



Community-based advocacy: Lessons from a natural gas project in Mozambique

Alda Salomão

Legal tools for citizen empowerment

Around the world, citizens' groups are taking action to change the way investment in natural resources are happening and to protect rights and the environment for a fairer and more sustainable world. IIED's Legal Tools for Citizen Empowerment initiative develops analysis, tests approaches, documents lessons and shares tools and tactics amongst practitioners (www.iied.org/legal-tools).

The Legal Tools for Citizen Empowerment series provides an avenue for practitioners to share lessons from their innovative approaches to claim rights. This ranges from grassroots action and engaging in legal reform, to mobilising international human rights bodies and making use of grievance mechanisms, through to scrutinising international investment treaties, contracts and arbitration.

This paper is one of a number of reports by practitioners on their lessons from such approaches. Other reports can be downloaded from www.iied.org/pubs and include:

- Bringing community perspectives to investor-state arbitration: the Pac Rim case. 2015. Orellana, M et al.
- Advocacy on investment treaty negotiations: lessons from Malaysian civil society. 2015. Abdul Aziz, F.
- Democratising international investment law: recent trends and lessons from experience. 2015. Cotula, L.
- Community-based monitoring of land acquisition: lessons from the Buseruka oil refinery, Uganda. 2015. Twesigye, B.
- Catalysing farmers' influence in shaping law reform: experience from Senegal. 2015. Coumba Diouf, N.
- Legal advice for environmental justice: experience from eastern India. 2015. Upadhyay, S and Jain, S.

In addition, under our Land, Investment and Rights series, we generate evidence around changing pressures on land, multiple investment models, applicable legal frameworks and ways for people to claim rights.

Reports in the Land, Investment and Rights series can be downloaded from www.iied.org/pubs. Recent publications include:

- Land rights and investment treaties: exploring the interface. 2015. Cotula, L.
- Agro-industrial investments in Cameroon: large-scale land acquisitions since 2005. 2015. Nguiffo, S and Sonkoue Watio, M.
- Understanding agricultural investment chains: lessons to improve governance. 2014. Cotula, L and Blackmore, E.

To contact IIED regarding these publications please email legaltools@iied.org

Community-based advocacy: Lessons from a natural gas project in Mozambique

Alda Salomão

About the author

Alda Salomão is an environmental lawyer from Mozambique and founder of Maputo-based Center for Environmental Research and Advocacy (Centro Terra Viva, CTV). She currently serves as CTV's General Director and Senior Legal Advisor and has authored and co-authored several articles on participatory land and natural resources governance.

Acknowledgment

The author wishes to thank her colleagues at CTV, Issufo Tankar and Samanta Remane, as well as Lorenzo Cotula and Philippine Sutz from IIED for valuable contributions to the drafting of the report.



This report was funded by UK aid from the UK government, though the views expressed do not necessarily represent those of the UK government. The views expressed herein, remain the responsibility of the author.

First published by the International Institute for Environment and Development (UK) in 2015
Copyright © International Institute for Environment and Development (IIED)
All rights reserved

ISBN: 978-1-78431-264-0
IIED order no: 12585IIED

For copies of this publication, please contact IIED:
International Institute for Environment and Development
80-86 Gray's Inn Road
London WC1X 8NH
United Kingdom

Email: newbooks@iied.org
Twitter: @iied
Facebook: www.facebook.com/theIIED
Download more publications at www.iied.org/pubs

A catalogue record for this book is available from the British Library.

Citation: Salomão, A. (2015) Community-based advocacy: Lessons from a natural gas project in Mozambique. IIED, London.
Cover photo: Community paralegals providing assistance to rural communities in the District of Palma, Mozambique. © CTV.
Typesetting: Judith Fisher, www.regent-typesetting.co.uk

Contents

Acronyms	ii
Abstract	iii
1. Background.....	1
2. Community paralegals as empowerment agents	3
3. Outcomes and reflections	7

Acronyms

ASPALMA	Paralegals association of Palma district (<i>Associação dos Paralegais de Palma</i>)
ASPACADE	Paralegals association of Cabo Delgado (<i>Associação dos Paralegais de Cabo Delgado</i>)
CFJJ	Centre for Legal and Judiciary Training
CTV	Centro Terra Viva
DUAT	Temporary land use right (<i>Direito do Uso e Aproveitamento da Terra</i>)
ENH	National Hydrocarbons Company (<i>Empresa Nacional de Hidrocarbonetos</i>)
FAO	Food and Agriculture Organization of the United Nations

Abstract

Mozambique has become a hot spot in the global rush for land in the last decade. Growing investments in sectors such as mining, hydrocarbons, forest plantations and industrial agriculture most often target rural land held by local communities under customary law, and conflicts between communities and investors often arise.

Existing laws regulating land are poorly implemented and enforced, which is due to the power imbalances existing between the government, companies and local communities. Rural citizens' illiteracy – especially legal illiteracy – and lack of capacity to use the law and judicial mechanisms to protect their rights, put them in a weak position, including during community consultations for land attributions conducted by the government and companies.

In the District of Palma, Cabo Delgado Province, where a natural gas project is increasing pressures on community lands, Centro Terra Viva (CTV) and community paralegals are providing legal assistance to rural communities. This paper discusses the lessons learned from the use of paralegals as a tool for community-based advocacy, the challenges encountered as well as the constraints and opportunities for scalability and sustainability. The paper finds that, while there is room for improvement, the strategy of linking urban-based and qualified lawyers with informed and active citizens at the community level can make a difference in the way decisions to allocate rural lands for investors are taken and reduce injustices in land governance.

1. Background

Mozambique's land legislation is often hailed as being particularly progressive, due to its recognition and protection of the land rights of rural communities. Positive features include the reliance on the state as the guardian of the national interest in this area, the recognition of land rights based on customary tenure systems, the reduction of formal requirements for the legal recognition of land rights, and the establishment of a legal regime for foreign nationals to acquire land rights for economic purposes.

But there have been shortcomings in implementation, and conflicts have been increasing among government, companies and local communities. Challenges in implementation are more strongly felt with regard to legislative provisions that are meant to protect the rights and interests of rural communities in the context of land allocations for public and private investments. Growing pressures on land from mining, hydrocarbons, forest plantations and industrial agriculture have compounded these challenges.

The reasons for the inadequate implementation are diverse. They partly relate to power imbalances in relations among government, companies and local communities. Communities lack political and economic power, literacy rates are low and many citizens lack the information, capacity and resources to use the law to protect their rights.

These circumstances profoundly affect the implementation of important parts of the law. For example, the law requires that communities be consulted before authorities can allocate land rights to investors. On paper, community consultations are a negotiation platform that can pave the way to inclusive investments. But power imbalances mean that community voices are often neglected.

Equally, companies are often concerned about speed of the licensing process and about limiting costs, which might result in superficial treatment of consultation exercises. Government officials may have vested interests in investment projects – both as individuals, with concerns raised about corruption or at least low levels of professional ethics, and as public officers, particularly with regard to the policy imperative to attract revenues to finance the country's development aspirations. To address these problems, in 2012 Centro Terra Viva (CTV), a Mozambican environmental research and advocacy NGO, set up a legal department to provide support to rural communities. CTV's legal department initiated a paralegals support programme to provide technical and legal assistance to community paralegals, strengthen paralegals' integration in their respective communities, mobilise paralegals to support local communities in consultation exercises and help

paralegals to monitor investments. In effect, the programme established a linkage between urban-based, qualified lawyers and community paralegals, harnessing their respective complementary roles and responsibilities.

While CTV's paralegals support programme is at an early stage of implementation, this report distils some early lessons from its implementation.

2. Community paralegals as empowerment agents

Broadly speaking, community paralegals are people without high-level education who have received short-term, intensive training on legal issues. They come from, and reside within, local communities, and work on a voluntary basis to provide basic legal support to fellow community members, and where necessary to put them in touch with more qualified sources of advice and support.

The capacity and willingness to perform this role within the community is often a primary criterion for the selection of aspiring community paralegals. In addition, paralegals are typically selected based on their commitment to community issues and their integrity as recognised in their respective communities. Literacy and age may also be relevant factors, but they are not necessarily the main requirements for the selection of community paralegals.

In developing its paralegals support programme, CTV could build on several important advances. The Centre for Legal and Judiciary Training (CFJJ), a government institution originally created to train judges and public attorneys, trained a large number of community paralegals in different parts of the country. This activity formed part of a “Paralegals Training Programme”, which was implemented with the technical support of the Food and Agriculture Organization of the United Nations (FAO) and with financial support from the Dutch government and then from the Norwegian government.

The CFJJ programme aimed to promote awareness of land legislation through training community paralegals in rural areas. The trainings targeted diverse district and community-level actors including district government officers, community leaders and representatives of grassroots organisations. The programme ran for several years and ended in 2010. This situation provided a real opportunity for CTV to pick up the paralegals support work where CFJJ had left it.

Another consideration underlying CTV's paralegals support programme was the observation that urban-based, highly qualified lawyers alone were not able or even best placed to provide the kind of assistance needed by rural communities. This was partly due to the vast size of the country and the disproportion between the number of lawyers with relevant expertise on the one hand, and the quantity of communities in need of advice on the other. It was also due to the prohibitive costs involved in lawyers' interventions, including staff time and logistics. In addition, the advice and assistance needed by communities often does not require input from a qualified lawyer. Communities often need someone who can provide basic legal information about daily life issues. Qualified lawyers are mostly needed at

crucial moments of investment decision-making processes, such as community consultations, the negotiation of compensation or the drafting of community-investor partnership agreements.

Through the programme, CTV established partnerships with groups of community paralegals at the district and community levels, and provided legal information and support to communities affected by investment projects, particularly during the environmental permitting process and the land rights allocation process.

The approach is centred on linking mechanisms to develop and maintain a good technical knowledge base within communities, channels for ongoing communication between community paralegals and qualified lawyers, and a clear distribution of roles and responsibilities between the different partners to ensure mutual support and complementarity.

The initial step involved tracing the paralegals trained by CFJJ across the country and identifying who was still operating, where and what they were doing. This initial step also involved assessing how these paralegals were positioned within their communities, updating information on groups of paralegals previously trained, and including the information into a database. The CFJJ provided most of the information on the paralegals they trained. A working group including CFJJ, CTV and other institutions was established to coordinate discussions related to how best to recognise paralegals and formalise associations of paralegals.

The next key step was to train or re-train paralegals to ensure that their knowledge of the legal framework was up to date. In 2013, CTV re-trained 164 paralegals across all 10 provinces of Mozambique. CTV also identified and trained new paralegals not only in new communities, but also in the communities where CFJJ-trained paralegals had, for some reason, ceased to play their role.

The programme also supported the creation of paralegals associations at the community, district and provincial levels, in order to ensure reliable channels of communication and intervention among groups of paralegals, and between the paralegals and CTV.

CTV and the paralegals associations designed a joint work plan to clarify respective roles and responsibilities and ensure regular communication and joint interventions. Means of communication included phone calls through “green lines”, workshops, regional and national conferences, field visits and email. A “green line” (*linha verde*) commonly refers to a phone line that people can use to obtain information free of charge. In this case, CTV covers the costs of the calls. With regard to roles and responsibilities, CTV conducts technically demanding interventions, such as the drafting and submission of petitions and letters to central government institutions, the drafting of terms of reference for legal audits and review of audit reports, the organisation of media coverage, as well as the mobilisation of support from

other civil society organisations, both nationally and internationally. On the other hand, paralegals conduct daily and basic interventions, including information dissemination, collection of complaints from communities and basic legal assistance. CTV supported the paralegals in organising community sessions on legal issues in many districts. Until the end of 2014, the programme organised 340 community sessions attended by 5,750 people.

The paralegals worked as resource people for their communities. Combined with the additional level of assistance provided by CTV whenever necessary, this gave community members a sense of confidence in their interactions with the government and companies.

One example can illustrate the type of work carried out through the paralegals support programme. It concerns communities affected by a natural gas development project in the Palma district, Cabo Delgado province, in the north of Mozambique. In 2007, under a prospection license issued by the government, an American company discovered substantial amounts of natural gas in the Rovuma river basin, in the northern part of Mozambique. The company applied for the right to occupy about 25,000 hectares of land in the Afungi Peninsula, in the District of Palma. The company argued that the land was needed for the project infrastructures.

In 2012, the government issued a temporary land use right (*Direito do Uso e Aproveitamento da Terra*, DUAT) to the National Hydrocarbons Company (*Empresa Nacional de Hidrocarbonetos*, ENH). The DUAT covered an area of 7,000 hectares, and was then transferred to the American company. The Afungi Peninsula, integrated in the Palma-Sede administrative post, hosts 12 villages, and the DUAT covered land occupied by 3 villages, namely Quitupo, Maganja and Senga. One of the villages, Quitupo, with about 1500 families, has been scheduled for complete resettlement, as the DUAT completely overlaps with the area occupied by this village.

Affected communities, particularly in Quitupo, complained that the decision to resettle them had been taken without adequate consultation and without their consent. The communities complained that they did not understand how they had lost their land, why they had to be resettled and how they and their children were going to live and sustain themselves in the future without land nor access to the sea for fishing.

In order to help these communities have their voices heard in decision-making processes, a network involving CTV lawyers and local paralegals associations was created to facilitate the provision of legal support to the affected communities. The paralegals associations were the provincial paralegals association of Cabo Delgado (*Associação dos Paralegais de Cabo Delgado*, ASPACADE) and

the district-level paralegals association (*Associação dos Paralegais de Palma, ASPALMA*). The network also included community paralegals from Quitupo and Senga, including the sub-community of Patacuá.

Based on this partnership, CTV, ASPACADE and ASPALMA organised joint community sensitisation on land and environmental legislation and on procedures for land allocation to investments. They also trained community paralegals from the above-mentioned villages. They prepared communities for their meaningful participation in the community consultation meetings organised in the context of the process to issue the DUAT, the environmental permitting process and the resettlement authorisation process.

According to their specific roles and responsibilities and their geographical location, CTV, ASPACADE and ASPALMA organised interactions with community members, and with district, provincial and central level authorities. They also organised interactions with district-based and centrally-based company representatives to establish and maintain dialogue between the communities, the government and the company.

The paralegals intervention was accompanied by other actions at local and national levels. CTV and ASPACADE participated in central and provincial level public meetings, and mobilised a network of supporters from civil society to raise awareness about the case. CTV also produced information notes for the media, organised print and broadcast media coverage, and prepared appeals that were filed to the government. Between late 2014 and early 2015, CTV also supported an independent legal audit of the land allocation processes, which was then presented to the government through the Ministry for Land, Environment and Rural Development.

3. Outcomes and reflections

The work of the paralegals enabled communities to know their rights and be better equipped to participate in community consultations, in negotiations with investors, in the delimitation of their land and in the establishment of community-based organisations. The paralegals support programme has also enabled communities to receive timely legal assistance in the resolution of land-related disputes.

In the Palma district, the partnership between CTV, ASPACADE and ASPALMA led to important changes to the licensing process, as this was suspended, reorganised and conducted according to the legal procedures. In August 2013, the licensing process was halted, because the Quitupo community committee, which is chaired by a paralegal, refused to allow the company to continue its work until clarifications were provided on the land allocation process. The licensing process was halted again in March 2014, as the Minister for Land, Environment and Rural Development responded to appeals filed by the Quitupo community committee and by the Civil Society Platform for Natural Resources and Extractive Industries.

An important enabling factor has been the commitment and technical capacities of the partners involved. There was strong motivation from all sides and the differences in technical expertise were managed by strategically distributing responsibilities among the partners according to their capacities, expertise and geographical position. CTV focused on legal issues, for example preparing technical memorandums submitted both to the government and to the company. Community paralegals were instrumental in mobilising community members and associations. With the support of their paralegals, community members insisted that no further procedures would be undertaken until their demands were satisfied.

Also, the technical capacities of community paralegals enabled them to interact with both the company and the government, representing the interest of the villagers even in the absence of CTV. The paralegals were able to ask the right questions and demand answers using legal arguments. For example, the District Administrator was forced to organise community consultations according to the law, and to provide sufficient notice as well as background documents in the local language, after the community paralegals cited the provisions of the land law regulation each time a government officer would approach them.

A key aspect of the programme was the dissemination of information about the importance of legal knowledge and the key role that paralegals can play in rural areas. CTV undertook a campaign to raise awareness about these issues through the use of media. Strategic use of the media and the involvement of other civil

society organisations and the Mozambican Bar Association were also important ingredients.

Another important dimension relates to the formal recognition of paralegals, so as to increase the legitimacy of paralegals as an interlocutor for government authorities. In 2013, CTV organised the first national paralegals conference in Maputo. The main objective of the conference was to promote the recognition of paralegals. The meeting was attended by high-level government officers and by paralegals from all over the country. The conference reiterated the need for the provision of legal assistance in rural areas. The same conference also took place in 2014 and was personally attended by the Minister of Justice. While the issue of formal recognition is still under debate, the Minister of Justice recognised the important contribution that community paralegals are making to rural legal literacy.

Paralegals work, especially when in partnership with qualified lawyers, has significant potential for scalability in Mozambique, due to the high demand for legal assistance in rural areas. Pressure over rural lands keeps increasing due to public and private economic interests. The implementation of large-scale development projects will continue demanding land. Legal awareness and support is crucial for affected communities to be able to influence decision-making processes. For this reason, CTV continues to coordinate the movement for creation, training and support of paralegals associations. The ultimate target is to create paralegals associations in all provinces and districts of the country. Currently there are already 6 provincial associations (out of 10 provinces), but only 2 district associations, out of 130 districts. Given the scale of the challenge, scalability involves mobilising more civil society organisations to also contribute to paralegal education.

It is also worth mentioning some of the challenges faced by the paralegals support programme:

- Public interest advocacy requires personal motivation and commitment, which is rare among qualified and highly trained lawyers, and among paralegals as well. There are very few public interest advocacy organisations in the country with the capacity to do this work and maintain solid linkages with grassroots organisations and rural communities. This situation results in an extraordinary workload for the few active organisations.
- To be effective, advocacy work requires steady and flexible funding to allow lawyers to react in a timely and adequate manner and adapt. It also requires lawyers to be able to adjust their interventions to the specific circumstances they encounter, which might not be foreseen when annual work plans and budgets are designed and approved.

- On the community side, extreme poverty in rural areas has proven to be a constraint for paralegals work, not least because paralegals also need to secure an income to cover their basic personal and family needs. Working on a voluntary basis and resisting pressures from government and companies is not always easy. Paralegals do not yet enjoy recognition as legitimate activists. Government officers often oppose their activity, especially when there is tension between communities and companies. Some lawyers have also voiced opposition, claiming that paralegals are potential and informal competitors to their work. This claim seems unfounded since these paralegals have, by nature, very clear limits in their interventions. In fact, the work of paralegals could actually pave the way for lawyers to intervene in rural areas where they are currently not present. For example, after the work that paralegals did in Quitupo and other villages to monitor a socio-economic census undertaken by the company, a space has been opened for lawyers to intervene and help families to negotiate and close compensation packages with the companies. Since this legal work is paid by the companies, there is room for both lawyers and paralegals.
- The knowledge gap about legal norms and procedures represents a big burden for organisations that work with community paralegals. Since academic background is not a criterion for paralegals selection, a group of paralegals may include people that are totally illiterate. This situation represents a constraint that cannot be ignored and requires lawyers to double their efforts. To make matters more complicated, the geographical distance that usually separates urban-based lawyers and paralegals operating in rural communities can result in irregular and even sporadic support, which can jeopardise the speed and effectiveness of the effort.
- The work of both qualified public interest lawyers and community paralegals is impaired by a lack of long-term and sufficient funding, which makes it very difficult to organise reliable and consistent interaction among the partners. As a result, it might not be possible to attend some important events, some processes might be left unfinished, and some issues may only be superficially addressed. In this context, it is crucial that paralegals' work is well understood by the communities they belong to. Communities must understand the role of paralegals, since the financial viability of paralegals schemes may in the longer run depends on their communities contributing minimum funds to cover basic expenses such as transport and communications. When external funding is available, it is important to discuss carefully the mechanisms for providing it. In some cases it might be better that such funds are channelled through community committees and not directly given to paralegals, who might otherwise be confused as workers of the funding entity or might misinterpret their own position and assume that they are not accountable to communities. On the other hand, community committees

must also be well prepared to manage funds before receiving them. While absence of money represents a serious constraint, the presence of money without preparation may quickly become a source of division and conflict within communities.

While there is room for improvement and scope for addressing these challenges, it is clear that the strategy of linking urban-based, qualified lawyers with informed and active citizens at the community level is a key avenue for addressing injustices and power imbalances, and for promoting legal awareness and law implementation in rural areas.

Community-based advocacy: Lessons from a natural gas project in Mozambique

Mozambique has become a hot spot in the global rush for land in the last decade. Growing investments in sectors such as mining, hydrocarbons, forest plantations and industrial agriculture most often target rural land held by local communities under customary law, and conflicts between communities and investors often arise.

Existing laws regulating land are poorly implemented and enforced, which is due to the power imbalances existing between the government, companies and local communities. Rural citizens' illiteracy – especially legal illiteracy – and lack of capacity to use the law and judicial mechanisms to protect their rights, put them in a weak position, including during community consultations for land attributions conducted by the government and companies.

In the District of Palma, Cabo Delgado Province, where a natural gas project is increasing pressures on community lands, Centro Terra Viva (CTV) and community paralegals are providing legal assistance to rural communities. This paper discusses the lessons learned from the use of paralegals as a tool for community-based advocacy, the challenges encountered as well as the constraints and opportunities for scalability and sustainability. The paper finds that, while there is room for improvement, the strategy of linking urban-based and qualified lawyers with informed and active citizens at the community level can make a difference in the way decisions to allocate rural lands for investors are taken and reduce injustices in land governance.

ISBN: 978-1-78431-264-0

IIED order no.: 12585IIED



Knowledge
Products

Research Report

October 2015

**Law, Land acquisitions
and rights**

Keywords:

Legal tools, Citizen action, land rights, paralegals, Mozambique

