TREE PLANTATIONS IN NIASSA PROVINCE, MOZAMBIQUE

Case Dossier
October 2012


Published by IGO for the Hands off the Land Alliance

The *Hands off the Land* project aims to raise awareness about land grabbing amongst the European public, politicians, policy makers, students and professionals. The project presents case documentation, fact sheets and thematic studies of transnational land grabs in Mali, Mozambique, Zambia, Colombia and Cambodia.

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Tree Plantations in Niassa Province, Mozambique

Current situation in Mozambique
Mozambique is one of the poorest countries in the world, mainly as a result of its colonial past and a war that scourged the country for years. Although over the last few years the country’s economy has recorded growth, its budget still depends on external funds. Approximately 50% of the population still live on less than one dollar per day and do not have any access to drinkable water, education and medical care.

Only 4.5% of Mozambique’s territory constitute arable lands out of which 2.75 % are irrigated. The territorial ownership structure is dominated by small, family-run farms, which account for 95% of all arable lands. The development of Mozambique is bound up with the agricultural sector, 80% of the population dependent upon it as their main source of income. Nevertheless, due to the low efficiency of family-run farms, as well as floods and droughts hitting the country, nearly 60% of farmers are living below the poverty line.

Large-scale land acquisitions
Since the end of the civil war, in 1992, Mozambique has been provided with foreign aid. At the same time, international financial institutions began to impose structural reforms, leading to privatization and liberalization of the market, including cuts in government expenditure.

After 2000, a significant increase in foreign investments has been noticed. In 2006, the Agricultural Promotion Center was established, whose mission was to promote large-scale agricultural investments in Mozambique. Substantially low prices of land, concessions and even lower taxes have been considered the greatest incentive for investments.

According to the World Bank’s data, large-scale acquisition of land have covered 2.7 mln ha, out of which 53% have been from national investors while the remaining 47% from foreign investors. Nevertheless, it is difficult to obtain precise data relating to large land acquisitions, since in Mozambique there is no public registry of business transactions and most contracts between investors and government have been kept secret.

Most of the currently realized large-scale land acquisitions is connected with sugar cane production, coal mines and tree farms.

Forest projects
Forests comprise over half of Mozambique’s territory, that is approximately 40 mln ha. It was under colonial rule when Portugal encouraged the exploitation of native forests and started eucalyptus and pine plantations. In 1975, once the country’s independence was declared, exotic tree plantations comprised 40,000 ha. Due to market privatization and liberalization promoted by the World Bank and International Monetary Fund, in 2010 plantations occupied as much as 62,000 ha.

The growth in tree farm investments has been noticeable all over the world, especially in Africa, Asia and Latin America. According to the United Nations Food and Agriculture Organization, between 1990 and 2012 plantation’s increased from 95 to 153 mln ha.

In 2006, the Mozambique Ministry for Agriculture presented a document, which stated that Mozambique had 36 mln ha in arable lands, out of which only 14 mln ha is currently under cultivation. According to the Ministry, 15 mln ha would be enough to produce a sufficient amount of food to satisfy the country’s needs. Therefore, the remaining 21 mln ha could be utilised for other purposes, including tree farms.

The document justifies in various ways tree farm plantations. First of all, the document highlights the increased world demand for wood (the paper-making and chemical industries). Secondly, Mozambique, and in particular its central and northern provinces, represent ideal climatic conditions, facilitating the development of tree farms. They can also contribute to the protection and preservation of a sensitive ecosystem. Another argument is the prevention of the effects of global climatic changes by reducing carbon dioxide emissions. According to the Ministry’s assumptions, the tree farms may create new and permanent jobs.

Local liabilities
The Constitution of Mozambique of 2004 defined the land as the property of the country. The inhabitants could not sell the land, but they have a right to exploitation and related profits.

The three groups are entitled to land exploitation:

- individual entities and communities, who originally occupied the land, under the assumption that they do not violate the Constitution;
- individual entities, who have exploited the land for at least 10 years, acting in good faith;
- other groups and individual entities, who can apply for the right to land exploitation.

Additionally, Mozambique’s law provides for precise criteria, determining the land tenure in relation to private investments. One of the criteria include consultation with the local community, in order to confirm that a given land is neither exploited nor occupied by any community.
International liabilities

Article 18 of the Constitution of Mozambique states that international conventions and treaties bear the same status as local law.

Mozambique, as a member of the United Nations is party to the Universal Declaration of Human Rights (UDHR) - which comprises the right for every human being to have an adequate standard of living, including the right to food – and the following human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)

Mozambique has also ratified some conventions of the International Labour Organization (ILO).

On the regional level, Mozambique is a party to:

1. African Charter on Human and People’s Rights

It is important to mention extraterritorial liabilities of the countries in reference to the observance of human rights. Extraterritorial liabilities relate to the country’s activities and non-feasances, on or outside its territory, what has an impact on exercising one’s human rights outside the territory of a given country. These liabilities have been recently specified in the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights.

Chikweti Forests of Niassa

Currently, six forestry companies are operating in Niassa province, in the North of Mozambique. One of them is Chikweti Forests of Niassa. The company is a subsidiary of Global Solidarity Forest Fund (GSFF), a Swedish-based investment fund focused on the forestry sector in Mozambique. According to the GSFF, the fund develops projects that provide returns to its investors and at the same time promotes community development and environmental integrity" and it was created to invest responsibly, contributing to social development and poverty alleviation in Mozambique.” The fund was established in 2006 by the Diocese of Västerås (Sweden), and the national Norwegian church endowment (Opplysningsvesenets fond, OVF). The biggest shareholder of GSFF is a Dutch pension fund called Stichting Pensioenfonds ABP (with 54.5 %), amongst other investors are: the Diocese of Västerås, OVF, Norwegian Lutheran church and others.

Chikweti Forests of Niassa is the oldest and largest investment of GSFF, managing a total of 140,000 hectares in the Niassa province, planting fast growing tree species, such as pine and eucalyptus, on 68,500 hectares. The remaining area is supposed to be set aside or responsibly managed in order to protect the native ecosystems. At the same time, the plantations are aimed to provide so called „ecosystem services”, such as trades in shares in carbon sequestration, biodiversity and conservation. Besides, the company aims at Forest Stewardship Council (FSC) certification, to confirm it is not only economically viable, but also socially acceptable and ecologically sound. The company states that all the production is to be sold locally and regionally, but other sources, such as investigations by Mozambican organisations Justiça Ambiental and UNAC, show that in the medium to long term, the project will provide raw material for paper production in Asia and Europe.

The land on which the company is operating has been leased from the government for the period of 50 years with a possibility of prolonging for another 50 years.

Impacts – why are there complaints?

Chikweti Forests of Niassa started operating in the province in 2005. The establishment of the company was facilitated by Malonda Foundation – a private entity, which arose from the cooperation of the Swedish and Mozambican governments to promote the development of the private sector in Niassa, alleviating poverty in the region.

The size of the land the company actually holds is not clear, varying according to different sources. The access to precise information about the actual number and size of DUAT titles (right to use the land) is limited and the authorities are reluctant to provide it. The Provincial Geography and Cadastre Service (Serviço Provincial de Geografia e Cadastro) mentioned the company holds DUAT titles for 51,000 hectares in the Districts of Lago, Lichinga and Sanga, of which only around 13,000 hectares has been planted.

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while the company gives different data: 45,371 hectares applied for, and 35,430 hectares holding a preliminary DUAT title, of which 13,454 hectares are already planted. Current plantations consist mostly of pine trees and a number of eucalyptus, but new information indicates that there is a shift towards only eucalyptus plantations.

In all the districts where the company operates, namely Lago, Lichinga and Sanga, the principal activity of the population is subsistence agriculture, with additional livestock keeping, hunting and fishing.

It has to be mentioned that from the very beginning of the establishment of the tree plantations there have been complaints from the local communities, resulting in some cases with open conflict and resistance. The main reasons for complaints from the local communities are: the loss of access to land by local peasant communities, unsatisfactory working conditions and the number of jobs created by the company. Other concerns related to the implementation of the forestry project are: the possible impact on the availability and the quality of water and environmental impacts, ranging from the destruction of ecosystems to loss of biodiversity and impact on soils.

Loss of access to land and forests

Chikweti is supposed to manage only marginal, idle lands. However, community members claim the company has invaded productive agricultural lands they were using for food production. In other cases, people feel obliged to leave their land, due to the fact that the plantations are situated close to their fields (called machambas) and houses, or in some cases their plots are surrounded by the plantations. The communities claim that even though they have ceded parts of their lands to the company, the plantations were expanded beyond this area. Consequently, there have been cases of open conflict, such as a local uprising in April 2011 in Licole and Lipende where approximately 60,000 pine trees were cut down and equipment was destroyed by the peasants. An investigation conducted by the Mozambican Ministry of Agriculture (MINAG) and the National Directorate of Lands and Forests (DNTF) in September 2010 confirmed the accusations, stating that while at this period the company legally hold the DUAT titles for 30,000 hectares, another 32,000 hectares were occupied illegally. Additionally, productive farmland as well as local pastures were invaded by the plantations. What’s more, some of the operations run by the company were started before obtaining DUAT titles or conducting consultations with local communities, as required by Mozambican law. Chikweti, however, does not consider these practices illegal.

Due to their planting trees in a neighbourhood close to the villages, the farmers feel themselves obliged to farm on fields much more distant from their homes. As a result, they often have to spend hours to reach their plots. In some cases, they abandon their households in fear of their homes being destroyed.

Furthermore, access to food and other means of subsistence has been reduced by the loss of access to the forests. The forests were traditionally the source of firewood to cook, wood to produce charcoal, construction material, fruit and medicinal plants. Access to these resources is now confined, on the one hand due to the denial of access to the plantations to collect firewood, and on the other because the native forests have been cut down.

Plans for a significant increase of the land managed by the company - up to 140,000 hectares, together with the plans of the provincial government to cede 600,000 hectares to the forest companies in the long term, mean that the loss of access to land and forest for the peasant communities in Niassa is likely to increase. Considering that the rural population in Niassa is dependent on resources such as land, water and forests for their food production, even partial loss of access to these resources deteriorate their direct availability of food, making them dependent on food aid, market or other distribution systems. Therefore, secure access to and use of land and water is a precondition for their enjoyment of the right to food.

Working conditions in Chikweti plantations

The creation of jobs and new sources of income for Niassa inhabitants was seen as one of the biggest merits of the investment. Yet, the community members, amongst them plantation workers, complain the promises made were not fulfilled. Their complaints range from delayed payments to the incompatibility of work on the plantations with traditional customs, with complex procedures that hinder the workers from taking sick leave or holidays. Besides this, discontent stems from the lower number of job positions created than expected and recent discussions. In addition, it appears a large number of workers are employed only on short-term contracts, especially during the planting period, which overlaps the beginning of the agricultural season. Consequently, the workers neglect their fields. Finally, low wages are a considerable concern, as the salaries are insufficient to compensate for lost production on their own subsistence farms.
Nevertheless, the company claims it acts in full compliance with Mozambican law. It objects to the accusations of delayed payments, alleges the workers have a high rate of absence and explains the lower number of jobs on the insecurity of land tenure.

Impacts of water availability and environment

Two other aspects should be considered while evaluating the Chikweti project’s impact, namely the availability and quality of the water and the environmental impacts, ranging from the destruction of ecosystems to loss of biodiversity and impact on soils. Although these are not the main concerns of the community members at the moment, various studies show such plantations can have a major impact.

There is usually enough rainfall for rainfed agriculture in Niassa, but access to safe drinking water is limited. It has to be considered that the species planted on the plantations – eucalyptus and pine are fast-growing trees with high water use, particularly when planted with good access to water, close to water streams. The tree plantations can, consequently, possess a threat to the water availability, a situation that has already been documented regarding other industrial tree plantations, thereby impairing the right to water of the peasant communities.

When it comes to the environmental impacts, the greatest accusation is related to the cutting down of the native forests in order to establish a plantation, a fact that was confirmed by the investigation carried out by DNTF and the Ministry of Agriculture. This leads to the irreversible destruction of the vegetal and animal ecosystems, causing loss of biodiversity. In addition, the monoculture plantations of eucalyptus and pine trees are known to have a negative impact on soils, causing loss of organic matter and increased acidity. Furthermore, the frequent thinning and harvesting can induce an increase in erosion. Moreover, monoculture tree plantations often apply the use of fertilizers and pesticides, and any potential contamination of water and soils would also affect the local communities. In the mid and long term, the negative environmental impacts, together with the impact on water availability, can put at risk peasant farmers’ activities, impairing the right to adequate food of the rural population. It is worrying that according to the DNTF/MINAG investigation the company started operating their project without having an environmental licence. Chikweti rejects these accusations, claiming it now has a valid licence and that a prior environmental impact assessment had been made.

Consultation of local communities

According to Mozambican law, before a company can obtain a DUAT title, consultations with the affected communities have to be carried out by local authorities. The complaints about the non-fulfilment of promises show that consultations were not carried out properly in the case of the Chikweti project. In fact, the consultations were done by the company itself and not the authorities. Also, not all of the communities were consulted. Where the consultations indeed took place, it was not done as required and adequate participation of communities was not ensured. The case of briberies and promises of giving jobs to the community leaders for their approval of ceding the community lands led to conflicts between the leader and the community. What’s more, the communities do not have any written documentation about the agreements made with the company during the consultations, which makes it difficult to prove under which conditions the land was ceded to the company and impedes them from claiming adherence to the agreements made. All in all, this shows that the community members are too often not aware of their rights and lack the knowledge of basic concepts, such as the size of one hectare, which would enable them to negotiate on equal terms with the investors.

Individuals and communities affected by investment projects, under Mozambican legislation and international human rights law, have the right to information and should be supported to participate in decision-making processes that ensure their “active, free, effective, meaningful and informed participation”. However, in this case the consultations did not guarantee these rights.

Human rights analysis

The introduction of large scale tree plantations in the districts of Lago, Sanga and Lichinga have had a considerable negative impact on the enjoyment of human rights of the rural population. Firstly, the loss of access to land, water and forests, impedes the food production of the local population, impairing the right to adequate food. Furthermore, the fact that some of the populations were forced to move onto lands of lesser quality and remote areas, together with the mid- and long term environmental impacts on the soil fertility, water availability and quality and agro-biodiversity, additionally threatens the right to food and right to water of the rural populations. Secondly, the Mozambican state has failed to respect and protect the customary tenure rights of rural communities, granting DUATs to private enterprises on densely populated areas where the communities had existing rights. Apart from
that, Chikweti has also invaded some of the communities’ lands without having DUATs. Still, no effective measures were taken to restitute illegally occupied lands or revise the DUATs. Thirdly, even though Mozambican law establishes that rural communities have to be consulted and have the right to information, before granting DUATs to private investors, there had been no adequate consultation of all the affected communities before the establishment of the tree plantations run by Chikweti. The communities were not sufficiently informed, and their effective participation, as specified in the FAO Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (3b6), was not ensured by the Mozambican state. Finally, even though the government has confirmed the violations of human rights of the rural communities, it maintains the support of large-scale forestry projects instead of alternative models of production and investment, that strengthens smallholders as recommended in the FAO Tenure Guidelines (par. 12.2 and 12.6). It has to be underlined that under international human rights law, the Mozambican state must respect and protect the right of the rural population to feed themselves, particularly by supporting sustainable food systems that are under the control of the small-scale farmers, in order to guarantee the realization of the right to adequate food.

The acts and omissions of a State, within or beyond its territory, that have an effect on the enjoyment of human rights outside of that State’s territory, fall under the State’s extraterritorial human rights obligations, as specified in ETO Maastricht Principle 8. A State has obligations to respect, protect and fulfill economic, social and cultural rights if its’ acts or omissions have effects on them (within and outside its territory). To sum up, Sweden’s extraterritorial obligations are involved due to the fact that: a) it is the promoter and first source of finance for this business model through Sida, b) it is the home State of GSFF, c) it is the home state to investors in GSFF. This is why it is obliged to desist from acts and omissions that nullify or impair the enjoyment of economic, social and cultural rights extraterritorially and should take measures to regulate GSFF to respect and protect the land rights and the human rights of the peasants. Also, other home States of investors to the GSFF, are obliged to take necessary steps to to ensure the investors do not nullify or impair human rights.

Recommendations

To Mozambique

• Ensure that lands that have been illegally occupied by Chikweti in the districts of Lago, Lichinga and Sanga are returned to the families/communities

• Make accessible all relevant documents to the public (in accordance with Mozambican law), including the DUATs (attributed and in process) and the studies on impact assessments

• Revise all DUATs granted to Chikweti; assess, in particular, whether all DUATs have been granted according to Mozambican law and investigate if the company is only operating on lands for which it holds DUAT titles

• Guarantee areas for peasant farming and food production in each district and province in the country. Strongly support peasant food production. Support agro-forestry policies or sustainable use of forests by peasants and reforestation by the communities

• Revise Mozambican investment policies, taking into account the provisions of the FAO Tenure Guidelines related to investments

To Sweden

• Conduct a human rights impact assessment of the forest policy promoted by the Swedish ODA in Mozambique

• Adopt effective measures to ensure the cessation of violations of land rights and the right to food in Niassa as well as effective remedies
Tree Plantations in Niassa Province, Mozambique

- Regulate GSFF and disclose all relevant information about its investment and freeze further expansion as long as existing conflicts in Niassa have not been resolved.

- Introduce monitoring mechanisms in your embassies to track TNC activities and to receive complaints of local human rights defenders related to violation of legitimate tenure rights and human rights. This monitoring mechanism could be build upon the EU Guidelines on Human Rights Defenders.

To the home States of investors in the GSFF:

- Introduce a complaint mechanism to investigate human rights abuses of TNCs and other business enterprises.

- Introduce monitoring mechanisms in the respective embassies to track TNC activities – particularly in food insecure countries – and to receive complaints of local human rights defenders related to violations of legitimate tenure rights and human rights.

- Introduce a reporting duty of companies and investors on activities that may affect human rights abroad and request reports of the host states on the records of investors/companies abiding by local legislation. Make domestic law (criminal or civil) applicable to extraterritorial human rights abuses (on the bases of companies and directors) and give foreign victims standing in national courts.

- Cooperate with Sweden to ensure that GSFF stops impairing the enjoyment of the economic, social and cultural rights of the affected communities.

- Make sure that the respective investors disinvest from GSFF in case the protection of the rights of affected persons in Niassa cannot be reached by Sweden regulating GSFF or if Sweden does not take the necessary steps.

What you can do about it?

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Join us and support the protection of people’s economic, social, cultural and environmental rights in the countries where land grabbing takes place:

- Go to the website of the organisation in your country and find out more about this case – read the full report.

- Check upcoming events, actions – participate and tell your friends about them.

- Take action and participate in our letter campaign - send a letter to the Swedish government, urging them to act.

If you want to stay informed sign up for the mailing list on land grabbing by sending an e-mail to the organisation in your country.

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TAKE ACTION AGAINST LAND GRABBING