



Linking Land Tenure and Use for Shared Prosperity

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 23-27, 2015



LEGAL EMPOWERMENT and ACCESS to JUSTICE as INSTRUMENTS for GOOD LAND GOVERNANCE

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OBJECTIVES OF THE PAPER

- Outline the current land governance challenges in Mozambique
- Present a legal empowerment and capacity-building programme aimed at ensuring that the progressive principles of the 1997 Land Law are respected and implemented
- Underline the need to also empower local government and other officials with an understanding of the law and how to use it
- Offer a legal-reform and legal education model - ‘the empowerment chain’ - that creates the conditions for communities *and* local government teams – to bring about ‘bottom-up ‘ change in land and resources governance

LAND IN MOZAMBIQUE TODAY – KEY FEATURES

- Very large areas of land are not being used to their full potential
- These areas *have legal rights over them in terms of the 1997 Land Law*:
 - By *customary occupation* – rights equate to areas defined by participatory diagnosis of local production/land use systems
 - Rights collectively held and managed by ‘local communities’
 - Investors (including the State) must consult with communities if they want to use land for new projects
- Economic growth and other factors driving demand for land, with local land rights at risk in spite of the progressive legal framework
- The institutional and political landscape is still not conducive to the progressive governance model offered by the 1997 Land Law:
 - Key senior actors do not accept or fully understand the implications of a ‘rights-based approach’
 - Local administration still very weak and vulnerable to pressure
 - Community-investor encounters on a far from level playing field

THE LAND GOVERNANCE CHALLENGE

- The institutional and political landscape is still not conducive to the progressive governance model offered by the 1997 Land Law:
 - Key senior actors do not accept or fully understand the implications of a ‘rights-based approach’
 - Local administration still very weak and vulnerable to pressure
 - Community-investor encounters on a far from level playing field
- Government constantly affirms the need to respect and apply the law:

The law must be respected “even by those who, in contact with local authorities, attempt to give the impression that they are powerful, or are sent by powerful people, or have been given decision making power by higher authority”. President Armando Guebuza, reported in O Pais, Maputo, 23 August 2011

- For this to happen, the officials who interact with ‘the powerful’ and govern at local level must know their laws, and be able to stand up to those who use political and economic influence to get land illegally.

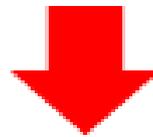
LAND GOVERNANCE AT THE CENTRE FOR LEGAL AND JUDICIAL TRAINING

- Programme supported by from 2001 to 2014
- Funded by the Netherlands throughout
- Additional funding from Norway from 2010
- Four consecutive projects, each building on the one before:
 - Judicial training on land, natural resources laws
 - Paralegal and local government capacity building (2 projects)
 - Gender and women's land rights (integrated into the programme)
- Land conflict research after judicial training research identified:
 - need for legal and civic education and support at community level
 - need to train local government actors in fundamental rights and in the practical use of the new land governance framework

PARALEGAL AND LOCAL GOVERNMENT CAPACITY-BUILDING PROGRAMME 2006 – 2014: THE 'TWIN-TRACK' APPROACH

Figure One – the 'Twin Track' approach

*Capacity building with local government and other public sector actors –
fundamental rights and using laws to promote participatory, equitable and
sustainable development, gender and women's rights*



**Participatory, negotiated development with communities, investors
and local government working together**

**Good governance of land and resources with local economic growth,
Enhanced food security and livelihoods impacts**



*Training paralegals to work at community level – raising awareness of rights and
how to use them, conflict resolution, facilitating dialogue and negotiation, gender
and women's rights*

RESULTS OF THE PROGRAMME

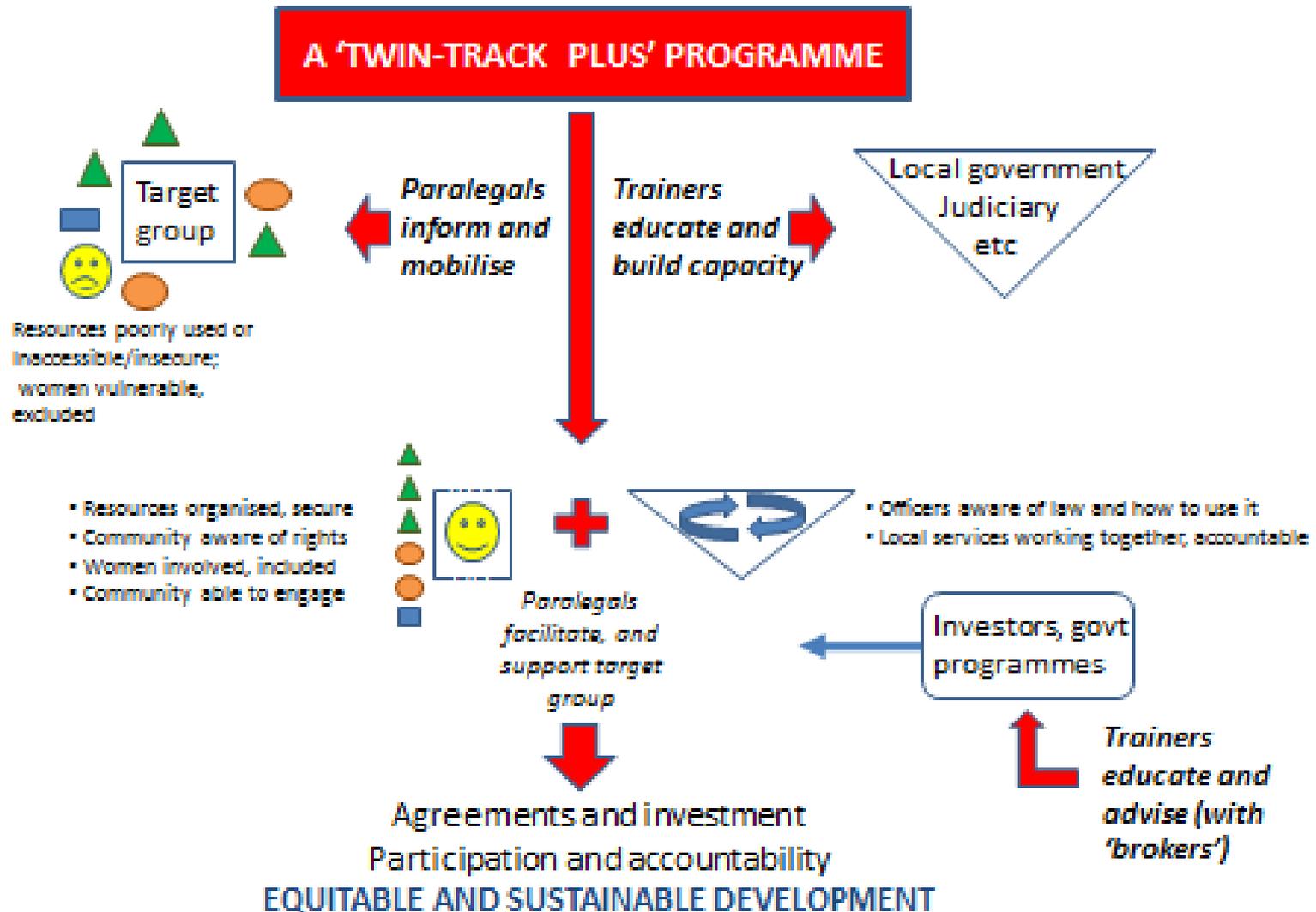
- 899 paralegals trained (328 women)
- Nearly 800 district government and line ministry officers trained
- Community meetings led by NGO paralegals (gender and women focus)
- Successfully maintained attention on the rights-based and progressive elements of the policy and legal framework for land and natural resources
- Better understanding of *inclusive and participatory negotiated development*
- Initiated normative change at community level regarding gender and the land rights of women (focus on *male community leaders as well*)
- Relations between those working with communities and local government have improved, especially at district level ... *There is also more consensus about the content of rights' (Independent programme evaluation)*

LESSONS LEARNED

- Legal empowerment is necessary but not sufficient
- Need to address the ‘institutional landscape’ even in absence of reform
- Need to induce a process of *extracting accountability* from relevant actors – local government, investors, higher (dysfunctional) governance institutions
- Paralegals assist communities *and* local government
- Legal empowerment creates ‘agents of change’ (on both sides)
- This process can benefit from, or contribute to, policy and legal reforms
- It should be set within a longer term framework of consistent and evolving land governance support and development
- In the case of Mozambique, going back to the mid-1990s:
 - Policy reform based on prior research and consultation
 - Legal reform
 - Early institutional reforms (only partially implemented, weak impact)

THE EMPOWERMENT CHAIN

The Empowerment Chain and Development



THANK YOU