confrontations, large numbers of people were displaced and/or re-settled (Hanlon 2011). As a result of this, many conflicts over the use and property of the land appeared between the old and new dwellers after the Peace Accord of Rome was signed in 1992. These land problems were resolved by local customary authorities in the absence of a legal framework (ibid). Additionally, the rural policies followed by FRELIMO were focused on creating State-farms and cooperatives, which required the reallocation of people, setting aside the small producers and family rural households to a secondary position (Brown and Environmental and Development Agency (EDA) 1988).

A few years later, in 1995, the Government of Mozambique framed the Land Policy with the objectives of 'securing the rights of Mozambican people over land and other natural resources, as well as promoting investment (national and foreign) and the sustainable and equitable use of these resources' (Republica de Moçambique 1995). Later an Inter-ministerial Commission for the Revision of the Land Legislation was formed to reformulate the former Land Law. The new law was renowned because it 'was passed following widespread consultation in one of the most democratic processes in Mozambique in the 1990s, and the law won praise for protecting peasant rights while creating space for outside investment' (Hanlon 2004:603).

However, the process of formulating the Land Law was a long and controversial path which started when the war was over in 1992. On the one hand a party, headed by the World Bank, was pulling for land privatisation with individual land titles within its context of imposing a structural adjustment programme. At the same time, the Government insisted in the model proposed by the Portuguese settlers: a 'zoning' based on creating specific areas for investors, others for small holders and the rest for the state reserve. It was then, when José Negrão, Professor from the University Eduardo Mondlane in Maputo, presented a paper critiquing these two positions and making a new proposal: safeguard the communal land property recognising the oral testimony of the people (Oxfam America. 2005). This new suggestion had many supporters among groups from the Civil Society and the international community who were trying to avoid entering in a land rush by foreign investors and some Mozambican elites. After a vast consultation in a two years process, the law was passed in the parliament with a new feature to secure the access to land for all the Mozambican population in 1997. The procedures for setting up the law were issued in the Regulation of the Land Law in 1998 (Decree n°66/98). The regulation establishes with more detailed the different types of DUATs and the complete process of titling, including the community consultations. Later, a Technical Annex on delimiting community land was published in 2000.

But several calls for privatisation have continuously been appearing since 1997. For example, a World Bank report in 2003 recognised that 'group tenure rights guarantee adequate security, and it is expected that with development there will be a gradual shift to individual titles' (Deininger 2003 in Hanlon 2004:614). In addition, the United States have continued with the support to private titles. For example the USAID through the Millennium Challenge Account have been supported the issuing of DUATs in urban areas for individual plots from 2010 to 2013. Besides, the USAID has done an attempt to promote the DUAT as a bank guarantee, although with no repercussion (O Pais 2011). This could be a sign that the debate has not completely finished.

Why was the Mozambican Land Law considered progressive?

Several characteristics have made the Land Law to be considered singular and progressive. As it was pointed before, Mozambican land is owned by the state, which means it cannot be sold or mortgaged. The Land Law and its Regulation provide a title that guarantees the

right for the use and access of land: the 'land use and benefit right' (*direito de uso e aproveitamento da terra*, DUAT) (Hanlon 2004:605). The DUAT might be acquired by: i) occupation of local communities, according to the customary laws, that recognise their long standing occupation and management; ii) 'good faith' occupation by individual Mozambicans who have been in that plot of land for more than ten years; and iii) authorisation of a submission made by individuals or collective people, that must also present an investment proposal (Republica de Moçambique 1997:135). This last way of acquiring a DUAT is the only one opened to foreigners. With anticipation to the land request, the investor must conduct a consultation with all the communities affected by the petition. This law that protects the access to land of the peasants was relevant for Mozambique, due to the strong link between land and the production of food in a country with more than 80% of the population being rural at that period.

Nonetheless, the formulation of the Land Law attained international credit mainly due to five features. First, it was one of the pioneers in including the recognition of customary land rights. There are several kinds of customary land rights depending on the region of the country. The lawmakers tried to write a single document with a formula which could cover all the different customary rights (Knight 2010). Second, the law recognises the community land but does not compel the communities to register their land (Tanner 2005). This characteristic was contemplated in order to recognise the oral testimonies to avoid a formal registration of land titles according to José Negrão (Oxfam America. 2005). The Mozambican Constitution acknowledges registered and unregistered claims of customary land. However, the communities are encouraged to delimit their land through a participatory process. Third, women are equal to men for holding land rights, which some of the customary land rights do not recognise. Fourth, it gives an active role to the rural communities in the decision of accepting investments in their land through the community consultations. Linked to this characteristic is the fifth and more singular one, which makes this law more particular than others: the concept of 'open border'. This notion tries to avoid the separation between the communities and the investments (Knight 2010). As de Wit (2005) has described:

The open border development model can be described as being an integrative model, in which the community and other land users exist side by side in an extensive area, managed by the community in collaboration with recognized state institutions, (...) also this model promotes partnerships between the community and outside investors, with the state playing a regulatory role (Wit 2000:45).

Therefore under these features community consultations play an important role. The consultation has two objectives: to verify that the land is available and has no tenants and to negotiate the terms of the partnership about the land cession between community and investor. A consultation is a meeting with the participation of the representatives of the community (including local authorities and people affected by the investment), the district government (including the administrator), the SPGC and the investor. Nevertheless, the legislation is quite vague regarding this point. After a community consultation has been carried on, the district administrator must signed a declaration which 'contain[s] the terms

under which the partnership between the applicant and the holders of the right of land use and benefit acquired by occupancy shall be governed' (Republica de Moçambique 1998:art. 27). However, this document is not a legally binding contract, 'neither the land law nor its implementing regulations specify how the community "benefits" negotiated for and promised should be recorded or enforced (including level of specificity of time frame for delivery, number of jobs promised, etc.)'(Knight 2010:128). This means that in practice, when a community negotiates with investors, there is no effective legal mechanism to register the deal, therefore in many cases the communities are defenceless and under the good will of the companies to accomplish their promises.

After the consultation a provisional authorization for the use of the land is approved. It is granted for five years for Mozambican individuals and firms and two years for non-nationals (Republica de Moçambique 1997). During that time, the development plan must be put into practice. Then, the petitioner obtains the DUAT title for 50 years, renewable for another 50. Any extension of required land inferior to 1.000 ha can be authorised by the provincial governor. Applications between 1.000-10.000 ha must be approved by the Minister of Agriculture and above that by the Council of Minister (Hanlon 2011). It is notorious that some forest companies in Niassa have divided their applications to avoid this last consideration (Hanlon 2011:18).

Implementation of the Land Law and its Regulations

Land Law Regulations were implemented under a framework of rural policies that relied on the arrival of private investments as the engine for development, mainly based in the old Portuguese plantations and State farms. The feeling of large available extensions of land when you are travelling by road across Mozambique is unavoidable. Current rural population is low for such a vast country, estimated in 17.38 million people, a 69 % of the total inhabitants (World Bank. 2012). The vast extension of the country and the low density of the population have been an attraction for many investors especially because most of the land is not being cultivated. The Minister of Agriculture and Rural Development in 2001, Helder Muteia, made a controversial public claim saying that there was plenty of unoccupied land in our country (Hanlon 2004). Even the Strategic Plan for Agrarian Development (2011) emphasises the underuse of the Mozambican land (Republica de Moçambique 2011). However several studies and testimonies have demonstrated that this is not true; most of the Mozambican land has owners and they make use of it, as fallow land, reserve for future generations or as cultural places (Hanlon 2004). But agrarian policies have changed in the last few years with the arrival of Jose Pacheco to the Ministry of Agriculture in 2010. He was the one of the first politicians to promote small agriculture in the Strategic Plan for the Development of the Agricultural Sector (PEDSA) (Hanlon 2001). Nevertheless, all the previous years of calling for private investments have had an impact in the country and also in the land law implementation.

As was remarked in the Introduction several cases of land grabbing have been reported in Mozambique, with the subsequent dispossession of land and violation of human rights.

Although there is no public access to a large-scale investments register, the Oakland Institute (2011), after comparing several sources, has estimated that 1 million hectares are DUATs under foreign investment: 73% of them are forestry sector and 13 % for sugar and agrofuels in Mozambique (Hanlon 2011). Therefore, the activity which has demanded more hectares of Mozambican land has been industrial tree plantations. UNAC and Justica Ambiental! (Mozambican NGO) have reported several cases of land grabbing related with those large-scale land deals. For example, cases of companies such as Tectona Forest of Zambezia and Ntacia Forest of Zambezia in the centre of the country and Malonda Tree Farm and Chikweti Forest of Niassa in the north (Matavel et al. 2011). All of them presented conflicts with the population in the acquisitions of the DUATs. So, how can this be possible with all the provisions the Land Law have?

Several answers have been considered by different scholars: lack of awareness of the land law; subsequent amendments done to the Land Law, which have changed some of the original purposes; the unbalance exercise of power by the different actors involved; and the inadequate use of one of the most important tools of the law: community consultations (Knight 2010, Hanlon 2011, Matavel et al. 2011). As it was remarked above, the outcomes of a law will be determined by who interprets and implements the law (Borras and Franco 2010). The case of the Mozambican Land Law and its Regulation and the role play by the state is not different.

First the awareness of the land legislation by the population is insufficient. Despite the efforts of the promoters of the Land Law with a vast divulgation campaign in the following years to the issue of the Regulations, many people continue without being aware of their land rights, which has some consequences as land grabbing. The National Land Campaign (Campanha Terra) was organised by several NGOs and academics to disseminate the Land Law during 1998 and 1999. But these actions only reached a very small part of the local population.

As was pointed out in Chapter 2, there is no real separation between the state and the party in power, FRELIMO. In its origins, FRELIMO has shown a strong commitment with the socialist ideology (Burr 2005). This had an echo in the land policy and other former development strategies; however, during the last years the party orientation has turned closer to the neoliberal model (Fairbairn 2013). This last shift might have influenced a part of the results in the implementation of the land law. On the other hand, the State/government has paid much attention to decentralisation, influenced by with programmes from the World Bank and UNDP. This has had a reflection also in the land governance which has been delegated to the provinces and districts. However, later decrees issuing has created conflict between local and central powers as explained above.

The second argument has been considered by Madeleine Fairbairn (2013). Based on Knight (2010) and ORAM (2010), she has already discussed some of the legal interferences with the implementation of the Land Law and the state. Fairbairn (2013) argues that a first clash occurred with the publication of Decree 15/2000, which gives 'community authorities' power in their territory within the context of the national decentralisation policy (Fairbairn

2013). Therefore, 'community authorities' can take land decisions. The second big clash came when the Council of Ministers issued the Decree No. 50/1997 of 16 October, which modifies the Article 35 of the Land Law, 'subjecting community delimitations to ultimate approval by the same government bodies that must approve investor requests and requiring communities to submit a use plan for the land just as investors do during the demarcation process' (Fairbairn 2013). This decree desecrates the grounds of the law, because consequently the approval of a community DUAT is subordinated to the government decision instead of to the community's (Knight 2010). The fact that DUATs above 1.000 hectares must be approved by the Ministry of Agriculture and Council of Ministers and smaller areas at a provincial level could provide a clue on the paradoxical interaction of the Government/State and Society.

The remaining two arguments, the power relations among the different actors involved in the process of the land registration and the carrying out of unappropriated consultations, are discussed in Chapter 4 and 5 using the empirical data of Chikweti Company case.

What real protection does the 1997 Land Law offer to people?

The Land Law and its Regulations, as a legal mechanism to protect the land rights of Mozambican citizens, was design to provide enough shield from land dispossession. The two main features designed to achieve this objective were the 'open borders' model of development and the community consultations. In the later one, a significant point was considered: the consultation gives an opportunity for the investors and state to check the availability of the land and at the same time, consultations create a space to negotiate a partnership between community and investor. These meetings are relevant because communities are the only ones who know the customary land boundaries, so directly asking them is supposed to be the safest way to avoid illegal land occupation. Nevertheless, if the population is not aware of their rights and exercises them, the protection that the law can provide is not effective.

The outcomes of the implementation of the land law and its regulations have revealed some aspects that have not clearly been stated when the law was formulated. Two of the main points that were not clearly stated in the law were: an instrument to enforce an effective participation of the community members in the consultation and a legal mechanism to bind the accomplishment of the terms of agreement reached by the community and investors. But despite the first intention of the makers of the Land Law and its Regulations, the issuing of later legislation about the implementation of them has disturbed the original results the law architects wanted to achieve: an integration of the communities with the new investments.

Therefore, it can be assumed that the real protection that the land law is limited to communities' acknowledge and exercise of their rights. Besides the outcomes of the implementation of the land law and its regulations have been distorted by the issuing of subsequent legislation, together with the unfulfilment of proper consultations and the influence of the power relations of the different actors involved.

Chapter 4: Implementation a 1997 land law: Chikweti case study.

In order to pursue the objective of this research, this section is going to describe some of the outcomes of the implementation of the land law applied to a industrial tree plantation case study. First the paper briefly reviews the sector of industrial tree plantations. Second the case Chikweti Company is presented together with the impacts that the firm activities have had in Niassa province.

Tree plantations in Mozambique

Plantations of trees for commercial purposes were initiated during the colonial period to cover the domestic demand of timber. After independence, in 1975, about 20.000 ha of eucalyptus and pine plantations were growing in the provinces of Gaza, Inhambane, Manica, Maputo, Niassa and Zambezia (Republica de Moçambique 2010a). Two international agencies, FAO and MONAP (Mozambique-Nordic Agriculture Program) drove forestry projects and expanded the tree plantations, reaching 40.000 ha (Hanlon 2011). This sector, besides sugar, was one of the few which were attracting private investors in the period following liberalization, promoted by the World Bank and IMF in the eighties (FIAN 2012). Subsequently, large-scale private tree farming had been encouraged by the Mozambican Government for many years following the former plan of the colonisers (ibid). Tree monoculture farms were promoted in the National Reforestation Strategy in 2010.

This Strategic Plan reflects the interests of the Mozambican Government in taking advantage of the geostrategic position of the country to supply the increasing demand of tree products (mostly eucalyptus, pine trees and teak) from both the BRICS and the medium income countries (Republica de Moçambique 2010a). The Strategy has determined that the country has potential to grow 1 million of hectares of tree plantations until 2030. Concretely, the three biggest areas for industrial tree plantations that the Government has assigned are: 246.000 ha to Nampula province, 318.500 ha to Niassa province, (both in the North of the country) and 159.000 ha to Zambezia province in the centre (ibid).

In addition, the Strategy also foresees that about 250.000 jobs will be created in the country (Republica de Moçambique 2010a). The desired result with all this investment has been to create employment opportunities, directly in the forest companies as well as in service suppliers. However, several authors have demonstrated that industrial tree plantations generate little employment (Carrere et al. 1996, Kröger 2012). Furthermore, the impacts of the activities already started until now seem not to be very satisfactory for most of the affected population.

An example of a company in Niassa: Imminent conflicts

The feeling of abandoned land can be even bigger in Niassa province than in the rest of the country. It is the largest province in Mozambique and has less than eight inhabitants per square kilometre (INE. 2013). Niassa has flat areas of arable land and two different agro-ecological types of soil and climate. These characteristics have result in this province being one of the most fertile and extensions of land suitable for agriculture, not counting opportunities for game parks and forestry (Hanlon 2011:30). These conditions are considered to be attractive for investors, however the isolation of the province have made that large scale land project arrived until 2005.

In fact, there was a plan to reallocate white South African farmers to Niassa in the 90's, but it did not succeed (Hanlon 2011:26). Another project retook the same planed area. Malonda Foundation, created by the Mozambican and Swedish Governments, is a private entity with the mission of promoting private investment in Niassa since 2005 (Malonda Foundation. 2013). Through the activity of this foundation, the attempt of bringing development to the province was anchored, as it was planned in the Strategic Plan of the Niassa Province (2017) and in the National Reforestation Strategy (Republica de Moçambique 2010a). The latest available data said that until August 2013 several companies in the provinces have already planted about 35.000 ha (Republica de Moçambique 2013). The main companies are Chikweti Forests of Niassa, Florestas de Niassa, Companhia Florestal de Massangulo, New Forests, Green Resources and, more recently, Florestas do Planalto (FIAN 2012). The first four have had relations with Malonda Foundation.

Chikweti Forests of Niassa has been operating tree plantations in the province since 2005 (FIAN 2012:17)). The company is a branch of the Global Solidarity Forest Fund (GSFF), created by the Diocese of Västerås (Sweden), the Lutheran Church of Sweden and the national Norwegian church endowment (OVF), 'as a vehicle for financially responsible investment which at the same time contributes to social development and poverty alleviation in Mozambique' (GSFF. n.d.). according to FIAN (2012), the fund is supported by investors from diverse countries with different share percentages: the OVF (5%) and Lutheran Church (7%) from Norway, a Dutch pension fund (ABP) (54.5%), Swedish Diocese of Västerås (5%), funds from the United States (5.5%) and Denmark (13%)(FIAN 2012:16). The local associates for Chikweti Company are the Anglican Diocese of Niassa (9%), Malonda Foundation, Eduardo Mondlane University and Mozambican people (Hanlon 2011). Besides, Diversified International Timber Holdings LLC was mentioned in the latest report of the government of Niassa (Republica de Moçambique 2013) and in Hanlon's work (2011) as another owner of GSFF shares.

Chikweti Company aims to obtain DUATs for an area of 140.000 ha of land (68,500 hectares are to establish pine tree and eucalyptus plantations and the remaining 72.500 hectares are for conservation, REDD+) (Hanlon 2011, FIAN 2012, Republica de Moçambique 2013). Initially the company dedicated 92% of the planted area to pine trees,

but it seems that in 2012 it changed the strategy to invest up to 90% of the new plantations on eucalyptus (FIAN 2012). The plantations are located in the districts of Lichinga, Lago and Sanga (See Appendix B).

Chikweti bumped into conflicts almost from the beginning of the activity because it did not take into account the affected communities¹. The complaints of the affected individuals only drew public attention after the visit to Niassa of the Prime Minister, Aires Ali, in 2010. He ordered an investigation to the National Direction of Forest and Land (DNTF). The outcomes of ‘20 days’ of field work revealed that Chikweti and another forest firm, Companhia Florestal de Massangulo, had started to operate without the complete DUATs approval (Republic of Mozambique 2010:16). The Prime Minister ordered a halt of all concessions of land titles until the situation was legalised. The report concludes that more monitoring of the activities as well as more human resources are needed. After this, the Provincial Services of Geography and Cadastre (SPGC) and the Provincial Department of Agriculture of Niassa started following up of the process, especially in the consultation phase. Consequently, several organisations brought international attention to these incidents such as the World Rainforest Movement (2010)², The Oakland Institute (2011)³, UNAC/Justicia Ambiental! (2012)⁴ and FIAN (2012). The technical team who elaborated the report made specific recommendation in each area supervised, however there is no public record on later results or if the recommendations were followed (FIAN 2012).

Outcomes of the implementation of Chikweti investment

The report on the investigation after the Prime Minister’s visit confirmed that Chikweti Forests of Niassa was irregularly occupying 31.825 hectares (Republica de Moçambique 2010b). This document and following publications verified the incidents and impacts in the process of settlement of the first plantations from 2008 until now (Åkesson et al. 2008, Republica de Moçambique 2010b, Hanlon 2011, FIAN 2012). The outcomes have been illegal occupation of plots of land, impacts on the communities and the environment, inappropriate consultations and conflicts in some of the communities.

Illegal occupation of land

Exact data from the area occupied by Chikweti has not been easily accessible since the authorities seemed to be unenthusiastic to facilitate information about the firm’s DUATs (FIAN 2012). The first information about the planted areas was provided by Åkesson et al. (2008) about 6.000 hectares of pine trees. Subsequent available data since 2010 until now are presented in Table 1.

¹ Neville Slade personal communication 7 August 2013

² See (Overbeek 2010)

³ See (Hanlon 2011)

⁴ See (Matavel et al. 2011)

According to the Report of DNTF, many planted areas were identified as not having DUAT approval in the districts of Sanga, Lago and Lichinga (see Republica de Moçambique 2010b:17). It seems Chikweti Company started the plantation with the former Governor's support, Arnaldo Bimbe, who authorised the beginning of the activities due to administrative delay on the endorsement of some of the DUATs (Matavel et al. 2011:52). This fact was also confirmed in the DNTF report, where the Director of the District Economic Activities Services (SDAE, the representative of the Minister of Agriculture, Mining, Commerce and Tourism). The Director stated that Chikweti had a signed document by the Governor authorising them to engage forest activities in some locations in the district of Sanga (Republica de Moçambique 2010b:38). This supposes a breach of legislation, and the Director of the SDAE reported it to the Government, but it seems no action was subsequently taken. Therefore, the administrator's declaration suggests that the former Governor unfulfilled the legislation appealing to his authority.

Source	Area (Hectares)					
	Already Planted	Open Processes	Authorised Processes	Cancelled Processes	On Process	Illegally Occupied
Report after visit Prime Minister's visit (Rep. de Moçambique 2010)	13 088	44 176	29 995	-	14 184	31 825
Chikweti and GSFF cited on FIAN (2012)	13 454	45 371	35 430	-	-	-
Report on experiences on conflicts management in Niassa (Rep. de Moçambique 2013)	14 250	107 325	45 038	9 387	52 900	-

(-) No available data

Table 1. Area occupied by Chikweti Forest of Niassa (2010-2013)

In addition, it can be observed in the table that, although Chikweti had a vast area of tree plantations in an illegal situation, this has not been an obstacle to apply for more land. The last report of the Government of Niassa (Republica de Moçambique 2013) shows that Chikweti Forest of Niassa and other forest firms, have paid fines and their cases were taken to the court. However, the Government has permitted to maintain the illicit plantations due to the companies had already done an investment. The only public reaction from the authorities is that the firms will not be allowed to plant in that banned areas after the first log harvest (Republica de Moçambique 2010b).

Impacts on the communities and their livelihoods

Several incidents have been reported in the plantation of these tree farms which affect the basic rights of the communities regarding to the access of land, forest, water and other natural resources. Besides, industrial tree farming does not always bring employment with 'the wages and benefits which the local population considered fair' (Borras 2012) and has a damaging impact on the environment, as was already discussed in Chapter 2.

Not only did Chikweti plant pine trees in some areas without a DUAT, they also started growing trees in areas with a known owner. Several testimonies verify that when Chikweti went to the communities to negotiate what land was available to operate on, Chikweti promised to use idle or marginal land. However, they started to use farming plots close to the inhabited areas (Republica de Moçambique 2010b). This has been documented in the locales of Licole and Lipende, in Sanga district and in Chiuluca in Lago district (ibid). One direct implication of this incident is that now people from these communities will have to open new plots further away, and the walking distance to them will be longer. Additionally, there was a case of a producer in Lago District: a farmer from the village of Bandeze was dispossessed of 6 hectares of his productive land with fruit trees by Chikweti Company (Republica de Moçambique 2010b, Matavel et al. 2011). This supposes a violation of human rights because such an action is a threat to that family's food security (FIAN 2012).

Furthermore, Chikweti planted in some areas surrounding small productive plots which are very close to houses, for example in the villages of Mapudje, Miala and Cazize in Sanga District (Republica de Moçambique 2010a:41). The company is aware that within 3-4 years those producers will abandon the plots due to the loss of their fertility and will open new ones, according to the traditional way of farming. However, the company's trees are so close to the farming plots that they will shade the crops and will reduce productivity.

Destruction of the native forest for the establishment of tree monocrops has also been denounced by communities (Republica de Moçambique 2010b). Chikweti workers opened vast areas and destroyed many local trees, *massukos*, whose fruits are consumed by the population (FIAN 2012). Besides, some villages are surrounded by the plantations which cause people to walk longer distances to their plots and to the woods. The native forests are a complement to livelihoods. Communities collect products in the natural forest, as firewood to cook, construction materials for houses, wood for charcoal and medicinal plants (FIAN 2012). This loss of access to the native forests also represents risks for the means of subsistence of the community (ibid)

Moreover, as was remarked in Chapter 2, industrial tree plantations' impacts on communities' access to water is well known. Eucalyptus' water consumption can affect the availability of water for the population after 5-7 years of their planting. In the case of Chikweti's plantations the communities have not yet experienced a serious lack of water. However, UNAC has been informed of wells running out of water earlier than usual (FIAN 2012:23).

Therefore, the actions of the company were and are having an important impact on the communities. But not all the impacts have been so negative: the forest companies have also brought jobs. Promises of salaried employment are one of the main reasons for a community to accept the entry of a company in their lands, especially among the young people (Åkesson et al. 2008). Formal jobs are seen as important sources of new income for people dependent on agriculture. Nevertheless, those jobs hardly meet people's expectation when taken on (Borras 2012). Most of the jobs offered were seasonal; forest companies hire many workers during the first years to open and clear the fields (mainly done by men),

tree nurseries and seedling plantation (mostly done by women) (ibid). The company affirmed that they were employing about 3.000 people in 2011 of which only 20% were women (FIAN 2012:22); however other sources confirm that Chikweti and Malonda Foundation had supplied different values for 2012: 1.500 and 900 workers by the beginning of 2012 (ibid). The last official information indicates that this firm is currently hiring 1075 national workers (17% women and 83% men) and 48 foreign workers (only 2 of them are women) (Republica de Moçambique 2013). Despite the discrepancy in the data, everything indicates that employment has reduced significantly in the last two years.

Additionally, working conditions are not sufficient stable. During the DNTF investigation, the regulo of the community of Lipapa in Lichinga District, denounced that Chikweti was paying the salaries every 45 days, instead every 30 days as required by legislation (Republica de Moçambique 2010b). Another issue brought by the communities was that of absenteeism. Workers from the plantation of Maniamba in Lago District, and Licole in Sanga District explained that on a day in which they did not appear at their job, because of an illness or a family event, such as a funeral, the company did not pay them that day. The workers alleged that they have no means to go to Lichinga, the capital of the province, to report it to the National Institute of Social Security (Republica de Moçambique 2010b).

Above all, a debate is opened about job quality and if the salaries are enough to compensate the hours that residents do not work in their plots (Åkesson et al. 2008). In other words, whether the wage is high enough to buy basic necessities that would otherwise not be bought if only working on the family farm. There are some testimonies indicating that the salary offered by the companies is not enough. Åkesson et al.'s (2008) work collects the declaration of a family head that recognises that he cannot compensate for the food he used to produce in his farm with the salary. This argument is confirmed by a World Bank report on Land Grabbing which cites the Mozambican minimum wage as 'insufficient to compensate the lost livelihoods' (World Bank quote in FIAN 2012:23).

Regarding the access to employment, some authors have discussed that it can be a source of social differentiation. Åkesson et al (2008) have documented that local authorities used to take advantage of the information about job opportunities in tree plantation to employ members of their own family. For instance, in Mussa community 43% of the workers in the plantations had some kind of kinship with the regulo (Åkesson et al 2008:43). In addition, this report points out that on average or rich farmers had more chances to maintain their livelihoods while working because they were able to hire other people to work their land (ibid). Nevertheless, there are other villages, like in Maniamba, the interviewees affirmed that most of the population of the community had access to the jobs, not only those linked to the regulo and other traditional authorities such the 'rainha' (female traditional authority) (interview Maniamba 13 August 2013). Besides, bribes offered by the forests companies to the regulos in order to attain their objectives (FIAN 2012), contribute to the imbalance of powers in the community. More research is needed to find out with exactitude which people in a community are taking advantage when acceding to a job in a

forest company. However, it comes to light that there is an imbalance of power in regard to access of information and other means of production.

Impacts on the environment

Although it has not been reported yet, the risks of cultivation of tree monocultures are latent. The threats of pollution by the use of pesticides and fertilisers, quick spread of fires, loss of soil fertility and loss of biodiversity could appear within a few years as happens in other parts of the world. Although Chikweti has denied the use of pesticides, there is a report published by the Forest Service of the US Department of Agriculture recommending the use of insecticide with longer residual activity and fertilisers (Peterson 2007). The use of these products has impacts on the environment because they can flow to water streams and accumulate in organisms. Second, farming of tree monocrops facilitates the spread of a fire due to the use of the same species. As it was explained in the Chapter 2, industrial tree plantations are associated with loss of soil fertility and biodiversity.

Besides the DNTF (Republica de Moçambique 2010b) reported that Chikweti did not have an environmental licence and the assessment of environmental impact study was not available to the public according to UNAC (FIAN 2012).

Inappropriate consultations and social responsibility

There is evidence that proves that community consultations have not been carried out properly. It has been registered that there is no effective participation of the community, absence of local authorities in some of the consultations and unfulfilment of promises made during the consultation. First, many of the consultations were done only in the presence of the traditional authority without a representative number of other people from the community (Republica de Moçambique 2010b). Chikweti directly negotiated with the regulo, even they bribed him to have access to land (FIAN 2012). In other cases, one consultation was made to cover several communities. This happened in the communities of Cholué, Luamba and Lipapa in Lichinga District. A unique meeting took place in Choule for the three communities (Republica de Moçambique 2010b). The DNTF team declared that this is completely illegal and separated consultations must be done (ibid). In addition, the administrator of Lago accused the firm of falsifying the signatures of the participants in the act of the consultation (ibid). These three facts violate the Regulation of the Land Law.

Second, it has also been denounced that some consultations were done without the presence of the local government as the law requires (FIAN 2012: 25). Besides, in some communities, Chikweti did not do any consultations at all in the villages where Malonda Foundation did them in 2004 (Åkesson et al. 2008). It seems that Chikweti Forests of Niassa started operating in villages where Malonda Foundation had done previous consultations in 2004 (Åkesson et al 2008). But after a few years Chikweti split from Malonda and intervened in new areas, without a process of community delimitations with a rural participatory approach (ibid). In the province of Niassa, a community can be formed by several localities and small villages in which there can be different 'traditional leaders'.

This can create some ambiguities at the time of community delimitations. For the community consultations that Malonda did in 2004/05, Åkesson et al (2008) describe in their work, the difficulties that the surveyors and Cadastral Public Services had when the term community was understood as 'regulado' (land under the rule of a first category regulo) because the submission of the delimitation was denied for being too big, some times over 400.000 ha (Åkesson et al. 2008:33). Nonetheless, this goes once against the law. However, the Law clearly states that the consultation is a process to negotiate with the community not only to inform them (Åkesson et al. 2008).

Third, communities have complained several times about the unfulfilment of the promises made during the consultations, such as building schools and other benefits to the community. The regulo of Cholue denounced that during the consultation Chikweti promised them to build a school, a store, a health post and a well (Republica de Moçambique 2010b). A representative of the firm responded that those promises were not contemplated in the company policies (ibid). Nevertheless, the company built a maternity centre in Chimbunila (Lichinga) and restored other buildings in several communities (ibid). So the representative's argument seems not to be valid.

Conflicts and acts of resistance

After tense situations appear due to Chikweti intervention, it is expected that some incidents can be discovered. Three kinds of conflicts in relation to the industrial tree plantations have been reported: conflicts among communities, conflicts within the same communities (both because of misuse of the territory) and conflicts between a community and the Chikweti Company.

Conflicts between a community and the Chikweti Company have been registered in Licole and Lipende communities. According to the local Newspaper Jornal Faisca, in April 2011 peasants from these two locations pulled up and cut down about 60.000 trees on an area of 12 ha of a Chikweti plantation and burnt some equipment (Jornal Faisca 2011). It seems that the uprising started due to the company having occupied community farming plots.

During the fieldwork in August 2013, UPC confirmed the dissatisfaction of these communities for several reasons. First, it seems that the regulo of Licole ceded the community land without consulting the rest of the interested people, this caused many people of the community to be against the regulo. Second, Chikweti dismissed many workers once they finished the plantation period and former workers did not have jobs and plots to farm were far away from the village. Lastly, apparently the regulo of Licole threatened UPC for mobilising people from his community to defend their rights and raise their voices against Chikweti. The current situation with the regulo has probably changed due to intervention of a filmmaker. With FIAN support, during 2012 the documentary 'Seeds of discontent' was filmed (Arbourne 2013) that shows how this regulo has made up his mind and is now fighting against the firm.

Conflicts among communities have appeared in cases when a community was occupying a piece of land belonging to another community under an agreement, and the 'guest' community decided to cede that land to a company without the consent of the original 'owners/users'. This borrowing of land can be usual due to the displacements provoked by the war. For example, the regulado of Ngogote in Sanga District lent several plots to Cazize community. This last one ceded the lands to Chikweti without informing or consulting Ngogote and Chikweti used that land at the beginning of 2012. The regulos of Ngogote asked Cazize community to reject that project but it seems that Cazize community did not give a satisfactory answer to them. After that Ngogote representatives went to the District government to warn that if Cazize did not stop the plantations in their lands, they will go and destroy it because they allowed the company to plant in their land. The Government, after a meeting with both communities recognised the legitimate users were people from Ngogote. But several weeks later members of the Sanga government had to run with the police in the middle of the night to Ngogote to stop imminent violent acts against the plantations. 'We were ready to fight with our knives and defend our land' (personal communication Regulo of Ngogote 13 August 2013). They sat that same night with Cazize community and after several hours of negotiation, the Government of Sanga ordered that the machines stop working in the Chikweti plantations.

In addition, the same community of Ngogote reported to UPCN and to the author, that they being pressured by the local government and Chikweti Company, although they have firmly rejected investment in the past (interview with the Natural Resources Management Committee 13 August 2013).

Conflicts within the same community can be exemplified with the case of Micoco (Lichinga district). Differences between the two regulos of the community have split their lands in two differentiated zones. One of the regulos, the younger one, who seems to enjoy the legitimacy of the population decided to concede the areas under his control to Chikweti Company, and pine plantations were established. The other one did not agree at all and he is maintaining his part out of the control of the tree plantations investment (interview with Regulo 14/08/13).

These three examples serve to illustrate how the incidents with the population can stop an investment. Small acts of resistance can boycott an investment. Some people are of the opinion that Chikweti is not going to have success in the province because of these incidents (Personal communication, Neville Slade 7 August 2013), however as pointed out below Chikweti continues to petition for DUATs, despite iterative violations of the Law.

What the outcomes of Chikweti case indicate?

Analysing the outcomes of the Chikweti case under an agrarian political economy approach, it can be understood firstly, that although the Mozambican state is the legal owner of the land, the real control of the land and the access of its resources (water, soil fertility...) are in Chikweti Company's hands. Secondly, the toughest jobs in the plantations are being carried out by members of the communities under conditions that do not meet

their expectations. Thirdly, the bulk of future benefits of the tree plantations coming from the selling of timber or pulp will go to Chikweti. The communities are receiving a symbolic part of the revenues in form of jobs and community infrastructures. Fourthly, the revenues from the tree plantations will probably be used to expand the area of tree plantations increasing the spiral of capital accumulation by the dispossession of the means of production of the affected communities. In addition, the extractive character of the outcomes has had negative impacts on the livelihoods of the communities and the environment.

Chapter 5: Competing perceptions of the implementation of the Land Law

Perceptions about the land policy, what rights each party has and the perception of what the investment can bring to the development of the province are understood in different ways by different actors. Those opinions have been brought here for later analysis..

Perception by the State

The Mozambican State's discourse watches over the accomplishment of the Land Policy and the respect of the Mozambican rights in the case related to Chikweti tree plantations. This was more evident after a report presented by the DNTF about the conflicts with the forestry companies in 2010 (FIAN 2012). After this report, the central government apparently felt worried about the low quality of the consultations and a new Decree was approved by the Council of Ministers (Hanlon 2011:25). The Ministerial Office (Diploma Ministerial 158/2011, de 15 de Junho) establishes that two meetings instead of one must be held with a community: the first one is to inform the community about the project and the land requested by the company and the second one for the community response to the proposal. This mechanism is supposed to give more time to the communities to reflect on the projects. However, it does not guarantee a more effective participation (ibid). This attempt to improve participation is notorious but insufficient.

At the provincial level, the government has started to be stricter with the application of new DUAT, but it seems that some of the old conflicts remain. In an interview with the Provincial Director of Agriculture of Niassa, he affirmed that 'the conflicts between communities and forest companies have almost reduced to 1% in the last year' (Personal communication 14 August 2013). But the feeling in the villages, when asked about the forest companies, continues to be tense. People are not satisfied with the current conditions (see below). Taking into account the interview with the Director and the reports from the Government, it can be observed that there is a tendency to affirm that tree investment projects are positive to the province despite the incidents caused.

The District Government, as it was pointed out above, is situated in a strained position. In some situations the district administrator complained about lack of technical and political preparation before the companies arrived (Republica de Moçambique 2010b). They also protested about the delay of the SPGC in processing the DUATs. The administrators or their representatives have to be present during the consultations and are the ones who have to deal with the community in case of conflicts. At the same time, Hanlon (2011) has reported that administrators received telephone calls from 'senior party people [...], saying *find a land for X*, who may be simply a relative of someone important in FRELIMO, or who may be a serious investor' (Hanlon 2011:22). They suffer pressure from above and below. But as a Kenyan entrepreneur, with many years of experience in Mozambique and in tree plantation investments, said 'the government does not want to have a bad image with the

communities, it wants to make everyone happy (in order to win the next elections..)' (Personal communication, Neville Slade 7 August 2013).

It can be said that the Central Government/State has changed the Land legislation in such a way to maintain the control over the access to land while maintaining a certain image of participative process due to the change in the consultations.

Perception by the petty bureaucrats

Land surveyors are the main bureaucrats/technicians involved within the state in the divulgence of the land law and its regulations as well as in the process of the acquisition of a DUAT. In the case of Niassa, there are 8 technicians in the SPGC and 3 others in the districts. Some authors have affirmed that the land surveyors are not well prepared (Åkesson et al. 2008) for the process of community consultations and they can delay on purpose some of the processes. They participate in the consultations as representatives of the SPGC. It can be true that some of the surveyors, especially the new ones, do not have a deep understanding of the land law and the regulations. One of the interviewees did confuse the benefit a community has with a logging concession with the benefit it could have from a tree plantation (anonymous). Nevertheless, most of the interviewed surveyors have a deep understanding of the processes due to many years of experience. It seems that sometimes they just have to obey direct orders from above (Director, administrator or higher authorities).

In relation to the land surveyor's perception about the land law, most of the answers show that they believe that the 'land law is good' but there are some incidents with the implementation. For example, one of the surveyors opined that 'Chikweti made and unmade (referring to start the plantations) because there was somebody covering their back' (anonymous). This person was probably referring to the calls made by party elites to the administrator (as was pointed above).

Besides, since the funds for agriculture activities coming from a basket of international donors (PROAGRI II) finished, the divulgence of the rights over land is only taking place through CSOs. The civil servants have complaints about the lack of resources to perform their work on divulging the law and to resolve land conflicts among communities.

Regarding to the perception about the investments, some of the surveyors think that when a community is requested an area, they do not realise how big the extension of land is that an investor is asking for. There was not a complete understanding of what the company's purposes are, for how long and how much land was required (Hanlon 2011). It seems that some communities think that the cession of land is only for a few years and that they will retake that piece of land, as they have been doing for generations with their fallow fields. In addition, the responsible of the land survey department (SPGC Niassa) believes that communities need to be trained in negotiating skills, to be prepared at the time of making deals with the investors (Personal communication, Carlitos Renade 15th August 2013).

Community participation is apparently improving in the new consultations. The surveyors said that people are not afraid any more of talking in front of the regulo, administrator and investors. Also the number of people participating in the consultations has increased. Several villages have denied the entry of the tree plantations projects in their lands according to these technicians. However, some surveyors affirmed that the presence of the authorities in the consultations created an unfavourable climate to let people participate. The District Administrator (maximum authority in the district) or a spoke person is present during the consultation and sometimes he or she has tried to convince the community about to cede their land in favour of the investors. This description of those present in a community consultation is to stress the unequal level of interaction that a community consultation can have.

Perception by the domestic elites

Other studies have demonstrated the relevance of the role played by the local elites in the land deals (Fairbairn 2013). For example, in the case of Mozambique, some skilled professionals hired by the Government or by local projects financed with international funds (like the MCA or UN), are developing consultancies and making contacts with private investors using some of the privileged information that they have about the local context. In special, some geographers who have a deep understanding about the land policy and the available land have been contacted by individuals interested in pieces of land (interview with Friday Taibo 9/08/13).

There is no data about the part played by the domestic elites in the case of Chikweti, probably because Malonda Foundation was the main facilitator. But some of the interviewees in what it can be considered an advantageous position (due to their access to information) have provided valuable opinions about the Chikweti's behaviour during the project implementation. Neville Slade (interview 7 August 2013) said that Chikweti employs some racist white South Africans that have caused confrontations. A consultant who used to work for NGOs and worked for Malonda, affirms that despite Chikweti having community officials in order to improve the communication between communities and the company, they used to be outsiders, Mozambicans who cannot speak the same language of the community, so this do not facilitate the task (Edgar Augusto interview 7 august 2013).

Perception by the investors

The accusation of land grabbing were publish in the Swedish media and GSSF had to to admit that that during the "initial operating phase there have been some difficulties with planning and on-the-ground implementation." (FIAN 2012:30), but they also conserve the attitude reflected in the DNTF report about the negative impacts: Chikweti and GSFF consider that all allegations about are 'highly exaggerated' (ibid). This could be a sign of Chikweti's lack of understanding of the relevance of the land for the communities.

Nevertheless, after the government intervention, it seems that some things have changed. In an interview with an anonymous worker of Chikweti he confirmed that ‘relations between the company and the communities have improved and it is an ongoing process of dialogue that matters very much to the company’ (interview 16 august 2013) and the conflicts have diminished. The same interviewee recognised that the Mozambican Land Law is among the best, the challenge remains the implementation of the same legislation, this can only be observed in the field’.

Perception by the communities

Observing the outcomes of Chikweti’s plantation implementation, it can be said that, in general, communities were unaware of their rights over their land and unprepared to negotiate these during a consultation. As it was discussed before, albeit some of the consultation were not properly carried out, the communities that accepted to cede their land, did it because of the promises of benefits for the community, such as employment and improving life conditions.

However, now the communities give the impression of feeling betrayed. For example, in Maniamba community, they said that at the beginning Chikweti was respecting them, and they accepted the investment. They promised jobs and US\$5 for protecting each planted hectare from fire. However, they are not satisfied now because ‘the salaries have been the same since 2005 with no rise, only for Chikweti’s director’, ‘many people are being dismissed, even relatives of the regulo’ (Focus group Maniamba 13th August 2013). They recognise that they did not know the Land Law before the company’s arrival. Now they are aware of it, and in case new investors arrive ‘they are going to carefully study their proposals’. This could indicate that the Land Law can really offer some protection. However, people were not prepared to receive the investments. It appears that now, at least this community, is better prepared.

Elders used to be the members in a community who do not agree with the forest investment’s arrival, who try to look to the future and ask themselves ‘where my sons and grandchildren will cultivate their food’ (Personal communication in Licole and Micoco). They said it will be better if agriculture companies had arrived to produce food, because they will not use the land for such a long time and they will offer more jobs. ‘Trees cannot be eaten’ (community of Micoco and community of Maniamba). A trader from Licole also remarked that if a company is at least producing food, you could always take some maize or cassava home to eat (Personal communication Suaquile Maide 9th August 2013). Therefore this shows that people are open to the arrival of projects in their communities but with different conditions.

Several testimonies also indicate that there are some communities which refuse entry of tree plantations companies because they have seen what they have done in other communities. For instance, see the case of the community of village of Ngogote (Sanga district) among many others.

To what extent can the Land Law implementation be distorted?

In order to study the outcomes of the implementation of a land law, besides the legal instruments (considered in Chapter 3), it is necessary to look into the ‘formal and informal bundle of powers exercised by different actors’ (Wolford et al. 2013). Power imbalance among the parties involved can distort the original aim of the legislation. Taking into considerations the outcomes of Chikweti activities described in Chapter 4 and the competing perceptions of the actors involved is going to be described the different kind of power exercised by each party: state, communities, domestic elites and investors.

State

Above all, the four dimensions of the Mozambican state can help to contrast its contradictory role as Fox (1983) stated. The Mozambican state has extending his power in relation to the territory when it made an international call announcing the availability of idle land. This is result in a clear feeling of unoccupied land, as Malonda Foundation website announced to attract investors (Malonda Foundation. 2013). Recognising customary land rights and attracting investors can be a complicate task after doing such appeal. One of the consequences has been companies as Chikweti planting trees in fertile plots instead of planting in marginal lands.

The second extension of power is related to the sovereignty of the state. Land Law was protecting people’s sovereignty over their land when they have the chance to decide the future of their land when consulted by an investor. However, the amendment of the land law resulted in the recentralisation of this decision, when DUATs approval depends on the Minister of Agriculture or the Council of Ministers. Therefore the central government reasserts the control over the land through shift in the legislation.

Some examples have been given to illustration the authority expansion of the government. For instance the telephone call from the senior members of the party to reserve land for their acquaintances (Hanlon 2004) and the ‘special ‘concession that the former Governor of Niassa did when Chikweti was allowed to initiated the activities before the DUATs’ approval (Hanlon 2011).

The fourth dimension, subjects, can be identified in the Mozambican context when people do not have a mechanism to claim their rights. Courts do not fulfil the expectation about the land complaints. But in addition the Land Law and its regulations do not have an effective legal mechanism to guarantee that the investors observe the promises made to the communities during the consultation.

Above all, it can be assumed the contradictory role of the state suggested by Fox (1993). On the one hand, the Mozambican state is trying to maintain legitimacy with the communities through the recognition of the customary land rights. On the other hand, the same state is attempting to accumulate capital through the recentralisation of the land decision-making.

Petty bureaucrats

Petty bureaucrats play a fundamental role in the processing of a DUAT. Although there are some statements indicating that they are not well prepared and they can delay the bureaucracy, in Chikweti case they can exercise a limited level of power.

Domestic elites

Domestic elites can have an important role in the implementation of a land law because the power exercised by their actions can accentuated even more local inequalities through different kinds of authority (Fairbairn 2013). Although there is no data in Chikweti case to illustrate this, these actor's intervention can distort the results of a land policy.

Investors

The intervention of the investors will depend on the proposal of benefits negotiated in the community consultation (jobs and infrastructure for the community) as well as the support they had from the government. Investors have extended their power over community members when they have realised inappropriate consultations (reducing participation or bribing regulos).

Communities

Mozambican land law had provided communities with a tool to protect their rights and exercise their agency against a possible land dispossession. But this right was minimised in two ways: after the state power extension and with inadequate consultations. However the acts of resistance have demonstrated that the communities have found a 'questionable' tool to press the company and defend their rights. At the same time, within a community cases of power imbalance occurred when the regulos did not comply with the consultation procedures.

Chapter 6: Emerging local outcomes, some preliminary conclusions

To what extent and how can a progressive land policy protect people from the negative consequences of land grabbing? In order to answer this question, this study has attempted to provide an empirical base to apply some theoretical concepts to the processes of land grabbing. Giving answer to how the original design of a land law has been distorted, this study has drawn some arguments to give response to the question. This paper has discussed that a legal mechanism to protect land rights like a law, cannot shield people from the current of capital accumulation by itself. The power exercised by the state and the other actors involved in the process of a land law implementation is relevant as well.

Mozambican land legislation has been used to reach some of these arguments because of its worldwide recognition as a progressive land policy and due to the cases of land grabbing occurred in the country. First, it has been described the historical context that shaped the land law. Under a tug of war of calls for land privatisation and acknowledgement of community customary rights, the 1997 land law was satisfactorily passed elevating 'custom and all customary land claims up into formal law at a stroke, giving weight and legal validity to the land claims of the rural and urban poor without the need for formal documentation' (Knight 2010:101-102). The parties involved in the law formulation achieved a solution which could satisfy everyone: to maintain the land ownership by the State while preserving poor people's rights over land and making a space for investments (Hanlon 2004). However, several privatisation calls have periodically appeared under several appearance.

Second, the study has broken down the main features of the Mozambican Land Law and its regulations in order to understand how and to what extent the legislation as a legal mechanism can protect rights by itself. The most particular features of the law are the 'open borders' model of development and the community consultations. Secondary data from different authors have been used in order to test them against the potential risks of the large-scale land deals. In doing so, it has been argued that awareness of land rights and community consultations with 'effective' participation are essential to make real the protection offered by the law.

Third, the paper has analysed the process of the land law implementation and it was discussed that the original intentions of the land law have been perverted by three actions: the issuing of amends to the law, the carrying out of inappropriate consultations and the influence of the power relations of the different actors involved. The first statement was discussed through a brief literature review and the other two through the exploration of Chikweti case.

Experimental data from the results of the implantation of tree monocrops plantations by Chikweti have been described to point out the third and second statements. They have been analysed under the political economy and the political ecology of a case of land

grabbing. The extractive character of industrial tree plantations have been tried to show through this analysis. The findings seem to indicate that the intervention of Chikweti Company in the province of Niassa is contributing to the spiral of capital accumulation and in some cases, the firm activities are resulting in communities' land dispossession.

This analysis was complemented with an exposition of the competing perceptions about the Mozambican land law and its implementation by the 'formal and informal bundle of powers exercised by different actors' (Wolford et al. 2013) in the Chikweti case. A discussion on the balance of the powers exercised was carried one. Besides, the results of this were contrasted with the features of the role of the state on land governance considered by Fox (1993) and Wolford et al. (2013)(Åkesson et al. 2008).

Some preliminary conclusions

The emerging local outcomes of a progressive land policy implementation, such as the Mozambican one, have led to raise the question about what kind of loopholes the land law and its regulation have. The findings in Chikweti case have shown that the outcomes of implementing a land law reside on the challenge of applying the law and balancing the power exercised by the different actors at the same time. But the evidence suggests that the balance has turned in favour of those imposing their power and causing negative impacts on the weaker.

However, the 'weakers' have demonstrated that they still have a certain level of autonomy to claim their rights when the law is not protecting them, as the acts of resistance of some communities have shown. In other words, the land law can be seen as an institution which can provides agency in order to change relations of power in to access and use of land. But this agency has been overtaken by the state intervention and in some cases by domestic elites (Åkesson et al. 2008, Fairbairn 2013). Nevertheless through acts of resistance part of this agency has been recovered.

I would like to another conclusion drawn by Borras (2012):

The Chikweti case demonstrates some of the key issues about people's struggles around land grabbing in various parts of the world today. When corporations need the land but not the local labour, land deals result in the expulsion of people from the land. Land deals that create large-scale, industrial monocrop plantations that are generally labour-saving usually result in varying extents of expulsion. (...) What we are witnessing, and will continue to witness, are struggles around these two broad fronts. It is wrong to assume that all protests around land deals are against the deals; it can very well be about local people who want the deal, but on better terms.

Therefore, new mechanisms to provide to guarantee better terms on the job conditions and partnerships between communities and investors need to be explored and tested in order to meet both actors' need.

Additionally, as evidence suggests, the state due to its self-contradictory character (Fox 1993), has mainly confronted a big challenge in the application of the land law. Considering the provisions contemplated in the Mozambican land law and the actions the state has taken on land governance, it can be done a correspondence between the state's attitude with the second tendency of land governance in relation to land grabbing described by Borras et al. (2013): regulate to mitigate negative impacts and maximize opportunities. The Mozambican state has tried to solve the conflicts between communities and industrial tree plantations companies without reducing their expansion.

This expansion as well as other agriculture investments in Mozambique can be interpreted as a continuation in the process of capital accumulation. But here the Mozambican context presents a question without a precise response: what will happen with the land the large-scale investments are using once the DUAT concession has finished? After 50 or 100 years when the concession of the title for the 'right to use and benefit of the land' has expired, will a community recover that right of using the land? It seems that nobody has an answer yet. Nevertheless, previous experiences in Mozambique have demonstrated that most probably that area of land will be required by another large-scale investment.

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Appendices

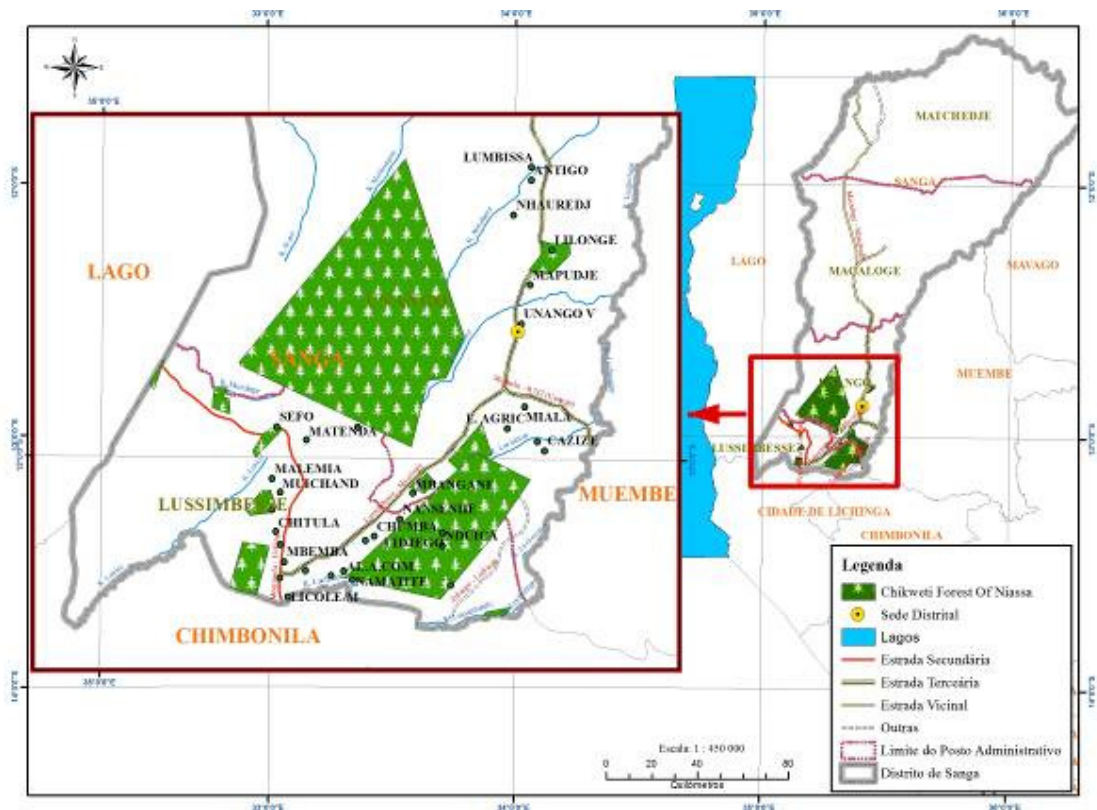
Appendix A-List of interviews in Niassa

	Name	Organization/Place	Position	Date of interview
1	Alifa Aide	UPC Niassa /Lichinga	Vice president- Trainer	5/08/2013
2	Julio Pêsego	UPC Niassa/Lichinga	Coordinator	12/08/2013
3	Felix Cossa/ Leonardo Mbilio	ORAM/Lichinga	Coordinator /Programme officer	5/08/2013
4	Paulino Imede	UCA /Lichinga	Coordinator	6/08/2013
5	Minoria Mateus	ORAM/Lichinga	Community Worker	6/08/2013
6	Zeca Arreto	ORAM/Lichinga	Community Worker	6/08/2013
7	Nelson Jackson/ Yolanda Sambane	ITC/Lichinga	Manager/ Programme Officer	6/08/2013
8	Neville Slade	Lichinga	Private Entrepreneur	7/08/2013
9	Edgar Augusto	Consultant/Lichinga	Author of a thesis about Malonda Foundation in MA in Rural Development	7/08/2013
10	Milena Pereira Almeida Adolfo	Pedagogic University /Lichinga	Author of a thesis about the role of the local government and tree plantations	8/08/2013
11	Magorombane Manhique	Millennium Challenge Account/Lichinga	Coordinator	9/08/2013
12	Rosa Pedro	SPGC Niassa/Lichinga	Land surveyor	9/08/2013
13	Friday Taibo	Private Consultant/Lichinga	Geographer	9/08/2013
14	Suaquile Maide	Private/Village of Licole	Trader in Licole crossroads	9/08/2013
15	Anonymous1	State/ Chimbunila	Civil Servant	10/08/2013
16	Carolina	UDC Sanga-District peasant Union Ngogote	President	12/08/2013
17	Focus Group	Maniamba	CGRN-leading the meeting one person	13/08/2013
18	Focus Group- Women	Maniamba	CGRN	13/08/2013
19	Rainha (Queen) of Maniamba	Maniamba	Community leader	13/08/2013
20	Small Focus Group	Ngogote	CGRN-one of the regulos (Massole) was present	13/08/2013
21	Eusebio Tumuitikile	State	Director of the Agricultural Department	14/08/2013
22	Mbalaka Saise Ndelenmane Ali	Micoco	Regulo	14/08/2013
23	Jose Mbwana	Micoco	Influent elder man	14/08/2013
24	Carlitos Renade	SPGC Niassa/ Lichinga	Head of land surveying department- Land surveyor	15/08/2013
25	Anonymus2	Lichinga	Chikweti worker	16/08/2013

Appendix B-Maps of Mozambique and Chikweti plantations



Location of Niassa Province



Chikweti Tree Plantations in Sanga District (above) and in Cidade de Lichinga District (below).

Source: SPGC Niassa- República de Moçambique. Agosto 2013.

