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Abstract

Rather than treating global farmland acquisitions as a top-down phenomenon driven entirely by global markets, this paper instead highlights the crucial mediating role played by national-level land politics and domestic elites using material drawn from interviews with government officials, investors, and civil society organizations in Mozambique. I first describe, in broad strokes, the current wave of large-scale foreign land acquisitions in Mozambique. Next I describe the domestic institutional context within which this foreign demand for land has been inserted. I focus on the national Land Law and the extent of unofficial “land markets” as two institutions which particularly mediate the effects of foreign farmland demand on rural communities. In the section that follows, I argue that domestic elites also play an important role. Local- and district-level elites may position themselves as intermediaries in foreign land acquisitions or grab land themselves in response to increased external demand. However, this lower-level opportunism is linked to and implicitly sanctioned by a broader approach to land governance within the ruling party, Frelimo, in which community land rights are often seen as an impediment to progress. I conclude that describing land grabs as “neo-colonialism” may obscure a highly complicated chain of causation in which local and national elites benefit from international investment in return for their role in facilitating the expropriation of peasant lands.

Introduction

The two sides of the generally polarized debate over global “land grabbing” have at least one thing in common: both tend to portray it as a fundamentally top-down phenomenon. Though one side sees large-scale farmland investment as a form of neo-colonialism and the other as a potential boon for investment-starved developing countries, they are largely united in the view of land acquisitions as an impact of the foreign upon the domestic. The favored narrative among opponents features a cast of characters which includes the panicky foreign government bent on safeguarding its food security at any cost and the rapacious global investor blind to anything but the bottom line. This narrative tends to gloss over the complicity of host country elites and the mess of actors and motivations which appears when domestic institutions are brought into focus. In this paper I examine the crucial mediating role played by national-level institutions and domestic elites in determining the “actually existing” outcomes of farmland investment through a case study of Mozambique. In doing so I in no way wish to minimize the importance of the panicky foreign government or the rapacious investor but rather to relegate them to the wings for a while as I explore the ways in which host country institutions and class structure may filter and amplify their impact. Overall, this paper aims to

muddy the waters of the debate over “foreign farmland grabbing” by calling into question the centrality of the foreigner.

It is undeniable that Mozambique has experienced an astonishing increase in foreign demand for farmland. Between January 2004 and June 2009, Mozambique transferred 2.67 million ha of land to investors in a giveaway that was second only to Sudan’s (Deininger and Byerlee 2010). About half of this land went to foreign-owned projects, primarily for timber and biofuels (Deininger and Byerlee 2010).¹ These large land concessions are unsettling because Mozambique’s food security situation is already precarious. Approximately 35% of Mozambican households are chronically food insecure and 41% of all children below the age of five are malnourished (FIAN 2010). In September of 2010, Maputo and its suburb Matola erupted into protests over the price of bread which left over a dozen people dead and hit home the vulnerability of the Mozambican population to hunger (MacFarquhar 2010).

In this paper I seek to contextualize increased foreign interest in Mozambican land by examining how domestic institutions and elites may act as a filter which determines its ultimate form and the extent of its impact on rural communities. To do so, I draw from eight weeks of preliminary dissertation research in Mozambique during September and October of 2010. I conducted over twenty interviews with key stakeholders in the farmland acquisition process, ranging from government officials to executives at farm operation companies to activists involved in resisting land acquisitions. Among government officials, interviews were with administrators at the offices of Provincial Services of Geography and Cadastre (SPGC) of Zambézia and Nampula, the national Center for the Promotion of Investment (CPI) and national Center for the Promotion of Agriculture (CEPAGRI), as well as officials from donor countries involved in helping to determine Mozambican agricultural policies. In the category of farm company executives, I interviewed administrators at two of the companies that have received some of the largest farmland concessions. In the category of civil society, I interviewed members of the Rural Association for Mutual Support (ORAM) and the National Peasant Union (UNAC) as well as independent land tenure consultants. Most interviews were recorded and all interview participants were granted anonymity. I also draw from studies conducted by other organizations including the Food and Agriculture Organization of the UN (FAO), the Center for Judicial and Juridical Formation (CFJJ), and the development research center Cruzeiro do Sul. Finally, for data on existing land acquisitions, I supplement scanty publically available records of acquisitions over 10,000 ha (Albino 2010) with data gathered by the environmental organization Justiça Ambiental through exhaustive fieldwork. This data includes 76 projects identified through site visits.

The following section contains an overview of “foreign farmland grabbing” in Mozambique. Next I describe the domestic institutional framework for land governance, including both legal and decidedly extralegal aspects. I then examine the points of possible articulation between foreign investors and domestic elites. I argue that widespread corruption at the local and district levels is linked to a broader approach to land governance pursued by some within the national government, in which community land rights are seen as an impediment to progress. Finally, I conclude that describing land grabs as “neo-colonialism” may obscure the actual mechanisms through which they occur. Rather than foreign companies

¹ There have also been several large land concessions for mining projects which I will not examine in this paper.

simply praying on guileless and penniless developing countries, domestic elites may facilitate the expropriation of peasant lands in pursuit of their own class interests.

The emphasis of this paper on elite rent-seeking and other negative aspects of Mozambican land governance should not be taken as a characterization of all government officials who deal with land policy or of all Mozambicans involved in agribusiness. In fact, this could not be further from the truth. Even during my short period of fieldwork I met many kind and passionate people who face the daily challenges of Mozambican land governance with enthusiasm and good humor. Hanlon and Smart (2008), drawing from the work of Evans (1989), argue that the ruling party, Frelimo, includes both a “predatory group” of corrupt elites who use their political power for personal gain and a “developmental group” which is genuinely and honestly working for national development. As foreign investors continue to acquire Mozambican land over the years to come, they will inevitably come into contact with both of these groups. Both groups will therefore have the ability to shape the outcome of foreign investment. Indeed, some government officials, along with Mozambican NGOs and donors, are already working to nudge foreign investment in land in directions that will be more positive for rural communities.

Foreign investors, Mozambican land

Mozambique has experienced an enormous increase in investor demand for its land over the last few years. According to the World Bank study, *Rising Global Interest in Farmland* (Deininger and Byerlee 2010), over the period from January 2004 to June 2009, Mozambique transferred at least 2.67 million ha of farmland to investors for 405 investment projects. These figures are likely to be underestimates because the World Bank only had access to data on the acquisitions of 1,000 ha or larger. Just under half of this land area (47%) was allocated to foreign investors, while the rest went to Mozambican investors. The size distribution of land acquisitions was skewed, with many smaller projects of a couple of thousand hectares and a few enormous ones of tens or hundreds of thousands of hectares.² A 2009 audit of a sample of these projects found that over half of them were either lagging behind their development plan or had not yet begun implementation at all (Deininger and Byerlee 2010).

This increase in investment is due in part to the global conditions which have stimulated farmland investment everywhere and in part to a concerted effort by the Mozambican government to attract foreign investors. The government has made a particularly strong push in the area of biofuel production, promoting itself as the fueling station of Africa, willing and able to supply Europe’s biofuel needs. Mozambican president Armando Guebuza actively promoted jatropha production during presidential rallies in 2007 (Ribeiro and Matavel 2010), and the country’s 2007 Rural Development Strategy contained an objective on the promotion of biofuels.³ However, in 2007 the government also placed a moratorium on new concessions for biofuels because it was receiving so many requests for land. In 2009, after conducting an assessment of Mozambique’s biofuels potential and a preliminary national agrarian zoning, the

² The size of projects also differed by investor origin. The median investment size was 1,500 ha overall, 1,000 for domestic investors, and 3,500 for foreign investors (Deininger and Byerlee 2010).

³ Strategic Objective 4.

government published the National Policy and Strategy for Biofuels⁴ (CIP 2011, Nhantumbo and Salomão 2010) which attempts to strike a balance between attracting investment and protecting domestic food security. The government is also engaged in promoting investment more broadly. In 2009, the Assembly of the Republic approved a new Code of Fiscal Benefits⁵ in addition to its existing Law on Investment.⁶ The Code provides a wide range of financial incentives including an exemption on value added tax for imports of production equipment⁷ and corporate income tax deductions for projects that use sophisticated technology, train Mozambican workers, contribute to public infrastructure, or are located in the “Rapid Development Zones”, which include much of the best agricultural land in the country⁸. In addition to the national Investment Promotion Center (CPI), the government established the Agribusiness Promotion Center (CEPAGRI) in 2006 to facilitate and monitor agricultural investment. In general, the Mozambican government wants to convey to investors that it is “open for business”.

Mozambican agriculture has received a lot of foreign investment over the last few years, but not necessarily from the actors that have been subject to the most media scrutiny. According to a spate of articles in the international media, China was purported to have designs on Mozambican farmland. The claims about China’s intentions included an investment of \$800 million in Mozambican agricultural modernization and the arrival of 10,000 Chinese settlers (see for instance Horta 2008 and Rubinstein 2009). However, these claims turned out to be bottomless (CIP 2011). Chinese interests certainly provide some stimulus for land grabbing - Catherine MacKenzie (2006), for instance, explores the connection between Chinese shipping companies and the Mozambican elites who grab forested land to supply them with raw logs – but their involvement is generally indirect. Brazil, like China, has received media attention for its Mozambican investments and development assistance (Maidment 2010, Takada 2010), but for the time being at least Brazilian companies are not among the more avid acquirers of Mozambican land.

In fact, the companies that have been grabbing up the largest tracts of Mozambican land are not Chinese, but Swedish, Norwegian, British, South African, and Portuguese (see Figure 1); or in other words, former regional colonial powers and current major donors, with the notable exception of the Dutch. To a lesser extent, American, Canadian, Zimbabwean (e.g. Rei do Agro, which was granted 1,000 ha in Zambézia for cattle), Italian (e.g. JOB Investments, which requested 130,000 ha in Zambézia for biofuel production), German (e.g. Elaion Africa, which has 1,000 ha in Sofala for jatropha), and Indian (e.g. Mozambique Holding Lda., which is en route to approval for 20,000 ha in Zambézia for sugarcane; Odeveza which has 18,600 ha in Manica for jatropha; and Tata Chemical which has just acquired Grown Energy Zambezi, the South African biofuel project listed in Figure 1 (Economic Times 2010)) companies are also involved.

⁴ Resolution N^o. 22/2009 of March 24.

⁵ *Código dos Benefícios Fiscais* (Law N^o. 4/2009 of January 12).

⁶ *Lei de Investimentos* (Law N^o. 3/93 of June 24) and its accompanying regulation, *Regulamento da Lei de Investimentos* (Decree N^o. 43/2009 of August 21).

⁷ Article 14.

⁸ Articles 17, 18, and 22, and 39-44, respectively.

At least nine of Mozambique’s ten provinces⁹ have received foreign interest in agricultural land, although the concessions have not been distributed equally across the country. The most desirable region for investment is probably the Zambezi River Valley, which runs through the middle of the country and includes some of its most fertile soils. It encompasses the southern portions of Zambézia and Tete provinces and northern portions of Sofala and Manica. Another popular region is the area of Sofala and Manica provinces known as the Beira Corridor, which boasts both a road and a rail line running from the interior to the coast. Jatropha, because it is promoted as a very hardy crop which can tolerate difficult growing conditions, including inconsistent rainfall, has been encouraged in the drier, less fertile Southern region. There are therefore quite a few jatropha projects in Maputo, Inhambane, and Gaza provinces. Forestry plantations, on the other hand, are concentrated in the northern provinces of Niassa, Nampula, and Zambézia.

	Name	Province	Purpose	Investor Origin	Area (ha)
Fuel	SEKAB	Cabo Delgado	Sugarcane	Sweden	150,000?
	Aviam	Nampula	Jatropha	Italy	15,050
	Grown Energy Zambeze*	Sofala	Sugarcane	S. Africa	15,000
	Enerterra*	Sofala	Jatropha	Portugal	18,508
	Principle Energy*	Manica	Sugarcane	UK	18,000
	Sun Biofuels	Manica	Jatropha	UK	6,000?
	ESV Bio Africa	Inhambane	Jatropha	UK	31,000
	Energem	Gaza	Jatropha	Canada	60,000
Timber	Malonda	Niassa	Eucalyptus, pine	Sweden	220,000
	Chikweti	Niassa	Eucalyptus, pine	Sweden	100,000
	Florestas de Niassa	Niassa	Eucalyptus, pine	Finland	210,000
	New Forests	Niassa	Eucalyptus, pine	UK	40,000
	Lurio Green Resources*	Nampula	Eucalyptus, acacia	Norway	126,000
	Portucel*	Zambézia	Eucalyptus	Portugal	173,327
	Tectona Forests	Zambézia	Teak	America	35,000
	Ntacua	Zambézia	Eucalyptus, pine	America	35,000
	Sappi	Zambézia	Eucalyptus	S. Africa	150,000
Food	Quifel Agrícola*	Zambézia	Oilseeds	Portugal	10,000
	Madal	Zambézia	Coconuts, oilseeds, other	Norway	57,000

Figure 1: A sample of reported large-scale land acquisitions/requests in Mozambique. * = Data made public by Mozambican government (Albino 2010). Otherwise concessions are only reported and may not be finalized (sources include Nhantumbo and Salomão 2010, Overbeek 2010, Ribeiro and Matavel 2010, CIP 2011, and fieldwork by Justiça Ambiental). These projects were selected because they are relatively well-known. However, reports on foreign land acquisitions are often conflicting and may be in correct.

⁹ In fact Mozambique has eleven provinces because the capital city of Maputo has provincial status. The one province which does not appear to have any major agricultural land concessions is Tete. Tete has, however, had major mining concessions.

With the heavy government support it is not surprising that many of the new land acquisitions have been for production of sugarcane and jatropha for biofuels. These investments have received much critical attention from NGOs. A report by UNAC and Justiça Ambiental found that jatropha was less suited to marginal land than had been promised and that jatropha plantations were therefore likely to fail or encroach on the higher quality land used to grow food crops (Ribeiro and Matavel 2010). Several people I interviewed suggested that jatropha had been the craze among investors in the mid-2000s, but that many new investors were putting their money into timber plantations instead. In fact some companies, such as Elaion Africa, have actually converted from jatropha to plantation forestry on the same land (Nhantumbo and Salomão 2010). There was also the highly public failure of the Procana project, run by the British firm CAMEC, which received a concession of 30,000 ha in Gaza to grow sugarcane for ethanol but was cancelled by the Mozambican government when it failed to make significant progress in the first few years of production (FIAN 2010, Nhantumbo and Salomão 2010). However, biofuel production remains one of the most popular options among foreign investors. There are a great many current and proposed jatropha and sugarcane projects not listed in Figure 1 (see Nhantumbo and Salomão 2010, p.47, for a partial list).

The second major area of production is plantation pine and eucalyptus. There are probably fewer of these projects, but they tend to encompass much larger areas. Many of the largest projects, such as Lurio Green Resources and Portucel, involve timber production for pulp, although some plantations, such as Tectona Forests, intend to produce the higher value teak. The large number of timber concessions in Niassa province is largely due to the work of the Malonda Foundation, a co-project of the Swedish and Mozambican governments created in 2005 with the objective of promoting private-sector investment in Niassa. The Malonda Foundation owns its own pine and eucalyptus plantation but has also helped to establish the other plantations in Niassa (Overbeek 2010). Large proposed timber projects not listed in Figure 1 include ATFC (Mozambique) Madeiras e Agricultura (a South African project requesting 38,000 ha in Zambézia, 2,000 ha of which have already been authorized) and Florestal de Messangulo (a Swedish project requesting 34,000 ha in Niassa, also with the help of the Malonda Foundation) among others.

To a much lesser extent, some plantations also intend to grow grain for food, notably Quifel Agrícola, which holds 10,000 ha in Gurué district, Zambézia under the name Hoyo-hoyo.¹⁰ Another Portuguese-owned company, Miranda, is applying for close to 40,000 ha to grow soy, tea, nuts, and more in Gurué and Morrumbala districts. There are also a few acquisitions for rice (e.g. Lap-Ubuntu, joint Libyan and Mozambican, 30,000 ha in Maputo), corn (e.g. EmVest Limpopo, United Kingdom/ South Africa, 1,000 ha in Gaza), and other edible crops.

National institutions (in theory and in practice)

The institutional framework within which foreign acquisitions of Mozambican land takes place is anything but simple. An uninitiated foreign investor would be hard pressed to navigate it alone and must therefore either devote himself to learning the lay of the land or hire someone who already understands it. These domestic institutions shape both the form taken

¹⁰ This is the official figure that has been released by the government. However, Quifel officials informed me that they have 20,000 ha in Gurué district, Zambézia as well as 10,000 ha in Caia district, Sofala.

by large-scale land acquisitions in Mozambique and their ultimate consequences. Two aspects of the institutional framework are particularly salient. These are Mozambique’s Land Law, which affords extensive recognition to community land rights, and the suite of rules and practices that determine the economic value of land. These two aspects create very different incentives for foreign investors. The Land Law provides at least a modicum of protection for community rights and thereby serves to prevent the unbridled scramble for land that might occur in its absence; meanwhile the lack of a formal land market or any meaningful land tax creates incentives for just such a scramble. As will be discussed in the next section, however, both aspects create a variety of opportunities for Mozambican elites to mediate and thereby profit from foreign interest in land.

The 1997 Land Law: Validating customary land rights

In 1975 the revolutionary front Frelimo won independence from the Portuguese, transformed itself into the primary political party and promptly nationalized all Mozambican land. At that time Frelimo espoused socialist ideals and, like many African countries, saw state land ownership as the only viable option. Over the decades that followed, Mozambique was subjected to a brutal “civil war” funded by neighboring South Africa and Zimbabwe and an only somewhat less brutal round of structural adjustments at the hands of the IMF and World Bank (Hanlon and Smart 2008). During this period, Frelimo gradually abandoned socialism in favor of market-oriented development strategies, but land remained firmly in the hands of the state throughout.

In 1997, after “what was surely the most democratic process in Mozambique in the 1990s (Hanlon 2004)” a new Land Law¹¹ was created which is often lauded as one of the most progressive in Africa (Baleira and Samo 2010, Nhantumbo and Salomão 2010). The Law attempts the Herculean task of simultaneously securing community land rights and facilitating private investment, all within the context of continued state land ownership. Although the state technically remains the sole owner, the law provides for secure property rights in the form of a single land tenure right known as the “land use and benefit right” (DUAT, from the Portuguese term *direito de uso e aproveitamento da terra*).

A DUAT may be acquired in one of three ways. The first is traditional occupation. The Law makes the “local community” the basic legal, right-holding entity and recognizes its right to the land by virtue of its long-standing occupation and management. Registration is not necessary, but if a community wishes to obtain official documentation of their DUAT, they may do so through a formal community discussion and mapping process known as a “delimitation,” after which they are issued a certificate stating their claim. After this, the community may further formalize their right through the “demarcation” of their land, a process which involves the placement of cement markers at points around the area perimeter and after which they may apply for a formal land title. In order to deal with the wide diversity of land governance systems followed by Mozambique’s many ethnic groups, the Law adopts a flexible approach, stating that the management of land resources should take into account the “customary norms

¹¹ *Lei de terras* (Law N^o. 19/97 of October 1) and its accompanying regulation, the *Regulamento da Lei de Terras* (Decree N^o. 66/98 of December 8) and the Technical Annex - *Anexo Técnico* (Ministerial Diploma of December 7, 1999).

and practices” of the community (Knight 2011). The second means of acquiring a DUAT, simple occupation, is very similar to the first. Mozambican citizens can acquire a DUAT – again, with or without documentation – through good faith occupation for at least ten years. Both of these means of acquiring land rights are inheritable and both, because they are primarily for personal and subsistence use, are not subject to taxation or other fees (Norfolk and Tanner 2007).

A third path to acquiring the DUAT, and the only one open to foreigners, is land allocation by the state, specifically the National Directorate of Land and Forests (DNTF). The applicant must submit a development plan to the relevant authority (which depends upon the size of the land area requested) which can then grant a 50 year DUAT which is potentially renewable for another 50 years. Any investor hoping to acquire land in this manner is required to work with the SPGC to conduct consultations with all of the communities that will be affected by the acquisition, presenting the plan and gaining their permission with or without stipulations. All DUATs are provisional for the first few years (five in the case of Mozambicans, two in the case of foreigners) during which period they can be revoked if the development plan is not implemented (Norfolk and Tanner 2007). Obtaining this type of DUAT requires going through the full titling process. It is important to note, however, that the right acquired by this method is identical to the right acquired through the other two methods.

That the Land Law was enacted in 1997 has undoubtedly prevented the no-holds-barred scramble for Mozambican land that might have begun a decade later in its absence. The extensive recognition it affords to peasant land rights have at least ensured that foreign land concessions are accompanied by some kind of community consultation. However, implementation of the Land Law has been far from perfect. The Law has been underfunded, incompletely enforced, and sometimes downright undermined. The community consultations constitute one of the biggest problem areas. These generally consist of only one, brief session in which communities are informed of the project and asked to make their decision without any time to consult with one another or inform members who are not present. In addition, the consultation minutes are brief and vague, constituting an inadequate basis for monitoring of investor compliance or dispute resolution (Tanner and Baleira 2006, Baleira and Samo 2010). A second problem area relates to the resolution of conflicts when they arise. Due to the lack of a competent judiciary, most land-related conflicts are resolved on an ad hoc basis by district or provincial administrators rather than in court. This means that the same administrator who assigned the land to an investor in the first place often decides the outcome if that assignment is disputed by local communities – a clear conflict of interest (Tanner *et al.* 2006). Last but not least, the lack of mandatory registration for community DUATs has been used by the government as an excuse to virtually ignore their existence (Norfolk and Tanner 2007). This has led Tanner (2010, 124) to suggest that the consultations are merely being used to give a “vener of respectability” to the enclosure of peasant lands.

“A terra não se vende...”

A second set of domestic institutions with a bearing on how foreign land acquisitions take place are those relating to the purchase and rental price of land. One of the most perplexing aspects of Mozambican land governance is the land market. It is perplexing precisely because it isn’t supposed to exist as it is explicitly outlawed in the constitution. And yet it does

exist. It may be a little schizophrenic, appearing through whatever channels present themselves, and it is certainly not predictable, uniform, or fair, but everyone knows that it exists. As one interview participant told me, there is a well-known Mozambican saying: “*a terra não se vende, mas compras*” – “the land is not for sale, but you can buy it.” An unpublished study by the research center Cruzeiro do Sul found that, in addition to the three primary ways to access land listed above, roughly ten percent of rural land was acquired through market mechanisms (Negrão *et al.* 2004).

The primary means by which land is bought and sold in Mozambique is through the transfer of “infrastructures, structures and improvements existing on the land” whose sale is authorized in the Land Law (Knight 2011). These run the gamut from coconut trees to luxury hotels. While urban DUATs are transferred automatically when a structure on them is sold, making the sale of the building and the sale of the DUAT synonymous, in the case of rural land, the transfer of the DUAT must be separately approved by the relevant authority (ACIS 2009). However, the sale of trees and other improvements still acts to mask the sale of rural land. Another method for selling rural land is through the sale of the company (or shares in the company) that owns the DUAT to the land. This opens up a range of possibilities not officially sanctioned by the legal framework. In the words of one commentator, “...effective control of the land may be transferred simply by transferring a majority of shares in the company... With a moderate degree of legal ingenuity there would seem to be no barrier to creating arrangements that are equivalent in economic terms to a mortgage on land” (Hughes 2005, 16). A final method to effect the “sale” of rural land is through compensation to affected communities when their land is transferred to an investor.¹² Tanner and Baleira (2006) found that communities considered the compensation they received a straightforward land sale. This is problematic both because its legal foundation is shaky - under the law compensation is only supposed to be paid when the state expropriates a land right in the public interest – and because the “price” paid to communities is generally very low (Tanner and Baleira 2006).

Although land rental, like its outright sale, is illegal in Mozambique, all DUATs acquired through state award are subject to a perfunctory annual land tax which can be considered a proxy for the rent paid by investors to the government (Hughes 2005). This tax varies based on land location, citizenship of owner, and use, but it is always extremely low. Currently, most international investors in cropland pay a trifling \$0.60 per hectare per year (Deininger and Byerlee 2010). As Roberto Albino (2010), the Director of CEPAGRI, cogently put it at the World Bank Land Conference “The actual cost of one hectare is about one coffee. So the amount that you pay here [for] one coffee, you pay in Mozambique [for] one hectare lease per year. It’s about 60 to 80 cents a hectare per year. It’s nothing.” These extremely low figures contrast with the land expectation value reported by Deininger and Byerlee (2010) of over \$9,000 per hectare. In other words, the rent paid on Mozambican farmland is grossly undervalued, a situation which creates incentives for speculation (Hughes 2005). As another participant in the Land Conference stated, “Investors always do thorough due diligence. But in the case of

¹² In fact there are other types of land transactions as well. The Cruzeiro do Sul report (Negrão *et al.* 2004) points out that land “loans” within communities often imply social obligations and could therefore also be considered part of the informal land market.

Mozambique it is not necessary. At 80 cents it is not worth doing any diligence, you just take the land.”

Not surprisingly, the question of land privatization has been a recurrent theme in Mozambican politics. In 2001 the intractable debate was reopened by the Minister of Agriculture and Rural Development, Hélder Muteia. The World Bank and USAID were in favor (Hanlon 2004), but the resistance from within Frelimo was strong enough to table the issue and may even have cost Muteia his presidential ambitions. The present status of the land privatization debate is somewhat paradoxical; although the topic is virtually taboo under the Guebuza administration, eventual privatization is considered by many to be probable almost to the point of inevitability. This question, like others relating to domestic land governance, lies largely in the hands of the national elite whose motivations reflect their particular class position.

Domestic elites and “foreign” land grabbing

Domestic elites play both an active and a passive role in determining the outcome of foreign investment in land. A sharp increase in external pressure on land resources as has been witnessed over the last four years may, on the one hand, catalyze a response from domestic elites. Elites may respond to this foreign pressure either through speculative land grabbing of their own or by finding a profitable niche for themselves in facilitating foreign land acquisitions directly. However, elites also play the broader role of creating the institutional landscape which conditions the options and strategies available to foreign investors. The idea that land is an excellent source of wealth and power was not invented by international investors in 2007. Domestic class interests all over the world create channels in the institutional framework to ensure their own accumulation of land/wealth, and foreign demand for land simply flows toward these paths of least resistance.

This section considers just some of the ways in which Mozambican elites may mediate the “foreign” land grab taking place in their country. Some of these points of interface between the domestic and the foreign are listed in Figure 2, although in reality the dividing lines between these points are, of course, extremely fuzzy. Here I first discuss opportunities for elite articulation with foreign land acquisitions at the local and district level and then consider how this local-level opportunism relates to the broader approach to land governance espoused by national-level Frelimo elites. My interviews suggested that the facilitation of land grabbing by domestic elites was particularly prevalent at these extremes of governance, rather than at the middle-scale provincial level.

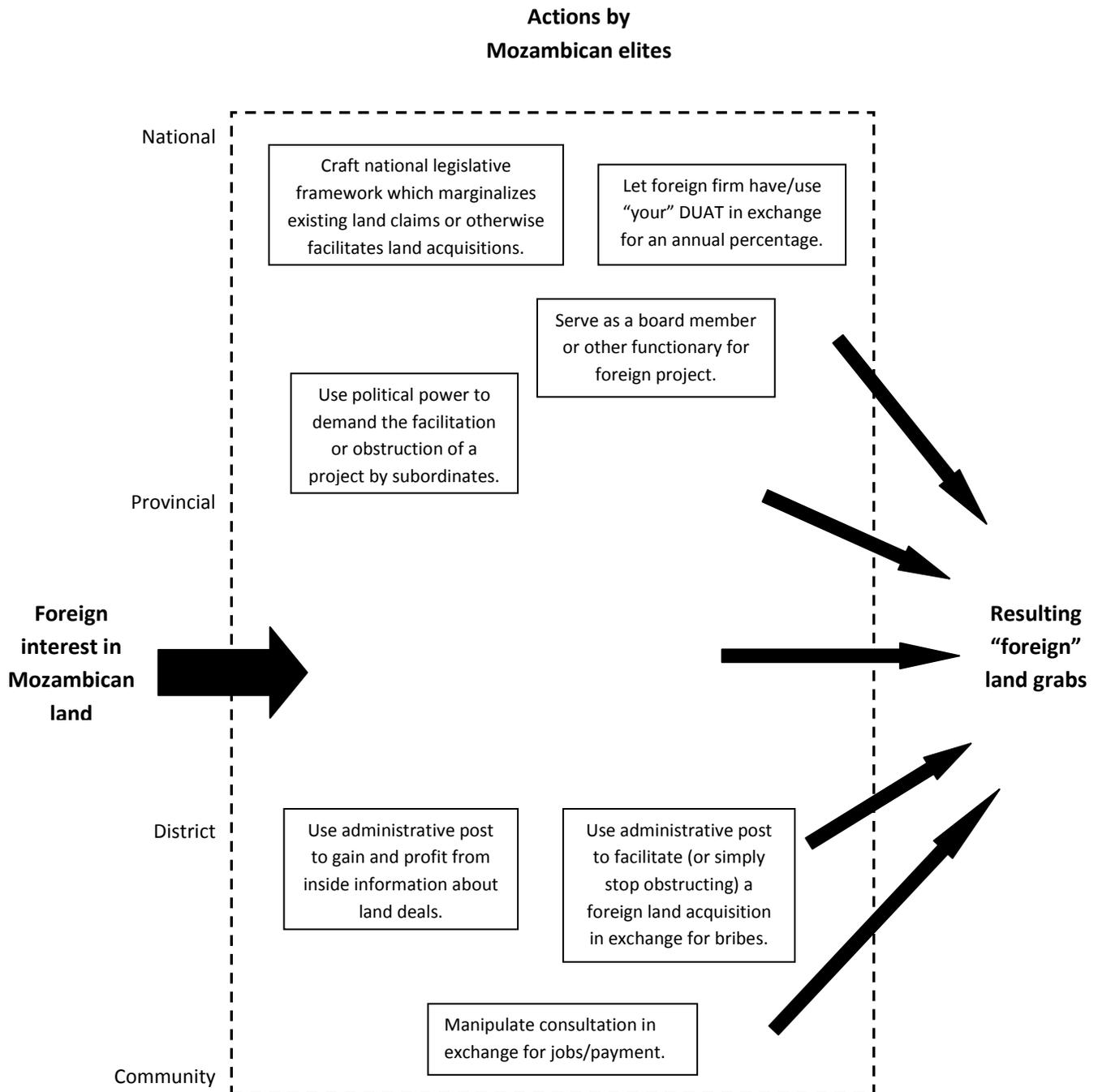


Figure 2: How domestic elite actions filter foreign interest in Mozambican farmland. This figure presents a very stylized view of the different possible points of interface between foreign investors and domestic elites. In reality many of these actions span the various levels of governance. Some of the elite actions are somewhat Mozambique-specific while others are more generalizable, and there are still others which might apply elsewhere but not Mozambique. An example of this last case is how, in countries with restrictions on foreign land ownership, such as Brazil, citizens use their domestic status to help foreign firms “pass” as domestic.

Opportunism on the part of local- and district-level elites

Although corruption and lack of transparency are an ongoing problem in Mozambican land governance, foreign land acquisitions create particular opportunities for rent-seeking by local elites. These opportunities may stem from both confusion over the “market value” of Mozambican farmland and the highly politicized process of state land allocation.

Firstly, the opaque and informal nature of land markets creates a unique opportunity for Mozambicans to make money as intermediaries. The lack of an official land market means that there are really two land markets, one for those who are in the know and one for those who are not. Or in other words, one for Mozambicans and one for foreigners. Foreigners perceive land to be very cheap while Mozambicans know that they can get it even cheaper and make money either through arbitrage or through helping the investor in return for a “facilitation fee”. This phenomenon was spelled out for me particularly vividly in an English-language interview with a Mozambican official at a donor-funded agribusiness promotion project. He explained how corruption is inadvertently stoked by foreign investors:

Corruption, in our country, exists because of the donors, because of the investors, ok?... When you come here and you see that the land is for free because the land belongs to the people according to our constitution, you immediately have a margin to play with. Why? Because you are used to buy land in your country for a huge amount of money.... Because we are poor here you don't have to pay us as much as you pay there. So you pay us, let's say, a good box of whiskey or a bit more than that... but always a lot less than you should pay for the land, because the land is prime land... if you manage as we manage, the political guys here, the Mozambicans, we manage to get it for free because...this is for the people, everything is in our name as a Mozambicans. You don't find free land here because the people put it in my name... If you come to me for that land I am not going to sell [it to] you at the same price that I got it. And I'm not going to tell you that this is the land from the people, it's not from the people anymore, it's my land [now]. And you have to use the margin that you have and I know that you have in your pocket to deal with this.

This explanation captures a major dynamic in the relationship between foreign investors and Mozambican elites. The combination of state land ownership, unclear land value, and investor ignorance creates plenty of opportunities for profit. An official at one foreign-owned company told me that his project had taken three years to get final approval in part because everyone was looking for some kind of “facilitation fee”. Officials at the provincial SPGC offices in both Zambézia and Nampula also cited “opportunism” and corruption at lower levels of government as one of the biggest difficulties in allocating land to foreign investors.

Secondly, the process of state land allocation is highly politicized, making personal connections to Frelimo members a valuable asset in gaining land. The final decision on whether to award a land concession lies with political appointees regardless of the size of the award. The decision is made by the provincial governor for areas under 1,000 ha, the Minister of Agriculture for areas between 1,000 and 10,000 ha, and the Council of Ministers for areas over

10,000 ha.¹³ According to one land specialist, during the making of the Land Law, it was suggested by one parliamentary commission that approval of concessions over 10,000 ha should rest with the Assembly of the Republic (the unicameral legislative branch) instead of the Council of Ministers. In the end, however, the final decision on all land acquisitions remained with the administration rather than the state which, in practice, means that it is firmly entrenched with the Frelimo party. In addition, Decree 15/2000 extended state territorial and administrative reach into rural communities by officially recognizing “community authorities” – generally the traditional chief known as the *régulo* – as part of the state (Buur and Kyed 2005). These community authorities were delegated a variety of important state-administrative functions (including land allocation, discussed in more detail below). The effect of this decree¹⁴ is that the Frelimo hierarchy now penetrates into the smallest rural communities, creating ties between land managers at all levels of governance and the Frelimo political machine. This makes it even easier to call in political favors involving land allocations.

Opaque land markets and politicized land allocations, when combined with the hubris and ignorance of some international investors, lead to a plethora of opportunities for domestic actors to insert themselves as intermediaries. In fact, the participation of these actors may be necessary to facilitate anything but the most serious, non-speculative foreign investment. As one interview participant put it, “there’s always a dodgy Mozambican front to the dodgy foreigner” because “if you are just a dodgy foreigner operating on your own, you don’t get anywhere. You certainly don’t end up with a large piece of land”.

The most common story of elite rent-seeking at the community level, the manipulation of community consultations by *regulos* and other community authorities, is already well rehearsed (Tanner and Baleira 2006, Deininger and Byerlee 2010, Nhantumbo and Salomão 2010). Sometimes investors meet only with the community authority and his close associates, after which they sign the paperwork and consider the consultation completed (only three to nine signatures are required and the validity of a consultation has never yet been contested in court). In other instances, the consultation takes place, but the *régulo* presents the project as a fait accompli and uses his influence to ensure swift approval (Tanner and Baleira 2006). Unfortunately, bribery is a remarkably difficult thing to document. Justiça Ambiental’s research into the Swedish company Ntacula’s eucalyptus plantations in Nipiode, Zambézia found that community leaders had agreed to cede more community land to the company despite community resistance and the fact that existing plantations had not yielded much short-term benefit; this led the investigators to suspect that bribery might have played a role (de Jong 2010). A DNTF investigation of another Swedish-backed project, Chikweti Forests in Niassa found that the company sometimes hired local *regulos* who later gave the company permission to expand onto community land, creating a clear conflict of interest (CIP 2011). As an independent land specialist involved in these projects put it, the forest companies “are just like the old colonists. They buy the *régulo* with money or jobs for his children.” (André Calengo quoted in CIP 2011). However, as Deininger and Byerlee (2010, 103) observe, the current situation of “Increasing land values and demand by outsiders can weaken customary leaders’ accountability to their community” yet further.

¹³ Article 22 of the Land Law.

¹⁴ Along with the *Lei dos órgãos locais do Estado* (Law N^o. 8/2003 of May 19).

In addition to manipulation by community authorities, a recent study on conflicts of interest in land and resource management conducted by ORAM uncovered many ways in which the allocation of land is manipulated by local- and district-level officials in pursuit of private interests (Baleira *et al.* 2010). Their research revealed four key areas in which corruption affects land administration: lack of effective monitoring of the *intocávies* - the “untouchable” elites with close ties to government, administrators demanding unauthorized fees, obstruction and general lack of transparency of the application process, and the disappearance of paperwork. Most of the case studies they examined involved some combination of these factors. A particularly common story was that a land allocation process which was already underway would be unexpectedly stalled by administrators through the “loss” of paperwork or other specious impediment. In the meantime, the initial area under request would be allocated to another person or project which had support from political elites at the provincial or national level. There was also widespread concern that land administrators were using their inside knowledge of land value and demand to serve opportunistic ends. Requests by elites for large areas of land were granted despite their evident inability to utilize the land to capacity and intention to use it only as a “reserve of value”. In other words, land speculation by Mozambican elites is commonplace, and is facilitated by corrupt land administrators. Although it has not yet been documented, it is reasonable to expect that the introduction of large amounts of foreign money into this scenario will increase the incentives for corrupt behavior in land allocation to the further detriment of the local communities which inhabit that land.

The role of national-level elites

Discussions of Mozambican land governance can sometimes drift toward the conspiratorial. The pervading atmosphere among activists is one of embattled resignation while land experts often talk about progress as something that will be made in spite of, rather than because of, the Mozambican government. Here I argue that opportunism by local elites is linked to and implicitly sanctioned by a broader approach to land governance within Frelimo. The national government’s approach to land may percolate down to the local level both directly, through the chain of command, and indirectly, through the broader institutional environment. The precedent set at the national-level has often been to marginalize community rights in favor of an all-out rush to attract large-scale foreign investors (Hanlon and Smart 2008). This precedent is set both through the implementation of policies and through the behavior of individual Frelimo members.

Although the positive impact of the Land Law should not be underestimated, it has, almost since the moment of its creation, been subject to gradual erosion at the hands of the central government. This process has only intensified since 2007 as foreign investors evince a growing appetite for Mozambican land. Subtle changes in the wording or interpretation of the legal framework have served to subtly dilute the potency of community land rights in Mozambican land governance. A first shift occurred in 2000 when the Council of Ministers issued Decree 15/2000 which reinstated *régulos* within the official Frelimo hierarchy and gave them power over land allocation (Buur and Kyed 2005). Since this decree was issued, many SPGC officials have been acting under the assumption that reaching an agreement with the *régulo* or other authority figure is equivalent to a successful community consultation (Tanner

and Baleira 2006).¹⁵ A 2001 ministerial directive requiring that all new land claims be processed within 90 days only heightened the pressure on SPGC officials and their incentive to circumvent a potentially lengthy consultation process by going straight to the *régulo* (Tanner and Baleira 2006).

A second shift occurred with the adoption of the 2004 Constitution. While the 1990 Constitution says that DUATs will be granted on the basis of “social purpose”, in the 2004 Constitution this was changed to “social or economic purpose”. In addition, the 1990 Constitution contained a powerful clause stating that the allocation of DUATs would “prioritize direct users and producers” and that “The law shall not permit such rights to be used to favor situations of economic domination or privilege to the detriment of the majority of its citizens” (cited in Norfolk and Tanner 2007). This clause was omitted from the 2004 Constitution.¹⁶

In 2007, as foreign investors were turning their gaze to Mozambican farmland in record numbers, a third alteration seriously reduced the efficacy of the Land Law in protecting community land rights. The Council of Ministers issued a decree¹⁷ which amended Article 35 of the Land Law, subjecting delimitations to approval by the Minister of Agriculture (if over 1,000 ha) or Council of Ministers (if over 10,000 ha), placing the majority of delimitations under direct control of the central government. This decree and its simultaneously issued interpretation¹⁸ also increased the steps required of communities in order to achieve their land certificate. Whereas previously communities had only to delimit their land, it now was stated that they had also to submit a use plan for the land just as investors do when they demarcate their land (Nhantumbo and Salomão 2010, ORAM 2010). The issuance of community land certificates promptly ground to a halt. Between October 2007 and October 2010, when the circular was finally revoked due to pressure from Mozambican NGOs and donor agencies, scores of communities were left in administrative limbo, having completed the delimitation process but received no certificate (ORAM 2010). This attempt violated both the spirit and the actual content of the Land Law. The Law explicitly states that communities have the DUAT to their land simply by virtue of occupying it and regardless of whether the land is in active use.¹⁹ This episode represented an attempt by the state to make the land certificate, and therefore implicitly the DUAT itself, contingent on type of use and subject to government approval.

The efforts at reducing community land rights described above are just part of a broader development strategy espoused by many national-level elites. This strategy sees industrial, export-oriented agriculture catalyzed by foreign direct investment as the best route to Mozambican agricultural development (Hanlon and Smart 2008). Many people within the Guebuza administration seem to see community delimitations and consultations as obstacles to progress. One very senior party member, for instance, told me that if he had his way all

¹⁵ In fact, the decree created confusion about the meaning of the “local community” in land governance. In the context of the Land Law, the local community is a private entity which is self-defined with reference to land occupation and use. Decree N^o. 15/2000, on the other hand, uses a definition of “local community” more akin to public administrative jurisdiction (Tanner and Baleira 2006).

¹⁶ These changes applied to Article 47 of the 1990 Constitution and Article 110 of the 2004 Constitution.

¹⁷ Decree N^o. 50/1997 of October 16.

¹⁸ Circular 009/DNTE/09.

¹⁹ For an excellent discussion of the distinction between the concepts of “use” and “occupancy” in the Land Law, see CIP 2011.

community consultations would be conducted ahead of time based on whatever type of investment their land was zoned for. He felt that the reduced specificity of the consultations would be worth the time saved in implementing investments. This attitude toward community consultations is likely to influence the approach taken by foreign investors; one of the company officials I spoke with, for instance, dismissed them pejoratively as “bureaucracy”.

The facilitate-foreign-investment-at-all-costs approach to development favored by many members of the government contributes to a broad skepticism about their real motivations. The Mozambican economist Castel-Branco (2010) gave voice to this skepticism in a recent interview with the newspaper *Savana*, in which he stated that broad-based national development was being sacrificed in favor of “primitive accumulation by a small group of national capitalists allied with foreign capitalists”. Castel-Branco further argued that “State land ownership is being used [by this small group] to do cheap and easy land accumulation. Once they have defined their property, accumulated enough, they will begin to talk of privatization to protect the property rights that they already have.”²⁰ Castel-Branco is articulating what seems to be a fairly widely-held belief: that the land governance strategies pursued by Frelimo elites, from encouraging foreign investment in agriculture to preventing the privatization of land, have more to do with pursuing their own class interests than with the genuine pursuit of national development.

In addition to crafting domestic land legislation, national-level elites may also be articulated with foreign land acquisitions through the land that they have accumulated for themselves. It is probably Mozambique’s worst-kept secret that Frelimo elites hold state-awarded DUATs to large chunks of the country. This land is generally not productively used but rather is kept as a reserve of value (Albino 2010). These land parcels act as an obstacle to genuine agricultural development and are difficult to revoke because of the political power of those who own them. One result of this is that elite landholdings are present in the National Cadastre, whereas community lands (with the exception of the mere 12% that have been delimited (Deininger and Byerlee 2010)) are not. As one land specialist I interviewed said of the National Cadastre, “the *nomenklatura* are there, and they are there in spades”²¹. Elites like President Guebuza, Prime Minister Aires Ali and former first lady Graça Machel all hold DUATs to thousands of hectares of land. This means that elite landholdings are “legible” to both the state and to foreign investors whereas community land rights are generally not. This gives land-owning elites a privileged position for doing business with foreign investors. Elites may profit from this position by becoming “partners” or “shareholders” in a foreign company in exchange for their land. For instance, Hanlon and Smart (2008) spoke with one foreign investor trying to establish a banana plantation who was asked for a sinecure paying a large annual sum by the Mozambican elite who held the DUAT to the land in question.

²⁰ *A propriedade do Estado sobre a terra está a ser usada para fazer acumulação barata e fácil da terra. Na altura em que tiverem definido a sua propriedade, acumulado o suficiente, vão começar a falar de privatização para proteger a propriedade e os direitos que já têm.*

²¹ The *nomenklatura* was the name for the group of Mozambican elites thought eligible for high administrative posts by the Communist Party. It is now shorthand for the party’s privileged bureaucratic elite (Hanlon and Smart 2008).

Conclusion

Though the massive increase in foreign demand for land is undoubtedly the ultimate cause of the “land rush” across the African continent and the world, a closer look at the case of Mozambique reveals the importance of domestic institutions and actors in shaping the land acquisition process. In Mozambique, companies hailing from Portugal, Sweden, Norway, South Africa, the United Kingdom, and a handful of other countries are requesting large tracts of land for use as biofuel and timber plantations. However, this increased foreign demand for land is mediated by the domestic institutions of land governance, particularly the national Land Law and the practices which determine the purchase and rental price of land. These institutions, and the domestic elites who control them, determine how foreign demand for land will affect peasant communities. Elites at all levels, from community *régulos* up to national-level Frelimo officials, encounter opportunities for insertion into the foreign land acquisition process. These opportunities range from using local knowledge to acquire a desired piece of land to deploying political power to shape the legislative framework. The participation of elites at different levels of government are also linked; land grabbing by local elites may be directly authorized through the Frelimo chain of command or just implicitly condoned by the contempt for community land rights demonstrated by some national politicians.

Although this paper has focused on the ways in which domestic institutions and individual elites may facilitate the expropriation of peasant lands, this is only one part of a larger picture. Frelimo contains many hard-working and honest people, Hanlon and Smart’s (2008) “developmental group,” who also mediate the impact of foreign demand for land upon rural communities. In fact, the belief that motivated the 1997 Land Law – that it is possible to attract investors and foster agricultural development without disenfranchising communities – is still alive and well.

Over the last few months, pressure from the developmental group, civil society organizations, and donors, has led to positive changes in the domestic institutional framework. Firstly, in August 2010, the Council of Ministers approved changes to the consultation process which will mean that each consultation should now consist of two meetings rather than just one (CIP 2011). This will hopefully give communities a chance to deliberate and will create a space for women and other non-elite community members to make their opinions known even though they may not participate fully in formal consultations. Secondly, in September of 2010 a new national-level body called the Land Consultative Forum was created to allow civil society organizations and other stakeholders to debate and provide input on land policies (Canalmoz 2010). Thirdly, and most significantly, in October of 2011 DNTF issued a new circular²² which reinterpreted the problematic amendment to Article 35 of the Land Law, allowing community delimitations to resume as before. Finally, in January of 2011, land taxes were raised. They now come to \$1.19 per hectare per year for normal farmland (CIP 2011) - still a pittance by normal standards but certainly a step in the right direction in terms of preventing speculation by both foreigners and domestic elites. In fact, no new concessions of over 1,000 ha were granted in 2010 (CIP 2011), suggesting that Frelimo may have tempered the frenetic pace of state land concessions somewhat.

²² Circular No. 1/2010 of Oct 1.

A theorization of global land grabbing as a “new imperialism” or “neo-colonialism,” while compelling, may obscure as much as it illuminates. We are undoubtedly witnessing new configurations and strategies of global power as the economic emergence of China and other semi-peripheral countries coincides with increasingly uncertain global climate patterns and food prices. However, the case of Mozambique demonstrates that, in some cases, land grabbing may be as much the result of domestic class dynamics as anything else. Domestic elites may be the proximate cause of “foreign” land grabbing either through opportunistic behavior or through the concerted crafting of national legislation which serves their class interests. Further research into articulations between the foreign and domestic actors involved in land grabbing will help to clarify its causes and may even shed light on some solutions.

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